

THE GOVERNMENT

DECREE No. 128/2005/ND-CP OF OCTOBER 11, 2005, PROVIDING FOR SANCTIONING OF ADMINISTRATIVE VIOLATIONS IN THE FISHERIES DOMAIN

THE GOVERNMENT

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

Pursuant to the November 26, 2003 Law on Fisheries;

Pursuant to the July 2, 2002 Ordinance on Handling of Administrative Violations;

At the proposal of the Minister of Fisheries,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

1. This Decree provides for acts of administrative violation in the fisheries domain, sanctioning forms, levels, competence and procedures as well as consequence-remedying measures.

2. Administrative violations in the fisheries domain are acts of violating regulations on state management in the fisheries domain, which are intentionally or unintentionally committed by organizations or individuals, but are not criminal offenses and, according to the provisions of the

Ordinance on Handling of Administrative Violations and this Decree, must be administratively sanctioned.

3. Administrative violations in the fisheries domain under the provisions of this Decree include:

a/ Violation of regulations on aquatic resources protection;

b/ Violation of regulations on exploitation of aquatic resources and management of fishing vessels;

c/ Violation of regulations on aquaculture;

d/ Violation of regulations on aquatic resource processing, trading, collection, preservation and transportation; aquatic food hygiene and safety;

e/ Violation of regulations on fisheries services and business lines;

f/ Obstructing activities of state management over fisheries.

4. The sanctioning of acts of encroaching upon Vietnamese sea areas for fisheries activities shall comply with the provisions of Articles 10 and 22 of the Government's Decree No. 137/2004/ND-CP of June 16, 2004, providing for sanctioning of administrative violations on sea areas and continental shelf of the Socialist Republic of Vietnam.

Article 2.- Subjects to be sanctioned

1. Vietnamese organizations and individuals as well as foreign organizations and individuals that commit acts of administrative violation in the fisheries domain on the territory, exclusive economic zone and continental shelf of the Socialist Republic of Vietnam, shall all be sanctioned under the provisions of this Decree and other relevant provisions of law, unless otherwise provided for by treaties which Vietnam has signed or acceded to.

2. The sanctioning of minors for their administrative violations in the fisheries domain shall comply with the provisions of Clause 1 and Clause 3, Article 7 of the Ordinance on Handling of Administrative Violations.

Article 3.- Sanctioning principles

The principles for sanctioning administrative violations in the fisheries domain shall comply with the provisions of Article 3 of the Ordinance on Handling of Administrative Violations and Article 3 of the Government's Decree No 134/2003/ND-CP of November 14, 2003, detailing the implementation of a number of articles of the 2002 Ordinance on Handling of Administrative Violations.

Article 4.- Extenuating circumstances, aggravating circumstances

Extenuating circumstances and aggravating circumstances to be applied in sanctioning acts of violation specified in Chapter II of this Decree shall comply with the provisions of Articles 8 and 9 of the Ordinance on Handling of Administrative Violations and Article 6 of the Government's Decree No 134/2003/ND-CP of November 14, 2003, detailing the implementation of a number of articles of the 2002 Ordinance on Handling of Administrative Violations.

Article 5.- The statute of limitations for sanctioning administrative violations

The statute of limitations for sanctioning administrative violations in the fisheries domain shall be one year, counting from the date of commission of administrative violations; particularly for administrative violations related to the protection of the habitat of aquatic species and the export and import of aquatic products, such statute of limitations shall be two years.

Beyond the above-mentioned time limits, sanctions shall not be imposed, but consequence-remedying measures specified in this Decree must still be applied.

Persons with sanctioning competence who are at fault in failing to sanction administrative violations within the statute of limitations for sanctioning shall be handled under the provisions of Article 121 of the Ordinance on Handling of Administrative Violations.

The counting of the statute of limitations for handling administrative violations shall comply with the provisions of Clause 1, Article 9 of the Government's Decree No 134/2003/ND-CP of November 14, 2003, detailing the implementation of a number of articles of the 2002 Ordinance on Handling of Administrative Violations.

Article 6.- Time limit for being considered not yet having been sanctioned for administrative violations

Organizations or individuals sanctioned for administrative violations that do not relapse into violations within one year as from the date of completely serving the sanctioning decisions or from the date of expiration of the statute of limitations for executing the sanctioning decisions, shall be considered not yet having been sanctioned for administrative violations.

The counting of the statute of limitations for handling administrative violations shall comply with the provisions of Clause 2, Article 9 of the Government's Decree No 134/2003/ND-CP of November 14, 2003, detailing the implementation of a number of articles of the 2002 Ordinance on Handling of Administrative Violations.

Article 7.- Forms of sanctioning administrative violations and consequence-remedying measures

1. For each act of administrative violation, the violating organization or individual shall be subject to one of the following principal sanctioning forms:

- a/ Caution;
- b/ Fine.

2. In addition to principal sanctioning forms, depending on the nature and severity of violations, organizations or individuals committing administrative violations in the fisheries domain may also be subject to the application of one of the following additional sanctioning forms:

- a/ Deprivation of the right to use licenses or practice certificates for a definite or indefinite time;
- b/ Confiscation of material evidences and means employed for commission of administrative violations.

3. Apart from principal sanctioning forms and additional sanctioning forms specified in Clauses 1 and 2 of this Article, violating organizations and individuals may also be subject to the application of one or many of the following consequence-remedying measures:

- a/ Forced restoration of the original state altered due to administrative violations;
- b/ Forced application of measures to remedy environmental pollution or epidemic spread caused by administrative violations;
- c/ Forced taking out of Vietnam or forced re-export of goods, articles and means;
- d/ Forced destruction of articles, reared animals and/or cultivated plants which cause harm to human health, to aquatic animals or plants and pollute the environment.

Violating individuals and organizations shall have to bear all expenses for the application of the above-mentioned measures.

Chapter II

ACTS OF ADMINISTRATIVE VIOLATION IN THE FISHERIES DOMAIN, SANCTIONING FORMS AND LEVELS

Section A. VIOLATIONS OF REGULATIONS ON PROTECTION OF AQUATIC RESOURCES

Article 8.- Violation of regulations on protection of habitats of aquatic species

1. A fine of between VND 1,000,000 and VND 3,000,000 shall be imposed for acts of discharging oils, greases, toxic chemicals, animals or plants containing toxic elements or other hazardous wastes less than double the permitted amounts into the environment of natural habitats, reproductive and growth areas of aquatic species or into the environment of areas under aquaculture.

2. A fine of between VND 5,000,000 and VND 10,000,000 shall be imposed for acts of discharging wastes specified in Clause 1 of this Article double or more the permitted amounts.

3. A fine of between VND 15,000,000 and VND 30,000,000 shall be imposed for acts of discharging extremely hazardous substances more than the permitted amounts into the natural habitats, reproductive and growth grounds of aquatic species or areas under aquaculture.

4. A fine of between VND 3,000,000 and VND 5,000,000 shall be imposed for one of the following acts:

- a/ Dismantling or building floating works or underwater works in water areas, thus altering the habitats, growth and reproductive sites of aquatic species, without permits of competent agencies or

in contravention of the provisions in the permits;

b/ Exploiting or destroying reefs, coral reefs, underwater flora fields, submerged forests, and other biotopes, except for acts of anchoring or mooring fishing vessels in *force majeure* cases; illegally storing, transporting or trading in corals;

c/ Illegally destroying or obstructing natural movement routes of aquatic species.

5. Acts of violating regulations on inland water conservation zones and marine conservation zones related to the fisheries domain shall be sanctioned under the provisions of Article 17 of the Government's Decree No. 121/2004/ND-CP of May 12, 2004, providing for sanctioning of administrative violations in the field of environmental protection.

6. Additional sanctioning forms and consequence-remedying measures:

a/ Forced application of measures to remedy environmental pollution, for acts specified in Clauses 1, 2 and 3 of this Article;

b/ Forced restoration of the original state, for acts specified at Point a, Clause 4 of this Article;

c/ Confiscation of material evidences and means (except fishing vessels) employed in violations, for acts specified in Clause 4 of this Article.

Article 9.- Violation of regulations on protection of aquatic species

1. The fine levels for acts of exploiting aquatic resources with a weight of caught aquatic species of sizes smaller than the sizes permitted for mixed exploitation shall be as follows:

a/ A fine of between VND 500,000 and VND 1,500,000 if the weight exceeds the permitted level of mixed exploitation by from 20 kg to under 100 kg;

b/ A fine of between VND 1,500,000 and VND 3,000,000 if the weight exceeds the permitted level of mixed exploitation by from 100 kg to under 500 kg;

c/ A fine of between VND 3,000,000 and VND 5,000,000 if the weight exceeds the permitted level of mixed exploitation by from 500 kg to under 1,000 kg;

d/ A fine of between VND 5,000,000 and VND 10,000,000 if the weight exceeds the permitted level of mixed exploitation by over 1,000 kg.

2. The fine levels for acts of exploiting aquatic resources in prohibited areas or periods shall be as follows:

a/ A caution, for first-time violations involving a weight of aquatic resources of under 10 kg;

b/ A fine of between VND 1,000,000 and VND 3,000,000 if the weight of aquatic resources is between 10 kg and under 100 kg; or if the weight of aquatic resources is under 10 kg but the violation is committed from the second time on;

c/ A fine of between VND 3,000,000 and VND 5,000,000 if the weight of aquatic resources is from 100 kg to under 500 kg;

d/ A fine of between VND 5,000,000 and VND 10,000,000 if the weight of aquatic resources is from 500 kg to under 1,000 kg;

e/ A fine of between VND 10,000,000 and VND 15,000,000 if the weight of aquatic resources exceeds 1,000 kg.

3. The fine levels for acts of fishing aquatic species on the list of those banned from fishing shall be as follows:

a/ A fine of between VND 5,000,000 and VND 8,000,000 if the weight of aquatic resources is under 50 kg;

b/ A fine of between VND 8,000,000 and VND 12,000,000 if the weight of aquatic resources ranges from 50 kg to under 100 kg;

c/ A fine of between VND 12,000,000 and VND 15,000,000 if the weight of aquatic resources ranges from 100 kg to under 300 kg;

d/ A fine of between VND 15,000,000 and VND 20,000,000 if the weight of aquatic resources ranges from 300 kg to under 500 kg;

e/ A fine of between VND 20,000,000 and VND 30,000,000 if the weight of aquatic resources exceeds 500 kg.

4. Additional sanctioning forms and consequence-remedying measures:

a/ Confiscation of illegally exploited aquatic resources and forced release of live aquatic resources into their habitats, for acts specified in Clauses 1, 2 and 3 of this Article.

b/ Confiscation of material evidences and means (except fishing vessels) employed in the violations and deprivation of the right to use permits (if any) for 6 months, for acts specified in Clauses 2 and 3 of this Article in case of causing serious consequences.

Section B. VIOLATIONS OF REGULATIONS ON EXPLOITATION OF AQUATIC RESOURCES AND MANAGEMENT OF FISHING VESSELS

Article 10.- Violation of regulations on exploitation of aquatic resources

1. A caution or a fine of between VND 100,000 and VND 200,000 shall be imposed for one of the following acts:

a/ Fishing vessels lacking life equipment and equipment for following weather forecasts or lacking equipment to ensure communication (for

types of fishing vessels defined by the Fisheries Ministry);

b/ Having no fishing diaries, failing to make entries into such diaries or failing to make reports on fishing according to regulations of the Fisheries Ministry;

c/ Failing to mark fishing gears in use in fishing grounds with noticeable signs according to regulations of the Fisheries Ministry;

d/ Jettisoning fishing gears in natural water areas, except in *force majeure* cases.

2. A fine of between VND 200,000 and VND 300,000 for the following acts:

a/ Fishing with searchlights of total output exceeding the prescribed level or failing to comply with the Fisheries Ministry's regulations on the distance between searchlights and other fishing gears;

b/ Fishing with nets having mesh sizes smaller than the prescribed sizes;

3. The fine levels for using expired fishing permits shall be as follows:

a/ A caution, for using permits which have expired for under 30 days;

b/ A fine as provided for in Clause 7 of this Article for using fishing permits which have expired for 30 days or more;

4. The fine levels for acts of operating in contravention of the contents of fishing permits on fishing trades and fishing routes shall be as follows:

a/ A fine of between VND 200,000 and VND 500,000 shall be imposed for cases of employing non-self-propelled fishing vessels or self-propelled ones with main engine capacity of under 30 horse powers;

b/ A fine of between VND 500,000 and VND

1,500,000 shall be imposed for cases of employing self-propelled fishing vessels with main engine capacity of between 30 horse powers and under 90 horse powers;

c/ A fine of between VND 1,500,000 and VND 3,000,000 shall be imposed for cases of employing self-propelled fishing vessels with main engine capacity of between 90 horse powers and under 200 horse powers;

d/ A fine of between VND 3,000,000 and VND 5,000,000 shall be imposed for cases of employing self-propelled fishing vessels with main engine capacity of 200 horse powers or more.

5. A fine of between VND 3,000,000 and VND 5,000,000 shall be imposed for one of the following acts:

a/ Using toxic chemicals or poisonous plants or storing them aboard fishing vessels for fishing;

b/ Using fishing tools on the list of those banned by the Fisheries Ministry, except for cases where they are permitted by fisheries management agencies to be used for harvesting one's own reared aquatic animals.

6. The fine levels for acts of storing or using electric shocks or using electricity directly generated from generators onboard fishing vessels for fishing shall be as follows:

a/ A fine of between VND 1,000,000 and VND 2,000,000 shall be imposed for cases of employing non-self-propelled fishing vessels or self-propelled ones with main engine capacity of under 30 horse powers;

b/ A fine of between VND 2,000,000 and VND 4,000,000 shall be imposed for cases of employing self-propelled fishing vessels with main engine capacity of between 30 horse powers and under 90 horse powers;

c/ A fine of between VND 4,000,000 and VND 6,000,000 shall be imposed for cases of employing self-propelled fishing vessels with main engine capacity of 90 horse powers or more;

7. The fine levels for acts of fishing with fishing vessels of 0.5 GT or more without fishing permits shall be as follows:

a/ A fine of between VND 500,000 and VND 1,500,000 shall be imposed for cases of employing non-self-propelled fishing vessels or self-propelled ones with main engine capacity of under 30 horse powers;

b/ A fine of between VND 2,000,000 and VND 5,000,000 shall be imposed for cases of employing self-propelled fishing vessels with main engine capacity of between 30 horse powers and under 90 horse powers;

c/ A fine of between VND 5,000,000 and VND 8,000,000 shall be imposed for cases of employing self-propelled fishing vessels with main engine capacity of between 90 horse powers and under 200 horse powers;

d/ A fine of between VND 8,000,000 and VND 10,000,000 shall be imposed for cases of employing self-propelled fishing vessels with main engine capacity of 200 horse powers or more.

8. The fine levels for using forged, erased or modified fishing permits shall be as follows:

a/ A fine of between VND 1,000,000 and VND 3,000,000 shall be imposed for cases of employing non-self-propelled fishing vessels or self-propelled ones with main engine capacity of under 30 horse powers;

b/ A fine of between VND 3,000,000 and VND 6,000,000 shall be imposed for cases of employing self-propelled ones with main engine capacity of between 30 horse powers and under 90 horse

powers;

c/ A fine of between VND 6,000,000 and VND 10,000,000 shall be imposed for cases of employing self-propelled fishing vessels with main engine capacity of between 90 horse powers and under 200 horse powers;

d/ A fine of between VND 10,000,000 and VND 15,000,000 shall be imposed for cases of employing self-propelled fishing vessels with main engine capacity of 200 horse powers or more.

9. A fine of between VND 5,000,000 and VND 10,000,000 shall be imposed for acts of fishing by using explosives or illegally storing explosives, detonators and fuses onboard fishing vessels.

10. Acts of violating regulations on assurance of inland waterway traffic order and safety, committed when fishing, shall be sanctioned under the provisions of Article 11 of the Government's Decree No. 09/2005/ND-CP of January 27, 2005, providing for sanctioning of administrative violations in the inland waterway transport domain.

11. Additional sanctioning forms and consequence-remedying measures:

a/ Forced observance of the Fisheries Ministry's regulations, for acts specified at Points a and b, Clause 1 of this Article;

b/ Confiscation of the number of electric lamps with an output exceeding the prescribed level, for acts specified at Point a, Clause 2 of this Article;

c/ Confiscation of fishing nets with mesh sizes smaller than the prescribed sizes, for acts specified at Point b, Clause 2 of this Article;

d/ Confiscation of exploited aquatic resources, for acts specified in Clause 2, Clause 3, Clause 4, Point b of Clause 5, Clause 6, Clause 7, Clause 8 and Clause 9 of this Article;

e/ Forced destruction of exploited aquatic resources and toxic chemicals and poisonous plants, for acts specified at Point a, Clause 5 of this Article;

f/ Confiscation and destruction of fishing gears banned from use, for acts specified at Point b of Clause 5, Clause 6 and Clause 9 of this Article;

g/ Confiscation and destruction of forged permits, erased or modified permits, for acts specified in Clause 8 of this Article;

h/ Confiscation of explosives, detonators and fuses stored onboard fishing vessels, for acts specified in Clause 9 of this Article; confiscation of fishing vessels, for cases of recidivism involving fishing with explosives.

Article 11.- Violation of regulations on management of fishing vessels

1. A caution or a fine of between VND 50,000 and VND 150,000 shall be imposed for one of the following acts:

a/ Failing to observe the Fisheries Ministry's regulations on conditions to ensure food hygiene and safety on fishing vessels;

b/ Using life equipment and devices not yet inspected by competent agencies;

c/ Fishermen onboard fishing vessels having no crewman's books or people's identity cards according to the provisions of law;

d/ Failing to display the granted fishing vessel registration numbers on fishing vessels or displaying them not according to regulations or having the displayed registration numbers dim;

e/ Having no crewman's list, for fishing vessels which are required to have such a list;

2. A fine of between VND 200,000 and VND 300,000 shall be imposed for one of the following

acts:

a/ Violating internal rules of fishing ports or causing disorder at fishing ports;

b/ Owners of offshore fishing vessels failing to buy insurance for each crewman.

3. Fishing vessels in violation of regulations on liability for the occurrence of inland waterway accidents; regulations on inspection and control along inland waterways; traffic rules and regulations on signals of vessels operating on inland waterways shall be sanctioned under the provisions of Articles 20, 21, 22 and 23 of the Government's Decree No. 09/2005/ND-CP of January 27, 2005, providing for sanctioning of administrative violations in the domain of inland waterway traffic.

4. A fine of between VND 300,000 and VND 700,000 shall be imposed for one of the following acts:

a/ Failing to mark fishing vessels with identification signs suitable to sea lanes along which such vessels are permitted to operate according to the provisions of law;

b/ Steersmen or engineers of fishing vessels failing to possess adequate papers as required by law.

5. The fine levels for employing fishing vessels with expired technical safety certificates:

a/ A caution shall be imposed in cases where the certificate has expired for 30 days at most;

b/ A fine of between VND 200,000 and VND 500,000 shall be imposed in cases where the certificate has expired for between 30 days and 60 days;

c/ A fine of between VND 500,000 and VND 1,500,000 shall be imposed in cases where the certificate has expired for over 60 days.

6. A fine of between VND 500,000 and VND 1,500,000 shall be imposed for one of the following acts:

a/ Employing fishing vessels for which registration or registry has not yet been made as required by law on fisheries activities;

b/ Failing to make re-registration or re-registry for transformed ships subject to registry.

7. A fine of between VND 1,000,000 and VND 3,000,000 shall be imposed for one of the following acts:

a/ Steering fishing vessels or operating fishing vessels' engines, using forged master's or chief engine operator's diplomas;

b/ Using forged, erased or modified fishing vessels' registration or registry papers;

c/ Failing to furnish safety assurance equipment and devices for ships and persons onboard according to the provisions of law.

8. A fine of between VND 2,000,000 and VND 4,000,000 shall be imposed on owners of fishing vessels for building or transforming fishing vessels subject to registry, committing one of the following acts:

a/ Doing so without permission of competent agencies;

b/ Having no design dossiers approved by competent agencies.

9. Additional sanctioning forms and consequence-remedying measures:

a/ Forced observation of regulations of the Fisheries Ministry, for acts specified in Clauses 1, 2, 3, 4, 5, 6, 7 and 8 of this Article;

b/ Confiscation and destruction of forged, erased or modified papers, for acts specified at Points a and b, Clause 7 of this Article.

**Section C. VIOLATIONS OF REGULATIONS ON
AQUACULTURE**

Article 12.- Violation of regulations on aquatic breeds

1. Acts of administrative violation in the domain of animal breeds and plant varieties shall be sanctioned under the provisions of the Government's Decree No. 47/2005/ND-CP of April 8, 2005, providing for sanctioning of administrative violations in the domain of reared animal breeds and Decree No. 57/2005/ND-CP of April 27, 2005, on sanctioning of administrative violations in the domain of cultivated plant varieties, and other provisions of Clauses 2, 3, 4, 5 and 6 of this Article.

2. A fine of between VND 500,000 and VND 1,500,000 shall be imposed on breed-producing or -trading establishments for one of the following acts:

a/ The sites of the establishments failing to be in line with planning;

b/ Failing to ensure the standards on veterinary sanitation and environmental protection for ponds, tanks, equipment, water supply systems and waste water treatment systems used in aquatic breed production or trading according to regulations of the Fisheries Ministry;

c/ Using expired feeds, veterinary drugs, bio-preparations, microorganisms or chemicals in aquatic breed production and trading.

3. A fine of between VND 2,000,000 and VND 4,000,000 shall be imposed for using feeds, veterinary drugs, bio-preparations, microorganisms, and chemicals which contain substances on the list of those restricted from use in aquatic breed production or trading at variance with regulations of the Fisheries Ministry.

4. A fine of between VND 3,000,000 and VND 5,000,000 shall be imposed for using feeds, veterinary drugs, bio-preparations, microorganisms, and chemicals which contain substances on the list of those banned from use or circulation in Vietnam in aquatic breed production or trading under regulations of the Fisheries Ministry;

5. A fine of between VND 20,000,000 and VND 30,000,000 shall be imposed for acts of producing, trading in or transporting aquatic breeds or releasing into the natural environment aquatic species not on the list of those permitted for production or trading.

6. Additional sanctioning forms and consequence-remedying measures:

a/ Forced compliance with relevant provisions of law, for acts specified at Points a and b, Clause 2 of this Article;

b/ Forced destruction of feeds, veterinary drugs, bio-preparations, microorganisms, and chemicals used in aquatic breed production or trading which have been expired for use or are on the ban lists, for acts specified at Point c of Clause 2, and in Clause 3 and Clause 4 of this Article;

c/ Confiscation of aquatic breeds and forced compliance by producing establishments with the provisions of law on assay of new breeds; forced release of rare and precious aquatic species which need to be conserved back into their habitats, forced destruction of harmful, alien organisms, for acts specified in Clause 5 of this Article.

Article 13.- Violation of regulations on aquaculture

1. A fine of between VND 500,000 and VND 1,500,000 for one of the following acts:

a/ The construction sites of establishments failing to be in line with planning, except for small-sized establishments according to regulations of the Fisheries Ministry;

b/ Failing to ensure veterinary sanitation and environmental protection standards according to the provisions of law;

c/ Using feeds, veterinary drugs, bio-preparations, microorganisms and chemicals containing substances on the list of those restricted from use at variance with regulations of the Fisheries Ministry;

d/ Using expired feeds, veterinary drugs, bio-preparations, microorganisms and chemicals;

e/ Failing to observe regulations of the Fisheries Ministry on control of residues of harmful substances in reared aquatic animals and their products;

2. A fine of between VND 3,000,000 and VND 5,000,000 shall be imposed for one of the following acts:

a/ Using aquatic feeds, veterinary drugs, bio-preparations, microorganisms or chemicals which are not on the list of those permitted for circulation in Vietnam or contain substances on the lists of those banned from use.

b/ Rearing aquatic breeds or species which are on the list of aquatic species banned from rearing or are not on the list of those permitted for production or trading in Vietnam according to regulations of the Fisheries Ministry;

c/ Rearing aquatic breeds or species on the list of those restricted from rearing at variance with regulations of the Fisheries Ministry or localities.

3. Additional sanctioning forms and consequence-remedying measures:

a/ Forced observance of the provisions of law,

for acts specified at Points a, b and e of Clause 1, and Point c of Clause 2 of this Article;

b/ Forced destruction of aquatic feeds, drugs, bio-preparations, micro-organisms or chemicals which have expired or are on the lists of those banned from use or are not on the list of those permitted for circulation in Vietnam, for acts specified at Points c and d of Clause 1, and Point a of Clause 2 of this Article;

c/ Confiscation of reared aquatic animals, for acts specified at Point b, Clause 2 of this Article.

Article 14.- Violation of regulations on prevention of aquatic animal epidemics, and quarantine of aquatic animals and their products

1. A fine of between VND 500,000 and VND 1,500,000 shall be imposed for acts of failing to apply compulsory epidemic-preventing measures according to regulations of the Fisheries Ministry.

2. A fine of between VND 1,000,000 and VND 2,000,000 shall be imposed for one of the following acts:

a/ Failing to apply measures to prevent and combat aquatic animal epidemics when there are decisions declaring the epidemics;

b/ Taking aquatic animals and their products prone to the declared epidemic into or from epidemic-hit areas;

c/ Taking from epidemic-hit areas feeds, rearing tools or wastes of aquatic animals which are capable of spreading the declared epidemic;

d/ Transporting aquatic animals prone to the declared epidemic through epidemic-hit areas without permission of competent agencies;

e/ Failing to isolate aquatic animals contracted, infected or suspected to be contracted with a dangerous infectious disease;

f/ Failing to observe regulations on disposal of aquatic animals contracted or suspected to be contracted with a dangerous infectious disease;

g/ Failing to observe the aquatic animal health agency's regulations on taking samples for periodical disease diagnosis and testing;

h/ Failing to conduct periodical veterinary sanitation inspections according to the provisions of law.

3. A fine of between VND 2,000,000 and VND 4,000,000 shall be imposed for one of the following acts:

a/ Failing to declare and send quarantine dossiers according to the provisions of law when transporting or circulating aquatic animals and their products on the list of those subject to quarantine;

b/ Failing to register, declare and send quarantine dossiers according to the provisions of law when exporting, importing, temporarily importing for re-export, temporarily exporting for re-import, transporting from one border gate to another or transiting through Vietnamese territory aquatic animals and their products;

c/ Failing to quarantine aquatic breeds before taking them out of aquatic animal-breeding establishments;

d/ Transporting aquatic breeds without quarantine certificates or in excess of the quantities stated in the quarantine certificates;

e/ Failing to quarantine commercial aquatic animals and their products before taking them from an aquatic animal epidemic-hit district.

4. A fine of between VND 3,000,000 and VND 5,000,000 shall be imposed for acts of using forged, erased or modified quarantine certificates.

5. A fine of between VND 5,000,000 and VND 10,000,000 shall be imposed for one of the

following acts:

a/ Pouring or discharging feeds, washing water and corpses of diseased aquatic animals into natural water areas or other water areas under aquaculture;

b/ Discharging water or wastes which have not yet been treated or have been treated not up to set standards from aquatic animal disease-hit areas into other water areas under aquaculture.

6. Consequence-remedying measures:

a/ Forced application of measures to prevent epidemics, for acts specified in Clause 1; Points a, d, e, f, g and h of Clause 2 of this Article;

b/ Forced destruction of diseased aquatic animals, their feeds or wastes, for acts specified at Points b and c of Clause 2 of this Article;

c/ Forced observation of regulations on quarantine, for acts specified in Clause 3 of this Article;

d/ Confiscation and destruction of forged certificates; confiscation of erased or modified certificates, for acts specified in Clause 4 of this Article;

e/ Forcible application of measures to remedy water environment pollution, for acts specified in Clause 5 of this Article.

Section D. VIOLATIONS OF REGULATIONS ON PROCESSING, TRADING, COLLECTION, PRESERVATION AND TRANSPORTATION OF AQUATIC RESOURCES, SANITATION AND SAFETY OF AQUATIC FOOD

Article 15.- Violation of regulations on aquatic resource processing

1. A fine of between VND 3,000,000 and VND 5,000,000 shall be imposed on aquatic resource-

processing establishments for one of the following acts:

a/ Building new establishments not in line with planning;

b/ Failing to publicize the quality of their products or publicizing standards unconfomable with compulsory standards;

c/ Failing to ensure the quality of their products up to publicized standards;

d/ Processing aquatic species during the period when they are banned from exploitation nationwide;

e/ Using additives or chemicals banned from use or not permitted for circulation in Vietnam or using them in contravention of law.

2. A fine of between VND 5,000,000 and VND 7,000,000 shall be imposed on establishments processing aquatic resources by industrial mode for one of the following acts:

a/ Having no technicians with professional qualifications as required by the Fisheries Ministry;

b/ Failing to apply a quality control system and failing to have the quality of their products recognized by competent state agencies;

c/ Aquatic resources put to processing being of unknown origin or failing to meet veterinary sanitary standards.

3. A fine of between VND 8,000,000 and VND 12,000,000 shall be imposed for acts of processing aquatic resources on the list of those banned from exploitation.

4. A fine of between VND 15,000,000 and VND 20,000,000 shall be imposed for processing aquatic resources originating from areas where the harvest thereof is banned.

5. Additional sanctioning forms and consequence-remedying measures:

a/ Forced observance of the provisions of law, for acts specified at Points a and b of Clause 1, and in Clause 2 of this Article;

b/ Confiscation of aquatic resources and their products, for acts specified at Points c and d of Clause 1, Point c of Clause 2, and in Clause 3 of this Article;

c/ Forced destruction of aquatic resources and their products, for acts specified in Clause 4 of this Article.

Article 16.- Violation of regulations on trading, collection, preservation and transportation of aquatic resources

1. A fine of between VND 1,000,000 and VND 3,000,000 shall be imposed for acts of trading, collecting, preserving or transporting fresh and live or processed aquatic resources which fail to meet veterinary sanitary standards provided for by law.

2. A fine of between VND 3,000,000 and VND 5,000,000 shall be imposed for one of the following acts:

a/ Collecting, preserving, transporting or trading in aquatic species which were caught during the period when the catching thereof is banned nationwide or which were caught by using explosives or electronic shocks;

b/ Collecting, preserving, transporting or trading in aquatic resources originating from areas where the harvest thereof is banned;

c/ Using veterinary drugs, chemicals or processing additives banned from use or not permitted for circulation in Vietnam or using them at variance with the provisions of law.

3. A fine of between VND 5,000,000 and VND 10,000,000 shall be imposed for acts of collecting, preserving, transporting or trading in aquatic

species on the list of those banned from exploitation.

4. Additional sanctioning forms and consequence-remedying measures:

Confiscation of aquatic resources and forced release of live ones into their habitats, for acts specified in Clause 2 and Clause 3 of this Article.

Article 17.- Violation of regulations on food hygiene and safety in the fisheries domain

Acts of violating regulations on food hygiene and safety shall be sanctioned under the provisions of Article 15 of the Government's Decree No. 45/2005/ND-CP of April 6, 2005, providing for sanctioning of administrative violations in the health domain.

Section E. VIOLATIONS OF REGULATIONS ON FISHERIES SERVICE BUSINESS

Article 18.- Violation of regulations on production, trading, export and import of aquatic animal feeds, veterinary drugs, bio-preparations, microorganisms or chemicals used in fisheries activities

1. A fine of between VND 500,000 and VND 1,000,000 shall be imposed on owners or salespersons of establishments trading in veterinary drugs for aquatic animals, bio-preparations, microorganisms or chemicals used in fisheries activities for having no veterinary practice certificates granted by competent agencies.

2. A fine of between VND 1,000,000 and VND 2,000,000 shall be imposed for one of the following acts:

a/ Owners or responsible technicians of establishments producing, exporting or importing

veterinary drugs for aquatic animals, bio-preparations, microorganisms or chemicals used in fisheries activities having no veterinary practice certificates granted by competent agencies;

b/ Those who have aquatic animal veterinary practice certificates defined in Clause 1 or at Point a of Clause 2 of this Article leasing or lending such certificates.

3. A fine of between VND 3,000,000 and VND 5,000,000 shall be imposed for one of the following acts:

a/ Violating regulations in veterinary sanitation conditions on establishments producing or trading aquatic animal feeds; veterinary drugs, bio-preparations, microorganisms or chemicals used in fisheries activities;

b/ Using forged, erased or modified aquatic animal veterinary practice certificates stated in Clause 1 or Clause 2 of this Article.

4. A fine of between VND 5,000,000 and VND 7,000,000 shall be imposed for one of the following acts:

a/ Establishments producing, trading or importing aquatic animal feeds; veterinary drugs, bio-preparations, microorganisms or chemicals used in fisheries activities failing to publicize goods quality standards according to the provisions of law;

b/ Establishments trading in expired aquatic animal feeds; veterinary drugs, bio-preparations, microorganisms or chemicals used in fisheries activities;

c/ Establishments producing aquatic animal feeds; veterinary drugs, bio-preparations, microorganisms or chemicals used in fisheries activities, though having been granted the circulation registration codes, failing to re-compile dossiers of circulation registration in the following

changes: change of formula content; change of preparation form; change of quality standards; change of usage; change of production methods and processes, resulting in changes of product quality; quality re-evaluation, product effect and safety, according to the provisions of law.

5. A fine of between VND 7,000,000 and VND 10,000,000 shall be imposed for acts of producing, trading, storing or transporting in aquatic animal feeds; veterinary drugs, bio-preparations, microorganisms or chemicals used in fisheries activities, which are:

a/ Not on the list of those permitted for circulation in Vietnam according to regulations of the Fisheries Ministry;

b/ Banned from use by the Fisheries Ministry;

c/ Not up to veterinary sanitary standards set by the Fisheries Ministry;

d/ Of unknown origin.

6. A fine of between VND 10,000,000 and VND 20,000,000 shall be imposed for acts of violating the provisions of Clause 5 of this Article committed by exporting or importing organizations or individuals.

7. Additional sanctioning forms and consequence-remedying measures:

a/ Forced observance of the provisions of law, for acts specified in Clause 1, at Point a of Clause 2, Point a of Clause 3, and Points a and c of Clause 4 of this Article;

b/ Deprivation of the right to use aquatic animal veterinary practice certificates, for acts specified at Point b, Clause 2 of this Article;

c/ Confiscation and destruction of forged, erased or modified aquatic animal veterinary practice certificates, for acts specified at Point b, Clause 3

of this Article;

d/ Confiscation of goods, for acts specified at Point a of Clause 4 of this Article;

e/ Forced destruction of goods, or acts specified at Points b and c of Clause 4, and in Clause 5 and Clause 6 of this Article.

Article 19.- Violation of regulations on aquatic animal health services

1. A fine of between VND 500,000 and VND 1,000,000 shall be imposed on those who practice aquatic animal health diagnosis, prescription, medical treatment or care, provide animal health-related technical counseling or services without aquatic animal veterinary practice certificates granted by competent agencies or with expired practice certificates.

2. A fine of between VND 3,000,000 and VND 5,000,000 shall be imposed for one of the following acts:

a/ Owners or technical managers of establishments testing, experimenting, assaying veterinary drugs, bio-preparations, micro organisms, chemicals in fisheries activities failing to have aquatic animal veterinary practice certificates granted by competent agencies;

b/ Owners or technical managers of establishments testing animal diseases failing to have aquatic animal veterinary practice certificates granted by competent agencies;

c/ Those who have aquatic animal veterinary practice certificates defined in Clause 1, and at Points a and b of Clause 2 of this Article leasing or lending such certificates.

3. A fine of between VND 5,000,000 and VND 10,000,000 shall be imposed for acts of using forged, modified or erased aquatic animal

veterinary practice certificates defined in Clause 1, and at Points a and b of Clause 2 of this Article.

4. A fine of between VND 2,000,000 and VND 4,000,000 shall be imposed for acts violating regulations on veterinary sanitary conditions on establishments testing, experimenting, assaying veterinary drugs, bio-preparations, micro organisms, chemicals in fisheries activities.

5. Additional sanctioning forms:

a/ Forced observance of the provisions of law, for acts specified in Clause 1, at Points a and b of Clause 2, and in Clause 4 of this Article;

b/ Deprivation of the right to use aquatic animal veterinary practice certificates for three months, for acts specified at Point c, Clause 2 of this Article;

c/ Confiscation and destruction of forged, modified or erased aquatic animal veterinary practice certificates, for acts specified in Clause 3 of this Article.

Article 20.- Violation of regulations on production of and trading in life equipment and devices

1. A fine of between VND 2,000,000 and VND 4,000,000 shall be imposed for the following acts:

a/ Producing life equipment and devices which fail to meet publicized quality standards;

b/ Trading in life equipment and devices which have not yet been registered.

2. A fine of between VND 5,000,000 and VND 10,000,000 shall be imposed for acts of trading in expired life equipment and devices.

3. Additional sanctioning forms and consequence-remedying measures:

a/ Confiscation of goods, for acts specified at Point a, Clause 1 of this Article;

b/ Forced registration, for acts specified at Point b, Clause 1 of this Article;

c/ Forced destruction of goods, for acts specified in Clause 2 of this Article.

Article 21.- Violation of regulations on operation of fishing ports

1. A fine of between VND 100,000 and VND 200,000 shall be imposed for acts of throwing or dumping rubbish or other objects from fishing vessels into water areas of anchorage or wharves.

2. A fine of between VND 1,000,000 and VND 3,000,000 shall be imposed for one of the following acts:

a/ Fishing ports failing to have certificates of satisfaction of food hygiene and safety conditions granted by competent agencies;

b/ Fishing ports or wharves failing to observe or improperly observing regulations of the Fisheries Ministry or provincial-level People's Committees on management of fishing ports and wharves.

3. Consequence-remedying measures:

a/ Forced application of consequence-remedying measures, for acts specified in Clause 1 of this Article;

b/ Forced observance of regulations of the Fisheries Ministry or provincial-level People's Committees, for acts specified in Clause 2 of this Article.

Article 22.- Violation of regulations on business conditions on establishments building or transforming fishing vessels

1. A fine of between VND 2,000,000 and VND 4,000,000 shall be imposed for establishments building or transforming fishing vessels for committing one of the following acts:

a/ The sites of the establishments failing to comply with planning;

b/ Workshops and equipment failing to suit technical requirements set by the Fisheries Ministry;

c/ The waste water and solid waste treatment systems failing to meet environmental protection requirements according to the provisions of law;

d/ Having no professionally qualified technicians according to the provisions of law on business conditions on a number of aquatic trades;

e/ Building, transforming fishing vessels whose owners have not yet obtained written permission of competent agencies.

2. Consequence-remedying measures:

Forced observance of the provisions of law, for acts specified in Clause 1 of this Article.

Article 23.- Violation of regulations on conditions on production of and trading in fishing gears and equipment

1. A fine of between VND 500,000 and VND 1,500,000 shall be imposed on establishments for committing one of the following acts:

a/ Their physical and technical foundations failing to ensure environmental protection standards provided for by law;

b/ Production establishments having no professionally qualified technicians as required by law.

2. A fine of between VND 3,000,000 and VND 5,000,000 shall be imposed for one of the following acts:

a/ Delivering from workshops unregistered fishing equipment;

b/ Trading in unregistered fishing equipment;

c/ Producing, trading in fishing gears and equipment failing to meet the quality standards of produced or traded goods according to the provisions of law;

d/ Producing, trading in, storing or transporting fishing gears and equipment on the list of those banned by the Fisheries Ministry or provincial-level People's Committees.

3. Additional sanctioning forms and consequence-remedying measures:

a/ Forced observance of the provisions of law on business conditions, for acts specified in Clause 1, and at Points a and b of Clause 2 of this Article;

b/ Confiscation of goods, for acts specified at Points c and d, Clause 2 of this Article.

SECTION F. OBSTRUCTION OF STATE MANAGEMENT OF FISHERIES

Article 24.- Sanctioning of acts of obstructing state management of fisheries

1. A caution or a fine of between VND 100,000 and VND 200,000 shall be imposed for acts of obstructing the investigation and exploration of aquatic resources; the protection of aquatic resources; or the collection of data for evaluation of the actual situation of fisheries activities.

2. A fine of between VND 500,000 and VND 1,500,000 shall be imposed for acts of obstructing the inspection and supervision by state management agencies in charge of fisheries.

3. A fine of between VND 1,000,000 and VND 2,000,000 shall be imposed for one of the following acts:

a/ Insulting, humiliating or resisting those who are performing their inspection or supervision

duties;

b/ Deliberately delaying or shirking compliance with administrative decisions of competent persons or agencies.

4. A fine of between VND 2,000,000 and VND 4,000,000 shall be imposed for one of the following acts:

a/ Breaking without permission the seals of material evidences or means employed in violations, which are being sealed up and in custody or changing without permission the scenes of occurrence of administrative violations;

b/ Dispersing, modifying or fraudulently swapping material evidences or means which are being inspected or in custody.

5. Additional sanctioning forms and consequence-remedying measures:

a/ Forced compliance with decisions of competent persons or agencies, for acts specified in Clauses 1 and 2, and at Point b, Clause 3 of this Article;

b/ Confiscation of dispersed material evidences and means, for acts specified at Point b, Clause 4 of this Article.

Chapter III

SANCTIONING COMPETENCE AND PROCEDURES, EXECUTION OF DECISIONS ON SANCTIONING ADMINISTRATIVE VIOLATIONS IN THE FISHERIES DOMAIN

Article 25.- Competence of People's Committees at different levels

Presidents of People's Committees at different levels shall have the power to sanction administrative violations in the fisheries domain

under the provisions of Articles 28, 29 and 30 of the Ordinance on Handling of Administrative Violations.

Article 26.- Tasks and powers of specialized fisheries inspectorate

The administrative violation-sanctioning competence of specialized fisheries inspectors at all levels, specialized fisheries chief inspectors of provincial/municipal Fisheries Services or Agriculture and Rural Development Services in charge of fisheries, and the specialized chief inspector of the Fisheries Ministry shall comply with the provisions of Article 38 of the Ordinance on Handling of Administrative Violations and the Government's Decree No. 107/2005/ND-CP of August 17, 2005, on organization and operation of the fisheries inspectorate.

Article 27.- Competence of the people's police, border guard, coast guard, customs, tax, market management agencies, directors of port authorities, directors of inland water port authorities

1. Competent persons of the agencies of the people's police, border guard, coast guard, customs, tax, market management agencies, directors of port authorities, directors of inland water port authorities defined in Articles 31, 32, 33, 34, 36, 37 and 39 of the Ordinance on Handling of Administrative Violations shall have powers to sanction administrative violations in the fisheries domain according to this Decree for acts of administrative violation related to the domains under their respective management.

2. The principles for determining the competence to sanction administrative violations in the fisheries domain shall comply with the provisions of Article 42 of the Ordinance on

Handling of Administrative Violations.

Article 28.- Procedures for sanctioning administrative violations

1. When sanctioning administrative violations, persons with sanctioning competence must follow the procedures provided for in Articles from 53 to 63 of the Ordinance on Handling of Administrative Violations.

2. For confiscated material evidences of administrative violations, which are prone to cause fires or explosions like explosives, detonators, fuses..., persons with sanctioning competence must carry out procedures to transfer them as soon as possible to local police offices or military commands for management under the Government's regulations on management of weapons, explosive materials and support tools. When transferring them, a record thereon must be made and affixed with the signatures of the person with sanctioning competence and the representative of the receiving party; each record must be made at least in two copies.

3. Organizations or individuals having material evidences in violation destroyed must incur all expenses for the disposal thereof. Where owners of material evidences are unidentifiable or have escaped, the disposal of such material evidences shall be funded with local budgets.

Article 29.- Sending of decisions on sanctioning administrative violations for execution

1. Where individuals or organizations commit administrative violations in one locality but reside or are headquartered in another locality and have no conditions to comply with the sanctioning decisions in the locality where they are sanctioned, the sanctioning decisions shall be sent to the same-

level agency competent to sanction administrative violations in the locality where such individuals reside or such organizations are headquartered for execution. In cases where there exists no such agency in the locality where such individuals reside or such organizations are headquartered, the sanctioning decisions shall be sent to the district-level People's Committees for organization of the execution thereof. The dossiers on sanctioning of administrative violations shall be kept by the agencies which sign the sanctioning decisions.

2. Agencies which receive the sanctioning decisions shall have to hand them to the sanctioned individuals or organizations and organize the execution thereof under the provisions in Article 64 of the Ordinance on Handling of Administrative Violations, then notify the results to the agencies which sent the decisions.

3. The sending of administrative violation-sanctioning decisions shall only apply to collect fines. Additional sanctioning forms and/or consequence-remedying measures (if any) must be applied immediately at the places where the violations are committed. Where a violator fails to voluntarily execute or has no conditions to apply consequence-remedying measures (if any), the expenses for the application shall be clearly stated in the sanctioning decisions before they are sent.

Article 30.- Application of measures to prevent administrative violations and ensure the sanctioning of administrative violations

1. The measures to prevent administrative violations and ensure the sanctioning of administrative violations and the application of such measures are specified in Article 43 of the Ordinance on Handling of Administrative Violations.

2. The competence, order and procedures for

application of measures to prevent administrative violations and ensure the sanctioning of administrative violations in the fisheries domain shall comply with the provisions of Articles from 44 to 49 of the Ordinance on Handling of Administrative Violations.

Article 31.- Handling of violations committed by persons competent to handle administrative violations

The handling of violations committed by persons competent to handle administrative violations shall comply with the provisions of Article 121 of the Ordinance on Handling of Administrative Violations.

Article 32.- Complaints, denunciations

The right of organizations and individuals to complain about decisions on sanctioning administrative violations or decisions on applying measures to prevent administrative violations and ensure the handling thereof; the right of citizens to denounce illegal acts in handling administrative violations; the competence, procedures and time limit for settling complaints or denunciations shall comply with the provisions of Article 118 of the Ordinance on Handling of Administrative Violations.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 33.- Effect of the Decree

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

2. This Decree replaces the Government's Decree No. 70/2003/ND-CP of June 17, 2003, providing for sanctioning of administrative violations in the fisheries domain.

3. All previous regulations on sanctioning administrative violations in the fisheries domain which are contrary to this Decree are hereby annulled.

Article 34.- Responsibility to guide and implement the Decree

1. The Fisheries Minister shall have the responsibility to guide and inspect the implementation of this Decree.

1. Ministers, heads of ministerial-level agencies, heads of Government-attached agencies, and presidents of People's Committees of provinces or centrally run cities shall have to implement this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI