

Unofficial translation

Adopted by Legislative Assembly of Jogorku Kenesh of Kyrgyz Republic on May 13, 1999.
(with amendment #102 of June 11, 2003)

THE LAW OF KYRGYZ REPUBLIC ON ECOLOGICAL EXPERTISE (ENVIRONMENTAL REVIEW)

The current Law regulates legal relationships in the field of ecological expertise being aimed at exercising rights of citizens for prolific environment by means of prevention of negative ecological consequences originating from fulfillment of economic and other activities. It is based on corresponding provisions of the Constitution of Kyrgyz Republic, Law on Environment Protection and other regulations adopted in accordance with them.

SECTION I. GENERAL PROVISIONS

CLAUSE 1. AUTHORIZED STATE BODY ON ECOLOGICAL EXPERTISE

Impact - effect on a certain object causing or able to cause its qualitative or quantitative changes.
Project initiator - legal or physical body, organizer of activity, having financial resources sufficient for preparation and realization of intended activity.

The environment - the natural media for a human being, biosphere, which serves as a condition, mean and place for people and other living organisms; in a broad sense it includes the nature as a structure of natural ecosystems and the environment, as those part of the natural media reorganized by human activity.

Environmental Impact Assessment (OVOS) - identification, analyses, assessment and taking into consideration possible impacts of the preplanned economic and other activities in a design decision.

Environment - oriented design includes:

- Environmental Impact Assessment (OVOS);
- Working-out Environment Protection section in contract documents;
- Working-out Ecological Passport (maximum available emissions, maximum available concentrations, etc.);
- Performance of ecological auditing.

Design includes:

- Plan, project;
- Elaborated plan of installation or construction;
- Preliminary text of a document;
- Element in a decision-making system.

Implementation of the project under expertise - beginning and progress on the construction, maintenance, liquidation of industrial and other objects, rendering of services, entering into economic overturn of wares and technologies in accordance with decisions provided by draft project documentation and project documentation, as well as entering into force of an enactment or another usage of the project under expertise.

Ecological safety - state of vulnerability of staminal interests of an individual, society, vulnerability of the environment as a condition and mean of existence of a human being and society from menaces arising from anthropogenic and natural impacts on them.

Ecological risk - probability of negative for the environment and health of population consequences of any (intentional or accidental, gradual or catastrophic) anthropogenic changes of natural objects and factors.

Ecological expertise - assessment of ecological risk and danger arising from targeted decisions, implementation of which directly or indirectly have an impact on the condition of the environment and natural resources.

CLAUSE 2. GOALS OF ECOLOGICAL EXPERTISE

Goals of the ecological expertise are as follows:

- Prevention of negative impacts from realization of planned management, economic or other activities on human health and the environment;
- Assessment of compliance of planned management, economic, investment or other activities with ecological requirements at stages preceding decision making about their implementation, as well as during their construction and realization.

CLAUSE 3. OBJECTS OF ECOLOGICAL EXPERTISE

Objects of the ecological expertise are as follows:

Drafts of enactments, standards, guidance and other documents regulating economic and other activities;

Materials preceding detailing development projects and productive forces placement in Kyrgyz Republic including:

- Drafts of investment, integrated and also goal-oriented socioeconomic, research and other state programs associated with the nature management;
- Drafts of territorial development layouts including free economic zones and areas with special regime of nature management;
- Drafts of industrial development plans;
- Drafts of state integrated plans for nature protection and usage of water, forest, land and other natural resources including drafts of ecological rehabilitation of territories and reclamation;

Feasibility studies and also construction, reconstruction, development, re-equipment, conservation, laying-up, and dissolution projects; other projects regardless of their estimated cost, affiliation and patterns of ownership implementation of which can have an impact on the environment;

Feasibility studies and economic projects of other neighboring states which will involve usage of common with neighboring states natural objects (resources);

Drafts of international agreements, contracts and obligations associated to the nature management;

Technical manuals for new equipment, technology, materials, substances, licensed goods and services including imported ones;

Materials of an integrated ecological examination of areas, giving reasons for validation these territories as specially protected areas, ecological disaster zones or ecological emergency zones as well as programs for rehabilitation of these territories;

Materials which support granting certificates, licenses and permissions to engage in activities capable to have an impact on the environment including export and import of products and natural resources;

Materials characterizing environmental conditions of separate regions, areas and objects;

Agreements, contracts, conventions concerning change in patterns of ownership of enterprises which have negative impact on the environment;

Other documentation supporting economic and other activities.

CLAUSE 4. PRINCIPLES OF ECOLOGICAL EXPERTISE

The ecological expertise is based on the following principles:

- Obligatory realization of the state ecological expertise before making a decision on execution of the project;
- Presumption of potential ecological risk arising from any planned economic or other activity;
- Integrated impact and consequence assessment of the activity under expertise on the environment and taking into consideration ecological safety requirements;
- Adequacy of information submitted for the ecological expertise;
- Independency of expert bodies and experts while acting by their authority in the field of ecological expertise;
- Glasnost;
- Taking into account public opinion;
- Responsibility of the parties involved for organization, realization, quality of ecological expertise, and implementation of its recommendations.

CLAUSE 5. TYPES OF ECOLOGICAL EXPERTISE

There are two types of the ecological expertise in Kyrgyz Republic:

- State ecological expertise;
- Public ecological expertise.

SECTION II. AUTHORITY OF STATE BODIES OF KYRGYZ REPUBLIC IN THE FIELD OF ECOLOGICAL EXPERTISE

CLAUSE 6. AUTHORIZED STATE BODY ON ECOLOGICAL EXPERTISE

Authorized state body on ecological expertise is republican state body on protection of the environment of Kyrgyz Republic.

CLAUSE 7. AUTHORITY, RIGHTS AND DUTIES OF STATE BODY ON ECOLOGICAL EXPERTISE

Authorized state body on ecological expertise is responsible for:

- Organization and realization of the state ecological expertise of objects pointed in clause 3 of the present Law including establishment of expert commissions of state ecological expertise;
- Development, revision and approval standards and guidelines providing execution of the present Law;
- Scientific, methodical, and informational support of the state ecological expertise, including establishing and supporting data bases on planned activity, realization of the project under expertise and impacts of planned economic activity on the environment;
- Cooperation with ecological expertise departments of other countries in accordance with established procedure aimed at holding workshops, joint ecological expertise, exchange in scientific and methodical;
- Conducting workshops, conferences on methodology, methods and procedures for the state ecological expertise, exchange of experience and quality improvement of the ecological expertise;
- Coordination of the ecological expertise activity in Kyrgyz Republic, exercising methodical control over ecological expertise for the projects irrespective of ownership;
- Verification of compliance with keeping this Law and other enactments in the field of state ecological expertise during its organization and implementation;
- Consideration of the disagreements between territorial specially authorized state bodies in the field of ecological expertise arising during ecological expertise;
- Keeping state registers of the experts participating in realization of ecological expertise;
- Interaction within the limits of the competence with the ministries, administrative departments, organizations and their expert divisions;
- (excluded in accordance with amendment #102, June 11, 2003)

Specially authorized state body on ecological expertise has the right:

- Organize, carry out and take part in international ecological expertises;
- Involve foreign scientists and experts to carry on ecological expertise, excluding cases when the object of examination constitutes state or commercial secret as established by Kyrgyz Republic law.
- Access data bases of the ministries and administrative departments on the condition of the environment;
- Within its competence conduct other activities which do not contradict to Kyrgyz Republic legislation.

Authorized public body on ecological expertise is liable for:

- Providing conformity of the state ecological expertise procedure to statutory requirements of the present Law, other enactments, standards, and instructive documents;
- Informing in advance local state administrations and local councils about meetings of expert commissions of the state ecological expertise;
- Sending statements of the state ecological expertise to bodies making decisions about realization of the project;
- At call of the project investor, public organizations conducting public ecological expertise provide for familiarization standard and instructive documentation brining under regulation organization and carrying out the state ecological expertise;
- Sending local administrations and local councils, public organizations (associations) and citizens proposed well-reasoned arguments concerning environmental aspects of realization of planned activity, materials justifying consideration of these proposals while performing state ecological expertise;
- Rendering information on the results of the state ecological expertise to mass-media according to their request;
- Organization of training, retraining and further training of experts of state ecological expertise.

CLAUSE 8. AUTHORITY OF LOCAL STATE ADMINISTRATIONS AND LOCAL COUNCILS IN THE FIELD OF ECOLOGICAL EXPERTISE

Local state administrations and local councils realize on correspondent territory:

- Delegation of experts in the staff of expert commissions to participate in the ecological expertise of project realization of which will take part at their territory, and also in case of probable impacts on the environment from economic activities planned at the neighboring local region;
- Making and realization in the frame of their power decisions on ecological expertise on the basis of public discussions, referendums, surveys, statements of the public environmental organizations;
- Organization of public ecological expertise upon request of the local population;
- Informing authorized state body on the ecological expertise about planned economic and other activities at corresponding area.

Local state administrations and local councils have a right to:

- obtain from the authorized state body on ecological expertise required information on objects of the ecological expertise, and their impacts on the environment;
- direct to the authorized state body on ecological expertise well-reasoned proposals concerning environmental aspects of realization of planned activity.

SECTION III. STATE ECOLOGICAL EXPERTISE

CLAUSE 9. PERFORMANCE OF STATE ECOLOGICAL EXPERTISE

State ecological expertise is performed in accordance with the order approved by authorized state organization on ecological expertise.

In order to perform state ecological expertise a project initiator should submit the following documents:

- Ecological assessment of impacts from economic and other activities on the environment;
- Statements and/or permissions from correspondent authorized state inspection organizations and local administrations;
- Statement of public ecological expertise in case if it was performed.

State ecological expertise is performed provided prepayment was made in full by the project initiator in accordance with established procedure.

CLAUSE 10. ECOLOGICAL ASSESSMENT

Ecological assessment is provided by the project initiator in accordance with current legal regulations.

Ecological assessment is organized and performed while preparing studies for the following activities:

- Concepts, programs and plans of sectoral and territorial socioeconomic development;
- Plans of integrated usage and protection of natural resources;
- Master plans of cities and settlements as well as other town-building documentation;
- New construction, reconstruction, expansion and re-equipment of operative economic and other entities able to have impacts on the environment.

Availability of the ecological assessment in all types and stages of design plans and specifications is a must being a basis for decision making by authorized state organization on ecological expertise.

CLAUSE 11. EXPERT COMMISSION OF STATE ECOLOGICAL EXPERTISE

State ecological expertise of a specific project is performed by an expert commission established by authorized state organization on ecological expertise.

Expert commission includes staff of authorized state organization on ecological expertise and also freelance experts including those from organizations involved in environment protection.

An expert of state ecological expertise should not be a representative of a project initiator or project developer.

CLAUSE 12. PERIOD OF STATE ECOLOGICAL EXPERTISE PERFORMANCE

Period of performance of state ecological expertise is defined by complexity of a project under expertise, however it should not exceed three months since receiving all necessary materials and payment for its performance.

CLAUSE 13. STATEMENT OF STATE ECOLOGICAL EXPERTISE

Statement of state ecological expertise is a document prepared by expert commission which include reasoned conclusions on permissibility of having effects on the environment from activity under expertise and possibility to carry out this activity.

Statement of the state ecological expertise can be positive or negative.

Positive statement of the state ecological expertise is one of the major conditions for funding, crediting, investing and implementing activity under expertise.

Positive statement of the state ecological expertise is valid during a period defined by the authorized state organization on ecological expertise.

A legal consequence of the negative statement of the state ecological expertise is prohibition of the

project implementation.

In case of the negative statement of the state ecological expertise a project initiator can submit documents for repeated state ecological expertise provided reprocessing those documents taking into consideration observations listed in the statement.

SECTION IV. PUBLIC ECOLOGICAL EXPERTISE

CLAUSE 14. PERFORMANCE OF PUBLIC ECOLOGICAL EXPERTISE

Public ecological expertise is organized and conducted by an initiative of citizens, local administrations and public associations, registered according to a procedure established by Kyrgyz legislation.

Public ecological expertise may be organized independently from the state ecological expertise.

Initiators of the public ecological expertise have to notify in advance in written local administrations and local councils about performance of the public ecological expertise.

CLAUSE 15. RIGHTS OF PUBLIC ASSOCIATIONS IN THE FIELD OF ECOLOGICAL EXPERTISE

Public associations and citizens carrying out public ecological expertise in established by this law order have the right to:

- Receive from the project initiator documents subject to ecological expertise in full;
- Familiarization with reference documentation establishing requirements to performance of the state ecological expertise;
- Publishing results of the public ecological expertise in mass media.

CLAUSE 16. DENIAL OF REGISTRATION OF APPLICATION TO CONDUCT PUBLIC ECOLOGICAL EXPERTISE

If public ecological expertise is initiated regarding an object which is a subject of the State secret in accordance with a list of information established by State secret legislation than registration of application for ecological expertise may be canceled.

CLAUSE 17. STATEMENT OF PUBLIC ECOLOGICAL EXPERTISE

Statement of public ecological expertise is directed to the body conducting state ecological expertise, and also body making a decision about execution of project under expertise.

Statement of public ecological expertise is recommendatory. It can be published in mass media, passed to local state administrations and local councils, project initiators, designers and other stakeholders.

SECTION V. RIGHTS AND DUTIES OF INITIATORS AND DESIGNERS OF PROJECT AND OTHER DOCUMENTATION

CLAUSE 18. RIGHTS OF INITIATORS AND DESIGNERS OF PROJECT AND OTHER DOCUMENTATION

Initiators and designers of the project and other documentation have a right to:

- Obtain from the body which organize state ecological expertise information on the status of the ecological expertise, and information on the procedure of the state ecological expertise;
- Apply to bodies organizing state ecological expertise with demand to eliminate infringements of the ecological expertise procedure;
- Provide written or oral explanations, notes, and proposals concerning objects under expertise;

- Familiarize themselves with conclusions of the ecological expertise;
- Transfer positive conclusions of the state ecological expertise to banks to initiate funding;
- Claim for reparation of damages caused by intentional infraction of Kyrgyz Law in the field of the ecological expertise

CLAUSE 19. DUTIES OF INITIATORS AND DESIGNERS OF PROJECT AND OTHER DOCUMENTATION

Initiators and developers of the project and other documentation is liable for:

- Submitting documentation for the state ecological expertise in accordance with requirements of the current law;
- Covering costs of realization of the state ecological expertise;
- Providing supplementary materials on objects under expertise for bodies organizing ecological expertise;
- Carrying out planned activity in accordance with documentation, which received positive opinion of a state ecological expertise.

CLAUSE 20. RESOLVING DISAGREEMENTS IN THE FIELD OF ECOLOGICAL EXPERTISE

Disagreement is considered to be the difference of opinions between project initiator/designer with actions, methods or conclusions of state ecological expertise.

Claims on discords are submitted to a chief of republican state body on environmental protection in Kyrgyz Republic.

Originating recorded disagreements between bodies providing state ecological expertise and project initiators are considered by republican state body for environment protection of Kyrgyz Republic.

Period of consideration should not exceed one month from submission of required documents. Decision of disagreements may be appealed.

Statement of the ecological expertise may be nullified in case if during its preparation the following mistakes were made:

- Violation of due procedure of ecological expertise;
- Non-observance or perversion of ecological standards or rules, requirements of ecological safety, environment protection, and overexploitation;
- Violation of civil rights for the environment congenial to life, other ecological rights and interests of people as well as rights of participants of expertise.

Ecological expertise body is responsible for decisions made by it according to Kyrgyz legislation.

SECTION VI. FUNDING ECOLOGICAL EXPERTISE

CLAUSE 21. FUNDING STATE ECOLOGICAL EXPERTISE

Financial backing for state ecological expertise is for account of the budget, payments for expert work, and also other means.

Incoming means for conducting and repeated conducting state ecological expertise are transferred into account of republican and local environment protection funds and used in accordance with approved expense budget.

Payment for expert work carried out by state ecological expertise is made by project initiator according to procedure established by republican state body for environment protection.

CLAUSE 22. FUNDING PUBLIC ECOLOGICAL EXPERTISE

Financial backing for state ecological expertise is for account of citizens, local governments, public associations, public environmental and other funds, grants-in-aid, etc.

SECTION VII. RESPONSIBILITY FOR ECOLOGICAL EXPERTISE LAW-BREAKING

CLAUSE 23. TYPES OF ECOLOGICAL EXPERTISE TRANSGRESSIONS

Subject to account:

Project initiators and stakeholders blamed in:

- Falsification of information and data submitted for the ecological expertise;
- Compulsion of expert to give deliberately false statement of the ecological expertise;
- Putting obstacles in the way of organization and execution of the ecological expertise;
- Evasion from providing required information, facts or other data to expert body;
- Realization of the project without positive statement from the state ecological expertise;
- Carrying out activity which do not comply with the documentation, which was approved by the state ecological expertise;

Heads of authorized state body on the ecological expertise and heads of expert commissions blamed in:

- Breach of established by current Law regulations and procedure of ecological expertise;
- Breach of the order in establishment and organization of activity of expert commissions on ecological expertise;

Experts of the state ecological expertise in case of:

- Violation of Kyrgyz ecological expertise law, other enactments, standards, and reference documents;
- Invalid conclusions in the ecological expertise statement;
- Falsification of conclusions in the ecological expertise statement;
- Disclosure of State and commercial secrets containing in materials submitted for execution of the ecological expertise;
- Officials of state bodies blamed in:
- Falsification of information and data on the results of executed ecological expertise;
- Licensing nature management or other activities having direct or indirect impact on the environment without positive statement of the ecological expertise;
- Organization and performance of ecological expertise by incompetent bodies, enterprises, organizations, and public associations;
- Unlawful denial in registration of application to conduct public ecological expertise.

Banks, representatives of banks, and also other legal and physical bodies in case of funding (crediting, investment) of the project under expertise without positive statement of the state ecological expertise.

For perpetration of infringements indicated in the first part of the current clause, parties or persons at fault are subject of criminal, administrative, disciplinary, and civil responsibility. Types of offenses and measure of responsibility for commitment are set up according to the Criminal Code of Kyrgyz Republic, Administrative Code of Kyrgyz Republic, Labor Code of Kyrgyz Republic, and Civil Code of Kyrgyz Republic.

SECTION VIII. CONCLUSIONS

CLAUSE 24. INTERNATIONAL COOPERATION IN THE FIELD OF ECOLOGICAL EXPERTISE

International cooperation in the field of the ecological expertise is aimed at provision of ecological security of a human being, environment protection and recourse conservation on the basis of corresponding agreements.

If an international agreement ratified by Kyrgyz Republic establishes other rules than those in legislation of Kyrgyz Republic on the ecological expertise than international rules are applied.

CLAUSE 25. EFFECTIVE DATE FOR THE PRESENT LAW

This law is effective since date of promulgation.

The government of Kyrgyz Republic should formalize its enactments in accordance with the present Law during three months.

President of Kyrgyz Republic A.Akaev

BISHKEK, JUNE 16, 1999 NO.54