

THE PRIME MINISTER

DECREE No. 59/2005/ND-CP OF MAY 4, 2005 ON CONDITIONS FOR A NUMBER OF AQUATIC RESOURCE PRODUCTION AND BUSINESS LINES

THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on
Organization of the Government;*

*Pursuant to the June 12, 1999 Law on
Enterprises;*

*Pursuant to the November 26, 2003 Law on
State Enterprises;*

*Pursuant to the November 26, 2003 Law on
Cooperatives;*

*Pursuant to the November 26, 2003 Law on
Fisheries;*

At the proposal of the Minister of Fisheries,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Governing scope

1. This Decree provides for aquatic resource production and business lines requiring permits, permit-granting procedures and order; and conditions for a number of aquatic resource production and business lines which do not require permits.

2. The conditions for practice of aquatic resource

veterinary medicine shall comply with the provisions of the Ordinance on Veterinary Medicine and the Government's decree detailing the implementation thereof.

Article 2.- Application subjects

1. Domestic and foreign organizations or individuals engaged in aquatic resource production and/or trading must abide by the provisions of this Decree and relevant provisions of Vietnamese law.

In cases where an international treaty which the Socialist Republic of Vietnam has signed or acceded to contains provisions different from the provisions of this Decree, the provisions of such international treaty shall apply.

2. Particularly, foreign organizations and individuals having fishing ships involved in fisheries activities shall comply with the provisions of the Government's Decree No. 191/2004/ND-CP of November 18, 2004 on management of fisheries activities of foreign fishing ships in the sea areas of Vietnam.

3. Households and individuals involved in aquaculture, aquatic product processing, trading of fresh and raw or processed aquatic products on a small scale and by manual methods (under regulations of the Ministry of Fisheries), or with fishing ships of under 0.5 tons or without fishing ships in aquatic resource exploitation shall not be subject to this Decree.

Chapter II

AQUATIC RESOURCE PRODUCTION AND BUSINESS LINES REQUIRING PERMITS

Article 3.- Aquatic resource exploitation is a

trade that requires permits

Organizations and individuals exploiting aquatic resources in the sea and other natural water areas of Vietnam must have aquatic resource exploitation permits granted by competent State management agencies.

Article 4.- Aquatic resource exploitation permits

1. An organization or individual may apply for aquatic resource exploitation permits (hereinafter called permit for short) for many fishing ships but each permit shall be only inscribed with the name of one fishing ship and valid only for that ship.

2. The term of a permit shall not exceed 12 months.

3. The Ministry of Fisheries shall define forms of permit according to the contents provided for in Clause 2, Article 16 of the Law on Fisheries for nationwide application.

Article 5.- Grant, extension and withdrawal of permits

1. To be granted permits, organizations and individuals must fully meet the following conditions:

a/ Having fishing ship registration certificates;

b/ Having certificates of technical safety of fishing ships, for types of ship defined by the Ministry of Fisheries;

c/ Having crew registry books, for types of ship defined by the Ministry of Fisheries;

d/ Shipmasters and chief engineers, for types of ship defined by the Ministry of Fisheries, must have shipmaster or chief engineer diplomas;

e/ Having suitable exploitation trades and fishing gears as provided for by the Ministry of Fisheries.

2. Permits shall not be granted in the following cases:

a/ Exploitation of banned aquatic species; exploitation in restricted areas, during the ban time or by banned methods;

b/ Exploitation of aquatic species on the list of those whose reserve resources are drastically reducing or threatened with extinction, as announced by the Ministry of Fisheries.

3. Extension of permits

Each permit may be extended for many times, with each extension not exceeding 12 months.

4. The withdrawal of permits in different cases is provided for in Article 18 of the Law on Fisheries.

Article 6.- Permit-granting procedures and order

1. A dossier of application for permit comprises:

a/ The written application for permit;

b/ The assorted papers defined in Clause 1, Article 5 of this Decree (notarized copies).

2. A dossier of application for permit extension:

a/ The written application for permit extension;

b/ The certificate of safety of the fishing ship (notarized copy);

c/ The granted permit (copy).

3. Competent permit-granting agencies defined in Article 7 of this Decree shall consider to grant or extend permits within 15 working days as from the date of receiving complete and valid dossiers. In case of not granting or extending permits, they must reply in writing, clearly stating the reasons therefor.

4. Organizations and individuals applying for permits or extension of permits must pay fees.

The Finance Ministry shall define levels as well as the collection, payment, management and use of fees for the grant of aquatic resource exploitation permits.

Article 7.- Permit-granting agencies

1. The Department of Aquatic Resource Exploitation and Protection under the Ministry of Fisheries shall grant permits to the following organizations:

a/ Enterprises and organizations attached to the Ministry of Fisheries;

b/ Enterprises and organizations attached to other ministries or centrally-run branches;

c/ Armed forces' enterprises and organizations involved in economic activities.

2. Fisheries Sub-Departments or Sub-Departments for Aquatic Resource Exploitation and Protection in the provinces or centrally-run cities shall grant permits to and withdraw them from organizations and individuals whose fishing ships are registered in the provinces or cities, except for fishing ships of organizations mentioned in Clause 1 of this Article.

3. Agencies competent to grant permits shall also be competent to withdraw or extend such permits.

Chapter III

CONDITIONAL PRODUCTION AND BUSINESS LINES

Article 8.- Aquatic resource production and business lines requiring no permits

The following aquatic resource production and business lines do not require permits but must

satisfy the law-prescribed conditions: production and/or trading of fishing gears and equipment for exploitation of aquatic resources; building and/or transformation of fishing ships; production and/or trading of aquatic breeds; aquaculture; production and/or trading of aquatic animal feed; aquatic product processing; trading of aquatic raw materials for food processing.

Article 9.- Production and/or trading of fishing gears and equipment for aquatic resource exploitation

Organizations and individuals producing and/or trading in fishing gears (including materials and raw materials for the manufacture of fishing gears) and aquatic resource exploitation equipment must fully satisfy the following conditions:

1. Having business registration certificates for production and/or trading of fishing gears and aquatic resource exploitation equipment, issued by competent State management agencies.

2. Having stores with clear signboards and addresses.

3. Workshops, storehouses, equipment and system for treatment of wastewater, solid wastes and exhaust gases of production establishments must ensure environmental protection criteria provided for by law.

4. Production establishments must each have at least one technician who possesses an intermediate or higher degree in aquatic resource exploitation or engineering.

5. Guaranteeing the publicized goods quality standards; labeling goods in accordance with the provisions of law.

6. Being allowed to produce and/or trade in only

those types of fishing gear or aquatic resource exploitation equipment not on the list of those banned by the Ministry of Fisheries or by provincial-level People's Committees.

Article 10.- Building, transformation of fishing ships

Organizations or individuals involved in building or transformation of fishing ships, of the types subject to registry (except for industrial or defense shipbuilding establishments) must fully meet the following conditions:

1. Places for construction of establishments are in line with local plannings.
2. Having business registration certificates for building and/or transformation of fishing ships, issued by competent State management agencies.
3. Establishments have clear signboards and addresses.
4. Workshops, facilities and equipment must meet technical requirements set by the Ministry of Fisheries; the system of wastewater and solid waste treatment meets the environmental protection requirements under law provisions.
5. Each having at least one technician of intermediate or higher degree in ship shells and another of intermediate or higher degree in dynamics.

Article 11.- Production and/or trading of aquatic breeds

1. Organizations or individuals producing and/or trading in (including preservation service) of aquatic breeds must fully meet the following conditions:

a/ Having business registration certificates for aquatic breeds, issued by competent State

management agencies;

b/ Places for construction of aquatic breed production and/or trading establishments must conform with local plannings;

c/ Material and technical foundations, technical facilities and equipment, water supply and drainage system, wastewater treatment system, means of transportation and preservation of the establishments must meet production and business requirements of each subject as well as quality grades of aquatic breeds, ensuring veterinary sanitation and environmental protection conditions under law provisions;

d/ Establishments producing and/or trading in parental breed stocks or commercial breed stocks must have technical staffs who possess certificates of being trained in aquacultural techniques;

e/ Establishments producing and/or trading in purebred, prototypal or grandparental breed stocks must have technical staffs who possess university or higher degrees in aquaculture;

f/ Having dossiers for monitoring breed production and/or trading process;

g/ Applying the compulsory technical process to the production of aquatic breeds in accordance with regulations of the Ministry of Fisheries.

2. Organizations or individuals producing and/or trading in male breeds, female breeds, breeding sperms, breeding eggs and larvae of aquatic animals must fully meet the following conditions:

a/ The conditions defined at Points a, b, c, f and g, Clause 1 of this Article;

b/ Having technical staffs who possess certificates of training in artificial fertilization technique, embryo inoculation, hatching technique or aquatic breeding technology;

c/ Implementing regulations on management of

exploitation and use of sperms, embryos and environment for preservation and preparation of sperms and embryos as provided for by the Ministry of Fisheries;

d/ Male and female breeds of aquatic animals must be of clear origin and go through veterinary quarantine;

e/ Implementing regulations on management of exploitation and use of male breeds, female breeds, breeding eggs and larvae of aquatic animals as provided for by the Ministry of Fisheries.

Article 12.- Aquaculture

Organizations or individuals engaged in aquaculture must fully meet the following conditions:

1. Having business registration certificates for aquaculture, issued by competent State management agencies.

2. Places for construction of aquacultural establishments must conform to local plannings.

3. Establishments must ensure technical conditions and criteria on aquaculture as well as criteria on veterinary sanitation, food safety and environmental protection under the provisions of law.

4. Using feeds, veterinary drugs, bio-products, microorganisms and chemicals in accordance with the provisions of law.

Article 13.- Production of feeds for aquatic animals

Organizations or individuals producing feeds for aquatic animals must fully meet the following conditions:

1. Having business registration certificates for

production of feeds for aquatic animals, issued by competent State management agencies.

2. Workshops, storehouses, facilities and equipment as well as waste treatment system must meet aquatic veterinary sanitation requirements under the provisions of law.

3. Having technical staffs who possess intermediate or higher degrees in food processing, food chemistry or aquaculture.

4. Using veterinary drugs, bio-products, microorganisms and chemicals in accordance with the provisions of law.

Article 14.- Trading in aquatic-animal feeds

Organizations and individuals trading in aquatic-animal feeds must fully meet the following conditions:

1. Having business registration certificates for the trading in aquatic-animal feeds, issued by competent State management agencies.

2. Having stores with clear signboards and addresses.

3. Having preservation, display and sale places that meet the quality and veterinary sanitation requirements under the provisions of law.

4. The managers or sale staffs possess certificates of training in aquatic-animal feeds or intermediate or higher degrees in aquaculture.

5. Being allowed to trade in only those types of aquatic-animal feed with publicized quality standards, which meet aquatic veterinary sanitation standards, have goods labels as provided for by law and are on the list of feeds for common use according to regulations of the Ministry of Fisheries.

Article 15.- Aquatic product processing

Organizations or individuals engaged in aquatic product processing must fully meet the following conditions:

1. Having business registration certificates for aquatic product processing, issued by competent State management agencies.

2. Places for construction of aquatic product processing establishments must conform to local plannings;

3. Workshops, storehouses, facilities and equipment, processing tools, sanitary tools, water treatment system, system for treatment of wastewater, solid wastes and exhaust gases, as well as equipment for inspection of product quality must meet sanitary conditions for food safety and environmental protection conditions under law provisions.

4. With regard to newly built establishments processing aquatic products for food (under regulations of the Ministry of Fisheries), 15 days before commencing operation and production, they must notify such to competent agencies in order to be inspected and recognized as meeting sanitary conditions for food safety.

5. Establishments processing aquatic products by industrial mode must each have at least one official or technical staff who possesses a university degree in food technology, aquatic product processing, biology or bio-chemistry.

6. Laborers working directly in aquatic product-processing establishments must meet the prescribed health criteria and be equipped with necessary labor protection devices.

Article 16.- Trading in aquatic raw materials for

food processing

Organizations or individuals trading in aquatic raw materials for food processing must fully meet the following conditions:

1. Having business registration certificates for registered trades, issued by competent State management agencies.

2. Having stores with clear signboards and addresses.

3. Workshops, storehouses, specialized means of collection and purchase, preservation and transportation of aquatic animals must meet *sanitary conditions for food safety under the provisions of law.*

4. Being allowed to use only food additives and chemicals on the list of those permitted for use and circulation in Vietnam and using them with prescribed dosage or limits for preservation of aquatic products in accordance with the provisions of law.

5. Business and/or service establishments must meet requirements on environmental protection and veterinary sanitation in accordance with the provisions of law.

Chapter IV

EXAMINATION, INSPECTION OF PRODUCTION AND BUSINESS CONDITIONS; COMPLAINT AND DENUNCIATION; COMMENDATION AND VIOLATION HANDLING

Article 17.- Examination, inspection of aquatic resource production and business activities

1. The Ministry of Fisheries, the other ministries and branches and the provincial-level People's

Committees shall have to organize examination and inspection of aquatic resource production and trading activities and handle violations according to their competence.

2. The contents of examination and inspection cover the observance of this Decree and implementation of commitments already made with competent State management agencies when registering business.

3. The examination and inspection of conditions for fisheries production and business lines must comply with the provisions of law.

Article 18.- Complaints, denunciations

1. Organizations and individuals may complain about decisions of competent persons in implementation of the provisions of this Decree according to the provisions of legislation on complaints and denunciations.

2. Individuals may denounce to competent State bodies acts of violating the provisions of this Decree by organizations or other individuals; illegal acts of persons of State bodies in accordance with the provisions of legislation on complaints and denunciations.

Article 19.- Commendation, rewarding and violation handling

1. Organizations and individuals recording achievements in the implementation of this Decree shall be commended or rewarded in accordance with the provisions of legislation on commendation and rewarding.

2. All acts of violating the provisions of this Decree shall, depending on their nature and seriousness, be administratively sanctioned or

examined for penal liabilities; if causing damage, violators must pay compensation therefor in accordance with the provisions of law.

3. Those who abuse their positions and/or powers to act against the provisions of this Decree and relevant provisions of law shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liabilities; if causing damage, they must pay compensation therefor according to the provisions of law.

Chapter V

IMPLEMENTATION PROVISIONS

Article 20.- Implementation effect

1. This Decree takes effect 15 days after its publication in the "CONG BAO"

2. This Decree replaces the Government's Decree No. 86/2001/ND-CP of November 16, 2001, on conditions for aquatic resource business lines.

Article 21.- Responsibilities for providing guidance and implementation

1. The Ministry of Fisheries shall have to guide the implementation of this Decree.

2. The ministers, the heads of the ministerial-level agencies, the heads of the Government-attached agencies, the presidents of the provincial/municipal People's Committees shall have to implement this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI