

299/1995 Coll.
REGULATION
of the Ministry of the Environment of the Slovak Republic
on 4 December 1995
on conditions for issuing licenses to perform measurements of
emissions and immissions and on policies for performing this activity

The Ministry of the Environment of the Slovak Republic (hereafter the “ministry”) according to Article 17e of the Act of the Slovak National Council No. 134/1992 Coll. on the State Administration of Air Protection in wording of the Act of the National Council of the Slovak Republic No. 148/1994 Coll. (the complete wording No. 32/1995) resolves:

Article 1

The Subject of Regulation

This Public Notice regulates

- a) the conditions for issuing licenses to perform measurements of emissions on stationary pollution sources 1) and measurements of immissions where results serve the needs of the proceedings of the authorities of the state administration of air protection, 2)
- b) policies for performing measurements of emissions and immissions according to letter a.

.....
1) Article 3 par. 1 let. a) of the Act No. 309/1991 Coll. on Air Protection Against Polluting Substances (the Act on Air) in wording of the Act No. 218/1992 Coll. and the Act of the Slovak National Council No. 148/1994 Coll. (the complete wording No. 31/1995).

2) For example Article 7 and Article 11 of the Act No. 309/1991 Coll. and Article 5 of the Act of the Slovak National Council No. 311/1992 Coll. on Fees for Polluting the Air.

Article 2

The Measurement

(1) By the measurement of emissions on stationary pollution sources and by the measurement of immissions (hereafter the “measurement”), a collection of activities is understood to be those which result in the findings of

- a) values that represent
 - 1. emission limits of the air pollution for stationary pollution sources, 3)
 - 2. quantities of released polluting substances,
 - 3. immission limits, 3)
 - 4. operating parameters of technical equipment for the monitoring of emissions and immissions of substances that pollute the air.
- b) the qualitative composition of exhaust gases and extraneous air.

(2) The result of the measurement is data that is collected with the aid of methods, methodologies, and technical equipment that correspond to the level of measuring techniques for emissions and immissions. The data corresponds to the established pollution limits 3) and is evaluated in the form of a report of the measurement within the scope established by this Regulation.

(3) The level of the measurement technique of emissions and immissions according to section 2 is the level of development of methods, methodologies, and the appropriate technical equipment, construction and other materials with which or with the use of which it is possible to determine accurate values while taking into account their characteristics that follow from general, natural and other properties.

(4) The list of methods and methodologies of the measurement according to section 3 is published by the ministry in its gazette.

.....
3) Article 5 par. 1 through 3 of the Act No. 309/1991 Coll.

Article 3

Measurement Performance

(1) A physical person with a trade license 4) and a law entity may perform the measurement if he has been issued the license for performing measurements (hereafter an “authorized person”).

(2) An authorized person may perform the measurement only through a person who is stated on the license according to section 1 as a person who executes the measurement (hereafter an “executive person”).

(3) A person other than the authorized person may perform the measurement only as an exception under conditions established in Article 12.

(4) The performing of the measurement is carried out according to policies that are attached in Appendix No. 1 of this Regulation.

.....
4) Article 2 par. 2c of the Commercial Code.

Article 4

Conditions for Issuing the License

(1) The license may be issued to a person who

a) has the above mentioned activity stated in his foundation charter or statute or has a trade license 4) for the activity related to the requested license.

b) has a valid certificate of accreditation as an experimental laboratory, 6) if the accreditation was carried out according to supplementary criteria and conditions established by the ministry,

c) employs executive persons who satisfy conditions according to section 2 through a job agreement or a similar job contract or he himself is an executive person,

d) is not in competition or in reconciliation proceedings or the proposal for their initiation was not submitted or is not in liquidation,

e) is evaluated according to Article 6 with an “Approval” mark.

(2) A person may be appointed as an executive person if the person

a) has the competence to legal act,

b) has a clean record,

c) has the required qualification and professional experience,

d) is listed on a valid certificate of accreditation as an executive person,

e) is evaluated according to Article 6 with an “Approval” mark.

(3) By the required qualification and professional experience the following is understood to be

a) a completed university education in a technical field or natural science and at least three years of professional experience which should include at least one year of experience with measurements, or

b) a completed secondary school training in a technical field and at least six years of professional experience which should include at least three years of experience with measurements.

(4) By the professional experience, an experience in such a field is understood to be in which the issuance of the license is applied for or in fields with a similar technology that concerns air pollution sources.

(5) A person with a clean record is someone who was not legally convicted of an intentional criminal offence or a criminal offence where he endangered the environment 7) and his license was not cancelled according to Article 8 par. 2c and Article 8 par. 3.

.....
4) Article 2 par. 2c of the Commercial Code.

5) For example Article 28 through 30 of the Act of the National Council of the Slovak Republic No. 567/1992 on Budget Regulations of the Slovak Republic in wording of the Act of the National Council of the Slovak Republic No. 159/1993 Coll., Articles 28 and 29 of the Act No. 172/1990 on Universities.

6) STN EN 45001 (01 5253) General criteria for activities of experimental laboratories.

STN EN 45002 (01 5254) General criteria for evaluation of experimental laboratories.

STN EN 45003 (01 5255) General criteria for accreditation authorities of laboratories.

7) Article 181a, 181b, 181c, and 181e of the Penal Code No. 140/1961 Coll. in wording of the Act No. 159/1989 Coll., Act No. 175/1990 Coll., Act of the National Council of the Slovak Republic No. 177/1993 Coll. and the Act of the National Council of the Slovak Republic No. 248/1994 Coll.

Article 5

The Application for Issuance of the License

(1) A natural person with a trade license 4) or an law entity who requested the issuance of a license for performing the measurement (hereafter “the applicant”) submits the application to the ministry.

(2) In the application, the applicant includes

- a) the title (business name) and headquarters,
- b) the identification number of the organization (IČO)
- c) the identification label of measurement techniques for which he requested the license,
- d) the name, surname, permanent residence, and personal identification number of the person accountable for performing the measurement according to letter c),
- e) the date of the application’s submission, the name and signature of the corporate representative, the signature of executive persons and the official seal.

(3) The applicant attaches to the application according to section 2,

- a) a certified document according to Article 4 par. 1a,
- b) an original of the valid certificate of accreditation or its certified copy,
- c) handbook of quality with annexes, 8)
- d) statutory declaration by a statutory body about the fulfillment of conditions according to Article 4 par.d and about the fact that the wage of the executive person does not depend on the results of the measurement,
- e) a voucher slip from the payment of the administration fee according to a special provision. 9)

(4) The applicant attaches to the application according to section 2 for each executive person,

- a) a copy of the criminal record which must not be more than three months old,
- b) a certified document of completed education,
- c) a document or statutory declaration that certifies the length of professional experience,
- d) an overview of professional job activity or scientific activity or publication activity related to measuring technique and to fields (Article 4 par.4) in which the issuance of the license was applied,
- e) a job contract and a description of job tasks.

(5) If the certificate of accreditation according to section 3 let. b) is related to the experimental laboratory that forms an organizational element of the applicant, he shall furthermore attach

- a) a part of the organization manual or other internal regulation that defines the position of the executive person,
- b) a job contract and a description of job tasks of the executive person's manager.

(6) If the application does not contain the proper information according to sections 2 through 5 or if further necessary information is required to certify the fulfillment of conditions for the issuance of the license, the ministry shall call upon the applicant to complete the information and shall establish the time limit for the completion.

.....
4) Article 2 par. 2c of the Commercial Code.

8) STN EN 45001 (01 5253) General criteria for the operation of experimental laboratories.

9) Par. 127 let. b) of the Annex of the Act of the National Council of the Slovak Republic No. 145/1995 Coll. on Administrative Fees.

Article 6

The Verification of the Fulfillment of Conditions for the Issuance of the License

(1) The fulfillment of conditions for the issuance of the license is verified by the ministry and based upon the information and documents stated in the application according to Article 5 and based upon a concrete measurement and a processed written report of the measurement (Annex No. 2 of this Regulation) that the applicant performed at his own expense for each individual field of the measurement or for the polluting substance or as a comparative inter-laboratory measurement, and upon an interview with the applicant.

(2) The verification is evaluated with an "Approval" or "Disapproval" mark.

(3) The ministry may waive the performance of a concrete measurement according to section 1 if the fulfillment of conditions for the issuance of the license

- a) was carried out by a concrete measurement within the frame of accreditation 6) or
- b) was proved by the applicant by presenting reports of previous concrete measurements.

.....
6) STN EN 45001 (01 5253) General criteria for activities of experimental laboratories.

STN EN 45002 (01 5254) General criteria for evaluation of experimental laboratories.

STN EN 45003 (01 5255) General criteria for accreditation authorities of laboratories.

Article 7

The License

(1) The ministry issues a license to the applicant who was evaluated with an "Approval" mark and proved the fulfillment of other conditions according to Article 4. The applicant becomes an authorized person on the day of delivery of the license.

(2) The license contains:

- a) the title of the body that issued the license,
- b) the number of the license,
- c) the location and date of issuance of the license
- d) the identification information of the authorized person,
- e) the name, surname, permanent residence and personal identification number of executive persons,
- f) the scope of the license within the classification according to the expertise of executive persons
- g) conditions for the performance of the measurement,
- h) the license expiration date,

i) the official seal of the ministry.

(3) The license expiration date is 5 years from the date of issue unless an earlier expiration date is stated in the license.

(4) At the request of an authorized person, the ministry may extend the license expiration date at most by 5 years. In this manner, the license expiration date may be extended at most twice.

(5) The ministry may extend the expiration date if

- a) the measurements were performed in the previous period by the authorized person,
- b) the application for the extension was submitted before the license expiration date,
- c) the measurements were performed in accordance with provisions of this Regulation, the handbook of quality 8) and the condition of technology of the measurement of emissions and immissions,
- d) the organization that was designated to check the accuracy of results of measurements 10) did not detect reasons to change or cancel the license.

.....
8) STN EN 450011 (01 5253) General criteria for the operation of experimental laboratories.

10) Article 2 par. 2 letter 1 of the Act of the Slovak National Council No. 134/1992 Coll. on the State Administration of Air Protection in wording of the Act of the National Council of the Slovak Republic No. 148/1994 Coll. (the complete wording No. 32/1995 Coll.).

Article 8

The Amendment or Cancellation of the License

(1) The ministry shall alter the license if the authorized person requests the changing of the license's scope in writing. For the extension of the license's scope, provisions of this publication appropriately apply.

(2) The ministry may change the scope of the license or cancel it,

- a) if the authorized person does not report a change of information according to Article 10,
- b) if the authorized person or executive person cannot temporarily duly perform the measurement,
- c) of the person who provably and repeatedly performed the measurement in a manner inconsistent with policies for performing measurements stated in Annex No. 1 of this Regulation or repeatedly and despite the ministry's caution did not comply with the content of the report from the measurement enclosed in Annex No. 2 of this Regulation,
- d) if the organization that is designated to check the accuracy of results of measurements 10) detected reasons to change or cancel the license.

(3) The ministry cancels the license if the authorized person or the executive person

- a) cannot continuously perform measurements,
- b) was legally convicted of an intentional criminal offence or of a criminal offence where he endangered the environment, 7)
- c) obtained the license based upon deliberately wrong information stated in the application and its attachments,
- d) does not undergo the verification of fulfillment of conditions according to Article 11a and b,
- e) becomes provably biased.

(4) The changing or cancellation of the license comes into force on the day of delivery of the changed license or the notice of the cancellation of the license to the authorized person.

.....
7) Article 181a, 181b, 181c, and 181e of the Penal Code No. 140/1961 Coll. in wording of the Act No. 159/989 Coll., Act No. 175/1990 Coll., Act of the National Council of the Slovak Republic No. 177/1993 Coll. and of the Act of the National Council of the Slovak Republic No. 248/1994 Coll.

10) Article 2 par. 2 letter 1 of the Act of the Slovak National Council No. 134/1992 Coll. on the State Administration of Air Protection in wording of the Act of the National Council of the Slovak Republic No. 148/1994 Coll. (the complete wording No. 32/1995 Coll.).

Article 9

The Expiration of the License

The license expires

- a) when the authorized person's status is cancelled or annuled,
- b) in case of death, termination of the job agreement or similar job contract of the executive person if he is the only person who executes the measurement (Article 7 par. 2f),
- c) on the day of the license expiration unless the authorized person requests its extension at least 30 days before the license expiration date,
- d) in case of cancellation or on the day of the expiration date of the certificate of accreditation.

Article 10

The Notice of Change of Information

The authorized person gives the ministry notice within 30 days of a change of information and documents stated in Article 4 par. 1a through d, Article 5 par. 2a through d, Article 5 par. 3a through d, Article 5 par. 4e, Article 5 par. 5 and of change of other information that concerns the executive persons mentioned in Article 4 par. 2a, b, and d.

Article 11

The New Verification of Fulfillment of Conditions for the Issuance of a License

An authorized person may be asked to undergo a new verification of fulfillment of conditions for the issuance of a license,

- a) if significant changes in the condition of technology of the measurement or in general obligatory and technical provisions related to air protection or the measurement occur,
- b) if the ministry detects reasons for performing a new verification during the supervision of the fulfillment of conditions for issuing the license stated in Article 4,
- c) if the organization that performs the check on the accuracy of results of the measurement and is designated by the ministry suggests it. 10)

.....
10) Article 2 par. 2 letter 1 of the Act of the Slovak National Council No. 134/1992 Coll. on the State Administration of Air Protection in wording of the Act of the National Council of the Slovak Republic No. 148/1994 Coll. (the complete wording No. 32/1995 Coll.).

Article 12

The Performance of the Measurement in Exceptional Cases

(1) In exceptional cases a person who is not an authorized person or an executive person may be permitted to perform an irregular measurement if he has the professional background and technical equipment.

(2) By the exceptional case, such a case is understood to be when the performance of the measurement is an urgent necessity of the proceedings of the authority of the state administration for air protection and no other authorized person

- a) is designated to perform the measurement, measuring technique or for a concrete polluting substance or
- b) cannot perform the measurement.

(3) Such a person may submit an application for the permission to perform a measurement according to item 1 to the ministry who requests approval or another decision of the authority of the state administration for air protection. The applicant includes information in the application according to Article 5 par. 2.

(4) The following shall be attached to the application according to par. 3

- a) the reason for the exceptional case (par. 2),
- b) documents and other background documents which prove that technical provisions that establish the measuring technique can be observed,
- c) written statutory declaration that the person who is supposed to perform the measurement in exceptional cases is unbiased,
- d) documents and information according to Article 5 par. 4b through d,
- e) a voucher slip from the payment of the administration fee according to the special provision. 11)

(5) If the application does not contain relevant information according to par. 3 and 4 or further necessary information is required for the verification of fulfillment of conditions for the permission to perform an irregular measurement, the applicant completes them when called upon by the ministry within the time limit.

.....
11) Item 1a of the Annex of the Act of the National Council of the Slovak Republic No. 145/1995 Coll.

Article 13

The List

- (1) Authorized persons and executive persons are added to the list that is kept by the ministry.
- (2) Anyone may view the list at Slovak Environmental Agencies where the state administration for air protection is performed.
- (3) The ministry deletes from the list the name of the authorized person including his executive persons whose license expired or was cancelled.

Article 14

Preliminary Provisions

(1) From the day when this Regulation enters into force until December 31, 1999, the measurement may also be performed by persons written on a special list that is published by the ministry in its Official Journal.

(2) Physical persons with a trade license 4) and legal entities who submit an application for being added to the special list shall be added to this list according to item 1 and these above mentioned persons shall prove that

- a) they fulfill conditions according to Article 4 par. 1a,
- b) they are authorized to perform measurements according to methods and methodologies that corresponds to the level of the measuring technique (Article 2 par. 4) or are authorized to perform similar measurements according to the special provision, 12)
- c) they employ persons that satisfy conditions according to Article 4 par. 2a to c through a job agreement or a similar job contract.

(3) Provisions of Article 5 except provisions of Article 5 par. 3 b, c, and e apply to the application for being added to the special list.

.....
4) Article 2 par. 2c of the Commercial Code.

12) Article 21 of the Act No. 505/1990 Coll. on Metrology.

Article 15

Entry into Force

This Regulation shall enter into force on January 1, 1996.

Jozef Zlocha, sign manual

ANNEX 1

POLICIES FOR PERFORMING THE MEASUREMENT

1. The performance of measurements according to methods and procedures that correspond to the current level of the technique which are related to the established limits for pollution, valid legislation and other technical provisions related to air protection and the measurement (Article 2).
2. The announcement of the date scheduled for the start of the measurement is done at least ten business days in advance and the actual date of the measurement if it is not identical with the scheduled day is done at least two business days before its start, when measuring emissions and immissions to the Subdistrict Environmental Office on whose territory the measurement is being performed and to the organization that carries out the inspection of the accuracy of results - when measuring emissions to the appropriate inspector office for air protection of the Slovak Environmental Inspection and for the measurement of immissions regionally to the appropriate branch of the Slovak Hydro Meteorological Institution.
3. At the request of the authority of the state administration for air protection or the organization that was designated to check the accuracy of results, the explanation of the report from the measurement and related basic documents.
4. The filing of reports, records, materials, and background documents that document conditions of the measurement, original findings and conclusions that followed from them, calculations and so on at least for a period of three years from the submission or amending of the measurement report.
5. Maintaining confidentiality from third persons in matters that constitute trade or the professional secrecy of the operator of the pollution source (the participant of the proceedings). Acting authorities of the state administration for air protection or the organization designated to check the accuracy of results of measurements are not considered to be a third party.
6. The regular realization of internal controls of the quality of efficiency of measurements according to an approved handbook of quality or to another appropriate document and keeping consistent records of internal quality control.
7. The participation at inter-laboratory comparatory measuring tests that are established by the ministry or at tests that correspond to them.
8. The consignment of the list of measurements performed according to the license with a short statement about the information about the customer, purpose, subject and date, clear table of results of the measurement and clear table of compliance with standard parameters according to requirements of the established measuring technique, and this shall be once a year to the ministry or to the organization designated by the ministry.

9. The collection of guarantees for the agreed performance of the measurement with respect to the customer who ordered the measurement according to general valid legislation and the concluded contract.

10. To enable the inspection of the accuracy of results of the measurement; at a request to enable the inspection of control of the measurement on the spot, immediate provision of complete and actual information related to the evaluation of the accuracy of results of the measurement including the performance of possible comparable inter-laboratory tests or related analysis of test samples.

11. Measurements is performed exclusively by executive persons and other activities by professionally qualified persons in such a manner that is established in the appropriate working regulations or in the handbook of quality.

12. In the case that the authorized person does not have a license to perform the complete scope of the measurement, the selected parts of the measurements shall be secured only through a similar authorized person; the analytic test (or other similar analysis, determination and the like) of the gas sample can be secured through another entity in urgent cases provided that

a) this entity is accredited or authorized for the given activity according to valid procedures, especially STN EN of the 45,000 series,

b) the used method or technique is compatible with the procedures that are standard in the Slovak Republic, especially with technical standards and other regulations,

c) the authorized person informs this entity in the full scope with relevant circumstances that are crucial for a qualified performance of the quantitative-qualitative determination of polluting substances.

13. Not to perform the measurement, if in relation to the subject of the measurement, to acting authorities, and the participants of the proceedings, it is possible to doubt the impartiality of the authorized or executive person:

a) The following is crucial to judge the impartiality of the authorized person and executive person:

1. The exclusion of other direct or indirect benefit or recourse in respect to the result of the measurement except for the financial amount that corresponds to the performed work.

2. The exclusion of the measurement for a personal necessity, a necessity of the direct employer or for a law entity whose employer is a factual owner (for example a subsidiary company) if the impartiality is not treated according to the procedure stated in letter b.

3. Wages of executive persons and other workers who participate in the measurement must not depend on the results of the measurements.

4. The exclusion of ownership or co-ownership of copyrights of inventions and suggestions for innovations or other similar rights for the subject of measurement (for example patent protection).

5. The exclusion of direct family relation to persons stated in previous points who have a direct benefit from the results of the measurement or who could be prosecuted due to the results of measurements regardless of the form of recourse (for example members of statutory organs of law entities or natural persons with a trade license, executive workers of the internal organizational unit down to the lowest rank of an executive worker of the measured source or plant including the shift foreman or the leader).

6. The exclusion of a direct family relation also to the person who acts in the name of the air protection authority in the particular proceedings.

b) The following is mainly crucial to judge the impartiality of an authorized person:

1. The exclusion of participation of workers of authorities of the state administration for air protection and workers designated to perform the inspection of the accuracy of results in statutory, supervising, and control authorities of the natural person or their property share in the organization; shareholding in the form of a coupon privatization if it is not dominant.

2. The organizational or appropriate economical independence that is, in the case of an experimental laboratory that is an organizational element of a larger unit, constituted at least by its independent internal accounting, the possibility of a direct contractual action with third parties, the exclusion of financial and legal labour influences and dependency on the results of the measurement.

c) Principles for treating a bias are:

1. Objections against the bias can be raised by every participant of the proceedings to the acting authority of the state administration for air protection.

2. An inception of reasonable doubt is crucial for the fulfillment of corpus of not complying with this principle; the bias in the previous sense is not later investigated nor proved by the authority of the state administration.

3. The authorized person and executive person duly examine the fulfillment of these principles before the measurement while it is assumed that in order to judge the possible doubts they know the matter to the minutest details.

4. In cases when the authorized person or executive person did not know or had doubts about fulfillment of these principles, it is necessary to negotiate the concrete case with the acting authority of the state administration in order to exclude possible ambiguities..

5. In exceptional cases, if one of the principles of impartiality cannot be fulfilled according to letters a) or b), the measurement can take place only under conditions established by the acting authority of the state administration for air protection.

ANNEX 2 PROPER INFORMATION OF THE REPORT FROM THE MEASUREMENT

A. The proper information from the measurement.

1. The title page that contains the identification information of the authorized person and executive person, the license number, the correct title of the report, the date when the report was issued.

2. The information about the operator of the source (participant of the proceedings) - identification information, the number of the contract for the measurement and the date when it was concluded.

3. The purpose of the measurement.

4. The subject of the measurement and its identification data.

5. A summary overview of results of the measurement and conclusions that follow from the result of the measurement.

6. Technological-operational parameters of the subject of the measurement according to the documentation and the actual parameters during the measurement.

7. The complete description of the procedures for the measurement including the scheme of the location of the measurement places and comparative table of standard and actual parameters according to the requirements established by the measuring technique.

8. Other important facts, documents about negotiations and the authorization of the operator of the source (participant of the proceedings).

9. The presence of other entities at the measurement including the number of their certificate and accreditation/authorization authority.

10. Methods for evaluation and the complete results of the measurement.

11. The statement of the special measures performed to secure the reliability of the result.

12. A conclusion clause that contains the information about the number of pages of the report from the measurement and the list of appendixes with the information about the number of pages of each annex.

13. The date when the report was issued, the signature of the executive person and in the case of a legal entity, also the signature of the statutory representative with the official seal.

B. The report has numbered pages; the number of pages shall be stated in the conclusion. The report shall be bound by a ribbon and the ends shall be sealed or every page shall be certified by an executive person.

C. The authority of the state administration for which the report is intended can modify the factual of the report from the measurement.