

**THE GOVERNMENT**

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**THE SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

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*Hanoi, December 14, 2017*

## **DECREE**

### **ON PROTECTION OF MARITIME WORKS**

*Pursuant to the Law on Government Organization dated June 19, 2015;*

*Pursuant to the Vietnam Maritime Code dated November 25, 2015;*

*At the request of the Minister of Transport;*

*The Government hereby promulgates a Decree on protection of maritime works.*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Scope**

This Decree provides for protection of maritime works in Vietnam, including: safety perimeter of maritime works, determination of the safety perimeter of maritime works in some special cases, supervision of maritime work protection and responsibility of relevant ministries and local governments for protection of maritime works.

#### **Article 2. Regulated entities**

This Decree applies to organizations and individuals related to management and protection of maritime works within seaport waters and Vietnamese maritime zones.

#### **Article 3. Rules for application of the law on protection of maritime works**

Maritime works shall be protected in accordance with regulations of this Decree, the Vietnam Maritime Code 2015 and other relevant regulations of law.

#### **Article 4. Prohibited acts in protection of maritime works**

1. Loading or storing flammables, explosives and hazardous substances, which can corrode or damage maritime works, without permission of competent authorities.
2. Discharging wastes which damage or affect the durability and useful life of maritime works.

3. Illegally dredging navigational channels, within the safety perimeter of navigational channels and seaport waters or dredging in contravention of technical requirements approved by the competent authority; supervising the dredging and dumping dredged mud in contravention of regulations.
4. Carrying out mining activities, trawling nets and engaging in aquaculture within navigational channels and safety perimeter of maritime works.
5. Trespassing on safety perimeter of maritime works.
6. Obstructing the management, operation, use and protection of maritime works.
7. Operating vessels and other vehicles in contravention of regulations, thereby affecting the quality of maritime works.
8. Other acts which affect safety during management and operation of maritime works.
9. Other acts prohibited by law.

## **Chapter II**

### **SAFETY PERIMETER OF MARITIME WORKS**

#### **Article 5. Safety perimeter of maritime works**

1. Maritime works include ports, wharves, offshore oil ports, floating terminals, navigational channels, turning basin, aids to navigation, maritime assistance systems, breakwaters, drift dikes and embankments which are invested in, constructed or established within seaport waters and Vietnamese maritime zones.
2. The safety perimeter of a port or wharf is the distance from the outermost edge of such work to the outer boundary of the waters in front of it.
3. The safety perimeter of a port, wharf or pier with mooring buoy or bitts is the distance from the central point of the mooring buoy or the bitts and outermost edge of such work to the outer boundary of the waters in front of it according to design and technical regulations. To be specific:
  - a) At least 60 meters for the work having design platform height or for the mooring buoy having a waters depth from platform to design low water level of over 20 meters;
  - b) At least 50 meters for the work having design platform height or for the mooring buoy having a waters depth from platform to design low water level of from 16 to 20 meters;
  - c) At least 40 meters for the work having design platform height or for the mooring buoy having a waters depth from platform to design low water level of from 12 to 16 meters;

d) At least 30 meters for the work having design platform height or for the mooring buoy having a waters depth from platform to design low water level of from 8 to 12 meters;

dd) At least 20 meters for the work having design platform height or for the mooring buoy having a waters depth from platform to design low water level of less than 8 meters;

e) In the event the safety perimeter of a port, wharf, pier or ancillary mooring buoy overlaps a road, railway or inland waterway safety corridor or exceeds the coastward natural edge or outer boundary of the waters in front of a port, wharf, pier or ancillary mooring buoy, the safety perimeter of a work reaches the road, railway or inland waterway safety corridor or natural edge or outer boundary of the waters in front of a port, wharf, pier or ancillary mooring buoy.

4. The safety perimeter of an offshore oil port is delimited by a safety belt with a width of 500 meters from its outermost point and the no-navigation and no-anchoring zone with a width of 2 nautical miles measured from the coordinates of the offshore oil port.

5. The safety perimeter of a floating terminal is the distance from central point of the mooring buoy to the outer boundary of the waters in front of it according to design and from lines connecting central points of the mooring buoy determined according to technical regulations on mooring buoy. To be specific:

a) At least 60 meters for the work having a waters depth from platform to design low water level of over 20 meters;

b) At least 50 meters for the floating terminal having a waters depth from platform to design low water level of from 16 to 20 meters;

c) At least 40 meters for the floating terminal having a waters depth from platform to design low water level of from 12 to 16 meters;

d) At least 30 meters for the floating terminal having a waters depth from platform to design low water level of from 8 to 12 meters;

dd) At least 20 meters for the floating terminal having a waters depth from platform to design low water level of less than 8 meters.

6. The safety perimeter of a conveyor belt support or pipes (for the port or wharf equipped with a conveyor belt support or piping system) is the distance from the outermost edge of such work in a vertical direction towards both sides at a distance of at least 5 meters.

7. The safety perimeter of a navigational channel is the distance from the central point of the signaling buoy on navigational channel to both sides of the channel according to technical regulations on navigational channels. To be specific:

a) At least 60 meters for a navigational channel with a width of over 210 meters and a design platform height of over 20 meters at an estuary, at sea or an open bay entrance; a navigational

channel with a width of over 230 meters and a design platform height of over 17 meters in a river or an enclosed bay or a canal;

b) At least 50 meters for a navigational channel with a width of from 190 to 210 meters and a design platform height of from 16 to 20 meters at an estuary, at sea or an open bay entrance; a navigational channel with a width of from 210 to 230 meters and a design platform height of from 14 to 17 meters in a river or an enclosed bay or a canal;

c) At least 40 meters for a navigational channel with a width of from 140 to 190 meters and a design platform height of from 14 to 16 meters at an estuary, at sea or an open bay entrance; a navigational channel with a width of from 150 to 210 meters and a design platform height of from 12 to 14 meters in a river or an enclosed bay or a canal;

d) At least 30 meters for a navigational channel with a width of from 80 to 140 meters and a design platform height of from 8 to 14 meters at an estuary, at sea or an open bay entrance; a navigational channel with a width of from 90 to 150 meters and a design platform height of from 7 to 12 meters in a river or an enclosed bay or a canal;

dd) At least 20 meters for a navigational channel with a width of less than 80 meters and a design platform height of less than 8 meters at an estuary, at sea or an open bay entrance; a navigational channel with a width of less than 90 meters and a design platform height of less than 7 meters in a river or an enclosed bay or a canal.

8. The safety perimeter of a training work is determined as follows:

a) For a breakwater or drift dike, the safety perimeter is at least 20 meters, 200 meters or 25 meters from its foot to the navigational channel, the sea or the coastline, respectively;

b) For an embankment, the safety perimeter is at least 50 meters from its head to both sides; at least 20 meters from its foot to the channel; and at least 5 meters from its foot to the coastline, for residential areas, urban areas and tourism areas; or at least 25 meters for other areas;

c) For another training embankment, the safety perimeter is at least 50 meters from its foot outwards.

9. The safety perimeter of an aid to navigation is the distance from the central point of the aid to navigation (central point of the lighthouse or mooring buoy) outwards according to technical regulations on aids to navigation. To be specific:

a) At least 60 meters for a lighthouse with an effective range of over 20 nautical miles or floating light buoy with a depth of 20 meters from the position of buoy to the design low water level;

b) At least 50 meters for a lighthouse with an effective range of from 15 to 20 nautical miles or floating light buoy with a depth of from 16 to 20 meters from the position of buoy to the design low water level;

c) At least 40 meters for a lighthouse with an effective range of from 10 to 15 nautical miles or floating light buoy with a depth of from 12 to 16 meters from the position of buoy to the design low water level;

d) At least 30 meters for a lighthouse with an effective range of less than 10 nautical miles or floating light buoy with a depth of from 8 to 12 meters from the position of buoy to the design low water level;

dd) At least 20 meters for other aids to navigation.

10. The safety perimeter of maritime works in overhead space (clearance height) and underground area shall be specifically determined for each work according to the planning for development of seaports and navigational channels, technical regulations and relevant regulations of law.

11. When making an agreement on construction location or announcement of inauguration of a maritime work, the competent authority shall include the safety perimeter of such maritime work in such agreement.

#### **Article 6. Determination of safety perimeter of maritime works in some special cases**

1. In case the safety perimeter of a maritime work is identical to that of a flood and storm preparedness or dike protection work, relevant provisions shall be complied with.

2. In case the safety perimeter of a navigational channel overlaps a road or railway safety corridor or exceeds the coastward natural edge of such corridor, the safety perimeter of such navigational channel reaches the natural edge.

3. In case the safety perimeter of a maritime work overlaps an inland waterway safety corridor, the safety perimeter of the navigational channel reaches such safety corridor.

4. In case the safety perimeter of a maritime work overlaps the safety corridor of a road or railway bridge, transmission lines or cable transportation, relevant regulations shall be complied with.

5. In case the safety perimeter of a navigational channel overlaps that of a port or wharf, the safety perimeter of such navigational channel reaches the safety perimeter of such port or wharf.

6. For a seaport dedicated to material handling or river training, the minimum safety perimeter must be compliant with regulations of this Decree, and the safety distance must be still compliant with relevant regulations.

7. In the event the safety perimeter of maritime works affects an adjacent national defense and security work, written approval of the Ministry of Public Security or Ministry of National Defence must be obtained.

8. In the event the safety perimeter of a maritime work is identical to coastal protection corridor, the safety perimeter of such work reaches the coastal protection corridor.

**Article 7. Seeking opinions about contents of the planning affecting the safety perimeter of maritime works**

1. Upon formulation of the planning affecting the safety perimeter of maritime works, Ministries and People's Committees of provinces must send an enquiry form to the Ministry of Transport.

2. Within 05 working days from the day on which the enquiry form sent by Ministries and People's Committees of provinces is received, the Ministry of Transport shall send a written response specifying the conformity of the planning contents with the safety perimeter of maritime works and provide guidance on protection of maritime works in accordance with regulations.

3. According to the opinions of the Ministry of Transport, Ministries and People's Committees of provinces shall direct and guide investors, contractors and relevant organizations and individuals to comply with regulations on protection of maritime works according to this Decree and relevant regulations of law

**Article 8. Maritime work protection plan**

1. A maritime work protection plan prescribed in Article 125 of Vietnam Maritime Code 2015 includes the following contents:

a) Determination of the safety perimeter of the maritime work;

b) Establishment of aids to navigation installed into the maritime work;

c) Human resources, contact address and telephone number used for the protection of the maritime work;

d) Vehicles and equipment used for protection of the maritime work;

dd) Plan for protection of the maritime work and inspection and supervision measures by the work investor or manager/operator;

e) Remedial measures for damage or accidents and actions against violations affecting safety of operation of the maritime work;

g) Proposed rules, mechanism and method of cooperation between the work investor or manager/operator and the port authority as well as competent authority in the area where the maritime work is located.

2. Power over and responsibility for formulation, assessment and approval for the maritime work protection plan

a) Regarding the maritime work to be invested in, the investor shall formulate the maritime work protection plan according to the contents specified Clause 1 of this Article, include it in the project dossier and submit it to the competent authority for assessment and approval.

b) Regarding the maritime work that has been put into use without a plan for protection thereof, the maritime work manager, operator or user shall formulate a maritime work protection plan according to the contents specified Clause 1 of this Article and assess, approve and organize the implementation of the maritime work protection plan.

3. After the maritime work protection plan is approved by the investor, operator and manager, it shall be sent to the port authority

### **Article 9. Supervision of construction of works affecting the safety perimeter of maritime works**

1. Works shall be constructed according to the seaport development planning and other relevant approved planning, regulations on protection of maritime works, assurance of maritime safety and security and regulations on environmental protection specified in this Decree and other relevant regulations of law.

2. During formulation of works affecting the safety perimeter of maritime works, investors, operators and managers shall comply with regulations on supervision of construction of works within seaport waters, maritime work protection plan, regulations of this Decree, Government's Decree No. 58/2017/ND-CP dated May 10, 2017 elaborating certain articles of Vietnam Maritime Code and other relevant regulations of law.

3. The port authority shall inspect and supervise construction of works affecting the safety perimeter of maritime works according to the approved work protection planning and plan, and regulations on maritime safety and security assurance and environmental pollution prevention.

4. Investors, operators and managers shall comply with regulations on planning management, work investment, operation and maintenance to ensure quality and safety during operation of works.

## **Chapter III**

### **RESPONSIBILITY OF ORGANIZATIONS AND INDIVIDUALS FOR MANGEMENT AND PROTECTION OF MARITIME WORKS**

#### **Article 10. Responsibilities of the Ministry of Transport**

1. Review and complete legislative documents and technical regulations concerning protection of maritime works.

2. Direct relevant authorities and units to inspect, supervise and take actions against violations committed upon the implementation of regulations of the law on protection of maritime works.

3. Direct the Vietnam Maritime Administration to review and instruct relevant organizations and individuals to complete the plan for protection of the maritime works that are operated and used before the effective date of this Decree without a plan for protection thereof.

4. Provide guidance on determination of the safety perimeter of maritime works at the request of the investor or manager/operator.

5. Disseminate and provide guidance on the implementation of regulations of the law on protection of maritime works for organizations and individuals related to maritime operations carried out at seaports.

6. Apply information technology to management to facilitate and ensure effectiveness of protection of maritime works.

#### **Article 11. Responsibilities of the Ministry of Public Security and Ministry of National Defense**

Direct and instruct their forces to inspect and take actions against violations of regulations on protection of maritime works within their power.

#### **Article 12. Responsibilities of the Ministry of Natural Resources and Environment**

Take charge and cooperate with People's Committees of provinces and Ministry of Transport in providing guidance on allocation of sea areas for construction of seaports and navigational channels according to the approved comprehensive planning for sustainable extraction and use of natural resources in littoral zones and planning for seaport development.

#### **Article 13. Responsibilities of People's Committees of provinces**

Direct their affiliates to cooperate with the port authority in protecting and taking actions against acts trespassing on maritime works according to regulations.

#### **Article 14. Responsibilities of investors, managers and operators of maritime works**

1. Formulate and organize the implementation of maritime work protection plan in accordance with regulations of this Decree.

2. Strictly comply with regulations of the law on protection and maintenance of maritime works to maintain their quality, applicability and safety.

3. Cooperate with the port authority and competent authorities in investigating maritime accidents in connection with maritime works constructed themselves, manage or operate in accordance with regulations of law.

#### **Article 15. Cooperation in management upon protection of maritime works**



1. The port authority shall take charge and cooperate with regulatory authorities at ports in protection of maritime works.
2. Regulatory authorities at ports shall closely cooperate with each other in taking timely actions against violations or respond to maritime accidents.
3. Any arising issues in relation to functions and tasks of other regulatory authorities should be promptly resolved after these authorities consult and reach an agreement with one another. In case of disagreement, promptly inform the port authority. Regulatory authorities shall report the issues beyond their power to their superior authority. When necessary, relevant ministries shall cooperate with the Ministry of Transport in resolving such issues and shall issue their resolution decisions to relevant organizations and individuals within 04 hours after receiving a report on such issues.

## **Chapter IV**

### **IMPLEMENTATION CLAUSE**

#### **Article 16. Effect**

This Decree comes into force from February 01, 2018 and replaces the Government's Decree No. 109/2014/ND-CP dated November 20, 2014 on regulation on protection on maritime works and navigational channels.

#### **Article 17. Transition clause**

1. The maritime work construction projects that are contracted before the effective date of this Decree but have not been put into operation shall continue to be executed in accordance with regulations of the Decree No. 109/2014/ND-CP dated November 20, 2014 on regulation on protection on maritime works and navigational channels.
2. Regarding the maritime work that is operated without a protection plan before the effective date of this Decree, the manager, operator or user shall continue complete the maritime work protection plan in accordance with regulations of this Decree to implement it before December 31, 2022.

#### **Article 18. Implementation**

1. The Minister of Transport shall take charge and cooperate with relevant ministries and People's Committees of provinces in organizing the implementation of this Decree.
2. Ministers, heads of ministerial agencies, heads of Governmental agencies, Presidents of People's Committees of provinces are responsible for the implementation of this Decree./.

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**