

**DECISION No. 103/2005/QĐ-TTg OF MAY 12,
2005 PROMULGATING THE REGULATION ON
OIL SPILL RESPONSE**

THE PRIME MINISTER

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

*Pursuant to the December 27, 1993 Law on
Environment Protection;*

*Pursuant to the Government's Decree No. 175/
CP of October 18, 1994, guiding the implementation
of the Law on Environment Protection;*

*To realize the national plan on oil spill response
in the 2001-2010 period;*

*At the proposal of the National Committee for
Search and Rescue,*

DECIDES:

Article 1.- To promulgate together with this
Decision the Regulation on oil spill response.

Article 2.- This Decision takes implementation
effect 15 days after its publication in "CONG BAO."

Article 3.- 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 and
the concerned organizations and individuals shall
have to implement this Decision.

**For the Prime Minister
Deputy Prime Minister
NGUYEN TAN DUNG**

REGULATION ON OIL SPILL RESPONSE

(Promulgated together with the Prime Minister's Decision No. 103/2005/QĐ-TTg of May 12, 2005)

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation and subjects of application

1. This Regulation provides the contents of activities, responsibilities of organizations and individuals in responding to, redressing the consequences of, oil spills throughout the country.

2. Domestic or foreign organizations and individuals that directly or indirectly cause oil spills in the territory, exclusive economic zone, continental shelf of the Socialist Republic of Vietnam must comply with this Regulation. In cases where international treaties to which the Socialist Republic of Vietnam has signed or acceded otherwise provide for, such international treaties shall apply.

Article 2.- Interpretation of terms

In this Regulation, the following terms shall be construed as follows:

1. "Oil and oil products" include:

a) Crude oil, meaning oil exploited from oil fields and not yet processed.

b) Finished-product oils, meaning those already processed such as petrol, kerosene, aircraft gasoline, diesel oil, fuel oil and other kinds of lubricating, preserving or cooling oils.

c) Other types: discharged oil, bilge water

discharged from operation of sea-going ships, river ships, floating works or from ship cleansing, repair.

"Oil" in this Regulation is construed as all kinds mentioned above.

2. "Oil spill" means a phenomenon where oils spill over from different containing facilities into the natural environment due to technical incidents, natural calamities or caused by humans, which is out of control.

3. "Oil spill response" means activities involving the use of forces, means, equipment with a view to handling in time, eliminating or minimizing sources of oil spilt over into the environment.

4. "Oil spill consequence-redressing" means activities aiming to clean land, water, ecological system in areas contaminated with oils and measures to restrict damage, restore the ecology and environment after oil spills.

5. "Establishments" mean agencies, units, individuals having means, equipment, which cause or threaten to cause oil spills.

6. "Establishment owners" mean heads of agencies or units who take full legal responsibility for operations of their establishments.

7. "Site commanders" mean persons assigned or designated to directly command all responding activities at oil spill sites. The powers and responsibilities of site commanders shall be specified in the oil spill response scheme of each establishment, locality or unit.

8. "Particularly serious oil spill" means oil spill occurring with oil spilt over in great volumes, on vast areas, relating to many provinces, cities or in dangerous areas, thus seriously threatening the lives, properties of people and the environment.

9. "Areas with protection priority" mean

concentrated population quarters; sources of water in service of daily life and production; classified historical relics; tourist, eco-tourist resorts; biosphere reserves; concentrated aquacultural zones.

Chapter II

ORGANIZATION OF OIL SPILL RESPONSE

Article 3.- Information and information processing in oil spill response

1. Information and major information receivers

Organizations, individuals and establishments that cause oil spills or discover oil spills shall have to report them in time to one of the following agencies:

- a) The nearest port authorities;
- b) The search and rescue standing bodies of relevant ministries, branches or localities;
- c) Provincial/municipal Natural Resources and Environment Services;
- d) Regional oil spill response centers;
- e) Provincial-level People's Committees.

Besides the above major agencies, when causing or discovering oil spills, they may notify them to any of such addresses as the coastal information stations, the People's Committees of rural districts (urban districts, provincial capitals or towns); naval, border-guard, coast guard, waterway traffic police units.

2. Information processing:

1. Upon receiving information on oil spills, the responsible agencies mentioned in Clause 1 of this Article must immediately take countermeasures according to their capacity and at the same time

report them in time to the provincial-level People's Committees, regional oil spill response centers, the National Committee for Search and Rescue and assist them in directing and coordinating the response.

b) They must provide accurate and timely information so that agencies, units and people in the affected areas take initiative in preventing, avoiding and addressing the consequences thereof.

Article 4.- Decentralization of oil spill response

Based on the oil spill extents, the response shall be organized and implemented at the following three levels:

1. The grassroots level:

a) Oil spills occur at establishments: Establishment owners must organize and mobilize their forces, means and equipment or forces, means and equipment under oil spill response contracts for timely response thereto.

b) Where oil spills fall beyond their capacity and on-spot resources are not enough for responding thereto, the establishments must report such in time to their managing agencies or provincial-level People's Committees for assistance. The owners of oil spill-causing establishments shall have to command the incident sites.

c) Where oil spills are serious or occur in areas of protection priority, the heads of the agencies responsible for commanding the incident sites may mobilize necessary forces and means for immediate response, and at the same time report such to the provincial-level People's Committees of the localities where the oil spills occur and the National Committee for Search and Rescue for directing and coordinating the response.

2. The regional level:

a) If oil spills fall beyond the response capacity of establishments or do not fall under the direct responsibility of establishments, such as cases of natural disasters, collision of means, or oil drifting from other areas, the presidents of the provincial-level People's Committees of the localities where the oil spills occur shall have to personally assume the prime responsibility or designate persons to command the incident sites for timely response thereto under the local plans, and at the same time may urgently mobilize necessary resources of establishments, ministries, branches in the localities, or the regional oil spill response centers for responding thereto.

b) The major agencies assisting the provincial-level People's Committee presidents in responding to oil spills shall be provincial-level Boards for Flood and Storm Prevention and Combat and Committees for Search and Rescue.

3. The national level:

a) Where oil spills are particularly serious, the provincial-level People's Committees of the localities where the oil spills occur shall report them in time to the National Committee for Search and Rescue for direction and coordination with relevant agencies in organizing the response.

b) Where oil spills go beyond the response capacity of domestic forces, the National Committee for Search and Rescue shall propose the Prime Minister to consider and decide on the request for international assistance.

In the course of organizing the response to oil spills at the above-mentioned levels, the site commanders must actively handle, promptly report on the incident development, make necessary proposals to competent authorities and take

responsibility for their decisions.

Article 5.- Coping in cases where oil spills occur offshore more than 20km

1. If oil spills occur over 20 km offshore, the organization of the response thereto and the site command shall be undertaken by regional oil spill response centers. Vietnam Oil and Gas Corporation shall have to respond to oil spills occurring at the grassroots level in oil and/or gas exploration, exploitation areas; if oil spills go beyond its response capacity, it must report thereon to the regional oil spill response centers.

2. If oil spills occur on vast areas and go beyond the response capacity of the regional oil spill response centers, the National Committee for Search and Rescue shall have to direct and mobilize forces, means and equipment for response thereto.

Article 6.- Response to oil spills in combination with fire and explosion prevention and fighting

In responding to spills of oil, particularly oils containing many light elements highly prone to fires and explosions, oil spills occurring near coasts, in river, on land, special attention must be paid to plans on coordination, organization of forces, means to ensure fire, explosion prevention and fighting and evacuation of people from danger areas.

Chapter III

SETTLEMENT OF OIL SPILL CONSEQUENCES

Article 7.- Evaluation and determination of damage and payment of compensations

1. For oil spills occurring within a province, the

provincial-level People's Committee shall assume the prime responsibility for, and coordinate with relevant agencies and owners of oil spill-causing establishments in, evaluating and determining damage and settling the compensations therefor.

2. For particularly serious oil spills, the National Committee for Search and Rescue shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment, provincial-level People's Committees, relevant agencies and owners of oil spill-causing establishments in, evaluating and determining damage and requesting the establishment owners to pay compensations for the damage; in special cases, propose the establishment of a state-level council for appraisal, and report them to the Prime Minister for consideration and decision.

3. Funds for damage compensations shall be supplied by insurance agencies (in case of insurance) and come from the financial sources of owners of the oil spill-causing establishments.

4. Damage compensations shall cover human lives and health; assets of the state and people; destroyed natural resources, living habitats, environment; the mobilization of forces, means and equipment for oil spill response; surveys, evaluation, determination of damage; the settlement of procedures for damage compensations and remedies.

5. If owners of oil spill-causing establishments have already signed oil spill response contracts with oil spill response service-providing enterprises or with regional oil spill response centers, the latter must make payments under such contracts.

6. The compensation for damage should be carried out speedily and strictly, possibly with the hiring of consultants of professional agencies, including international consultants in cases where

the oil spill causers are foreign legal persons. In case of necessity, the provincial-level People's Committees of the localities where the oil spills occur, the National Committee for Search and Rescue may coordinate with or direct functional agencies in applying measures according to the provisions of law settle the consequences and pay compensations for damage caused by oil spills.

7. The ministries, branches, provincial-level People's Committees, managing agencies or units of establishment owners shall have to direct the oil spill causers in fulfilling in time the responsibility of paying compensations for damage strictly according to law provisions.

Chapter IV

RESPONSIBILITIES OF ORGANIZATIONS, INDIVIDUALS FOR OIL SPILLS

Article 8.- Responsibilities of establishment owners

1. To draw up oil spill response plans and submit them to competent authorities for approval. To conclude oil spill response agreements or contracts with appropriate agencies, units.

2. To be accountable for oil spills caused by their establishments; to actively mobilize resources for, organize, command, timely and effective responding to oil spills once they occur.

3. To pay compensations for damage caused by oil spills as provided for in Article 7 of this Regulation.

4. For means, equipment which may cause oil spills, to have to buy environmental pollution insurance corresponding to the danger of causing oil spills.

5. For ships defined in Regulation 26, Appendix

l to the International Convention on Prevention of Pollution from Ships to which Vietnam has acceded, to have oil contamination contingency plans approved by competent authorities.

Article 9.- Responsibilities of provincial/ municipal (referred collectively to as provincial-level) People's Committees

1. Provincial-level People's Committee presidents shall have to organize oil spill response as provided for in Article 4 of this Regulation.

2. Provincial-level localities highly exposed to oil spills, particularly coastal or riparian localities where exist big ports, major petroleum depots, oil refineries and/or petrochemical zones, must work out their respective oil spill response plans and submit them to the National Committee for Search and Rescue for approval.

3. Provincial-level People's Committees shall have to approve oil spill response plans of establishments in their respective localities; to direct the investigation, evaluation and determination of damage, to finalize legal dossiers, request owners of oil spill-causing establishments to pay compensations for damage.

4. To promptly report on oil spills in their respective localities; to biannually and annually report on the situation and results of implementation of oil spill response plans of their localities to the National Committee for Search and Rescue.

Article 10.- Responsibilities of the National Committee for Search and Rescue

1. To assume the prime responsibility for directing and organizing the implementation of national plans on oil spill response nationwide.

2. To guide the elaboration of oil spill response plans; to assume the prime responsibility for, and

coordinate with the Ministry of Natural Resources and Environment as well as other concerned ministries and branches in, appraising, approving oil spill response plans of provincial-level People's Committees and regional oil spill response centers; to examine and urge the implementation organization.

3. To direct and mobilize forces, means of ministries, branches, regional oil spillage-coping centers, localities for responding to oil spills as decentralized in Article 4 of this Regulation.

4. To direct the professional training and fostering in oil spill response for full-time core forces, part-time forces; to organize drills, coordination of forces; propagate and educate communities in, disseminate, knowledge about, oil spill dangers and risks so as to actively prevent and respond to them.

5. To direct the investigation, verification of oil spills when so requested by ministries, branches, localities, establishment owners or by competent agencies; to propose to the Prime Minister and relevant state agencies measures to prevent and minimize damage caused by oil spills.

6. To coordinate with competent agencies of relevant countries in handling oil spills on seas or in waters adjacent to neighboring countries, report to the Prime Minister on cases falling beyond its competence.

Article 11.- Relevant ministries, branches

1. According to their respective functions, to elaborate and promulgate legal documents on responding to, addressing the consequences of, oil spills and guide the implementation thereof; to approve oil spill response plans of establishments under their respective management; to coordinate with localities in inspecting the observance of

regulations by establishment owners to prevent and minimize the possibility of occurrence of oil spills; to ensure regimes, policies and interests for organizations and individuals participating in oil spill response activities according to the provisions of law.

2. To abide by the direction of the National Committee for Search and Rescue in implementing the national plans on oil spill response; to report in time on the oil spills in their respective management areas; to annually report on the situation and results of implementation of the national plans on oil spill response to the National Committee for Search and Rescue.

Article 12.- Responsibilities of regional oil spill response centers

1. To act as full-time core forces in responding to oil spills in the assigned regions; to cope with oil spills under oil spill response decentralization and contracts with establishments; to stand ready to respond to oil spills nationwide under the direction of the National Committee for Search and Rescue.

2. To elaborate oil spill response plans and submit them to the National Committee for Search and Rescue for appraisal and approval.

3. To promptly report on oil spills upon occurrence, on results of performance of oil spill response tasks to the National Committee for Search and Rescue.

Article 13.- Responsibilities of other socio-economic organizations

The Vietnamese State encourages and creates favorable conditions for domestic and foreign organizations and individuals to invest in infrastructure, facilities and equipment in service

of oil spill response and environmental protection in Vietnam according to the provisions of law, to abide by the mobilization of the National Committee for Search and Rescue and local People's Committees.

Chapter V

IMPLEMENTATION PROVISIONS

Article 14.- Commendation, reward

Organizations and individuals that record achievements in the implementation of the Regulation on oil spill response shall be commended/rewarded according to State regulations.

Article 15.- Handling of violations

Organizations and individuals that fail to perform their responsibilities defined in this Regulation shall be disciplined, administratively sanctioned or examined for penal liability, depending on the nature and seriousness of their violations.

Article 16.- Implementation organization

The National Committee for Search and Rescue, the ministries, branches, provincial/municipal People's Committees, agencies, organizations and concerned individuals shall have to deploy and organize the implementation of this Regulation.

In the course of implementation, the National Committee for Search and Rescue shall promptly propose supplements and/or amendments to the Prime Minister for consideration and decision.

**For the Prime Minister
Deputy Prime Minister
NGUYEN TAN DUNG**