

THE GOVERNMENT

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SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

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DECREE

PROVIDING STRATEGIC ENVIRONMENTAL ASSESSMENT, ENVIRONMENTAL IMPACT ASSESSMENT
AND ENVIRONMENTAL PROTECTION COMMITMENT

THE GOVERNMENT

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

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

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

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree provides strategic environmental assessment, environmental impact assessment and environmental protection commitment.

Article 2. Subjects of application

This Decree applies to organizations and individuals engaged in activities related to strategic environmental assessment, environmental impact assessment and environmental protection commitment in the territory of the Socialist Republic of Vietnam.

Chapter II

STRATEGIC ENVIRONMENTAL ASSESSMENT

Article 3. Subjects and forms of strategic environmental assessment

1. Detailed strategic environmental assessment for strategies, master plans and plans of five (5) years or more provided in Part A of Appendix I to this Decree shall be incorporated in those strategies, master plans and plans.
2. Detailed strategic environmental assessment for strategies, master plans and plans of five (5) years or more provided in Part B of Appendix I to this Decree shall be presented in a separate report.
3. Brief strategic environmental assessment for strategies, master plans and plans of five (5) years or more of national sectors and domains outside the list in Appendix I to this Decree shall be incorporated in those strategies, master plans and plans.
4. Strategic environmental assessment is not compulsory for five-year plans formulated in conformity with master plans of sectors and domains whose strategic environmental assessment reports have been appraised.
5. Strategic environmental assessment is encouraged for strategies, master plans and plans other than those provided in Clauses 1, 2 and 3 of this Article.

Article 4. Time for strategic environmental assessment and requirements on use of assessment results

1. Strategic environmental assessment shall be conducted concurrently with the formulation of a strategy, master plan or plan.

2. Strategic environmental assessment results shall be integrated into documents of a strategy, master plan or plan.

Article 5. Contents of strategic environmental assessment report

1. A separate report on detailed strategic environmental assessment has the following major contents:

a) Brief description of the strategy, master plan or plan;

b) The strategic environmental assessment process; description of the scope of study of the strategic environmental assessment and major environmental issues related to the strategy, master plan or plan;

c) Description of past developments and prediction of major environmental trends in case of failure to implement the strategy, master plan or plan;

d) Assessment of conformity of viewpoints and objectives of the strategy, master plan or plan with environmental protection viewpoints and objectives; assessment and comparison of development options of the strategy, master plan or plan;

e) Assessment of impacts on major environmental issues in case of implementation of the strategy, master plan or plan;

f) Consultation of involved parties in the process of strategic environmental assessment;

g) Proposals on adjustment of the strategy, master plan or plan and measures to prevent and mitigate adverse environmental impacts;

h) Indication of sources of statistics, data and assessment methods;

i) Conclusions and recommendations.

2. A strategic environmental assessment report incorporated in a strategy, master plan or plan has the following major contents:

a) The strategic environmental assessment process; description of the scope of study of the strategic environmental assessment and major environmental issues related to the strategy, master plan or plan;

b) Assessment of conformity of viewpoints and objectives of the strategy, master plan or plan with environmental protection viewpoints and objectives; assessment and comparison of development options of the strategy, master plan or plan;

c) Assessment of impacts on major environmental issues in case of implementation of the strategy, master plan or plan;

d) Consultation of involved parties in the process of strategic environmental assessment;

e) Proposals on adjustment of the strategy, master plan or plan and measures to prevent and mitigate adverse environmental impacts;

f) Conclusions and recommendations.

3. A brief strategic environmental assessment report has the following major contents:

a) The strategic environmental assessment process; scope of study of the strategic environmental assessment and major environmental issues related to the strategy, master plan or plan;

b) Assessment of impacts on major environmental issues in case of implementation of the strategy, master plan or plan;

c) Proposals on adjustment of the strategy, master plan or plan and measures to prevent and mitigate adverse environmental impacts;

d) Conclusions and recommendations.

4. The Ministry of Natural Resources and Environment shall specify requirements on contents of detailed and brief strategic environmental assessment reports; and elaborate and promulgate technical guidelines for specialized strategic environmental assessment.

Article 6. Dossiers of request for appraisal of strategic environmental assessment reports

1. A dossier of request for appraisal of a separate detailed strategic environmental assessment report comprises:

a) A written request for appraisal;

b) The detailed strategic environmental assessment report;

c) The draft strategy, master plan or plan.

2. A dossier of request for appraisal of a detailed strategic environmental assessment report incorporated in a strategy, master plan or plan comprises:

a) A written request for appraisal;

b) The draft strategy, master plan or plan incorporating the detailed strategic environmental assessment report.

3. A dossier of request for appraisal of a brief strategic environmental assessment report comprises:

a) A written request for appraisal;

b) The draft strategy, master plan or plan incorporating the brief strategic environmental assessment report.

4. The Ministry of Natural Resources and Environment shall specify the number and specifications of the dossiers provided in Clauses 1, 2 and 3 of this Article.

Article 7. Appraisal of strategic environmental assessment reports

1. Responsibilities for appraisal of strategic environmental assessment reports are provided as follows:

a) The Ministry of Natural Resources and Environment shall appraise strategic environmental assessment reports of strategies, master plans and plans approved by the National Assembly, the Government or the Prime Minister, except those of security and defense secrets;

b) The Ministry of Public Security or the Ministry of National Defense shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, appraising strategic environmental assessment reports of strategies, master plans and plans involving security or defense secrets approved by the National Assembly, the Government or the Prime Minister;

c) Ministries, ministerial-level agencies and government-attached agencies shall appraise strategic environmental assessment reports of strategies, master plans and plans falling under their respective approving competence;

d) Provincial-level People's Committees shall appraise strategic environmental assessment reports of strategies, master plans or plans falling under their approving competence and provincial-level People's Councils.

2. Agencies formulating strategies, master plans or plans (below referred to as project owners) shall submit dossiers of request for appraisal of strategic environmental assessment reports to the agencies responsible for appraising strategic environmental assessment reports provided in Clause 1 of this Article.

3. Agencies appraising strategic environmental assessment reports shall, within the time limit provided in Article 8 of this Decree, appraise strategic environmental assessment reports and notify appraisal results to project owners. Within seven (7) working days after receiving an invalid dossier, they shall send a notice to the project owner for modification and supplementation.

4. Strategic environmental assessment reports shall be appraised by appraisal councils.

5. The head of an agency responsible for appraising strategic environmental assessment reports shall set up an appraisal council which is composed of representatives of agencies directly related to environmental issues of a strategy, master plan or plan, specialists and other concerned organizations, including the council chairman, a vice chairman, if necessary; one (1) secretary; two (2) counter-arguing members and other members.

6. Brief strategic environmental assessment reports may be appraised by collecting written opinions and assessments of members of the appraisal council.

7. When necessary, an agency responsible for appraising a strategic environmental assessment report shall:

a) Survey the project area and its neighborhood;

b) Verify and evaluate information, data, analysis results, assessments and predictions of the strategic environmental assessment report;

c) Consult concerned socio-political organizations, social organizations, socio-professional organizations and specialists;

d) Hold theme-based assessment meetings of specialists.

8. The Ministry of Natural Resources and Environment shall detail the appraisal of strategic environmental assessment reports.

Article 8. Time limit for appraisal of strategic environmental assessment reports

1. The time limit for appraising a detailed strategic environmental assessment report is forty-five (45) working days after receiving a complete and valid dossier. For a strategic environmental assessment report to be appraised by a provincial-level People's Committee, the time limit is thirty (30) working days after receiving a complete and valid dossier.

2. The time limit for appraising a brief strategic environmental assessment report is thirty (30) working days after receiving a complete and valid dossier.

3. For a strategic environmental assessment report to be re-appraised, the appraisal time limit complies with Clauses 1 and 2 of this Article.

Article 9. Responsibilities of project owners after the appraisal of strategic environmental assessment reports

1. When a strategic environmental assessment report is approved or approved on condition of modification and supplementation, the project owner shall:

a) Finalize the strategic environmental assessment report on the basis of comments of the appraisal agency;

b) Finalize the strategy, master plan or plan on the basis of comments of the appraisal agency. Make specific explanations, if it has different opinions;

c) Make written explanations about the absorption of appraisal comments enclosed with the revised strategy, master plan or plan and the revised and supplemented strategic environmental assessment report and send them to the appraisal agency.

2. When a strategic environmental assessment report is disapproved, the project owner shall:

a) Make another strategic environmental assessment report;

b) Submit a dossier of request for appraisal of the strategic environmental assessment report to the appraisal agency for appraisal.

Article 10. Reporting on appraisal results of strategic environmental assessment reports

1. An appraisal agency shall report on appraisal results of strategic environmental assessment reports to an agency competent to appraise and approve the strategy, master plan or plan within fifteen (15) working days after receiving the modified and supplemented dossier of a strategic environmental assessment report.

2. The report on appraisal results of a strategic environmental assessment report is one of the bases for the appraisal and approval of the strategy, master plan or plan.

3. The Ministry of Natural Resources and Environment shall detail the contents and forms of the appraisal report and minutes of the appraisal council meetings.

Article 11. Responsibilities of agencies appraising and approving strategies, master plans and plans

An agency appraising and approving a strategy, master plan or plan shall comprehensively and objectively consider proposals and recommendations made in the appraisal report and strategic environmental assessment report when appraising and approving such strategy, master plan or plan.

Chapter III

ENVIRONMENTAL IMPACT ASSESSMENT

Article 12. Projects subject to environmental impact assessment reporting and responsibilities of project owners for environmental impact assessment reporting

1. Projects subject to environmental impact assessment reporting are provided in Appendix II to this Decree.

2. A project owner shall make, or hire an institution meeting the conditions provided in Clause 1, Article 16 of this Decree to make, an environmental impact assessment report for its investment project.

3. An environmental impact assessment report shall be made when:

a) The project location is changed;

b) The project is not implemented within thirty-six (36) months after the issuance of a decision approving the environmental impact assessment report;

c) The size, capacity or technology of the project is changed, resulting in increased adverse environmental impacts or scope of impacts.

Article 13. Time of elaboration, submission and approval of environmental impact assessment reports

1. An environmental impact assessment report shall be made concurrently with the formulation of the investment project (feasibility study report).

2. The time of submitting and approving an environmental impact assessment report is provided as follows:

a) For a prospecting or mining project, the project owner shall submit the environmental impact assessment report before proposing a competent agency to grant or modify the prospecting or mining license. The decision approving an environmental impact assessment report is a basis for a competent authority to grant or modify a prospecting or mining license;

b) For an oil and gas exploration project specified in Section 1 or 2 of Appendix II to this Decree, the project owner shall submit the environmental impact assessment report before drilling for oil and gas. For an oilfield exploitation project, the project owner shall submit the environmental impact assessment report before the approval of the oilfield development plan. The decision approving the environmental impact assessment report is a basis for a competent authority to approve the oilfield development plan;

c) For a project with a work item subject to construction licensing, the project owner shall submit the environmental impact assessment report before proposing a competent agency to grant or modify the construction license. The decision approving the environmental impact assessment report is a basis for a competent authority to grant or modify a construction license;

d) For a project other than those specified at Points a, b and c of this Clause, the project owner shall submit the environmental impact assessment report before investment in the project is decided. The decision approving the environmental impact assessment report is a basis for making decision on investment in a project.

Article 14. Consultation in the process of environmental impact assessment reporting

1. When making an environmental impact assessment report, the project owner (except the cases specified in Clause 3 of this Article) shall consult:

a) The People's Committee of the commune, ward or township (below referred to as commune level) in which the project is to be implemented;

b) Representatives of communities and organizations directly affected by the project.

2. A project owner investing in a consolidated production, business or service zone with its production, business or service line unconformable with the sector and trade planning in the approved environmental impact assessment report of such zone shall consult the agency having approved the environmental impact assessment report in the phase of building the zone's infrastructure facilities.

3. Consultation is not required in the following cases:

a) An investment project in a consolidated production, business or service zone whose environmental impact assessment report has been approved by a competent authority in the phase of building the zone's infrastructure facilities, provided that this project conforms with the sector and trade planning in the approved environmental impact assessment report of such zone;

b) An investment project in a sea area for which the administration responsibility has not yet been assigned to any commune-level People's Committee;

c) An investment project involving state secrets.

Article 15. Consultation process and requirements on inclusion of consultation results in environmental impact assessment reports

1. Consultation of the commune-level People's Committee and representatives of communities and organizations directly affected by a project is conducted as follows:

a) The project owner shall send to the commune-level People's Committee and representatives of communities and organizations directly affected by the project a written request for consultation together with brief documents on the project's major investment items, environmental issues and environmental protection solutions;

b) When necessary, the commune-level People's Committee may convene representatives of organizations and communities directly affected by the project to a meeting, notify the project owner of the time, place and participants of the meeting and together with the project owner chair

such meeting within ten (10) working days after receiving the project owner's written request for consultation;

c) Results of the meeting between the project owner, the consulted agency and involved parties shall be recorded in writing, including the list of participants and all discussed opinions and opinions absorbed or not absorbed by the project owner. The record must contain the signatures of the project owner representative (with full name and title) and representatives of involved parties participating in the meeting;

d) Within fifteen (15) working days after receiving a written request for consultation, the commune-level People's Committee shall reply the project owner in writing and make public such reply. Past this time limit, if a consulted agency fails to send a written reply to the project owner, it is regarded as agreeing with the project owner's investment plan;

e) Agreeing and disagreeing opinions of consulted organizations and persons shall be summarized and truthfully reflected in the environmental impact assessment report.

2. Written opinions of consulted agencies and the meeting record shall be copied and attached as an annex to the environmental impact assessment report.

3. The Ministry of Natural Resources and Environment shall provide the form of request for consultation of involved parties.

Article 16. Conditions on environmental impact assessment report makers

1. To make an environmental impact assessment report, a project owner or consultancy service provider must fully meet the following conditions:

a) Having staff specialized in environment with five (5) years of experience, for university degree holders, three (3) years, for master degree holders, and one (1) year, for doctoral degree holders;

b) Having staff holding university or higher degrees in majors relevant to the project;

c) Having physical-technical foundations and special-use devices for measuring, taking, processing and analyzing environmental samples, which meet technical requirements. In case of unavailability of qualified special-use devices, having a contract to hire a capable institution.

2. A consultancy service provider that makes an environmental impact assessment report shall take responsibility before the project owner and law for its information and statistics given in the environmental impact assessment report.

3. The Ministry of Natural Resources and Environment shall detail conditions on and operation organization of consultancy service providers making environmental impact assessment reports.

Article 17. Contents of environmental impact assessment reports; dossiers of request for appraisal and approval of environmental impact assessment reports

1. An environmental impact assessment report contains the following major contents:

a) Indication of the project origin, project owner, agency competent to approve the project; sources of information and data and use methods; organization and process of environmental impact assessment reporting; consultation of the community in the process of environmental impact assessment reporting;

b) Listing and detailed description of the project's activities and work items which likely have adverse environmental impacts, indicating the size in terms of space and time, construction volume, operating technology of each work item and the entire project;

c) General assessment of the current status of the environment of the project site and its neighborhood; level of environmental sensitivity;

d) Assessment and prediction of the project's impacts on natural conditions, natural environmental components, the community and related socio-economic elements; results of consultation of the community;

e) Proposal of measures to mitigate adverse impacts on natural conditions, natural environmental components, community health and related socio- economic elements;

f) Listing of works and programs for managing and controlling environmental issues in the course of project implementation;

g) Estimation of costs for construction of environmental protection works in the project's total cost estimate;

h) The project owner's commitment to taking environmental protection measures in the course of project construction and operation proposed in the environmental impact assessment report and to observing other regulations on environmental protection related to the project.

2. A dossier of request for appraisal and approval of an environmental impact assessment report comprises:

a) A written request for appraisal and approval of the environmental impact assessment report;

b) The environmental impact assessment report;

c) The investment project (feasibility study report).

3. The Ministry of Natural Resources and Environment shall detail contents of the environmental impact assessment report; form of the written request for appraisal and the number of environmental impact assessment reports of a project in the dossier of request for appraisal of the environmental impact assessment report; and elaborate and promulgate technical guidelines for making specialized environmental impact assessment reports.

Article 18. Appraisal of environmental impact assessment reports

1. Environmental impact assessment reports shall be appraised by appraisal councils or appraisal service providers.

2. Responsibilities for appraisal of environmental impact assessment reports are provided as follows:

a) The Ministry of Natural Resources and Environment shall appraise environmental impact assessment reports of the projects provided in Appendix III to this Decree, except those involving security and defense secrets;

b) Ministries, ministerial-level agencies and government-attached agencies shall appraise environmental impact assessment reports of projects under their respective deciding and approving competence, except the projects provided in Appendix III to this Decree;

c) The Ministry of National Defense or the Ministry of Public Security shall appraise environmental impact assessment reports of projects under its deciding and approving competence and security- or defense-related projects as assigned by competent authorities;

d) Provincial-level People's Committees shall appraise environmental impact assessment reports of investment projects in their localities, except those provided at Points a, b and c of this Clause.

3. A council for appraisal of an environmental impact assessment report is composed of representatives of management agencies directly related to environmental issues of the project and specialists, including the chairman, a vice chair man, if necessary; one (1) secretary; two (2) counter-arguing members and other members. Over 50% of the appraisal council members must be specialized in environment and other fields related to the project. For the environmental impact assessment report of a projects to be appraised by a ministry, ministerial-level agency or government-attached agency, the appraisal council must be composed of representatives of the provincial-level Natural Resources and Environment Department of the locality in which the project is to be implemented.

4. When necessary, an appraisal agency may carry out the following activities:

a) Investigating and verifying information and statistics on the status of the environment of the project site and its neighborhood;

b) Taking samples for analysis and verification;

c) Consulting the community of the project site;

d) Hiring specialists, social organizations or socio-professional organizations to give counter-arguments to reported contents;

e) Holding theme-based assessment meetings.

5. The Ministry of Natural Resources and Environment shall detail the organization and operation of environmental impact assessment report appraisal councils and service providers.

Article 19. Process of appraisal and approval of environmental impact assessment reports

1. A project owner shall submit a dossier of request for appraisal of an environmental impact assessment report to a competent agency provided in Clause 2, Article 18 of this Decree.

2. After receiving such a dossier, an appraisal agency shall check it. If the dossier is incomplete or invalid, within five (5) working days, it shall notify in writing the project owner to complete the dossier.

3. After receiving a complete and valid dossier, within the time limit provided in Clause 1, Article 20 of this Decree, the appraisal agency shall set up an appraisal council or select an appraisal service provider, notify the project owner to pay the fee for the appraisal and notify in writing appraisal results to the project owner.

4. On the basis of the appraisal agency's notice of appraisal results of the environmental impact assessment report, the project owner shall carry out one of the following activities:

a) Making another environmental impact assessment report and submitting it to the appraisal agency for appraisal, if its environmental impact assessment report is not approved. The appraisal time limit and procedures are the same as for the first report;

b) Modifying and supplementing the environmental impact assessment report and submitting it to the appraisal agency for consideration and submission to a competent authority for issuance of an approval decision, if the environmental impact assessment report is approved on condition of modification and supplementation. The time limit for modification and supplementation of the report is not counted in the time limit for appraisal and approval of the environmental impact assessment report;

c) Sending the environmental impact assessment report to a competent agency for issuance of an approval decision under regulations, if the report is approved without modification and supplementation.

5. Competent agencies shall approve environmental impact assessment reports within the time limit provided in Clause 2, Article 20 of this Decree after receiving complete and valid dossiers.

Article 20. Time limit for appraisal and approval of environmental impact assessment reports

1. The time limit for appraising environmental impact assessment reports is provided as follows:

a) Forty-five (45) working days after receiving complete and valid dossiers, for environmental impact assessment reports to be appraised by the Ministry of Natural Resources and Environment, and sixty (60) working days, for projects with complicated environmental impacts;

b) Thirty (30) working days after receiving complete and valid dossiers, for environmental impact assessment reports not to be appraised by the Ministry of Natural Resources and Environment, and forty-five (45) working days, for projects with complicated environmental impacts.

2. The time limit for approving an environmental impact assessment report is fifteen (15) working days after receiving a complete and valid dossier.

3. The time limit for appraisal and approval of an environmental impact assessment report does not include the time for the project owner to finalize the environmental impact assessment report dossier.

Article 21. Certification and sending of approved environmental impact assessment reports

1. After issuing the decision approving an environmental impact assessment report, the approval agency shall certify such approval on the back of the cover page or supplement cover page of the environmental impact assessment report and send the report to concerned agencies under Clause 2 of this Article.

2. Certified environmental impact assessment reports and decisions approving these reports shall be sent according to the following provisions:

a) The Ministry of Natural Resources and Environment shall send one (1) copy of the approval decision together with the environmental impact assessment report to the project owner and the provincial-level Natural Resources and Environment Department of the locality in which the project is to be implemented; and the approval decision to the line ministry;

b) Ministries, ministerial-level agencies and government-attached agencies shall send one (1) copy of the approval decision together with the environmental impact assessment report to the project owner, the Ministry of Natural Resources and Environment and the provincial-level Natural Resources and Environment Department of the locality in which the project is to be implemented. For projects involving security and defense secrets, approval decisions and environmental impact assessment reports shall be sent under separate regulations;

c) Provincial-level People's Committees shall send (1) copy of the approval decision together with the environmental impact assessment report to the project owner and the People's Committee of the district, town or provincial city (below referred to as district level) in which the project is to be implemented; the approval decision to the line ministry and the commune-level People's Committee of the locality in which the project is to be implemented; and one (1) copy of the approval decision together with the environmental impact assessment report to the Ministry of Natural Resources and Environment when so requested.

3. Provincial-level People's Committees shall copy from the originals of decisions approving environmental impact assessment reports sent from ministries, ministerial-level agencies and government-attached agencies and send these copies to district- and commune-level People's Committees of the localities in which projects are to be implemented.

4. The Ministry of Natural Resources and Environment shall provide the forms of the approval decision and certification of environmental impact assessment reports.

Article 22. Publicity of information on projects with approved environmental impact assessment reports

1. After an environmental impact assessment report is approved, the project owner shall formulate, approve and publicly display its environmental control plan at the office of the commune-level People's Committee of the locality in which consultation of the community is made for people's information, examination and oversight.

2. The environmental control plan, which is formulated based on the environmental control program proposed in the environmental impact assessment report, covers the following:

a) Organization and operation of the project's environmental protection section;

b) The project's plan on environmental protection education and awareness raising;

c) The responsibilities of the project owner and constructors (if any) for taking solutions and measures to mitigate adverse impacts and prevent and respond to environmental incidents in the project construction phase;

d) Plan on construction and installation of environmental protection works;

e) Plan on control of arising waste sources; control of the surrounding environment and other environmental control issues during the construction and official operation of the project.

Article 23. Responsibilities of project owners prior to official project operation

1. To take environmental protection measures during investment preparation and project construction; to conduct environmental observation required by the decision approving the environmental impact assessment report.

2. To design, build and install environmental protection works; operate the project's waste treatment works on a trial basis; to take over environmental protection works under law; to elaborate, approve and implement a plan to clean the reservoir before retaining water, for a project with construction of an irrigation or hydropower reservoir.

3. To make a dossier of request for inspection and certification of application of environmental protection works and measures for project operation under Article 25 of this Decree and send it to the agency provided in Clause 1, Article 24 of this Decree for inspection and certification before officially operating the project.

4. To cooperate with and create favorable conditions for the environmental protection management agency to inspect the implementation of the environmental control plan and works and measures for environmental protection and environmental incident prevention and response; to fully provide project-related information and statistics upon request.

5. During project implementation, if occurs an incident adversely affecting environment quality and community health, to stop all project activities causing such incident; to respond to and remedy the incident and urgently report it to the provincial-level environment management agency and concerned agencies of the locality of the project site for direction and coordinated settlement.

Article 24. Inspection and certification of environmental protection works and measures prior to official project operation

1. The agency approving an environmental impact assessment report shall carry out the following activities for the project of which it has approved the environmental impact assessment report:

a) Inspecting and certifying the application of environmental protection works and measures for project operation under Articles 25, 26, 27 and 28 of this Decree;

b) Inspecting the application of environmental protection measures in the investment preparation and project construction phases when necessary.

2. The agency approving an environmental impact assessment report may assign its professional environmental protection agency to carry out the activities provided at Points a and b, Clause 1 of this Article (below referred to as the inspection and certification agency).

3. For a project with multiple investment phases whose owner wishes to officially operate some work items before the project construction is completed, the inspection and certification agency may inspect and certify the application of environmental protection works and measures for the operation of those work items at the request of the project owner.

4. The Ministry of Natural Resources and Environment shall detail the inspection and certification of application of environmental protection works and measures for project operation; and formulate and promulgate specialized technical guidelines for such inspection and certification.

Article 25. Dossier of request for inspection and certification of application of environmental protection works and measures for project operation

1. Written request for inspection and certification of application of environmental protection works and measures for project operation.

2. Copy of the approval decision together with the environmental impact assessment report.

3. Report on application of environmental protection works and measures for project operation provided in Article 26 of this Decree, which clearly describes the size, process and technology of waste treatment; changes from the plan stated in the approved environmental impact assessment report.

4. Annexes to the report on application of environmental protection works and measures for project operation, including a drawing on complete construction and results of trial operation of waste treatment works; certificates and recognition of imported or commercialized uniform waste treatment equipment; notices of sample measuring and analysis; take-over test records and other documents related to environmental protection works and measures.

Article 26. Environmental protection works and measures for project operation

1. Wastewater collection and treatment works, equipment and measures proposed in the environmental impact assessment report.
2. Works, equipment and measures for storage, collection, transport and treatment of hazardous waste and ordinary solid waste proposed in the environmental impact assessment report.
3. Works, equipment and measures for collection and treatment of dust and emitted gas proposed in the environmental impact assessment report.
4. Works, equipment and measures to mitigate adverse environmental impacts not related to waste; works, equipment and plans for prevention of and response to environmental incidents and other environmental protection works, measures and technical solutions.

Article 27. Process and time limit for inspection and certification of application of environmental protection works and measures for project operation

1. An inspection and certification agency shall examine a dossier of request for inspection and certification of application of environmental protection works and measures for project operation sent by the project owner; and make a written notice within five (5) working days after receiving the dossier if the dossier is invalid.
2. An inspection and certification agency shall inspect environmental protection works and measures for project operation applied by the project owner under Article 28 of this Decree within twenty (20) working days after receiving a complete and valid dossier. If the project fails to meet conditions for certification of application of environmental protection works and measures for project operation, the inspection and certification agency shall send a notice to the project owner within five (5) working days after having inspection results.
3. The project owner shall redress paper and practical problems as requested by the inspection and certification agency in its notice; finalize the dossier of request for inspection and certification of application of environmental protection works and measures for project operation and send it to the inspection and certification agency for inspection and certification.

4. When necessary, the inspection and certification agency may re-inspect environmental protection works and measures after the project owner redresses problems.

5. The inspection and certification agency shall issue a certificate of the project owner's application of environmental protection works and measures for project operation or a written refusal clearly stating the reason within five (5) working days after receiving the dossier of request for inspection and certification of application of environmental protection works and measures for project operation re-submitted by the project owner.

Article 28. Process of inspection and certification of application of environmental protection works and measures for project operation

1. An inspection and certification agency shall examine a dossier of request for inspection and certification of application of environmental protection works and measures for project operation sent by the project owner and conduct physical inspection of those works and measures through an inspection team set up by the inspection and certification agency.

2. Depending on the type, size and nature of the project and practical conditions, activities of an inspection team include:

a) Meeting to evaluate and discuss about environmental protection works and measures for project operation applied by the project owner;

b) Inspecting the actual status of environmental protection works and measures for project operation applied by the project owner and related technical solutions and equipment;

c) Each team member studying the dossier and writing comments and evaluations of environmental protection works and measures for project operation applied by the project owner;

d) Making a general evaluation report on physical inspection of environmental protection works and measures for project operation applied by the project owner.

3. When necessary, the inspection and certification agency may carry out the following activities:

a) Consulting or hiring specialists or institutions to evaluate environmental protection works and measures for project operation applied by the project owner;

b) Verifying the project's environmental analysis results provided by the project owner through licensed environmental measuring, sampling and consultancy institutions.

4. Results of dossier and physical inspection of environmental protection works and measures for project operation applied by the project owner shall be written in an inspection record with the signatures, full names and titles of the inspection team head and the authorized representative of the project owner.

5. The inspection and certification agency shall issue a certificate of application of environmental protection works and measures for project operation on the basis of the inspection record and results of the activities provided in Clause 3 of this Article, if any.

6. The certificate of application of environmental protection works and measures for project operation serves as a basis for a project owner to officially operate the project or a number of completed work items, if the project is invested in multiple phases. This certificate is a basis for competent state agencies to license hazardous waste treatment and destruction and wastewater discharge into water sources.

7. The Ministry of Natural Resources and Environment shall provide the forms of documents related to the inspection and certification of project owners' application of environmental protection works and measures for project operation.

Chapter IV

ENVIRONMENTAL PROTECTION COMMITMENT

Article 29. Subjects of environmental protection commitment making and registration

1. Investment projects with nature, size and capacity outside the list or below the level set in the list provided in Appendix II to this Decree.

2. Production, business and service activities not subject to investment project formulation but with arising production waste.

Article 30. Contents and registration dossier of a written environmental protection commitment

1. A written environmental protection commitment for an investment project covers:

a) Brief introduction of the project, including name and address of the project owner; project name and location; production size, capacity and technology; quantity and type of materials and fuel used during project implementation. The project owner shall take responsibility for the accuracy and completeness of declared information and statistics;

b) Arising waste: Maximum volume and concentration of each type of waste, if any;

c) Commitment to taking measures to reduce and treat waste and to observing the environmental protection law.

2 A written environmental protection commitment for production, business or service activities not subject to investment project formulation covers:

a) Brief introduction of the production, business or service plan, including name and address of the establishment owner; place of implementation; production size or type of business or service; quantity and type of materials and fuel used during operation. The establishment owner shall take responsibility for the accuracy and completeness of declared information and statistics;

b) Arising waste: Maximum volume and concentration of each type of waste, if any;

c) Commitment to taking measures to reduce and treat waste and to observing the environmental protection law.

3. The registration dossier of a written environmental protection commitment comprises:

a) The written environmental protection commitment;

b) The investment project (feasibility study report) or the production or business plan.

4. The Ministry of Natural Resources and Environment shall provide the form of the written environmental protection commitment.

Article 31. Time for written environmental protection commitment registration

1. For a prospecting or mining project, the project owner shall register the written environmental protection commitment before proposing a competent agency to grant or modify a prospecting or mining license.

2. For an oil and gas prospecting project, the project owner shall register the written environmental protection commitment before drilling for oil and gas.

3. For an investment project with work items subject to construction licensing, the project owner shall register the written environmental protection commitment before proposing a competent agency to grant or modify a construction license.

4. For a project or production, business or service activities other than those provided in Clauses 1, 2 and 3 of this Article, the project owner or establishment owner shall register the written environmental protection commitment before carrying out investment, production or business activities.

Article 32. Written environmental protection commitment registration

1. District-level People's Committees shall conduct the registration of written environmental protection commitments.

2. In the following cases, a district-level People's Committee may authorize a commune-level People's Committee to conduct the registration of written environmental protection commitments:

a) Production, business or service activities are to be carried out within one (1) commune and are not subject to investment project formulation (feasibility study report);

b) The investment project is to be implemented within one (1) commune without waste arising during its implementation.

3. For an investment project or production, business or service activities to be carried out in two (2) or more districts, the project owner or establishment owner may register the written environmental protection commitment at the most convenient district-level People's Committee.

4. For an investment project to be implemented in a sea area for which the administration responsibility has not yet been assigned to any district-level People's Committee, the project owner shall register the written environmental protection commitment at the district-level People's Committee of the locality at which the project's waste treatment and discharge are registered. If such project does not have waste to be brought to the inland for recycling, re-use, treatment or discharge, the project owner is not required to register the written environmental protection commitment.

Article 33. Process of written environmental protection commitment registration

1. A written environmental protection commitment shall be registered as follows:

a) The project owner or establishment owner shall submit the registration dossier of a written environmental protection commitment to a competent agency provided in Article 32 of this Decree;

b) Within five (5) working days after receiving a dossier, a competent agency provided in Article 32 of this Decree shall notify in writing the project owner of its acceptance or refusal of the dossier. In case of refusal, it shall clearly state the reason.

2. The Ministry of Natural Resources and Environment shall provide the form of notice of acceptance or refusal of a registration dossier of a written environmental protection commitment.

Article 34. Sending of registered written environmental protection commitments

1. For a written environmental protection commitment registered at a district-level People's Committee: Within two (2) working days, the district-level People's Committee shall send one (1) copy of the registered written environmental protection commitment to the project owner, district-level environmental protection management agency and commune-level People's Committee of the locality in which the investment project or production, business or service activities is/are to be carried out, and to concerned district-level People's Committees, if such project or activities is/are to be carried out in two (2) or more districts.

2. For a written environmental protection commitment registered at a commune-level People's Committee: Within two (2) working days, the commune-level People's Committee shall send one (1) copy of the registered written environmental protection commitment to the project owner and the district-level environmental protection management agency.

Article 35. Responsibilities of project owners after written environmental protection commitment registration

1. To take measures to mitigate adverse environmental impacts stated in the registered written environmental protection commitment.

2. To stop operations and promptly report to the commune-level People's Committee and district-level People's Committee of the locality in which the project is to be implemented for direction and coordinated settlement when occurs an incident exerting adverse impacts on the environment quality and community health during project implementation or production and business operations.

3. To cooperate with and create favorable conditions and provide relevant necessary information for the environmental protection state management agency to conduct supervision, examination and inspection during investment project implementation or production and business operations.

4. To make another written environmental protection commitment for the investment project or production, business or service activities in the following cases:

a) Change of location of the project or production, business or service activities;

b) Failure to carry out the project or production, business or service activities within twenty-four (24) months after registering the written environmental protection commitment;

c) Change of size, capacity or technology, resulting in increased adverse environmental impacts or scope of impacts.

5. When an investment project or production, business or service activities change its/their nature or size to an extent that requires environmental impact assessment reporting as provided in Appendix II to this Decree, the project owner or establishment owner shall make an environmental impact assessment report and submit it to a competent authority provided in Article 18 of this Decree for appraisal and approval under regulations.

Article 36. Responsibilities of state agencies in charge of written environmental protection commitment registration

1. To inspect the application of environmental protection measures stated in registered written environmental protection commitments and the observance of current laws on environmental protection during investment project implementation or production, business or service operations.

2. To receive and process proposals and recommendations of project owners, establishment owners or concerned organizations and individuals related to the application of environmental protection issues and measures during investment project implementation or production, business or service operations.

3. To coordinate with project owners and production and business establishment owners in promptly remedying incidents occurring during investment project implementation and production and business operations.

Chapter V

IMPLEMENTATION PROVISIONS

Article 37. Financial regimes applicable to strategic environmental assessment, environmental impact assessment and environmental protection commitment

1. The financial regime applicable to strategic environmental assessment is as follows:

a) Funds for making strategic environmental assessment reports shall be included in the funds for formulation of strategies, master plans and plans allocated from the state budget for economic non-business activities and other sources, if any;

b) Funds for appraisal of strategic environmental assessment reports shall be allocated from the environmental non-business funds.

2. The financial regime applicable to environmental impact assessment is as follows:

a) Funds for making environmental impact assessment reports shall be allocated from project owners' investment funds;

b) Funds for appraisal of environmental impact assessment reports shall be allocated from collected fees for appraisal of environmental impact assessment reports;

c) Funds for inspection and certification of project owners' application of environmental protection works and measures shall be allocated from the environmental non-business funds.

3. The financial regime applicable to environmental protection commitment is as follows:

a) Funds for making written environmental protection commitments shall be allocated from project owners' investment funds;

b) Funds for inspection of application of environmental protection measures stated in written environmental protection commitments shall be allocated from the environmental non-business funds.

4. Responsibilities for guidance:

a) The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, guiding Points a and b, Clause 1, Points b and c, Clause 2, and Point b, Clause 3, of this Article;

b) The Ministry of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment in, guiding Point a, Clause 2, and Point a, Clause 3, of this Article for state budget-funded investment projects.

Article 38. Reporting regime

1. District-level People's Committees shall biannually submit to provincial-level People's Committees reports on registration and inspection of realization of written environmental protection commitments; registration of simple environmental protection plans in localities under their management. The deadline for report submission is provided as follows:

a) Before July 10 of the year of implementation, for the first report;

b) Before January 10 of the subsequent year, for the second report.

2. Before January 15 every year, provincial-level People's Committees shall submit to the Ministry of Natural Resources and Environment reports on appraisal of strategic environmental assessment

reports; appraisal and approval of environmental impact assessment reports; registration of written environmental protection commitments; inspection and certification of environmental protection works and measures; appraisal, approval, inspection and certification of implementation of detailed environmental protection plans; and registration and inspection of the implementation of simple environmental protection plans of the previous year in localities under their management.

3. Before January 15 every year, ministries (except the Ministry of National Defense and the Ministry of Public Security), ministerial-level agencies and government-attached agencies shall submit to the Ministry of Natural Resources and Environment reports on appraisal of strategic environmental assessment reports; appraisal and approval of environmental impact assessment reports; and inspection and certification of environmental protection works and measures of the previous year in the sectors under their management.

4. The Ministry of Natural Resources and Environment shall detail the contents and forms of the reports provided in Clauses 1, 2 and 3 of this Article.

Article 39. Transitional provisions

1. Dossiers of request for appraisal of strategic environmental assessment reports; appraisal and approval of environmental impact assessment reports; appraisal and approval of supplemented environmental impact assessment reports; inspection and certification of the implementation of reported contents and requirements stated in decisions approving environmental impact assessment reports; registration and certification of written environmental protection commitments; and certification of supplemented written environmental protection commitments received by competent agencies before the effective date of this Decree shall be considered and handled under the Government's Decree No. 80/2006/ND-CP of August 9, 2006, detailing and guiding a number of articles of the Environmental Protection Law, and the Government's Decree No. 21/2008/ND-CP of February 28, 2008, amending and supplementing a number of articles of Decree No. 80/2006/ND-CP of August 9, 2006, detailing and guiding a number of articles of the Environmental Protection Law.

2. Consolidated production, business or service zones or production, business or service establishments whose environmental protection plans have been approved shall report to the agencies approving those plans for consideration and certification of the implementation of environmental protection issues stated in the environmental protection plans under the applicable law at the time such plans were approved.

3. By the effective date of this Decree, consolidated production, business or service zones or production, business or service establishments that fail to obtain decisions approving environmental impact assessment reports, decisions approving supplemented environmental impact assessment reports, registration certificate of environmental standard conformity, written environmental protection commitments, or decisions approving or written certification of environmental protection plans shall, in addition to being handled for their violations under law, take either of the following remedies within two (2) years after the effective date of this Decree:

a) Making a detailed environmental protection plan, for establishments with size and nature similar to the subjects of environmental impact assessment reporting under this Decree, and submit it to a competent agency provided in Clause 2, Article 18 of this Decree for appraisal and approval;

b) Making a simple environmental protection plan, for establishments with size and nature similar to the subjects of written environmental protection commitment registration under this Decree, and submit it to a competent agency provided in Article 32 of this Decree for registration.

4. Consolidated production, business or service zones or production, business or service establishments with approved environmental impact assessment reports, which have officially operated but fail to obtain written certification of the implementation of reported contents and requirements of decisions approving environmental impact assessment reports, shall, in addition to being handled for their violations under current law, submit a dossier of request for certification of applied environmental protection works and measures to a competent agency provided in Article 26 of this Decree for inspection and certification, within two (2) years after the effective date of this Decree. Contents of the dossier of request for inspection and certification of environmental protection works and measures; process, time limit and method of inspection and certification of environmental protection works and measures comply with Articles 24, 25, 27 and 28 of this Decree.

5. Detailed and simple environmental protection plans serve as a basis for implementation by consolidated production, business or service zones or production, business or service establishments and for examination, inspection and violation handling by concerned state management agencies.

6. The Ministry of Natural Resources and Environment shall detail the formulation, appraisal, approval, inspection and certification of the implementation of detailed environmental protection plans; and the formulation and registration of simple environmental protection plans.

Article 40. Effect

This Decree takes effect on June 5, 2011, and replaces Articles 6 thru 17 of the Government's Decree No. 80/2006/ND-CP of August 9, 2006, detailing and guiding a number of articles of the Environmental Protection Law; and Clauses 3 thru 10, Article 1 of the Government's Decree No.21/2008/ND-CP of February 28, 2008, amending and supplementing a number of articles of Decree No. 80/2006/ND-CP of August 9, 2006, detailing and guiding a number of articles of the Environmental Protection Law.

Article 41. Implementation responsibilities

1. The Ministry of Natural Resources and Environment shall guide and organize the implementation of this Decree.

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

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(signed)

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