

TOPIC
**INTRODUCTION OF THE LAW ON
ENVIRONMENTAL PROTECTION 2005**

I. NECESSITY FOR REVISION OF THE LAW ON ENVIRONMENTAL PROTECTION OF 1993

The Law on Environmental Protection promulgated by the National Assembly on 27/12/1993 has put a foundation for the establishment of legal framework on environment. For the first time basic concepts on environment and environmental protection were defined formally. Rights and obligations of organizations and individuals were stipulated by law.

For more than 10 years of the law implementation, environmental protection in Vietnam has made positive developments. The system of policies and institutions have been developed and improved step by step. The growth of environmental pollution, degradation and accidents has been reduced. Natural and biological diversity protection has achieved good progress. However, under the pressure of accelerating industrialization and modernization of the country and dynamic development of globalization, the Law on Environmental Protection showed its limits and shortages that needed revision.

Firstly, the Law itself had a number of shortages that needed revision: Many procedures remained at the framework level, lacking details and clearness. Therefore, the enforcement was low. The law did not reflect large and important policies of the Party and Government, as well as international treaties that Vietnam is a signatory to.

Secondly, the national environment continued to degrade fast, creating critical in some places: soil erosion and degradation; strong decrease of the quality of water resources; heavy air pollution in many urban and population areas; increased generation and toxicity of wastes; over-exploitation of natural resources; decreased biodiversity; sanitation conditions and water supply are not ensured in many places.

Thirdly, in the coming time the national environment will face even higher pressure when industrialization and modernization accelerate: the huge demand for natural resources and increase volume of polluting waste

sources; increased environmental degradation. Fast urbanization and population growth also create many urgent environmental issues. Beside that, global environmental problems like climate change, decrease of biodiversity and pollution of international water sources have trends to affect strongly and in many aspects to the national environment.

Fourthly, the orientation toward a legal socialist state and administration reform need renovation and strengthening of environmental protection institutions.

With the shortages, limits, challenges and requirements stated above a throughout and comprehensive revision of the Law on Environmental Protection 1993 is necessary.

II. VIEWPOINTS AND PRINCIPLES OF THE LAW ON ENVIRONMENTAL PROTECTION 2005

The Law on Environmental Protection 2005 expresses following viewpoints and principles:

1. The Law should make clear and institutionalize the viewpoints of the Resolution of the 9th Party Conference on the need for “fast, effective and sustainable development, economic growth in parallel with social equality and environmental protection”; in particular the viewpoints, policies and tasks stated in the Resolution numbered 41-NQ/TW and dated 15 November 2004 of the Politburo on the "Environmental Protection in the period of accelerating industrialization and modernization of the country".

2. The law should be applicable to the reality of the country, professional level, enforcement capacity of the subjects of the Law, at the same time considering requirements of the environmental protection of all the period of industrialization and modernization of the country.

3. The Law inherits the advantages and overcome the shortages of the Law on Environmental Protection of 1993; legalize regulations promulgated in Law enforcement guiding documents for the Law on Environmental Protection 1993 which were tested in practice; selective adaptation of experience of regional and international countries on environmental protection.

4. The Law links to the requirements of renovation of legal document issuing process and reform of the public administration. According to that, this New Law on Environmental Protection defines

specific, clear, understandable regulations; links to and harmonize with other related sector-specific laws and at the same time showing the leadership in regulating relationships in the environmental protection area.

III. STRUCTURE, CONTENT AND SOME NEW POINTS OF THE LAW ON ENVIRONMENTAL PROTECTION 2005

1. The structure of the Law on Environmental Protection 2005

The Law on Environmental Protection 2005 was passed by the National Assembly of the Socialist Republic of Vietnam Legislature XI, the 10th Session on 29 November 2005. The President signed the Order nr. 29/2005/L/CTN on 12 December 2005 to proclaim the Law.

The Law on Environmental Protection 2005 comes in to effect from 1 July 2006, replacing the Law on Environmental Protection of 1993.

The Law has 15 Chapters and 136 Articles. Compared to the Law of 1993 it has 8 Chapter and 79 Articles more. All chapter and articles of the Law on Environmental Protection 1993 were changed and revised, in particular:

Chapter I. General Provisions- includes 7 Articles (Articles 1 to 7) regulates the scope of Law; Objects of Application; Definition of terms; Principles of Environmental Protection; State Policies on Environmental Protection; Environmental Protection Actions to Be Encouraged and Acts to Be Strictly Prohibited.

Chapter II. Environmental Standards – includes 6 Articles (from 8 to 13) on Principles for the Establishment and Application of Environmental Standards; Contents of National Environmental Standards; National System of Environmental Standards; Requirements for the Ambient Environmental Quality Standards; Requirements for Waste Standards; Issuance and Proclamation of the Application of National Environmental Standards.

Chapter III. Strategic Environment assessment, Environmental Impact Assessment and environmental protection commitments (Article 14-27), includes 3 Sections:

Section 1. *Strategic Environmental Assessment* includes 4 Articles on Objects that are Subject to Strategic Environment Assessment Reporting; Strategic Environment Assessment Reporting; Contents of the Strategic Environment Assessment Report and Review of the Strategic Environment Assessment Report.

Section 2. *Environmental Impact Assessment* includes 6 Articles on Objects that are Subject to Environmental Impact Assessment Reporting; Setting up of Environmental Impact Assessment Report; Contents of

Environmental Impact Assessment Report; Review of Environmental Impact Assessment Report; Approval of Environmental Impact Assessment Report; Responsibilities for Implementing Contents Stated in Environmental Impact Assessment Reports, and for Inspecting their Implementation.

Section 3. *Commitment to environmental protection* includes 4 Articles on Objects that are Subject to Environmental protection Commitment; Contents of Environmental Protection Commitment; Registration of Environmental Protection Commitment and Responsibility for Implementing Environmental Protection Commitment and Inspecting its Implementation.

Chapter IV. Conservation and Rational use of Natural Resources - includes 7 Articles (from Article 28 to Article 34) on Natural Resources Investigation, Assessment and Use Planning; Nature Conservation; Protection of Biodiversity; Protection and Development of Natural Landscapes; Environmental Protection in Natural Resources Investigation, Prospect, Exploitation and Use; Development of Clean and Renewable Energies and Environmentally Friendly Products; Building up of Environmentally Friendly Consumption Practices.

Chapter V. Environmental Protection in production, business and service activities - includes 15 Articles (from Article 35 to Article 49) on The Responsibility of Environmental Protection by Organizations and Individuals in their Production, Business and Service Activities; Environmental Protection in Centered Production, Business and Service Areas; Environmental Protection by Production, Business and Service Units; Environmental Protection in Craft Villages; Environmental Protection in Hospitals and Other Medical Units; Environmental Protection in Construction Activities and Transport Activities; Environmental Protection in Importation and Transit of Goods; Environmental Protection in Importation of Scrap Materials; Environmental Protection in Mineral Activities; Environmental Protection in Tourism Activities; Environmental Protection in Agricultural Production and Aquaculture; Environmental Protection in Burial Services; Dealing with Production, Business and Service Units that Pollute the Environment.

Chapter VI. Environmental Protection in urban centers and residential areas - includes 5 Articles (from Article 50 to Article 54) on Planning of Environmental Protection in Urban centers and Residential Areas; Environmental Protection Requirements for Urban Centers and Centered Residential Areas; Environmental Protection in Public Places;

Environmental Protection Requirements for Households; and Self-Governing Organization of Environmental Protection.

Chapter VII. Protection of Marine Environment, River water and other water resources - includes 11 Articles (from Article 55 to Article 65).

Section 1. Protection of Marine Environment includes 4 Articles on Principles of Marine Environment Protection; Conservation and Rational Use of Marine Natural Resources; Control and Treatment of Marine Environmental Pollution; Organization of Prevention of, and Response to, Marine Environmental Incidents.

Section 2. Protection of river water includes 4 Articles on Principles of River Water Protection; Water Environmental Pollution Control and Treatment in River Basins; Responsibilities of Provincial People's Committees for Water Environmental Protection in River Basins; and Organization of Water Environment Protection in River Basins.

Section 3. Environmental Protection of other Water Resources includes 3 Articles on Environmental Protection of Water Resources in Lakes, Ponds, Canals and Ditches; Environmental Protection of Reservoirs for Irrigation and Hydropower Purposes and Ground Water Resources.

Chapter VIII. Waste management - includes 20 Articles (from Article 66 to Article 85)

Section 1. General Provisions of Waste Management includes 4 Articles on Responsibilities of Waste Management; Take-Back and Treatment of Expired or Discarded Products; Cycling of Wastes and Waste Management Responsibilities of People's Committees at all Levels.

Section 2. Hazardous Waste Management includes 7 Articles on Compilation of Dossiers, Registration, Licensing and Code Numbers for Hazardous Waste Management; Segregation, Collection and Temporary Storage of Hazardous Wastes; Transport of Hazardous Wastes; Treatment of Hazardous Wastes; Requirements for Hazardous Waste Treatment Facilities and Landfill Sites; Planning of Hazardous Waste Collection, Treatment and Land-filling.

Section 3. Management of General Solid Wastes includes 4 Articles on Classification of General Solid Wastes; Collection and Transport of General Solid Wastes; General Solid Waste Recycling and Disposal Facilities and Landfill Sites; Planning of General Solid Waste Collection, Recycling, Disposal and Land-filling.

Section 4. Wastewater management includes 2 Articles on wastewater collection and treatment and wastewater treatment systems.

Section 5. Management and Control of Dusts, Air Emissions, Noise, Vibration, Light and Radiation, includes 3 Articles on Management of Dusts and Air Emissions; Management of Gases that Cause Greenhouse Effects and Deplete the Ozone Layer; Reduction in Levels of Noise, Vibration, Light and Radiation.

Chapter IX. Prevention of and response to environmental incidents, remedy of environmental pollution and environmental rehabilitation - includes 8 Articles (from Article 86 to Article 93).

Section 1. Prevention of and response to environmental incidents, includes 6 Articles on Prevention of Environmental Incidents; Biological Safety; Chemical Safety; Nuclear Safety and Radiation Safety; Response to Environmental Incidents.

Section 2. Pollution remedy and environmental rehabilitation includes 2 Articles on Rationales to Identify Polluted Environment Areas; Pollution Remedy and Environmental Rehabilitation.

Chapter X. Environmental Monitoring and Information - includes 12 Articles (from Article 94 to Article 105) on environmental monitoring, systems; Planning of Environmental Monitoring Systems and Programs; Environmental Indicators; The State of the Environment Report at Provincial and national levels; Reports on Environmental Impacts by Sectors and Areas; Collection and Archive of Environmental Statistics, Data and Information; Publication and Provision of Environmental Information; Disclosure of Environmental Information and Data; Performance of Grassroots Democracy in Environmental Protection.

Chapter XI. Resources for Environmental Protection - includes 12 Articles (from Article 106 to Article 117) on Propagandizing Environmental Protection; Environmental Education and Training; Development of Science and Technology for Environmental Protection; Development of Environmental Industry and Capacity Building for Environmental Prediction and Warning; Financial Resources for Environmental Protection; State Budget for Environmental Protection; Environmental Taxation; Environmental Protection Fees; Deposit Funds for Environmental Improvement and Rehabilitation in Natural Resources Exploitation; Environmental Protection Funds; Development of Environmental Protection Services; Preferential and Support Policies on Environmental Protection.

Chapter XII. International Cooperation in Environmental Protection - includes 3 Articles (from Article 118 to Article 120) on Implementation of International Environmental Treaties; Environmental Protection during

International Economic Integration and Globalization Process; Extension of International Cooperation in Environmental Protection.

✓ *Chapter XIII. Responsibilities of state management agencies, fatherland front and its member organization for environmental protection* - includes 4 Articles (from Article 121 to Article 124) on Responsibilities of State Management of Environmental Protection of the Government, Ministries, Ministerial Level Agencies and Other Government Bodies; Responsibilities of State Management of Environmental Protection of People's Committed at All Levels; Professional Agencies and Officials in Charge of Environmental Protection; Responsibilities of the Viet Nam Fatherland Front and Its Member Organizations.

Chapter XIV. Inspection and dealing with breaches, settlement of complaints and denunciations and compensation for environmental damages - includes 10 Articles (from Article 125 to Article 134).

Section 1. Inspection and Dealing with Environmental Breaches, Settlement of Environmental Complaints and Denunciations - includes 5 Articles on Responsibilities for Performing Examination and Inspection of Environmental Protection; dealing with breaches, environmental complaints, denunciations and lawsuits.

Section 2. Compensation for damages cause by Environmental pollution and degradation - includes 5 Articles on Damages Caused by Environmental Pollution and Degradation; Determination of Damages Caused by Environmental Pollution and Degradation; Valuation of Damages; Settlement of Compensation for Environmental Damages; Insurance for the Responsibility for Compensation for Environmental Damages.

✓ *Chapter XV. Implementation Provisions* - Includes 2 Articles (Article 135 and Article 136) on entry into force and guidance for implementation.

2. Main contents of the Law on Environmental Protection 2005

2.1. Scope of law and objects of application. Compared to the Law on Environmental Protection 1993 the new Law of 2005 has more specific objects of application including "*activities, policies, measures and resources for environmental protection; and for the rights and obligations of organizations, households and individuals for environmental protection*" (Article 1).

2.2. Clear and specific regulations on Principles of environmental protection (Article 4), Policies on environmental protection (Article 5),

State-encouraged environmental protection actions (Article 6) and Acts to Be Strictly Prohibited (Article 7).

2.3. *Regulations on specific sectors and areas* such as: industry (Article 35, Article 36, Article 37), construction (Article 40), transportation (Article 41), trade (Article 42, Article 43), mining (Article 44), tourism (Article 45), agriculture (Article 46), aquaculture (Article 47)...

2.4. *Specific regulations on environmental protection for geographic and local areas* such as: urban areas (Article 50, Article 51), centralized population settlements (Article 51), public places (Article 52), production, business and service areas (Article 36), production, business and service facilities (Article 37), craft villages (Article 38), marine areas (Section 1, Chapter VII), river water (Section 2, Chapter VII), irrigation facilities and reservoirs (Section 3 Chapter VII).

2.5. *Requirements on environmental protection are regulated for all development process:* from compilation of strategy and planning to development plans (Section 1, Chapter III); setting-up, approval and implementation of investment projects (Section 2, Chapter III) and during operation (Chapters VIII, IX, X); responsibilities of take-back and treatment of out-of-date or obsolete products (Article 67).

2.6. *Integrated use of tools and measures for environmental management* such as: environmental standards (Chapter II), strategic environmental assessment, environmental impact assessment, commitments to environmental protection (Chapter III), environmental monitoring and reporting (Chapter X), economic tools (taxes, fees, deposits, environmental protection funds – Chapter XI), inspection and check of environmental protection (Article 125, Article 126).

2.7. *Implementation of many new and stronger sanctions in environmental management* such as: issue of investment license only after the approval of environmental impact assessment (Article 22), project operation allowed only after meeting all requirements on environmental protection (Article 23), dealing with polluting facilities (Article 49), compensation for environmental damages (Section 2, Chapter XIV), compulsory insurance for environmental damages for a number of activities (Article 134).

2.8. *Strong socialization and increased role of citizens in environmental protection actions* such as: to allow all economic sectors to participate in the environmental impact assessment (Article 21), encouragement of all capable organizations to participate in waste

management activities (Article 70) and environmental monitoring activities (Article 95), ensure of rights of all organizations and individuals to be informed about the environmental information (Article 104, Article 105), development of environmental services (Article 116), encouragement of organizations and individuals to cooperate with international parties on environmental protection (Article 119), increase the role of Fatherland Front of Vietnam, its members (Article 124) and of all citizens in environmental protection.

2.9. *Clear responsibilities of agencies in environmental protection* such as: responsibilities of the Government, the Ministry of Natural Resources and Environment, other Ministries and ministry-level agencies and agencies belonging to the Government (Article 121), People's Committees of all levels (Article 122); Rights and duties of other organizations and individuals.

3. *New features of the Law on Environmental Protection 2005 compared to the Law of 1993*

Compared to the Law on Environmental Protection 1993, the new Law has many new points, some of which can be listed as follows:

3.1. *Systematic stipulations on activities for environmental protection; policies, measures and resources for environmental protection; rights and duties for environmental protection of organizations and individuals.*

3.2. *More detailed, specific and appropriate to the practical life stipulations.* Therefore, they are more feasible. The Law has met the requirement of reducing number of procedures to be stipulated by the Government.

3.3. *The new Law stipulates clearer the responsibilities for environmental protection of agencies, organizations, enterprises, communities, households and individuals; clearer delegation and decentralizations of environmental protection work; reducing administrative procedures for enterprises and citizens; in overall expressing the view points of the Party and State on administration reform.*

3.4. *The new Law allows the application of many "strong" tools and measures with more deterrent force, stipulates specific resources for environmental protection, as well as capacity building for state management from central to local levels to ensure the enforcement of the law.*

3.5. *Strong socialization of activities for environmental protection*

aimed at providing opportunities for all subjects to participate in the environmental protection and mobilizing all resources in the society for environmental protection. ✓

3.6. *Consideration of global environmental problems*, encouragement for globalization and promoting fulfillment of international duties as well as increasing the role and position of Vietnam at international environmental forums. ✓

IV. ORGANIZATION FOR IMPLEMENTATION

1. The New Law on Environmental Protection has been fully revised and has many new stipulations. Therefore, propagation, introduction, distribution and training are necessary to make all organizations and individuals understand correctly and fully all the law's stipulations.

2. Development and issuance of law implementation guidance documents should be completed before the Law on Environmental Protection enters into force on 01 July 2006. It is to ensure that these guidance documents are integrated and not overlapped and include important contents such as: stipulation on implementation resources; delegation of responsibilities between Ministries, ministry-level agencies, agencies under the Government and People's Committees of all levels; rights and obligations of other subjects.

3. Fatherland Front of Vietnam and its member organizations must encourage and educate people to voluntarily participate in activities for environmental protection.

V. STIPULATIONS RELATED TO INSPECTION AND CHECK OF THE IMPLEMENTATION OF THE LAW ON ENVIRONMENTAL PROTECTION

A. General concepts

1. Environmental Impact Assessment (EIA)

1.1. Concept of EIA

There are many concepts and definitions:

a) According to the Law on Environmental Protection 1993:

“EIA is a process of analysis, assessment and prediction of environmental impacts of projects, socio-economic development plans of production and business establishments, economic, scientific, technical, medical, cultural, social, security, national defense and other projects, and

proposal of appropriate solutions for environmental protection”.

b) According to the Law on Environmental Protection 2005:

“EIA means the analysis and prediction of potential impacts of specific investment projects on the environment in order to propose measures to protect the environment when the implementation of projects takes place”.

c) According to popular concepts of many countries in the world:

EIA is a process of study and prediction of environmental impacts of a development investment project and on that base suggestion of measures to maintain positive impacts and mitigate negative impacts of the project.

1.2. Objective and meaning of EIA

a) To serve as basis for consideration and decision on approval of an investment project.

b) It has very important meaning in the process of consideration and decision on an investment project in order to combine with economic and social aspects to ensure the sustainability of the project.

1.3. Main contents of EIA report

a) Defining objects that have impact (content of the project);

b) Defining objects that would be impacted (natural environmental, economic and social subjects around the project when the project is constructed and starts implementation); (prediction)

c) Assessment (prediction) of impacts to happen (when and where?);

d) Proposal of mitigation measures for negative impacts (how and where?);

e) Proposal of monitoring program for impacts (what to monitor, where and what frequency?);

f) Conclusions and recommendations (note what recommendations are outside the competence of the project owner)

1.4. Method to conduct EIA

a) Methods for investigation, survey and data collection (by traditional methods).

b) EIA methods: there are many methods. Following are basic methods:

- Listing method;

- Matrix method;
- Modeling method;
- Map overlay method;
- Network scheme method;
- Method of extended analysis of cost-benefits;

2. *Commitments to environmental protection*

In the Law of 2005, Commitments to environmental protection is a legal tool for state management of environmental protection, replacing the tool of Registration of meeting environmental standards stipulated in the Circular 490/1998/TT-BKHCMNT on 29 April 1998 by the Ministry of Science, Technology and Environment on the setting-up and appraisal of EIA reports.

Both Commitments to environmental protection and Registration of meeting environmental standards are simplified EIA.

B. EIA and Commitment to Environmental Protection in the Law on Environmental Protection 2005 and by-law documents

I. Environmental Impact Assessment (EIA)

1. Objects that are subject to EIA reporting

Article 18 of the Law on Environmental Protection 2005 stipulates objects that have to develop EIA report and assigns the Government to specify lists of projects that need EIA reporting.

Following that, the Government issued Decree 80/2006/NĐ-CP on 09 August 2006 on the detailed regulations and guidance for implementation of some articles of the Law on Environmental Protection. It has:

Annex 1: List of projects that subject to EIA reporting (there are 102 project types)

Annex 2: List of inter-sector and inter-provincial projects that subject to EIA report appraisal by the Ministry of Natural Resources and Environment.

2. Conducting EIA and setting-up EIA report

Article 19 of the Law on Environmental Protection 2005 stipulates:

- Project owners have the responsibility to set up EIA report;

- Project owners may conduct themselves or contract consulting service to set up EIA report;

- Project owners should hire consulting service organizations that have conditions on professional staff and necessary physical-technical resources;

- In cases that any of changes in the scales, contents, and implementation and completion schedules of the projects, the projects owners shall have the responsibility to submit their justifications to the approval agencies; if necessary, an additional report on environmental impact assessment is required.

3. Consultation service for EIA report development

- All national and foreign organizations that have registered their operation and meet conditions on professionals and physical-technical resources can provide services (excepts the projects of security, defense and national secret nature).

- Service hiring organizations must check all the conditions before contracting.

4. Content of the EIA report

According to Article 20 of the Law on Environmental Protection 2005, Circular 08/2006/TT-BTNMT on 08 September 2006 of the Ministry of Natural Resources and Environment the Content of an EIA report must be as follows (Annex 4):

Introduction

Chapter 1: List and detailed description of project items.

Chapter 2: Assessment of status of the environment at the project site and neighboring area; level of sensitivity and carrying capacity of the environment.

Chapter 3: Assessment of the environmental impacts; prediction of risks of environmental incidents.

Chapter 4: Measures to mitigate negative impacts; prevention and response to environmental incidents.

Chapter 5: Commitments to implement environmental protection measures.

Chapter 6: List of environmental management and monitoring items and programs.

Chapter 7: Cost estimates for construction of environmental protection items in total cost estimate of the project.

Chapter 8: Comments from People's Committee of the commune and community's representative of the project implementation location.

Chapter 9: Reference to data source and methods of assessment.

Conclusions and Recommendation:

5. Forms of EIA report appraisal

Article 21 of the Law on Environmental Protection specifies two forms:

a) Appraisal through the review council:

- Composition of the Council for central level projects: representative of project approving organization, professional environmental protection agencies of the approving organization, provincial professional organization on environmental protection and experts relevant to the content of the project.

- Composition of the Council for provincial level projects: Representative of provincial People's Committee; professional agency on environmental protection, related provincial departments; relevant professional experts (if necessary the Council may invite the Ministry of Natural Resources and Environment or other Ministries), (in both cases there should be more than 50% of the members who have environmental profession and in areas related to the content of the project);

b) Appraisal through appraisal service organizations:

6. Responsibility of appraisal organization

Article 21 of the Law on Environmental Protection stipulates:

- The Ministry of Natural Resources and the Environment shall appraise and approve EIA reports of the projects that are subject to the approval of the National Assembly, the Government and the Prime Minister; and other inter-sector and inter-provincial projects;

- Ministries, ministerial level agencies and government bodies shall appraise and approve EIA reports of projects that are subject to the authority of their decision and approval, except inter-sector and inter-provincial projects;

- The Provincial People's Committee shall appraise and approve EIA reports of projects within the territory that are subject to the authority of decision and approval by themselves and the same level People's Councils.

7. Application documents for appraisal of EIA report

Based on point 2 Article 9 of the Decree 80/2006/NĐ-CP, Circular

08/2006/TT-BTNMT, the application documents for appraisal include:

a) 01 (one) letter of the project owner requesting appraisal and approval of EIA report in format provided at Annex 5 of the Circular;

b) 07 (seven) copies of EIA report bound according to format specified in Annex 6 of the Circular, with signature and name, position of the project owner and stamped at the additional cover page of each report copy;

c) 01 (one) draft feasibility report or investment report of the project.

8. Organization and operation of the Appraisal Councils

Article 21 of the Law on Environmental Protection 2005 stipulates composition of appraisal councils:

- For central level projects: representative of project approving organization, professional environmental protection agencies of the approving organization, provincial professional organization on environmental protection and experts relevant to the content of the project.

- For provincial level projects: Representative of provincial People's Committee; professional agency on environmental protection, related provincial departments; relevant professional experts (if necessary the Council may invite the Ministry of Natural Resources and Environment or other Ministries). (in both cases there should be more than 50% of the members who have environmental profession and in areas related to the content of the project);

Organization and operation of the Appraisal Council is stipulated in the Charter issued with the Decision number 13/2006/QĐ-BTNMT on 08 September 2006 of the Minister of Natural Resources and Environment, in which there should be:

- The Council has 02 opponents;
- The Council has 01 vice chairman for necessary cases.

9. Period for appraisal of EIA report

Article 12 of the Decree 80/2006/NĐ-CP stipulates:

- Within 45 working days for EIA reports of projects under the decision authority of the Ministry of Natural Resources and Environment.

- Within 30 working days for EIA reports of projects under the decision authority of Ministries, Ministry-level Agencies and other Governmental Agencies (except the Ministry of Natural Resources and Environment); Provincial People's Committees.

10. Completion of EIA report

Circular Nr. 08/2006/TT-BTNMT stipulates:

- Within not more than 03 working days from the receipt of appraisal results, the agency organizing the appraisal should have a letter informing the project owner about the appraisal result;

- The project owners have to complete the EIA report according to requirement of the letter, sign at the left corner of each page and make copies with quantities as follows:

+ Reports under the authority of approval by the Ministry of Natural Resources and Environment: Ministry of Natural Resources and Environment (04 copies and 01 CD, including one copy to be sent to project owner); Provincial People's Committees at the project location (each province 01 copy); Ministry or sector that manages the project (01 copy); (at least 06 copies).

+ Reports under the authority of approval by other Ministries and sectors: Ministry or sector (ministry-level agency) (03 copies and 01 CD, including 01 copy to be sent to project owner); Provincial People's Committees at the location (each province 01 copy); Ministry of Natural Resources and Environment (01 copy); (at least 05 copies);

+ Reports under the approval authority of provincial level: People's Committee (03 copies with 01 CD, including 01 copy to be sent to the project owner).

11. Support activities for Appraisal

According to point 4, Article 11 of the Decree 80/2006/NĐ-CP, in necessary case, before the official meeting of the Appraisal Council, the agency in charge of organizing the appraisal may conduct appraisal support activities as follows:

- a) Survey of the project implementation site and neighboring areas;
- b) Take verification samples for analysis;
- c) Get comments from communities of the project implementation;
- d) Get opponent comments from experts outside of the Appraisal Council, scientific and technological organizations, from professional and trade associations and related NGOs.;
- e) Organize appraisal meetings on each topic.

12. Setting up of additional EIA reports

a) Cases that need additional reports: based on point 4, Article 19 of the Law on Environmental Protection, Decree number 80/2006/NĐ-CP

(Article 13) on setting up additional EIA report for following cases:

- There are change(s) of location, scale, designed capacity or technology of the project;

- The project comes into implementation 24 months after the EIA report was approved.

b) Contents of additional EIA report: (also in Article 13 of the same Decree)

- Changes of the project content;
- Changes of the status of natural environment and socio-economic factors till the moment of additional EIA reporting;
- Changes in environmental impacts and mitigation measures;
- Changes in environmental management and monitoring program;
- Other changes.

13. Approval of EIA reports

Article 22 of the Law on Environmental Protection 2005:

- The agency that has established the Appraisal Council has the responsibility of consideration and approval of the EIA report.

- The period is 15 working days from the receipt of EIA report that meets requirements according to conclusion of the Appraisal Council or organization of appraisal service.

- The project will only be licensed after the approval of EIA report.

Circular number 08/2006/TT-BTNMT stipulates the format of the approval decision (Annex 7 of the Circular).

14. Confirmation and forward of the EIA report documents

- Confirmation of approval is to be noted at the back of the additional cover page (according to format provided in Annex 8 of the Circular 08).

- Send the report to necessary addresses as stipulated by Circular 08/2006/TT-BTNMT.

15. Responsibility of the project owner after approval of EIA report

Article 14 of the Decree 80/2006/NĐ-CP stipulates:

a) To send a letter informing the People's Committee of the district where the project is implemented on the content of the Decision approving the EIA report and a copy of the Decision;

b) To post publicly a summary of the approved EIA report, in which clearly mentions: types and amounts of wastes; technology and equipment

for waste treatment; level of waste treatment compared to applied standards on typical parameters; other measures for environmental protection;

c) To design and construction environmental treatment facilities; report on the construction plan with detailed design of treatment facilities;

d) To protect the environment during construction of the project: to perform all measures stated in the EIA report and according to requirements of approving agency; in cases of changes or modifications there should be a report to get a written approval before implementation; if pollution occurs the operation should be stopped and the case reported immediately; to cooperate with monitoring and inspecting agencies and provide information an data to facilitate their work;

e) Test operation of environment treatment facilities: To set up a plan and inform the EIA approval agency to monitor and inspect; to measure and analyze (or contract) technical parameters; report and request confirmation of test results.

Format for report is provided in the Circular Nr. 08/2006/TT-BTNMT

16. Responsibilities of State agencies after approval of EIA report

Article 15 of the Decree số 80/2006/NĐ-CP stipulates:

a) Ministry sends the original of its approval decision to Provincial People's Committee;

b) Provincial People's Committee sends a copy of its decision and Ministry's decision to district People's Committee;

c) The approval agency has the responsibility to:

- Review and compare design and construction documents of environmental treatment facilities with EIA report. If discrepancy found it should be informed within 7 days to the project owner for adjustment;

- Receive and handle comments from project owner, related organizations and individuals;

- Arrange a plan to monitor and check the implementation of the project owner;

- Check and verify the results of test operation of environment treatment facilities;

- Keep records and documents on operation after appraisal.

Format for check and verify documents is provided in Circular 08/2006/TT-BTNMT

17. Steps and procedure for check and verification

These are regulated in the Circular 08/2006/TT-BTNMT.

- Within 15 working days, the state agency has to complete the verification in written form. In complicated cases that need extension it should not be more than 10 additional days. In case the project owner does not meet the requirements the agency has to request the owner to continue efforts to meet the requirements.

II. Commitments to environmental protection

1. Objects (Article 24 of the Law on Environmental Protection 2005):

Household scaled production, business and service units and projects that are not falling into the categories as stipulated in Articles 14 and 18.

2. Content of Commitments to environmental protection

Based on Article 25 of the Law on Environmental Protection 2005, in Annex 23 of the Circular Nr. 08/2006/TT-BTNMT the content is stipulated as follows:

- a) General information.
- b) Location for project implementation.
- c) Scale of production or business.
- d) Material and fuel consumption.
- d) Environmental impacts.
- e) Measures to mitigate negative impacts.
- g) Commitment for implementation.

3. Registration of Commitments to Environmental Protection

Article 26 of the Law on Environmental Protection 2005 and Circular 08/2006/TT-BTNMT stipulates:

- The project owner registers at the district's (delegated commune's) People's Committee;

- In case when the project is located on the territory of two and more districts, the project owner selects one district for registration.

- Registration documents:

+ 01 request according to format in Annex 24 of the Circular;

+ 03 copies Commitments to Environmental protection (if the project is located in 01 district and registered at district level); 04 copies (if the project registered at commune level); (if the project is located at 02 districts and more, the number copies increases accordingly);

+ 01 draft feasibility report or investment report.

- The project owner can start the operation only after completion of registration of Commitments to Environmental Protection.

4. Certification of Commitments to Environmental Protection

Within 05 working days, the verification agency must complete issuing of certificate according to format provided in Annex 26 of the Circular 08/2006/TT-BTNMT and certify at the back page of the second cover page according to format provided in Annex 8 of the Circular.

5. Distribution of Commitments to Environmental Protection

- In case the project is located at a district: To send 01 copy of certified Commitments to Environmental Protection accompanied by the certificate.

- In case the project is located at 02 districts and more: To send 01 copy to each district, with certificate.

- In case of registration at commune level: To send 01 copy of Commitments to Environmental Protection with certificate and 01 copy to district People's Committee, with certificate.

6. Delegation for certification of Commitments to Environmental Protection

- In case the commune level is capable, the district level sends a letter of delegation according to format provided in Annex 27 of the Circular 08/2006/TT-BTNMT.

- Steps, procedures and registration period and certification are similar to cases of registration at district level.

- There is no delegation in cases where the project is located in the territory of 02 districts and more.

7. Responsibility to implement and check for implementation of registered Commitments to Environmental Protection

Article 27 of the Law on Environmental Protection 2005 stipulates:

a) Organizations and individuals committed to environmental protection have the responsibility to implement correctly and fully all the contents registered in the Commitments to Environmental Protection.

b) District and Commune People's Committees guide, arrange check and inspection of the implementation of contents registered in the Commitments to Environmental Protection.

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