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If a whole or part of a paragraph has been amended, the date of the amending regulation appears in square brackets at the end of the paragraph. If a whole paragraph or sub-paragraph has been deleted, the date of the deletion appears in square brackets beside the deleted paragraph or sub-paragraph.

Republic of Latvia

Cabinet

Regulation No. 633

Adopted 18 September 2012

Procedures for the Use of Subterranean Depths in Internal Public Waters and Sea

*Issued pursuant to
Section 8, Paragraph two, Clauses 1 and 2 and Section 10, Paragraph fourteen of the Law
On Subterranean Depths*

I. General Provisions

1. This Regulation prescribes:

- 1.1. procedures for the use of subterranean depths in public waters;
- 1.2. procedures for the use of subterranean depths in internal sea waters, territorial sea and exclusive economic zone of the Republic of Latvia (hereinafter — sea);
- 1.3. procedures, by which the user of subterranean depths (licensee) shall pay the annual State fee for the rights to use subterranean depths in internal sea waters, territorial sea and exclusive economic zone of the Republic of Latvia;
- 1.4. the amount of the State fee referred to in Sub-paragraph 1.3. of this Regulation.

2. This Regulation shall not apply to:

- 2.1. prospecting, exploration, and production of hydrocarbons;
- 2.2. geological research, which is related to construction, installation, and operation of structures in internal public waters;
- 2.3. geological research, which is related to construction, installation, and operation of structures and which takes place in accordance with the laws and regulations regarding sea environment protection and management.

3. Determination of the licence area in sea and internal public waters may be initiated by a direct or indirect administration authority of the Republic of Latvia or a merchant wishing to use the subterranean depths (hereinafter – the initiator).

4. Upon using subterranean depths in sea and internal public waters, the laws and regulations regarding the procedures for cleaning and deepening of the surface water bodies and port basins shall be conformed to, insofar as they are not in contradiction with this Regulation, and the laws and regulations governing environmental impact assessment.

5. If the works of the use of subterranean depths are related to movement of ships, prior to the performance of the relevant works a licensee shall co-ordinate them with the State stock company *Latvian Maritime Administration* or the relevant port authority, if the works of the use of subterranean depths are planned in the port basin. If the works of the use of subterranean depths are related to the use of aircraft, prior to performance of the relevant work a licensee shall co-ordinate them with the State agency *Civil Aviation Agency*.

6. Navigation regime shall be restricted, as well as information regarding performance of the works specified in this Regulation in sea shall be provided in accordance with the laws and regulations regarding procedures for the use of Latvian waters and the navigation regime therein. Use of aircrafts shall be restricted, as well as information regarding the use of an aircraft for performance of the works specified in this Regulation shall be provided in accordance with the laws and regulations regarding procedures for the performance of special aviation works.

II. Use of Subterranean Depths in Sea

7. For the use of subterranean depths in sea the initiator shall submit an application to the Ministry of Environmental Protection and Regional Development (hereinafter — the Ministry) regarding determination of a licence area in sea in accordance with Annex to this Regulation.

8. The Ministry shall examine the application regarding determination of a licence area in sea within 30 days. If the initiator has not submitted all the information and documents indicated in Annex to this Regulation, the Ministry shall request to submit them within 20 days. If the initiator has not submitted the requested information or documents within the specified time period, the Ministry shall take a decision to reject the application regarding determination of a licence area in sea and shall notify it to the initiator.

9. Upon examining the application regarding determination of a licence area in sea, the Ministry shall take into account the spatial plan of the sea, if such has been drawn up, as well as find out the opinion of the closest local governments, if the licence area proposed is located in the sea in a zone that is two kilometres in width from the shoreline.

10. If, upon examining the application regarding determination of a licence area in sea, significant obstacles for the use of subterranean depths in sea have been discovered, the Ministry shall, within 30 days from the receipt of the abovementioned application, inform the initiator thereof, indicating reasons for refusal.

11. If the application regarding determination of a licence area in sea, the information and documents appended thereto conform to the requirements of this Regulation and significant obstacles for the use of subterranean depths in sea have not been discovered, the Ministry shall prepare a draft Cabinet order regarding determination of the licence area of the use of subterranean depths (hereinafter – the licence area) and shall submit it to the Cabinet for examination in accordance with specific procedures.

12. In order to organise a tender procedure regarding the receipt of a licence for the use of subterranean depths, a commission of the tender procedure approved by the Cabinet (hereinafter – the commission approved by the Cabinet) shall be established. The commission approved by the Cabinet shall include:

- 12.1. at least two representatives of the Ministry;
- 12.2. representative of the Ministry of Economics;

- 12.3. representative of the Ministry of Agriculture;
- 12.4. representative of the Ministry of Transport;
- 12.5. representative of the State Environmental Service;
- 12.6. representatives of other institutions, if necessary.

13. The commission approved by the Cabinet shall have a quorum, if not less than half of its members participate in its meeting. The work of the commission approved by the Cabinet and taking of minutes in its meetings shall be ensured by the State Environmental Service.

14. Drawing up of the tender regulations and the regulations shall be approved by the Ministry. The following shall be included in the tender regulations:

14.1. general information (type of use of subterranean depths, name and description of the tender object, details of the tender organiser);

14.2. rights and obligations of the commission approved by the Cabinet;

14.3. information regarding the place, date, time, and procedures for submitting and opening of the offer;

14.4. requirements for the drawing-up and submission of an offer;

14.5. information to be submitted by a tenderer:

14.5.1. information regarding the tenderer (firm name, registration number of the merchant, contact details);

14.5.2. information regarding experience of the tenderer, which characterises his ability to perform the planned works of the use of subterranean depths in the licence area;

14.5.3. geological characterisation of the licence area prepared by the tenderer, evaluation of resources and economic forecast of extraction, if extraction of mineral resources is intended;

14.5.4. programme of the minimum works according to the type of use of subterranean depths (for example, programme of research works, planned type of extraction, and potential extent of works, anticipated deadlines and costs of works, methodology for recording the extracted volume);

14.5.5. a document certifying that the tenderer has introduced a quality management system according to the standard LVS EN ISO 9001:2009 *Quality management systems – Requirements* or an equivalent standard;

14.5.6. a document certifying that the tenderer is participating in an environmental management system (EMAS) in accordance with Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), or has introduced an environmental management system according to the standard LVS EN ISO 14001:2005 *Environmental management systems – Requirements with guidance for use*, or an equivalent environmental management standard;

14.5.7. bank security (guarantee) certifying that the tenderer is able to financially ensure the performance of the works of the use of subterranean depths;

14.6. criteria for evaluation of tenderers:

14.6.1. financial possibilities;

14.6.2. experience in the use of subterranean depths;

14.6.3. work programme of the use of the tender object;

14.6.4. qualification, technical equipment, and experience according to the planned type of use of subterranean depths;

14.6.5. environmental protection measures;

14.6.6. labour protection measures;

14.7. procedures for evaluation of the offers submitted;

14.8. procedures for the appeal of the tender results.

15. The State Environmental Service shall, within 60 days after the establishment of the commission approved by the Cabinet, announce a tender for the receipt of a licence for the use of subterranean depths. An invitation to participate in the tender (hereinafter – the invitation) shall be published in the official gazette *Latvijas Vēstnesis* and posted on the website of the Ministry and of the State Environmental Service.

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16. The following shall be indicated in the invitation:

16.1. name of the organiser of the tender;

16.2. place and procedures for receipt of the tender regulations;

16.3. name of the tender object and the type of the use of subterranean depths;

16.4. time and place of submitting and opening the offers;

16.5. address and telephone number of a contact person in order to receive additional information;

16.6. other information deemed as necessary by the commission approved by the Cabinet.

17. The time period for submitting a tender application shall be determined as not less than 60 days from publishing an invitation in the official gazette *Latvijas Vēstnesis*.

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18. Within the time period laid down in the Administrative Procedure Law, counting from the day of opening the tender application process, the Ministry shall take a decision on the winning tenderer on the basis of an evaluation and opinion of the commission approved by the Cabinet.

19. Meetings of the commission approved by the Cabinet are closed, except a meeting where the tender applications are opened.

20. The commission approved by the Cabinet shall recognise as the winning tenderer the tenderer, whose tender application has received the highest number of points, however, not less than specified in the tender regulations.

21. If the tender application does not conform to this Regulation or tender regulations, the commission approved by the Cabinet shall not evaluate it (shall not grant points), indicating the justification in the minutes of the meeting, and shall inform the tenderer in writing within 10 days after the meeting of the commission approved by the Cabinet was held.

22. If applications of several tenderers receive the same number of points, such tenderer shall be deemed as the winner, whose tender application receives the highest number of points for work programme and experience of the tenderer in the use of subterranean depths in sea.

23. If only one tender application has been received and it conforms to the requirements laid down in this Regulations and tender regulations, the commission approved by the Cabinet is entitled to decide that the relevant tenderer is the one to whom the licence is awarded.

24. The tender shall be recognised as not having taken place. if:

24.1. no tender application has been received;

24.2. all the tender applications submitted have been rejected by a decision of the commission approved by the Cabinet;

- 24.3. the winning tenderer has refused the licence for the use of subterranean depths.
25. Results of the tender shall be notified to all tenderers within five days after taking of the decision of the commission approved by the Cabinet, published in the official gazette *Latvijas Vēstnesis*, and posted on the website of the Ministry and of the State Environmental Service.
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26. Prior to receipt of the licence for the use of subterranean depths the winning tenderer has an obligation to insure his civil legal liability for activities related to the use of subterranean depths in the licence area.
27. The use of subterranean depths in sea shall be commenced only after co-ordination of works with the State stock company *Latvian Maritime Administration*.
28. The use of subterranean depths in the licence area, which overlaps with a port basin, including internal and external roadsteads and ship channels in the port entrance, shall be commenced only after co-ordination of the work schedule with the relevant port authority.
29. If the licensee is planning to perform works, which are related to impact on seabed, he has the right, not later than within 60 days prior to commencement of the planned works, to submit a submission to the National Armed Forces with a request to provide the information at their disposal regarding explosive objects in such part of the bed, in which the works related to impact on seabed are intended.
30. The following shall be appended to the application referred to in Paragraph 29 of this Regulation:
- 30.1. the work schedule, indicating the type, time schedule of bed safety inspection works, the time periods of commencement and termination;
 - 30.2. the plan of such part of the licence area, in which the performance of bed safety inspection works is intended. Coordinates of the relevant part of the licence area in the system WGS84 shall be indicated in the plan;
 - 30.3. proposals regarding the procedures, by which the licensee will notify the National Armed Forces regarding explosive objects found.
31. The National Armed Forces shall, within 30 days after receipt of the submission referred to in Paragraph 29 of this Regulation, provide the information at the disposal thereof to the licensee regarding explosive objects in the part of the licence area referred to in Sub-paragraph 30.2 of this Regulation.
32. The National Armed Forces have the right to supervise and control how the licensee is performing the bed safety inspection.
33. The licensee shall enter into a contract with the National Armed Forces regarding the destruction of the explosive objects found in the seabed safety inspection. The amount of resources necessary for the destruction of explosive objects, as well as the payment procedures shall be determined in the contract.
34. The contract referred to in Paragraph 33 of this Regulation shall determine that the National Armed Forces shall destroy the explosive objects found in the licence area during the seabed safety inspection in as short period of time as possible, but not later than within two years after signing the abovementioned contract, or also the National Armed Forces shall

agree with the licensee regarding determination of a safety zone around the explosive objects found.

35. The licensee shall co-ordinate the contract with the National Armed Forces, which is entered into thereby regarding the destruction of explosive objects found in the seabed safety inspection, which cannot be destroyed by the National Armed Forces due to technological reasons.

36. In accordance with the conditions of the contract referred to in Paragraph 33 of this Regulation the licensee shall compensate such resources to the National Armed Forces, which were utilised for the destruction of explosive objects in the licence area.

37. The licensee shall, without delay, inform the State Environmental Service and the State limited liability company *Latvian Environment, Geology and Meteorology Centre* regarding the hazardous waste found during the bed safety inspection.

38. If structures are necessary for the use of subterranean depths in sea, they shall be constructed and dismantled in accordance with the laws and regulations prescribing the requirements for installation of structures, construction in sea and operation of structures, as well as the requirements for dismantling or disassembly after complete termination of operation.

III. Use of Subterranean Depths in Internal Public Waters

39. For the use of subterranean depths in internal public waters the initiator shall submit an application to the State Environmental Service regarding determination of a licence area in internal public waters in accordance with Annex to this Regulation.

40. The State Environmental Service shall examine the application regarding determination of a licence area in internal public waters in accordance with the procedures laid down in the Administrative Procedure Law. If the initiator has not submitted all the information and documents indicated in Annex to this Regulation, the State Environmental Service shall request to submit them within 20 days. If the initiator has not submitted the requested information within the specified time period, the State Environmental Service shall take a decision to reject the application regarding determination of a licence area in internal public waters and shall notify it to the initiator.

41. The local government, in the administrative territory of which the licence area referred to in the application regarding determination of a licence area in internal public waters is located, upon request of the State Environmental Service shall provide an opinion whether determination of the licence area is not in contradiction with the spatial development planning documents in effect. If the licence area proposed is located in the territory of several local governments, the State Environmental Service shall request an opinion from each local government.

42. The local government shall, within 10 days from receipt of the request, provide the opinion referred to in Paragraph 41 of this Regulation.

43. If, upon examining the application regarding determination of a licence area in internal public waters, significant obstacles for the use of subterranean depths in the licence area proposed have been discovered, the State Environmental Service shall, within 30 days from

receipt of the abovementioned application, inform the initiator thereof, indicating the reasons for refusal.

44. If the application regarding determination of a licence area in internal public waters and the information and documents appended thereto conform to the requirements of this Regulation and the State Environmental Service does not have information at its disposal that the use of subterranean depths in the licence area proposed is not permissible, it shall, within 30 days from receipt of the opinion of the local government, establish a commission for the tender process (hereinafter – the commission).

45. The composition of the commission shall include:

45.1. at least one representative of the State Environmental Service;

45.2. representatives of the local government (if the licence area proposed is adjacent to or is located in the territory of several local governments, at least one representative from each local government shall be included in the commission);

45.3. representative of the planning region;

45.4. representatives of other institutions, if necessary.

46. The commission shall have a quorum if not less than half of the members of the commission participate in a meeting thereof. The work of the commission, as well as taking of minutes at meetings of the commission shall be ensured by the State Environmental Service.

47. The commission shall draw up the tender regulations in conformity with the conditions referred to in Paragraph 14 of this Regulation. The tender regulations shall be approved by the Director General of the State Environmental Service.

48. The State Environmental Service shall, within 30 days after establishment of the commission, announce a tender for receipt of a licence for the use of subterranean depths. The invitation to participate in the tender shall be published in at least one local government or other local publication and in a central newspaper and posted on the website of the planning region and local government. The information referred to in Paragraph 16 of this Regulation shall be included in the invitation.

49. The time period for submitting a tender application shall be determined as not less than 60 days from publishing an invitation in newspapers and posting it on the website.

50. In order to participate in the tender, the tenderer shall submit the information referred to in Sub-paragraphs 14.5.1, 14.5.2, 14.5.3, 14.5.4, and 14.5.7 of this Regulation according to the tender regulations.

51. The commission shall evaluate the tender applications in accordance with the procedures laid down in Paragraphs 19., 20, 21, 22, 23, and 24 of this Regulation and take a decision on the winning tenderer.

52. If the licence for the use of subterranean depths is necessary for geological exploration related to the construction, establishment or operation of structures in public waters, the tender shall not be organised and the State Environmental Service shall issue the abovementioned licence to one of the following persons:

52.1. the person who has entered into a contract with a direct or indirect administration authority of the Republic of Latvia, for the performance of works intended in which it is necessary to use subterranean depths;

52.2. the person who has entered into a written contract regarding the performance of geological exploration with the person referred to in Sub-paragraph 52.1 of this Regulation.

IV. Issuance of the Licence

53. The State Environmental Service shall issue a licence for the use of subterranean depths on the basis of the decision referred to in Paragraph 18 or 51 of this Regulation.

54. The State Environmental Service shall draw up and issue a licence for the use of subterranean depths in accordance with the laws and regulations governing the procedures for issuing licences for the use of subterranean depths, insofar as they are not in contradiction with this Regulation.

55. The State Environmental Service shall issue the licence in the form of an electronic document in accordance with the procedures laid down in the laws and regulations governing the circulation of electronic documents, if the initiator has expressed such a request.

56. Prior to leaving the licence area the licensee shall ensure that the activities related to the removal of installations, dismantling of structures, liquidation or preservation of a borehole, re-cultivation of land, as well as other activities related to discontinuation of works are performed.

V. State Fee

57. A user of subterranean depths shall pay the annual State fee for the rights to use subterranean depths in internal public waters, territorial sea and exclusive economic zone of the Republic of Latvia in one of the following ways:

57.1. with the intermediation of such a provider of payment services, which has the right to provide payment services within the meaning of the Law On Payment Services and Electronic Money;

57.2. at the State Environmental Service with a VISA, VISA Electron, MasterCard, or American Express payment card (hereinafter – the payment card) in a payment card terminal or another alternative system, if the State Environmental Service or intermediary institution provides technical access thereto.

58. The State fee shall be paid in the following amount:

58.1. for the rights to use subterranean depths in public waters – 0.0014 euros for a square metre of the relevant licence area per year (1422.87 euros for a square kilometre per year);

58.2. for the rights to use subterranean depths in territorial sea and exclusive economic zone of the Republic of Latvia – 0.014 euros for a square metre of the relevant licence area per year (14,228.72 euros for a square kilometre per year).

[3 September 2013 / The new wording of the Paragraph shall come into force on 1 January 2014. See Paragraph 2 of amendments]

59. Each year by 20 March the user of subterranean depths shall calculate and pay the State fee for a calendar year into the budget account specified by the State Revenue Service. Upon indicating the payment purpose, the licence number, as well as the year, for which the payment is made, shall be entered.

60. The State fee in a calendar year when the user of subterranean depths has received the rights to use subterranean depths later than the first month of the calendar year, shall be

calculated as one twelfth part of the amount of the annual fee for each calendar month after receipt of the abovementioned rights. In such case the user of subterranean depths shall pay the State fee within a month after receipt of the rights.

61. The State fee shall be paid into the State basic budget.

Prime Minister

V. Dombrovskis

Minister for Environmental Protection and Regional Development

E. Sprūdžs

Application Regarding Determination of a Licence Area

1. Information regarding the applicant:

1.1. the firm name of the merchant or the name of the direct or indirect administration authority of the Republic of Latvia;

1.2. the number, date, and place of registration of the merchant or registration number of the direct or indirect administration authority of the Republic of Latvia;

1.3. address for correspondence;

1.4. telephone number;

1.5. fax number (if any);

1.6. e-mail address (if any);

1.6. website address (if any).

2. Purpose of use of subterranean depths

3. Location of the licence area in public waters:

name of the water body or watercourse

(parish)

(municipality)

4. Coordinates of the licence area:

4.1. in public waters – in the Latvian coordinate system LKS-92 TM;

4.2. in the sea – ellipsoidal (geographic) coordinates in WGS 84 system.

5. The following documents have been appended to the application:

5.1. justification for determination of the licence area on _____ pages;

5.2. map or plan of the licence area (in scale of 1:10 000-1:50 000 or another appropriate scale), in which the licence area is clearly presented, on _____ pages.

Applicant _____

(given name, surname)

(signature*)

(date*)

Note. The details of the document “signature” and “date” shall not be completed if the electronic document has been prepared in accordance with the laws and regulations regarding drawing up of electronic documents.

Minister for Environmental Protection and Regional Development

E. Sprūdžs