
THE GOVERNMENT

DECREE No.179/1999/ND-CP OF DECEMBER 30, 1999 STIPULATING THE IMPLEMENTATION OF THE LAW ON WATER RESOURCES

THE GOVERNMENT

Pursuant to the Law on Organization of the Government of September 30, 1992;

Pursuant to the Law on Water Resources of May 20, 1998:

At the proposal of the Minister of Agriculture and Rural Development.

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.-

1. This Decree prescribes the management, protection, exploitation and use of the water resources; the discharge of waste water into water sources; the granting of permit(s) related the water resources, as well as the prevention of, combat against and overcoming of harmful effects caused by water.

2. This Decree also defines activities causing sea water pollution; and regulates the planning of construction of projects on the sea such as navigation, water conservancy, aquatic resource works and other works; activities related to the building of sea dikes and seaward encroachment, flood drainage; prevention of and combat against salinity infiltration, tidal rise and overflow; salt making, aquatic and marine product culture and other relevant activities.

3. Regarding the sanctioning of administrative violations in the field of water resources as well as the organizational structure, specific functions, tasks and powers of the agencies in charge of State management over water resources, the Government shall promulgate separate regulations.

Article 2.- The river basin zoning stipulated in Clause 1, Article 5 of the Law on Water Resources is specified as follows:

1. The river basin zoning must ensure the requirements for integrated use of water sources; meet the demands for water supply in service of daily life, agricultural, forestial and industrial production, mining, electric power generation, waterway navigation, aquatic and marine product culture, salt making, sports, entertainment, tourism, healthcare, convalescence, scientific research and other purposes; and ensure the requirements for prevention of and combat against flood, drought and other harmful effects caused by water.

2. The distributary river basin zoning, the planning of water conservancy work systems and the specialized plannings for flood and drought prevention and combat, water supply and drainage, waterway navigation, hydroelectric power planning and other water exploitation and use plannings must be based on the river basin zoning.

Chapter II

PROTECTION OF WATER RESOURCES

Article 3.- The prevention of and combat against the water source deterioration and depletion stipulated in Clause 1, Article 11 of the Law on Water Resources are specified as follows:

1. The Ministry of Agriculture and Rural Development shall assume the prime responsibility and coordinate with the concerned ministries and branches and the People's Committees of the provinces and centrally-run cities in:

a/ Organizing the survey and assessment of deteriorated and depleted water sources;

b/ Planning the protection and development of forests in conformity with the river basin zoning in order to protect the water resources, prevent and combat flood and drought;

c/ Working out plans for restoration, upgrading, supplementary construction and renovation of water conservancy works in order to raise their water supply capability and restore the deteriorated and depleted water sources;

d/ Inspecting and supervising the exploitation and use of underground water; devising timely measures to protect underground water sources in regions and/

or areas which are in danger of water reserve depletion and pollution;

e/ Inspecting and supervising places where waste water is discharged into water sources; stipulating the application of measures to treat waste water according to provisions of law.

2. The Ministry of Agriculture and Rural Development shall assume the prime responsibility and coordinate with the Ministry of Planning and Investment, the Ministry of Finance and the concerned ministries and branches in working out plans for use of annual funds for implementation of provisions in Clause 1 of this Article, then submit them to the Prime Minister for decision.

Article 4.- The plans for prevention of and combat against water source pollution stipulated in Clause 1, Article 13 of the Law on Water Resources are specified as follows:

1. The Ministry of Agriculture and Rural Development, the Ministry of Industry and the General Department of Meteorology and Hydrology shall, within their respective functions and tasks, have to coordinate with the concerned ministries and branches and the People's Committees of the provinces and centrally-run cities in:

a/ Building the network of stations for surveying and re-assessing the quality of surface and underground water; gathering data and setting up a data base;

b/ Working out plans for prevention and treatment of water source pollution.

2. The Ministry of Agriculture and Rural Development, the Ministry of Industry and the General Department of Meteorology and Hydrology shall coordinate with the Ministry of Planning and Investment in working out annual funding plans for implementation of provisions in Clause 1 of this Article, then submitting them to the Prime Minister for decision.

Article 5.- The granting of permits to discharge waste water into water sources stipulated in Article 18 of the Law on Water Resource is specified as follows:

1. Subjects to be granted permits:

Organizations and individuals that use water in their production, business and/or scientific research activities, hospitals, urban centers, densely populated

areas and other activities, must apply for permits from the competent State management agency(ies) defined in Clause 5 of this Article if they discharge waste water into water sources.

2. Grounds for granting permits:

The granting of permits for discharge of waste water into water sources must be based on:

a/ The Law on Water Resources and other relevant legislation;

b/ The planning for protection, exploitation and use of water sources and prevention of and combat against harmful effects caused by water in river basins, as well as the planning on systems of water conservancy works;

c/ The water sources' capacity to take in waste water; and the criteria of waste water;

d/ Proposals of the agency(ies) managing the river basin zoning; and organizations and individuals managing and exploiting water conservancy works.

3. Duration of permits:

a/ Permits for discharge of waste water into water sources shall be valid for from 3 to 5 years;

b/ For a permit of which the use duration has expired, the agency competent to grant such permit shall decide its extension but each extension must not exceed 3 years;

c/ The use duration of a permit may be changed in one of the following cases:

- The water source is incapable of taking in waste water;

- The water use demand is on a sharp rise, thus leading to much larger volume of waste water, but no remedial measure has been taken to overcome this situation;

- Other extraordinary circumstances occur, under which the discharge of waste water must be restricted.

4. The withdrawal and suspension of permits:

The withdrawal or suspension of use validity of permits for discharge of waste water into water sources shall be effected in the following cases:

a/ Organizations and/or individuals that discharge waste water breach contents stipulated in their permits;

b/ Organizations and/or individuals that discharge waste water violate the provisions in Clause 2,

Article 19 of the Law on Water Resources;

c/ Organizations and/or individuals that discharge waste water into water sources are dissolved, transferred or declared bankrupt;

d/ Such permits have been granted ultra vires;

e/ Such permits have been left unused for 1 year without any plausible reasons;

f/ The competent State agencies deem it necessary to withdraw or suspend such permits for reasons of national defense or security, or for national or public interests.

5. The competence to grant and/or withdraw permits:

a/ The Ministry of Agriculture and Rural Development shall grant and withdraw permits for discharge of waste water into water sources and inter-provincial water conservancy work systems.

b/ The People's Committees of the provinces and centrally-run cities shall grant and withdraw permits for discharge of waste water into water sources and water conservancy work systems under the provincial/municipal management; as well as permits for discharge of waste water into water sources and inter-provincial water conservancy work systems under the provincial/municipal management, with written consents of the Ministry of Agriculture and Rural Development;

c/ The agency(ies) in charge of State management over water resource shall be competent to withdraw those permits they are competent to grant.

6. The Ministry of Agriculture and Rural Development shall prescribe the permit-granting procedures as well as the authorized granting of permits for discharge of waste water into water sources.

Article 6.- The payment of permit-granting fee, fee for discharge of waste water into water sources and fee for water source pollution prevention and combat stipulated in Article 7 and Point b, Clause 2, Article 19 of the Law on Water Resource is specified as follows:

1. Organizations and individuals, when applying for permits for discharge of waste water into water sources, shall have to pay the permit-granting fee;

2. Organizations and individuals that wish to discharge waste water into water sources or water conservancy work systems shall have to pay waste

water discharge fee;

3. Organizations and individuals that discharge daily-life waste water into public water drainage systems of cities, urban areas or densely populated areas shall have to pay pollution prevention and combat fee;

4. Production and/or business organizations and individuals that discharge waste water into public water drainage systems of cities, urban areas or densely populated areas shall have to pay waste water discharge fee. In cases where such organizations and individuals apply advanced scientific and technological measures to minimize the discharged water volume or to improve the waste water treatment as compared with the prescribed standards, they shall be considered for exemption or reduction of waste water discharge fee;

5. The permit-granting fee, the waste water discharge fee and the pollution prevention and combat fee shall be used for the management and protection of water resources. The Ministry of Agriculture and Rural Development shall coordinate with the Ministry of Finance in guiding the procedures for collecting, paying, managing and using the waste water discharge fee and the pollution prevention and combat fee, as well as the cases eligible for fee exemption or reduction.

The Ministry of Finance shall assume the prime responsibility and coordinate with the Ministry of Agriculture and Rural Development and the concerned ministries and branches in proposing to the Prime Minister for decision the levels of the permit-granting fee, the waste water discharge fee and the water source pollution prevention and combat fee.

Chapter III

EXPLOITATION AND USE OF WATER RESOURCES

Article 7.- The regulation and distribution of water resources stipulated in Article 20 of the Law on Water Resources is specified as follows:

1. The agency in charge of State management over water resources shall base itself on the river basin zoning and the actual potential of the water source to announce the water sources' capacity to the concerned branches and localities, so that the latter

can work out population distribution and socio-economic plans suitable to the water source potential.

When the water source is incapable of meeting the water use demand, the branches and localities shall have to readjust their plans for population distribution and socio-economic plans to make them suitable to the water sources' actual capacity.

2. When a drought occurs, thus causing severe water shortage, the agency in charge of State management over water resources shall regulate and distribute water resources on the following principles:

a/ Ensuring the water supply with prescribed minimum rations for daily life in any circumstances;

b/ Meeting the demand for water for cattle and poultry raising, and aquatic and marine product culture;

c/ Ensuring sufficient water supply for important industrial establishments and scientific research institutions;

d/ Ensuring the water supply in service of the food security program and crops of high economic value;

e/ Other water exploitation and use purposes.

The agency in charge of State management over water resource defined in Clauses 1 and 2 of this Article shall have to work out plans for regulating and distributing water resources.

Article 8.- The financial obligations of organizations and individuals prescribed at Point e, Clause 1, Article 23 of the Law on Water Resources are specified as follows:

1. Organizations and individuals that exploit and use water resources, except for cases where permits are not required as provided for in Clause 2, Article 24 of the Law on Water Resources, shall have to pay natural resource tax according to provisions of law; and

2. To pay water use charge according to provisions of law;

3. To make compensations for damage caused by their water resource exploitation and use as prescribed by law;

4. To pay the fee for granting permits for water resource exploitation and use;

5. The fee for granting water exploitation permits

and the water use charge shall be used for the management and protection of water resources.

The Ministry of Finance shall assume the prime responsibility and coordinate with the Ministry of Agriculture and Rural Development and the concerned ministries and branches in proposing to the Prime Minister for decision the levels of the water exploitation and use permit granting fee and the water use charge.

Article 9.- The granting of permits and the exploitation and use of water resources stipulated in Clause 1, Article 24 of the Law on Water Resources are specified as follows:

1. Subjects to be granted permits:

Organizations and individuals that exploit and/or use water resource for the daily life, agricultural and industrial production, mining, electric power generation and other purposes, shall have to apply for permits of the State management agencies competent to grant permits defined in Clause 5 of this Article.

2. Grounds for granting permits:

The granting of permits for exploitation and use of water sources must be based on:

a/ The legislation on water resources and other relevant legislations;

b/ Plannings for protection, exploitation and use of water sources as well as prevention of and combat against harmful effects caused by water in river basins, and the water conservancy work system plannings; the result of the evaluation of exploration projects and the report on underground water exploration by specialized agencies or specialized councils;

c/ Actual capacity of water sources, water supply standards and water use demand;

d/ Proposals of the agency(ies) managing the river basin zoning, and organizations and individuals managing and exploiting water conservancy works.

3. Use duration of permits:

a/ Permits for exploitation and use of surface water shall be valid for 20 years; permits for exploitation and use of underground water shall be valid for 15 years;

b/ When a use permit expires, the agency competent to grant such permit shall decide its extension, but each extension must not exceed 10

years:

c/ The duration of a permit may be changed in one of the following cases:

- The water source is incapable of ensuring the normal water supply;

- The volume of exploited underground water exceeds the prescribed level, thus leading to deterioration or depletion, or underground water source is seriously polluted;

- The water use demand is on a sharp rise, but no measure has been taken to treat or supplement water source;

- Other extraordinary circumstances occur, under which the water exploitation and use must be restricted.

4. Withdrawal and suspension of permits:

The withdrawal and suspension of validity of water exploitation and use permits shall be effected in the following cases:

a/ Organizations and individuals that exploit and use water breach contents stipulated in their permits;

b/ Organizations and individuals that exploit and use water violate provisions in Article 23 of the Law on Water Resources;

c/ Organizations and individuals that exploit and use water are dissolved or declared bankrupt;

d/ Permits have been granted ultra vires;

e/ Permits have been left unused for 1 year without any plausible reasons;

f/ When the competent State agencies deem it necessary to withdraw or suspend the validity of permits for defense or security reasons, or for national or public interests.

5. The competence to grant and withdraw permits:

a/ The Ministry of Agriculture and Rural Development shall grant and withdraw the following water exploitation and use permits:

- Permits for water exploitation and use, with regard to national important projects already approved by the Prime Minister;

- Permits for underground water exploration and exploitation, with regard to concentrated water exploitation projects with a flow of 1,000 m³/day/night or more;

- Permits for taking surface water for agriculture, industry, mining and daily life with a flow of 2 m³/s

or more;

- Permits for exploitation and use of water for electric power generation with an output of 500 kW or more.

b/ The People's Committees of the provinces and centrally-run cities shall grant and withdraw the following kinds of water exploitation and use permits:

- Permits for exploration and exploitation of underground water, with regard to underground water exploitation projects, with an exploitation flow of less than 1,000 m³/day/night;

- Permits for taking surface water for agricultural and industrial production, mining and daily life with a flow of less than 2 m³/s;

- Permits for exploitation and use of water for electric power generation with an output of less than 500 kW.

c/ The Ministry of Agriculture and Rural Development shall grant permits for exploitation and use of water resources for other purposes in river basins or inter-provincial water conservancy work systems;

d/ The People's Committees of the provinces and centrally-run cities shall grant the permits for exploitation and use of water resources for other purposes in river basins or systems of water conservancy works within localities; grant the permits for exploitation and use of water in river basins and/or inter-provincial water conservancy work systems under the authorization of the Ministry of Agriculture and Rural Development;

e/ The agencies in charge of State management over water resource shall be competent to withdraw those kinds of permits they are competent to grant.

6. The Ministry of Agriculture and Rural Development shall prescribe the procedures for granting water resource exploitation and use permits.

Article 10.-

1. The People's Committees of the provinces and centrally-run cities shall prescribe the small-scale water exploitation and use within families as stipulated at Points a, b and c, Clause 2, Article 24 of the Law on Water Resources under the guidance of the Ministry of Agriculture and Rural Development.

2. Water exploitation and use cases stipulated at Point e, Clause 2, Article 24 of the Law on Water

Resources are cases where water resources are exploited and used for forestry, waterway navigation, aquatic and marine product culture, salt making, sports, entertainment, tourism, healthcare, convalescence and/or scientific research, not for profit-making purpose.

Article 11.- The right to conduct water through stipulated in Article 33 of the Law on Water Resources shall comply with the provisions of Articles 274, 275, 282 and 283 of the Civil Code.

In cases where water is conducted by project measures, the project investors shall have to comply with the river basin zoning and the water conservancy work system planning, and obtain permits stipulated in Clause 5, Article 9 of this Decree from the agency(ies) in charge of State management over water resources.

Article 12.- Organizations and individuals, when wishing to supplement or change their water resource exploitation and use purposes and/or scales as stipulated in Article 35 of the Law on Water Resources, shall have to make applications for permits therefor, and draw up and submit plans thereon to the State management agencies competent to grant permits defined in Clause 5, Article 9 of this Decree.

Chapter IV

STATE MANAGEMENT OVER WATER RESOURCES

Article 13.- The Ministry of Agriculture and Rural Development shall be answerable to the Government for the performance of its function of State management over water resource throughout the country, including the following activities:

1. Assuming the prime responsibility and coordinating with the concerned ministries and branches, and the People's Committees of the provinces and centrally-run cities in formulating and directing the implementation of strategy, planning, plans and policy for water resource protection, exploitation, use and development; preventing, combating and overcoming consequences and harmful effects caused water; drawing up and submitting the list of river basins to the Prime Minister for decision.

2. Compiling and submitting to the Government for promulgation or promulgating according to its own competence legal documents, processes, rules, standards and norms on water resource protection, exploitation and use, prevention of, combat against and overcoming of consequences and harmful effects caused by water;

3. Synthesizing and managing results of basic survey, inventory and assessment of water resources throughout the country; setting up data base on water resources, and conducting the inventory and assessment of water resources within its functions and management tasks;

4. Deciding according to its own competence the regulation and distribution of water resources in accordance with the provisions in Clause 3, Article 7 of this Decree; granting, withdrawing and extending permits or authorizing the People's Committees of the provinces and centrally-run cities to grant, withdraw and extend permits related to water resources, permits for practicing the probing drills, geographical surveys and prospection and construction of underground water exploitation works according to provisions of this Decree;

5. Deciding according to its own competence or proposing to the Prime Minister for decision measures, the mobilization of forces, materials and means to prevent, combat and overcome consequences of floods and droughts, and the handling of incidents occurring to water conservancy works and other harmful effects caused by water;

6. Organizing the work of specialized inspection of water resources, settling disputes, complaints and denunciations under the legislation on water resources;

7. Summarizing and proposing to the Government for handling matters related to the international relations in the domain of water resources;

8. Proposing to the Government the functions, tasks, powers and organizational structure of agencies in charge of State management over water resources; propagating and disseminating the legislation on water resources;

9. Managing the exploitation and protection of water conservancy works, the flood and storm prevention and combat, and formulating and organizing the realization of the program for clean water and environmental hygiene in rural areas.

Article 14.- The ministries, ministerial-level agencies, agencies attached to the Government shall, within their respective functions and tasks, have to carry out the following:

1. The General Department of Meteorology and Hydrology shall coordinate with the concerned ministries and branches in working out and organizing the implementation of annual and long-term plans for basic survey of the reserve and quality of surface water resource;

2. The Ministry of Science, Technology and Environment shall coordinate with the concerned ministries and branches in elaborating water quality standards; controlling and limiting acid rains;

3. The Ministry of Industry shall coordinate with the concerned ministries and branches in working out and organizing the annual and long-term plans for basic geological survey of underground water resource; formulating the process of operating hydroelectric reservoirs, as well as plans for ensuring safety of hydraulic engineering works of hydroelectric power plants and the integrated exploitation of water sources, then submitting them to the Prime Minister for decision;

4. The Ministry of Communication and Transport shall coordinate with the Ministry of Agriculture and Rural Development and the concerned ministries and branches in working out and organizing the implementation of planning of waterway navigation networks, and constructing waterway navigation works;

5. The Ministry of Construction shall coordinate with the Ministry of Agriculture and Rural Development and the concerned ministries and branches in working out and organizing the implementation of planning for water supply and drainage in urban areas, industrial zones and densely populated areas;

6. The Ministry of Aquatic Resources shall coordinate with the Ministry of Agriculture and Rural Development and the concerned ministries and branches in working out and organizing the implementation of planning for protection, exploitation and use of water sources for development of domestic aquatic resources;

7. The Ministry of Planning and Investment shall coordinate with the concerned ministries and branches in synthesizing plans for investing funds

in projects for management, protection, exploitation and use of water resources, as well as for prevention of, combat against and overcoming of consequences and harmful effects caused by water, then submitting them to the Prime Minister for decision;

8. The Ministry of Finance shall coordinate with the Ministry of Agriculture and Rural Development in formulating policies on water resource tax, as well as water resource management charges and fees, then submit them to the Prime Minister for decision.

Article 15.- The People's Committees of the provinces and centrally-run cities shall have to:

1. Work out and direct the materialization of planning and plans for water resource protection, exploitation, use and development; the prevention of, combat against and overcoming of consequences and harmful effects caused by water in their respective localities;

2. Guide the implementation of regulations of the Government and the ministries on water resource management, protection, exploitation and use; the prevention of, combat against and overcoming of consequences and harmful effects caused by water in their respective localities;

3. Organize and direct the basic surveys, inventory and assessment of water resources in their respective localities under the guidance of the Ministry of Agriculture and Rural Development and the concerned ministries and branches;

4. Grant, withdraw and extend permits on water resources, permits for practicing probing drills, geological surveys, prospection and construction of underground water exploitation works according to the provisions of this Decree and guidance of the Ministry of Agriculture and Rural Development; regulate and distribute water in their localities under the guidance of the Ministry of Agriculture and Rural Development;

5. Decide measures, mobilize forces, materials and means to prevent, combat and overcome consequences of floods and droughts; deal with incidents occurring to water conservancy works and harmful effects caused by water in their respective localities under the guidance of the Ministry of Agriculture and Rural Development;

6. Organize the inspection of water resources;

settle or take part in settling disputes over water resources and handle violations of the legislation on water resources in their respective localities according to their competence provided for in Article 62 of the Law on Water Resources and other law provisions; propagate and disseminate the legislation on water resource in their respective localities;

7. Observe the international agreements which the Socialist Republic of Vietnam has signed or acceded to:

8. Define the hygiene protecting zones and prescribe small scales of water resource exploitation and use as provided for in Clause 1, Article 10 of this Decree.

Article 16.-

1. The National Water Resource Council as defined in Article 63 of the Law on Water Resources shall the task of advertising the Government on:

a/ National strategies and policies on water resources;

b/ Considering and ratifying the zonings of big river basins;

c/ Regulating water between big river basins;

d/ Projects for water resource protection, exploitation and use, which are decided by the Government, prevention of, combat against and overcoming of flood consequences and other harmful effects caused by water;

e/ Managing, protecting, exploiting and using international water sources and settling disputes arising therefrom;

f/ Settling disputes over water resources among the ministries and branches, between the ministries or branches and the People's Committees of the provinces and centrally-run cities, and among the provinces and centrally-run cities.

2. The establishment and the regulation on organization and operation of the National Water Resource Council shall be decided by the Prime Minister.

Article 17.- The agencies managing the river basin zonings defined in Article 64 of the Law on Water Resources are specified as follows:

1. Basing him/herself on the approved list of river basins, the Minister of Agriculture and Rural

Development shall decide the establishment and the specific regulation on organization and operation of the agencies to manage the zonings of Red river-Thai Binh river and Mekong river basins:

2. The presidents of the People's Committees of the provinces and centrally-run cities shall decide the establishment and the regulation on organization and operation of the agencies to manage the river basin zonings with regard to rivers within their respective localities under the guidance of the Ministry of Agriculture and Rural Development.

Article 18.- The system of organizations for specialized inspection of water resource:

1. The specialized inspectorate on water resources at the central level is attached to the Ministry of Agriculture and Rural Development;

2. The specialized inspectorates on water resource at the local levels are attached to the provincial/municipal Services of Agriculture and Rural Development.

The elaboration and promulgation of the Regulation on operation of specialized inspectorates on water resources at all levels shall be decided by the Government.

Chapter V

IMPLEMENTATION PROVISIONS

Article 19.- This Decree takes effect 15 days after its signing. The previous stipulations which are contrary to this Decree are now annulled.

Article 20.- The Minister of Agriculture and Rural Development, other ministers and heads of the concerned branches shall have to guide the implementation of this Decree.

Article 21.- The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree.

On the behalf of the Government

Prime Minister

PHAN VAN KHAI