

THE GOVERNMENT**DECREE No. 112/2008/ND-CP OF
OCTOBER 20, 2008, ON MANAGEMENT,
PROTECTION AND INTEGRATED
EXPLOITATION OF RESOURCES AND
ENVIRONMENT OF HYDROPOWER
AND IRRIGATION RESERVOIRS****THE GOVERNMENT**

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

*Pursuant to the May 20, 1998 Law on Water
Resources;*

*Pursuant to the November 26, 2003 Land
Law;*

*Pursuant to the November 29, 2005 Law on
Environmental Protection;*

*Pursuant to the December 14, 2004
Electricity Law;*

*Pursuant to the April 4, 2001 Ordinance on
Exploitation and Protection of Irrigation Works;*

*At the proposal of the Minister of Natural
Resources and Environment,*

DECREES:**Chapter 1****GENERAL PROVISIONS****Article 1.-** Scope of regulation

This Decree prescribes the management, protection and integrated exploitation of resources and environment of hydropower and irrigation reservoirs (below collectively referred to as reservoirs).

Article 2.- This Decree applies to domestic and foreign organizations and individuals (below collectively referred to as organizations and individuals) involved in the management, protection, exploitation and use of reservoir resources and environment.

Article 3.- Interpretation of terms

In this Decree, the terms below are construed as follows:

1. *Reservoir protection corridor* means the area from the boundary having an elevation equal to the highest water level of the design flood including overflow level (for key national reservoirs) or equal to the dam crest's elevation (for other reservoirs) to the reservoir zone clearance boundary.

2. *Reservoir zone* means the area from the reservoir zone clearance boundary down to the reservoir bed.

3. *Reservoir system* means a system of many reservoirs on a river or on a system of rivers interrelated in terms of exploitation and use of water resources; river flow regulation, prevention and control of adverse impacts of water and environmental protection in the river basin.

4. *Reservoir terrace* means a system of

reservoirs arranged into a number of levels on the main or tributary river.

5. *Minimum flow* means the lowest level of flow required for maintaining a river or a river section to ensure the aquatic eco-system's normal development and the minimum level for the exploitation and use of water resources by water users according to the priority level set in the river basin planning.

Article 4.- Principles for management, protection and integrated exploitation of reservoir resources and environment

1. Reservoir construction must conform with the river basin planning approved by a competent state agency.

2. Reservoir resources and environment must be exploited and used in an integrated, economical and efficient manner without being affected by administrative boundaries. Reservoir resources and environment must be protected on the basis of enhancing state management, institutions, laws, and propagation, education and raising the sense of responsibility of inhabitants and communities in reservoir areas.

3. Exploitation and use of reservoir resources and environment must ensure reservoirs' safe operations and minimum flows without affecting their purposes and functions already approved by competent agencies, and meet requirements on prevention and control of, water source degradation, exhaustion and contamination, and adverse impacts of water on the reservoir basin and lowlands.

4. Planning on and construction of works, and production and service activities, in reservoir protection corridors and reservoir zones must not cause major changes to the flow regime, conform with reservoirs' load and self-cleaning capacity and be approved by competent state agencies.

Article 5.- Prohibited acts in reservoir protection corridors and reservoir zones

1. Causing water source and environment pollution and degradation, terrain changes and loss of reservoir environmental landscape.

2. Destroying or damaging reservoirs' related works, harming their water sources, and not ensuring their safety and sustainability.

3. Encroaching or building works and dwelling houses not according to planning; dumping earth, rock, sand, gravel, and solid waste and wastewater failing to meet environmental standards into reservoirs.

4. Exploiting endangered precious and rare aquatic species inhabiting in reservoir areas; culturing alien animals and plants of unclear origin, seriously harming the fauna and flora of reservoir areas.

Chapter II

PROTECTION, EXPLOITATION AND USE OF RESERVOIR RESOURCES AND ENVIRONMENT

Article 6.- Formation of reservoir protection corridors

A dam owner shall:

1. Assume the prime responsibility for, and coordinate with the provincial-level Natural Resources and Environment Service, district- and commune-level People's Committees of the locality where the reservoir is located in, formulating a scheme to place reservoir protection corridor boundary markers and submit it for approval to the provincial-level People's Committee of the locality where the reservoir is located.

2. Assume the prime responsibility for, and coordinate with the district- and commune-level People's Committees of the locality where the reservoir is located in, placing markers on the field after the scheme to place reservoir protection corridor boundary markers is approved.

3. Hand over reservoir boundary markers to the commune-level People's Committee of the locality where the reservoir is located for management and protection; for new reservoirs, complete their boundary determination and handover of their boundary markers prior to the official operation of a reservoir; for operating reservoirs, complete such determination and handover within one year from the effective date of this Decree.

4. When reservoir protection corridors or reservoir zones are encroached, occupied or illegally used, promptly report to local administrations, and coordinate with them in handling according to law these violations.

Article 7.- Exploitation of land resources in reservoir protection corridors and reservoir zones

1. Exploitation of land resources must conform

with detailed land-use master plans and plans already approved by competent agencies.

2. Detailed land-use master plans and plans must ensure efficient exploitation and use of land and other natural resources and environmental protection without causing adverse impacts on reservoir operation.

3. Detailed land-use planning schemes must specify the areas of land for forest development, recovery for reservoir zones, short-term crop plantation and seasonal aquaculture without affecting reservoirs' water collection and polluting the environment while conforming with the crop and livestock restructuring planning and the Regulation on aquatic resource exploitation and culture.

4. Detailed land-use master plans and plans must take into account opinions of dam owners and communities of lakeside communes, ensuring publicity, transparency and fairness.

5. Within 30 days after being approved by competent agencies, detailed land-use master plans and plans must be posted up at the offices of People's Committees of all levels of the localities where reservoirs are located for people's information and compliance.

Article 8.- Exploitation and use of reservoir resources and environment

1. Exploitation and use of natural resources and environment in reservoir protection corridors and reservoir zones must be based on approved master plans and plans and not affect reservoirs' functions; comply with technical regulations of related

branches and domains and regulations on landscape and environmental protection; and not affect reservoirs' technical characteristics and greatly obstruct the water flow to reservoirs.

2. District- and commune-level People's Committees of the localities where reservoirs are located shall examine and inspect the use and exploitation of reservoir resources and environment according to approved master plans and plans.

3. Depending on the extent of impact on the safety and functions of reservoirs, works built in reservoir protection corridors shall be removed or relocated or may be permitted for continued operation, but must meet technical requirements and such operation must be agreed by dam owners in writing and permitted by competent agencies according to law.

4. The following activities in reservoir protection corridors and reservoir zones (except those specified in Clause 5 of this Article) may be carried out only when they are agreed by dam owners in writing and licensed by competent agencies according to law:

- a/ Construction of new works;
- b/ Discharge of wastewater into reservoir water sources;
- c/ Exploitation and use of reservoir water resources;
- d/ Drilling, exploratory digging, geological survey, exploration and construction of groundwater exploiting works, drilling, exploratory digging and exploitation of minerals; drilling, exploratory digging and exploitation of construction materials;
- e/ Perennial tree plantation;

f/ Tourist, sports, scientific research, business and service activities;

g/ Operation of motor vehicles (except two- and three-wheeled motorcycles, motorbikes and motor vehicles used for the disabled);

h/ Construction of warehouses and storage yards; and cargo and passenger ports and wharfs; and depots of raw materials, fuel, materials and means;

i/ Construction of cattle breeding facilities, aquaculture;

j/ Burial of wastes;

k/ Blasting and other harmless explosion activities;

l/ Construction of underground works, including oil pipelines, electric cables, communication cables and water pipes.

5. The following activities in reservoir zones are banned:

- a/ Construction of dwelling houses and residential areas;
- b/ Construction of breeding facilities, embankment for aquaculture;
- c/ Burial of wastes;
- d/ Blasting and other harmful explosion activities.

Article 9.- Reservoir water regulation

1. A reservoir operating process must be established and submitted to competent authorities for approval before reservoir water collection. Such process must ensure all reservoir functions according to the priority order, work and reservoir

lowlands safety, integrated exploitation of reservoir resources and environment, and maintenance of the minimum flow in reservoir lowlands; not cause major changes to the reservoir's flow regime downstream and take into account climate change elements; conform with the inter-reservoir operating process in the river basin (if any) already approved by competent state agencies.

2. Dam owners shall conduct hydro-meteorological observation and collect hydrometeorological information and data at their own expenses to meet requirements on reservoir protection, operation management and exploitation under the guidance of natural resources and environment state management agencies and submit annual reports to concerned line ministries and provincial-level People's Committees.

3. Dam owners shall annually formulate a water regulation plan for reservoirs and notify People's Committees at all levels of the localities having reservoirs and reservoir lowlands areas in order to reduce adverse impacts on people's production and life and the environment.

4. Water regulation plans for reservoirs shall be formulated on the basis of the approved reservoir operating process, minimum flow requirements, forecasts on flow changes in the year by hydrometeorological agencies and water use needs of branches, localities and economic organizations.

5. When concerned agencies, organizations and localities do not accept reservoir water regulation plans, they may request dam owners and competent state agencies to consider and decide on such plans.

Article 10.- Financial obligations for exploitation and use of reservoir resources and environment

1. Organizations and individuals exploiting and using reservoir water sources for electricity generation, daily life water supply, industrial and small-industrial production, and other water-related production and service activities shall pay water use fees and royalty tax according to law.

2. Organizations and individuals exploiting and using land resources and other natural resources of reservoir zones; or discharging wastewater and waste into reservoirs shall perform financial obligations according to law.

Chapter III

RESPONSIBILITIES OF MANAGEMENT, PROTECTION, EXPLOITATION AND USE OF RESERVOIR RESOURCES AND ENVIRONMENT

Article 11.- Responsibilities of the Government, ministries, branches and localities

1. The Government shall perform the unified state management of reservoir resources and environment nationwide.

2. The Prime Minister shall direct the water regulation for reservoirs of national importance when serious drought, water shortage or water source contamination, or other serious environmental incidents or disasters occur in the river basin.

3. The Ministry of Natural Resources and

Environment, the Ministry of Industry and Trade, the Ministry of Agriculture and Rural Development and concerned ministries, branches and localities shall take responsibility before the Government for their state management of reservoir resources and environment under the Government's decentralization.

Article 12.- Responsibilities of the Ministry of Natural Resources and Environment

1. To submit to the Government or the Prime Minister for promulgation, or promulgate according to its competence, legal documents on management, protection and integrated exploitation of reservoir resources and environment.

2. To assume the prime responsibility for, and coordinate with concerned ministries, branches and localities in, specifying minimum flow requirements for reservoir lowlands and guiding ministries, branches and localities in complying with these requirements.

3. To direct the establishment and perform the unified management of natural resources and environment data and observation systems of major reservoirs.

4. To synthesize and determine water use needs of branches, localities and economic organizations in reservoir lowlands and supervise the assurance of provision of hydrometeorological and water resource information, data and forecasts for reservoirs.

5. To assume the prime responsibility for, and coordinate with the Ministry of Industry and Trade and the Ministry of Agriculture and Rural

Development in, formulating inter-reservoir water regulation plans for reservoirs of national importance and submit them to the Prime Minister for decision when serious drought, water shortage or water source contamination, or other serious environmental incidents or disasters occur in the river basin.

6. To submit to the Prime Minister for approval a list of irrigation and hydropower reservoirs in the river basin required of an inter-reservoir operating process.

7. To direct and coordinate with concerned ministries, branches, localities and investors in formulating an inter-reservoir operating process for irrigation and hydropower reservoirs on the list specified in Clause 6 of this Article. To submit it to the Prime Minister for approval or approve it when authorized.

8. To guide and direct localities and units in examining, inspecting, and handling violations of the law on management, protection and exploitation of reservoir resources and environment.

Article 13.- Responsibilities of the Ministry of Industry and Trade and the Ministry of Agriculture and Rural Development

1. To promulgate according to their competence, or submit to competent authorities for promulgation, legal documents to ensure economical and multi-purpose use of natural resources, and protection of landscape and environment, of reservoirs under their state management.

2. To direct the formulation, coordinate with

the Ministry of Natural Resources and Environment and concerned ministries, branches and localities in, evaluating reservoir or inter-reservoir (if any) operating processes under their state management; to approve according to their competence reservoir or inter-reservoir (if any) operating processes under their state management or submit them to the Prime Minister for approval according to law.

3. To direct the elaboration of reservoir water regulation plans; to direct water regulation for reservoirs under their state management when serious drought, water shortage or water source contamination, or other serious environmental incidents or disasters occur in the river basin.

4. To direct, manage and license production and trading activities related to reservoir resource exploitation according to their competence.

5. To coordinate with the Ministry of Natural Resources and Environment in building and managing natural resources and environment observation systems of major reservoirs.

6. To coordinate with People's Committees of provinces where reservoirs are located in examining the implementation of the law on management, protection and integrated exploitation of reservoir resources and environment under their state management.

Article 14.- Responsibilities of ministries and ministerial-level agencies

1. The Ministry of Transport shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment, the Ministry of Agriculture and Rural Development

and the Ministry of Industry and Trade in, formulating and organizing the implementation of, transport network planning in reservoir protection corridors and reservoir zones.

2. The Ministry of Construction shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment, the Ministry of Agriculture and Rural Development and the Ministry of Industry and Trade in, formulating and organizing the implementation of, water supply and drainage planning for urban and residential areas and industrial parks in reservoir protection corridors and reservoir zones.

3. The Ministry of Culture, Sports and Tourism shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment, the Ministry of Agriculture and Rural Development and the Ministry of Industry and Trade in formulating tourism planning and organizing tourist activities in reservoir protection corridors and reservoir zones.

4. Other ministries and branches shall, within the ambit of their functions and tasks, coordinate with the Ministry of Natural Resources and Environment, the Ministry of Agriculture and Rural Development and the Ministry of Industry and Trade in, managing, protecting, exploiting and using reservoir resources and environment.

Article 15.- Responsibilities of People's Committees at all levels

1. Provincial-level People's Committees:

a/ To assume the prime responsibility for

reservoir management and protection; to assume the prime responsibility for and coordinate with dam owners and concerned agencies in formulating master plans and plans on use of natural resources and environment in reservoir protection corridors and reservoir zones; to organize the implementation of the law on management, protection and integrated exploitation of reservoir resources and environment in their localities;

b/ To direct to formulation and coordinate with concerned ministries and branches in evaluating operating processes for reservoirs under their management; to approve according to their competence operating processes for reservoirs under their management or submit them to competent agencies for approval according to law;

c/ To direct the operation reservoir under their management when serious drought, water shortage or water source contamination, or other serious environmental incidents or disasters occur in the river basin;

d/ To assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment, the Ministry of Industry and Trade, the Ministry of Agriculture and Rural Development and concerned agencies in directing the handling of acts of violation of this Decree; to settle according to law disputes, complaints, denunciations and proposals related to natural resources and environment; to propagate and educate the law on protection of reservoir resources and environment;

e/ To direct the building and management of natural resources and environment observation systems of local reservoirs under the Ministry of Natural Resources and Environment's guidance;

to direct commune-level People's Committees in formulating detailed land use master plans and plans for lakeside communes;

f/ To coordinate with concerned ministries and branches in considering and settling issues related to reservoir resources and environment in their localities under ministries or branches' management

2. District- and commune-level People's Committees of localities where reservoirs are located:

a/ To coordinate with dam owners in formulating schemes to place reservoir protection corridor boundary markers and placing boundary markers on the field after these schemes are approved;

b/ To be held responsible when land in reservoir protection corridors and reservoir zones is encroached, occupied or illegally used.

Article 16.- Responsibilities of review of reservoir functions

Every five years, the Ministry of Industry and Trade, the Ministry of Agriculture and Rural Development and provincial-level People's Committees shall review and adjust the functions of reservoirs under their management, decide according to their competence or propose competent authorities to decide, on the adjustment of reservoir functions according to law.

Chapter IV

INSPECTION, EXAMINATION, AND HANDLING OF VIOLATIONS

Article 17.- Inspection and examination

1. Natural resources and environment inspectorates shall inspect the integrated protection and exploitation of reservoir resources and environment.

2. Inspection and examination cover:

a/ Inspecting and examining the observance of provisions of this Decree;

b/ Detecting, stopping and handling according to their competence or propose competent agencies to handle, violations of the law on integrated protection and exploitation of reservoirs;

c/ Proposing measures to ensure law enforcement related to integrated protection and exploitation of reservoir resources and environment.

3. Inspection of integrated protection and exploitation of reservoir resources and environment complies with the inspection law.

Article 18.- Settlement of complaints and denunciations

1. Organizations and individuals may lodge complaints or denunciations on acts of violation of the law on management, protection and integrated exploitation of reservoir resources and environment.

2. Settlement of complaints and denunciations on acts of violation of the law on management, protection and integrated exploitation of reservoir resources and environment complies with the law on complaints and denunciations.

Article 19.- Handling of violations

1. Organizations and individuals shall detect,

stop and propose for prompt handling, acts of violation of the law on management, protection and integrated exploitation of reservoir resources and environment.

2. Organizations and individuals that are irresponsible or abuse their positions and powers to cover acts of violations of the law on management, protection and integrated exploitation of reservoir resources and environment; or destroy reservoirs or cause reservoir unsafety or commit other acts of violation shall, depending on the nature and severity of their violation, be disciplined, administratively sanctioned or examined for penal liability; if causing damage, they shall pay compensation according to law.

Chapter V

IMPLEMENTATION PROVISIONS

Article 20.- Implementation guidance

The Ministry of Natural Resources and Environment shall organize, direct and examine the implementation of this Decree.

Article 21.- Implementation effect

1. This Decree takes effect 15 days after its publication in "CONG BAO." To annul all previous provisions which are contrary to this Decree.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies and presidents of provincial/municipal People's Committees shall implement this Decree.

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG