

THE MINISTRY OF AQUATIC RESOURCES

**CIRCULAR No. 02/2002/TT-BTS OF
DECEMBER 6, 2002 GUIDING THE
IMPLEMENTATION OF THE GOVERNMENT'S
DECREE No. 86/2001/ND-CP OF NOVEMBER
16, 2001 ON THE CONDITIONS FOR
CONDUCTING AQUATIC RESOURCE
PRODUCTION AND BUSINESS LINES**

In furtherance of the Government's Decree No. 86/2001/ND-CP of November 16, 2001 on the conditions for conducting aquatic resource production and business lines, the Ministry of Aquatic Resources hereby guides the implementation of a number of contents of the Decree as follows:

I. ON THE SUBJECTS OF APPLICATION

1. Households and individuals engaged in aquaculture shall not be regulated by Decree No. 86/2001/ND-CP (mentioned in Clause 2, Article 2 of the Decree) when they fully meet the following conditions:

a/ Rearing aquatic resources in combined forms (such as in combination with rice cultivation, planting of submerged forests...); making use of natural or self-

made feed);

b/ The water surface used for aquaculture is small as prescribed below:

- For rearing in cages or rafts floating on rivers, sea, reservoirs, swamps, lagoons, straits or bays, the area must not exceed 100 m²;

- Stagnant ponds not exceeding 500 m² in area, flowing ponds not exceeding 200 m² in area.

- Rearing tanks not exceeding 100 m² in area.

- Large water surface areas (swamps, lakes, straits or bays), where weirs or impoundments are erected for aquaculture, not exceeding 1,000 m².

- Fields under rice cultivation combined with aquaculture, not exceeding 2,000 m² in area for North and Central Vietnam regions, and not exceeding 4,000 m² in area for the Mekong River Delta region.

c/ Aquaculture in water areas outside the areas zoned off for local economic development.

2. Households and individuals processing aquatic products shall not be regulated by Decree No. 86/2001/ND-CP (mentioned in Clause 2, Article 2 of the Decree) when they fully meet the following conditions:

a/ Aquatic products are processed manually;

b/ Processed products are not used for export but only for retail sale directly to users.

II. ON THE CONDITIONS FOR EXPLOITATION OF AQUATIC RESOURCES (CHAPTER II OF THE DECREE)

1. Exploitation of aquatic resources in Vietnam's sea areas (mentioned at Point a, Clause 1, Article 1 of the Decree) is construed as activities of exploiting aquatic resources in swamps, lagoons, straits, bays, river and riveret mouths, tidal areas and banks situated from the coast or island edge (water level at the lowest tide) to the boundary of Vietnam's exclusive economic zone.

2. Aquatic resource exploitation permits

a/ Organizations and individuals exploiting aquatic resources in Vietnam's sea areas (excluding aquatic resource exploitation practices prescribed in Appendix I enclosed with Decree No. 86/2001/ND-CP) must have aquatic resource exploitation permits.

To cancel the provisions in Appendix 3 to the Aquatic Resource Ministry's Circular No. 01/2000/TT-BTS of April 28, 2000 on the list of aquatic resource exploitation activities not subject to practice registration.

b/ The duration of permits is specified as follows:

- 12 months for coastal aquatic resource exploitation;
- 24 months for inshore aquatic resource exploitation;
- 36 months for offshore aquatic resource exploitation.

For fishing ships having their main engine's total capacity of 20 CV or more or total length of 15 meters or more, their aquatic resource exploitation permits shall be valid in the above-said duration only when the books of certification of their operating capacity have not yet expired.

c/ The Aquatic Resource Protection Department shall perform the function of State management over the granting of aquatic resource exploitation permits nationwide for the purpose of protecting and developing aquatic resources.

d/ The Aquatic Resource Protection Department shall be responsible for printing and distributing the

form of aquatic resource exploitation permit for nationwide use. The contents of aquatic resource exploitation permit shall comply with the provisions in Appendix 2 issued together with Decree No. 86/2001/ND-CP.

e/ The aquatic resource exploitation areas inscribed in the aquatic resource exploitation permits are provisionally prescribed as follows:

- *Coastal areas are sea areas delimited from the shore (of the mainland and islands with commune, district or township People's Committees) and stretching seawards up to 6 nautical miles, for sea areas of the Bac Bo (Tonkin) gulf, eastern South Vietnam and western South Vietnam, or up to 3 nautical miles, for sea areas of Central Vietnam.*

- *Inshore areas are sea areas delimited from the line 6 nautical miles away from the shore seawards to the 30m-deep isobath, for sea areas of the Bac Bo (Tonkin) gulf, eastern South Vietnam and western South Vietnam, or from the line 3 nautical miles away from the shore to the 50 m-deep isobath, for sea areas of Central Vietnam.*

- *Offshore areas are sea areas delimited from the 30m-deep isobath outwards, for sea areas of the Bac Bo (Tonkin) gulf, eastern South Vietnam and western South Vietnam, and from the 50 m-deep isobath outwards, for sea areas of Central Vietnam.*

3. Conditions for granting aquatic resource exploitation permits

a/ Organizations and individuals must have the following papers:

- Fishing-ship registration certificate: applicable to all kinds of fishing ship.

- The book of certification of fishing-ship's operating capacity: applicable to fishing ships with their main engine's total capacity of 20 CV or more or total length of 15 m or more.

- Crew registration book and crew member books: applicable to fishing ships with their main engine's total capacity of 90 CV or more, fishing ships owned by foreign-invested enterprises, ships owned by foreign organizations or individuals and rented by Vietnamese enterprises.

The issuance of the above-said papers must

comply with the provisions of the Regulation on registry of fishing ships and registration of fishing ships and crew members, issued together with the Aquatic Resource Minister's Decision No. 494/2001/QĐ-BTS of June 15, 2001.

b/ Ship masters and chief engineers of fishing ships of the following grades must have shipmaster's or chief engineer's diplomas as from July 1, 2003:

- Fishing ships with their main engine's capacity of between 45 CV and under 90 CV: Their operators must have shipmaster's or chief engineer's diplomas for small-sized fishing ships.

- Fishing ships with their main engine's capacity of between 90 CV and under 400 CV: Their operators must have shipmaster's and chief engineer's diplomas for grade-5 fishing ships.

- Fishing ships with their main engine's capacity of 400 CV or more: Their operators must have shipmaster's and chief engineer's diplomas for grade-4 fishing ships.

The training and test for shipmaster's or chief engineer's diplomas for fishing ships of various grades shall comply with the Regulations issued together with the Aquatic Resource Minister's Decision No. 402/TS-QĐ of September 30, 1992, Decision No. 448/TS-QĐ of October 21, 1992, Decision No. 449/TS-QĐ of October 21, 1992, and Decision No. 718/2001/QĐ-BTS of September 4, 2001 amending and supplementing a number of articles of the Regulation on training and test for shipmaster's and chief engineer's diplomas for small-sized, grade-5 and grade-4 fishing ships.

c/ Fishing gear must comply with the regulations on resource protection and development:

- Aquatic resource-exploiting gear with meshes smaller than the size prescribed in Tables 3A and 3B issued together with the Aquatic Resource Minister's Circular No. 01/2000/TT-BTS of April 28, 2000 must not be used.

- Means used in aquatic resource exploitation with the use of light must comply with the following provisional regulations on the use of lighting sources in aquatic resource exploitation:

- + In coastal areas: The total output of lighting clusters of each exploiting establishment must not

exceed 200W for fishing with small-mesh nets, 500W for fishing squids.

- In inshore areas: The total output of lighting clusters of each exploiting establishment using seines, lift nets or junks, fishing or catching squids, fishing with hand nets, must not exceed 5,000 W; the capacity of each lamp used in fishing with hand nets must not exceed 2,000 W and the lamps must be placed over 1.2m above water surface.

- + In offshore areas: The limits on the total output of lighting clusters and on the output of each lamp are temporarily not prescribed.

- + The distance between the point where the lighting cluster is placed and the stake clusters or fixed fishing positions must be at least 500 m.

4. Aquatic resource exploitation permit-granting procedures and order

a/ Dossiers of application for aquatic resource exploitation permits:

- For cases of permit application for the first time, a dossier shall consist of: The application for a permit, made according to the form set by the Ministry of Aquatic Resources and certified by the People's Committee of the commune or ward where the means owner permanently resides or of the superior managing agency; valid copies (notarized by State notary offices or certified by the commune/ward People's Committees) of the fishing-ship registration certificate, the fishing-ship's operating capacity certification book, the crew registration book and crew member books, the shipmaster's and chief engineer's diplomas as prescribed above.

- For cases of application for re-granting of permits, the means owners shall only have to submit the applications for permits, certified by the People's Committees of the communes or wards where they permanently reside or by the superior managing agencies, enclosed with the old permits.

- b/ The means owners must also pay a fee for the granting of aquatic resource exploitation permits according to the regulations of the Ministry of Finance. The permit-granting agencies shall have to collect and use such fee strictly according to the current regulations on financial revenues and expenditures.

5. Other regulations on aquatic resource exploitation permits

5.1 After being granted permits, the means owners must:

a/ Manage their means' operation according to the contents inscribed in the permits, any change against the contents inscribed in the permits must be effected only after its is approved by the permit-granting agencies;

b/ 15 days before their permits expire, the means owners must come to the agencies which have granted such permits to apply for new ones;

c/ For the means owners residing in one locality but wishing to fish in offshore area of another locality (province), such must be inscribed in their aquatic resource exploitation permits granted by competent bodies.

5.2. Cases where aquatic resource exploitation permits shall not be granted:

a/ Exploiting aquatic resources in sea conservation zones, areas where exploitation is banned in certain periods in a year as prescribed in Table 10A attached to the Aquatic Resource Ministry's Circular No. 01/2000/TT-BTS of April 28, 2000.

b/ Exploiting objects banned from exploitation, or banned from exploitation in certain periods as prescribed in Tables 7A and 8A attached to the Aquatic Resource Ministry's Circular No. 01/2000/TT-BTS of April 28, 2000.

c/ Exploiting aquatic resources with the practices banned under Point a, Clause 3, Section II of Circular No. 04/TS-TT of August 30, 1990, with fishing gear with meshes smaller than the size prescribed in Table 3A attached to the Aquatic Resource Ministry's Circular No. 01/2000/TT-BTS of April 28, 2000 guiding the implementation of the Ordinance on the Protection and Development of Aquatic Resources.

d/ Exploiting aquatic resources with practices banned in a number of exploitation areas as follows:

- In coastal areas:

+ From the effective date of this Circular, seine fishing and light-aided fishing practices (excluding fishing with small-mesh nets and fishing squids by

hand) shall be banned;

+ In the area stretching from the shore outwards up to 3 nautical miles within the coastal areas: From January 1, 2003, all fishing practices using *to*, *xiep*, *xich*, *tru* and *ring* nets shall be banned;

- In inshore areas: From the effective date of this Circular, drift-net fishing with ships having the capacity of 90 CV or more shall be banned.

d/ Means used in fishing practices and means dimensions restricted from use by the Ministry of Aquatic Resources at Point b, Clause 3, Section II of Circular No. 04/TS-TT of August 30, 1990; ships fitted with engines with a capacity of under 90 horse powers used in drift-net fishing, and ships fitted with engines with a capacity of under 30 horse power used in other fishing practices.

e/ Means exploiting aquatic resources in coastal and inshore areas of other localities (provinces), except it is so consented by the Aquatic Resource Protection Sub-Departments of the localities concerned.

f/ Cases where permits have been withdrawn as prescribed at Points a and c, Clause 1, Article 8 of Decree No. 86/2001/ND-CP.

Annually, the provincial/municipal Aquatic Resource Services and the provincial/municipal Agriculture and Rural Development Services (engaged in managing aquatic resources) must draw up plans on development of ships and boats in their respective localities and notify organizations and individuals thereof; request organizations and individuals, before building and/or assembling means, to notify the provincial/municipal Services of such building and/or assembly so as to ensure that the built means shall be considered and granted aquatic resource exploitation permits.

III. REGARDING CONDITIONAL AQUATIC RESOURCE PRODUCTION AND BUSINESS LINES

1. Production of aquatic breeds (Article 9 of the Decree).

a/ Granting of certificates of being trained in aquatic breeding techniques:

Aquaculture research institutes and centers; schools engaged in aquaculture training shall be competent to grant certificates to technical managers or technical workers after they have undergone training in breeding techniques.

Technical managers or technical workers of aquatic breeding establishments, who have intermediate or higher-level aquatic resource diplomas shall not be required to have certificates of training in aquatic breeding techniques.

b/ Aquatic breeds:

- The breeding establishments must use parent breeds meeting the prescribed branch standards (see Section II of the Appendix to this Circular).

- *The establishments must ensure that their produced breeds must have the announced quality and meet the prescribed branch standards on quality before being put into domestic circulation or exported (see Section III of the Appendix to this Circular).*

c/ Inspection and quarantine of aquatic breeds upon delivery from the breeding establishments:

- *The local Aquatic Resource Protection Sub-Departments (or units assigned by the provincial/ municipal Agriculture and Rural Development Services engaged in managing aquatic resources) shall quarantine aquatic breeds right at the breeding establishments before they are delivered therefrom for domestic circulation;*

- The establishments can put into circulation only aquatic breeds which meet the quarantine standards (stated in branch standard 28 TCN 101:1997 on the procedures for quarantining aquatic animals and products thereof) and are granted the quarantine certificates by local competent agencies;

- The Aquatic Resource Protection Sub-Departments (or units assigned by the provincial/ municipal Agriculture and Rural Development Services engaged in managing aquatic resources) shall have plans on checking one every quarter or irregularly veterinary hygiene and epidemics at the breed-producing and -storing establishments.

d/ Breeds put into domestic circulation or exported must be labeled under the provisions in Clause 2, Section A, Part II of Circular No. 03/2000/TT-BTS guiding the implementation of the Prime Minister's

Decision No. 178/1999/QĐ-TTg of August 30, 1999 promulgating the Regulation on labeling domestically-circulated goods as well as export and import goods regarding aquatic goods.

2. Commercial aquaculture (Article 10 of the Decree)

2.1. Environmental protection provisions:

The shrimp-rearing establishments in the concentrated shrimp-rearing areas must observe the provisions in Articles 4, 5 and 6 of the Regulation on the management of the environment in concentrated shrimp-rearing areas, issued together with the Aquatic Resource Minister's Decision No. 04/2002/QĐ-BTS of January 24, 2002.

2.2. Use of aquatic feed and veterinary drugs:

The to-be-used aquatic feed and veterinary drugs must be on the list of those permitted for common use, which is announced annually by the Ministry of Aquatic Resources, must neither cause harm to people, reared aquatic resources nor pollute the environment; and must not contain substances banned from use as specified in the Aquatic Resource Minister's Decision No. 01/2002/QĐ-BTS of January 22, 2002. The commercial aquaculture establishments must observe the provisions on the use of aquatic feed and veterinary drugs in the Regulation on control of toxic residues in reared animals and products thereof, issued together with the Aquatic Resource Minister's Decision No. 15/2002/QĐ-BTS of May 17, 2002.

2.3. Inspection and recognition of establishments which satisfy the food hygiene and safety standards:

Those establishments engaged in semi-intensive, intensive and/or industrial aquaculture must observe the provisions of the Aquatic Resource Ministry's Regulation on inspection and recognition of aquatic resource business establishments which satisfy the food hygiene and safety standards, issued together with the Aquatic Resource Minister's Decision No. 649/2000/QĐ-BTS of August 4, 2000.

2.4. Criteria for determining the rearing forms are provisionally prescribed below for rearing of shrimps in blackish water:

a/ Semi-intensive rearing:

- The network of ponds has received certain investment to actively ensure the supply of water, the treatment and control of environmental factors; the acreage of ponds is from 0.5-1.5 ha;

- The breed density is from 5-15 individuals/m²;

- Man-made breeds and industrial feed are mostly used;

- The output is from 1-3 tons/ha/crop.

b/ Intensive rearing:

- Big investments have been made in technical and material infrastructures to actively ensure the control of environmental factors; the acreage of ponds is from 0.5-1 ha;

- The breed density per square meter is 25 individuals or more;

- Man-made breeds and industrial feed are exclusively used;

- The output is over 3 tons/ha/crop.

c/ Industrial rearing:

Industrial shrimp rearing is an industrialized rearing form (electrification, mechanization and irrigation), which has received synchronous investment in infrastructure like the network of ponds, swamps, water supply and drainage canals, roads and technical factors to ensure the control of the rearing environment, achieving a stable shrimp output of from 3 tons or more/ha/crop.

3. Aquatic product processing (Article 11 of the Decree)

a/ Building of aquatic product-processing establishments:

- The design, building or renovation of aquatic product processing establishments must comply with the Vietnamese standards and branch standards (see Section 4 of the Appendix to this Circular (not printed herewith)), the Regulation on management of the environment at aquatic product-processing establishments, issued together with the Aquatic Resource Minister's Decision No. 19/2002/QĐ-BTS of September 18, 2002 and other regulatory documents on the conditions for assurance of food hygiene and safety and environmental sanitation, so as to meet the prescribed requirements;

- Environmental impact assessment reports must be elaborated, putting forward measures to treat wastes (solid, liquid and gaseous) and the environmental monitoring regime; these reports must be approved by the local environmental management agencies;

- For operating aquatic resource-processing establishments, they must base themselves on the Vietnamese standards, branch standards as well as other regulatory technical documents to renovate, upgrade and maintain their production conditions according to the prescribed requirements.

b/ In the course of operation, the owners of aquatic resource-processing establishments must:

- Treat solid, liquid and/or gaseous wastes as required in the Regulation on management of the environment at aquatic product-processing establishments, issued together with the Aquatic Resource Minister's Decision No. 19/2002/QĐ-BTS of September 18, 2002, and submit to the supervision by the local environment management agencies;

- Apply the food quality, hygiene and safety assurance programs according to the regulations of the Ministry of Aquatic Resources (Standard 28TCN129: 1998 Aquatic product-processing establishments - Quality control according to HACCP);

- Observe the provisions of the Regulation on inspection and recognition of establishments which satisfy the food hygiene and safety standards, issued together with the Aquatic Resource Minister's Decision No. 649/2000/QĐ-BTS of August 4, 2000.

- Not use aquatic materials being aquatic species on the list of aquatic species banned from exploitation, as specified in Table 7A issued together with the Aquatic Resource Ministry's Circular No. 01/2000/TT-BTS of April 28, 2000;

- Use only chemicals and food additives on the list of additives permitted for use in food, issued together with the Health Ministry's Decision No. 3742/2001/QĐ-BYT of August 31, 2001, and abide by the Aquatic Resource Ministry's regulations in Branch Standard No. 28 TCN 156:2000 prescribing the use of food additives in the aquatic product processing. If an establishment wishes to use additives not on the permitted list, it must assay and test them, then report the assay and test results to the Ministry of Aquatic

Resources for consideration and approval to include them into the list of chemicals and additives permitted for common use; all aquatic product-processing establishments are strictly forbidden to use materials containing alien matters (metal, agar, bamboo sticks, coconut stems, starch...) or directly put the above-said alien matters into aquatic materials for processing for illegal profit-seeking purposes, thus damaging the national economic interests as well as the consumer's interests.

- Observe the provisions on package, labeling, transportation and preservation of products in Clause 1, Section A, Part II of the Aquatic Resource Ministry's Circular No. 03/2000/TT-BTS guiding the implementation of the Prime Minister's Decision No. 178/1999/QĐ-TTg of August 30, 1999 promulgating the Regulation on labeling of domestically circulated goods and export and import goods, regarding aquatic goods.

4. Production of aquatic feed, production of aquatic veterinary drugs (Articles 12 and 13 of the Decree)

In the course of operation, the owners of production establishments must comply with the following:

Before being delivered from workshops and put into domestic circulation or exported, aquatic feed and aquatic veterinary drugs must be packed and labeled under the provisions in Clause 3, Section A, Part II of the Aquatic Resource Ministry's Circular No. 03/2000/TT-BTS of September 22, 2000 guiding the implementation of the Prime Minister's Decision No. 178/1999/QĐ-TTg of August 30, 1999.

IV. INSPECTION, SUPERVISION AND HANDLING OF VIOLATIONS

1. Inspection and supervision

The responsibility to inspect and supervise aquatic resource production and business activities is assigned as follows:

a/ The Aquatic Resource Protection Department shall have to:

- Organize and direct on a national scale the uniform specialized inspection and supervision in production and business domains falling under the regulation of the Decree;

- Directly perform, or coordinate with the concerned agencies inside and outside the branch in performing, the tasks of inspecting and supervising aquatic resource production and business activities when necessary; supervise the Aquatic Resource Protection Sub-Departments in their performance of the tasks of inspecting and supervising aquatic resource production and business activities.

- Direct the Aquatic Resource Protection Sub-Departments to implement the Aquatic Resource Ministry's regulations on inspection and supervision of aquatic resource production and business activities conducted by local organizations and individuals as well as units attached to the Ministry, central branches and people's armed force units engaged in economic activities in the localities under their respective management; coordinate, when necessary, with concerned local agencies in performing this task.

b/ The Aquatic Quality and Hygiene Control Center shall have to inspect the quality of aquatic goods as well as the food hygiene and safety conditions of the aquatic resource production and business establishments according to the regulations in the legal documents promulgated by the Ministry of Aquatic Resources.

2. Handling of violations

Organizations and individuals that violate the provisions of this Circular shall be administratively sanctioned under the Government's Decree on sanctioning administrative violations in the aquatic resource domain and other law provisions.

V. ORGANIZATION OF IMPLEMENTATION

1. This Circular takes implementation effect after its signing.

2. Organizations and individuals conducting aquatic resource production and business activities before the effective date of Decree No. 86/2001/ND-CP may continue operating but must ensure the business conditions prescribed in Decree No. 86/2001/ND-CP and this Circular before January 1, 2003.

3. The departments, institutes and centers under the Ministry of Aquatic Resources; the provincial/

municipal Aquatic Resource Services and the provincial/municipal Agriculture and Rural Department Services engaged in managing aquatic resources shall, according to their respective functions, tasks and powers, guide, urge and inspect the implementation of this Circular; and must promptly report any problems arising in the course of implementation to the Ministry of Aquatic Resources.

4. The amendment and supplementation of this Circular shall be considered and decided by the Minister of Aquatic Resources.

Minister of Aquatic Resources
TA QUANG NGOC