

Code  
of the Republic of Kazakhstan  
ENVIRONMENTAL CODE OF THE REPUBLIC OF KAZAKHSTAN  
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# **GENERAL PART**

## **Section 1. General**

### **Chapter 1. General Provisions**

#### **Article 1. Basic Terms Used in this Code**

1. The following basic terms used herein shall have the following meanings:

1) “biological diversity” means the variability among animals and plants within and between species and of ecosystems;

2) “biological resources” means genetic resources, organisms or parts thereof, populations, or any other biotic components of ecosystems, which are of actual or potential benefit or value to mankind;

3) “genetically modified organisms” means organisms capable of replication or transferring inheritable genetic material, other than natural organisms, which are produced using gene engineering techniques and which contain genetically engineered materials (genes, gene fragments or combinations);

4) “genetically modified products” means plant and/or animal products which are produced using gene engineering techniques and which contain non-living genetically modified organisms or components thereof;

5) “best available technologies” means industry technologies, plant and equipment which are used or planned to be used to support organisational and managerial efforts to mitigate the negative impact of business operations on the environment with a view to achieving the environmental quality goals;

- 6) “inert waste” means waste that does not undergo any significant physical, chemical or biological transformations and does not adversely affect the environment or human health;
- 7) “municipal waste” means consumption waste that forms in populated areas, including as a result of vital activity of people, and also industrial waste, which is similar to it in terms of the composition and formation pattern;
- 8) “waste classification index” means an application-oriented information and reference document, which incorporates the results of waste classification;
- 9) “waste inventory” means a system for the collection and production of information on quantitative and qualitative characteristics of waste and on waste management methods;
- 10) “waste disposal” means operations as to burial and destruction of waste;
- 11) “waste neutralisation” means reduction or elimination of hazardous characteristics of waste through mechanical, physical and chemical, or biological treatment;
- 12) “waste recycling” means use of waste as secondary natural or energy resource;
- 13) “burial of waste” means storage of waste at places specifically designated for safe storage of the same for an unlimited period of time;
- 14) “waste treatment” means physical, thermal, chemical or biological processes, including segregation, which are used to alter characteristics of the waste to reduce its volumes or hazardous features, and to facilitate waste management, or improve waste recycling;
- 15) “hazardous waste profile sheet” means a document containing a standardized description of waste generation processes occurring at the places of waste origin, waste qualitative and quantitative characteristics, waste management rules, waste control techniques, types of harmful impact of waste on the environment, human health and/or property, and information on waste producers and waste owners;
- 16) “waste placement” means storage or burial of industrial or consumption waste;
- 17) “waste storage” means storing waste at special places for their subsequent safe disposal;
- 18) “waste classification” means classification of waste depending on the hazard it poses to the environment and human health;
- 19) “waste type” means a mixture of waste that has certain features in common by its origin, properties and management technologies, as determined based on the waste classification;
- 20) “waste management” means waste-related activities, including waste prevention and minimization, waste accounting and control, waste accumulation, and also collection, treatment, recycling, neutralization, transportation, storage (storing) and disposal of waste;
- 21) “hazardous waste” means waste that contains harmful substances with hazardous properties (toxic, explosive, flammable, and highly reactive), and that poses direct or potential threat to the environment or human health by itself or when reacting with other substances;
- 22) “non-hazardous waste” means waste, which is not deemed hazardous or inert waste;
- 23) “favourable environment” means the environment, the condition of which ensures the environmental safety and human health protection, preservation of biodiversity, prevention of pollution, and enables stable functioning of ecosystems, reproduction and sustainable use of natural resources;
- 24) “environment” means all natural and artificial objects, including air, ozone layer of the Earth, surface water and groundwater, land, subsoil, flora and fauna, the climate, and the interaction therebetween;
- 25) “environmental damage” means environmental pollution or extraction of natural resources in excess of the established limits, which causes or may cause degradation and depletion of natural resources or death of living organisms;
- 26) “emission” means discharge or release of pollutants, industrial and consumption waste placement into the environment, and also harmful physical effects;

27) “emission quota” means a portion of the emission limit allocated to a specific natural user for a specific period of time;

28) “emission limits” means prescribed volume of emissions into the environment that is established for a specific period of time;

29) “environmental quality standards” means characteristics describing a condition of the environment and natural resources, which is favourable for human life and health;

30) “environmental quality goals” mean characteristics describing the ultimate level of regulated environmental parameters at a specific period of time, with due consideration of the need for gradual improvement of the environmental quality;

31) “environmental protection” means a system of governmental and social efforts to preserve and restore the environment; to prevent adverse impact, and to mitigate consequences, of economic and other activities on the environment;

32) “environment protection authority” means the central executive agency responsible for the management and interindustry coordination of the development and implementation of national environmental protection and nature use policy, including its local divisions;

33) “emergency pollution” means sudden unintentional environmental pollution caused by an accident, which has occurred in connection with the conduct of environmentally hazardous business and other activities by individuals and/or legal entities, by way of emission in the air and/or discharge of harmful substances into water; or dispersion of solid, liquid or gaseous pollutants within an area of land surface or in the subsoil; or generation of smell, noise, vibration, radiation, or electromagnetic, thermal, light or any other physical, chemical or biological harmful effect exceeding the level permitted at the given time;

34) “environmental pollution” means the presence in the environment of any pollutants, radioactive materials, industrial and consumption waste, and also the effects of noise, vibration, magnetic fields and other harmful physical effects on the environment;

35) “polluted areas” means confined areas of land surface or water bodies, which have been polluted with hazardous chemical agents in excess of the prescribed limits;

36) “environmental quality” means the characteristics of the composition and properties of the environment;

37) “habitat” means the type of region or area of natural habitation of any organism or population;

38) “government environmental control” means the activities of the environment protection authority, which involve control over the compliance with the environmental legislation of the Republic of Kazakhstan, environmental quality standards, and environmental requirements;

39) “industrial and consumption waste” or “waste” means residues of raw materials, materials, and other items and products, which have been produced as a result of production or consumption, and also goods or products which have lost their consumer properties;

40) “sustainable production and consumption model” means a socio-economic model, which is characterised by an increase in production with reduction of consumption of non-renewable natural resources, restoration of renewable resources, and decrease in man-made environmental pollution;

41) “radioactive waste” means waste containing radioactive substances, the quantities and concentrations of which exceed the statutory figures established for radioactive substances by the legislation of the Republic of Kazakhstan regulating the use of atomic energy;

42) “implementation of the assessed project” means the commencement and progress of work involving the construction, operation, and liquidation of industrial and other facilities; provision of services; introduction of goods and technologies into commerce in accordance with decisions made under pre-design, pre-project and project documentation; enactment of a regulatory act; and other actual implementation of the assessed project;

- 43) “waste water” means water generated by business activities of people or within a polluted area, and discharged to natural or artificial water bodies or to the surface relief;
- 44) “water bodies” means water concentrated on the surface relief and within the entrails of the Earth, which has its boundaries, volume and water regime;
- 45) “liquid waste” means any waste in a liquid form, except for waste water;
- 46) “nature user” means an individual or legal entity, whose operations involve natural resource use and/or environmental emissions;
- 47) “nature object” means a natural object having its boundaries, volume and the mode of being;
- 48) “natural resources” means natural resources having consumption value, namely land, subsoil, water, flora and fauna;
- 49) “conservation of natural resources” means a system of governmental and social efforts to protect every type of natural resources against abuse, destruction, degradation, which lead to natural resources losing their consumption value;
- 50) “depletion of natural resources” means a partial or complete loss of quantitative characteristics of reserves of natural resources;
- 51) “environmentally-hazardous business or other activities” means activities carried out by individuals and/or legal entities, which result or may result in emergency pollution;
- 52) “environmental awareness-building” means the dissemination of ecological knowledge, information on the environmental condition, natural resources, environmental safety for the purpose of forming the basics of environmental literacy in the society;
- 53) “environmental audit” means an independent audit of business and other activities of the audited entities with a view to revealing and assessing environmental risks and developing recommendations as to increasing the environmental safety level of such activities;
- 54) “environmental education” means continuous process of training, education, self-education, and personality development with a view to forming a system of knowledge and skills, value orientation, moral and aesthetic relations, which ensure the person’s responsibility for the environmental conditions;
- 55) “ecological system” or “ecosystem” means an interrelated whole of organisms and their non-living habitat, which interact as a functioning whole;
- 56) “environmental hazard” means a condition characterised by the presence or likelihood of destruction or change in the condition of the environment due to man’s and nature’s impacts, including those caused by disasters and catastrophes, including natural ones, which threaten the vital interests of an individual and the society;
- 57) “environmental safety” means the security of vital interests and rights of an individual, society and the state against threats arising out of man’s and nature’s impacts on the environment;
- 58) “environmentally-hazardous facility” means a business or other facility, the construction and operation of which may have or have harmful impact on the environment and human health;
- 59) “environmental management” means the administrative management of environmental protection, which includes the organisational structure, planning, responsibility, methods, procedures, processes and resources for the development, introduction, implementation, analysis and sustention of the environmental policy of an enterprise;
- 60) “environmental monitoring” means systematic observation and assessment of the condition of, and the impact on, the environment;
- 61) “environmental regulation” means a system of rules (standards) and quantitative and qualitative characteristics (standards) of the condition of the environment contained therein and the degree of environmental impact;
- 62) “environmental permit” means a document authorizing its holder, whether an individual or legal entity, to effect environmental emissions;

63) “environmental impact assessment” means assessing whether the proposed business or other activities comply with the environmental quality standards and environmental requirements, and also whether the object of the environmental impact assessment can be implemented with a view to preventing potential adverse impacts of such activities on the environment and social consequences arising therefrom;

64) “environmentally sound product label” means a registered label which certifies that the products bearing it conform to the standards for environmentally sound products;

65) “environmental requirements” means restrictions and prohibitions on business and other activities capable of having an adverse impact on the environment and human health, which are set out in this Code, other laws and regulations, and regulatory technical documents of the Republic of Kazakhstan;

66) “environmental labelling” means assigning an environmentally sound product label to a product, the conformity of which has been verified in accordance with the legislation of the Republic of Kazakhstan on technical regulation;

67) “environmental risk” means the likelihood of adverse changes in the condition of the environment and/or nature objects due to the influence of certain factors;

68) “emission standards” means the permitted emission limits ensuring the compliance with the environmental quality standards;

69) “technical specific emission standards” means emission limits per time unit or product unit, or expressed otherwise, which are determined based on the possibility to ensure such limits using specific technical means and subject to costs acceptable for the economy of the country.

2. Any special terms of the environmental legislation of the Republic of Kazakhstan, which are not defined in this Article, shall have the meanings assigned to them in the respective Articles of this Code.

## **Article 2. Environmental Legislation of the Republic of Kazakhstan**

1. The environmental legislation of the Republic of Kazakhstan shall be based on the Constitution of the Republic of Kazakhstan and shall comprise this Code and other laws and regulations of the Republic of Kazakhstan.

2. If a treaty ratified by the Republic of Kazakhstan sets forth rules other than those contained herein, then the rules of the treaty shall apply.

3. In the event that there are discrepancies between this Code and other laws of the Republic of Kazakhstan regulating the relationship arising out of environmental protection, the rules of this Code shall apply.

4. Relationship arising out of the protection and use of environmental objects and specially protected natural areas shall be governed by the relevant laws of the Republic of Kazakhstan to the extent not regulated by this Code.

## **Article 3. Relationship Regulated by this Code**

1. This Code shall govern relationship arising out of the protection, restoration and preservation of the environment, use and reproduction of natural resources in the course of carrying out business or other activities, which involve natural resource use and impact on the environment, within the territory of the Republic of Kazakhstan.

2. Parties to the relationship regulated by this Code shall include individuals and legal entities, the State, and government agencies responsible for the government regulation of environmental protection, and for the government administration of natural resource use.



#### **Article 4. Environmental Basis for Sustainable Development of the Republic of Kazakhstan**

The following shall be the environmental basis for sustainable development of the Republic of Kazakhstan:

- 1) the achievement by the State of the objective consisting in the ensuring a favourable environment for human life and health;
- 2) environmental protection and biodiversity preservation;
- 3) security and implementation of the right of the Republic of Kazakhstan to develop its natural resources and to defend its national interests in matters of natural resource use and environmental impact;
- 4) fair satisfaction of needs of present and future generations;
- 5) development of sustainable production and consumption models;
- 6) conformity of the environmental regulation to the conditions of social and economic development with due consideration of the environmental condition;
- 7) honouring everyone's right to have access to environment-related information, and extensive involvement of the public in deciding matters of environmental protection and sustainable development;
- 8) ensuring publicity of environmental protection measures being taken;
- 9) global partnership for the purposes of preservation, protection and restoration of the sound condition and integrity of the ecosystem of the Earth;
- 10) promotion of development of the international law applicable to liability for environmental damage; and
- 11) containment and prevention of the transfer to other states of any activities or substances that have material impact on the environment or are deemed harmful for human health, and also taking all precautions as may be necessary in the event of threat of material or irreversible damage to the environment.

#### **Article 5. Fundamental Principles of the Environmental Legislation of the Republic of Kazakhstan**

The following shall be the fundamental principles of the environmental legislation of the Republic of Kazakhstan:

- 1) ensuring sustainable development of the Republic of Kazakhstan;
- 2) ensuring environmental safety;
- 3) using the ecosystem approach to the regulation of environmental relations;
- 4) government regulation of environmental protection, and government administration of natural resource use;
- 5) binding nature of preventive measures as to the prevention of environmental pollution and any other environmental damage whatsoever;
- 6) unavoidable liability for violations of the environmental legislation of the Republic of Kazakhstan;
- 7) liability to compensate environmental damage;
- 8) environmental impact subject to special fees and authorisations;
- 9) applying best environmentally sound and resource-saving technologies in the course of using natural resources and impacting the environment;
- 10) cooperation, coordination and publicity of the activities of state environmental protection authorities;
- 11) incentivising nature users to prevent, reduce and eliminate environmental pollution, and to reduce waste;
- 12) publicly available environmental information;

13) pursuing the national interests in the course of using natural resources and impacting the environment;

14) harmonisation of the environmental legislation of the Republic of Kazakhstan with the international law principles and rules; and

15) presuming the environmental hazard of proposed business or other activities, and mandatory assessment of their impact on the environment and human health before making a decision to engage in such activities.

#### **Article 6. Fundamental Provisions of the Government Regulation of Environmental Protection and Government Administration of Natural Resource Use**

1. The government regulation of environmental protection shall include:

- 1) licensing of activities in the area of environmental protection;
- 2) implementing the environmental regulation;
- 3) implementing the technical regulation of environmental protection;
- 4) carrying out the state environmental review;
- 5) issuing environmental permits;
- 6) exercising the government environmental control;
- 7) maintaining a system of economical regulation of environmental protection; encouraging the implementation of best environmentally sound technologies; and maintaining a system of funding environmental protection efforts;
- 8) exercising the government environmental monitoring;
- 9) carrying out the government registration of nature users, sources and areas of environmental pollution; and
- 10) promoting environmental education and awareness-building.

2. The government administration of natural resource use shall include:

- 1) carrying on the government planning of natural resource use;
- 2) exercising the government control over the protection, use and reproduction of natural resources;
- 3) issuing licenses/permits and executing agreements/contracts for natural resource use;
- 4) securing restoration and reproduction of natural resources and implementation of resource-saving technologies;
- 5) exercising natural resource monitoring and maintaining natural resource inventory;
- 6) setting limits and allocating quotas for natural resource use;
- 7) managing state-owned legal entities involved in the use, restoration or reproduction of natural resources; and
- 8) organising the protection of natural resources.

#### **Article 7. Objects of Environmental Protection**

1. Land, subsoil, surface water and groundwater; air; forests and other vegetation; fauna, and gene pool of living organisms; natural environmental systems, climate and ozone layer of the Earth shall be protected against destruction, degradation, damage, pollution, and other harmful impacts.

2. Specially protected natural areas and national nature reserves shall be subject to special protection.

#### **Article 8. National Nature Reserves**

1. The National Nature Reserves mean all environmental objects under the national protection, which have particular ecological, scientific, historical and cultural, and recreational importance as natural models, unique objects and relicts, genetic reserves, or subject matters of scientific research, awareness-building, education, tourism or recreation.

2. National nature reserves shall be as determined by the Law of the Republic of Kazakhstan On Specially Protected Natural Areas.

3. Natural nature reserves shall be protected by way of creating specially protected natural areas, and by setting prohibitions and restrictions on the use of environmental objects, which have particular ecological, scientific, historical and cultural, and recreational importance.

#### **Article 9. Specially Protected Natural Areas**

1. “Specially protected natural areas” shall be understood to mean areas of land, water bodies, and the air over them, which contain natural complexes and national nature reserves subject to special protection regimes.

2. Types of specially protected areas, the procedure for their creation, types of protection regimes, and the particular features of the management of certain types of specially protected natural areas shall be as determined in the Law of the Republic of Kazakhstan On Specially Protected Natural Areas.

#### **Article 10. Definition and Types of Nature Use**

1. “Nature use” shall be understood to mean natural resource use and/or environmental impact taking place in everyday human life, and in business and other activities of individuals and legal entities.

2. Nature use shall include general use and special-purpose use.

3. “General nature use” shall be understood to mean using nature continuously and on a free of charge basis to satisfy human’s vital needs, without pre-authorisation of natural resources use.

General nature use may be restricted pursuant to laws of the Republic of Kazakhstan.

4. “Special-purpose nature use” shall be understood to mean operations of an individual and/or legal entity, who, on a fee basis, uses natural resources and/or produce emissions in accordance with this Code and other laws of the Republic of Kazakhstan.

5. Types of nature use shall include the following:

- 1) land use;
- 2) water use;
- 3) forest use;
- 4) subsoil use;
- 5) wildlife use;
- 6) vegetation use;
- 7) producing emissions; and
- 8) other nature uses as may be determined by laws of the Republic of Kazakhstan.

6. Specifics of the creation of a right to special-purpose nature use of a particular type shall be determined by laws of the Republic of Kazakhstan.

7. Special-purpose nature use may combine one or more types of nature use.

#### **Article 11. Nature Users**

1. Nature users shall include individuals or legal entities, which permanently or temporarily stay in the Republic of Kazakhstan.

2. Nature users may be:

1) permanent (holders of perpetual nature use rights) or temporary (holders of nature use rights granted for a certain period of time);

2) initial (holders of nature use rights granted by the State or by other initial nature users by way of assignment or universal succession) and secondary (holders of temporary nature use rights granted under a contract with initial nature users reserving their status).

3. Nature users must comply with the requirements set forth in this Code and in other laws and regulations of the Republic of Kazakhstan.

## **Article 12. Grounds for the Creation, and Conditions for the Exercise, of a Special-Purpose Nature Use Right**

1. A special-purpose nature use right shall be created on any of the following grounds:

1) licenses and/or permits to use or extract natural resources and to engage in particular environmental protection-related activities;

2) resolutions issued by the Government of the Republic of Kazakhstan or local executive agencies to allocate natural resources for use in accordance with laws of the Republic of Kazakhstan;

3) nature use agreements/contracts entered into in accordance with laws of the Republic of Kazakhstan.

2. A special-purpose nature use right may be created under any one, two, or all of the documents listed in paragraph 1 of this Article in accordance with laws of the Republic of Kazakhstan.

3. To exercise their special-purpose nature use right, a nature user, which produces environmental emissions, must first obtain an environmental permit.

4. Rights to use natural resources shall be granted to individuals and/or legal entities in accordance with laws of the Republic of Kazakhstan.

5. A holder of a special-purpose nature use right, whether individual or legal entity, may not assign such right, except as otherwise provided by laws of the Republic of Kazakhstan.

6. A special-purpose nature use right may be limited or terminated in accordance with laws of the Republic of Kazakhstan with a view to enforcing security of the State or protecting the environment.

## **Chapter 2. Rights and Obligations of Individuals, Public Associations, and Local Authorities**

### **Article 13. Rights and Obligations of Individuals in Relation to Environmental Protection**

1. Individuals shall have the right:

1) to environment which is favourable for their life and health;

2) to take measures as to the protection and improvement of the environment;

3) to create environmental protection public associations and funds;

4) to participate in decision-making by government agencies on environment-related matters in accordance with legislation of the Republic of Kazakhstan;

5) to participate in gatherings, meetings, picketing, processions, demonstrations and referenda in relation to environmental protection in accordance with legislation of the Republic of Kazakhstan;

6) to apply to government agencies with letters, complaints, requests and proposals as to environmental protection matters and to demand that the same be considered;

7) to request and obtain actual, complete and reliable environment-related information from government agencies and organisations;

8) to participate in discussions of draft laws on environmental protection at their drafting stage and make comments to the drafters;

9) to participate in the preparation of environment-related plans and programmes;

10) to request, and to participate in, a public environmental review;

11) to demand that decisions to place, construct, renovate and put into operation enterprises, structures, and other environmentally-hazardous facilities be reversed by administrative or judicial authorities, and that business or other activities of individuals or legal entities, if such activities adversely impact on the environment and human health, be restricted and suspended; and

12) to bring actions for damage caused to their health or property due to violations of the environmental legislation of the Republic of Kazakhstan.

2. Individuals shall:

1) protect the environment and handle natural resources sparingly;  
2) facilitate measures as to sustainable natural resource use, environmental protection, and ensuring the environmental safety;

3) prevent any threats to the environmental safety, which may be attributable to their fault;  
and

4) in the course of their activities, comply with the environmental legislation of the Republic of Kazakhstan.

3. Individuals shall have other rights and bear other obligations as may be prescribed by laws of the Republic of Kazakhstan.

#### **Article 14. Rights and Obligations of Public Associations in Relation to Environmental Protection**

1. While carrying out their environmental protection-related activities, public associations shall have the following rights:

1) to develop and promote their ecological programmes; to protect the rights and interests of individuals; and to encourage active voluntary involvement of individuals in environmental protection;

2) to work on the protection and improvement of the environment, and on the sustainable use and reproduction of natural resources; to participate in the protection of environmental objects, which have particular ecological, scientific, historical and cultural, and recreational importance, and in the activities of specially protected natural areas ;

3) to participate in decision-making by government agencies on environment-related matters in accordance with legislation of the Republic of Kazakhstan;

4) to contribute to environmental education and awareness-building, and to carry on scientific research with regards to environmental protection;

5) to initiate and organise a public environmental review and to hold public consultations;

6) to exercise public environmental control;

7) to request and obtain actual, complete and reliable environment-related information from government agencies and organisations;

8) to cooperate and interact with government agencies and organisations in the area of environmental protection, to enter into agreements with, and to perform certain contractual work prescribed by legislation of the Republic of Kazakhstan for, such agencies and organisations;

9) to participate in discussions of draft laws on environmental protection at their drafting stage and make comments to the drafters;

10) to participate in the preparation of environment-related plans and programmes;

11) to propose holding individuals and/or legal entities liable for, and to bring actions for damage caused to the health and/or property of individuals due to violations of the environmental legislation of the Republic of Kazakhstan;

12) to demand that decisions to place, construct, renovate and put into operation enterprises, structures, and other environmentally-hazardous facilities be reversed by administrative or judicial authorities, and that business or other activities of individuals or legal entities, if such activities adversely impact on the environment and human health, be restricted and suspended; and

13) to create environmental protection funds.

2. While carrying out their environmental protection-related activities, public associations shall:

- 1) assist in the implementation of measures conducive to sustainable natural resource use, environmental protection, and ensuring the environmental safety; and
- 2) carry out their activities in accordance with legislation of the Republic of Kazakhstan.
3. Public associations shall have other rights and bear other obligations as may be prescribed by laws of the Republic of Kazakhstan.

### **Article 15. Powers of Local Authorities in Relation to Environmental Protection and Nature Use**

The powers of local authorities in relation to environmental protection and nature use shall include:

- 1) organising work on the improvement of, and planting of greenery in, populated areas;
- 2) organising work on cleaning up populated areas;
- 3) maintaining places for storage and burial of industrial and consumption waste; and
- 4) making proposals to local executive agencies or to the authorised government agency for the protection and use of historical and cultural heritage on declaring nature objects and other objects having ecological, scientific, historical and cultural, or recreational importance as historical or cultural monuments.

## **Chapter 3. Competence of Government Agencies in Relation to Environmental Protection and Nature Use**

### **Article 16. Competence of the Government of the Republic of Kazakhstan**

For the purpose of environmental protection and nature use, the Government of the Republic of Kazakhstan shall:

- 1) determine principal directions of state policy on matters of environmental protection, natural resource use, and waste management, and strategic measures for the implementation thereof;
- 2) develop national ecological programmes, programmes on various aspects of nature use, and also programmes for protection of climate and ozone layer of the Earth;
- 3) approve various models of nature use;
- 4) make decisions to grant natural resources for use in accordance with laws of the Republic of Kazakhstan;
- 5) approve environmental protection programmes at the national level and those regarding specially protected natural areas;
- 6) for every type of national resources, determine the procedure for keeping state accounting records, state inventory, and for exercising the state monitoring;
- 7) approve:
  - technical regulations in the area of environmental protection;
  - lists of best available technologies;
  - a list of pollutants and types of waste, for which emission standards are established and charges for emissions are imposed;
  - qualification requirements for a licensable type of environmental protection-related activities;
  - procedure for trading emissions and obligations to reduce emissions;
  - procedure for maintaining the state register of polluted areas;
  - base and maximum rates of emission charges; and
  - rules for economic assessment of damage caused by environmental pollutions;
- 8) determine:
  - a list of environmentally-hazardous types of business and other activities;
  - a list of protected environmental objects having particular ecological, scientific or cultural importance;

- a procedure for holding open tenders of environmental protection projects;
  - a procedure for managing abandoned hazardous waste, which has been found by a court decision as having become the property of the State; and
  - a procedure for the formation of abandonment funds for waste landfills;
- 9) establish:
- a procedure for determining environmental quality goals;
  - a procedure for issuing complex environmental permits, and a list of type of industrial facilities, which are allowed to apply for and obtain such complex environmental permits, rather than emission permits;
  - a procedure for limitation, suspension or reduction of greenhouse gas emissions;
  - a procedure for issuing permits to import/export ozone-depleting substances and products containing the same, to perform work using ozone-depleting substances, and to repair, assemble, and servicing equipment containing ozone-depleting substances;
  - a procedure for keeping state accounting records on sources of greenhouse gas emissions and on consumption of ozone-depleting substances;
  - criteria for evaluating regional environmental situation;
  - environmental criteria for land appraisal;
  - limits of the national area of outstanding natural beauty in the northern Caspian Sea region;
- and
- a procedure for import, export, and transit of waste;
- 10) cooperate internationally; and
- 11) rate territories as environmental emergency areas and take decisions to withdraw the legal regime applicable to such environmental emergency areas.

### **Article 17. Competence of the Environment Protection Authority**

The environment protection authority shall:

- 1) pursue a uniform national environmental policy and organise the implementation of environmental protection programmes;
- 2) to the extent it comes within its competence, coordinate the activities of central and local executive agencies in relation to environmental protection;
- 3) exercise public administration in the area of protection of climate and ozone layer of the Earth;
- 4) to the extent it comes within its competence, coordinate the activities of individuals and legal entities in the area of protection of climate and ozone layer of the Earth, preservation of biodiversity, desertification and degradation of land;
- 5) to the extent it comes within its competence, approve or consent to environmental standards and environmental requirements with regard to business and other activities;
- 6) develop programmes for achieving environmental quality goals;
- 7) consent to regional programmes and plans of action as to environmental protection;
- 8) issue environmental permits specifying emission limits;
- 9) exercise the government environmental control;
- 10) issue licenses to perform environmental protection-related work or services;
- 11) to the extent it comes within its competence, consent to licenses, permits, agreements/contracts in relation to natural resource use;
- 12) to the extent it comes within its competence, carry out the state environmental review, and also coordinate, and exercise systematic supervision of, the environmental review in the Republic of Kazakhstan;
- 13) exercise control over activities of officials of local executive agencies involving the organisation and conduct of the state environmental review; provided, however, that the

environment protection authority may withdraw or cancel an opinion of the state environmental review in the event of violations of the environmental legislation of the Republic of Kazakhstan;

14) decide to conduct the mandatory environmental audit, and approve a form of opinion on such environmental audit;

15) organise the state monitoring of the environmental condition and certain special types of monitoring, and also coordinate the maintenance of the Unified State Environmental and Natural Resource Monitoring System;

16) organise maintenance of the Unified System of Natural Resource Register;

17) organise maintenance of the State Registry of Industrial and Consumption Waste;

18) organise maintenance of the State Registry of Burial of Hazardous Substances and Radioactive Waste, and Disposal of Waste Water into Subsoil, and approve instructional and procedural documents regarding such maintenance;

19) organise keeping of state accounting records of polluted areas;

20) organise maintaining of the State Greenhouse Gases Inventory and the State Consumption of Ozone-Depleting Substances Inventory;

21) issue permits to import/export ozone-depleting substances and products containing the same, to perform work using ozone-depleting substances, and to repair, assemble and servicing equipment containing ozone-depleting substances;

22) maintain the State Register of Nature Users and Environmental Pollution Sources, and establish a procedure for keeping records of accounting thereof;

23) organise maintenance of the State Pool of Environment-Related Information, establish timing and procedure for granting access to environment-related information with regard to the procedure for environmental impact assessment and making decisions on proposed business or other activities;

24) develop lists of best available technologies and organise maintenance of a register thereof;

25) determine lists of waste to be placed in landfills of various types;

26) develop technical regulations on environmental protection;

27) develop and approve forms of documents relating to the organisation and conduct of the government environmental control;

28) develop and approve instructional and procedural documents regarding the conduct of the environmental impact assessment and state environmental review, including a procedure for conducting the state environmental review;

29) approve:

– a method of determining emission standards;

– a waste classification index;

– a form of a hazardous waste report;

– a procedure for inclusion of nature use conditions into emission permits; forms of documents for issuing emission permits and a procedure for filling out the same;

– a model list of environment-protection measures;

– a method of calculation of charge for emissions;

– rules for exercising control over activities of officials of local executive agencies in the area of environmental review;

– a form of an opinion of the state environmental review;

– a composition of and regulations on the expert board for technical regulation;

– lists, forms and timing for information exchange regarding the maintenance of the Unified State Environmental and Mineral Resource Monitoring System;

– maximum permissible concentrations of chemical substances in the soil; and



– a procedure for approving programmes for environmental production control, and establish requirements to reports on the results of such environmental production control;

30) establish:

– a procedure for holding public consultations;

– a procedure for determining and approving levels of maximum permissible greenhouse gas emissions and consumption of ozone-depleting substances; and

– a procedure for inventorying emissions of greenhouse gases and ozone-depleting substances;

31) improve the activities of laboratory and analytical control services within the system of government environmental regulatory agencies;

32) participate in approving basin schemes of integrated use and protection of water bodies, drafting basin agreements, developing national (regional and basin) programmes for use, reproduction and protection of water bodies, and, to the extent it comes within its competence, in implementing the basin principle of water resource management;

33) cooperate internationally in the area of environmental protection;

34) enter into agreements and memoranda in relation to environmental protection;

35) organise the development and publication of the National Ecological Atlas;

36) maintain a register of draft laws, which have passed the state environmental review; and

37) exercise other powers prescribed by this Code.

#### **Article 18. Competence of Special Authorised Government Agencies**

1. Special authorised government agencies in the area of environmental protection, and protection, reproduction and use of natural resources shall include:

1) the authorised government agency for use and protection of water resources;

2) the central authorised agency for land management;

3) the authorised government agency for forestry;

4) the authorised government agency for wildlife protection, reproduction and use;

5) the authorised government agency for specially protected natural areas;

6) the authorised government agency for subsoil study and use;

7) the authorised government agency for natural and man-made emergencies;

8) the authorised government agency for sanitary and epidemiological safety;

9) the authorised government agency for veterinary;

10) the authorised government agency for plant protection and quarantine; and

11) the authorised government agency for nuclear energy use.

2. The competence of special authorised government agencies shall be defined by the Land, Water, and Forestry Codes of the Republic of Kazakhstan, and also by the laws of the Republic of Kazakhstan on subsoil and use of subsoil; on petroleum; on wildlife protection, reproduction and use; on specially protected natural areas; on health protection and sanitary and epidemiological safety; on natural and man-made emergencies; on industrial safety of hazardous production facilities; on veterinary; on plant protection and quarantine; on nuclear energy use; and on radiation safety.

#### **Article 19. Competence of Local Representative Bodies of Oblasts (of the City of National Significance, and of the Capital) for Environmental Protection**

Local representative bodies of oblasts (of the city of national significance, and of the capital) (hereinafter, the “local representative bodies”) for environmental protection shall:

1) approve programmes for environmental protection and nature use to be implemented within their respective territories, and also budgets for the protection and improvement of the environment;

- 2) to the extent it comes within their respective competencies, approve waste management programmes;
- 3) to the extent it comes within their respective competencies, approve environmental quality goals;
- 4) hear reports of heads of local executive agencies and legal entities on the status of environmental protection and nature use;
- 5) to the extent it comes within their respective competencies, adopt nature use rules, for violation of which administrative liability may be imposed; and
- 6) set rates of emission charges.

#### **Article 20. Competence of Local Executive Agencies of Oblasts (of the City of National Significance, and of the Capital) for Environmental Protection**

Local executive agencies of oblasts (of the city of national significance, and of the capital) (hereinafter, the “local executive authorities”) for environmental protection shall:

- 1) organise the preparation of programmes and other documents on environmental protection and nature use measures, and ensure the implementation of such programmes and documents, which shall be subject to approval by the environment protection authority, within their respective territories;
- 2) based on opinions of the state environmental review and state sanitary and epidemiological review and, to the extent it comes within their respective competencies, permit or prohibit construction or upgrade of enterprises, structures, and other facilities;
- 3) organise and, to the extent it comes within their respective competencies, carry out the state environmental review of facilities and projects;
- 4) organise public consultations in connection with the state environmental review;
- 5) make proposals as to the preparation of documents in relation to environmental protection, and submit pilot drafts of such documents for consideration of the environment protection authority;
- 6) call external experts, whether individuals or legal entities holding licenses to provide environmental protection-related work or services, for expert reviews;
- 7) to the extent it comes within their respective competencies, determine environmental quality goals;
- 8) organise the development, and ensure the implementation, of waste management programmes;
- 9) allocate land plots for construction of industrial and consumption waste placement facilities;
- 10) ensure construction of facilities for waste disposal and placement;
- 11) ensure the compliance with environmental requirements in relation to municipal waste management;
- 12) control waste generation volumes and work out measures and economic incentives aimed at the reduction of waste generation volumes, increase in the level of waste recycling or alternative use, and reduction of waste to be buried;
- 13) take decisions on granting natural resources for use in accordance with the laws of the Republic of Kazakhstan;
- 14) inform the population on the condition of nature objects located within their respective territories;
- 15) register the conduct of public environmental reviews; and
- 16) develop and submit investment projects in the area of environmental protection to the environment protection authority.

## **Section 2. Licensing of Environmental Protection-Related Activities; Environmental Regulation; Technical Regulation of Environmental Protection; Environmental Impact Assessment; Environmental Review; Environmental Permits; and Environmental Audit**

### **Article 21. Licensing of Environmental Protection-Related Activities**

1. Activities of individuals and legal entities, which involve environmental design, environmental regulation, environmental review, and environmental audit, shall be subject to licenses to provide environmental protection-related work and services.

2. The environment protection authority shall be responsible for issuing licenses to provide environmental protection-related work and services in accordance with the licensing legislation of the Republic of Kazakhstan.

3. Qualification requirements to licensable environmental protection-related activities shall be as approved by the Government of the Republic of Kazakhstan.

### **Chapter 4 Environmental Regulation**

#### **Article 22. Objective of Environmental Regulation**

1. The objective of environmental regulation is to regulate the environmental quality and to define the permissible environmental impact to ensure the environmental safety, preservation of the ecological systems and biological diversity.

2. Environmental quality standards, emissions standards and standards applicable to the use and conservation of natural resources shall be established in the course of the environmental regulation.

#### **Article 23. Environmental Quality Standards and Their Setting Procedure**

1. Environmental quality standards shall include:

1) standards set in accordance with the chemical indicators of the environmental condition including the standards of maximum permissible concentrations, including radioactive substances, approximate safe levels of chemical substances;

2) standards set in accordance with physical parameters of the environmental condition including maximum permissible levels of noise, vibration, magnetic fields, radioactivity, heat and other physical impacts;

3) standards set in accordance with biological parameters of the environmental condition including types and groups of plants, animals and other organisms used as indicators of the environmental quality and standards of maximum permissible concentrations of microorganisms regulated by the sanitary-and-epidemiologic rules and standards and hygienic standards:

index of quality of soil, humus content, index of soil erosion by water and wind, soil bogging, salination, alkalisation and other soil characteristics of lands;

timber condition and afforestation of an area, level of debris-strewn forest, sanitary state of forests, other qualitative and quantitative parameters of certain parts of forest resources;

potable and other water standards prescribed by the laws of the Republic of Kazakhstan;

4) other environmental quality standards prescribed by the laws of the Republic of Kazakhstan.

2. for the purpose of establishing maximum permissible concentration standards, the state sanitary and epidemiological safety authority shall keep a state registry of potentially hazardous

chemical substances, including classification of harmful substances according to the level of their hazard. No chemical substances shall be permitted to be used in the Republic of Kazakhstan unless such substances are registered in the state registry.

3. The procedure for setting standards of maximum permissible concentrations and approximate safe levels of substances shall be defined in the laws on sanitary-and-epidemiological safety, on wildlife conservation, reproduction and use and land laws of the Republic of Kazakhstan.

4. The natural resource status standards shall be set for each type of natural resources in accordance with laws of the Republic of Kazakhstan.

#### **Article 24. Environmental Quality Goals**

1. Environmental quality goals may be established for certain areas.

2. the environmental quality goals shall regulate the maximum level of specified environmental parameters for a certain period of time subject to the need of gradual improvement of the environmental quality.

3. Different environmental quality goals may be established for:

- 1) residential area;
- 2) specially protected natural areas;
- 3) recreation areas;
- 4) desert and semi-desert areas; and
- 5) water bodies.

4. Environmental quality goals shall be set by relevant environmental protection programmes elaborated by local executive agencies of oblasts (of the city of national significance, and of the capital) and approved by local representative bodies, in case of local application, and by the Government of the Republic of Kazakhstan, in case of nation-wide application and with regards to specially protected natural areas.

5. Setting of the environmental quality goals must ensure:

- 1) gradual achievement of the environmental quality standards everywhere in the Republic of Kazakhstan;
- 2) environmental safety and mitigation of risks to human health; and
- 3) regulation of the environmental quality subject to socio-economic conditions, plans and programmes of economic development of the Republic of Kazakhstan and its regions, and the requirement for conservation of ecosystems and genetic fund of plants and wildlife.

6. The procedure for setting the environmental quality goals shall be defined by the Government of the Republic of Kazakhstan.

#### **Article 23. Emission Standards**

1. Emission standards shall include:

- 1) technical specific emission standards;
- 2) standards of maximum permissible emissions and pollutant discharge;
- 3) standards of industrial and consumption waste placement; and
- 4) standards of permissible physical impacts (heat volume, levels of noise, vibration, ionizing radiation and other physical impacts).

2. Emission standards shall provide for compliance with environmental quality standards subject to the natural specifics of lands and water areas, and shall be based on the maximum permissible concentrations or environmental quality goals.

3. A level of emission standards shall form a basis for the grant of environmental permits and decision-making with regard to the need of arrangement of technical measures to mitigate the negative impact of business and any other activities on the environment and human health.

## **Article 26. Technical Specific Emission Standards**

1. Technical specific emission standards shall be set for certain processes and segments of industry on the basis of introduction of the best available technologies.
2. Technical specific emission standards shall be specified in the technical regulations and serve as the basis for complex environmental permits.

## **Article 27. Standards of Maximum Permissible Emissions and Pollutant Discharges**

1. Standards of maximum permissible emissions and pollutant discharges shall represent the volumes of emissions that are set on the basis of calculations for each emission source and a facility as a whole so as to ensure that the environmental quality standards can be achieved.
2. Standards of maximum permissible emissions and pollutant discharges shall be used when granting permits for emissions as part of projects containing calculated values of standards, plan-schedules for achieving the standards of maximum permissible emissions and pollutant discharges by natural users, set levels of technical specific emission standards for mobile and stationary emission sources, process technologies and equipment. The term of validity of standards of maximum permissible emissions and pollutant discharges shall be determined by reference to the term of the statement of opinion of the state environmental review issued in relation to the projects containing standards.

## **Article 28. Procedure for Emission Standards Determination**

1. Draft emission standards shall be substantiated in an environmental impact assessment report with regard to business and other activities or in separate documents.
2. Emission standards shall be developed by individuals and legal entities licensed to perform environmental protection-related works and services.
3. Emission standards for certain sources shall be established by equal technical specific emission standards or determined by calculations based on the environmental quality standards.
4. Calculation method of determining emission standards shall be approved by the environment protection authorities.
5. when setting the emission standards, existing environmental pollutions shall be taken into account. Information about background concentrations of environmental parameters shall be provided by the hydrometeorological services of the Republic of Kazakhstan under an agreement with a project originator or an engineering entity.
6. Emission standards from mobile sources shall be established in accordance with the laws of the Republic of Kazakhstan on technical regulation by way of maximum concentrations of main airborne pollutants in exhaust gas and technical regulations for mobile sources.

## **Article 29. Other Natural Resource Status Standards**

1. Natural resources status standards shall be established for the purpose of protection and restoration of natural resources.
2. Natural resource status standards and procedure for their setting shall be defined in the laws of the Republic of Kazakhstan on subsoil and subsoil use, on wildlife protection, reproduction and use, as well as land, water and forest laws of the Republic of Kazakhstan.

## **Chapter 5. Technical Regulation in Environmental Protection**

### **Article 30. Facilities and Procedure for Environmental Conformity Certification**

Facilities and procedure for environmental conformity certification shall be defined by the laws of the Republic of Kazakhstan on technical regulation.

### **Article 31. Standards for Conformity Certification for the Purpose of Environmental Safety**

1. Conformity to the requirements established by laws and regulations concerning technical regulation shall be ensured by application of harmonised standards.

Standards adopted by organisations shall be applied voluntarily and must not contradict the requirements established by laws and regulations concerning technical regulation.

2. No sale of products, services, and processes, which are subject to the compulsory conformity certification and which failed to be so certified, shall be permitted.

### **Article 32. Environmental Labelling**

1. The objectives of the environmental labelling are:

1) protection of a consumer from acquiring (use) of environmentally hazardous products;  
2) prevention of environmental pollution in the course of manufacture, use and liquidation (recycling, processing) of all types of products;

3) ensure environmental safety of equipment, processes, production and products;

4) introduction of environmentally sound process technologies, equipment and production;

5) prevention of import of environmentally hazardous products and technologies into the country; and

6) support of export and enhancement of competitiveness of domestic products.

2. The object of environmental labelling shall be such product, the manufacture of which causes the least hazardous or favourable impact on the environment, human health and biological resources. The object of environmental labelling shall also include the process of product manufacturing and technologies applied.

3. Producers shall mark their products with environmentally sound product labels on a voluntary basis, upon conformity certification. Environmental labelling of products shall be performed by a non-commercial organisation in a relevant industry in the procedure as prescribed by the laws of the Republic of Kazakhstan on technical regulation.

4. Environmentally sound product standards, forms and technical requirements to the environmentally sound product label shall be established by a non-commercial organisation accredited in accordance with the Law of the Republic of Kazakhstan On Technical Regulation.

### **Article 33. Expert Council for Technical Regulation**

The expert council for technical regulation of the environment protection authority shall draft technical regulations and review proposals for drafting and application of technical regulations in the environmental protection.

### **Article 34 Introduction of International Standards**

1. Introduction of international standards of environmental management system by nature users shall be promoted by:

1) distributing information about international standards;

2) reducing by the environment protection authority of frequency of inspections of those nature users which have introduced international standards of environmental management system and possess a document proving the same; and

3) applying mechanisms of economic regulation of the environmental protection.

2. Incentives for introduction of international standards shall be applied in accordance with laws of the Republic of Kazakhstan.

## **Chapter 6. Environmental Impact Assessment**

### **Article 35. Environmental Impact Assessment**

An environmental impact assessment is the process, which includes assessment of likely impact on the environment and human health of a business and other activity, development of measures with a view to preventing adverse effect (destruction, degradation, damage and depletion of natural ecological systems and natural resources) and improving the environment, subject to the requirements of the environmental laws of the Republic of Kazakhstan.

### **Article 36. Obligation to Perform Environmental Impact Assessment**

1. environmental impact assessment is obligatory for all types of business and other activities which are likely to have direct or indirect impact on the environment and human health.
2. No elaboration and implementation of business and other activity projects capable of affecting the environment shall be permitted unless the environmental impact assessment is performed. Results of the environmental impact assessment shall form integral part of pre-planned, planned, pre-project and project documentation.
3. Long-term operation of projected and existing facilities shall be subjected to an environmental impact assessment in accordance with the requirements set out in this Code.
4. A customer (originator) and a project developer must consider the results of environmental impact assessment and arrange for adoption of such an option which has the least impact on the environment and human health.

### **Article 37. Stages of Environmental Impact Assessment**

1. Environmental impact assessment shall be performed step-by-step, subject to the stages of town planning and structural design as prescribed by laws of the Republic of Kazakhstan.
2. Environmental impact assessment shall include the following stages:
  - Stage 1. Assessment of the area (baseline environmental study) to be performed for justifying selection of an optimum place for placing a facility;
  - Stage 2. Preliminary environmental impact assessment to support the substantiation of the cost study (project feasibility study);
  - Stage 3. Impact assessment to ensure complete and comprehensive analysis of likely effects of project implementation or further performance of business and other activities, to substantiate alternative options and develop an environmental management plan (programme);
  - Stage 4. Section “Environmental Protection” as part of the detail engineering which contains engineering solutions to prevent adverse environmental impact;
  - Stage 5. Post-project analysis to be performed a year after the commencement of business and other activities to confirm environmental safety of the facility and update environmental measures.
3. Emission standards shall be developed at stage 3 of the environmental impact assessment in accordance with Chapter 4 hereof.

### **Article 38. Procedure for Performance of Environmental Impact Assessment**

1. Environmental impact assessment shall be performed by individuals and legal entities licensed to perform environmental protection-related works and services.
2. Environmental impact assessment works shall be arranged and financed by a customer (originator) of a planned activity.
3. Individuals and legal entities engaged in the environmental impact assessment shall be contractually liable to the customer for reliability, completeness and quality of the results of the environmental impact assessment.

4. in the course of environmental impact assessment, the environment protection authority shall control the compliance with the requirements of environmental laws of the Republic of Kazakhstan.

#### **Article 39. Types of impacts to be Accounted in the Context of Environmental Impact Assessment**

1. In the course of environmental impact assessment, the following factors shall be considered:

1) direct impacts, i.e. impacts caused directly by the principal and associated types of planned activities in the facility site area;

2) indirect impacts, i.e. environmental impacts caused by indirect (secondary) factors resulted from the project implementation; and

3) cumulative impacts, i.e. impacts resulting from continuously increasing changes caused by the past, present or reasonably predicted actions which accompany the project implementation.

2. in the course of environmental impact assessment, there shall be assessed the impact on:

1) atmospheric air;

2) surface and ground waters;

3) water body beds;

4) landscapes;

5) land resources and soil;

6) vegetation;

7) wildlife;

8) condition of ecological systems;

9) state of human health; and

10) social sphere (public employment, education, transport infrastructure).

3. When performing environmental impact assessment, negative and positive effects of the environmental and human health impact shall be taken into account.

#### **Article 40. Classification of Objects of Environmental Impact Assessment According to Significance and Completeness of Assessment**

1. By significance and completeness of the assessment, business and other activities for which an environmental impact assessment is performed can be classified by 4 categories – I, II, III, IV.

Category I shall include the types of activities graded as the 1<sup>st</sup> and 2<sup>nd</sup> classes of hazard pursuant to the sanitary classification of industrial facilities, as well as exploration and mining of natural resources, except for commonly occurring mineral resources.

Category II shall include the types of activities graded as the 3<sup>rd</sup> class of hazard pursuant to the sanitary classification of industrial facilities, as well as mining of commonly occurring mineral resources, all types of forest exploitation and special water use.

Category III shall include the types of activities graded as the 4<sup>th</sup> class of hazard pursuant to the sanitary classification of industrial facilities.

Category IV shall include the types of activities graded as the 5<sup>th</sup> class of hazard pursuant to the sanitary classification of industrial facilities, as well as all types of use of wildlife objects, except for amateur (sport) fishing and hunting.

2. The environmental impact assessment directive establishes differentiated requirements to the performance of environmental impact assessment with regard to projects belonging to different categories.

#### **Article 41. Documentation of Environmental Impact Assessment**

1. Documentation of environmental impact assessment shall include:



- 1) details of the customer of business and other activities;
  - 2) motion (application, notice of intent) substantiating the necessity of the planned activities, substantiation of the cost of a project, feasibility study (project), approvable part of the engineering project and explanatory memorandum;
  - 3) description of the baseline environmental condition by components as existed prior to the performance of the activities or at present;
  - 4) project description, including:
    - goals and quantitative characteristics of the whole project and requirements to site area for the period of construction and operation;
    - main characteristics of industrial processes, including the type and quantity of materials and equipment to be used, description of possible types of impact of the planned activities on the environmental components specifying the volume and composition of emissions, consumed raw materials and withdrawn resources;
  - 5) analysis of applied technology for compliance with the best available technologies and technical specific standards;
  - 6) information about alternative options and main reasons for selecting the project option;
  - 7) description of a possible impact of activities on the environment, human health and socio-economic conditions;
  - 8) uncertain environmental impact of the projected business and other activities;
  - 9) assessment of environmental and human health risks;
  - 10) description of measures intended to prevent and mitigate the environmental impact, including proposals as to environmental monitoring;
  - 11) project emission standards and standards of natural resource withdrawal;
  - 12) substantiation of production environmental control programme;
  - 13) environmental and economic assessment of the project, subject to possible risks and compensation of caused damage;
  - 14) records of public opinion in the form of protocols which contain conclusions on the results of public discussion of environmental aspects of the planned activities;
  - 15) indication of any difficulties and lack of information experienced when performing environmental impact assessment; and
  - 16) main conclusions on the results of the environmental impact assessment.
2. Following the environmental impact assessment, the customer (originator) of the planned activities shall prepare and submit a statement of environmental impact of the planned or current activities, which shall serve as a basis for making a decision to allow to proceed with the analysed activities.
  3. Completeness of the documentation at each stage of the environmental impact assessment shall be determined in accordance with the environmental impact assessment directive.

#### **Article 42. Methodical Support of Environmental Impact Assessment**

1. Environmental impact assessments shall be performed in accordance with the instructional regulatory documents on environmental impact assessment which are approved by the environment protection authority.
2. The environment protection authority, to the extent it comes within its competence, shall control the compliance with the requirements of instructional regulatory documents on environmental impact assessment in the course of the performance of environmental impact assessment by individuals and legal entities.

### **Article 43. Specifics of Environmental Impact Assessment with regard to Facilities Which is Likely to Have Transboundary Impact**

Specifics of the environmental impact assessment with regard to facilities which is likely to have transboundary impact shall be defined by international treaties ratified by the Republic of Kazakhstan.

### **Article 44. Specifics of Environmental Impact Assessment for Existing Facilities**

1. An environmental impact assessment for existing facilities must be completed in the event that such assessment had not been performed during the facility design, or if the conditions of nature use differ significantly from the conditions assumed by the project documentation.

2. In the event of upgrade of an existing facility, provided, however, that such upgrade is not envisaged by the initial project documentation, an environmental impact assessment shall be performed in the form of separate materials or as amendments to the environmental impact assessment for the facility as a whole.

3. If the environmental impact assessment for the existing facility is required pursuant to paragraphs 1 and 2 of this Article, such assessment must be completed prior to the submission of an application for the environmental permit.

## **Chapter 7. Environmental Review**

### **Article 45 Types of Environmental Review**

In the Republic of Kazakhstan, there shall be performed state environmental review and public environmental review.

### **Article 46. Objectives of Environmental Review**

Environmental review is performed for the purpose of:

- 1) determination and limitation of likely negative impact on the environment and human health of planned management, business, investment, rule-making and other activities;
- 2) maintaining balance of interests of economic development and environmental protection and preventing damage to third parties in the course of nature use.

### **Article 47. Objects of State Environmental Review**

1. The state environmental review must be conducted in relation to:

- 1) projects of planned business and other activities accompanied by the environmental impact assessment in accordance with the stages defined in Article 37 hereof;
- 2) all types of pre-planned and pre-project documentation relating to the nature use issues, forecast projects, environmental and other programmes, concepts of principal activities of government agencies and organizations, state investment programmes, agreements, and contracts including those relating to the change of ownership and privatisation forms;
- 3) reconstruction projects, which includes environmental impact assessments for existing facilities;
- 4) draft emission standards;
- 5) drafts laws and regulations of the Republic of Kazakhstan, technical regulatory and instructional documents, the implementation of which is likely to result in negative environmental impact;
- 6) feasibility studies (calculations) and projects of placement, construction, reconstruction, development, upgrade, conversion, and liquidation of plants, facilities and complexes, buildings and structures, and biological substantiation for mining and use of animal and plant resources;
- 7) draft area layout maps;

8) urban and area general development plans, including areas of special economic zones and territories which offer special conditions for business activities;

9) data of comprehensive environmental study of the areas to substantiate assigning to such areas of the legal status of specially protected natural areas, areas of environmental disorder or environmental emergency, and rehabilitation programmes for such areas;

10) projects of business and other activities which are likely to cause an environmental impact on adjacent states, or the performance of which will require the use of natural objects which are shared with certain states, or which affect the interests of adjacent states as defined in the international treaties;

11) documents substantiating environmental requirements to new equipment, technologies, materials and goods, including those purchased abroad; and

12) documentation substantiating the issue of permits (licences) for the use and/or withdrawal of natural resources.

2. Objects of state environmental review shall be subjected to a repeated state environmental review in the following cases:

1) finalisation of the project under state environmental review subject to comments of the previous state environmental review;

2) introduction of amendments into the project and other documentation after obtaining an affirmative statement of opinion of state environmental review; and

3) on the grounds of a court judgment.

3. Objects of state environmental review shall be subdivided into categories I, II, III, IV in accordance with the classification set out in Article 40 hereof.

Category I shall also include draft laws and regulations elaborated by central government agencies and the objects specified in sub-paragraphs 6) – 9) and 11) of paragraph 1 of this Article.

Category II shall also include draft legal acts of local authorities, draft regional plans and programmes, general area development plans of oblast and district importance.

#### **Article 48. Agencies Performing State Environmental Review**

1. State environmental review shall be performed by environment protection authority and local executive agencies within their competence.

2. State environmental review of Category I objects shall be performed by central executive environment protection agency, of Category II and III objects – by territorial bodies of the environment protection authority, and of Category IV objects – by local executive agencies.

#### **Article 49. Procedure for Performance of State Environmental Review**

1. Documents for state environmental review shall be submitted by:

1) a customer (originator) of the planned management, business, investment and other activities;

2) an officer of a government agency which prepares draft laws and regulations, plans and programmes which must undergo state environmental review.

2. Procedure for the performance of state environmental review shall be determined by the environment protection authority.

#### **Article 50. Duration of State Environmental Review**

1. The duration of state environmental review shall not exceed three months from the date of submission of all required re-reviewed documents to the agencies performing state environmental review.

2. The duration of the pre-review must not exceed two weeks from the submission of documents for state environmental review. If the submitted documents are incomplete, such documents shall be returned to the applicant.

### **Article 51. Statement of Opinion of the State Environmental Review**

1. A statement of opinion of state environmental review shall be based on the results of the review.

2. An affirmative statement of opinion of the state environmental review shall contain conclusions on acceptability and possibility of making a decision to proceed with the project reviewed.

3. In case of a negative statement of opinion of the state environmental review, the customer must arrange for revision of the materials submitted for review in accordance with the suggestions and comments of the expert opinion and present all materials for a repeated environmental review within the prescribed period of time or abandon the planned activity.

4. No financing and implementation of business and other activities which require state environmental review shall be permitted by banks and other financial organisations, unless there is an affirmative statement of opinion of state environmental review is available.

5. A statement of opinion of the state environmental review shall be signed by the Chief State Environmental Expert of the Republic of Kazakhstan, oblast (of the city of national significance, and of the capital) or manager of the expert division of the local executive agency to the extent of its competence.

6. An affirmative statement of opinion of the state environmental review for project documentation shall be valid for five years following its issuance.

### **Article 52. Rights of Managers of Expert Divisions Performing State Environmental Review**

1. Managers of expert divisions performing state environmental review shall have the right to:

1) Create environmental expert committees, groups for performance of state environmental review, engage local and foreign specialists and legal entities in the established procedure;

2) ensure control over the operation of expert divisions and newly created committees and groups;

3) head expert councils on state environmental review and organise their activities;

4) determine methods of state environmental review;

5) reject the materials submitted for state environmental review, if such material does not comply with the requirements of the environmental laws of the Republic of Kazakhstan;

6) return the documents and materials containing errors in calculations and other breaches, the correction of which will require additional study, exploration or allocation of additional funds for rework;

7) sign statement of opinions of the state environmental review;

8) revoke the previously issued statement of opinions of the state environmental review during a month following the discovery of any facts proving negative environmental impact of the reviewed activities, or failure of the customer to fulfil the conditions set out in the above statement of opinion;

9) request additional materials which may be necessary for state environmental review;

10) provide banks and other financial institutions with the information about reviewed projects, which did not enjoy an affirmative statement of opinion of the state environmental review; and

11) prepare and deliver to the law enforcement and other agencies appropriate materials in order to hold persons liable for the violation of laws of the Republic of Kazakhstan.

2. Managers of expert divisions of the environment protection authority are the Chief State Environmental Experts of the Republic of Kazakhstan and oblasts (of the city of national significance, and of the capital).

When arranging for and performing the state environmental review, the managers of expert divisions shall be independent, and shall act in accordance with the environmental laws of the Republic of Kazakhstan.

3. Independence of the managers of expert divisions shall be based on the relevant regulations to be approved by the environment protection authority and local executive agencies, which regulations shall specify the procedure for appointment and dismissal of such managers and other conditions which do not contradict the laws of the Republic of Kazakhstan.

### **Article 53. An Expert Involved in the State Environmental Review**

1. An expert involved in the state environmental review shall be a person who has special knowledge and sufficient experience as required for the performance of environmental review, who is engaged, in the established procedure, by the agency of state environmental review to perform the state environmental review.

2. An expert involved in the state environmental review cannot be a representative of the customer whose documentation is subject to environmental review, or a developer of the project under the state environmental review, or individuals and legal entities that have any employment or contractual relations with the customer or developer.

3. An expert involved in the state environmental review shall be responsible for the review performed by him/her in accordance with laws of the Republic of Kazakhstan.

4. Interference of government agencies, individuals, legal entities and officials in the expert's activities connected with the state environmental review shall be prohibited.

5. Violated rights of an expert involved in the state environmental review shall be remedied in a judicial and administrative proceedings, and persons guilty of such violation shall be liable in accordance with laws of the Republic of Kazakhstan.

6. Experts involved in the state environmental review shall have the right to:

1) request additional documents which may be important for the comprehensive and objective review of the object under state environmental review;

2) engage additional experts for state environmental review;

3) make proposals as to the improvement of expert's work organisation, and methodology, procedure and principles of such work; and

4) have a dissenting opinion as to the object under state environmental review which shall be attached to the statement of opinion of the state environmental review.

7. An expert of the state environmental review shall:

1) ensure comprehensive, objective and qualitative performance of state environmental review;

2) comply with the requirements of the environmental laws of the Republic of Kazakhstan;

3) perform state environmental review on the basis of applicable standards and rules;

4) meet the established deadlines and procedure for the performance of state environmental review;

5) prepare grounded reports of the state environmental review and deliver them promptly to the agencies which will make a decision on whether or not to proceed with the project, and to the customers;

6) impartially evaluate and substantiate statement of opinions of the state environmental review in the event that a reviewed project is rejected further consideration or substantiating documents are returned for revision; and

7) ensure safe-keeping of materials and agree his/her actions with regard to confidential documents with their owners, and not to disclose any information which became known to him/her in connection with the state environmental review.

#### **Article 54. Engagement of External Experts for State Environmental Review**

If the services of external experts are required for the state environmental review, the agencies of state environmental review may seek expert's opinions from other government agencies, organisations and specialists. External experts shall be engaged by the environment protection authority in accordance with the legislation of the Republic of Kazakhstan on state procurement.

#### **Article 55 Register of Draft Laws and Regulations That Passed State Environmental Review**

The environment protection authority shall keep a register of draft laws and regulations that passed the state environmental review.

#### **Article 56. Expert Councils of the State Environmental Review**

1. expert councils of the state environmental review shall be formed under auspice of the environment protection authority as advisory bodies which shall act in accordance with the regulations thereon.

2. Regulations on expert councils of the state environmental review under auspice of the environment protection authority and their personnel shall be approved by the head of the environment protection authority.

3. Officials of government agencies whose functions are related to the environmental protection, scientists of research institutions, higher educational institutions, specialists-practitioners and community leaders can be members of the expert councils of the state environmental review.

4. The functions of the expert councils shall include:

1) discussion of complex problems of ensuring environmental safety, environmental protection, and use and restoration of natural resources upon the environmental review; and

2) review of statements of opinion on state environmental review with regard to objects which have an increased environmental hazard.

#### **Article 57. Transparency of State Environmental Review and Public Access to Decision Making**

1. Request for state environmental review, apart from request for state environmental review of proposed emission standards, must be published in mass media by the customer of planned activities.

2. All interested citizens and public associations shall be provided with an opportunity to express their opinion in the course of the state environmental review.

3. Public consultations shall be held with regard to the projects, the implementation of which is likely to have a direct impact on the environment and human health.

4. The procedure for public consultations shall be established by the environment protection authority and must define:

1) identification of interested persons;

2) indication of places where information and consultation can be provided;

3) indication of methods of information sharing with public (billposting in certain places, publication in newspapers, organisation of exhibitions and presentation of plans, drawings, tables, schedules, and models);

4) methods of public consultations (written presentations, public survey); and

5) timing of public consultations.

5. After a decision has been taken regarding the outcome of the state environmental review, all interested persons shall be provided with an opportunity to receive the information about the reviewed project in the procedure as prescribed in this Code.

## **Article 58. Procedure for Settlement of Disagreements in the Course of State Environmental Review**

1. Disagreements which may arise in the course of state environmental review shall be settled through negotiations or in court proceedings.

2. Disagreements on certain issues of state environmental review may be submitted to the environment protection authority by any interested party, including by the customer of the planned activities and local executive agency. Negative statements of opinions on state environmental review cannot be the subject matter of disagreements.

## **Article 59. Funding of State Environmental Review**

state environmental review shall be financed from the budget funds, and the customer's funds.

## **Article 60. Public Environmental Review**

1. Public environmental review shall mean a type of activity performed on a voluntary basis by expert committees created by public associations.

2. Public environmental review shall study any business and other activities for observance of public interests as to preservation of the environment favourable for life and health of citizens.

3. Individuals or public associations whose interests may be affected by the implementation of a project under public environmental review may initiate a public environmental review.

## **Article 61. Organiser of Public Environmental Review**

1. An organiser of public environmental review shall be public associations which shall file an application for public environmental review, and which shall take actions to organise an expert committee.

2. An organiser of public environmental review shall have the right to:

1) request documents and materials as may be necessary for public environmental review from the customer of the reviewed project;

2) create an expert committee to conduct the review; and

3) submit reports on public environmental review to the local executive agencies and financial institutions.

3. An organiser of public environmental review must:

1) conduct the public environmental review in compliance with the requirements set out in this Code;

2) ensure information sharing with the public with regard to the progress and results of public environmental review, and take into consideration the public opinion when preparing a report on public environmental review; and

3) ensure transparency of the report on public environmental review for all interested persons.

## **Article 62. Experts Involved in Public Environmental Review**

1. An expert involved in public environmental review shall be an individual who has scientific and/or practical knowledge of the issue in question and who is engaged by the organiser of public environmental review to perform such public environmental review.

2. An expert involved in public environmental review cannot be:

1) a representative of the customer of the project under public environmental review;

2) a representative of the developer of the project under public environmental review;

3) an individual who has employment or other contractual relations with the customer or developer of the project under public environmental review; and

4) a representative of a legal entity who has contractual relations with the customer or developer of the project under public environmental review.

3. An expert involved in public environmental review shall take part in the performance of the review in accordance with laws of the Republic of Kazakhstan and an assignment issued by the organiser of public environmental review.

4. In the course of public environmental review, an expert involved in public environmental review shall have the right to express a dissenting opinion with regard to the project under public environmental review, which shall be attached to the report on public environmental review.

5. An expert involved in public environmental review must:

1) comply with the requirements of the environmental legislation of the Republic of Kazakhstan;

2) ensure objectivity and substantiation of conclusions set out in the report on environmental review, and consideration of comments and proposals with regard to the public environmental review from interested individuals and public associations; and

3) ensure safe-keeping of materials and confidentiality of information provided for the public environmental review and protection of intellectual property.

### **Article 63. Rights and obligations of a Customer of Project under Public Environmental Review**

1. A customer of the project under public environmental review shall be an individual or a legal entity of the planned management, business, investment and other activities.

2. A customer of the project under public environmental review shall have the right to:

1) protect protected confidential information that is contained in the documentation on the planned activities;

2) obtain information and have access to the information about the progress and results of the public environmental review;

3) take part in public consultations and other events conducted in the context of public environmental review; and

4) submit its explanation and comments to the report on public environmental review to the agency conducting state environmental review and local executive agencies.

3. A customer of the project under public environmental review must:

1) provide necessary documents and materials for public environmental review; and

2) submit a written response to recommendations set out in the report on public environmental review to the environment protection authority.

### **Article 64. Financing of Public Environmental Review**

Public environmental review shall be is financed by way:

1) own funds of public associations engaged in organisation and performance of public environmental review;

2) donations and grants provided on the gratuitous basis; and

3) other sources not prohibited by laws of the Republic of Kazakhstan.

### **Article 65. Procedure for Registration of Public Environmental Review**

1. Public environmental review shall not be performed unless an organiser of such review shall have registered an appropriate application.

2. An application for registration of public environmental review shall be submitted by its organiser to the local executive agencies located in the area where the project under such review is planned to be implemented.

3. An application for public environmental review must indicate:

1) name and legal address of the organiser of public environmental review;



- 2) type of activities as set out in the charter of the organiser of public environmental review;
- 3) information about members of public environmental review expert committee; and
- 4) information about the project under public environmental review and timing of the performance of such review;

4. Within ten business days after submission of an application for public environmental review, local executive agencies must register or decline to register such application. An application for public environmental review, the registration of which has not been declined within the prescribed period of time, shall be deemed to be registered.

5. Registration of an application for public environmental review may be declined if:

- 1) public environmental review was performed earlier twice with regard to the project in question;

- 2) project under public environmental review contains information constituting state, commercial or other secret protected by law;

- 3) charter of the organiser of public environmental review does not permit the organiser to be involved in activities concerning public environmental review; and

- 4) state environmental review of the project proposed for public environmental review has been completed.

6. If registration of an application for public environmental review has been declined, the local executive agency shall notify the initiator and organiser of public environmental review in writing and specify the reasons of such decline.

#### **Article 66. Report on Public Environmental Review**

1. Results of public environmental review shall be incorporated in a report on public environmental review, which shall be of advisory nature.

2. A report on public environmental review must contain:

- 1) name and legal address of the organiser of environmental review;

- 2) full name of the customer, name and location of the project subject to public environmental review;

- 3) information concerning registration of an application for public environmental review with the local executive agency;

- 4) deadlines for performance of public environmental review;

- 5) list of documents studied, and list of other documents used, in the course of public environmental review;

- 6) members of the public environmental review expert committee;

- 7) description of the review results;

- 8) summary of the assignment for public environmental review given by the organiser of public environmental review;

- 9) description of the process of public environmental review including cooperation with the community, customer and other interested parties; and

- 10) conclusions of public environmental review.

3. Conclusions of public environmental review must contain:

- 1) an opinion concerning the compliance of the project under public environmental review to the requirements of the environmental legislation of the Republic of Kazakhstan;

- 2) characteristics of completeness, quality and reliability of the environmental impact assessment performed by the customer;

- 3) overview of positions of different community groups with regard to the planned activities, review of proposals and comments of the community;

- 4) opinions of experts on environmental and social admissibility of the reviewed project; and

5) proposals and recommendations to the agency conducting state environmental review, customer, government agencies and legal entities responsible for decision making with regard to the implementation of the reviewed project.

4. A report on public environmental review shall be signed by an authorised representative of the organiser of public environmental review, chairman and members of the expert committee.

5. A report on public environmental review shall be submitted to:

1) the local executive agency, which registered an application for public environmental review;

2) an agency conducting state environmental review of this project;

3) the customer of the planned activities;

4) agencies in charge of decision making with regard to the implementation of the project under public environmental review; and

5) mass media.

#### **Article 67. Use of Results of Public Environmental Review**

1. A customer of the planned activities must, within a one-month period after receipt of the report on public environmental review, review the conclusions and recommendations contained therein and send its comments to the agency involved in state environmental review and organiser of public environmental review.

2. A report on public environmental review must be reviewed in the course of state environmental review. The results of such review must be forwarded to the organiser of public environmental review and environment protection authority.

3. A report on public environmental review may also be taken into account in making decisions by local executive agencies, financial institutions and the customer of planned activities.

### **Chapter 8. Environmental Permits**

#### **Article 68. Types of Environmental Permits**

The following environmental permits shall be issued in the Republic of Kazakhstan:

1) emission permits; and

2) complex environmental permits.

#### **Article 69. Emission Permits**

1. Nature users which generate emissions must obtain an emission permit from the environment protection authority.

2. An emission permit shall be issued to a nature user pursuant to such nature user's application, in the procedure established by this Code.

3. Nature users must comply with the conditions set out in the emission permit and shall be liable for the failure to so do in accordance with laws of the Republic of Kazakhstan.

4. Nature users that own production facilities located in:

1) one oblast (cities of national significance, and capital), may submit applications for emission permit either for each facility or for all facilities together;

2) different oblasts (cities of national significance, and capital), must submit applications for emission permit at the place of location of each facility.

5. No emission permit is required if such emissions occur in the course of general nature use.

#### **Article 70. Content of Emission Permit**

1. An emission permit shall represent a set of standard-type documents containing:

1) information about a nature user and business and other activities that such user carries out;

2) term of the permit;

- 3) conditions of nature use, including emission standards for all emission sources;
  - 4) programme of environmental protection measures covering the term of the permit; and
  - 5) production environmental control programme.
2. Forms of emission permits and procedure for their filling out shall be approved by the environment protection authority.

#### **Article 71. Categories of projects Requiring Emission Permits**

1. Projects requiring emission permits that are issued to the nature users shall be divided into four categories: I, II, III and IV.

2. Category I shall include projects of the 1<sup>st</sup> and 2<sup>nd</sup> class of hazard pursuant to the sanitary classification of industrial facilities.

Category II shall include projects of the 3<sup>rd</sup> class of hazard pursuant to the sanitary classification of industrial facilities.

Category III shall include projects of the 4<sup>th</sup> class of hazard pursuant to the sanitary classification of industrial facilities.

Category IV shall include projects of the 5<sup>th</sup> class of hazard pursuant to the sanitary classification of industrial facilities.

3. nature users shall obtain emission permits for Category I projects - in the central executive environment protection authority; for Category II projects - in the territorial bodies of the environment protection authority; for Category III projects - in the territorial bodies of the environment protection authority in accordance with the simplified procedure; and for category IV projects - in the territorial bodies of the environment protection authority at the place of location of projects based on the declaration of notification.

#### **Article 72. Documents to be Presented to Obtain Emission Permit**

1. In order to obtain an emission permit, a nature user shall submit the required set of documents to the environment protection authority.

2. For nature users that own facilities graded as Categories I or II, the set of documents for obtaining emission permit shall include:

- 1) application for a permit;
- 2) statement of opinion of the state environmental review in relation to the planned activities, including the section on environmental impact assessment;
- 3) summary of employed engineering solutions;
- 4) draft emission standards, determined in the established procedure on the basis of the environmental quality standards or environmental quality goals, together with a statement of opinion of the state environmental review;
- 5) plan of environmental protection arrangements;
- 6) draft production environmental control programme; and
- 7) notarised copy of an agreement of mandatory environmental insurance for nature users that perform environmentally hazardous type of business and other activities.

3. For nature users that own facilities graded as Category III, the set of documents for obtaining emission permit shall include:

- 1) application for a permit;
- 2) draft emission standards, determined in the established procedure on the basis of the environmental quality standards or environmental quality goals, together with a statement of opinion of the state environmental review;
- 3) plan of environmental protection arrangements;
- 4) draft production environmental control programme; and

5) notarised copy of an agreement of mandatory environmental insurance for nature users that perform environmentally hazardous type of business and other activities.

4. For nature users that own facilities graded as Category IV, the set of documents for obtaining emission permit shall include:

1) application for a permit;

2) declaration of notification containing information about employed engineering solutions, sewage, ventilation, waste removal and use of transport facilities.

5. forms of application for emission permit and declaration of notification shall be approved by the environment protection authority.

### **Article 73. Terms of Nature Use to be Included in Emission Permits**

1. If special environmental requirements apply to the activities performed by a nature user in the Republic of Kazakhstan, an emission permit shall state such terms of nature use so as to ensure the compliance with such requirements and standards.

2. A decision to include certain terms of nature use in the emission permit shall be taken by the agencies issuing permits.

3. No terms of nature use shall be included in the emission permit unless such terms are envisaged by environmental requirements and standards established by the environmental legislation of the Republic of Kazakhstan.

4. The procedure for inclusion of terms of nature use in the emission permit shall be approved by the environment protection authority.

### **Article 74. Term for Application for, Consideration and Issue of, Permit for Emissions**

1. Applications shall be filed at least four months prior to expiry date of the current permit or prior to commissioning of a new facility.

2. Within one month following the registration of the application, the environment protection authority shall consider completeness of the materials submitted with the application. Within this term some additional documents may be requested in respect to the application submitted. After one month, the application shall be either accepted for consideration or rejected due to incompleteness of the submitted materials.

3. Accepted applications shall be considered by the environment protection authority within not longer than four months from the date of registration of the application, upon expiration of which an emission permit, or a reasoned rejection of the application by reason of non-compliance with the requirements of this Code, shall be issued.

### **Article 75. Basis for Issue of Emission Permits**

1. An emission permit shall be issued to a nature user for a Categories I and II project, provided the following requirements have been met:

1) all the necessary documents and materials as set out in Article 72 of this Code have been submitted;

2) draft of emission standards corresponds to the requirements of this Code;

3) the environmental impact assessment prove that emission standards and terms and conditions of nature use meet the environmental requirements and standards established by the environmental laws of the Republic of Kazakhstan;

4) the environmental protection plan corresponds to the environmental requirements and standards established by the environmental laws of the Republic of Kazakhstan, and ensures that emission standards will be met; and

5) production environmental control programme corresponds with the requirements established by this Code.

2. An emission permit shall be issued to a nature user for a Category III project, provided that such nature user:

- 1) has submitted all necessary documents and materials as set out in Article 72 of this Code;
- 2) draft of emission standards corresponds with the requirements of this Code;
- 3) environmental protection plan corresponds with the environmental requirements and standards established in the environmental laws of the Republic of Kazakhstan, and ensures achievement of emission standards;
- 4) environmental control programme corresponds with the requirements established by this Code.

3. An emission permit shall be issued to a nature user for a Category IV project, provided that such nature user has submitted the required application and declaration of notification.

#### **Article 76. Term of Emission Permits**

Emission permits shall be issued for a period until the applied technologies, or the conditions of nature use as prescribed in the permit, are changed, but not exceeding:

- 1) three years for nature users of Category I projects; and
- 2) five years for nature users of Categories II, III and IV projects.

#### **Article 77. Refusal, Suspension or Cancellation, of an Emission Permit**

1. The emission permit issuing agencies may refuse an emission permit, if:

- 1) the information submitted in order to obtain a permit is incomplete or untrue; and
- 2) the requested conditions of nature use are inconsistent with the requirements prescribed in Article 73 of this Code.

2. An emission permit may be suspended by the issuing agency for a term up to three months in the following cases:

- 1) it is established that the information provided by a nature user is untrue and contains errors in calculations of emission standards; and
- 2) a nature user has violated the nature use conditions as prescribed in the permit, environmental requirements and standards established by the environmental laws of the Republic of Kazakhstan.

3. The issuing agencies may cancel an emission permit in the following cases:

- 1) regular violations (more than three violations within the term of the permit) by a nature user of the nature use conditions as prescribed in the permit, environmental requirements and standards established by the environmental laws of the Republic of Kazakhstan;
- 2) failure to rectify, within the prescribed period of time, those violations which had caused suspension of the emission permit;
- 3) causing significant environmental damage and threatening health and life of the population; and
- 4) upon execution and issue of a new emission permit.

4. An emission permit shall be suspended or cancelled within one month upon occurrence of the events set out in paragraphs 2 and 3 of this Article, by delivery to the nature user of a notice in writing indicating the reasons for such decision and/or terms for rectification of the violations. Receipt of the notice shall terminate the right to the special nature use.

5. An emission permit shall be cancelled from the date of issue of a new emission permit.

6. If the nature user rectifies the violations specified in the notice, the emission permit shall resume in force and effect upon receipt of a confirmation from the agency which had taken the decision to suspend the permit.

#### **Article 78. Procedure for Reissue of an Emission Permit**

1. An emission permit may be reissued in the following cases:

- 1) change in the regime of nature use, which requires an adjustment in the permitted emission limits; and
- 2) change in the activities of a nature user and/or change of the form of incorporation, or technology.

2. An emission permit shall be reissued based upon presentation of the following documents:

- 1) certificate of registration (re-registration) of a legal entity;
- 2) certificate of a taxpayer;
- 3) statistical card; and
- 4) act of inspection confirming change in the regime of nature use.

### **Article 79. Complex Environmental Permit**

1. A complex environmental permit is a single document that certifies the right of a nature user to emissions, conditional on application of the best available technologies and compliance with the technical specific standards of emissions as prescribed by the environmental laws of the Republic of Kazakhstan.

2. The lists of the best available technologies for certain processes or industries shall be developed by the environment protection authority in consultation with the concerned central executive agencies, other legal entities, and shall be approved by the Government of the Republic of Kazakhstan.

3. The list of types of industrial facilities, for which a complex environmental permit may be issued in place of an emission permit, and the procedure for issue of such complex environmental permits, shall be defined by the Government of the Republic of Kazakhstan.

4. Apart from the information specified in Article 70 of this Code, a complex environmental permit must indicate:

- 1) conditions of resource and energy conservancy;
- 2) waste management system;
- 3) actions and measures to operate the facility in emergency situations which pose a hazard to the environment; and
- 4) term and conditions of introduction of the best available technologies.

5. A complex environmental permit shall be valid until the applied technologies and conditions of nature use as prescribed in the permit are changed.

## **Chapter 9. Environmental Audit**

### **Article 80. Environmental Audit**

1. An audited entity shall be an individual or a legal entity that concluded an environmental audit agreement with an environmental auditor or environmental audit firm.

2. The environmental audit shall be conducted by way of analyzing reports of an audited entity with regard to the environmental impact.

3. In the context of the environmental audit, special studies and measurements may be conducted in order to:

- 1) check the reliability of submitted environmental impact reports;
- 2) assess compliance of the production process with the environmental requirements;
- 3) assess compliance of the production monitoring and control with the environmental requirements; and
- 4) evaluate the level of employees' qualification.

4. The relations between environmental auditors, environmental audit firms and audited entities shall arise out of an environmental audit agreement, in accordance with the civil laws of the Republic of Kazakhstan.

### **Article 81. Types of, and Basis for, Environmental Audit**

1. There shall be the following types of the environmental audit: mandatory and initiative.
2. The following shall serve as the basis for the mandatory environmental audit of individuals and legal entities:
  - 1) documentary-proven significant environmental damage caused by business or other activities carried out by an individual or legal entity;
  - 2) reorganisation of a legal entity, which is a nature user, that carries out environmentally-hazardous business or other activities, by way of a merger, split-up or spin-off; and
  - 3) bankruptcy of a legal entity, which is a nature user, that carries out environmentally-hazardous business or other activities.
3. The initiative environmental audit may be conducted on the initiative of an audited entity or its participant, subject to specific tasks, terms and scope of the environmental audit as may be provided for in the environmental audit agreement concluded between the initiator and environmental auditor or environmental audit firm.
4. A concerned individual and/or legal entity, insurance companies, investors, environment protection authority and other government agencies may act as environmental audit customers.

### **Article 82. Environmental Audit**

1. The environmental audit shall be conducted in accordance with the environmental audit plan, which shall be made by an environmental auditor based on the requirements set out in paragraph 2 of this Article, and shall be approved by a customer and an audited entity. When planning the environmental audit, the parties shall be guided by the model environmental audit plan as approved by the chamber of environmental auditors, and which serves for guidance.
2. There shall be the following stages in the environmental audit:
  - 1) preliminary study of the authority entity;
  - 2) development of the audit plan;
  - 3) gathering and systematisation of the necessary information;
  - 4) visual inspection of the audited entity and interviewing its employees;
  - 5) determining the scope of special studies;
  - 6) conducting special studies;
  - 7) identifying environmental risks;
  - 8) developing proposals to enhance the level of environmental safety; and
  - 9) preparing an environmental audit report.
3. For the purpose of development of an environmental audit plan, the environmental auditor may get acquainted in advance with the specifics of the operation of an audited entity.
4. Necessary information shall be gathered and systematised in the audited entity or in other entities. Such information shall include:
  - 1) requirements of laws and regulations on the environmental protection-related matters which apply to the activities of the audited entity;
  - 2) map of the location area and layout map of the audited entity;
  - 3) data of an air photographic survey (if any);
  - 4) organisational management chart of the audited entity;
  - 5) regulations concerning the environmental protection department at the audited entity (if any);
  - 6) environmental permit;
  - 7) reports of the audited entity in respect of the environmental protection for the last five years;
  - 8) reports regarding the production environmental control;

9) copies of inspection reports by the environment protection authority for the last three years;

10) environmental protection programme of the audited entity (if any);

11) emergency prevention and response plan;

12) environmental impact assessment by the audited entity (with amendments approved);

13) emission and discharge inventory report for the current period;

14) applicable draft standards of maximum permissible emissions and discharge, waste placement;

15) information regarding environmental and business aspects of the activities of the audited entity;

16) copies of previous environmental audit reports;

17) information regarding the state environmental monitoring in the area of impact of the audited entity; and

18) management of inquiries received from individuals and public associations in regards to the activities of the audited entity.

5. Visual inspection of the audited entity and interview of employees shall be conducted in order to assess whether the documentation correctly reflects the actual status of affairs at the audited entity, to determine the qualification of employees of the audited entity, and to develop proposals for enhancement of the performance of the audited entity.

6. During visual inspection there shall be established:

1) whether the audited entity corresponds to the layout chart and general process description;

2) whether all the sources of environmental impact have been reflected in the documentation of the audited entity;

3) what is the condition of the area of likely impact of the audited entity;

4) whether that are any circumstances which are not reflected in the documents, but which are likely to result in the environmental impact;

5) whether accounting and other necessary documentation in respect of the production facilities are available and complete;

6) whether the technical environmental requirements are complied with in the course of the operation of the facility; and

7) whether the requirements to the production environmental control are complied.

7. In the course of interviews of employees of the audited entity, there shall be established:

1) level of qualification of employees in respect of the issues, which are material for the environmental protection;

2) information required to prove the reliability of the accounting documents;

3) information about violations of the requirements of environmental protection laws and regulations, and their prevention practices;

4) likelihood of the violation of the environmental requirements during the future business and other activities of the audited entity; and

5) any engineering proposals as to improvement of the environmental protection.

8. Special studies shall be conducted by environmental auditors and environmental audit firms, if:

1) it is necessary to confirm the production environmental control reports;

2) sources of environmental impact not reflected in the documents have been identified; and

3) there are evidence of negative impact caused by the activities of the audited entity on the environment and human health.

9. If necessary, the studies may include:

1) measurements at the sources of emissions (discharge), waste sample examination;



2) measurements of the pollution level within the area of potential impact of the audited entity; and

3) study of the conditions of plants, wildlife, ecosystems and health of the population within the area of potential impact of the audited entity.

10. Only certified laboratories may be engaged for the conduct of special studies to assess the state of the environment.

11. Environmental risks of the audited entity shall be identified by way of:

1) analysis of whether the documents and reports reliably reflect the current state;

2) assessment of the effect that the activities carried out by the audited entity are likely to have on plants, wildlife, ecosystems and human health, including analysis of diseases and death caused by defects in the environmental quality; and

3) determination of whether accidents or other deviations from the process regulation at the audited entity, which would result in negative effect on the environment, are likely to occur.

12. Proposals to enhance the level of the environmental safety at the audited entity shall be developed based on the study of:

1) the best available technologies for similar facilities;

2) possible actions to improve the environmental management system;

3) methods to improve the production environmental control; and

4) proposals to revise the environmental requirements and standards.

#### **Article 83. Decision on Mandatory Environmental Audit**

1. A decision to conduct the mandatory environmental audit shall be taken by the environment protection authority within one month after the circumstances set out in Article 81.2 of this Code have been identified.

2. A decision to conduct the mandatory environmental audit shall be documented in the form of an order for mandatory environmental audit.

3. The form of an order for mandatory environmental audit should be approved by the environment protection authority.

4. An order must indicate:

1) full name or name of the audited entity;

2) location of the audited entity;

3) nature of potential risks for the environment that are posed by business and other activities of the audited entity;

4) grounds for the mandatory environmental audit; and

5) timing for submission of the findings of the mandatory environmental audit.

5. An order for mandatory environmental audit shall be sent to the director of an audited entity.

#### **Article 84. Specifics of Mandatory Environmental Audit**

1. The mandatory environmental audit shall be conducted within no longer than six months following the receipt by the audited entity of an order for mandatory environmental audit.

2. For the purpose of developing an audit plan, an environmental auditor or environmental audit firm shall review the order for mandatory environmental audit, reasons of the audit, environmental problems typical of the audited entity, and other aspects.

#### **Article 85. Requirements to Environmental Audit Reports**

1. An environmental audit report to be issued on completion of the mandatory environmental audit must contain:

1) information proving the competence of the environmental auditor and environmental audit firm;

- 2) general information about the audited entity;
- 3) reasons for an environmental audit;
- 4) environmental audit plan;
- 5) list and overview of the information gathered;
- 6) results of visual inspection of the audited entity and interview of its employees;
- 7) results of special studies;
- 8) assessment of environmental risks (in quantitative and qualitative terms);
- 9) list of recommendations to enhance environmental safety; and
- 10) conclusions as to the level of safety of the audited entity for the environment, violations revealed, reliability of the documentation maintained, and environment protection reports.

2. The form of the initiative environmental audit report shall be established by an environmental audit agreement.

3. The initiative environmental audit report shall be confidential. Only the audited entity may disclose the information contained in the initiative environmental audit report.

### **Article 86. Procedure for Consideration of Mandatory Environmental Audit Report**

1. An environmental audit report issued on completion of the mandatory environmental audit shall be sent by the environmental auditor or environmental audit firm to the environment protection authority and director of the audited entity.

2. The findings of the mandatory environmental audit shall be used by the audited entity in order to take appropriate steps to comply with the environmental laws of the Republic of Kazakhstan, reduce negative effect of its activities on the environment, prevent damage to the environment, and ensure reliability of the environmental reports.

3. In the event that the mandatory environmental audit reveals that the environmental reports of an audited entity are untrue, the audited entity must, within one month from the date of receipt of the environmental audit report, bring its reports in compliance with the recommendations of the environmental auditor, take other steps to comply with the environmental laws of the Republic of Kazakhstan, and inform the environment protection authority of the steps taken.

4. The environment protection authority shall consider the environmental audit report issued on completion of the mandatory environmental audit within one month from the date of receipt of such report.

5. The findings of the mandatory environmental audit shall be used by the environment protection authority to obtain reliable information in regards to compliance by the audited entity with the environmental requirements and environment quality standards.

6. Based on the results of consideration of environmental audit reports the environment protection authority may:

- 1) seek in court suspension of the operation of the audited entity;
- 2) revise the terms and conditions of the environmental permit or make a submission to the competent government agencies proposing to revise the terms and conditions of agreements (contracts) for use and recovery of natural resources, and other nature use permits; and
- 3) recommend that the production environmental control programme be amended.

7. Disputes arising in respect to the environmental audit report of the mandatory environmental audit shall be resolved in the procedures established by laws of the Republic of Kazakhstan.

### **Article 87. Environmental Auditor**

1. An environmental auditor shall be an individual licensed to perform environmental protection-related works and services.

2. An environmental auditor shall have the right to conduct the environmental audit as an individual entrepreneur or as an employee of an environmental audit firm.

#### **Article 88. Environmental Audit Firm**

1. An environmental audit firm shall be a profit-making organisation incorporated in the form of a limited liability partnership and licensed to perform environmental protection-related works and services.

2. Foreign environmental audit firms may conduct environmental audit in the Republic of Kazakhstan only through appropriate resident environmental audit firms, incorporated in the Republic of Kazakhstan.

3. The number of environmental auditors in an environmental audit firm shall be at least three.

#### **Article 89. Chamber of Environmental Auditors**

1. The chamber of environmental auditors shall be formed with a view to protecting the rights and representing the legitimate interests of environmental auditors and environmental audit firm vis-à-vis the government agencies.

The chamber of environmental auditors is a non-profit, independent, professional and self-administered organisation, acting based on its charter which shall be approved by a general meeting of its members, and shall be financed by way of membership fees and other sources not prohibited by laws of the Republic of Kazakhstan.

2. The chamber of environmental auditors shall regulate the activities of environmental auditors and environmental audit firms, and develop the standards of environmental audit based on the international practice in accordance with laws of the Republic of Kazakhstan.

#### **Article 90. Rights of Environmental Auditors and Environmental Audit Firms**

Environmental auditors and environmental audit firms may:

- 1) independently determine the methods of environmental audit;
- 2) receive and verify the documentation as may be necessary to fulfil the terms and conditions of the environmental audit;
- 3) engage, on a contractual basis, various experts, other than the persons indicated in Article 92 of this Code, in the environmental audit; and
- 4) refuse to conduct the environmental audit, or to issue an environmental audit report, in the event that an audited entity violates the terms and conditions of the environmental audit agreement.

#### **Article 91. Obligations of Environmental Auditors and Environmental Audit Firms**

Environmental auditors and environmental audit firms shall:

- 1) inform of impossibility to conduct the environmental audit by reason of the circumstances set out in Article 92 of this Code;
- 2) ensure safe-keeping of the documents received from an audited entity, and those that are prepared in the course of the environmental audit;
- 3) inform an audited entity of any revealed non-compliance of the documents with the requirements established by laws of the Republic of Kazakhstan;
- 4) keep confidential any environmental audit reports, and the information received in connection with the environmental audit, which constitute commercial and other legally protected secrets;
- 5) if revealed during the mandatory environmental audit, inform the environment protection authority of the violations of the environmental laws of the Republic of Kazakhstan; and
- 6) fulfil other requirements arising out of contract obligations under an environmental audit agreement.

## **Article 92. Restrictions on Conduct of Environmental Audits**

Environmental audit firms or environmental auditors shall be prohibited from conducting an environmental audit:

- 1) in respect of customers, of which such environmental audit firm or environmental auditor is a member or creditor;
- 2) if persons conducting the audit are employed by, or close relatives or relatives in-law of, the officers of the audited entity, or a shareholder (participant) thereof holding ten per cent or more of shares (interests in the charter capital) in the audited entity;
- 3) if persons conducting the audit have any property interest in the audited entity; or
- 4) if the environmental audit firm or environmental auditor have any monetary liabilities to the audited entity, or the audited entity has any monetary liabilities to the environmental audit firm or environmental auditor, other than the liability to conduct the environmental audit.

## **Article 93. Rights and Obligations of an Audited Entity**

1. An audited entity may:
  - 1) independently select an environmental auditor or environmental audit firm;
  - 2) receive from the environmental auditor or environmental audit firm full information about the requirements of the environmental laws of the Republic of Kazakhstan in regards to the environmental audit;
  - 3) get acquainted with laws and regulations, on which the conclusions or comments of the environmental auditor or environmental audit firm rely;
  - 4) receive from the environmental auditor or environmental audit firm recommendations, information about any revealed non-compliance of the environmental reports and other documents with laws of the Republic of Kazakhstan; and
  - 5) to terminate the engagement of the environmental auditor or environmental audit firm if they violate the terms and conditions of the environmental audit agreement.
2. An audited entity shall:
  - 1) arrange for mandatory environmental audit;
  - 2) create conditions for the environmental auditor or environmental audit firm to enable them to conduct the environmental audit properly and in a timely manner;
  - 3) provide full and reliable documentation and other information, whether in writing or orally, as may be required by the environmental auditor or environmental audit firm in connection with the environmental audit;
  - 4) provide reliable environmental impact reports and other documents required for the environmental audit;
  - 5) not to restrict the activities of the environmental auditor or environmental audit firm, unless otherwise is provided for by the environmental audit agreement;
  - 6) send written inquiries in its own name, at request of the environmental auditor or environmental audit firm, to third parties in order to obtain necessary information;
  - 7) make payments to the environmental auditor or environmental audit firm for its services; and
  - 8) fulfil other requirements arising out of contract obligations under an environmental audit agreement.

## **Article 94. Audit of Environmental Management Systems**

1. An audit of environmental management systems shall be conducted on an initiative basis.
2. Based on the results of the audit of environmental management systems, individuals and legal persons may obtain a document certifying compliance of the applied environmental

management system with the international standards, in accordance with the laws of the Republic of Kazakhstan on technical regulation.

## **Section 3. Economic Regulation of Environmental Protection and Nature Use**

### **Chapter 10. Mechanisms of Economic Regulation of Environmental Protection and Nature Use**

#### **Article 95. Types of Mechanisms of Economic Regulation of Environmental Protection and Nature Use**

There shall be the following types of mechanisms of economic regulation of environmental protection and nature use:

- 1) planning and financing of environmental protection measures;
- 2) emissions charge;
- 3) charge for use of certain types of natural resources;
- 4) economic incentives for environmental protection;
- 5) market mechanisms and emissions trading;
- 6) environmental insurance; and
- 7) economic evaluation of damage to the environment.

#### **Article 96. Environmental Protection Measures**

1. An environmental protection measure shall be understood as a complex of technological, technical, organisational, social and economic actions aimed at environmental protection and improvement of environmental quality.

2. Environmental protection measures shall include the measures:

- 1) aimed at ensuring the environmental safety;
- 2) improving the state of components of the environment by increasing quality characteristics of the environment;
- 3) contributing to stabilisation and improvement of the state of the environmental systems, preservation of biological diversity, rational use and restoration of natural resources;
- 4) preventing damage to the environment and human health;
- 5) improving the methods and technologies aimed at environmental protection, rational nature use and introduction of the international standards in the environmental management;
- 6) developing the production environmental control;
- 7) forming environmental information systems and contributing to the provision of environmental information; and
- 8) contributing to propaganda of environmental knowledge, environmental education and awareness-building for the purpose of sustainable development.

3. Environmental protection measures may include investment environmental projects, which incorporate measures listed in paragraph 2 of this Article.

4. The standard list of the environmental protection measures shall be approved by the environment protection authority.

#### **Article 97. Financing of Environmental Protection Measures**

Environmental protection measures shall be carried out at the expense of:

- 1) budget funds;
- 2) own funds of nature users; and
- 3) other sources not prohibited by laws of the Republic of Kazakhstan.

### **Article 98. Planning of Budget-funded Environmental Protection Measures**

1. Environmental protection measures funded by budgets of different levels shall be determined in accordance with the directions established in the national, industry (sectoral) and regional programmes, as well as Decrees of the President of the Republic of Kazakhstan, Resolutions of the Government of the Republic of Kazakhstan and local representative bodies.

2. The procedures for developing environmental programmes and plans to be financed from the budget funds shall be established by the budget laws of the Republic of Kazakhstan.

3. Environmental protection measures shall be included in the programmes and plans of social and economic development of the Republic of Kazakhstan, administrative territorial units, environmental programmes, and plans for certain areas.

4. Prior to approval, regional environmental programmes, plans and programmes, plans of social and economical development of certain areas shall be agreed with the environment protection authority.

5. The local executive agencies of oblasts (of the city of national significance, and of the capital) shall develop and submit to the environment protection authority investment environmental projects (programmes), in accordance with the budget laws of the Republic of Kazakhstan.

6. For the development of environmental programmes, an open tender of environmental projects may be conducted in accordance with the procedure defined by the Government of the Republic of Kazakhstan.

### **Article 99. Planning of Environmental Protection Measures Financed by Nature Users at their Cost**

1. Environmental protection measures financed by nature users at their cost shall be planned by nature users independently.

2. Environmental protection measures shall be included in the plan of environmental protection measures developed by nature users with a view to obtaining environmental permits.

### **Article 100. Planning of Environmental Protection Measures Financed from Other Sources Not Prohibited by Laws of the Republic of Kazakhstan**

Environmental protection measures financed from other sources shall be planned in the procedure established by laws of the Republic of Kazakhstan.

### **Article 101. Emission Charge**

1. The emission charge shall be established by the tax laws of the Republic of Kazakhstan.

2. The charge for emissions produced by nature users within the limits determined in the environmental permit shall be collected according to the list of pollutants and types of waste, as approved by the Government of the Republic of Kazakhstan.

3. The method of calculation of emission charge shall be approved by the environment protection authority.

4. Rates of emission charge shall be established by the local representative bodies of oblasts (city of national significance, and of the capital), however, such rates shall not be below base rate and not higher than the maximum rates approved by the Government of the Republic of Kazakhstan.

5. The fulfilment of tax liabilities as to payment of emission charge shall not relieve a nature user from the liability to compensate the damage caused by such nature user to the environment.

### **Article 102. Compulsory Payments to the Budget for the Use of Certain Types of Natural Resources**

The compulsory payments to the budget for the use of certain types of natural resources shall be established by the tax laws of the Republic of Kazakhstan.

### **Article 103. Economic Incentives for Environmental Protection**

The Government of the Republic of Kazakhstan may approve the maximum rates of emission charge for the purpose of an economic incentive for efficient implementation by nature users of the environmental protection measures.

### **Article 104. Sovereign Guarantee in Respect of Private Loans**

The Government of the Republic of Kazakhstan may grant a sovereign guarantee in respect of private loans borrowed for the implementation of the environmental protection measures, in the procedure established by the budget laws of the Republic of Kazakhstan.

### **Article 105. Market Mechanisms of Emission Management**

1. In order to reduce emissions the Government of the Republic of Kazakhstan may introduce market mechanisms by setting limits and quotas on emissions and approving the procedure for trading of quotas and commitments to reduce emissions.

2. Should such quota be established, a nature user shall be entitled to an annual emission quota.

### **Article 106. International Quota Trading**

1. If the international treaties ratified by the Republic of Kazakhstan provide for the participation by Kazakhstan in trading emissions, nature users may enter into appropriate agreements with foreign individuals and legal entities in the procedure established by the Government of the Republic of Kazakhstan.

2. An emission trading agreement concluded between a resident of the Republic of Kazakhstan and a foreign individual or legal entity shall be registered with the authorised agency designated by the Government of the Republic of Kazakhstan.

### **Article 107. Environmental Insurance**

1. The purpose of the environmental insurance shall be to compensate against damage caused to life, health, property of third parties and/or the environment as a result of an emergency pollution.

2. Mandatory environmental insurance shall be procured in accordance with the laws of the Republic of Kazakhstan on mandatory environmental insurance. The environmentally-hazardous types of business and other activities shall be determined by this Code and the Government of the Republic of Kazakhstan.

3. Voluntary environmental insurance shall be procured by individuals and legal entities at their option. The types, terms and conditions of voluntary environmental insurance shall be determined by agreement between insurers and insureds.

## **Chapter 11. Economic Evaluation of Environmental Damage**

### **Article 108. Procedures for Economic Evaluation of Environmental Damage**

1. The economic evaluation of the damage caused to the environment shall mean value terms of costs required for the rehabilitation of the environment and useful properties of natural resources.

2. Within one month from the date on which the fact of the damage to the environment has been ascertained, officials of the environment protection authority shall gather and analyse necessary materials and give economic evaluation of the damage caused.

3. The economic evaluation of the damage caused by the pollution of the air and water resources in excess of the established standards, as well as by placement of industrial and consumption waste, including the radioactive waste, in excess of the established limits, shall be

made using direct or indirect methods in accordance with the rules approved by the Government of the Republic of Kazakhstan.

#### **Article 109. Direct Method of Economic Evaluation of Damage**

1. The direct method of economic evaluation of the damage means determination of the actual costs that will be spent to rehabilitate the environment, restore degraded natural resources and rehabilitate living organisms by applying the most efficient engineering, organisational and technical, and technological solutions.

2. Officials of the environment protection authority shall first consider whether measures for rehabilitation of the environment can be taken by a person who caused damage.

Obligations to take measures for rehabilitation of the environment shall be set out in a letter of guarantee which shall be issued by the person who caused damage to the environment, and such letter shall indicate particular measures to be taken and timing.

3. The cost of measures for liquidation of consequences of the damage shall be determined based on the market value.

4. If the direct method is applied to complete the economic evaluation, officials of the environment protection authority may engage independent experts, who may be environmental auditors and specialists of the design, engineering and scientific organisations.

5. The cost of the engagement of independent experts shall be borne by a person who caused damage to the environment.

#### **Article 110. Indirect Method of Economic Evaluation of Damage**

1. The indirect method of economic evaluation shall be applied only if the direct method of economic evaluation cannot be applied.

2. The economic evaluation by the indirect method shall be completed by reference to the types of damage to the environment, by summing-up the damage caused to each component.

## **Section 4. Environmental Control**

### **Chapter 12. Government Control in the Sphere of Environmental Protection, and Protection, Reproduction and Use of Mineral Resources**

#### **Article 111. Purpose and Types of Government Control**

1. The purpose of the government control in the field of environmental protection, and protection, reproduction and use of mineral resources shall be to ensure environmental safety, conservation of mineral and energy resources, sustainable development of biological resources, and increasing of competitiveness of national products.

2. There are the following types of government control in the field of environmental protection, and protection, reproduction and use of mineral resources:

- 1) environmental control;
- 2) control of use and protection of lands;
- 3) control of use and protection of water resources;
- 4) control of study and use of subsoil;
- 5) control in the field of forest laws of the Republic of Kazakhstan;
- 6) control of wildlife protection, reproduction and use; and
- 7) control of specially protected natural areas.



## **Article 112. Agencies Exercising Government Control in the Field of Environmental Protection, and Protection, Reproduction and Use of Mineral Resources**

Agencies exercising government control in the field of environmental protection, and protection, reproduction and use of mineral resources shall include:

- 1) the environment protection authority;
- 2) the authorised government agency for use and protection of water resources;
- 3) the central authorised agency for land management;
- 4) the authorised government agency for forestry;
- 5) the authorised government agency for wildlife protection, reproduction and use;
- 6) the authorised government agency for specially protected natural areas;
- 7) the authorised government agency for subsoil study and use;
- 8) the authorised government agency for industrial safety;
- 9) the authorised government agency for sanitary and epidemiological safety;
- 10) the authorised government agency for veterinary;
- 11) the authorised government agency for plant protection and quarantine;
- 12) the authorised government agency for nuclear energy use; and
- 13) the transport control agencies.

## **Article 113. Objectives of Government Environmental Control**

The government environmental control shall pursue the following objectives:

- 1) formation of responsible attitude of nature users to the environment; and
- 2) prevention of violations of the environmental laws of the Republic of Kazakhstan.

## **Article 114. Targets of Government Environmental Control**

The following shall be the targets of the government environmental control:

- 1) compliance with the environmental laws of the Republic of Kazakhstan;
- 2) actions taken to liquidate the consequences of environmental pollution;
- 3) compliance with the environmental requirements within specially protected natural areas;
- 4) compliance with the environmental requirements to protection, reproduction and use of natural resources;
- 5) complex of measures for improvement of lands, prevention and liquidation of consequences of the processes resulting in land degradation, restoration and preservation of land fertility;
- 6) compliance with the environmental requirements upon the construction and reconstruction of facilities, structures and other objects to ensure that measures for land reclamation are taken;
- 7) compliance with the environmental requirements upon the commissioning and operation of facilities, structures and other objects to ensure that the planned works for land reclamation have been fulfilled;
- 8) removal, preservation and use of topsoil when performing works associated with land disturbance;
- 9) bringing lands released in the course of commercial extraction of mineral resources or other disturbing processes and works in the state suitable for further use in accordance with its intended purpose;
- 10) compliance with the terms and conditions of licenses and contracts, relating to the environmental protection;
- 11) protection of soil against pollution, flooding and other man-made processes resulting in damage to a deposit and other environment objects;
- 12) abandonment and liquidation of subsoil use facilities;

- 13) compliance with the environmental standards and rules when using subsoil and processing minerals;
- 14) compliance with the design solutions on the issues of environmental protection when mining and processing minerals;
- 15) measures taken to prevent accidents or other hazardous situations during subsoil operations;
- 16) burial of hazardous substances, radioactive waste and discharge of waste water into subsoil;
- 17) compliance with the rules of waste and other materials burial, conservation and abandonment of wells and equipment in the continental shelf of the Republic of Kazakhstan;
- 18) compliance with the water quality standards;
- 19) compliance with technical regulations, standards, rules and other requirements to the air protection, as well as protection of climate and ozone layer of the Earth, including putting into operation and operation of transport vehicles and other moveable objects;
- 20) compliance with the requirements to the air protection upon commissioning enterprises, storage and burning of waste;
- 21) compliance with the requirements to plant and wildlife protection when locating, designing and constructing populated settlements, enterprises and other facilities, carrying out production processes and operating transport means, and using chemical and other substances;
- 22) compliance with the environmental requirements to construction, reconstruction, commissioning and operation of enterprises, structures and other facilities;
- 23) compliance with the rules of use, storage, transportation, burial, recycling and other handling of radioactive and other environmentally-hazardous substances in terms of the environmental requirements aimed at prevention of environmental pollution;
- 24) compliance with the established standards and rules of use, storage and transportation of chemicals and biological substances;
- 25) fulfilment of the terms and conditions of nature use as prescribed by environmental permits;
- 26) compliance with the established standards and rules of accounting, recycling and neutralisation of industrial and consumption waste;
- 27) compliance with the environmental requirements to sanitary protection zones at the facilities that have stationary sources of emissions, discharge of polluting substances, and placing industrial and consumption waste;
- 28) radiological situation in the Republic of Kazakhstan, fulfilment of the design solutions to prevent the environmental contamination with radioactive substances;
- 29) compliance with the process regulations in the course of operation of treatment facilities;
- 30) compliance with the standards and rules of the production environmental control;
- 31) compliance with the laws of the Republic of Kazakhstan on mandatory environmental insurance;
- 32) compliance with the qualification requirements to, and rules of carrying out, licensable environmental protection activities;
- 33) compliance with the requirements to the mandatory state environmental review and fulfilment of its terms;
- 34) compliance with the requirements to mandatory environmental audit and presentation of reliable information concerning the environmental protection;
- 35) compliance with the environmental requirements when conducting marine exploration in the continental shelf of the Republic of Kazakhstan; and
- 36) compliance with the rules of transboundary transportation of hazardous waste.

## **Article 115. Organisation of Government Environmental Control**

1. The government environmental control shall be carried out by way of:

1) analysing materials of the state and departmental statistical reports reflecting inventory of emissions and natural resources, and information regarding environmental protection activities by nature users;

2) organising and carrying out inspections in order to check the compliance with, and fulfilment, by nature users of the environmental laws of the Republic of Kazakhstan; and

3) use of legal instruments to ensure compliance with the environmental laws of the Republic of Kazakhstan.

2. The government environmental control shall include a complex of measures including:

1) setting priorities for control;

2) application of existing control instruments;

3) development and implementation of long-term plans of activities, steps and required human recourses and material resources, as well as qualitative and quantitative indices;

4) development and implementation of annual and short-term plans of works at the inspected facilities;

5) inspections;

6) gathering, analysis and use of the data of analytical control and other information required to carry out the government environmental control;

7) accounting, documentation and analysis of long-term, annual and short-term plans of activities of the subdivisions of government environmental control; and

8) ensuring transparency and accountability of the subdivisions of government environmental control.

## **Article 116. Officials in Charge of Government Environmental Control**

1. Officials in charge of the government environmental control shall include:

The Chief State Environmental Inspector of the Republic of Kazakhstan, who holds the position of the head of the subdivision of government environmental control of the central executive environment protection authority;

The Deputy Chief State Environmental Inspector of the Republic of Kazakhstan, who holds the position of the deputy head of the subdivision of government environmental control of the central executive environment protection authority;

Senior State Environmental Inspectors of the Republic of Kazakhstan, who hold positions of the heads and deputy heads of the departments and boards of the subdivision of government environmental control of the central executive environment protection authority;

State Environmental Inspectors of the Republic of Kazakhstan, who hold positions of the chief and leading specialists of the subdivision of government environmental control of the central executive environment protection authority;

Chief State Environmental Inspectors of oblasts (of the city of national significance, and of the capital), who hold positions of the deputy heads of the territorial divisions of the environment protection authority in such oblasts (of the city of national significance, and of the capital);

Senior State Environmental Inspectors of oblasts (of the city of national significance, and of the capital), who hold positions of the heads of government environmental control subdivisions of the territorial divisions of the environment protection authority in such oblasts (of the city of national significance, and of the capital);

State Environmental Inspectors of oblasts (of the city of national significance, and of the capital), who hold positions of the chief and leading specialists of government environmental control subdivisions of the territorial divisions of the environment protection authority in such oblasts (of the city of national significance, and of the capital);

The state environmental inspectors of the city of national significance, and of the capital.

2. State environmental inspectors shall be supplied in the due procedure with uniform, official cards, badges, seals and seal presses of a standard pattern.

3. Interference with the activities of an official involved in the government environmental control shall not be permitted.

4. Persons who hinder the government environmental control, pose threats of violence, or do violent acts in respect to officials involved in the government environmental control, shall be held liable in accordance with the laws of the Republic of Kazakhstan.

5. Decisions taken by the state environmental inspectors, within their competence, shall be binding on all individuals and legal entities, and may be challenged in the higher government agency and/or official, or court.

#### **Article 117. Rights of Officials in Charge of Government Environmental Control**

1. Officials in charge of the government environmental control may:

1) interact with nature users, individuals and public associations;

2) have unrestricted access to the facilities, including military and defence facilities, in the procedures established by laws of the Republic of Kazakhstan;

3) enter the territory of individuals and legal entities with measuring devices and equipment in order to take samples and, if necessary, engage experts and public members, to make certain measures, take and analyse samples (including samples of goods and materials);

4) request for, and receive, documentation, results of analysis and other materials required for carrying out the government environmental control;

5) in the procedures established by laws of the Republic of Kazakhstan, initiate revocation of licenses and/or termination of an agreement (contract) for use and extraction of natural resources, and/or suspension and cancellation of environmental and other permits, in the event of violation by a nature user of the environmental standards and requirements resulting in significant damage to the environment and/or health of the population;

6) issue orders to individuals and legal entities to repair the violations of the environmental laws of the Republic of Kazakhstan;

7) bring actions to court seeking restriction on, suspension of, and bar to, the business and other activities carried out with the violation of laws of the Republic of Kazakhstan;

8) consider cases relating to administrative offences in the field of the environmental protection, deliver to respective agencies materials for bringing the offenders to administrative and criminal liability;

9) determine, or participate in the determination of, the amount of damage caused to the environment as a result of violation of the environmental laws of the Republic of Kazakhstan, issue orders for indemnification of damage, and bring actions to court;

10) apply to the prosecutor's office and law-enforcement agencies for assistance in preventing and stopping the actions by offenders of the environmental laws of the Republic of Kazakhstan; and

11) to the extent it comes within their competence, submit to a competent authority proposals to terminate a subsoil contract, should a contractor refuse to remove the reasons resulting in the decision to suspend exploration, production, joint exploration and production, or construction and/or operation of underground facilities not related to the exploration and/or production; or in case of failure to remove such reasons within the time period sufficient for such removal; failure by nature users to take measures defined in the laws of the Republic of Kazakhstan; impossibility to remove the reasons resulting in suspension of subsoil operations; or material violation by a contractor of its obligations under a contract or work programme.

2. Officials in charge of the government environmental control shall, in cases provided for in the laws of the Republic of Kazakhstan, have the right to keep, carry and use special devices (special communication, photo, video, and measuring devices).

### **Article 118. Obligations of Officials in Charge of Government Environmental Control**

Officials in charge of the government environmental control shall:

- 1) control the compliance with the requirements of the environmental laws of the Republic of Kazakhstan;
- 2) comply with the requirements of the laws of the Republic of Kazakhstan;
- 3) inform the law-enforcement agencies of the violations of the environmental laws of the Republic of Kazakhstan, which contain the elements of a criminally punishable act;
- 4) interact with other government agencies, and with individuals and/or legal entities, on the compliance with the environmental laws of the Republic of Kazakhstan;
- 5) keep confidential any information received during inspections; and
- 6) abide by the rules of service ethics.

## **Chapter 13. Environmental Inspections**

### **Article 119. Definition, Types and Organisation of Environmental Inspections**

1. An environmental inspection means a set of actions whereby officials, who exercise the government environmental control, collect and analyse information on nature users' compliance with the environmental legislation of the Republic of Kazakhstan.

2. Environmental inspections shall be grouped into the following types:

1) "scheduled inspection" means an inspection that has been planned by the environment protection authority and is conducted based on time intervals established by this Code and other legislative acts of the Republic of Kazakhstan relative to previous inspections;

2) "unscheduled inspection" means an inspection which is scheduled by the environment protection authority where an immediate response to environmental emergencies is required, direct identification of violations of the environmental legislation of the Republic of Kazakhstan or receipt of information on such violations, and commissioning and closure of facilities, significant modifications in a process technology, and control over the implementation of orders for correction of violations that have been found as a result of a scheduled inspection;

3) "cross inspection" means an inspection which is conducted in relation to third parties if a need to obtain additional information on such parties arises during the conduct of inspections;

4) "patrol inspection" means a simultaneous inspection of several business entities with a view to establishing such entities' compliance with certain requirements of the environmental legislation of the Republic of Kazakhstan;

5) "integrated inspection" means an inspection which is conducted by the environment protection authority in conjunction with special authorised government agencies.

3. No other environmental inspection may be conducted, except for those stipulated by this Code.

4. Except as otherwise provided by laws of the Republic of Kazakhstan, an environmental inspection must not cause suspension of operations of the nature user.

5. The environment protection authority may inspect separate divisions of a legal entity in accordance with this Code.

6. Organisation of environmental inspections shall include the following:

1) drafting and duly approving by the head of the environment protection authority of a work inspection plan, which shall contain the following:

timing of the inspection;

major objectives and goals of the inspection and a procedure for their realisation;

a list of issues and area of circumstances that are to be identified in the course of the inspection;

an inspection schedule;

other information based on the specifics of activities of the inspected entity;

2) registration of inspections with the government agency which conducts statistics activities to the extent of its competence in the area of legal statistics and special records (hereinafter, the “agency for legal statistics”), in accordance with procedure established by legislation of the Republic of Kazakhstan, except as otherwise may be provided in Article 121.3 of this Code;

3) preparation and application of technical means for identification of the quality and quantity composition of harmful (polluting) substances in the environment, and also of harmful physical environmental impacts.

7. During the inspection, the nature user must provide its authorised representative and unimpeded access to its facilities. The nature user must conduct required safety briefing to government environmental inspectors and provide them with personal protective equipment.

### **Article 120. Frequency and Timing of Environmental Inspections**

1. Scheduled inspections shall be conducted no more than once a year.

2. Once a scheduled or an integrated inspection of a nature user has been completed, no other type of environmental inspections, except for unscheduled and cross inspections, of such nature user may be conducted during the current calendar year.

3. Except as otherwise provided by paragraph 5 of this Article, timing of an environmental inspection of a private entrepreneur as specified in the order to conduct such inspection may not exceed thirty business days of the time of its service on such entrepreneur.

4. Environmental inspections of nature users, who have been implementing their environmental programmes, have not violated the environmental legislation of the Republic of Kazakhstan, and submit their full and good quality reports in a timely manner, for three years, may be conducted no more than once in three years, except when an emergency pollution occurs.

5. During the inspection of special complex issues, the environment protection authority may extend the timing of the environmental inspection, with notification of the agency for legal statistics, for no longer than thirty calendar days.

6. In case of inquiries for information which is needed for the inspection, the environmental inspection shall be suspended until such information is received.

### **Article 121. Procedure for Conducting of Environmental Inspections**

1. An inspection is conducted on the basis of order to conduct such inspection from the environment protection authority (hereinafter, the “order to conduct an inspection”), which must be registered with the agency for legal statistics in accordance with procedure established by laws of the Republic of Kazakhstan.

2. The order to conduct an inspection shall contain the following information:

1) name of the environment protection authority, last name and initials and position of the official who holds the power to appoint such an inspection and his signature;

2) date and registration number of the order to conduct an inspection in the register of the environment protection authority;

3) last names and initials of officials who conduct such inspection and last names and initials of any other individuals who are involved to conduct such inspection in accordance with this Code;

4) full name and location of the business entity and its tax payer’s registration number;

5) type of the inspection;

6) matter of the inspection;

7) timing of the inspection; and

8) reason for appointment of the inspection.

3. In exceptional instances, when the inspection has been necessitated by the current social and economic situation that requires immediate elimination of a threat to the public order, public health and the national interests of the Republic of Kazakhstan, when an inspection is conducted during off-hours (night hours, days-off or holidays), and in cases when violations are identified at the moment of their commitment and the necessity for immediate actions to document the evidence, the order to conduct an inspection shall be delivered to the agency for legal statistics during the next business day after the commencement of the inspection.

4. Upon arrival at the inspected facility, the government environmental inspector shall produce the following:

1) an order to conduct an inspection with a note of registration with the agency for legal statistics, except otherwise provided by paragraph 3 of this Article;

2) his/her certificate of employment;

3) a permit from a competent agency to visit secure facilities, if need be; and

4) an inspection plan approved by the head of the environment protection authority.

5. The inspection shall be deemed commenced upon service of the order to conduct an inspection on the inspected nature user.

6. In case of refusal to accept the order to conduct an inspection, or obstruction to access of government environmental inspectors who conduct the inspection to materials which are necessary for the inspection, a relevant report shall be drawn up. The report shall be signed by the government environmental inspector who conducts the inspection and by an authorised representative of the inspected nature user.

7. The authorised representative of the nature user has the right to refuse to sign the report by giving a written explanation of the reason for refusal. The refusal to accept the order to conduct an inspection shall not be the ground for cancellation of the inspection.

8. The inspection may be conducted only by such official (officials), who are specified in the order to conduct an inspection.

9. One order to conduct an inspection shall be the ground for one inspection only.

10. The order to conduct an inspection shall be issued in the name of one nature user or in the name of its separate division.

11. Product samples (specimens) for studies (tests) and assessment shall be selected in accordance with laws of the Republic of Kazakhstan.

12. Original documents shall be seized in accordance with the procedure established by laws of the Republic of Kazakhstan.

### **Article 122. Access of Government Environmental Inspectors to Territory or Premises to Conduct an Environmental Inspection**

1. A nature user must give government environmental inspectors who conduct an environmental inspection access to the territory or premises (except for living quarters) that are used in the process of business or any other activities, or to facilities that are related to business or any other activities.

2. In case of obstruction to access of government environmental inspectors who conduct the environmental inspection to the said areas, a report on administrative offence shall be drawn up. The report shall be signed by the government environmental inspector who conducts the environmental inspection and by the nature user or its authorised representative. In case of refusal to sign the said report, a note of such refusal shall be made in the report, and the nature user must provide a written explanation for such refusal within three business days.

3. To visit a secure facility, government environmental inspectors must have a permit from the competent agency issued in accordance with laws of the Republic of Kazakhstan.

4. The nature user has the right not to allow government environmental inspectors to its territory or premises if:

- 1) the order to conduct an inspection is not issued in accordance with the established procedure;
- 2) timing of the inspection specified in the order to conduct an inspection is not due or has elapsed; or
- 3) the given individuals are not specified in the order to conduct an inspection.

### **Article 123. Results of Environmental Inspection**

1. Government environmental inspectors shall produce the following reports based on inspection results:

- 1) an order of compliance with the environmental legislation of the Republic of Kazakhstan;
- 2) a report on administrative offence;
- 3) a resolution imposing an administrative penalty.

2. An order of compliance shall be the document of strict accountability and shall be binding on nature users.

3. An order of compliance shall specify:

- 1) the location of environmental inspection and date of the order of compliance;
- 2) the type of inspection;
- 3) last names, first names, patronymic names and positions of the government environmental inspectors who conducted the inspection;
- 4) last name, first name and patronymic name of the person or the full name of the legal entity;
- 5) nature user's address, bank information and account number;
- 6) last name, first name and patronymic name of the head and executives of the nature user who are responsible for compliance with the environmental legislation of the Republic of Kazakhstan and for record keeping of air emissions;
- 7) information on the previous inspection and actions that were taken to correct violations of the environmental legislation of the Republic of Kazakhstan that had been found previously;
- 8) revealed violations of the environmental legislation of the Republic of Kazakhstan with reference to relevant provisions of laws and regulations ; and
- 9) order to correct the violations of the environmental legislation of the Republic of Kazakhstan with the prescribed time period.

4. The environmental inspection shall be deemed completed on the day of service of an order of compliance on the nature user.

5. If no violation of the environmental legislation of the Republic of Kazakhstan has been found, a relevant note shall be made in the order of compliance.

6. Copies of documents, analytical control data and other materials obtained in the course of the environmental inspection shall be attached to the order of compliance.

7. The order of compliance shall be drawn up in two originals and signed by all participants of the environmental inspection and by the authorised representative of the nature user. In case the latter refuses to sign, a relevant note shall be made in the order of compliance.

8. In case there are any comments and/or objections concerning the results of the inspection, the authorised representative of the nature user shall state them in writing. Comments and/or objections shall be attached to the order of compliance and a relevant note shall be made.

9. One original of the order of compliance shall be serviced on the authorised representative of the nature user, with a note of receipt being made. In case of refusal to accept the order of compliance, the order of compliance shall be mailed to the nature user by post with advice of delivery.



10. The order of compliance shall be registered in a special register which must be page-numbered, sewn and sealed by the environment protection authority.

11. The nature user must provide to the environment protection authority information on fulfilment of the order of compliance with the environmental legislation of the Republic of Kazakhstan no later than seven business days after the expiry of the time period prescribed for the compliance with the order.

#### **Article 124. Procedure for Documenting Environmental Inspection Results**

1. If an environmental inspection reveals any violation of the environmental legislation of the Republic of Kazakhstan, the environment protection authority shall issue a resolution imposing an administrative penalty based on the results specified in the order of compliance. Such resolution shall be sent to the nature user.

2. Documenting of the report on administrative offence and resolution imposing an administrative penalty as well as the procedure for administrative proceedings shall be established in accordance with the legislation of the Republic of Kazakhstan concerning administrative offences.

3. The nature user who received a resolution imposing an administrative penalty must fulfil such resolution within the timeline specified in the resolution, unless the nature user has appealed against the result of the environmental inspection.

4. In cases where the found environmental violation is within the court jurisdiction, the report on such violation shall be sent to court within three days from the date of issue of such report.

#### **Article 125. Support Instruments for Environmental Inspection**

1. Support instruments for environmental inspection shall be analytical and office control.

2. In order to ensure the completeness and reliability of the environmental inspection, the laboratory, which is part of the environment protection authority, shall perform analytical control directly at nature objects and pollution sources.

3. Results of analytical control shall determine the nature user's compliance with environmental quality standards and shall be used for substantiation of non-compliance with the environmental legislation of the Republic of Kazakhstan.

4. Sampling for analytical control outside the sanitary zone of the nature use site shall be performed at any time without being registered as an environmental inspection and shall serve as the ground for issue of an order to conduct an inspection based on the facts of exceeded environmental quality standards.

5. Office control shall be performed on the basis of studies and analysis of accounting records and other documents provided by a nature user directly to the environment protection authority.

6. Finding of mistakes and inconsistencies in the data contained in accounting records and other documents provided by the nature user shall be the ground for issue of an order to conduct an inspection.

#### **Article 126. Procedure for Appealing Actions and Acts of Omission by Officials Who Exercise Government Environmental Control**

Actions (acts of omission) by officials who exercise the government environmental control may be appealed in the higher government agencies and/or an official or in court in accordance with the procedure established by laws of the Republic of Kazakhstan.

## **Article 127. Ensuring of Confidentiality of Information during an Environmental Inspection**

1. Confidential information that relates to the nature user may not be disclosed to a third party without nature user's written consent. Confidentiality of information shall be determined by laws of the Republic of Kazakhstan and international treaties.

2. Government environmental inspector must not disclose information that constitute national secrets, commercial secret and any other secret protected by law, as well as confidential information obtained by him/her in the course of an environmental inspection, except for confidential information specified by laws of the Republic of Kazakhstan.

## **Chapter 14. Production Environmental Control**

### **Article 128. Purpose and Objective of Production Environmental Control**

1. Physical persons and legal entities that are involved in special nature use must perform production environmental control.

2. Objectives of production environmental control include:

1) obtaining of information to make decisions in terms of the nature user's environmental policy; environmental quality goals and instruments for regulation of production processes that potentially impact the environment;

2) ensuring compliance with requirements of the environmental legislation of the Republic of Kazakhstan;

3) minimising nature user's production process impact on the environment and human health;

4) improving efficiency of use of natural and energy resources;

5) immediate proactive response to emergencies;

6) building a higher level of environmental awareness and responsibility of nature users' executives and employees;

7) ensuring public awareness of environmental activities of enterprises and risks to public health;

8) improving the level of compliance with environmental requirements;

9) increasing the production and environmental performance of the environmental management system; and

10) accounting environmental risks upon investing and lending.

### **Article 129. Procedure for Production Environmental Control**

1. Production environmental control shall be performed by a nature user based on the production environmental control programme which is developed by the nature user and approved by the environment protection authority.

2. The production environmental control programme shall establish a mandatory list of parameters that are monitored in the course of production environmental control, criteria to determine its frequency, duration and frequency of measurements, and utilised instrumental or computation methods.

3. Environmental assessment of production process efficiency within the framework of the production environmental control shall be performed on the basis of measurements and/or on the basis of computations of air emission level, hazardous production factors, and actual volume of consumption of natural, energy and other resources.

### **Article 130. Nature User's Rights and Obligations during the Conduct of Production Environmental Control**

1. During the conduct of production environmental control a nature user has the right to:

- 1) perform production environmental control to the extent which is minimally required to monitor the compliance with the environmental legislation of the Republic of Kazakhstan;
  - 2) develop a production environmental control programme in accordance with accepted requirements and subject to its own technical and financial capabilities;
  - 3) independently determine organisational structure of the production environmental control service and responsibility of personnel for the conduct of such control; and
  - 4) on a voluntary basis, conduct advanced production environmental control.
2. During production environmental control a nature user must:
- 1) develop a production environmental control programme and coordinate it with the environment protection authority;
  - 2) implement the terms of the production environmental control programme and document the results;
  - 3) follow procedural requirements and ensure quality of data received;
  - 4) systematically evaluate results of the production environmental control and take necessary measures to correct the inconsistencies with requirements of the environmental legislation of the Republic of Kazakhstan;
  - 5) submit reports on results of the production environmental control to the environment protection authority in accordance with established procedure;
  - 6) immediately report to the environment protection authority facts of violation of the environmental legislation of the Republic of Kazakhstan, which have been found in the course of the production environmental control;
  - 7) comply with safety requirements;
  - 8) ensure access of government environmental inspectors to source information in order to verify quality and objectivity of the production environmental control being conducted;
  - 9) ensure access of the public to programmes of the production environmental control and reporting data on the production environmental control; and
  - 10) upon request of government environmental inspectors, provide documentation, results of analyses and other materials of the production environmental control required to conduct the production environmental control.

### **Article 131. Drafting Requirements for Production Environmental Control Programme**

1. A production environmental control programme shall be prepared by a nature user.
2. A production environmental control programme must contain the following information:
  - 1) mandatory list of parameters which will be monitored in the course of production monitoring;
  - 2) period, duration and frequency of production monitoring and measurements;
  - 3) information on applied production monitoring methods;
  - 4) sampling locations and measurement locations;
  - 5) methods and frequency of data accounting, analysis and report;
  - 6) schedule of internal reviews and procedure for correction of violations of the environmental legislation of the Republic of Kazakhstan, including internal instruments of response to non-compliance;
  - 7) mechanisms to ensure quality of instrumental measurements;
  - 8) list of actions in case of emergency;
  - 9) organisational and functional structure of internal employee responsibility for production environmental control; and
  - 10) other information concerning the organisation and conduct of production environmental control.

### **Article 132. Types and Organisation of Production Monitoring**

1. Production monitoring is an element of production environmental control which is performed with a view to obtaining objective data in accordance at established intervals.

2. Operational monitoring, air emission monitoring and impact monitoring shall be performed within the framework of the production environmental control.

3. Operational monitoring (production process monitoring) includes monitoring of process parameters in order to verify that nature user's performance is within the range that is considered appropriate for its proper designed operation and compliance with process technology requirements of the given production. The scope of operational monitoring shall be determined by a nature user.

4. Air emission monitoring shall include monitoring of emissions by a source in order to monitor production losses, quality and quantity of emissions and their variation.

5. Impact monitoring shall be included in the production environmental control programme where it is needed in order to monitor compliance with the environmental legislation of the Republic of Kazakhstan and environmental quality standards.

6. Impact monitoring shall be mandatory in the following cases:

- 1) when nature user's activities affect sensitive ecosystems and the state of public health;
- 2) at the start-up phase of process facilities; and
- 3) after emergency air emissions.

7. Impact monitoring may be performed by the nature user independently and in cooperation with other nature users as agreed upon with the environment protection authority.

8. A production monitoring programme shall be developed based on environmental assessment of impact of planned work. A production monitoring programme shall be agreed with the environment protection authority, government agency of sanitary and epidemiological service and approved by the nature user. The duration of production monitoring shall depend on the duration of impact.

9. Environmental production monitoring shall be performed by production laboratories or independent laboratories, which are accredited in accordance with the procedure established by laws of the Republic of Kazakhstan.

10. Data generated by the production monitoring shall be used for environmental assessment within the framework of the Unified Environmental and Natural Resource Monitoring System.

### **Article 133. Production Environmental Control Records and Reporting**

A nature user shall maintain internal records, compile and present periodic reports on production environmental control in accordance with the requirements defined by the environment protection authority.

### **Article 134. Organisation of Internal Reviews by Nature User**

1. A nature user shall take measures to ensure regular internal review of compliance with the environmental legislation of the Republic of Kazakhstan and comparison of results of production environmental control with the terms prescribed by environmental permit and other permits.

2. Internal reviews shall be conducted by an employee (employees) whose job responsibilities include environmental protection-related and production environmental control-related functions.

3. The following shall be controlled in the course of internal reviews:

- 1) implementation of actions stipulated by the production environmental control programme;
- 2) compliance with production instructions and environmental rules;
- 3) compliance with the terms prescribed by environmental permit and other permits;
- 4) accuracy and reliability of records and reporting on the results of production environmental control; and

5) other information concerning the organisation and conduct of production environmental control.

4. An employee (employees) who performs internal review must:

1) review the report on the previous internal review;

2) inspect every facility where air emissions are produced;

3) if need be, compile a written report to the company manager that shall include requirements for corrective actions as regards inconsistencies that have been found in the course of review, and timing and procedure for correction of such inconsistencies.

## **Chapter 15. Public Environmental Control**

### **Article 135. Goals and Procedure for Public Environmental Control**

1. Public environmental control shall be conducted in order to attract the public to environmental problems of the State.

2. The procedure for conducting public environmental control shall be established by public associations in accordance with their charters.

### **Article 136. Information and Other Interaction**

1. Persons and legal entities must have access to the information concerning the work of government agencies that exercise government control in the area of environmental protection, protection, reproduction and use of natural resources and its results.

2. Government agencies that exercise government control in the area of environmental protection, protection, reproduction and use of natural resources shall ensure publication of results of individual inspections and annual reporting.

3. In order to cooperate and interact, the environment protection authority shall compile a list of public associations the charters of which stipulate functions of public environmental control.

4. Government agencies may engage persons and legal entities on a voluntary basis to work on finding violations of the environmental legislation of the Republic of Kazakhstan.

## **Section 5. Environmental Monitoring and Registries**

### **Chapter 16. Environmental and Natural Resource Monitoring**

#### **Article 137. Government Environmental Monitoring**

1. Government environmental monitoring (environmental and natural resource monitoring) means a comprehensive system for monitoring of the state of environment and natural resources in order to evaluate, forecast and control change in their state that occur due to the impact of natural and man-made factors.

2. Objects of government environmental monitoring shall include ambient air, land, surface and groundwater, subsoil, vegetation and wildlife, as well as climate and ozone layer of the Earth, ecosystems, and factors of environmental impact on human health.

#### **Article 138. Unified Environmental and Natural Resource System and Its Objectives**

1. The unified environmental and natural resource monitoring system is a multipurpose information system which includes monitoring of the state of the environment and natural resources, as well as analysis of data as regards their actual state in order to make managerial and business decisions with a view to ensuring environmental safety, protection, reproduction and efficient use of natural resources, and sanitary and epidemiological well-being of the public.

2. The unified environmental and natural resource monitoring system shall be organised by the environment protection authority in cooperation with special authorised government agencies.

3. Principles of the unified environmental and natural resource monitoring government system include:

1) functioning on the basis of a unified organisational, methodological, and metrological and information approach;

2) maximising the use of capabilities available with existing government monitoring systems and other monitoring systems.

4. Objectives of the unified environmental and natural resource monitoring system include:

1) obtaining of accurate and comparable information on the state of the environment, biological diversity and ecosystems, on source of man-made impact, habitat factors that impact public health;

2) evaluating and forecasting the state of environment, extent of man-made impact, biosphere parameters, and functional integrity of ecosystems;

3) providing data for analysis of efficiency of managerial decisions being made and actions being taken to ensure environmental safety.

5. The unified environmental and natural resource monitoring system shall be formed on the basis of monitoring systems and sub-systems existing in the Republic of Kazakhstan that, directly or indirectly, relate to environmental protection, including habitat and public health.

6. To the extent it comes within their competence, special authorised government agencies must study nature objects and organise monitoring types (sub-systems).

#### **Article 139. Unified Information System of the Unified Environmental and Natural Resource Monitoring System**

1. Information support for the Unified Environmental and Natural Resource Monitoring System shall be based on data which is provided to a pool of information relating to the government environmental and natural resource monitoring performed by special authorised government agencies, as well as production monitoring performed by nature users within the framework of production environmental control.

2. Software system must allow for accumulation, processing and storage of information on a single methodical foundation and provide for information sharing among various levels as well as among data banks of systems and sub-systems of the Unified Environmental and Natural Resource Monitoring System.

3. Information sharing within the framework of the Unified Environmental and Natural Resource Monitoring System shall be free of charge in accordance with lists, forms and timing, which are approved by the environment protection authority in coordination with special authorised government agencies that perform monitoring of respective types of natural resources.

#### **Article 140. Content of the Unified Environmental and Natural Resource Monitoring System**

1. Content of the Unified Environmental and Natural Resource Monitoring System shall include the following monitoring sub-systems:

1) environmental monitoring;

2) natural resource monitoring;

3) special types of monitoring.

2. In the course of performance, other types of monitoring may be included in sub-systems of the Unified Environmental and Natural Resource Monitoring System.

#### **Article 141. Monitoring of the State of Environment**

1. Monitoring of the state of environment shall include the following types:

1) air monitoring;

2) monitoring of atmospheric precipitations;

- 3) monitoring of quality of water resources;
- 4) soil monitoring;
- 5) meteorological monitoring;
- 6) radiation monitoring;
- 7) monitoring of trans-boundary pollution;
- 8) baseline monitoring.

2. Environmental monitoring shall be organised by the environment protection authority.

3. Air monitoring means a system of observations over the air pollution in inhabited localities of the Republic of Kazakhstan. Number of government observation stations and their arrangement in any inhabited locality shall be determined by the environment protection authority to the extent of its competence subject to the number of population, local relief, and actual level of pollution.

4. Monitoring of atmospheric precipitations means a system of observations over chemical composition of atmospheric precipitations, which serves as an air pollution index, as well as monitoring of presence of substances in snow cover in order to assess regional air pollution in winter and in order to identify distribution area of pollutants from inhabited localities and industrial facilities.

5. Monitoring of quality of water resources means a system of observations over the quality of surface and groundwater.

6. Soil monitoring means a system of observations over man-made soil pollution on land of inhabited localities, irrigated and agricultural areas.

7. Meteorological monitoring means a system of comprehensive meteorological observations, including actinometrical, warmth balance, ozone metrical, aerological observations over physical parameters of the atmosphere and underlying surface in order to provide government agencies, persons and legal entities with weather information, to compile short-term and long-term meteorological and agrometeorological forecasts and to warn about potential disastrous weather events. Meteorological monitoring serves as foundation for climate monitoring and monitoring of the ozone layer of the Earth.

8. Radiation monitoring means a system of observations over man-made and natural radioactive pollution environment objects and territories.

9. Monitoring of trans-boundary pollution means a system of observations, which is exercised within the framework of international cooperation with neighbouring states, over trans-boundary waters and trans-boundary air pollution as well as efficiency of actions to prevent, combat and minimize environmental trans-boundary impact.

10. Baseline monitoring means a system of observations over the atmosphere and other areas of their interaction with the biosphere at a specialised network of stations for integrated baseline monitoring.

#### **Article 142. Natural Resource Monitoring**

1. Natural resource monitoring shall include the following types:

- 1) land monitoring;
- 2) monitoring of water bodies and their use;
- 3) subsoil monitoring;
- 4) monitoring of specially protected natural areas;
- 5) monitoring of mountain ecosystem and desertification;
- 6) monitoring of forests;
- 7) monitoring of wildlife; and
- 8) monitoring of plant community.

2. Natural resource monitoring shall be performed by special authorised government agencies of the Republic of Kazakhstan in accordance with laws of the Republic of Kazakhstan.

3. Land monitoring means a system of base (source), operating and periodic observations over quality and quantity of the land reserves, which are conducted with a view to timely identifying on-going changes, to evaluating such changes, forecasting further development and to developing recommendations to prevent and eliminate effects of negative processes.

Land monitoring data shall be reflected in the State Land Cadastre.

4. Monitoring of water bodies means a system of regular observations over hydrological, hydrogeological, hydrochemical, sanitary and chemical, microbiological, parasitological, radiological and toxicological parameters of their condition; collection, processing and transfer of received information in order to timely identify negative processes, to evaluate and forecast their development, to develop recommendations for prevention of harmful effects and to determine the extent of efficiency of water management actions.

5. Subsoil monitoring means a system of observations over the quality of subsoil in order to ensure efficient use of the national subsoil reserves and to timely identify changes in subsoil, as well as to prevent and eliminate effects of negative processes. Subsoil monitoring data shall be summarised in the State Subsoil Registry.

6. Monitoring of specially protected natural areas means a system of observations for studying the natural development of nature processes and impact of environmental changes on ecosystems of specially protected natural areas. Data of monitoring of specially protected natural areas shall be summarised in the State Register of Specially Protected Natural Areas.

7. Monitoring of mountain ecosystem and desertification means monitoring of desertification and its effects and the condition of mountain ecosystems.

8. Monitoring of forests means a system of observations, evaluation and forecast of the condition and dynamics of forests for the purpose of government management in the area of protection and defence of forest reserves and reproduction of forests, use of forest reserves, and preservation of biological diversity and environmental functions of forests. Data of monitoring of forests shall be summarised in the State Forests Registry.

9. Monitoring of wildlife means a system of observations, evaluation and forecast of the state and dynamics of wildlife for the purpose of government management in the area of protection, reproduction and use of wildlife and preservation of biological diversity. Data of monitoring of wildlife shall be summarised in the State Wildlife Registry.

10. Monitoring of plant community means a system of observations and evaluation of the condition of plants with a view to studying, protecting, reproducing and ensuring sustained use.

### **Article 143. Special Types of Monitoring**

1. Special types of monitoring include:

- 1) monitoring of military test-sites;
- 2) monitoring of Baikonur rocket and space complex;
- 3) monitoring of greenhouse gases and consumption of ozone-depleting substances;
- 4) sanitary and epidemiological monitoring;
- 5) monitoring of climate and the ozone layer of the Earth;
- 6) monitoring of areas of environmental emergencies and environmental disasters; and
- 7) air space monitoring.

2. Monitoring of military test sites means a system of observations over environmental pollution caused by military hardware tests, including missiles, nuclear explosions for peaceful purposes on the territory of discontinued and active test sites.



3. Monitoring of Baikonur rocket and space complex means a system of observations over the state of environment on territories that are exposed to impact of rocket and air space activities at the site of Baikonur.

4. Monitoring of greenhouse gases and consumption of ozone-depleting substances means a system of observations and record keeping of greenhouse gas air emissions and consumption of ozone-depleting substances and their sources.

5. Sanitary and epidemiological monitoring means a government system of observations over the state of public health and habitat, their analysis, evaluation and forecast, as well as identification of cause and effect relationship between public health and habitat factor impact. Monitoring shall be performed by an authorised government agency for sanitary and epidemiological well-being of the public.

6. Monitoring of climate and the ozone layer of the Earth means monitoring climate changes and dynamics of the ozone layer of the Earth and integrated evaluation and forecast of their condition.

7. Monitoring of areas of environmental emergency and environmental disasters means a system of observations of the state of environment in areas of environmental emergency and environmental disasters.

8. Air space monitoring means a system of observations over the environment with the use of air space based equipment and remote sensing. An authorised state agency for air space activities is responsible for organisation of functioning of such system.

9. The environment protection agency shall organise the conduct of those types of monitoring as specified in paragraphs 2 – 4, 6, 7 of this Article.

#### **Article 144. Levels and Monitoring Networks of the Unified Environmental and Natural Resource Monitoring System**

1. The Unified Environmental and Natural Resource Monitoring System shall be maintained at three levels:

1) local (production monitoring and monitoring at specific areas of inhabited localities, water reservoirs and rivers, and specially protected natural areas);

2) regional (monitoring within administrative and territorial units with consideration of physical and geographical as well as economic features of regions, presence of environmentally stressed areas and a range of natural and man-made factors that impact the state of environment and use of natural resources);

3) nation-wide (monitoring that encompasses the entire territory of the Republic of Kazakhstan with major regions and certain objects that are of national importance being singled out, if necessary).

2. Monitoring the environment and sampling for analysis within the framework of the Unified Environmental and Natural Resource Monitoring System shall be conducted at specially created stations of national, territorial and private monitoring networks. Analysis of the concentration of pollutants in samples shall be conducted by accredited analytical laboratories.

3. Building of monitoring networks within the framework of the Unified Environmental and Natural Resource System shall be coordinated with the environment protection authority.

#### **Article 145. Basis for Functioning of the Unified Environmental and Natural Resource Monitoring System**

The Unified Environmental and Natural Resource Monitoring System shall function on the basis of:

1) organisation and conduct of scientific research and formation of methodical base, which is necessary and adequate for functioning of the Unified Environmental and Natural Resource Monitoring System;

2) development and establishment of standards that determine the state of environment, standards of man-made impact on the environment, environmental safety standards that serve as the foundation for evaluation and forecast of the quality of the environment, for development and adoption of managerial decisions as regards nature protection activities;

3) adoption and bringing to effect laws and regulations statutory acts that regulate requirements, rules and procedures that are necessary for the creation and functioning of the Unified Environmental and Natural Resource Monitoring System, its structural divisions and elements;

4) organisation of development and application of methodical documents that allow receiving of comparable monitoring results;

5) development of information systems, data base systems, classifiers, data dictionaries and uniform document forms;

6) equipment support; and

7) organisation of accreditation of analytical laboratories and other divisions that assist in monitoring.

#### **Article 146. Funding of the Unified Environmental and Natural Resource Monitoring System**

1 The Unified Government Environmental and Natural Resource Monitoring System shall be funded from the budget and other sources that are not prohibited by the legislation of the Republic of Kazakhstan.

2. The funding of the Unified Environmental and Natural Resource Monitoring System shall be budgeted to be spent for the following purposes:

1) creation and maintenance of the nation-wide monitoring;

2) creation of research and development products in order to ensure functioning and development of monitoring and its sub-systems, realization of special purpose monitoring programmes via national (state and industry) research and development action programmes;

3) creation and maintenance of territorial monitoring, creation of research and development products in the interests of development of such territorial monitoring.

### **Chapter 17. Government Inventory of Polluted Areas**

#### **Article 147. Objectives and Principles of Keeping of Polluted Areas**

1. Government inventory of polluted areas represent a systematic determination and record of qualitative and quantitative parameters that characterise environmental areas and objects which are polluted by harmful substances, including those of natural origin, in excess of standards which are established by the legislation of the Republic of Kazakhstan.

2. Data of the government inventory of polluted areas shall characterise the degree of industrial and environmental safety of such areas for human life and health, level of knowledge, use and reclamation .

3. Government inventory of polluted areas shall be performed by the environment protection authority based on data that are provided by nature users and organisations that monitor the environment and natural resources on request of the authorised government agencies.

#### **Article 148. Procedure for Keeping Inventory of Polluted Areas and their Registers**

1. State register of polluted areas is a data bank which accumulates information on types and origin of polluted areas, volume and concentration of pollutants in those areas, ownership of such polluted areas and actions to eliminate pollution.

2. The State Register of Polluted Areas shall consist of central and territorial registers. The environmental protection authority shall be responsible for maintenance of the State Register of Polluted Areas.

3. The State Register of Polluted Areas shall be funded from the budget.

## **Chapter 18. State Registers of Natural Resources**

### **Article 149. Unified System of State Registers of Natural Resources**

1. The Unified System of State Registers of Natural Resources of the Republic of Kazakhstan (hereinafter, the “Unified System of Registers”) shall be created and maintained as an inter-industry system that unites all types of state registers of natural resources of the Republic of Kazakhstan in order to provide for a unified national integrated inventory and evaluation of natural and economic potential of the Republic of Kazakhstan.

2. State registers of natural resources are a systematised consolidation of information on quantitative and qualitative parameters of natural resources in accordance with the procedure established by this Code and other laws of the Republic of Kazakhstan.

3. The objects of the Unified System of Registers include constituent parts of the environment: land, water, forest, soil, subsoil, vegetation and wildlife in their interaction.

4. The Unified System of Registers shall be maintained by the environment protection authority in cooperation with special authorised government agencies that monitor the existing types of natural resources based on the inventory of the quality and use of natural resources.

5. The System of State Registers of Natural Resources shall contain documentary information on every accounted object reflecting its quality, gridding and form of ownership.

6. The Unified System of Registers shall be based on the following fundamental principles:

- 1) unity of processing technology and provision of register information;
- 2) application of automated information technologies; and
- 3) objectiveness in supply and update of information.

### **Article 150. Structure and Content of the Unified System of Registers**

The structure of the Unified System of Registers includes the following accounting objects which are monitored by the special authorised agencies as designated below:

1) accounting objects for state land cadastre shall be monitored by the central authorised agency for land resource management; which is in charge of matters on the national level, and by its territorial agencies at the level of administrative and territorial units;

2) accounting objects for state water register (surface and groundwater sources and use of water resources) shall be monitored by the authorised government agencies for environment protection, use and protection of water reserves, and subsoil study and use, which are in charge of matters at the national level, and their territorial agencies shall be in charge of matters as relate to river basins and administrative and territorial units;

3) accounting objects for state forest register which shall be monitored by an authorised government forestry agency, which is in charge of matters at the national level, and its territorial agencies shall be in charge of matters within administrative and territorial units;

4) accounting objects for state register of deposits and occurrences of mineral resources shall be monitored by an authorised government agency for subsoil study and use, which is in charge of matters at the national level, and its territorial agencies shall be in charge of matters within administrative and territorial units;

5) accounting objects for state register of specially protected natural areas shall be monitored by an authorised government agency for specially protected natural areas, which is in charge of matters at the national level, and its territorial agencies shall be in charge of matters within administrative and territorial units;

6) accounting objects for wildlife shall be monitored by an authorised government agency for protection, reproduction and use of wildlife, which is in charge of matters at the national level, and its territorial agencies shall be in charge of matters within administrative and territorial units.

#### **Article 151. Provision of Information**

1. Results of inventory and registration of objects that have been received within natural resource registers shall be supplied by special authorised government agencies to the environment protection authority on a free of charge basis.

2. Data regarding an object that has been registered in the Unified System of Registers shall include:

1) information contained in statistics sheets, reporting materials, object data-sheet – all approved by special authorised government agencies;

2) cartographic material showing spatial position of objects and other data required for a comprehensive area evaluation.

3. The environment protection authority must provide access to register information to special authorised government agencies that perform monitoring of relevant types of natural resources.

### **Chapter 19. State Registry of Industrial and Consumption Waste**

#### **Article 152. State Registry of Industrial and Consumption Waste**

1. State registry of industrial and consumption waste (hereinafter, the “State Registry of Waste) constitutes a systematised geoinformation system-based , supplemented and updated from time to time, collection of uniform data on every object of waste placement (with specification of spatial position of such waste), and types of waste, their origin and physical and chemical properties (with consideration of hazard degree to the public and the environment), component composition, quantitative and qualitative parameters, technical, hydrogeological and environmental terms of storage, burial and discharge, technology for their use and neutralisation.

2. All types of waste and objects of waste placement shall be recorded in the State Registry of Waste.

#### **Article 153. Goals and Objectives of the State Registry of Waste**

1. The State Registry of Waste shall be maintained in order to provide government agencies, interested persons and legal entities with information for evaluation, forecast and development of technology, economic, legal and other decisions as related to protection of the environment and to maintenance of the national comprehensive inventory of waste.

2. The major objective of maintaining the State Registry of Waste is to supply of national, regional and industry information and expert systems and data banks with information on waste, their properties and treatment technology.

#### **Article 154. Maintenance of the State Registry of Waste**

1. Nature users shall submit the following documentation to the environment protection authority:

1) certificate of hazardous waste;

2) materials on waste inventory;

3) reports on hazardous wastes; form of such reports shall be approved by the environment protection authority;

4) rating files on the waste placement facilities which shall include:

a resolution of the local executive agency of the oblast (city of national significance, or the capital city) concerning allotment of land plot for waste storage and disposal;

statement concerning the delineation of boundaries of the land plot and issue of a title document to the land plot, which shall be certified by the local executive agency of the oblast (city of national significance, or the capital city), districts (regional cities), akims of district cities, settlements and auls (villages), aul (village) county, to the extent of their competence, at the place of the land plot;

feasibility study for the creation of waste placement facilities; and

affirmative statement of opinions of state environmental review, state sanitary and epidemiological assessment, and assessment which is conducted in accordance with the legislation of the Republic of Kazakhstan concerning subsoil and subsoil use for creation of waste placement facilities.

2. Documentation specified in sub-paragraphs 2) and 3), paragraph 1 of this Article shall be presented on an annual basis as of the period between 1 January and 1 March of the year following the reporting year. Documentation shall be presented in hard copy and electronic media.

Documentation specified in sub-paragraphs 1) and 4), paragraph 1 of this Article shall be presented repeatedly, should such information change.

#### **Article 155. Information on Results of Maintenance of the State Registry of Waste**

1. The environment protection authority shall prepare an annual information review based on results of the maintenance of the State Registry of Waste.

2. The State Registry of Waste shall be printed in the form of a separate illustrated book in the national language and the Russian language as frequently as once every five years.

### **Chapter 20. State Registry of Burial of Hazardous Substances, Radioactive Waste and Discharge of Waste Water in Subsoil**

#### **Article 156. State Inventory of Burial of Hazardous Substances, Radioactive Waste and Discharge of Waste Water in Subsoil**

1. Maintenance of the State Registry of Burial of Hazardous Substances, Radioactive Waste and Discharge of Waste Water in Subsoil (hereinafter, the “State Registry of Burial) shall be binding on nature users who have burial facilities for hazardous substances, radioactive waste and discharge of waste water in subsoil on the territory of the Republic of Kazakhstan.

2. The environment protection authority shall organise the State Registry of Burial in order to promptly obtain information, make decisions on environmental protection-related matters and control the condition of places for burial of hazardous substances, radioactive waste and discharge of waste water in subsoil on a regular basis.

3. Data of the State Registry of Burial shall be entered in the unified system of digital information on subsoil, and shall form part of the government monitoring of subsoil.

4. Facilities for burial of hazardous substances, radioactive waste and discharge of waste water in subsoil shall be recorded in the State Registry of Burial.

#### **Article 157. Contents of the State Registry of Burial**

1. The State Registry of Burial shall contain information that characterises type and form of buried substances and discharged water, with specification of their quantitative and qualitative characteristics, mining, special engineering-geological, hydrogeological and environmental terms of burial and discharge and shall include:

1) general characteristics of facilities for burial of hazardous substances, radioactive waste and sites of discharge of waste water: location, period of operation, maintenance costs, availability and location of environment and subsoil monitoring network;

2) physical characteristics of facilities for burial of hazardous substances, radioactive waste and sites of discharge of waste: characteristics of isolation, type of rock, occurrence depth and

effective reservoir thickness, its areal extent, porosity factor, characteristics of subjacent and overlying aquitard, velocity of natural ground water flow, storage of discharge and other quantitative and qualitative characteristics; and

3) characteristics of hazardous substances, radioactive waste and waste water: name of product, production or process which generate such product, physical properties (full chemical compositions, content of toxic components, fire and explosive hazard, solubility, compatibility with other substance while in storage, major polluting radionuclides, their activity and other properties), characteristics of transportation system.

2. The State Registry of Burial shall be maintained separately for hazardous substances, radioactive waste and waste water discharged in subsoil in accordance with laws and regulations approved by the environment protection authority.

### **Article 158. Maintenance of the State Registry of Burial**

1. On an annual basis, nature users shall, during the first quarter of the year following the reporting year, submit to the environment protection authority information set out in Article 157.1 as of 1 January in two copies.

2. Based on data received from nature users, the environment protection authority shall compile the State Registry of Burial.

3. While maintaining the State Registry of Burial, the environment protection authority shall ensure:

- 1) control over timely arrival of data from nature users;
- 2) collection, accounting, systematisation and storage of materials;
- 3) building and functioning of automated data processing system with use of computing equipment in order to provide reference and information services to nature users;
- 4) accuracy of the State Registry of Burial.

## **Chapter 21. Environmental Information**

### **Article 159. Environmental Information**

1. Environmental information shall contain information and data relating to:

- 1) the state of environment and its objects;
- 2) environmental impact factors, including environmental pollution;
- 3) programme, administrative and other measures that affect or may affect the environment;
- 4) environmental standards and requirements applicable to economic and other activities;
- 5) planned measures and measures in progress with respect to environmental protection and funding details;
- 6) activities that affect or may affect the environment, decision-making and findings of environmental inspections relating to such activities, including reviewed environment-related calculations, analyses and other data; and
- 7) effect of the environment quality on health, safety and living conditions of the population, as well as on cultural facilities and buildings and structures.

2. Environmental information may be presented in writing, electronic, audio-visual or any other form.

### **Article 160. Compilation and Distribution of Environmental Information by Government Agencies and Other Legal Entities**

1. Government agencies and other legal entities shall collect, account, store and distribute environmental information to provide government agencies with information for their activities, plan and implement environmental protection measures and exercise the right of the population to the life and health friendly environment.

2. Environmental information, which is subject to mandatory collection, accounting and storage by government agencies and other legal entities, shall be determined by the legislation of the Republic of Kazakhstan.

3. Any data related to planned activities and activities in progress which can significantly affect the environment, as well as data related to any natural or man-triggered emergency which constitutes a serious threat to the environment and human life and health shall be subject to mandatory review and accounting by special authorised government agencies.

4. In order to systematise environmental information and provide better access to such information, government agencies shall establish and maintain electronic registers of environmental information.

5. Within their competence, government agencies shall publicise the following environmental information on the Internet and other publicly-accessible information and communication resources:

- 1) reports on the state of the environment;
- 2) drafts and texts of laws and regulations and international treaties with respect to environmental protection;
- 3) drafts and texts of the documents covering national policy, programmes and plans regarding environmental protection;
- 4) reports on the results of regulating, inspectoral and law-enforcement activities in the field of environmental protection; and
- 5) environmental protection-related information listed as basic services of the e-government.

6. Government agencies may engage individuals and legal entities to distribute environmental information in a manner required by the laws of the Republic of Kazakhstan on state procurement and state social order.

#### **Article 161. State Environmental Information Fund**

1. Centralised gathering, inventory and storage of environmental information shall be carried out by the State Environmental Information Fund.

2. An organisation that is subordinate to the environment protection authority shall maintain the State Environmental Information Fund.

3. Information resources of the State Environmental Information Fund shall include the following materials and documents:

- 1) materials and documents submitted by government agencies and legal entities on a mandatory basis; and
- 2) materials and documents provided by individuals and legal entities on a voluntary basis.

4. The State Environmental Information Fund shall comprise the following types of environmental information:

- 1) registers of natural resources;
- 2) register of emissions and transport of pollution and other registers of environmental information;
- 3) list of environmentally hazardous production processes;
- 4) environmental monitoring data;
- 5) materials of environmental impact assessment and state environmental reviews with the consent of a customer of the planned activities;
- 6) laws and regulations and technical standards with respect to environmental protection and use of natural resources;
- 7) research and development reports associated with environmental protection;
- 8) technical and scientific literature in the field of ecology and clean technologies; and
- 9) other materials and documents containing environmental information.

### **Article 162. National Environmental Atlas**

1. In order to ensure the systematic and demonstrable presentation of environmental information, a scientific and reference book of maps – a National Environmental Atlas – shall be compiled.

2. The environment protection authority shall develop and publish the National Environmental Atlas.

### **Article 163. Access to Environmental Information**

1. Environmental information shall be accessible to the public, except as otherwise may be prescribed by laws of the Republic of Kazakhstan.

2. Access to some information and data constituting publicly-accessible environmental information shall be provided upon request of individuals and legal entities, by placing it in mass media, special publications and on the Internet as well as using other accessible information and communication resources.

3. Access to governmental information resources (information databases) of environmental information shall be provided by compiling and maintaining registers and inventories of environmental information.

4. Access to documents and information resources containing limited access information and data shall be provided in the manner prescribed by the legislation of the Republic of Kazakhstan.

### **Article 164. Rights and Obligations of the Parties with Regard to Access to Environmental Information**

1. Individuals and legal entities shall have the right for free access to publicly-accessible governmental environmental information resources.

2. Government agencies and officials performing governmental functions or individuals and legal entities rendering environment-related services to the population on the basis of a public agreement shall provide open access to environmental information, including access upon requests of individuals and legal entities.

3. Other individuals and legal entities operating in the Republic of Kazakhstan shall provide, upon request, environmental information related to impact on the citizens' life and health.

4. Individuals and legal entities shall have the right to receive information from the parties listed in paragraph 2 of this Article in the requested form, unless there is a ground to provide it in any other form.

### **Article 165. Terms and Procedures for the Provision of Environmental Information**

1. The terms and procedures for providing environmental information by government agencies shall be determined by the legislation of the Republic of Kazakhstan on administrative procedures and procedures for review of citizens' applications.

2. Individuals and legal entities, except for those listed in paragraph 1 of this Article, shall provide the requested environmental information not later than one month following the date the request was received.

3. Access to environmental information related to the environmental impact assessment and decision making with regard to planned business and other activities shall be provided in a manner prescribed by the environment protection authority.

4. Where a governmental agency does not possess the requested environmental information, the request shall be forwarded to a competent government agency within the time-limits established by the legislation of the Republic of Kazakhstan.



### **Article 166. Payment for Provision of Environmental Information**

1. A fee may be collected for the provision of environmental information and the amount of such a fee shall not exceed the amount of actual expenses incurred for making copies, search and preparation of information.

2. Any fee payable to a governmental agency for the provision of environmental information shall be wired to an income code of the government agency's relevant budget.

3. No fee shall be charged by a government agency if environmental information is provided through a publicly-accessible governmental electronic register and database of environmental information.

### **Article 167. Refusal to Provide Environmental Information**

1. Individuals and legal entities may be refused to be provided with environmental information due to the following reasons:

1) a request is not specific and does not allow determining information and data requested by an applicant;

2) requested information is not available;

3) a request refers to limited access information and data in accordance with laws of the Republic of Kazakhstan.

2. A refusal to provide environmental information shall be forwarded to the applicant not later than one month after the date of receipt of the relevant request.

3. A refusal shall be executed in writing and indicate the reasons and grounds for such refusal, possibility to appeal it by the applicant and, in the cases stipulated by Article 165.4 hereof, it shall include a notification informing that the request has been forwarded to a competent government agency.

4. Refusal to provide, non-provision, provision of incomplete or inaccurate environmental information, as well as unlawful attribution of publicly-accessible information to limited access information may be appealed with a superior government agency and/or official or court.

## **Chapter 22. Accounting of Nature Users and Sources of Environmental Pollution**

### **Article 168. State Register of Nature Users and Sources of Environmental Pollution**

The state register of nature users producing emissions into the environment and sources of environmental pollution of the Republic of Kazakhstan shall be a system of state database to account nature users and sources of environmental pollution.

### **Article 169. State Accounting of Nature Users and Sources of Environmental Pollution**

1. The state accounting of nature users and sources of environmental pollution shall be carried out by the environment protection authority while processing environmental permits for nature users by entering and updating the data on a nature user and sources of environmental pollution in the State Register of Nature Users and Sources of Environmental Pollution, including the following data:

1) location of a nature user;

2) location of sources of environmental pollution;

3) deregistration.

2. Legal entities and individuals having sources of environmental pollution shall be subject to the state accounting as nature users:

1) legal entities and their structural subdivisions, including non-residents operating in the Republic of Kazakhstan through a permanent establishment – by their location;

- 2) legal entities – non-residents operating in the Republic of Kazakhstan without forming a permanent establishment – by place of business; and
- 3) individual entrepreneurs – by place of business.
3. The nature user's registration number shall be indicated in the following:
  - 1) reporting documents and other documents connected with the performance of obligations, submitted by a nature user;
  - 2) documents forwarded by the environment protection authority to a nature user with respect to its obligations.
4. The procedures for state accounting of nature users and sources of environmental pollution shall be determined by the environmental protection authority.

#### **Article 170. Exclusion from the State Register of Nature Users and Sources of Environmental Pollution**

A nature user shall be struck out of the State Register of Nature Users and Sources of Environmental Pollution upon completion of the activity associated with environmental impact.

#### **Article 171. Interaction between Government Agencies in Connection with Accounting of Nature Users and Sources of Environmental Pollution**

In accounting the nature users, the environment protection authority shall interact with the following government agencies:

- 1) agencies that carry out state registration and re-registration of legal entities;
- 2) statistics agencies;
- 3) agencies that keep records and/or register the objects of taxation and the objects relating to taxation;
- 4) agencies that issue licenses, certificates, or other documents of an authorisation or registration nature; and
- 5) special authorised government agencies.

#### **Article 172. Provision of Data on Nature Users That Have Sources of Environmental Pollution**

Upon demand of the taxation authorities, the environment protection authority shall, not less than once a year, provide data on the location of nature users that have sources of environmental pollution.

## **Section 6. Environmental Emergency Areas and Environmental Disaster Areas**

### **Chapter 23. Definition and Procedures for Declaring Individual Areas as Environmental Emergency Areas or Environmental Disaster Areas**

#### **Article 173. Environmental Emergency and Environmental Disaster**

1. An environmental emergency means an environmental situation arising in a part of the area as a result of business and other activities or elemental forces of nature and defined by stable negative environmental changes hazardous for public health, state of natural ecological systems or to genetic funds of plant and wildlife resources.

2. An environmental disaster means an environmental situation arising in a part of the area as a result of business and other activities or elemental forces of nature and defined by intense irreversible environmental changes leading to significant deterioration of public health, destruction of natural ecological systems and impairment of the animal and plant life.

3. Public health hazard shall be understood to mean a growing frequency of reversible health deterioration associated with environmental pollution.

4. Significant public health deterioration shall be understood to mean a growing number of irreversible lethal health deteriorations, changes in the structure of causes of death and development of specific diseases caused by environmental pollution, as well as a significantly growing frequency of reversible health deterioration associated with environmental pollution.

5. Territories shall be declared as environmental emergency area or environmental disaster area for the purpose of identifying the sources and factors of the environmental degradation and developing the reasonable immediate measures to stabilise and reduce the degree of environmental ill-being, mitigate the effect of business and other activities on the environment, and to carry out immediate measures to restore the natural resources and minimize the consequences for public health.

#### **Article 174. Procedure for Declaring Individual Territories as Environmental Emergency Areas or Environmental Disaster Areas**

1. A commission shall be established to examine the areas that are assumed to be environmental emergency areas or environmental disaster areas.

2. Local executive agencies and other government agencies shall have the right to establish a commission within their competence and on the basis of the requests made by:

- 1) residents of the area of an alleged environmental emergency or environmental disaster;
- 2) members of the Parliament of the Republic of Kazakhstan and other representative bodies;

and

- 3) public associations.

3. A commission shall be comprised of members of local representative bodies, representatives of government agencies for environmental protection, education, science and research and engineering activities, healthcare, industry and trade, energy and mineral resources, agriculture, labour and social protection, natural and man-made emergency situations, local executive agencies of the relevant administrative division and other concerned individuals and legal entities.

4. A commission shall collect and review materials to determine:

- 1) environmental condition of the area;
- 2) causes of an unfavourable environmental situation;
- 3) boundaries of the area that was degraded to a certain extent;
- 4) damage and possible deterioration of an alleged unfavourable environmental situation;
- 5) required measures to eliminate an alleged unfavourable environmental situation;
- 6) required resources to eliminate an alleged unfavourable environmental situation in order

to eliminate the factors, which have caused it;

7) types of business and other activities, which have caused an alleged unfavourable environmental situation.

5. If the available materials are not sufficient, a commission shall submit a proposal to a relevant government agency on the necessity of further investigation.

6. Any materials related to examination of the area and conclusions of the authorised government agencies for healthcare, science and research and engineering activities and education shall be forwarded to the environment protection authority for the purposes of the state environmental review.

7. A statement of opinion made by the state environmental review shall contain an opinion on whether or not the area should be recognised as an environmental emergency area or environmental disaster area.

8. On the basis of an affirmative statement of opinion made by the state environmental review conducted by the environment protection authority and the conclusions made by the authorised government agencies for healthcare, science and research and engineering activities and education, an area shall be declared:

1) environmental emergency area by a resolution of the Government of the Republic of Kazakhstan ;

2) environmental disaster area by a law of the Republic of Kazakhstan.

9. The laws and regulations named in paragraph 8 above shall specify the following:

1) boundaries of the environmental emergency areas or environmental disaster areas;

2) time period for which areas are declared as being environmental emergency areas or environmental disaster areas;

3) legal regime of an environmental emergency area or environmental disaster area;

4) measures to stabilise and reduce the degree of unfavourable environmental condition in the relevant area or a reference to the need for developing such measures; and

5) procedures for attributing the population to a category of citizens affected by an environmental emergency or environmental disaster and social protection measures.

10. Measures to restore natural resources, enhance the environment and provide medical aid to the population shall be developed and implemented on a case-by-case basis in accordance with national special-purpose programmes approved by the Government of the Republic of Kazakhstan.

#### **Article 175. Assessment of Environmental Situation of Areas**

1. The environmental situation of areas shall be assessed on the basis of main criteria and any additional or supplemental criteria.

2. The criteria applicable upon assessment of the environmental situation of areas shall be a combination of indicators characterising the worsening public health and state of the environment.

3. An environmental emergency area or an environmental disaster area shall be determined based on one or several main and additional indicators reflecting a higher degree of the unfavourable environmental situation.

4. The criteria applicable upon assessment of the environmental situation of areas shall be defined by the Government of the Republic of Kazakhstan.

### **Chapter 24. Peculiarities of Legal Regulation in Environmental Emergency Areas and Environmental Disaster Areas**

#### **Article 176. Legal Regime in Environmental Emergency Areas and Environmental Disaster Areas**

1. Where the legal regimes of environmental emergency and environmental disaster are introduced in a specific area, the following measures may be taken:

1) termination or limitation of activities of the facilities, which have caused an unfavourable environmental condition;

2) immediate measures to restore (to reproduce) natural resources and enhance the environment;

3) relocation of people from areas hazardous for living and provision of such people with premises suitable for permanent or temporary living;

4) introduction of quarantine and implementation of other obligatory sanitary-and-epidemiological measures;

5) performance of necessary works to support animals in the event of their diseases, or threats of perishing;

6) introduction of a special regime of entry and exit and restrictions on the movement of transport vehicles;

7) introduction of the temporary ban on the construction of new or expansion of the existing plants and facilities, which activities are not connected with the response to the environmental emergency, or with supporting the livelihoods of the population;

8) introduction of a special procedure regulating the distribution of food products and articles of daily necessity among the population;

9) introduction of the ban on the construction and operation of facilities, which pose a heightened environmental hazard;

10) introduction of the temporary ban on the use, for economic and other needs, of highly hazardous matters (chemical, radioactive, toxic, explosive, combustible and biological), and plant protecting agents, whose aggregated properties and/or specifics of the state can aggravate the environmental situation in the area;

11) introduction of the ban on the operation of health-improving facilities and resorts; and

12) introduction of the ban or restriction of any other activities that poses a heightened environmental hazard for people, plants, animals and other nature objects.

2. The government agencies of the Republic of Kazakhstan shall ensure the observance of a legal regime in environmental emergency and environmental disaster areas and carrying out of measures stipulated by the environmental laws of the Republic of Kazakhstan.

#### **Article 177. Compensation of Damage to Persons Who Suffered from Environmental Emergency or Environmental Disaster**

Persons who suffered from an environmental emergency or environmental disaster shall have the right to be compensated for the caused harm and social protection in accordance with laws of the Republic of Kazakhstan .

#### **Article 178. Monitoring of the Environment Situation in Environmental Emergency Areas and Environmental Disaster Areas**

1. Special observations and surveys of the state of the environment and public health shall be carried out in environmental emergency areas and environmental disaster areas and adjacent areas within the framework of national special-purpose programmes.

2. The objects of observations and surveys shall be:

1) factors, which have caused an environmental emergency or environmental disaster;

2) negative changes in the state of the environment and public health in environmental emergency areas and environmental disaster areas .

#### **Article 179. Termination of Environmental Emergency Areas or Environmental Disaster Areas**

Subject to an affirmative statement of opinion of the state environmental review and investigation materials proving that the environmental situation is back to normal, the legal regime of environmental emergency area may be terminated by a resolution of the Government of the Republic of Kazakhstan, and the legal regime of environmental disaster area by a law of the Republic of Kazakhstan .

#### **Article 180. Liability for Breach of Legal Regime in Environmental Emergency Areas or Environmental Disaster Areas**

Individuals and legal entities violating the legal regime in an environmental emergency area or environmental disaster area shall be held liable in accordance with laws of the Republic of Kazakhstan.

## **Section 7. Environmental Education and Awareness-Building, Research and International Cooperation in the Field of Environmental Protection**

### **Chapter 25. Environmental Education, Awareness-Building and Advanced Training of Specialists**

#### **Article 181. Goal and Main Objectives of Environmental Education, Awareness-Building and Advanced Training of Specialists**

1. The goal of environmental education and awareness-building shall be to form an active living position of the population and environmental culture in the community based on the sustainable development principles.

2. In the Republic of Kazakhstan, environmental education, awareness-building and advanced training of specialists are developed as part of the educational system for sustainable development.

3. The main objectives of the environmental education, awareness-building and advanced training of specialists shall include the following:

1) improving the quality of environmental education by updating its content, providing educational institutions with up-to-date learning and teaching materials and developing teachers' skills;

2) developing frameworks, programmes and measures to build awareness in the community and family;

3) training professional workforce to implement environmental protection objectives.

#### **Article 182. Frameworks of Environmental Education, Awareness-Building and Advanced Training of Specialists**

1. Any activity with regard to environmental education, awareness-building and advanced training of specialists shall be arranged and implemented by government agencies, educational, cultural and scientific institutions, environmental protection institutions, nature users, public associations, and individual teachers and scientists.

2. Regional councils (centres) under auspice of education institutions and scientific and public associations shall be established to ensure cross-sectoral cooperation, promotion of the environmental awareness-building in the community and family with scientific and methodological resources, and advanced training and retraining. Regional councils (centres) may be comprised of the representatives of the organisations and individuals listed in paragraph 1 of this Article.

#### **Article 183. Environmental Education in Educational Institutions**

1. The system of continuous and comprehensive environmental education shall embrace all educational levels.

2. Environmental education in educational institutions shall be carried out by implementing specialised and inter-disciplinary educational programmes and integrating environmental aspects into the existing classroom disciplines.

3. The development of an active stand on nature preservation and careful attitude to natural resources shall be recognised as an educational priority of educational institutions.

4. Compulsory-for-all educational standards and model vocational training curriculum for the disciplines related to environmental protection and nature use shall be approved by the central executive body in the field of education of the Republic of Kazakhstan by agreement with the environment protection authority.

## **Article 184. State Support of Environmental Education and Awareness-Building**

1. The Government shall support the following priorities of environmental education and awareness-building:

- 1) development of a long-term educational plan of actions to facilitate the transition of the Republic of Kazakhstan to sustainable development;
- 2) improvement of teaching and methodological and scientific and methodological basis of environmental education and awareness-building;
- 3) training of high-skilled specialists in the field of environmental protection;
- 4) provision of available materials for environmental education and awareness-building;
- 5) assistance in the development of institutions offering programmes and measures related to environmental awareness-building in the community and family.

2. The state support measures shall include the following:

- 1) funding of environmental education in educational institutions (teaching and methodological activities and measures related to environmental education, awareness-building and advanced training of specialists) within the frameworks of various national, industrial and regional programmes;
- 2) active participation of government agencies in the formulation of the state educational order for training of specialists;
- 3) provision of a state mandate for scientific research in the field of education for sustainable development;
- 4) provision of a state social order to public associations, whose activities are associated with environmental education and awareness-building;
- 5) implementation of necessary measures with respect to environmental education, awareness-building and upgrade advanced training and retraining of specialists within the frameworks of environmental protection programmes.

## **Chapter 26. Environmental Researches**

### **Article 185. Goals and Objectives of Environmental Researches**

1. Environmental researches shall be carried out in order to provide scientific support to environmental protection, develop scientifically grounded measures to improve, restore and ensure sustainable functioning of natural ecological systems, efficiently use and reproduce natural resources, and ensure the environmental and social safety, economic and environmentally balanced development of the Republic of Kazakhstan.

2. The objectives of environmental researches shall be:

- 1) scientific assessment and forecast of the state of the environment;
- 2) development of scientifically grounded environmental rules, standards and requirements;
- 3) substantiation of comprehensive and efficient use of natural resources;
- 4) development of scientific recommendations to support the governmental control and management in the field of environmental protection and nature use; and
- 5) scientific substantiation, development and introduction of environmentally efficient energy-saving technologies.

### **Article 186. Main Areas of Focus of Environmental Researches**

1. The following types of research may be implemented to provide scientific support to environmental protection:

- 1) development of comprehensive national regional and local scientific substantiation of social and economic sustainable development of areas;

- 2) study of the ecosystems resistance to human intervention and development of scientific grounds for determining environmental risks;
- 3) assessment of the level of man-made burden to the environment and the degree of ecosystem and landscape disturbance;
- 4) development of scientifically grounded regulatory documents applicable to environmental protection;
- 5) assessment of regional levels of the ecosystem and landscape human intervention threshold;
- 6) identification of factors of environmental impact on human health;
- 7) regionalisation and ranking of the country areas by degree of environmental stress;
- 8) studies associated with the development of programmes of environmental quality goals;
- 9) studies associated with the development of techniques and technologies to neutralise emissions;
- 10) studies related to multipurpose utilisation of raw materials and waste reprocessing and recycling;
- 11) studies devoted to development, scientific and technical basis and introduction of new environmentally efficient resource-saving technologies;
- 12) development and scientific follow-up of the environmental impact assessment and forecast of its changes due to man-made and natural factors;
- 13) scientific substantiation of techniques to prevent or mitigate the negative consequences of human or natural impact on the environment;
- 14) system review and aggregation of the results of environmental monitoring of qualitative and quantitative characteristics of the state of ecosystems and objects based on long-term observations and effective control;
- 15) scientific support of environmental monitoring;
- 16) development and scientific substantiation of emission limits (quotas) and use of natural resources;
- 17) comprehensive study of climate changes and assessment of their effect on the economy and natural resources of the Republic of Kazakhstan;
- 18) study of the ozone layer, destruction and restoration processes and development of measures to prevent impact of human activities on the ozone layer;
- 19) research of the mechanisms of economic regulation of nature use and development of techniques to assess economic efficiency and costs for environmental protection measures and scientific follow-up of such measures;
- 20) participation in the development and scientific substantiation of environmental indicators of the country's social and economic development;
- 21) execution of researches associated with the commitments of the Republic of Kazakhstan under international treaties in the field of environmental protection and nature use; and
- 22) international scientific cooperation in the field of environmental protection and nature use.

2. Fundamental and applied environmental researches shall be funded by the budget and other sources of funding, which are not prohibited by laws of the Republic of Kazakhstan.

#### **Article 187. Requirements to Environmental Researches**

1. Environmental researches shall be carried out by scientific organisations pursuant to this Code and the Law of the Republic of Kazakhstan on Science.

2. In the Republic of Kazakhstan, environmental protection researches may be carried out by Kazakhstani and foreign individuals, legal entities and international organisations subject to compliance with the legislation of the Republic of Kazakhstan.



## **Chapter 27. International Cooperation of the Republic of Kazakhstan in the Field of Environmental Protection and Nature Use**

### **Article 188. Priorities and Levels of International Cooperation**

1. The participation of the Republic of Kazakhstan in the international cooperation in the field of environmental protection and nature use shall be based on the following priorities:

- 1) protection of the environment that is favourable for human life and health;
- 2) achievement of sustainable development;
- 3) protection of the interests of the Republic of Kazakhstan in the field of environmental protection and nature use;
- 4) prevention, reduction and control over transboundary pollution;
- 5) development and support of free international trade and investment on the basis of compliance with environmental standards and requirements;
- 6) provision of international aid in the event of environmental emergencies;
- 7) application of rules and principles of the international law to address transboundary and regional environmental issues;
- 8) participation in international initiatives in the field of environmental protection and sustainable development.

2. Priority tasks of the international cooperation of the Republic of Kazakhstan in the field of environmental protection and nature use shall be solved on the global, transboundary, regional and bilateral basis.

### **Article 189. Principles of International Cooperation**

International cooperation of the Republic of Kazakhstan in the field of environmental protection and nature use shall be based on the following principles:

- 1) conscientious fulfilment of international commitments;
- 2) respect for the sovereign right of nations to develop own natural resources;
- 3) integration of environmental protection and economic development to achieve sustainable development;
- 4) responsibility of nations for the measures to prevent damage of the environment of other countries or regions, which are beyond the limits of the jurisdiction of the Republic of Kazakhstan;
- 5) precaution and preventive measures;
- 6) peaceful resolution of international disputes;
- 7) preliminary notification and mutual consultations on the operations involving potential significant transboundary environmental impact;
- 8) complementarity of global, regional, national and local efforts;
- 9) responsibility of a polluter for the costs incurred in connection with environmental pollution.

### **Article 190. Economic Basis of International Cooperation**

The economic basis of the international cooperation of the Republic of Kazakhstan in the field of environmental protection and nature use shall be comprised of the following:

- 1) compulsory and voluntary contributions to international organisations;
- 2) co-funding of international programmes, forums and other international events;
- 3) responsibility for the damage inflicted as a result of transboundary impact;
- 4) reimbursement of expenses associated with the maintenance of facilities intended for joint use of natural resources based on participation interest in the natural resources;

5) provision, on a cost recovery basis, by one country to another country of own interest (portion of interest) in natural resources subject to international treaties ratified by the Republic of Kazakhstan.

### **Article 191. International Liability for Environmental Violations**

International liability for environmental violations, damage caused to the environment and natural resources of neighbouring states and non-compliance with the commitments under international treaties shall be applied in accordance with the provisions of international treaties of the Republic of Kazakhstan.

### **Article 192. Mechanism of Intergovernmental Cooperation in the Field of Environmental Protection and Nature Use**

1. The mechanism of intergovernmental cooperation in the field of environmental protection and nature use envisages that the Republic of Kazakhstan shall, in pursuance of its commitments under international treaties, participate in the following international and transboundary procedures:

- 1) exchange of environmental data;
- 2) joint environmental monitoring based on agreed requirements and standards;
- 3) determination and perseverance of internationally important biological species and natural objects;
- 4) obtaining of a preliminary well-grounded consent to perform specific activities, which are subject to international regulation in the field of environmental protection;
- 5) issuance of special permits with regard to specific activities that are posing a potential threat for the environment and human health;
- 6) joint standardisation of environmental impact and evaluation of its efficiency;
- 7) transboundary environmental impact assessment;
- 8) communication of emergency situations if there is a threat of transboundary impact;
- 9) provision of aid upon request of other nations in case of emergency situations involving a threat of transboundary impact, including development of adequate joint response plans;
- 10) development and presentation of national reports on the fulfilment of international commitments;
- 11) evaluation of the performance of obligations under international treaties by special authorised international bodies; and
- 12) application of sanctions for the environmental damage caused to other countries or regions outside the jurisdiction of the Republic of Kazakhstan.

2. The Republic of Kazakhstan shall develop required procedures specified in paragraph 1 of this Article based on bilateral and multilateral cooperation in the cases envisaged by international treaties.

3. The Government of the Republic of Kazakhstan and government agencies shall have the right, within their competence, to initiate the establishment of intergovernmental agencies to ensure efficiency of the international cooperation and performance of procedures specified in paragraph 1 of this Article.

### **Article 193. International Treaties**

1. International treaties shall serve as a legal form of the intergovernmental cooperation in the field of environmental protection and nature use.

2. The procedures for concluding, executing, amending and terminating international treaties in the field of environmental protection and nature use shall be governed by the legislation of the Republic of Kazakhstan on international treaties.

3. The implementation of international treaties in the field of environmental protection may assume the following:

- 1) development and approval of a plan of measures to secure execution of such measures;
- 2) determination of a government agency responsible for the execution of an international treaty in the field of environmental protection; and
- 3) carrying out of on-going efficiency review of the participation of the Republic of Kazakhstan in international treaties in the field of environmental protection and nature use.

## **SPECIAL PART**

### **Section 8. Environmental Requirements Applicable to the Performance of Business and Other Activities**

#### **Chapter 28. General Provisions Concerning Environmental Requirements**

##### **Article 194. Environmental Requirements Applicable to Business and Other Activities and Types Thereof**

1. Environmental requirements shall be established for business and other activities performed in the Republic of Kazakhstan.
2. Environmental requirements shall be subdivided into the following types:
  - 1) general environmental requirements applicable to business and other activities;
  - 2) environmental requirements applicable to the use of natural resources;
  - 3) environmental requirements applicable to specially protected natural areas;
  - 4) environmental requirements applicable to business and other activities in the national area of outstanding natural beauty in the northern part of the Caspian Sea;
  - 5) environmental requirements applicable to use of radioactive materials and nuclear energy and provision of radiation safety;
  - 6) environmental requirements applicable to the production and use of potentially hazardous chemical and biological substances and genetically modified products and organisms;
  - 7) environmental requirements applicable to the industrial and consumption waste management; and
  - 8) environmental requirements applicable to military and defence facilities and military activities.
3. The environmental legislation of the Republic of Kazakhstan may establish other types of environmental requirements.

##### **Article 195. Procedures Governing the Development and Approval of Environmental Requirements**

1. Environmental requirements shall be established by this Code and other laws and regulations of the Republic of Kazakhstan and may be adopted in the form of individual documents or sections in regulations governing the performance of corresponding types of business and other activities.
2. In developing environmental requirements, the environment protection authority may invite specialised scientific research institutes, engineering institutions and other organisations, as well as nature users.
3. Environmental requirements applicable to the use of land, subsoil and mineral resources, groundwater and surface water, forests and other plant resources and animal resources shall be established by agreement with the central land management authority, authorised government agencies for subsoil study and use, water resources use and protection, forestry, production,

reproduction and use of animals and the government agency for sanitary and epidemiological safety of population, respectively.

4. Environmental requirements applicable to specially protected natural areas shall be established by agreement with the authorised government agency for specially protected natural areas.

5. Environmental requirements applicable to the design and location of enterprises, structures and other facilities while constructing, upgrading, commissioning and operating such facilities and building cities and other inhabited centres, the use of radioactive materials, production and use of potentially hazardous chemical and biological substances and genetically modified products and organisms, industrial and consumption waste management, military and defence facilities, and military activities shall be established by this Code and other laws of the Republic of Kazakhstan.

#### **Article 196. Environmental Requirements and Commitments upon Privatisation of State-owned Assets**

1. When privatising state-owned assets, the government agency in charge of privatisation shall ensure compliance with environmental requirements.

2. Privatisation of enterprises and other facilities shall be accomplished based on the results of environmental audit to be envisaged by the privatisation plan of enterprise and any other facility, and jointly with the environment protection authority.

#### **Article 197. Environmental Requirements upon Bankruptcy, Re-organisation, and Liquidation of Legal Entities, being Nature Users, Which is Engaged in Environmentally Hazardous Types of Business and Other Activities**

1. When instituting bankruptcy proceedings against a legal entity, being a nature user, which is engaged in environmentally hazardous types of business and other activities, a mandatory environmental audit shall be carried out.

During the bankruptcy proceedings against a nature user, which is legal entity, the results of the mandatory environmental audit must be taken into account.

2. Reorganisation of a legal entity, being a nature user, which is engaged in environmentally hazardous types of business and other activities, shall be completed in accordance with the results of the mandatory environmental audit and such results shall be reflected in the divisional balance sheet (in case of re-organisation by way of split-up or spin-off) and transfer balance sheet (in case of re-organisation by way of consolidation).

3. When a legal entity, being a nature user, which is engaged in environmentally hazardous types of business and other activities, is liquidated, an unscheduled environmental inspection shall be carried out and its results must be reflected in the liquidation balance sheet.

### **Chapter 29. General Environmental Requirements Applicable to Business and Other Activities**

#### **Article 198. Environmental Requirements Applicable to Project Design of Commercial and Other Facilities**

1. When developing project design of buildings and facilities, industrial and agricultural, water supply, sanitation, and water development facilities, transport and communication structures, technological processes, goods and equipment, and other facilities, there shall be taken into consideration:

- 1) compliance with environmental quality standards;
- 2) hazardous waste neutralisation and recycling;
- 3) application of low-waste and non-waste technologies;
- 4) taking efficient measures to prevent environmental pollution; and

- 5) natural resource reproduction and conservation.
2. There shall be prohibited to fund and implement projects that have no affirmative statement of opinions of government environmental and sanitary-epidemiological reviews.

**Article 199. General Environmental Requirements and Nature Users' Responsibility upon Commissioning and Operating Commercial and Other Facilities**

1. Enterprises, facilities and other projects shall be commissioned under condition of full compliance with the environmental requirements envisaged by the project documentation and in accordance with the certificate of acceptance commission that must include a representative of the environment protection authority.

2. There shall be prohibited to commission enterprises, facilities and other projects if no plants and equipment for hazardous waste, emission and discharge treatment, neutralisation and recycling are in place in order to ensure compliance with the environmental quality standards, and until land reclamation and works for natural resource reproduction and conservation envisaged by the project have been completed.

3. A nature user that operates commercial and other facilities shall be responsible for:

1) works to be carried out at the designated territory in compliance with environmental safety requirements;

2) keeping necessary environmental documents and submitting reports on its activities to government agencies; and

3) assisting during inspections carried out by governmental regulatory agencies, and fulfilling orders within the prescribed period of time.

4. At each facility, a nature user shall:

1) set up a specialised unit or designate an employee in charge of arranging and accomplishing production environmental control and interacting with regulatory agencies;

2) conduct all operations in the safest way and keep equipment in safe condition in order to protect human health, environmental and property safety;

3) draft and approve regulatory and technical documents that should be agreed with territorial divisions of the environment protection authority, for environment protection for all types of activities, which should be revised at least once every five years. The regulatory and technical documents shall be also revised when new model rules and standards, as well as new technological processes, plants, machinery and equipment are introduced;

4) at sites (facilities), run logs of checking the condition of technical and environmental safety, in which a responsible officer of a nature user shall record deficiencies and deadline to rectify such deficiencies.

5. A procedure for arranging and conducting operations at environmentally hazardous facilities shall be defined in special regulations developed by the nature user.

6. A nature user shall have an emergency response plan in place to deal with emergency situation that has emerged as a result of violation of the environmental law of the Republic of Kazakhstan, natural disasters and calamities.

7. An employee who has discovered non-compliance with environmental requirements, rules, regulations and instructions or detected hazard, which threatens human lives or health, as well as a hazard of environment pollution, must immediately take all possible measures to eliminate or contain such situation and report it to an operator or a manager.

8. Removal of identified deficiencies within a prescribed period of time shall be controlled by the environment protection authority, as well as the nature user operating such commercial or other facility.

9. Emergencies that have not caused any industrial accidents shall be investigated in accordance with directives for technical investigation and record of emergencies, which have not

caused any accidents and environmental impact. In specific instants, a commission shall be set up to investigate major technical emergencies and environmental impacts, as well as group accidents.

10. A nature user shall inform the environment protection authority about accidents followed by environmental pollutant emission and discharge within two hours after they are discovered.

## **Chapter 30. Environmental Requirements by Types of Economic and Other Activities**

### **Article 200. Environmental Requirements for Project Design and Construction of Settlements**

1. Project design, construction and reconstruction of cities and other settlements shall ensure favourable conditions for people's life, work and recreation, and shall take into account environmental and sanitary-epidemiological requirements and environmental safety.

2. When designing and developing cities and other settlements, their sanitary cleaning shall be envisaged, as well as safe handling of industrial and consumption waste, and greenbelts and protection zones shall be created with a limited nature use mode.

3. Buildings, facilities, automobile roads and other industrial entities shall be located in compliance with the requirements stipulated by technical regulations, sanitary and epidemiological rules and standards, town-planning and other requirements that provide for favourable environment.

### **Article 201. Environmental Requirements Applicable to Locating Enterprises, Facilities, and Other Projects**

1. The location of enterprises, facilities and other projects shall be determined in accordance with the environmental rules and conditions, thus taking into account environmental impact caused by the above facilities.

2. When locating enterprises, facilities and other projects, protection, sanitary protection and other protection zones shall be created.

### **Article 202. Environmental Requirements Applicable to Construction and Reconstruction of Enterprises, Facilities, and Other Projects**

1. Construction and reconstruction of enterprises, facilities and other projects shall proceed provided an affirmative statement of opinion has been issued by environmental and sanitary-epidemiological review and in accordance with the environmental quality standards. No changes in approved project or cost of works that may cause environmental damage shall be allowed.

2. When carrying out construction works, measures shall be taken to implement land reclamation, reproduction and conservation of natural resources, land improvement and environment recovery.

3. Construction and reconstruction of facilities shall be prohibited until project is approved and land site in kind is allotted.

### **Article 203. Environmental Requirements Applicable to Operation of Industrial, Energy, Transport and Communication, Agricultural and Soil Improvement Facilities**

1. Industrial, energy, transport and communication, agricultural and land improvement facilities shall be operated subject to environmental requirements and by using environmentally sound technologies, required treatment facilities and sanitary protection zones, which would preclude environment pollution. When operating the above facilities, low-waste and non-waste technologies shall be applied to ensure environmental safety.

2. Individuals and legal entities must take a set of measures to protect soil, water bodies, forests and other plant and wildlife against hazardous impact caused by agricultural operations.

#### **Article 204. Environmental Requirements Applicable to Production and Operation of Motor and Other Vehicles**

Individuals and legal entities that operate motor and other vehicles, which cause negative environmental impact, shall observe the permissible emission standards and take measures to reduce noise pollution level and other negative environmental impact.

#### **Article 205. Environmental Requirements Applicable to Location of Nuclear, Heat and Hydro Power Plants**

1. Placing and construction of nuclear power plants shall be carried out only if a project and an affirmative statement of opinion of state environmental and sanitary-epidemiological reviews are available. Nuclear power plant projects shall contain approaches ensuring their safe decommissioning, as well as waste recycling measures.

At locating, project design and construction of nuclear power plants, measures shall be taken to ensure radiological safety in compliance with law of the Republic of Kazakhstan.

2. In order to limit hazardous impact caused by heat power plants over the air condition in the adjacent area, prior to their location, emission levels shall be set by establishing benchmarks for each energy entity (and each pollution source) - in grammes per second – and annual emission levels (tonnes per year), which would ensure environmental safety of heat power plants.

Determining benchmarks (in grammes per second) and developing relevant measures shall be based on the designed maximum capacity of HPP equipment (with account of scheduled repair works and deactivation).

3. At locating, project design and construction of hydro power plants, real electricity demand of appropriate regions shall be ascertained, as well as seismic peculiarities and relief of the terrain in order to locate facilities and take measures to preserve land and forests, to provide for efficient protection of vegetation and wildlife and in general to preclude material negative environmental changes.

4. For power plants being designed and constructed, environmental emission levels should be complied with by the time of their commissioning. .

#### **Article 206. Environmental Requirements Applicable to Military and Defence Facilities and Military Activities**

Environmental requirements as set out in this Code shall apply to military and defence facilities and military activities, except for specific situations stipulated by law of the Republic of Kazakhstan.

#### **Article 207. Environmental Requirements Applicable to Nature Resource Use**

1. Environmental requirements applicable to use of land, subsoil, water, forest resources, other plant and wildlife shall be defined by this Code and other laws and regulations of the Republic of Kazakhstan.

2. There shall be prohibited business and other activities, which cause disturbance of natural environmental systems, destruction of genetic pool of living organisms, other environmental changes that are hazardous for human life and health.

### **Chapter 31. Environmental Requirements Applicable to Land Use**

#### **Article 208. Environmental Requirements Applicable to Changes in Intended Use and Recategorising Land**

Land development project and other documents supporting the change of the intended use and transfer of land from one category to another shall be examined by the governmental environmental review.

### **Article 209. Environmental Requirements Applicable upon Zoning and Use of Agricultural Land**

1. When zoning and using agricultural land, environmental safety and quality condition of agricultural land shall be ensured.

2. Agricultural land zoning shall be based on indicators of environmental adverse conditions, their criteria being physical degradation and chemical pollution.

3. The level of land pollution with chemicals shall be determined by reference to maximum permissible concentrations of chemicals in soil prescribed by the environment protection authority and agencies in charge of sanitary and epidemiological well-being of the population.

4. In order to determine the necessity to transfer land from more valuable to a less valuable category, its conservation, and to attribute land to environmental disaster areas or environmental emergency areas, environmental criteria of land evaluation shall be approved by the Government of the Republic of Kazakhstan (hereinafter, the “environmental criteria of land evaluation”).

### **Article 210. Environmental Requirements Applicable upon Zoning and Use of Land in Populated Areas**

1. Land in populated areas shall be zoned in accordance with the environmental criteria of land evaluation.

2. When attributing land in populated areas to other categories, a potential transfer of pollutants into the air and water in these areas and their direct impact on human health shall be taken into consideration.

3. A special use mode shall be established for environmental emergency areas, which would prevent further deterioration of environmental condition.

### **Article 211. Environmental Requirements Applicable upon Zoning and Use of Land in Industry, Transport, Communication, Defence and Other Non-Agricultural Sectors**

1. When zoning land in industry, transport, communication, defence and other non-agricultural sectors, environmental safety and land conservation and rational use shall be ensured.

2. To ensure human safety and create necessary conditions for operating industrial, transport and other facilities, zones shall be established and specific conditions of such land use shall be created to provide for environmental improvement.

3. When attributing land in industry, transport, communication, defence and other non-agricultural sectors to other categories, zones, where activities that do not comply with the zoning purposes are constrained or prohibited, shall be taken into account,.

4. An additional environmental criteria when attributing land in industry, transport, communication, defence and other non-agricultural sectors to other categories shall be its chemical pollution exceeding the concentrations determined by the environmental criteria of land evaluation. The land attributed to the top pollution category shall be closed down and categorised as reserve land.

### **Article 212. Environmental Requirements Applicable to Use of Land of Specially Protected Natural Areas and Recreational Land**

1. A mode of using land within specially protected natural areas shall be regulated by the Land Code of Kazakhstan and the Law of the Republic of Kazakhstan On Specially Protected Natural Areas.

2. In order to preserve favourable environmental and sanitary and epidemiological conditions within the recreational land, sanitary protection zones shall be established during zoning.



### **Article 213. Environmental Requirements Applicable to Use of Forest Land Resources**

1. A mode of using forest land resources shall be regulated by the Land and Forest Codes of the Republic of Kazakhstan.

2. Environmental criteria to attribute land to forest reserves shall be vegetation condition as an indicator of environmental condition within the area.

3. Agricultural land found within forests that are not used for forest needs can be attributed to agricultural land category in compliance with the forest legislation of the Republic of Kazakhstan.

4. Transfer of forest land reserves to other category shall be allowed provided only that an affirmative statement of opinion of the state environmental review is issued in accordance with the requirements of the forest legislation of the Republic of Kazakhstan and based on the forestry management and land management data in the following instances:

- 1) when land cannot be used in accordance with its former intended use;
- 2) when boundaries of the populated area have been changed;
- 3) when community boundaries have been changed; and
- 4) when land has been rated as land of specially protected natural area.

5. When forest land reserves are recategorised as any other category, environmental indicators that reflect land impact of the land quality on grass and tree vegetation in accordance with the environmental criteria of land evaluation shall be taken into consideration.

### **Article 214. Environmental Requirements Applicable upon Zoning and Use of Land of Water Fund**

1. When zoning land of water fund, protection of water bodies and rational water use shall be ensured.

2. A land plot of the water fund may be allotted for temporary use by local executive agencies upon agreement with the water use and protection agency to individuals and legal entities for agricultural, forestry, fishery, hunting and other purposes, which do not contradict the basic intended use of such land plot and do not cause land pollution and degradation and, therefore, environmental deterioration.

3. There shall not be allowed to recategorise land of the water fund unless an affirmative statement of opinion of the state environmental and sanitary-epidemiological reviews is available in compliance with the water law of the Republic of Kazakhstan in the following instances:

- 1) when a water body does not exist any more or when its environmental and hygienic conditions have significantly changed;
- 2) when land has been categorised as land of specially protected natural area; and
- 3) when boundaries of the populated area have been changed, which caused changes in the environmental conditions. .

4. Land allocated for water protection zones cannot be attributed to residential and industrial land categories. A special mode of activities shall be established in respect of such land in order to prevent water pollution, clogging, and depletion.

### **Article 215. Environmental Requirements Applicable upon Zoning and Use of Land of Reserve Fund**

1. When zoning land of the reserve fund, areas of negative changes shall be taken into account as well as spatial irregularity in distribution of plots with different degradation levels within the study area.

2. The rate of ecosystem degradation shall be determined based on fifty years of observation arrays. The extent of ecosystem degradation shall be assessed in accordance with the environmental criteria of land evaluation.

3. Land of the reserve fund may be attributed to other land categories, subject to the intended purpose of its future use, only after land boundaries have been established within the area, which they are attributed to. When attributing land to other categories, a land plot shall be selected first in accordance with the environmental requirements for such land category.

4. Land of the reserve fund may be recategorised after land reclamation has been completed and measures have been taken to improve land quality and environmental condition.

5. Land plots of the reserve fund where nuclear tests were conducted may be granted into ownership or use only after all measures have been taken to eliminate the consequences of nuclear tests and comprehensive environmental survey has been completed, provided an affirmative statement of opinion of the state environmental review is available.

#### **Article 216. Environmental Requirements for Optimal Land Use**

1. Key environmental requirements for optimal land use are as follows:

1) scientific rationale for and projections of impact of proposed land transformation and re-distribution;

2) justification and implementation of a uniform governmental policy in planning and organising rational use and protection of land of all categories;

3) ensuring intended land use and preservation of valuable land in agriculture;

4) creating and allocating environmentally sound land plots that would be compact-size and optimal in terms of space;

5) developing a set of measures to improve agricultural land, soil fertility, maintain sustainable landscapes and land protection;

6) developing measures aimed at rational use and protection of land;

7) taking inventory of land and identifying land that is not used, used irrationally or for non-designated purposes;

8) preserving and enhancing environment-building, water protection, protection, sanitary and epidemiological, recreational and other useful natural properties of forests in order to improve land productivity and to protect human health; and

9) preserving bio -diversity.

2. Land plots shall be granted to locate and operate enterprises, facilities and other projects in compliance with the requirements and rules of environment protection, reproduction and rational use of natural resources, and with due regard to the environmental and sanitary and epidemiological impact that may be caused by the operations conducted by the such facilities.

3. To construct and erect facilities that are not associated with agricultural production, there shall be allocated land, which is not suitable for agricultural purposes, with the least soil quality class.

#### **Article 217. Environmental Requirements Applicable to Use of Land**

1. When using land, nature users must:

1) apply production technologies that meet relevant sanitary and epidemiological and environmental requirements, not to allow damage to human health and environment, and implement the best available technologies;

2) prevent pollution, clogging, degradation and deterioration of soil, as well as removing off fertile topsoil in order to sell it and dispose to other people, except for instances when such removal is required to prevent irretrievable loss of fertile topsoil;

3) stockpile and dispose waste in places established by the decision of local executive agencies upon agreement with environment protection authority, as well as with special competent authorities within their competence.

2. When developing mineral resources, conducting geological exploration, construction and other works, nature users must:

- 1) maintain occupied land plots in the condition suitable for their further intended use;
- 2) remove, preserve and use fertile soil during operations that might cause land disturbance;

and

- 3) fulfil reclamation of disturbed land.

3. When selecting a method of land reclamation, the following shall be taken into account:

- 1) the nature of surface disturbance within the land plot;
- 2) natural and physical-geographical conditions in the area where the site is located;
- 3) social and economic peculiarities of site location, taking into account the prospects for the area development and environment protection requirements;

4) a necessity to recover the main area of the disturbed land to use it as cropland within the black earth and intensive agricultural production areas;

5) a necessity to rehabilitate disturbed land in the close vicinity to settlements to use it as gardens, household plots and recreation areas, including construction of water bodies in worked-out areas and decorative landscape-gardening complexes created on overburden dumps and tailing ponds;

6) carrying out surface planning works within the area of an industrial site, remove unnecessary ditches and dikes, dispose construction waste and perform land site improvement;

7) ravines and washouts found on the land plot that should be filled in or made gently sloping; and

- 8) mandatory planting of greenery within the area.

4. If land plots are used for placement, burial, and storage of industrial waste, such land plots must meet the following requirements:

1) comply with sanitary and epidemiological rules and regulations for project design, construction and operation of burial sites for non-recycled industrial waste;

2) have low-filtration soil when groundwater elevation table does not exceed two metres from the bottom of a reservoir with an angle of dip 1.5 per cent toward the reservoir, agricultural land, forests or industrial facilities;

3) be located on the leeward side in relation to a settlement and groundwater downstream;

4) be located on the terrain not flooded with flood or storm water;

5) have an engineering impervious bed, fencing and greenery all around, and hard surface runways; and

6) surface and groundwater runoff from the land plot should not discharge to open water bodies.

5. Application of new technologies, implementation of land-improvement programmes and improvement of soil fertility shall be prohibited if they do not meet environmental and sanitary-epidemiological standards and rules, as well as other regulations envisaged by law of the Republic of Kazakhstan.

6. The use of chemically and radioactive polluted land, establishment of protection zones, preserving residential houses in such areas, as well as industrial, commercial and social-cultural facilities, conducting land-improvement and technical works shall be determined based on maximum permissible radioactive and chemical impacts.

7. In order to protect land, land owners and users shall be obliged to take measures to:

1) protect land from water and wind erosion, mudflows, water floods, swamping, secondary salinisation, dehydration, compacting, radioactive and chemical pollution; clogging with industrial and consumption waste, pollution, including biogenic, as well as other negative impacts;

2) protect agricultural and other land against contamination with bacterial, parasitic and quarantine pests and blights, invasion of weeds, bushes and low forests, as well as from other types of land deterioration;

3) remove pollution consequences, including biogenic pollution and clogging of land;

4) maintain the achieved land improvement level;

5) perform disturbed land reclamation, restore soil fertility, and ensure timely use of land;  
and

6) remove and preserve fertile top soil for its further use for land reclamation purposes.

8. There shall be prohibited to use sodium chloride in icy conditions of roads on land within populated areas.

## **Chapter 32. Environmental Requirements Applicable to Subsoil Use**

### **Article 218. Environmental Rationale for Subsoil Use Operations**

1. Environmental rationale for conducting subsoil use operations shall be affirmative statement of opinions issued by the state environmental and sanitary and epidemiological reviews of subsoil use contracts, project documentation and an environmental permit.

2. A subsoil user shall be obliged to submit all pre-project and project documentation for the state environmental and sanitary-epidemiological reviews, including environmental impact assessment for the intended activities, containing a section “Environmental Protection”.

### **Article 219. General Environmental Requirements Applicable to Subsoil Use**

1. General environmental requirements applicable to subsoil use shall be as follows:

1) subsoil use in accordance with the requirements of environment protection legislation of the Republic of Kazakhstan;

2) preserving ground surface by applying special field development technologies;

3) preventing man-made land desertification;

4) taking preventive measures against hazardous man-made processes during exploration and production, as well as construction and operation of underground facilities not associated with exploration and production;

5) subsoil protection from water inundation, fire and other natural disaster factors that complicate field operation and development;

6) preventing subsoil pollution, particularly at underground storage of oil, gas and other substances and materials, burying of hazardous substances and waste;

7) following the established procedure of suspending and terminating subsoil use operations, as well as conservation and abandonment of field sites under development;

8) ensuring compliance with environmental and sanitary and epidemiological requirements at waste storage and placement;

9) reducing the areas of disturbed and alienated land by constructing motor roads based on a rational pattern prior to the beginning of works, as well as by applying other methods, including construction of cluster wells, application of technologies with internal refuse disposal, utilisation of industrial and mineral processing waste;

10) precluding wind erosion of soil, overburden production waste dumping, its oxidizing and spontaneous combustion;

11) sealing of lost circulation and fresh water horizons to preclude their pollution;

12) precluding groundwater depletion and pollution, including applying non-toxic reagents when making circulation fluid;

13) cleaning and reuse of drilling mud;

14) removal of residuals of drilling mud, fuel and lubricants by environmentally safe technology; and

15) treatment and reuse of oil field effluent within the system maintaining oil field formation pressure.

2. There shall be prohibited to discharge into subsoil waste water that has not been treated up to regulatory standards. Re-injection of water produced together with minerals, injection of process solutions used for mineral production envisaged by projects and technological regulations, which enjoy affirmative opinions of the state environmental review, as well as other expert examinations envisaged by law of the Republic of Kazakhstan, shall not be interpreted as waste water discharge.

3. A subsoil user shall:

1) select the most efficient methods and technologies to conduct operations in accordance with the internationally recognised standards;

2) follow flow charts and project designs that provide for rational subsoil use, safety of employees, residents, and the environment.

### **Article 220. Environmental Requirements Applicable to Nature Use Operations**

1. Nature use operations are environmentally-hazardous business activities and must be performed subject to the following requirements:

1) design of wells and mines in terms of their reliability, technological effectiveness and environmental safety must ensure subsoil protection and environmental protection;

2) emission of untreated exhaust gases from diesel-generator drive or diesel drive equipment during drilling or other subsoil use operations, where such equipment is utilised, must comply with such equipment's technical specifications and environmental requirements;

3) during construction of subsoil use structures on fertile and agricultural lands in the process of equipment installation preparatory work, fertile soil shall be moved and stored separately for further reclamation of the area;

4) to eliminate migration of toxic substances in nature objects, an engineering system for organised collection and storage of subsoil use waste, with production sites being damp-proofed, must be envisaged;

5) if wells are constructed on specially protected natural areas, only "no storage-pit" technology must be used;

6) during subsoil use operations, slurry disposal and neutralisation of waste drilling mud, drilling, open pit and mine waste water for reuse in drilling and return to the environment in accordance with established requirements must be performed;

7) when hydrocarbon-base drilling muds (lime-bituminous, invert-emulsion and other) are used, air gas pollution prevention measures must be utilised;

8) burial of pyrophoric sediments, cuttings and core in order to eliminate the possibility of ignition or poisoning of humans must be performed in accordance with the project and must be agreed upon with the environment protection authority, fire safety authorities, government agency of the sanitary and epidemiological service and local executive agencies;

9) subsoil use facilities shall be commissioned, provided that all environmental requirements stipulated by the project are fully fulfilled;

10) upon completion of subsoil use operations, land reclamation shall be performed in accordance with project solutions;

11) drill wells, including flowing wells, and wells that are suitable for operations or those the use of which has been discontinued, shall be equipped by a nature user with control devices, shall be closed-down or abandoned in accordance with the procedure established by the legislation of the Republic of Kazakhstan;

12) persons and legal entities whose activities produce or may produce negative impact on the condition of underground water bodies must take measures to prevent pollution and depletion of such water bodies;

13) placement of waste burial, cemeteries, burial sites of cattle and other objects that affect the quality of groundwater, in water-collecting areas of ground water bodies that are used, or may be used, for drinking or household water supply shall not be permitted;

14) drilling of absorption wells shall be permitted, provided there are affirmative statement of opinions of environment protection authorities, government authorised agencies for use and protection of water resources, for subsoil study and use, and the government agency of the sanitary and epidemiological service, which are issued upon completion of special surveys in the area of drilling of such wells;

15) industrial waste water and waste medicinal mineral water may be discharged in accordance with the Water Code of the Republic of Kazakhstan;

16) wells within contract territories shall be closed down and abandoned in accordance with the legislation of the Republic of Kazakhstan concerning subsoil and subsoil use; and

17) in the area where waste water is reinjected in absorption wells, the water user shall organise regular laboratory monitoring of water quality in nearest wells, springs, draw-wells in accordance with the plan agreed upon with the environment protection authority, government authorised agencies for use and protection of water resources and the government sanitary and epidemiological safety authority.

2. During subsoil use operations, subsoil users must:

1) comply with standards of maximum permissible harmful impacts on groundwater object which are established by the government authorised agency for use and protection of water resources as agreed upon with the environment protection authority, authorised government agencies for subsoil study and use, for industrial safety, and the government agency for sanitary and epidemiological well-being of the public;

2) ensure identification of chemical composition of discharged water by in-house or other laboratories which shall be accredited in accordance with procedure established by the Law of the Republic of Kazakhstan On Technical Regulation; and

3) deliver immediate information on emergency discharge of pollutants and on violation of the established regime of groundwater withdrawal and discharge (injection ) of water in such groundwater to the environment protection authority, authorised government agency for use and protection of water resources and agencies of the sanitary and epidemiological service.

3. There shall be prohibited to:

1) disrupt plant and soil cover outside the sites which are allocated for construction;

2) discharge subsoil waste in surface water bodies and in subsoil;

3) irrigate lands with waste water if it impacts, or may impact, the condition of underground water bodies;

4) allow muds and materials in beds that contain household and drinking waters;

5) drill absorption wells for discharge of industrial, medicinal mineral and heat and power waste water in cases where such wells may become a source of pollution of an aquifer which is suitable, or is used, for household and drinking water supply, or for medicinal purposes;

6) place absorption wells and draw-wells in areas of sanitary protection of water supply sources; and

7) discharge waste waters that contain radioactive substances in absorption wells.

4. With a view to protecting underground water bodies that are used for household and drinking water supply, and those resources of which possess natural medicinal qualities, sanitary protection areas shall be established in accordance with the Water Code of the Republic of Kazakhstan.

## **Article 221. Environmental Requirements Applicable to Exploration and/or Extraction of Groundwater**

1. Prior to signature, a contract for extraction of groundwater and a permit for special water use, shall be agreed upon with the environment protection authority and the authorised government agency for sanitary and epidemiological well-being of the public.

2. Project process flow, on which development of a groundwater deposit is based, shall undergo the state environmental review.

3. During exploration and/or extraction, nature users must conduct research and development and engineering work at their own expense to develop new methods and technology of groundwater deposit development and to improve the existing methods and technology, improve process equipment and continuous and periodic control equipment, and ensure efficient use and protection of groundwater against depletion and pollution, and protection of subsoil and the environment.

4. There shall be prohibited to develop groundwater deposits for purposes, which are not stipulated by the terms of contract and permits for special water use, or in violation of such terms.

5. Exploration and development of groundwater deposits shall be carried out in accordance with the terms of contract and permit for special water use and in compliance with provisions and requirements which are prescribed by the environmental legislation of the Republic of Kazakhstan.

6. Nature users that carry out exploration and/or extraction of groundwater must ensure:

1) efficient exploration and development of groundwater deposits where the following shall be achieved – full integrated study and prevention of irretrievable loss of water and its qualitative properties through inadequate operation of wells;

2) elimination of the possibility of pollution of water bearing horizons;

3) elimination of the possibility of cross-flow of waters of various horizons, unless it is stipulated by the project;

4) no occurrence of uncontrolled and unregulated release of groundwater and, in case of emergency, immediate response in order to eliminate water losses;

5) integrated use of groundwater that contains useful components;

6) protection of ambient air, land surface, forests, waters and other nature objects as well as buildings and structures against harmful impact produced by nature use activities; and

7) carrying out of a complex of restoration works on land plots that have become unsuitable in the course of exploration and/or extraction.

7. Hydrogeological wells, including flowing well and exploration wells, as well as wells, which are not suitable for operation, or use of which has been discontinued, shall be equipped by the nature user with control devices, and shall be closed-down and abandoned in accordance with the procedure established by laws of the Republic of Kazakhstan.

8. In case water bearing horizons are opened-up during subsoil use for exploration and extraction of other minerals, the nature user must take measures to protect underground water bodies in accordance with the procedure established by legislation of the Republic of Kazakhstan, and to report this case to the environment protection authority, authorised government agencies for use and protection of water resources, for subsoil study and use and to the government agency of the sanitary and epidemiological service.

9. Opened groundwater bearing horizons must be provided with reliable insulation that prevents their pollution.

10. In case of intersecting water bearing horizons that may be used as sources of household and drinking water supply, chemical agents which are used for preparation (treatment) of drilling mud and cement solution must possess toxicological properties, which are agreed upon with the environment protection authority and the government agency of the sanitary and epidemiological service.

11. Use of drinking quality groundwater for needs not related to household and drinking water supply shall not be permitted, except as otherwise provided by the Water Code of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan concerning subsoil and subsoil use.

12. There shall be prohibited to commission groundwater withdrawal facilities unless they are equipped with water control devices, water measuring devices, and unless sanitary protection zones and monitoring stations to monitor the groundwater quality are in place.

13. Nature users must comply with standards of maximum permissible harmful impacts on underground water bodies which are established by the authorised government agency for use and protection of water resources and agreed upon with the environment protection authority, authorised government agency for subsoil study and use, the government agency of the sanitary and epidemiological service and the authorised government agency for industrial safety.

14. In placing, designing, constructing and commissioning water withdrawal facilities which are related to the use of underground water bodies, measures that prevent their harmful impact on surface water bodies and the environment (flooding of territories, desertification, land swamping, land slides and ground sagging) must be stipulated.

15. With a view to ensuring state inventory of groundwater, control over its use and protection of the environment, nature users shall:

1) arrange initial accounting of waters that are withdrawn from underground water bodies and discharged in such bodies in accordance with procedure and timing established by the authorised government agency for subsoil study and use and upon agreement with the environment protection authority and the authorised government agency for use and protection of water resources;

2) equip water withdrawal and water discharge facilities with water consumption measuring devices and install control devices on flowing wells;

3) control current development of groundwater deposits, carry out operating control over well performance and control over compliance with operating regime in accordance with approved field development project or technology. Frequency of control shall be established by the field development project; and

4) submit reporting documentation on use of groundwater in the form and in compliance with the directive approved by the authorised government agency for statistics.

#### **Article 222. Environmental Requirements Applicable to Design, Laying and Operation of Underground Cables and Pipelines**

1. Selection of a route, design, equipment, technology and technical means for construction and operation of every facility must be made on an alternative basis in order to minimise negative environmental impact.

2. There shall be prohibited to carry out drilling and blasting operations and seismic survey with compressed air and other detonating sources of elastic wave generation (seismic signals) at a distance less than five hundred metres of pipeline or submerged cable route.

3. Tugging of seismic phone cable assemblies and sweeping by fishing boats when they cross pipeline and submerged cable routes shall be prohibited.

4. Designing of pipelines and support engineering structures must ensure:

1) maximum reliability, safety, protection and control over their technical state;

2) ability to immediately response to unforeseeable situations;

3) promptness and quality of repair and upgrade operations; and

4) minimal negative environmental impact.



5. A project must contain a separate section entitled “Environmental Protection” that complies with requirements of construction and sanitary and epidemiological standards and rules as well as with instructive documents of the environment protection authority.

6. Customer and project designer shall be responsible for fullness and accuracy of design and estimate documentation.

7. Modifications and deviations from the approved project that increase negative environmental impact shall be subject to repeated state environmental review.

8. Pipeline laying projects must stipulate for measures to protect such pipelines during their construction and operations. At every stage of construction and during operation of pipelines that transport hydrocarbons and hydrocarbon refined products, measures to conserve and protect the environment and the pipelines that qualify as high risk facilities shall be taken.

9. Areas where pipelines cross navigable rivers and canals shall bear navigation signs on the banks. During construction of main pipelines, navigation signs shall be placed in accordance with the legislation of the Republic of Kazakhstan concerning internal water transportation.

10. In order to eliminate the possibility of damage of pipelines during any type of their laying, protection zones shall be established:

1) along underwater passages – in the form of an area of water space from water surface to the bottom which is contained between parallel planes that are located at one hundred meters from axis of outermost lines from each side;

2) around process units for preparation of products for transportation, major and intermediate, pumping and filling station, tank yards, compressor and gas distribution stations, loading and off-loading racks, oil and petroleum product heating stations – in the form of land plots limited by a closed line which is located at one hundred meters from the boundaries of the territory of the said facilities in all directions.

11. Materials on the actual location of pipelines tied to protection zones that are part of the pipeline engineering lines and facilities must be submitted to relevant local executive agencies for mapping of such locations and zones on regional land use maps. Local executive agencies shall, upon request, provide information on location of pipelines to interested legal entities.

12. In pipeline protection zones, there shall be prohibited to carry out actions that may disrupt normal operation of pipelines, or may cause their damage:

1) relocate, fill up or destruct identification navigation signs and control and measuring stations;

2) open hatches, gates and doors of maintenance-free communication cable stations, fences of overhead line accessories’ centres, units of cathodic protection and drain protection, line and inspection holes and other line devices, open and close taps and valves, and switch off and on pipeline communication means, power supply units and telemechanics equipment;

3) arrange garbage heaps, discharge solutions of acids, salts and alkalis;

4) destruct bank reinforcing structures coast-protecting structures, culverts, land and other structures (facilities) that protect pipelines against destruction and adjacent territory and surroundings against emergency spill of transported products;

5) cast anchors, pass with cast anchors, chains, scrapers and sweepers, and carry out bottom deepening and dredging work; and

6) make a fire or place open or closed sources of fire.

13. There shall be prohibited to carry out any operations, including seismic, exploration, prospecting, mapping and other survey work related to arrangement of wells, holes, soil sampling and blasting operations within pipeline protection zones without a written permit from the owner of the main pipeline. A written permit to carry out blasting operations within pipeline protection zones shall be issued only after the organisation that carries out such operations submits appropriate materials stipulated by the Unified Rules for Safety of Blasting Operations.

14. In case of emergency spills of oil and water that contain hydrogen sulphide, such spills shall be gathered and neutralised on site or removed for burial.

15. In areas where gas, oil and condensate pipelines cross railways and water ways, motor roads, gullies and other natural barriers, at angles of rotation, in areas of potential gathering of people, process units of gas, oil and condensate pipelines, appropriate safety signs and markings shall be placed. For the above said areas, a project must provide for additional measures to eliminate or minimize the hazard of discharge.

### **Article 223. Environmental Requirements Applicable to Subsoil Operations within Protection Zone**

1. A subsoil user that carries out subsoil use operations within a protection zone must carry out such operations in such a manner so as to avoid or minimise pollution of the sea in case of water level rise.

2. A subsoil user that carries out subsoil use operations within a protection zone shall be responsible for damage and losses caused to the environment, individuals or legal entities if pollution of the sea occurs from its contract territory, whether or not the subsoil user is guilty of such pollution.

## **Chapter 33. Environmental Requirements Applicable upon Use of Water**

### **Article 224. Environmental Requirements Applicable upon Use of Water Bodies**

1. General water use at water bodies shall be in accordance with the procedure established by the water legislation of the Republic of Kazakhstan.

2. Individuals and legal entities must comply with the rules of general water use established by local representative bodies of oblasts (of the city of national significance, or of the capital city).

3. Placement of plants and factories and other structures that impact the condition of water bodies shall be made in compliance with the requirements and rules of the environmental protection, subsoil protection, sanitary and epidemiological and industrial safety, reproduction and efficient use of water resources as well as with consideration of environmental effects of operations carried out at the said facilities.

4. Construction, upgrade, operation, closing-down and abandonment of plants and factories and other structures that impact the condition of water bodies shall be carried out provided there are affirmative statement of opinions of the environment protection authority, authorised government agencies for use and protection of water resources, for industrial safety, and the government agency of the sanitary and epidemiological service.

### **Article 225. Environmental Requirements Applicable upon Waste Water Discharge**

1. Use of natural water bodies for discharge of waste water shall be prohibited, except as may be otherwise stipulated by Article 225.2.

2. No discharge of waste water in surface water bodies and subsoil shall be permitted, unless there are appropriate environmental permits for discharge in the environment.

Discharge of waste water in surface water bodies shall be permitted by the permit of the authorised government agency for use and protection of water resources, and discharge of waste water in subsoil shall be permitted provided there is an affirmative statement of opinion of the review which shall be carried out in accordance with the legislation of the Republic of Kazakhstan concerning subsoil and subsoil use.

3. Nature users who have waste water storages must take necessary measures to prevent their impact on the environment as well as to carry out reclamation of land occupied by such storages once operation of such storages is discontinued.

4. A nature user may not exceed established standards of concentration of pollutants in waste water or include in the composition of waste water new components that are not stipulated by the environmental permit. In case the said requirements are violated, discharge of waste water must be terminated. Water discharged in open water reservoirs must be transparent, colourless, odourless, must not contain pathogenic bacteria and substances harmful for humans and animals in concentrations that exceed hygienic standards. Temperature of discharged water must not exceed 30 degrees centigrade.

5. Discharged water must not contain substances that produce aggressive impact on reinforced concrete and metal.

6. There shall not be permitted to discharge waste water, regardless of the degree of its purification, in surface water reservoirs within sanitary protection zones of sources of centralised drinking water supply, health resort areas and areas designated for swimming.

## **Chapter 34. Environmental Requirement Applicable upon Use of Forests and other Plants**

### **Article 226. Environmental Requirements Applicable upon Intermediate Felling**

Felling related to rehabilitation of plantations which are of little value and are losing their protective, water conservation and other environmental functions in forests that are categorised as belonging to the state forest reserves shall be carried out only with permission of the authorised government agency for forestry, provided there is an affirmative statement of opinion of the state environmental review.

### **Article 227. Environmental Requirements Applicable upon Use of Forests in Areas of the State Forest Reserves**

When using forests in areas of the state forest reserves, forest users must:

1) carry out operations in such a way so as to prevent soil erosion, eliminate or reduce negative impact on the state and reproduction of forests as well as on the state of water bodies and other nature objects, and to ensure conservation of wildlife and its habitat;

2) when stocking up timber, comply with requirements for maintaining optimal conditions for natural reproduction of forests through the use of equipment and technology stipulated by projects that have passed the state environmental review;

3) leave no undercuts and stocked-up timber in areas of felling when timing for timber stocking and removal has elapsed;

4) clean wood-cutting area of felling debris while stocking up timber;

5) allow no illegal felling and any other violations of the environmental legislation of the Republic of Kazakhstan in areas of the state forest reserves allocated for forest use;

6) during main felling operations in areas of the state forest reserves, reproduce [forests] on the area that is twice the size of the felled area in accordance with forest husbandry project, including forest restoration;

7) at their own expense, reproduce forests on felling areas and areas where, as a result of their activities, underbrush has been destroyed and wood and bush plantations have perished;

8) comply with the rules for ensuring and improving sanitary state of forests;

9) during long-term forest use, take actions to protect areas of the state forest reserves against pests and wood diseases;

10) inform state forest owners on occurrence of pests and wood diseases in areas of the state forest reserves allocated for forest use; and

11) in accordance with procedure established by the legislation of the Republic of Kazakhstan, provide the forestry authority and its territorial agencies, local executive agencies of oblasts (of the city of national significance, and of the capital city) and agencies for state statistics

with information which is required for state inventory of the forest reserves, for the state forest registry, state forest monitoring, determination of the amount of payment for forest use.

#### **Article 228. Environmental Requirements Applicable upon Organisation of Forestry in Areas of the State Forest Reserves**

1. Forestry in areas of the state forest reserves must ensure increased resource and environmental potential of forests.

2. Resource and environmental potential of forests in areas of the state forest reserves shall be increased as a result of implementation of a system of scientifically grounded felling, reproduction of forests, improvement of forest species, creation and efficient use of regular wood seed base on selective-genetic basis, hydro forest amelioration, forest husbandry, including maintenance felling and sanitary felling, construction of roads for forestry purposes, and carrying out other forestry actions.

3. Actions to increase resource and environmental potential of forests in areas of the state forest reserves shall be carried out by forestry institutions and forest users in accordance with forest husbandry projects.

#### **Article 229. Environmental Requirements Applicable upon Forest Reproduction and Forest Growing**

1. The objective of forest reproduction is timely restoration of forests in felling areas, slashes and other territories of the state forest reserves which were previously occupied by forests, improvement of forest species, increase of forest productivity, and ensuring efficient use of land of the state forest reserves.

2. The objective of forest growing is to grow plantations on territories which were not previously occupied by forests.

3. Forest reproduction actions in areas of the state forest reserves must be carried out in compliance with environmental and sanitary and epidemiological requirements in such a manner so as to ensure growing of highly productive and sustained plantations as quickly as possible subject to forest growing conditions and economic expediency.

4. Extent of forest reproduction and growing work within the state forest reserves shall be determined by projects that have passed the state environmental review.

#### **Article 230. Environmental Requirements Applicable upon Stocking, Treatment, Storage, Transportation, Sale and Use of Wood Seeds and Planting Materials for Forest Reproduction and Growing**

1. Determination of sowing qualities of wood seeds that are to be sold and used for sowing, their compliance with state standards, technical conditions and other regulatory documents on wood seed farming shall be made by specialised organisation of the authorised government agency for forestry.

2. There shall be prohibited to sell and sow wood seed that have not passed test for conformity with requirements set forth in paragraph 1 of this Article 230.

3. Creation of selection and seed farming facilities, establishment of operation schedule in areas of the state forest reserves shall be determined by projects that have passed the state environmental review.

#### **Article 231. Environmental Requirements Applicable upon Use of Areas of the State Forest Reserves during Forest Reproduction and Growing on Specially Protected Natural Areas**

Use of areas of the state forest reserves during forest reproduction and growing on specially protected natural areas shall be in accordance with the legislation of the Republic of Kazakhstan.

**Article 232. Environmental Requirements Applicable upon Forest Use in Urban Forests and Forest Parks**

Forests located within the boundaries of cities (urban forests and forest parks) shall be designated for recreation of the public, cultural, health and sports events, and for conservation of favourable environment. In urban forests and forest parks, main felling and other types of forest use that are inconsistent with the purpose of such forests shall be prohibited.

**Article 233. Environmental Requirements Applicable upon Protection, Conservation, Reproduction and Use of Wood and Bush Plantations in Areas of the State Forest Reserves Which are Granted for Use to Land Owners or Land Users**

1. Protection, conservation, reproduction and use of wood and bush plantations in areas of the state forest reserves which are granted for use to land owners and land users, in accordance with the procedures established by the legislation of the Republic of Kazakhstan, for the purpose of their carrying out integrated forestry and agricultural operations, shall be made in accordance with the requirements of the Forest Code of the Republic of Kazakhstan.

2. Land owners or land users that were granted areas of the state forest reserves for use must do forest husbandry and participate in carrying out of the state inventory of the forest reserves in accordance with the procedure established by the Forest Code of the Republic of Kazakhstan.

3. Control over the state, protection, conservation, reproduction and use of wood and bush plantations specified in paragraph 1 of this Article 233 shall be carried out by the authorised government agency for forestry.

**Article 234. Environmental Requirements Applicable upon Protection, Conservation and Use of Areas of the State Forest Reserves, Reproduction of Forests in Areas of the State Forest Reserves Located among Land Plots of Other Owners or Land Users**

1. In order to protect, conserve and use areas of the state forest reserves, reproduction of forests in areas of the state forest reserves located among land plots of other owners or land users, state forest owners shall have the right to limited special-purpose use of somebody else's land plot (easement) in accordance with the procedure established by the Land Code of the Republic of Kazakhstan.

2. In order to protect natural occurring forests against unfavourable external impact, twenty-metre wide protection zones shall be established along the boundaries of areas of the state forest reserves located among land plots of other land owners or land users.

3. There shall be prohibited to carry out any activity within a protection zone that produces negative impact on the state of forests in areas of the state forest reserves.

**Article 235. Environmental Requirements Applicable upon Protection, Conservation and Use of Protective Plantations in Right-of-Way of Railways, Motor Roads, Canals, Main Pipelines and Other Line Structures**

1. Protective plantations located in right-of-way of rail ways, motor roads, canals, main pipelines and other line structures shall be designated for protection of such objects against unfavourable acts of nature, prevention of environmental pollution, and minimisation of noise impact.

2. Within protective plantations in right-of-way of rail roads, motor roads, canals, main pipelines and other line structures, felling for forest maintenance, sanitary felling, felling related to restoration of plantations of little value and plantations that lose their protective, water protection and other functions, as well as any other felling in accordance with protective plantation projects, shall be permitted.

3. Protection, conservation and use of protective plantations specified in paragraph 1 of this Article 235 shall be carried out by land users, on the land plots of which such protective plantations are located, in accordance with the Forest Code of the Republic of Kazakhstan.

## **Chapter 35. Environmental Requirements Applicable upon Use of Wildlife**

### **Article 236. Environmental Requirements Applicable upon General Use of Wildlife**

1. General use of wildlife shall be made without withdrawal of wildlife subjects from the habitat in accordance with the legislation of the Republic of Kazakhstan on protection, reproduction and use of wildlife.

2. Utilisation of useful qualities of wildlife vital functions as well as use of wildlife subjects for scientific, cultural-educating, educational, aesthetic and other purposes, which are not prohibited by laws of the Republic of Kazakhstan, shall be made on a general use basis.

3. During general use of wildlife, there shall be prohibited to withdraw wildlife, to destruct their living quarters and other structures, disturb wildlife during the period of mating, disturb their habitat and impair conditions for their reproduction.

### **Article 237. Environmental Requirements Applicable upon Placement, Design and Construction of Inhabited Localities, Plants and Factories, Railways, Motor Roads, Main Pipelines, Power and Communication Lines, Canals, Dams and Other Structures and Facilities**

1. Areas of placement of plants and factories, structures and other facilities as well as introduction of new equipment, technology, materials and substances that impact, or may impact, the state of wildlife shall be agreed upon with the authorised government agency for protection, reproduction and use of wildlife and with the environment protection authority.

2. There shall be prohibited to commission facilities and apply technologies without equipping them with protective means for wildlife and their habitat.

3. During placement, design and construction of inhabited localities, plants and factories, structures and other facilities, during production processes and operation of transport vehicles, improvement of existing technology processes and introduction of new technology, introduction into commerce of unused, near-shore, waterlogged and bushy areas, land development, use of forest resources and water bodies, exploration operations, mineral resource extraction, delineation of areas for pasture and driving of cattle, development of travel routes and organisation of areas for mass recreation of the public, measures to protect wildlife habitat and reproduction conditions as well as migration routes and areas of wildlife concentration shall be stipulated and implemented, and inviolability of areas that present special value as wildlife habitats shall be ensured.

4. During environmental assessment of projects for construction and upgrade of plants and factories, structures and other facilities, introduction of new equipment, technology, materials and substances, there shall be imperative that their impact on wildlife, habitat, migration route and wildlife reproduction be considered.

5. During any activity that impacts, or may impact, wildlife, individuals and legal entities must ensure protection of wildlife habitat, reproduction environment and migration routes and carry out actions to prevent loss of wildlife during production processes, including storage, transportation, utilisation of preparations, chemicals and chemical compounds, stocking, waste disposal, agricultural operations, forest husbandry, timber felling and other operations, as well as during operation of power grids and transport vehicles.

6. In designing and constructing railways, motor roads, main pipelines, power and communication lines as well as canals, dams and other water engineering facilities, actions that ensure conservation of wildlife migration routes must be developed and implemented.

7. Blasting and other operations that represent a source of increased noise shall be limited in areas of wildlife reproduction in accordance with the legislation of the Republic of Kazakhstan.

8. Operation of water engineering and other facilities in water bodies, establishment of hydrological mode of operation of water bodies and water consumption schedule at such water bodies, as well as any other activity that impacts, or may impact, wildlife habitat shall be carried out subject to the requirements for protection of wildlife and interests of forestry and game husbandry.

#### **Article 238. Environmental Requirements Applicable upon Reed Mowing and Burning-out of Dry Plantations**

Reed mowing and burning-out of dry plantations or their remains shall be permitted only in case there is a business necessity, provided appropriate permits issued by the authorised government agency for protection, reproduction and use of wildlife and fire prevention authorities are in place, and a plan of actions to conserve wildlife has been developed.

#### **Article 239. Environmental Requirements Applicable upon Transportation, Storage and Application of Plant-protecting Agents, Fertilisers and other Preparations Used in Business and Other Activities, and upon Creation of New Preparation**

1. When transporting, storing and applying plant-protecting agents, fertilisers and other preparations used in business and other activities, and creating new preparations, individuals and legal entities shall comply with the regulations for transportation, storage and application of such agents, and take measures aimed at preventing diseases and death of animals.

2. When creating new preparations, standards for applying them in the environment shall be developed.

3. In order to prevent death of animals and deterioration of their habitat, an environment protection authority may, following a proposal by the authorised government agency for protection, reproduction and use of wildlife, designate areas where the application of pesticides (toxic chemicals) shall be limited or prohibited.

4. There shall be allowed to use only those pesticides (toxic chemicals) that are entered in the list of pesticides (toxic chemicals) approved by the authorized government agency for protection and quarantine of plants in consultation with the environmental protection authority and the government agency for sanitary and epidemiological well-being of the population.

5. Pesticides (toxic chemicals) may not be included in the list referred to in paragraph 4 of this Article unless toxic studies have been completed, hygienic regulations on handling such chemicals have been developed, hygienic and environmental standards have been set and the state registration of such chemicals has been completed.

6. State registration of pesticides (toxic chemicals) shall be made in a manner established by the authorised government agency for protection and quarantine of plants in consultation with the environment protection authority and the government agency for sanitary and epidemiological well-being of the population.

7. If any potentially hazardous chemical and biological substances are found in mineral fertilisers and other preparation, an authorised government agency for protection and quarantine of plants shall, upon submission of the authorised government agency for protection, reproduction and use of wildlife or the environment protection authority, conduct toxicity studies, which shall serve as a basis for establishing environmental requirements applicable with regards to such fertilisers and other preparations.

8. There shall be prohibited to:

1) hunt for wildlife by applying toxic chemicals, except for the application of toxic chemicals for eradicating rodents as well as massive epizooties of rabies and other diseases of

animals upon consultation with the authorised government agency for protection, reproduction and use of wildlife;

2) apply pesticides (toxic chemicals), mineral fertilisers and other preparations:

in reserve areas located on specially protected natural areas;

in designated rest areas at the places of mass concentrations of animals during their migration and mating as well as at the spots which are of special value as the habitat of wild animals;

at designated places of the habitat and artificial breeding of rare and endangered species;

3) abandon unplanted chemically treated seeds on the soil surface of agricultural and other estates within reach of animals.

9. For the purpose of protecting fish and other aquatic animals from their habitat being contaminated with pesticides (toxic chemicals), there shall be prohibited, within the reach of two kilometres of the existing shores of fishery water basins, to:

1) use the method of aerial dusting to combat pests, plant diseases and weeds;

2) build warehouses for storing pesticides (toxic chemicals), mineral fertilisers and petroleum products, arrange runways for carrying out aerial chemical actions as well as designated areas for filling pesticides (toxic chemicals) into land facilities, and baths for washing sheep.

#### **Article 240. Environmental Requirements Applicable upon Relocation of Animals to a New Habitat, Naturalisation of New Fauna Species in Kazakhstan, Their Re-naturalisation and Crossbreeding, upon Import of Animals in, and Export from, Kazakhstan**

1. The relocation of animals to a new habitat, naturalisation of new species of wild animals in Kazakhstan, as well as the crossbreeding of wild animals, shall be permitted for scientific and business purposes with the permission of the government agency for protection, reproduction and use of wildlife life after an affirmative statement of opinion of the environmental impact assessment has been obtained.

2. Individuals and legal entities shall not be permitted to implement unauthorized relocation, naturalisation, re-naturalisation and crossbreeding of wild animals.

3. Individuals and legal entities that keep or breed in semi-captivity or captivity wild animals and domestic animals that can interbreed with wild animals, or do harm to wild animals, must take measures to prevent such animals from escaping in the natural environment.

4. In the event of calamities and environmental emergencies that threaten the life of animals, users of wildlife must provide aid to wild animals and notify forthwith the authorised government agency for protection, reproduction and use of wildlife and the environment protection authority.

5. Wildlife species shall be imported into, and exported from the Republic of Kazakhstan in accordance with regulations established by the authorised government agency for protection, reproduction and use of wildlife.

#### **Article 241. Environmental Requirements Applicable upon Hunting, Designation of Hunting Areas and Hunting Arrangements**

Environmental requirements applicable upon hunting, designation of hunting areas and hunting arrangements shall be determined in a manner established by the legislation of the Republic of Kazakhstan on protection, reproduction and use of wildlife.

#### **Article 242. Environmental Requirements Applicable upon Fishing, Including Catching of Aquatic Animals**

1. Fishing regulations, objects of fishing, procedures for designation of water bodies (areas) intended for fishery and fishing purposes, granting of fishery resources and other aquatic animals will be defined by the legislation of Kazakhstan on protection, reproduction and use of wildlife.



2. In the context of general use of wildlife, individuals shall be allowed, in cases prescribed by the legislation of the Republic of Kazakhstan, to engaged in free amateur (sport) fishing in the reserve fund of fishery water basins (areas) and take of up to five kilogram of fish per one fisherman. Fishermen shall comply with the prescribed rules, norms, limits and prohibitions relating to protection, reproduction and use of wildlife.

3. Hydro-reclaiming activities in wetlands and the habitats of aquatic animals shall be undertaken upon permission of the authorised government agency for protection, reproduction and use of wildlife after projects have passed the state environmental impact assessment.

4. Commercial and amateur (sport) fishing shall be carried out in a manner established by the legislation of the Republic of Kazakhstan on protection, reproduction and use of wildlife.

#### **Article 243. Environmental Requirements Applicable to Recycling of Useful Properties and Products of Animal Life**

1. The use of useful properties and products of animal life shall be allowed provided such use is not associated with withdrawing and killing animals, deteriorating their habitat and doing harm to them.

2. The use of wild animals for obtaining products of their life shall be allowed of such use is not associated with withdrawing and killing animals, and deteriorating their habitat.

3. Wild animals may be used for obtained products of their life in accordance with rules established by the authorised government agency for protection, reproduction and use of wildlife.

#### **Article 244. Environmental Requirements Applicable to Zoological Collections**

1. Individuals and legal entities shall be allowed to establish and replenish zoological collections (dummies, eggs, preparation and parts of objects of wildlife, objects of wildlife themselves, including wild animals of zoological parks and gardens, circuses, zoological nurseries, aquariums and oceanariums) by withdrawing animals from their natural habitat upon permission of the authorised government agency for protection, reproduction and use of wildlife.

2. Zoological collections of scientific, educational, cultural and aesthetic value and of general national importance shall be subject to state inventory.

3. Creation, replenishment, conservation, use, alienation and state inventory of zoological collections as well as trade, importation, conveyance and exportation of such collections shall be carried out according to the rules established by the authorised government agency for protection, reproduction and use of wildlife.

#### **Article 245. Environmental Requirements Applicable upon Regulation of the Number of Animals**

1. For the sake of health and safety of the population, prevention of diseases of agricultural and other domestic animals, prevention of harm to the environment, business and other activities, actions shall be taken to regulate the number of some species of wild animals. These actions shall be carried out in such a manner so as to preserve the habitat of, and prevent any harm to, wild animals.

2. The procedure for regulating the number of animals shall be established by the authorised government agency for protection, reproduction and use of wildlife upon consultation with the environment protection authority.

#### **Article 246. Environmental Requirements Applicable upon Keeping Game Husbandry and Fishery**

Upon keeping game husbandry and fishery, the following environmental requirements shall apply:

1) to make the rational use of wildlife without deteriorating the environmental condition of the habitat of animals through such activities and employ natural protection technologies in carrying out production processes;

2) to make the primary inventory of the number and use of wild animals, study their health and the characteristics of the hunting estates, and submit such information to the authorised government agency for protection, reproduction and use of wildlife;

3) to observe the set rules, norms, limits and timing of capturing game;

4) to protect wildlife, including rare and endangered species, within the designated area;

5) to take comprehensive actions aimed at breeding, including artificially, of wild animals, conserve and improve their habitat;

6) to carry out actions aimed at implementing general governmental, regional, nationwide and other territorial environmental programmes for protection, reproduction and use of wildlife;

7) to implement comprehensive measures aimed at preventing and combating diseases, informing forthwith the authorised government agencies for protection, reproduction and use of wildlife, for veterinary and for sanitary and epidemiological service regarding identification of any diseases in animals, the deterioration of the state of their habitat, and any threatened destruction and death of animals; and

8) to independently cease to use wildlife in event of the worsening of their state and conditions of the habitat, decrease of their capacity to reproduce and threatened destruction of animals, and to take prompt actions in order to eliminate the negative impact on animals and their habitats.

#### **Article 247. Environmental Requirements Applicable upon Establishment of Limits and Quotas for the Use of Wildlife**

For the purpose of conserving and reproducing animals, limits and quotas shall be set for the use of wildlife in a manner established by the legislation of the Republic of Kazakhstan on protection, reproduction and use of wildlife.

#### **Article 248. Protection of Wildlife against Hazardous Effect of Biotechnology Derived Products**

Creation of new strains of microorganisms and biologically active substances, breeding of genetically modified organisms, and production of other bio-technology derived products shall be carried out, provided there are affirmative statement of opinions of the state environmental and sanitary and epidemiological reviews. In absence of such opinions, the use of the said organisms and substances shall be prohibited.

### **Chapter 36. Environmental Requirements Applicable ed to Protection, Reproduction, Breeding in Captivity and Semi-Captivity, and Restricted Business Use of Rare and Endangered Animal Species**

#### **Article 249. List of Rare and Endangered Animal Species**

1. The list of rare and endangered animals shall be approved by the Government of the Republic of Kazakhstan and shall include rare and endangered animal (vertebrates and invertebrates) species (subspecies, populations) that live in the wild either, continuously or temporarily, on land, in water, in the air and in the soil in the territory of the Republic of Kazakhstan, as well as on the continental shelf and in the economic zone of the Republic of Kazakhstan;

2. Animals rated as rare and endangered species shall be the state property, while animals bred and kept in captivity or semi-captivity can be either owned by the State or privately.

3. Individuals and legal entities may use rare and endangered animals within the limits and in a manner set out by the legislation of the Republic of Kazakhstan.

#### **Article 250. Protection and Reproduction of Rare and Endangered Animals Living in the Wild**

1. Actions that can lead to death, reduction of the number, or damage to the habitat, of rare and endangered animals shall be prohibited.

2. Individuals and legal entities must ensure protection of animals within the borders of their designated territory and notify the authorised government agency for protection, reproduction and use of wildlife of the death of rare and endangered animals, which they came to know or reveal. A procedure of investigation into such cases shall be determined by the government body on protection, reproduction and use of wildlife.

3. Rare and endangered animals shall be provided with assistance in cases of their massive diseases, threat of death in the event of disasters and due to other causes, in accordance with the legislation of the Republic of Kazakhstan on protection, reproduction and use of wildlife.

4. For the purpose of preventing death of rare and endangered animals, there shall be prohibited to withdraw such animals, except as may be otherwise decided by the Government of the Republic of Kazakhstan.

5. For the purpose of reproduction of rare and endangered animal species that live in the wild, the following actions may be undertaken:

- 1) to improve the conditions of natural reproduction;
- 2) to relocate, naturalise and re-naturalise; and
- 3) to release domestically bred animals in the wild.

6. Actions defined in paragraph 5 of this Article shall be carried out upon permission of the authorised government agency for protection, reproduction and use of wildlife based on a biological feasibility study supported by an affirmative statement of opinion of the state environmental review.

7. For the purpose of protecting and reproducing rare and endangered animal species living in the wild, specially protected natural areas shall be created, and conservation zones around them may also be established, within which any activity which is likely to have negative impact on wildlife shall be prohibited.

8. In the design and conduct of business and other activities, actions shall be developed to preserve the habitat and the conditions for reproduction, migration routes and places of concentration of rare and endangered animal species, and integrity of designated areas that are of special value as a habitat of these animals shall be ensured.

#### **Article 251. Use of Rare and Endangered Animal Species Living in the Wild**

1. If rare and endangered animal species living in the wild are used for scientific, cultural, educational and aesthetic purposes without being withdrawn from their habitat, the authorised government agency for protection, reproduction and use of wildlife may impose restrictions on visits to certain places during certain periods. Information about such restrictions shall be published in district and oblast mass media, and in warning signage shall be put in appropriate places.

2. Interested individuals and legal entities shall release healthy artificially bred animals within a set time, in place of rare and endangered animal species withdrawn from the wild. Release of animals shall be carried out in proportion of two released animals in place of one caught in the wild which shall be documented by an act in the presence of officials from the state control bodies for protection, reproduction and use of wildlife and environmental protection.

## **Article 252. Keeping and Breeding in Captivity or Semi-captivity of Rare and Endangered Animal Species**

1. Artificial breeding of rare and endangered animal species may occur in captivity (in cages and aviaries) or semi-captivity (parks and other areas providing conditions close to a natural habitation).

2. Keeping and breeding in captivity or semi-captivity of rare and endangered animal species shall be allowed to specialised nurseries and persons, on a case to case basis, provided they comply with the following requirements:

1) proper conditions for keeping animals, including a designated area or facility equipped with aviaries, cages and other structures, are in place;

2) necessary volume of zootechnical, veterinary, sanitary and epidemiological actions is fulfilled;

3) specialists in zoology, zooculture and veterinary are available, and in case of individuals – skills in keeping animals in captivity or semi-captivity;

4) there is a permit issued by the authorised government agency for protection, reproduction and use of wildlife.

3. A permit issued for keeping and breeding rare and endangered animal species in captivity or semi-captivity shall contain binding requirements, as well as the maximum number of animals by animal species. If individuals and legal entities fail to meet the terms of the permit, the permit may be revoked or cancelled following three notices issued over six months.

4. Rare and endangered animal species can be kept and bred in captivity or semi-captivity in specialised zoological nurseries in compliance with the regulations of such nurseries.

5. Owners of rare and endangered animals kept in captivity and semi-captivity shall be obliged to ring or mark these animals and hold passports for them.

6. Individuals and legal entities which keep in captivity and semi-captivity rare and endangered animals may acquire, dispose of and trade in such animals within the Republic of Kazakhstan only upon permission of the authorised government agency for protection, reproduction and use of wildlife.

7. Individuals and legal entities which own any rare and endangered animals kept in captivity and semi-captivity may use them for the purpose of international trade in a manner set out by the legislation of the Republic of Kazakhstan.

8. If international trade of rare and endangered animals that have been bred in captivity and semi-captivity may cause any environmental and/or economic harm to the State, the Government of the Republic of Kazakhstan may impose restrictions on such trade.

## **Chapter 37. Environmental Requirements Applicable to Specially Protected Natural Areas**

### **Article 253. Environmental Requirements Applicable to the Use of Specially Protected Natural Areas**

For the purpose of protecting and improving the environmental state of specially protected natural areas that have special value as the habitat of rare and endangered animals and valuable animals, the environment protection authority in consultation with the authorised government agency for specially protected natural areas shall develop and impose on these territories environmental standards that are stricter than those set for the whole territory of the Republic of Kazakhstan.

### **Article 254. Environmental Requirements Applicable upon Placing on Specially Protected Natural Areas of Populated Localities, Industrial, Agricultural and Meliorative,**

## **Energy, Transport and Communication, Military and Defence Facilities and Structures That are not Associated with the Purposes and Functions of Specially Protected Natural Areas**

For the purpose of improving the environmental state as well as preventing harm to specially protected natural areas, placement on specially protected natural areas of populated localities, industrial, agricultural and meliorative, energy, transport and communication, military and defence facilities and structures that are not associated with the purposes and functions of specially protected natural areas shall be in accordance with the legislation of the Republic of Kazakhstan, including environmental requirements for these territories.

### **Article 255. Special Environmental Requirements Applicable to Geological Survey, Exploration and Mining of Natural Resources on the Areas of Outstanding Natural Beauty**

1. For the purpose of preventing possible negative impact that may be caused by the geological survey, exploration and mining of natural resources on the environment and objects of national nature reserve, a nature user shall:

1) consult with the authorised government agencies for specially protected natural areas, protection, reproduction and use of wildlife:

the number and location of areas required for repair of process roads and power transmission lines, as well as for driving vehicles off roads in the process of operations carried out by a nature user;

a scheme of support process roads on the contract territory;

the location and equipment of areas for warehousing industrial and consumption wastes as well as for dumping of fuels and lubricants and other contaminants;

the cutting and grubbing of plants and bushes on the contract territory clearing it up for process platforms envisaged by the project.

2) define, for the purpose of designating clearly the borders of the contract territory, its borders by way of putting out exterior notices;

3) transport chemical and radioactive materials only in special containers preventing their penetration into the environment;

4) keep the cover of technological roads in such a condition that prevents the surface from destruction, increased dusting and higher danger of spillages of chemical and radioactive substances while being transported; and

5) carry out reclamation of dump sites, disposal or burial in designated areas of the remnants of construction materials being used for repair of process roads and power transmission lines.

2. There shall be prohibited on the territories of the national nature reserve to:

1) install and construct settlements, permanent industrial, agricultural and meliorative, energy, transport and communication, military and defence facilities, sanatoriums, resort houses, catering facilities, hotels, other facilities and structures which are not associated with the purposes and functions of the national nature reserve;

2) carry out works that can lead to the change of the natural appearance of landscapes and disturb the balance of eco-systems;

3) bury industrial and consumption waste as well as radioactive materials;

4) make use of topographic lows in the relief to discharge industrial and other contaminated waters;

5) apply potentially hazardous chemical and biological substances and produce harmful physical effects on the environment;

6) arrange parking lots, put out tents, build a fire outside of the areas intended for such purposes;

7) arrange the movement and parking of motor vehicles, drive domestic animals outside of general roads and specially designated places;

- 8) introduce plants and naturalise animals alien to the local flora and fauna;
  - 9) perform commercial stocking of plants used for medical and other purposes;
  - 10) withdraw wildlife, cut trees and bushes, store up secondary timber materials and haymow without special permits issued by the authorised government agency for protection, reproduction and use of wildlife;
  - 11) drive vehicles off technological roads, except for areas specially designated for such purposes with the approval of the authorised government agency for protection, reproduction and use of wildlife, or move around the contract area off the existing roads;
  - 12) mine commonly occurring natural resources;
  - 13) stocking industrial and consumption wastes outside of specially designated areas that prevent the wastes from being carried (by wind or precipitations) around the contract area and the national nature reserve; and
  - 14) drain fuels and lubricants and other contaminants, except for areas specially designated within the contract territory upon consultation with the authorised government agency for protection, reproduction and use of wildlife.
3. For the purpose of executing control over the state of the environment a production monitoring programme shall be annually developed and agreed with the authorised government agencies for specially protected natural areas, for environmental protection and for protection, reproduction and use of wildlife, which shall envisage:
- 1) quarterly control over the chemistry of water in artesian wells and draw wells within a radius of up to twenty kilometres from the contract area;
  - 2) quarterly control over radiation levels and the concentration of radioactive substances in the ground within the contract area and within a radius of up to ten kilometres outside;
  - 3) quarterly control over concentrations of pollutants in the environment that form up in the process of operations; and
  - 4) specific terms, persons responsible for the implementation of actions, forms of completion and reporting.

## **Chapter 38. Environmental Requirements Applicable upon Conduct of any Business and Other Activities within the National Nature Reserve in the Northern Part of the Caspian Sea**

### **Article 256. Borders of the National Nature Reserve in the Northern Part of the Caspian Sea**

The borders of the national nature reserve in the northern part of the Caspian Sea shall be defined by the Government of the Republic of Kazakhstan.

### **Article 257. Restrictions on Use**

1. Based on the functional zoning, areas shall be allocated within the national nature reserve in the northern part of the Caspian Sea where a complete ban on any business and other activities and additional temporary restrictions on the conduct of certain types of works shall apply in accordance with the Law of the Republic of Kazakhstan On Specially Protected Natural Areas.

2. In the national nature reserve, there shall be introduced the following use regime:

1) for the purpose of providing for the normal spawning run of fish and the escape of young fish into the sea, there shall be prohibited from 1 April until 15 July to conduct any construction and geophysical works, test wells and carry out navigation in the estuaries of the Ural River and the Volga River within a radius of fifty kilometres from the most seaward protruded point of Kazakhstan's part of the land delta of the Volga River and the most seaward protruded point of the land delta of the Ural River as well as within the fifteen kilometre wide shoreline established as of 1

January 1994 between the borders of the said near-delta spaces and eastward up to the Emba River. However, there shall be permitted navigation of ships engaged in fishery and fish transportation, scientific research and in control and inspection as approved by the authorised government agency for protection, reproduction and use of wildlife;

2) during the period specified in sub-paragraph 1) of this paragraph, oil production shall be converted to a self-supporting basis in terms of equipment, chemicals, fuels and lubricants and other materials and food supplies. All actions shall be undertaken to enable the accumulation and storage of waste generated as a result of oil production that shall be removed away upon expiry of the period of the ban;

3) for the purpose of conserving birds at nesting places (reeds, sand shoreline and isles), there shall be prohibited, during the period specified in sub-paragraph 1) of this paragraph to carry out any construction works and to test wells;

4) works to be conducted in the period other than that specified in sub-paragraph 1) of this paragraph within the reeds (natural biological filter) on the sea-land border shall be regulated by the authorised government agencies for environmental protection and specially protected natural areas, subject to the season of the year;

5) for the purpose of preserving the population of the Caspian seals, oil operations shall be carried out from October until May at a distance of no less than 1,852 metres (one nautical mile) from places of their concentrations. Given the change of their rookery all possible measures shall be undertaken to identify the places of concentrations of seals; and

6) in order to avoid any negative impact on birds and Caspian seals, there shall be prohibited to fly aircrafts over the designated places of their habitation and breeding at a height of lower than one kilometre, unless scientific research and rescue operations are conducted, of which the authorised government agencies for environmental protection and specially protected natural areas shall have been informed in advance.

#### **Article 258. Environmental Requirements Applicable upon Conduct of Business and any Other Activities in the Water Conservation Area**

1. The width of the water conservation stretch along the coast of the Caspian Sea shall be 2,000 metres off the average multi-year sea level mark recorded over the past decade being at minus 27.0 metres;

Within the limits of populated localities, the borders of the water conservation area shall be set subject to the particular conditions of the layout and development of such localities with mandatory engineering improvements or forest reclamation of the coastal line (rails, levees, tree and bush belt areas) preventing the fouling and contamination of the water body.

2. Within the limits of the water conservation area, there shall be prohibited:

1) to design, construct and commission new and upgraded facilities that do not have any constructions and structures to prevent the contamination and fouling of water bodies and their water conservation areas and water lines;

2) to install and construct, outside of the populated localities, storages for storing oil products, outlets for technical maintenance of specialty machines, mechanics workshops, car-wash facilities, waste disposal sites as well as other facilities that may have an impact on the quality of water; and

3) to conduct construction, dredging and explosion operations, mine natural resources, lay down cabling, piping and other engineering lines, drill and carry out agricultural and other works, unless these works has been agreed with the authorised government agencies for environmental protection and use and protection of water resources.

**Article 259. Environmental Requirements Applicable upon Conduct of Business and any Other Activities within the Protection Zone**

1. Oil operations within the protection zone shall be carried out in compliance with the Law of the Republic of Kazakhstan On Oil and On Subsoil and Subsoil Use.
2. There shall be prohibited to construct waste burial sites within the protection zone.

**Article 260. Protection of Coastal Waters in the Northern Part of the Caspian Sea in Places of Public Water Use**

1. Areas of conservation of coastal waters in the northern part of the Caspian Sea in places of public water use shall be determined by local executive agencies, within their competence, subject to the actual and long-term water use. The width of this area seaward shall be at least 3.9 kilometres (2 miles) from the average multi-year sea level over the past decade.
2. The land shoreline belonging to the areas of conservation of coastal waters in the northern part of the Caspian Sea in places of public water use shall corresponds to the water conservation area of the Caspian Sea both in terms of borders delineation and protection regime.

**Article 261. Environmental Requirements Applicable upon Conduct of Business and Other Activities within the Area of Impact of Tidal Fluctuations of the Sea Level**

1. The area of impact of tidal fluctuations of the sea level has no clearly fixed borders and stretch tentatively from the absolute marks of minus 29 metres within the water body to minus 26 metres on land.
2. Within the area of impact on tidal fluctuations of the sea level, there shall be prohibited:
  - 1) to design, construct and commission new and upgraded facilities that do not have constructions and structures to prevent the contamination and fouling of water bodies and their water conservation areas and water lines;
  - 2) to install and construct, outside of the populated localities, storages for storing oil products, outlets for technical maintenance of specialty machines, mechanics workshops, car-wash facilities, waste disposal sites as well as other facilities that may have an impact on the quality of water; and
  - 3) to conduct construction, dredging and explosion operations, mine natural resources, lay down cabling, piping and other engineering lines, drill and carry out agricultural and other works, unless these works has been agreed with the authorised government agencies for environmental protection and use and protection of water resources.

**Article 262. General Environmental Requirements Applicable upon Conduct of Business and Other Activities within the National Nature Reserve in the Northern Part of the Caspian Sea**

1. Works associated with the excavation and movement of earth may be allowed to be carried out upon special permission to be issued by the authorised government agency for study and use of subsoil.
2. The construction, assembly and dismantling of structures may not be carried out unless technologies enabling the collection of all kinds of pollutants are used.
3. If previously drilled wells are found within the limits of the contract area, a subsoil user must enter them on its balance sheet and conduct monitoring.
4. Emissions and discharges in the environment at all stages of oil operations shall not exceed the relevant permissible limits of emissions and discharges of pollutants.
5. There shall be prohibited to flare up fluids in the operation of wells unless an emergency threatens to occur.



6. The flaring of hydrocarbons during the testing of wells shall be minimised. Should the environmental review find the method specified in this paragraph as the safest to the environment, such method shall be used only under favourable weather conditions capable of dispersing the train of smoke, and the design of flares must ensure complete burning of hydrocarbons. If a well is located on the migration route of birds, organisational and technical steps shall be undertaken to prevent damage to the avifauna.

7. Air emissions shall be subject to control in compliance with the requirements of the legislation of the Republic of Kazakhstan, proven principles and methods accepted in international practice in the field of environmental protection upon the conduct of oil operations.

8. Within the limits of the national nature reserve in the northern part of the Caspian Sea, there shall be prohibited to discharge waste waters and waste, unless they are on the limited list of pollution-free or treated waste waters, including waters of the cooling and fire extinguishing systems and ballast waters discharged upon permission of the government agencies for environmental protection, use and protection of water resources, as well as for sanitary and epidemiological well-being of the population. The temperature of water discharged outside of the control point shall not exceed more than 5 degrees centigrade as compared to the average monthly water temperature during discharge of water over the past ten years.

9. Injection of drill waste into the subsoil shall be prohibited unless such waste has been preliminary neutralised in accordance with the project that had passed the state environmental review.

10. All actions to neutralise and store drill waste (sludge and solutions) that are not recycled in process and not injected into the subsoil shall be carried out at a special disposal site outside the borders of the national nature reserve in the northern part of the Caspian Sea. Such actions shall ensure that the construction of the disposal site must be completed by the time drilling operations will be launched, shall be carried out upon consultation with the environment protection authority.

11. A drilling platform (barge) and support ships must be equipped with a plant for treating and decontaminating waste waters and for collecting, storing and transferring waste waters to special ships or onshore receptacles. Proper facilities for collecting or treating (milling and pressing) litter or a facility for burning litter shall be envisaged.

12. When conducting any types of construction and other activities, explosion operations shall be prohibited in the water column and at the sea bottom. Explosion operations at the sea bottom can be carried out upon permission of authorised government agencies for environmental protection, use and protection of the aquatic fund, natural and man-made disasters and the study and use of the entrails.

13. There shall be prohibited to disturb nestling places of water fowls and near-water birds as well as blocking access to the spawning place of sturgeons.

14. No water may be withdrawn from the sea, unless water facilities are equipped with fish protectors. Such water facilities shall be equipped with technical facilities for continuous control over the performance of fish protectors.

15. Prior to the beginning of oil production, comprehensive environmental protection programmes, including actions to be taken to protect spawning grounds and reproduction of valuable game fish as well as the habitat of seals in the national nature reserve in the northern part of the Caspian Sea, shall be developed at the expense of a subsoil user.

16. Transport routes shall be selected in such a way so that their impact on marine mammals, fish and birds shall be prevented or abated.

17. There shall be prohibited to lay down railways, highways, main pipelines that have not been envisaged by the project, in the area of operation of special requirements.

18. For the purpose of conducting works in the shallow waters, there shall be used vehicles that allow preserving highly productive sea bottom populations and spawning grounds. If necessary,

the use of special transport means with enlarged caterpillars, low-pressure tires, hover cushion that produce minimal destruction of the integrity of soils and vegetation and the existing biocenoses, shall be permitted in connection with the environmental monitoring.

19. Drill muds and oil-well solutions shall not contain substances, which are not envisaged by the engineering design. Should any other substances be used, a subsoil user shall agree such use with the authorised government agencies for environmental protection and the study and use of subsoil.

20. Drilling rigs shall be complete with combustion engines that meet ultimate carbon monoxide emission requirements of the International Marine Organisation.

21. Power plants shall be complete with combustion engines or double fuel turbines (diesel fuel - gas).

22. Prior to any offshore exploration works, a plan of works with due regard of the world practice, including the full environmental impact assessment, shall be prepared. The study of the baseline condition of the previously examined area, where intended business activities will be carried out, shall be based on the results of field studies that were conducted at least four years prior to the submission of the environmental impact assessment.

23. A compulsory element in any environmental impact assessment shall be the analysis of alternative scenarios, including avoidance of conducting exploration within the critical areas of offshore waters and the coastal zone.

24. In the water conservation area and in the near-shore shallow waters of the sea down to a depth of 5-10 metres, wells shall be drilled using electric and diesel driven drilling rigs powered from external networks. If the drilling is performed with a drilling rig equipped with a diesel generator and a diesel-driven generator, untreated gas emissions from those units shall be minimised.

### **Article 263. Environmental Requirements Applicable upon Conduct of Geophysical Works**

1. There shall be prohibited upon conduct of geophysical operations:

1) to use explosive sources of seismic waves and pneumo-sources with parameters that have a harmful impact on the ichthyofauna and its habitat;

2) to employ devices and methods the safety of which is not evidence by documents or based on test geophysical operations;

3) to leave unattended seismic cables in the sea in avoidance of their being torn off and carried away, as well as to trawl them;

2. For the purpose of conserving the population of the Caspian seal, the conduct of seismic works and other business operations during the period from October until May shall be adjusted with seismic profiles at a distance of at least one nautical mile from the place of concentration of seals on island and glacial rookeries. Preliminary aerial fly rounds shall be made in order to locate the places of high concentrations of seals, taking into consideration their habit of changing the location of rookery.

3. The use of devices for scaring off fish out of the zone of operations may be provided for during seismic exploration.

### **Article 264. Environmental Requirements Applicable upon Offshore Exploration and Production**

1. Wells shall be drilled based on advanced proven principles and methods applied in international practice relating to the environmental protection upon oil operations.

2. Places for offshore drilling platforms within the contract area shall be selected taking into consideration the maximally possible conservation of marine areas of prospective importance for

fishery, conservation and reproduction of valuable fish species and other objects of the fishing industry.

3. Drilling operations off a drilling barge or platform in the condition of ice covering the water body accessible for navigation shall be conducted in the permanent presence of an ice breaking ship outfitted with equipment required for containment of possible hydrocarbon spills. The requirement specified in this paragraph shall not apply to drilling operations conducted off a man-made island.

4. There shall be prohibited to carry out the opening up of a payoff horizon of the sub-salt formation and the test of wells with expected extreme pressure and the high content of sulphur hydrogen under the severe ice-bound conditions.

5. For the purpose of securing a sustainable eco-system in the national nature reserve in the northern part of the Caspian Sea and designing offshore exploration and production operations, maximum restrictions shall be imposed on the construction of drilling foundations, test of wells and navigation.

6. Subsoil users shall ensure the carrying out of actions to prevent, restrict and eliminate emergency spills during oil operations.

#### **Article 265. Environmental Requirements Applicable upon Design and Construction of Oil And Gas Pipelines**

1. Design and construction of oil and gas pipelines and associated facilities in the zone of impact of tidal fluctuations of the sea level shall be conducted taking into consideration their peak amplitudes.

2. Automated shutoff valves at oil and gas pipelines shall be design subject to assessment of risks associated with possible disturbance of the integrity of oil and gas pipelines.

3. Oil and gas pipelines shall be constructed using technical facilities and equipment that secure the minimum scope of disturbance of the sea bottom, and technologies and methods that may contain the spread of suspended matters in the water column.

4. In the national nature reserve in the northern part of the Caspian Sea there shall be mandatory to embed oil and gas pipelines so as to secure them against damages by moving ices, ship anchors and other man-made impacts.

5. Protection zones in the form of allotments of water sections stretching from the water surface to the bottom and enclosed between parallel plains 500 metres distant from the axis of the extreme pipelines on each side shall be established along oil and gas pipelines.

6. Water discharges upon hydrotesting of oil and gas pipelines shall occur outside of the borders of the national nature reserve in the northern part of the Caspian Sea.

#### **Article 266. Environmental Requirements Applicable to Coastal Supply Bases and Coastal Infrastructure Facilities**

1. The construction of coastal bases, including storages for fuel and lubricants, vehicles maintenance stations, except for ports and piers, shall be carried out outside of the water conservation area of the Caspian Sea, using the existing infrastructure. There shall be permitted in the water conservation area to construct facilities and carry out works prescribed by the legislation of the Republic of Kazakhstan.

2. The pier and supply bases sites shall be designed in such a way so that supply, technical maintenance and filling operations shall be carried out by in compliance with all requirements that ensure environmental safety and human health.

3. Upon completion of the functioning of coastal infrastructure and its dismantling, land reclamation shall be implemented in compliance with the project documentation approved by the environment protection authority.

## **Article 267. Environmental Requirements Applicable to Navigation**

1. There shall be prohibited to use equipment and devices as well as ships previously used in operation in other water basins, unless such equipment, devices and ships have undergone state environmental and sanitary and epidemiological reviews for avoidance of accidental introductions of objects of flora and fauna life in the Caspian Sea.

2. All types of movements of water transport shall be presented in the pre-project and project documentations. At the stage of detailed design and organisation of operations, a season-based schedule shall be developed and routes of travels of ships shall be indicated on map materials. In the selection of routes of travels, hydro-meteorological conditions shall be taken into consideration, including ice conditions as well as the periods and places of spawning and migration of valuable fish, seal rookeries and bird nestling.

3. All ships must be equipped with closed fuelling systems, collectors for contaminated waters and household litter and devices preventing discharges and emissions in open water basins.

4. The bulk materials, chemicals and hazardous freights shall be transported in closed containers and special tanks preventing their penetration in the environment.

5. The bodies of ships, other waterborne vehicles, marine drilling rigs and platforms shall be coated with modern certified anti-corrosion materials.

6. Ships must be fuelled up through systems preventing spillages and leakages of fuel and lubricants.

7. Noises and vibrations generated by ships shall not exceed permissible noise levels established by sanitary and epidemiological regulations and norms and hygienic requirements.

8. Construction equipment of special ships shall be complete with devices for reducing noises and vibrations.

9. For the purpose of transporting hydrocarbons and other hazardous substances by tanks, the transfer to use of only twin-shell tanks in the Caspian Sea shall be ensured.

10. Ships shall be outfitted with equipment preventing ship decks from being contaminated with oil products, and waste waters from being disposed into the water.

11. The navigation schedule shall be established upon consultation with the authorised government agencies for protection, reproduction and use of wildlife and the use and protection of water resources.

## **Article 268. Environmental Requirements Applicable upon Mothballing and Liquidation of Oil Facilities**

1. The mothballing or liquidation of facilities for offshore oil operations, exploration, including of solid mineral resources, mineral and/or potable waters shall be carried out in accordance with the legislation of the Republic of Kazakhstan on subsoil and subsoil use.

2. In respect to the mothballing of wells upon completion of tests, subsoil users shall carry out mothballing operations, ensure safety of drilling foundations and the reliable sealing-in of wells until operations are resumed.

3. In liquidating wells that were drilled off a man-made ground (submarine berm or island), subsoil users shall ensure the sealing-in of wells and control over the condition of a man made foundation after having cleaned it up from possible contamination with hydrocarbons and other chemical substances. If the island (berm) is water-worn, subsoil users shall mark it up with a guidepost or buoy, until the foundation is finally levelled, and submit the coordinates to the authorised government agencies for study and use of subsoil, inland waterborne transport to enable them to mark up the nautical charts to ensure safe navigation.

4. Upon liquidation of wells that were drilled off a platform of any type, their constructions shall be fully dismantled and removed, whilst head walls of sealed wells shall be cut off at the sea bottom level to prevent obstruction to fishing and navigation.

5. Man-made mining islands that were decommissioned shall be liquidated. If metallic or reinforced concrete structures are used, reinforced concrete structures shall be removed and metallic structures shall be cut off at the sea bottom level.

6. The mothballing and liquidation of drowned and partially submerged old wells shall be carried out in accordance with the project that includes environmental impact assessment and that has passed, in accordance with the legislation the Republic of Kazakhstan, the state environmental review, a review for natural and man-made disasters and a review required to be conducted in accordance with the legislation of the Republic of Kazakhstan on subsoil and subsoil use. A plan for emergency response to oil spills shall be developed and approved. No operations shall be allowed to be carried out without availability of necessary equipment, specialists, transport and other means required for preventing and responding to emergencies in accordance with plans for emergency response to oil spills.

### **Article 269. Monitoring of the Environment of the National Nature Reserve in the Northern Part of the Caspian Sea**

1. In the national nature reserve in the northern part of the Caspian Sea, the environmental protection authority shall carry out the state environmental monitoring.

2. Subsoil users that conduct any business operations in the national nature reserve in the northern part of the Caspian Sea shall conduct production environmental monitoring.

3. Environmental impact assessment materials prepared at each stage of oil operations shall envisage production monitoring that embraces:

1) baseline environmental studies prior to the start of each stage of oil operations (geophysical surveys, exploration drilling, hydrocarbons mining as well as liquidation of facilities);

2) monitoring of pollution sources;

3) monitoring of the environmental condition; and

4) monitoring of the consequences of emergency pollution of the environment.

4. The state environmental and production monitoring shall include observations of the following parameters:

1) levels of water contamination as well as sea bottom sediments according to physical, chemical and hydro-biological parameters at the Caspian Sea sections of various status (regime);

2) the balance and transformation of contaminants at certain sections of the Caspian Sea (sampling points in the open sea, bays, estuaries, rivers that run into the sea, and areas of oil operations) on the border of the air-water division and their build-ups in bottom sediments (precipitations); and

3) natural circulatory processes, hydro-meteorological parameters (temperature of water, currents, velocity and directions of winds, atmospheric precipitations, atmospheric pressure, air humidity).

5. If necessary and at request of the environment protection authority, subsoil users shall carry out additional surveys of the condition of the environment.

6. Subsoil users shall determine the types and methods of observations over the condition of the environment in a manner established by the environment protection authority.

7. In the conduct of production monitoring, subsoil users shall take into consideration the results of observations during previous years and make use of the figures of existing stations located at the operation areas (within the contract area and its surroundings) in order to carry on the long term scope of observations.

8. In the event of emergencies, immediate arrangements shall be made to initiate the monitoring of the consequences of emergency pollution of the environment.

9. Subsoil users shall submit the results of production monitoring to the environment protection authority.

## **Chapter 39. Environmental Requirements Applicable upon Use of Radioactive Materials, Atomic Energy and Ensuring Radiation Safety**

### **Article 270. Transboundary Movements of Radioactive Waste and Materials**

1. There shall be prohibited to import, for the purpose of storage and burial, radioactive waste into the Republic of Kazakhstan from other states, except for the Republic's own radioactive waste that had been exported for processing to other states. There shall also be prohibited to bury (place) radioactive waste and materials on the land surface and in the subsoil until special actions aimed at preventing the penetration of radioactive substances in the environment have been completed.

2. The importation of radioactive materials, semi-finished products, raw materials, and components containing radioactive substances that exceed the withdrawal levels established by radioactive safety regulations shall be carried out subject to resolutions of the Government of the Republic of Kazakhstan and after having obtained affirmative statement of opinion of the state environmental review.

3. Upon transboundary movement of radioactive materials, nature users shall take measures aimed at ensuring compliance with the rules of international law upon such movement. In such case:

1) nature users shall take measures aimed at obtaining permissions and giving preliminary notification as well as obtaining consent to the movement of the country of destination;

2) transboundary movement via the transit countries shall be carried out, provided that the international obligations that correspond to specific types of transport means, shall have been met;

3) there shall be prohibited to ship spent fuel or radioactive waste for storage or burial to a destination south off the latitude of 60 S.

### **Article 271. Environmental Requirements Applicable upon Use of Radioactive Materials**

1. Individuals and legal entities shall be obliged to meet the prescribed regulations for production, storage, transportation, use, recycling and disposal of radioactive materials, not to allow exceeding of permissible radiation levels, and take measures aimed at preventing and eliminating radiation contamination of the environment.

2. In case of identifying any radioactive contamination of the environment, individuals and legal entities shall inform forthwith the authorised government agencies for atomic energy and environmental protection as well as the government sanitary and epidemiological authority.

3. When using radioactive materials, nature users shall ensure:

1) the assessment of all factors that may affect radioactive materials during the period of their use;

2) the assessment of impacts of radioactive materials on human health and the environment;

3) the provision of information to citizens and public associations about the characteristics of radioactive materials and safety measures upon use thereof, except for the information constituting state or any other secret protected by law of the Republic of Kazakhstan;

4) the measures restricting radiation impact on human health and the environment, including the consequences of emergencies, subject to the principal radiation safety requirements and regulations in accordance with the legislation of the Republic of Kazakhstan on radiation safety of the population; and

5) minimum level of formation of radioactive waste.

## **Article 272. Environmental Requirements Applicable upon Storage and Burial of Radioactive Materials and Waste**

1. Radioactive waste that are formed in the territory of the Republic of Kazakhstan shall be buried in such a manner so as to ensure radiation safety of the population and the environment during the period when they can pose a potential hazard.

2. The disposal of radioactive waste shall be envisaged by a project and technical documentation as a mandatory stage of any type of activities that lead to the formation of radioactive waste. The procedure and arrangement of collection, storage, transportation and burial of radioactive waste shall be carried out in compliance with the legislation of the Republic of Kazakhstan on the use of atomic energy subject to the environmental requirements prescribed by this Code.

3. When storing and burying radioactive materials and waste, nature users must ensure:

1) the impossibility of spontaneous chain nuclear reactions and the protection against excessive heat generation;

2) the effective protection of the population and the environment by applying appropriate methods of protection in compliance with the radiation safety regulations and standards;

3) consideration of biological, chemical and other risks associated with the storage of radioactive materials and waste;

4) keeping of records related to the location, construction and content of the burial sites; and

5) control and restriction of unauthorised access to radioactive materials as well as unscheduled emissions of radioactive substances in the environment.

## **Article 273. Environmental Requirements Applicable upon Transportation of Radioactive Materials and Waste**

1. Radioactive materials and waste shall be transported subject to the regulations established by the legislation of the Republic of Kazakhstan and international treaties ratified by the Republic of Kazakhstan.

2. Transportation rules applicable to radioactive materials and waste shall provide for the rights, obligations and responsibilities of a consignor, carrier and consignee, safety measures, physical protection, a system of coordinated measures aimed at preventing accidents and emergencies, requirements to packing, labelling and vehicles, and measures for containment of the consequences of possible emergencies.

## **Article 274. Environmental Requirements Applicable upon Installation and Operation of Nuclear Plants and Facilities Intended for Handling Radioactive Waste**

1. Local government agencies, individuals and legal entities have the right to make proposals to the Government of the Republic of Kazakhstan with respect to the siting of nuclear plants and facilities intended for handling radioactive waste.

For the purpose of considering the issue of siting nuclear plant or facilities intended for handling radioactive waste, an applicant shall submit materials prepared in a manner established by the legislation of the Republic of Kazakhstan, which shall contain a rationale for the construction of such plants and facilities, as well as alternative options of sites on which they may be placed.

Materials shall include:

1) the characteristics of the environment in the region of possible siting of nuclear plant and facilities designed for handling radioactive waste;

2) the assessment of the impact that the intended activities for the construction, commissioning, operation, decommissioning and closure of such facilities may have on human health and the environment;

3) actions abating the impact on the environment; and

4) an affirmative statement of opinion of the state environmental, sanitary and epidemiological and technical reviews with the compulsory consideration of the results of public consultations.

2. A decision to construct nuclear plants or facilities shall be made by the Government of the Republic of Kazakhstan with the consent of local representative bodies on the territory of which such nuclear plant or facility is planned to be constructed.

3. Plots of land and subsoil on which to construct nuclear plants and facilities designed for handling radioactive waste shall be allocated in a manner established by the Land Code of the Republic of Kazakhstan, the legislation of the Republic of Kazakhstan on subsoil and subsoil use and this Code.

4. When making a decision regarding the construction of nuclear plants and facilities designed for handling radioactive waste, additional arrangements aimed at social and economic development of the region shall be provided for. The scope and procedure of implementing such arrangements shall be defined, on a case-by-case basis, by the Government of the Republic of Kazakhstan upon consultation with local governments based on a scientific and technical feasibility studies.

5. A nuclear plant or facility designed for handling radioactive waste shall be accepted for commissioning by the state acceptance commission.

6. A nuclear plant or facility designed for handling radioactive waste shall be accepted for commissioning, provided all production and service facilities specified by the project are in place.

7. The procedure for decommissioning a nuclear plant or facility designed for handling radioactive wastes, or closing a storage facility for burial of radioactive waste, shall be provided for in the project subject to the regulations, rules and standards for use of nuclear energy. All costs shall be borne by the owner of a nuclear plant or facility designed for handling radioactive waste.

8. A decision to early decommission a nuclear plant or facility designed for handling radioactive waste, or closing a storage facility for burial of radioactive waste, shall be approved by the Government of the Republic of Kazakhstan and shall be communicated to an operator or a specialised entity at least within two years prior to the implementation of such actions.

9. A sanitary protection zone and a surveillance zone shall be established in places where nuclear plants or facilities designed for handling radioactive waste are constructed.

The size and the borders of such zones shall be defined by a project subject to the regulations and standards for use of nuclear energy. Radiation safety control shall be implemented within sanitary protection zones and surveillance zones.

10. In a sanitary protection zone, regardless of its parameters and ownership status, there shall be prohibited to place (construct) residential houses, educational, healthcare and leisure facilities, sports and health rehabilitation structures, including plots of land intended for fruit-farming and gardening, as well as agricultural production.

11. Industrial use of lands and water bodies located within a sanitary protection zone may be permitted subject to compulsory radiological control over the products.

#### **Article 275. Permissible Levels of Radioactivity of Construction Materials, Mineral Fertilisers, Ameliorators and Coals**

1. Permissible levels of radioactivity of construction materials, mineral fertilisers and ameliorators shall be established in accordance with radiation safety standards.

2. Coal may be used for any purposes providing that doses will not exceed the established radiation safety norms. Coal with radioactivity above levels prescribed by the applicable radiation safety standards and sanitary regulations, shall be stored and buried in an inner dump of the quarry, subject to the compliance with the radiation safety norms.



**Article 276. Arrangement of Control over Radiation Situation in Populated Localities, in Premises of Residential and Public Buildings, over Radiation Safety of Construction Materials, Mineral Fertilisers, Fuel and Energy Materials and upon Oil Operations**

1. The goal of the radiation control is to prevent the exceeding of established radiation safety levels as well as developing and introducing measures aimed at mitigating radiation exposure on the population.

2. When allotting land plots for the urban development, building of residential and public service facilities, industrial enterprises, leisure and recreation areas, garden communities, the scope of compulsory studies shall include the measurements of exposure doses of external gamma radiation in the territory of the allotment. The results shall be documented in the form of a protocol by the commission for selecting a land plot for construction purposes.

3. Upon the commissioning of residential buildings, the exposure dose rate of external gamma radiation shall be measured in each flat, and the radon concentration shall be measured in any of the flats on the ground floor in each house section. If permissible radon concentrations are found as exceeding the measurements shall be taken in all flats of the building.

4. The exposure dose rates of external gamma radiation shall be measured at a height of one metre off the surface of land or flooring in the premises.

5. The control of the concentration of equivalent equilibrium activity of radon shall be carried out in accordance with the methodical guidelines of the government agency for sanitary and epidemiological well-being of the population and other policies approved in a manner established by the legislation of the Republic of Kazakhstan.

6. The results of measurements taken at the facilities under construction or being commissioned shall be documented in the form of radiation examination statements, one copy of which shall be attached to the certificate of acceptance issued by the state acceptance commission in relation to the commissioning of the facility. The responsibility for carrying out measurements shall be placed upon an organisation which is building and presenting a facility for commissioning.

7. The possibility, necessity, scope and timing of carrying out arrangements designed to reduce gamma background in premises and the concentration of radon shall be determined by a commission appointed by the local government with obligatory involvement of representatives of the government agency for sanitary and epidemiological well-being of the population and a territorial division of the environment protection authority.

8. Prior to the commencement of development of a field of construction materials, mineral fertilisers, ameliorators and fuel and energy resources, a nature user shall obtain a sanitary and epidemiological statement of opinion regarding their radiation hazard and the conditions of their use. Such statement of opinion shall be issued by the government agency for sanitary and epidemiological well-being of the population based on the field development project, incorporating a section for radiation and hygienic assessment of natural resources according to the results of geological exploration.

9. A radiation control service of a nature user shall ensure the fulfilment of the requirements of the field development project, and the results of radiation control shall be documented.

10. Radiation quality of products shall be confirmed by a report of the government regulatory agencies based on laboratory tests that were completed by certified laboratories. The procedure for, and frequency of certifications of the quality of products shall be set upon review of field development projects.

**Article 277. Requirements Applicable to Radiation Control of Scrap Metal**

1. Industrial radiation control over scrap metal shall include:

1) radiation control over all scrap metal received by a metal procurement entity in order to identify radioactive contamination of scrap metal or the presence of local gamma radiation sources;

2) measurement of the gamma radiation exposure doses if it is detected that radiation near a shipment or a fragment of scrap metal exceeds background radiation;

3) spot test of scrap metal in respect of presence of surface contamination with alpha and beta active radionuclides; and

4) the radiation survey of an empty vehicle intended for transporting a shipment of scrap metal, as well as measurement of the gamma radiation exposure doses on the surface of a vehicle loaded with a cargo.

2. The methods and procedures for implementing state industrial radiation control shall be defined in the sanitary and epidemiological regulations and norms.

#### **Article 278. Procedures for Implementing Measures upon Radiation Emergencies**

1. In the event of emergencies occurring during the transportation of radioactive materials, the requirements of the legislation of the Republic of Kazakhstan for use of nuclear energy, radiation safety of the population and technical procedures shall be complied with in order to protect the health of the population, their property and the environment.

2. Emergency procedures must take into consideration possible formation of other hazardous substances as a result of contact of the cargo with the environment in event of an emergency.

#### **Article 279. Radiation Safety Supervision and Control**

Radiation safety supervision and control shall be conducted in accordance with the legislation of the Republic of Kazakhstan on use of nuclear energy.

### **Chapter 40. Environmental Requirements Applicable upon Production and Use of Potentially Hazardous Chemical and Biological Substances and Genetically Modified Products and Organisms**

#### **Article 280. Environmental Requirements Applicable upon Production and Use of Potentially Hazardous Chemical Substances**

The following must be ensured in the production and use of potentially hazardous chemical substances:

1) compliance with established limits of maximum permissible environmental impact in the production, storage, transportation and use of such substances; and

2) measures to prevent adverse impact on human health and environment resulting from the use of such chemical substances.

#### **Article 281. Protecting Environment against Adverse and Uncontrolled Biological Effects**

The following must be ensured in the course of production and use of potentially hazardous biological substances, including genetically modified organisms and products:

1) compliance with established limits of maximum permissible environmental impact in the production, storage, transportation and use of such substances, organisms and products;

2) measures to prevent adverse impact on human health and environment resulting from the use of such substances, organisms and products; and

3) genetically modified products are permitted for use only if they are included in a special list of allowed products maintained by the environment protection authority and the government agency for sanitary and epidemiological well-being of the population.

#### **Article 282. Engaging in Gene Engineering Activities**

1. The following requirements must be met in the production and use of genetically modified products and organisms:

1) nature users must have at their disposal systems and procedures for determining the source of origin and onward distribution of genetically modified products;

2) if genetically modified organisms are to be released into the environment, nature users must submit detailed information on such organisms' properties to the environment protection authority and the government agency for sanitary and epidemiological service;

3) if genetically modified organisms are to be used as food, forage or are to be processed, nature users must submit to the environment protection authority a declaration confirming that the product in question will be used only as food, forage or will be processed; the declaration must include a description of the properties of genetically modified organisms which the product in question may contain;

4) in respect of food products and forage that are obtained from genetically modified organisms, nature users must inform the buyers that the product in question has been obtained from genetically modified organisms; and

5) nature users must keep the information relating to the production and use of genetically modified products for a period of five years and must present such information to the environment protection authority and the government agency for sanitary and epidemiological well-being of the population at their request.

2. Agricultural nature users must, by means of labelling of their product, inform the buyers of their harvest that they are purchasing a genetically modified product, and must maintain a registry of buyers to whom they sell such genetically modified products.

3. Government agencies shall apply the existing labelling requirements to all genetically modified food products and forage. All food products and forage which contain, consist of, or have been obtained from genetically modified organisms, must be labelled. Labelling serves to inform consumers of the actual properties of a product or forage.

4. A system of labelling of genetically modified products is based on the ability to detect genetically modified deoxyribonucleides or proteins in an end food product.

## **Chapter 41. Environmental Requirements Applicable upon Determining Ownership of Industrial and Consumption Waste**

### **Article 283. Ownership of Industrial and Consumption Waste**

1. Individuals and legal entities whose activities generate industrial and consumption waste shall be deemed the owners thereof, and are therefore responsible for safe treatment of such waste from the moment it has been generated, unless otherwise is stipulated by the legislation of the Republic of Kazakhstan or by an agreement, which determines the conditions of treatment of such waste.

2. The title to the waste may be acquired by a third party by means of a sale and purchase agreement, exchange contract, gift contract or another transaction alienating the waste.

3. The State is the owner of waste, which has been generated on state-owned facilities or transferred into the state ownership by a court decision or in any other cases stipulated by the legislation of the Republic of Kazakhstan.

4. The owner of the waste must use a centralised waste collection system or avail itself of the services of entities engaged in the collection, recycling, placement or removal of the waste, or it must independently carry out the placement or removal of the waste.

### **Article 284. Abandoned Waste**

1. Abandoned waste is the waste where there is no owner or the owner is unknown.

2. If the owners of land plots, or land users, have discovered abandoned waste on their land plots they may claim the ownership of such waste by commencing to use it or by carrying out actions indicative of the title thereto.

Other abandoned waste shall become property of the person who has claimed a title thereto, if such waste has been acknowledged as abandoned waste by a court decision on an application by the person claiming the title.

3. In other cases persons who have found abandoned waste must report it to the local executive agency. The local executive agency of the oblast (city of national significance, or capital city), in whose territory the abandoned waste has been found, must within one year of the date of receipt of the information on the finding apply to the court with a request to acknowledge the waste as state or municipal property.

4. Local executive agencies must take measures to properly treat the abandoned waste and prevent its adverse impact on human health and environment.

5. Abandoned hazardous waste shall be acknowledged as state property by a court decision. The procedure for managing abandoned waste shall be determined by the Government of the Republic of Kazakhstan.

6. Abandoned waste, which a court has not acknowledged as state or municipal property, may be transferred back to the owner into ownership, use and disposal, or may be acquired in accordance with the civil legislation of the Republic of Kazakhstan based on the principle of acquisitive prescription.

7. Abandoned waste that has been claimed for processing by legal entities shall not be deemed as waste.

#### **Article 285. Transfer of Title to Waste**

1. When a land plot owner or land user on whose land the waste is located changes, the matter of the title to the waste shall be decided in accordance with the legislation of the Republic of Kazakhstan.

2. Upon the privatisation of state-owned facilities, the title to the waste as well as responsibility for safe treatment of waste and removal, reclamation and rehabilitation of the land shall pass to a new owner, unless otherwise is stipulated by the terms of privatisation of the said facilities as set out in the legislation of the Republic of Kazakhstan on privatisation.

### **Chapter 42. Environmental Requirements Applicable upon Treatment of Industrial and Consumption Waste**

#### **Article 286. Industrial and Consumption Waste. Types of Industrial and Consumption Waste**

1. In terms of hazard they may pose industrial and consumption waste may be hazardous, non-hazardous, and inert.

2. This Chapter shall not apply to man-made mineral formations that are generated in the course of exploration, production and processing of mineral resources and are regulated by the legislation of the Republic of Kazakhstan on subsoil and use of subsoil, and it shall not apply to radioactive waste.

#### **Article 287. Classification of Hazardous Waste**

1. Hazardous waste is the waste that contains one or several of the following substances:

- 1) explosives;
- 2) highly inflammable liquids;
- 3) highly inflammable solid substances;
- 4) self-inflammable substances and waste;
- 5) acidifying substances;
- 6) organic peroxides;
- 7) poisonous substances;

- 8) toxic substances causing long-lasting and chronic disease;
- 9) infectious substances;
- 10) corrosive substances;
- 11) ecotoxic substances;
- 12) substances or waste giving off flammable gases when put in contact with water;
- 13) substances or waste which may give off toxic gases when put in contact with the air or water; and
- 14) substances and materials that may form other materials with one of the above mentioned properties.

2. For the purposes of transportation, recycling, storage and burial of waste three levels of hazard posed by waste have been determined based on the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal:

- 1) Green—index G;
- 2) Amber—index A;
- 3) Red—index R.

3. The coding of waste takes into account the area of formation, method of storage (burial), method of recycling or regeneration, potentially hazardous constituents, type of hazard, and the economy sector where the waste is formed.

4. The level of hazard and the coding of waste shall be determined based on a waste classification index, which is approved by the environment protection authority. If a certain type of waste is not present in the index, the level of hazard and the coding shall be determined on a case-by-case basis and shall be agreed with the environment protection authority.

5. The level of hazard and the coding of waste shall be determined when there is a change in technology, or move to alternative raw materials, or in other cases when the hazardous properties of the waste may have changed.

6. The nature users shall determine the coding of the waste independently or by employing the services of individuals and/or legal entities who are licensed to perform environmental works, or provide environmental services.

### **Article 288. General Environmental Requirements Applicable upon Treatment of Industrial and Consumption Waste**

1. Individuals and legal entities, whose undertakings generate waste, must implement measures of safe treatment of the waste, comply with environmental and sanitary and epidemiological requirements, and carry out recycling, neutralisation and safe disposal of the same.

2. The placement and disposal of the waste must be performed at the places as determined by local executive agencies on agreement with the environment protection authority, the government agency for sanitary and epidemiological service and other special government agencies.

3. The places of placement of waste are designated for safe storage of waste for up to three years if the waste is to be recovered or processed, or for up to one year if the waste is to be buried.

4. Import of waste into the Republic of Kazakhstan for processing, burial or storage may be allowed only by a resolution of the Government of the Republic of Kazakhstan, subject to the availability of necessary technical (technological) means of waste treatment.

5. Waste owners must ensure a gradual reduction of the volumes of waste throughout the entire production cycle, including through the improvement of production processes, waste recycling, and giving the waste out to individuals and legal entities who are interested in using it.

6. When choosing methods and places for neutralisation and placement of waste and selecting individuals and legal entities to carry out the processing, disposal or placement of waste, the owners of the waste must ensure that the movement of the waste from their source of origin is kept to a minimum.

7. Import of disposable products may be limited or banned if it would result in the formation of waste the disposal of which is associated with high environmental risks or is economically impractical.

8. Products the use of which generates hazardous waste that cannot be neutralised or disposed of in the Republic of Kazakhstan due to a lack of proper technology may not be imported into the Republic of Kazakhstan.

#### **Article 289. Hazardous Waste Profile Sheet**

1. A hazardous waste profile sheet must be prepared and approved by individuals and legal entities if their undertakings generate hazardous waste.

2. A hazardous waste profile sheet must be prepared for:

1) the waste specified under paragraph 1 of Article 287 of this Code; and

2) the waste from the Amber and Red lists.

3. A hazardous waste profile sheet must include the following mandatory sections:

1) name of waste;

2) full name of an individual, place of residence, address of the production facility (if any); name and details of the enterprise generating the waste;

3) origin of waste;

4) a list of hazardous properties of waste;

5) chemical composition of waste and a description of hazardous properties of waste constituents;

6) a recommended method of waste processing;

7) necessary precautions for handling the waste;

8) requirements for waste transportation and loading/unloading operations;

9) measures to prevent and mitigate the consequences of natural and man-made emergencies;

and

10) additional information.

4. The format of a hazardous waste profile sheet shall be approved by the environment protection authority and be filled in separately for each type of waste.

5. The hazardous waste profile sheet must be registered with the environment protection authority within three months after the waste has been generated.

6. As additional information increasing the completeness and reliability of data in the mandatory sections is received, the hazardous waste profile sheet must be renewed and re-registered to reflect the changes.

7. Copies of the registered hazardous waste profile sheets must be issued to the individual or legal entity carrying out transportation of a lot of hazardous waste or part thereof, as well as to each consignee of such lot (or part thereof).

8. In the processing of a received lot of waste, including when such waste is mixed with other substances, if the waste is being transported outside the boundaries of the enterprise, the consignee must obtain and register a new hazardous waste profile sheet for the lot (or part thereof).

9. If the hazardous properties of the waste have been altered as a result of a change in the technological process in which the waste has been formed, the hazardous waste profile sheet shall cease to be in force.

10. The chemical and constituent composition of waste shall be specified based on the results of tests which must be performed by an accredited laboratory. For the waste in the form of goods (products) that have lost their consumer properties the information on constituents in the original goods (products) as per technical specifications must be specified.

11. A hazardous waste profile sheet must contain the name of the technological process in which the waste has been formed, or the name of the process as a result of which the goods (products) have lost their consumer properties, as well as the name of the original goods (products).

12. A hazardous waste profile sheet must contain the information on precautionary measures to be taken in order to prevent and mitigate the consequences of emergencies that may be caused by the hazardous waste, including those arising in the course of transportation and loading/unloading operations.

13. The “Additional Information” section shall contain other information the owner of the waste wishes to indicate.

#### **Article 290. Environmental Requirements Applicable upon Planning of Activities Related to Waste Treatment**

1. In the design of facilities the operation of which generates waste, there shall be mandatory to:

- 1) prepare a waste management programme as an integral part of the project documentation;
- 2) take into consideration environmental, sanitary and epidemiological and other requirements set out in the legislation of the Republic of Kazakhstan on environmental protection and on sanitary and epidemiological well-being of the population; and
- 3) develop technical and technological specifications on waste treatment.

2. In the design of residential buildings, industrial enterprises, buildings, premises, facilities and other objects the operation of which generates waste there shall be necessary to provide spaces (sites) for the accumulation of waste in compliance with the rules, regulations and requirements established by the environment protection authority and the government agency for sanitary and epidemiological well-being of the population.

#### **Article 291. Environmental Requirements Applicable upon Construction and Operation of Enterprises, Buildings, Premises, Facilities and other Objects Associated with Waste Handling**

1. When operating enterprises, buildings, premises, facilities and other objects the operation of which involves waste handling, individuals and legal entities must:

- 1) develop waste placement standards in order to reduce the amount of waste;
- 2) introduce law-waste technologies and organisational measures aimed at reducing the amount of waste through the use of advanced scientific and technological achievements;
- 3) create an inventory of waste and waste placement sites;
- 4) conduct environmental monitoring at waste placement sites;
- 5) provide information related to waste management in the procedure set out by the legislation of the Republic of Kazakhstan;

6) meet the requirements for the prevention of emergencies relating to waste handling, and take prompt measures to liquidate the consequences of such emergencies; and

7) in the event of a threat or actual occurrence of emergencies relating to waste treatment and handling, when such threat or emergencies may adversely impact the environment, health or property of individuals or legal entities, promptly inform the environment protection authority, the government agency for sanitary and epidemiological well-being of the population, and local executive agencies.

2. A place of construction of a waste placement site shall be determined based on the results of special studies (engineering and geological, hydrogeological and other) subject to the affirmative statement of opinion of the state environmental and sanitary and epidemiological reviews and a review conducted under the legislation of the Republic of Kazakhstan on subsoil and the use of subsoil.

3. Upon completion of operation of waste placement facilities, the persons who own, possess or use such facilities must carry out control of their condition and environmental impact caused, as well as implement measures on rehabilitation of disturbed lands.

4. The burial of waste shall be prohibited within the boundaries of urban and other localities, forest-parks, resorts, therapeutic and recreational zones, water conservation zones and watershed areas of underground water bodies that are used for drinking and household purposes.

5. The burial of waste shall be prohibited at the places of occurrence of mineral resources and mining works if such burial threatens such occurrences of mineral resources or the safety of mining operations.

#### **Article 292. Environmental Requirements Applicable upon Handling Municipal Waste**

1. Local executive agencies shall be responsible for the implementation of a rational and environmentally sound system of collection of municipal waste which provides for a separate collection of valuable components, temporary storage, regular removal and neutralisation of municipal waste and cleaning-up of the territory of a populated area.

2. Control of compliance with environmental requirements when handling municipal waste shall be exercised by local executive agencies, the environment protection authority, and the government agency for sanitary and epidemiological service.

3. Local executive agencies must envisage the creation and functioning of a proper infrastructure for small and medium-sized businesses in respect of collection, transportation, sorting, re-use and placement of municipal waste on landfills.

4. Transportation of municipal waste to the designated place of storage and processing shall be carried out by special-purpose entities at the expense of the waste's owner.

5. Local executive agencies must ensure compliance with environmental requirements when handling municipal waste by:

- 1) implementing a system of separate collection and recycling of reusable waste fractions;
- 2) arranging regular removal of waste to the sites of temporary storage and processing, as well as placement on landfills;
- 3) encouraging collection and use of organic waste separately from other types of waste;
- 4) separating construction waste from other types of waste directly at a construction site or at a specifically designated place, and ensuring the construction waste is not mixed with other types of waste on dumps and landfills;
- 5) introducing a ban against intermixing different types of waste or special additives;
- 6) prohibiting unauthorised incineration of municipal waste;
- 7) creating conditions enabling the owners of the waste to transfer their responsibilities for waste recycling to the owners of waste processing facilities; and
- 8) introducing a system of timely provision of information on municipal waste management to the environment protection authority.

6. For the burial of municipal waste, local executive agencies shall establish enterprises that will be responsible for the construction and operation of waste landfills.

#### **Article 293. Environmental Requirements Applicable upon Handling Hazardous Waste**

1. Individuals and legal entities whose undertakings and activities generate waste must carry measures aimed at the prevention or reduction of the formation of waste and/or reduction of the level of hazard posed by waste.

2. The activities of individuals and legal entities that generate hazardous waste may be limited or prohibited if waste handling that would be environmentally sound and safe for human health proves to be impossible.



3. The owner of hazardous waste must ensure labelling of packages containing hazardous waste wherein their hazardous properties would be denoted. When transferring such hazardous waste to other persons for a certain period of time, the owner of the waste must inform them in writing of the waste's hazardous properties and of handling precautions that need be taken.

4. There shall be prohibited to mix hazardous waste with non-hazardous or/and inert waste, as well as intermix different types of hazardous waste in the course of production, transportation and placement.

5. The placement of hazardous waste must be performed at specifically equipped places pursuant to the requirements set out in environmental permits. Carrying out any other activities at the waste placement site that are not directly related to waste treatment shall be prohibited.

A waste placement site must be marked on the relief with easily distinguishable identification signs indicating the type of waste, level of hazard and date of burial.

6. Enterprises whose business is to collect, recycle, transport and dispose hazardous waste must develop emergency and accident action plans.

7. Civil liability of individuals and/or legal entities that own or carry treatment of hazardous waste shall be subject to mandatory environmental insurance pursuant to the Law of the Republic of Kazakhstan On Mandatory Environmental Insurance.

#### **Article 294. Environmental Requirements Applicable upon Transportation of Hazardous Waste**

1. Formation of hazardous waste and their transportation must be kept to a minimum.

2. Transportation of hazardous waste shall be permitted subject to the following conditions:

1) hazardous waste is packaged and labelled as appropriate for purposes of transportation;

2) hazardous waste is transported in properly equipped transportation means having special signs;

3) a hazardous waste profile sheet is present along with documentation for transportation and transfer of hazardous waste, with information on the volumes of hazardous waste being transported, purpose of transportation, and place of destination; and

4) safety requirements for transportation of hazardous waste and loading/unloading operations are met.

3. The procedure for packaging and labelling of hazardous waste for transportation shall be established by the legislation of the Republic of Kazakhstan on transport.

4. The procedure for transportation of waste, requirements for loading/unloading operations and other requirements for ensuring environmental and sanitary and epidemiological safety shall be determined by the rules and regulations as approved by the authorised government agency for transport and communications and agreed upon with the environment protection authority and the government agency for sanitary and epidemiological well-being of the population.

5. From the moment the waste has been loaded on a transportation means and accepted by the individual or legal entity carrying out the transportation to the moment the waste has been unloaded from the transportation means at the place of destination the responsibility for safe treatment and handling shall rest with the transport organisation or person who owns such means of transportation.

#### **Article 295. Transboundary Movement of Waste**

1. For the purposes of transboundary movement of waste the groups of waste set out in Schedule 1 to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal shall be considered as hazardous waste.

2. Hazardous waste shall be imported into the territory of the Republic of Kazakhstan for use (disposal, processing, recycling) and burial pursuant to a resolution of the Government of the

Republic of Kazakhstan, subject to affirmative statement of opinions issued on the basis of the state environmental and sanitary and epidemiological reviews.

3. There shall be prohibited to export hazardous waste to member states of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and to developing countries that have legislatively banned import of hazardous waste, or where reasons exist to believe that the hazardous waste will not be used in an environmentally-sound manner, or to the regions to the south of 60 degrees south latitude.

4. While carrying transboundary movement of hazardous waste, nature users must provide the concerned states with information on the anticipated transboundary movement of the waste indicating the consequences it may cause to human health and environment.

5. When moved cross-border, hazardous waste must be packed, labelled and transported in accordance with applicable generally accepted international regulations and standards.

#### **Article 296. Waste Accounting**

1. The owners of waste must keep waste accounting (type, quantities and origin of the waste) and collect and keep information on waste's properties that endanger the environment and/or human health.

2. Persons involved in waste management as well as producers of hazardous waste must on a regular basis keep accounting (type, quantities, properties of the waste) of the waste that has been formed, collected, transported, recycled or disposed as a result of their activities.

3. The owners of waste must keep waste accounting records for a period of five years.

4. The owners of waste must on an annual basis submit to the environment protection authority reports on their activities in respect of waste management, in order for this information to be entered into the State Registry of Wastes.

5. The environment protection authority may request from individuals and legal entities information on manufactured products and waste which is formed in the manufacturing process.

6. Statistical reports in respect of waste shall be submitted in accordance with the legislation of the Republic of Kazakhstan on state statistics.

#### **Article 297. Stimulating Measures Aimed at Waste Recycling and Reduction of Waste**

1. Measures shall be stimulated that are aimed at waste recycling and reduction and decreasing the environmental hazard level of businesses and enterprises which implement the technologies aimed at reducing the volumes of waste, or which recycle the waste in the process of production (performance of works, provision of services), or which carry out collection and procurement of waste, construction of enterprises and shops, or manufacture equipment for waste recycling, or co-finance waste recycling and reduction initiatives.

2. Local executive agencies may determine the measures to stimulate measures aimed at waste recycling and reduction of waste.

### **Chapter 43. Environmental Requirements Applicable to Landfills and Long-term Waste Storage Sites**

#### **Article 298. Places of Waste Storage and Burial**

1. Waste must be stored at specially equipped places (waste dumps, storehouses, storage sites) for as long as it is prescribed for each type of waste with a view to subsequent recycling, processing or permanent burial.

2. The place of burial of waste shall be the place where the waste is permanently deposited with no intent of withdrawal such waste at a later time. The burial of waste must be carried on specially equipped landfills.

3. The place of long-term storage of waste shall be the place where the waste is permanently stored with a possible withdrawal such waste at a later time, and/or where a permanent monitoring of the environmental impact of the waste is required. Long-term waste storage sites shall be subject to environmental requirements that apply to landfills; but technical means for withdrawal, transportation, subsequent recycling or permanent burial must be made available.

4. Projects for placement and construction of waste landfills shall be subject to the state environmental and sanitary and epidemiological reviews, which must be conducted in the procedure set out in this Code and other laws and regulations of the Republic of Kazakhstan.

5. Safe-storage and burial of hazardous waste shall be considered as hazardous types of activities. The places of storage and burial of hazardous waste shall be considered as environmentally hazardous objects.

#### **Article 299. Classification of Waste Landfills**

1. Each waste landfill must belong to one of the following classes:

- 1) Class 1—hazardous waste landfills;
- 2) Class 2—non-hazardous waste landfills;
- 3) Class 3—inert waste landfills.

2. The waste mix that can be deposited on various-class landfills shall be defined by the environment protection authority.

#### **Article 300. Environmental Requirements to Waste Landfills**

1. Only inert waste may be buried without being pre-processed.

2. Hazardous waste must be neutralised, stabilised and otherwise treated to reduce its hazardous properties.

3. There shall be prohibited to deposit hazardous waste on non-hazardous waste and inert waste landfills.

4. The decision to receive the waste at a landfill of appropriate class shall be based on the following criteria:

1) protection of the environment (especially the protection of ground and surface waters) and human health;

2) whether waste stabilisation processes are ensured or not within the territory of the landfill in question;

3) the quality of the waste being received;

4) what the requirements or limitations are on the quantities of received waste, and the ability of the waste's constituents to bio-degrade;

5) limitations on the number of potentially hazardous constituents according to the protection criteria; and

6) ecotoxic properties of the waste and the leachate that forms.

5. Uncontrolled depositing of waste on spontaneous landfills shall be prohibited.

6. Each landfill must be equipped with a system of monitoring of air emissions (landfill gas), leachate and waste water that are formed within the deposited waste so as to prevent adverse environmental effects.

7. The volumes and hazardous properties of waste intended for burial on a landfill must be reduced.

8. The owner of a landfill must implement measures to reduce the formation of methane by keeping the volumes of buried biodegradable gases at a low level and by introducing systems of monitoring and recycling of the landfill gas.

9. In order to prevent environmental pollution, the owner of a landfill must introduce and maintain a unified procedure of acceptance of waste based on the waste classification index.

10. The activities of waste landfills shall be carried out on the basis of a plan envisaging bringing the landfill in compliance with environmental requirements within time limits as agreed on with the environment protection authority.

11. The owner of a landfill shall have a liquidation fund to carry out land rehabilitation and environmental monitoring once the landfill has been closed.

12. Procedures for acceptance and classification of waste received for burial shall be established by the landfill's owner and agreed on with the environment protection authority.

13. Control of compliance with the requirements for waste placement on landfills and for landfills maintenance shall be exercised by the environment protection authority.

#### **Article 301. Waste Unsuitable for Landfills**

1. The following types of waste may not be accepted for burial on landfills;

- 1) liquid waste;
- 2) hazardous waste which, if placed within the landfill, will be explosive, corrosive, oxidisable, highly flammable or flammable waste;
- 3) waste that enter into a reaction with water;
- 4) waste which comes from medical or veterinary institutions having been infected;
- 5) undamaged used tires, except when they are used as a stabilizing agent in land rehabilitation;
- 6) waste that contains persistent organic pollutants;
- 7) pesticides; and
- 8) waste that does not satisfy the acceptance criteria.

2. Mixing different types of waste so that they satisfy the acceptance criteria shall be prohibited.

3. Local executive agencies shall develop programmes to reduce the burial of biodegradable waste, including programmes on waste recycling, waste composting, production of biogas and/or use of waste in the production of goods or energy.

#### **Article 302. Solid and Slurry Industrial Waste which may not be Deposited at Landfills Designated for Solid Consumption Waste**

The following solid and slurry industrial waste may not be deposited at landfills designated for solid consumption waste:

- 1) waste from chemical industry (production of chlorine):
  - graphite sludge originating from the production of synthetic rubber, chlorine, caustic, which contains mercury and mercury compounds;
  - methanol, waste originating from the production of organic glass, which contains methanol;
  - sludge originating from the production of monochloroacetates that contains hexachlorane, methanol, trichlorobenzene;
  - paper bags that have been used in transportation of dichlorodiphenyltrichloroethane (DDT), urotropine, zineb, copper trichlorophenolate; thiuram-D;
  - sludge originating from the production of copper trichlorophenolate, which contains trichlorophenol;
  - spent catalysts used in the production of plasto-polymers, which contain benzol and dichloroethane;
  - coagulum and omega-polymers that contain chloroprene;
  - waste originating from the production of trichlorobenzol and fertilizers, which contains hexachlorane, trichlorobenzol;
- 2) waste originating from chemical industry of production of chrome compounds:

sludge that originates from the production of sodium monochromate and sodium chlorate, waste originating from the production of potassium bichromate that contains hexavalent chrome;

3) zinc-containing waste of zinc ash that originates from the production of soda;

4) waste that originates from the production of synthetic fibre:  
 sludge that contains dimethyl terephthalate, terephthalic acid, zinc, copper;  
 caprolactam-containing waste formed as a result of filtration of aminocaproic lactam (caprolactam);  
 methanol-containing waste that originates from a methanolysis plant;

5) paint and varnish industry waste:  
 varnish and enamel films, waste formed in the cleaning-up of equipment that contains zinc, chrome, solvents, oxidising oils;  
 zinc and magnesium-containing sludge;

6) chemical and photographic industry waste:  
 phenol-containing waste that originates from the production of hyposulphite and anhydrous sulphite;  
 waste from magnetic lacquer, collodion and paints that contains butyl acetate, toluol, dichloroethane, methanol;

7) phenol-containing waste of plastics industry;

8) waste from nitrogen industry:  
 sludge (resins) from a coke gas cleaning plant and spent oils from a synthesis and compression shop, which contain carcinogenic agents;  
 distillation residue from monoethanolamine rectification, which contains monoethanolamine;

9) waste from oil-processing and petrochemical industry:  
 aluminosilicate adsorbent formed as a result of purification of oils, paraffin, which contains chrome and cobalt;  
 acid sludge that contains sulphuric acid in concentrations exceeding thirty percent;  
 phenol-containing sludge and tar residue that are formed in the production of coke and in gasification of semi-coke;  
 spent catalysts that contain chrome;  
 used clay that contains oils;  
 waste formed in the process of filtration on an alkylphenol additives plant, which contains zinc;

10) waste from machine-building industry:  
 residue of chrome-containing drainage, which contains chrome;  
 residue of cyanide drainage, which contains cyan;  
 organic-core sand that contains chrome;  
 residue from vacuum filters, electroplating neutralization plants, which contain zinc, chrome, nickel, cadmium, lead, copper, chlorophos, thiocol;

11) waste from healthcare industry:  
 waste from the production of cyntomicin, which contains bromine, dichloroethane, methanol;  
 enrichment waste and sludge that contain salts of heavy metals.

### **Article 303. General Requirements Applicable to Hazardous Waste Landfills**

1. When choosing a location for a hazardous waste landfill, the following considerations must be taken into account:

1) the distance from the landfill's boundaries to inhabited and recreational areas, water bodies, agricultural lands and populated localities;

2) the existence of groundwater, surface water, or specially protected natural areas;  
3) geological and hydrogeological conditions;  
4) the risk of occurrence of floods, depressions, landslides or avalanches within the location;  
and

5) protection of national nature reserves.

2. Depending on the characteristics of a landfill and weather conditions, the following must be taken into consideration:

1) control of a sudden water inflow into the landfill body;

2) prevention of entry of surface water and/or groundwater into the landfill;

3) collection and processing of polluted water and leachate to the standards established for drainage water.

3. Collection, processing and utilisation of the landfill gas must be carried in a manner so as to minimise the damage to, or deterioration of, the environment and risks for human health.

4. Measures must be taken to minimise the effects of the operation of a waste landfill:

1) emissions of smells and dust;

2) wind-carried materials, compounds and aerosols;

3) noise and movement;

4) birds, parasites and insects;

5) fires.

5. A waste landfill must be equipped so as to ensure that any occurrences of pollution within the landfill do not affect public roads and adjacent territories.

6. A landfill must be protected from unauthorised entrance. An access control system must have a programme in place to detect and prevent unauthorised use of the technical means.

7. A waste landfill shall be operated by individuals or legal entities that possess the necessary technical means of operation of a landfill and ensure professional and technical education and training for the landfill employees.

8. The level of permissible impact must be determined in an environmental permit with due regard to specific hydrogeological conditions at the place of the landfill, as determined based on the landfill's design.

9. Each landfill shall be assigned an individual registration number, which shall be recorded in the State Registry of Wastes of the Republic of Kazakhstan. The owner of a landfill must develop a system of document control to ensure proper accounting of waste received at the landfill.

10. A waste landfill design project must provide for the establishment of a liquidation fund for the purposes of closure, reclamation and monitoring and control of pollution after landfill's closure. The procedure for establishing liquidation funds shall be determined by the Government of the Republic of Kazakhstan.

11. The owner of a landfill must, once a year, advise the environment protection authority of the types and quantities of waste deposited at the landfill, as well as of the results of the routine control checks.

#### **Article 304. Waste Acceptance Procedures**

1. When delivering their waste to a landfill, waste owners must provide the owner of the landfill with reliable information on the waste's qualitative and quantitative properties, which must confirm the waste's class and, in the case of hazardous waste, must be accompanied with a copy of the hazardous waste profile sheet.

2. The owners of landfills may only accept for storage those types of waste that are permitted for placement on the landfill, and if the right to deposit them is evidenced by a relevant environmental permit.

3. When receiving waste, a landfill owner must carry the following procedures:

- 1) check the waste documents, including the hazardous waste profile sheet;
  - 2) perform a visual check of the waste at the point of entry and at the place of depositing;
  - 3) check the waste contents against the description given in the documents provided by the waste owner;
  - 4) keep accounting of the volumes and properties of the deposited waste indicating the origin, date of delivery, identification of the waste's producer or collector and, in the case of hazardous waste, a precise location of the waste within the landfill; and
  - 5) in order to prevent radioactive waste from being deposited on a landfill, each lot of waste must undergo a radiation control.
4. The owner of a landfill must on a continuous basis provide a confirmation in writing of receipt of each lot of waste that has been received, and must keep such documentation for a period of five years.
  5. Measuring devices must be installed at the receptacles in order to determine the weight of incoming waste.

### **Article 305. Control and Monitoring in the Operation of a Landfill**

1. The owner of a landfill shall, once a year, submit to the environment protection authority an environmental impact monitoring report.
2. The owner of a landfill must advise the environment protection authority of any adverse environmental effects that have been detected in the course of the control and monitoring, and agree with the environment protection authority on the character and deadlines of corrective measures to be taken.
3. Control, monitoring and/or analysis must be carried out by the accredited laboratories.
4. Samples of the leachate and surface water must be taken at representative points. Sampling as well as measuring of the volume and composition of the leachate must be performed separately at each point of formation of the leachate.
5. Gas monitoring must be carried out for each section of the landfill.
6. The frequency of sampling and analysis shall be based on a monitoring programme, included as part of the environmental emission permit.
7. Parameters to be measured and substances to be analysed shall be adjusted to reflect the composition of the deposited waste.
8. The parameters that will be analysed in the groundwater samples must be based on the anticipated composition of the leachate and the quality of groundwater at the given point. In the process of selection of parameters to be used in the analytical accounting, the velocity and direction of the groundwater flow must be determined. The parameters may include special indicators to ensure early detection of a change in water quality.

### **Article 306. Procedures for Closure, Reclamation and Monitoring of a Waste Landfill (or Part Thereof)**

1. A waste landfill (or part thereof) may be closed only subject to an environmental permit.
2. A waste landfill (or part thereof) will only be deemed closed after the representatives of the environment protection authority and the government agency for sanitary and epidemiological service have conducted a final inspection of the relief, assessed the information provided by the landfill's owner, and informed him of their approval of the closure of the landfill (or part thereof). The owner of the landfill shall not be released from fulfilling the requirements set out in the environmental permit.
3. After the landfill (or part thereof) has been closed, the landfill's owner shall carry reclamation of the territory, and shall continue to monitor emissions of the landfill gas and leachate for a period of thirty years for Class 1 landfills, and twenty years for Class 2 landfills. The

operations on land reclamation and subsequent monitoring shall be financed from the landfill liquidation fund.

4. As soon as the owner of a landfill has completed the reclamation of the landfill (or part thereof) in compliance with the project requirements, and this work has been approved by a certificate issued by the acceptance commission with the environment protection authority and the government agency for sanitary and epidemiological service as members, the landfill owner shall cease to conduct the environmental monitoring.

## **Chapter 44. Environmental Requirements Applicable to Points of Storage and Burial of Radioactive Waste**

### **Article 307. Radioactive Waste. Classification of Radioactive Waste**

1. Radioactive waste includes the following substances (in any aggregative state) that may no longer be used:

- 1) materials, items, equipment and objects of biological origin in which the concentration of radionuclides exceeds the levels established by the legislation of the Republic of Kazakhstan;
- 2) spent nuclear fuel that may no longer be processed;
- 3) depleted or damaged sources of radionuclides; and
- 4) ores, rock refuse and refuse of concentration or leaching that are mined and stored in dumps and tailings, in which the concentration of radionuclides exceeds the levels established by the legislation of the Republic of Kazakhstan.

2. The classification of radioactive waste shall be based on their aggregative state, origin, level of radioactivity, and half-life.

3. In terms of their aggregative state radioactive waste can be liquid or solid.

Liquid radioactive waste includes solutions of inorganic substances, filtered pulp, and organic liquids.

Solid radioactive waste includes items, details of machinery and mechanisms, materials, biological objects, and spent radioactive sources.

4. Waste shall be deemed radioactive if the levels of specific activity of radionuclides contained therein exceed the established safety radiation levels for regulated radioactive materials or, where there is no information on radionuclides, the specific activity exceeds:

- 1) one hundred kilobecquerels per one kilogram—for beta-emitting radionuclides;
- 2) ten kilobecquerels per kilogram—for alpha-emitting radionuclides (with the exception of transuranic radionuclides);
- 3) one kilobecquerel per kilogram—for transuranic radionuclides.

5. In terms of the source of origin radioactive waste is classified as follows:

- 1) waste of the mining industry;
- 2) waste from research and nuclear power generating facilities;
- 3) waste from nuclear explosions; and
- 4) unused and expired radioactive sources.

6. In terms of the level of radioactivity, solid radioactive waste shall be classified as follows:

- 1) low-activity radioactive waste—waste the specific activity of which (as expressed in kilobecquerels per kilogram) is less than one thousand for beta-emitting radionuclides, less than one hundred for alpha-emitting radionuclides (except transuranic radionuclides), less than ten for transuranic radionuclides;

- 2) medium-activity radioactive waste—waste the specific activity of which (as expressed in kilobecquerels per kilogram) is more than one thousand but less than ten million for beta-emitting radionuclides, more than one hundred but less than one million for alpha-emitting radionuclides



(except transuranic sources), more than ten thousand but less than one hundred thousand for transuranic radionuclides;

3) high-activity radioactive waste—waste the specific activity of which (as expressed in kilobecquerels per kilogram) is more than ten million for beta-emitting radionuclides, more than one million for alpha-emitting radionuclides (except transuranic radionuclides), more than one hundred thousand for transuranic radionuclides.

#### **Article 308. Classification of Points of Storage and/or Burial of Radioactive Waste**

1. Points of storage and/or burial of radioactive waste include naturally occurring (natural) or artificial sites, reservoirs or premises that are used for storage and/or burial of radioactive waste.

2. Points of burial of radioactive waste shall be the points where the waste is placed with no intent of subsequent withdrawal.

3. In terms of the type of received waste, points of storage of radioactive waste may receive the waste from:

1) the prospecting, mining and processing industry, such waste containing primarily naturally-occurring radioactive sources;

2) the nuclear power industry, nuclear explosions and radioactive isotopes, such waste containing primarily artificial radionuclides.

4. In terms of the area of collection of radioactive waste, points of storage and/or burial of radioactive waste may be local or regional. Local points accommodate radioactive waste from a single object or district. Regional points accommodate radioactive waste from two or more objects and/or districts.

#### **Article 309. Environmental Requirements Applicable to Points of Storage and/or Burial of Radioactive Waste**

1. All project proposals for the construction of points of storage and/or burial of radioactive waste must undergo a state environmental review, a sanitary and epidemiological review, and a review conducted under the legislation of the Republic of Kazakhstan on subsoil and the use of subsoil. The project development must be carried out in compliance with the constructions standards and regulations approved in accordance with the legislation of the Republic of Kazakhstan.

2. A project proposal must contain the following information:

1) sources of origin of the radioactive waste, other origins of radioactive environmental impact within the radius of anticipated effect caused by the points of storage and/or burial of radioactive waste, and quantitative and qualitative properties of such points;

2) organisational structure, scope and procedures for conducting production radiation monitoring;

3) calculations of radiation exposure doses, permissible and controlled levels, and an estimate of impact all radiation sources would have within the radius of anticipated environmental impact of the radioactive waste.

3. A project proposal must provide a substantiation as to why the proposed site for the point of storage and/or burial has been selected from a number of alternative options based on specially conducted studies and economic calculations with due account to the environmental impact and an estimate of radiation burden imposed on the critical groups of population.

4. Engineering studies, including geodesic, geological, hydrogeological and hydrometeorological, must provide substantiation as to the following:

1) the selection of the construction site and engineered protection against adverse weather and man-made effects;

2) environmental protection measures.

5. Project proposals for points of storage and/or burial of radioactive waste must provide for reclamation of the disturbed lands following deactivation or other activities.

6. A sanitary protection zone shall be established around the points of burial of radioactive waste; the boundaries of such zone shall be established in accordance with the legislation of the Republic of Kazakhstan on sanitary and epidemiological well-being of the population.

7. Points of burial of radioactive waste may not be located:

- 1) within the territory of residential development;
- 2) within the territory of a deposit of mineral resources and without consent of the authorised government agency responsible for study and use of subsoil;
- 3) within an active karst;
- 4) within the zones of landslides, mudflows and snow avalanches and other hazardous geological processes;
- 5) in marshlands;
- 6) within the feeding zones of subsurface sources of drinking water;
- 7) within the sanitary control zones at resorts;
- 8) within the green belts of cities and towns;
- 9) within specially protected natural areas;
- 10) within the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> sanitary control zones of underground and surfaces water sources, water treatment plants, main water supply pipelines;
- 11) within water divides;
- 12) on lands that are occupied or intended for forests, forest-parks and other green planting which perform protective and sanitary and hygiene functions and are used by the population for recreation.

8. When selecting a land plot for the construction of points of storage and/or burial of radioactive waste, the following conditions must be met:

- 1) the presence of groundwater that is not suitable for drinking and household purpose due to the level of total dissolved solids;
  - 2) high sorption and capacity properties of the bearing rock;
  - 3) high groundwater depth (sixty metres and deeper);
  - 4) the distance between the groundwater level and the bottom of the point of storage and/or burial of radioactive waste is no less than four metres;
  - 5) geological strata are not water-bearing and do not have a hydraulic connection to the underlying water-bearing horizon;
  - 6) absence of occurrences of fault tectonics and intense fracturing, the distance to the earthquake-hazardous fault is more than forty kilometres;
  - 7) extremely low sensitivity to faults, subsidence, and downwarps;
  - 8) absence of erosion;
  - 9) geomorphologic stability;
  - 10) solid and very tight soils and rocks forming the bed;
  - 11) impermeable bed rocks with a thickness in excess of ten metres;
  - 12) a low-hill relief with hills occupying not more than five per cent of the territory;
  - 13) the distance to the closest groundwater divide or surface water source is not less than four kilometres;
  - 14) the actual use of the land does not give a significant economic effect; a potential use of the land is estimated to bring little economic value;
  - 15) objects of cultural and national value are not present within a distance of four kilometres;
- and
- 16) the place has no tourist value and is infrequently visited by the inhabitants from adjacent settlements.

9. If any of the conditions set out above in subparagraph 8 are not met, measures must be put in place to protect the environment against the adverse impact caused by the point of storage and/or burial of radioactive waste, or against the negative effects caused by natural and man-made factors, by means of:

1) installing engineered barriers made of low-permeable and high-sorption materials (polyethylene, concrete, ceramics, clay, zeolite); and

2) building drainage systems to divert surface water and groundwater from the points of storage and/or burial of radioactive waste.

10. For low-activity waste of uranium and non-uranium mining operations the completed workings may be used wherein the radioactive waste would be emplaced below the aeration zone and within other rocks with higher sorption and capacity properties (in order to avoid a possible migration of radionuclides outside the emplacement point).

11. For medium-activity waste of uranium and non-uranium mining operations the completed workings may also be used provided that additional engineered barriers made of clay, zeolite and other radionuclide-sorbing materials, are installed.

12. Naturally occurring relief depressions with a natural or artificial bed made of impermeable rocks or other materials may be used for long-term storage of low-activity solid and liquid radioactive waste.

13. The burial of liquid radioactive waste shall be prohibited. Liquid radioactive waste must be dehydrated to the level of moisture of ambient loose rocks, or solidified.

14. The points of storage and/or burial of medium-activity radioactive waste must be provided with an alarm intrusion detection system, and points of storage and/or burial of low-activity radioactive waste must have an intrusion detection system without alarm.

15. The calculation of a radiation burden and the implementation of efficient anti-radiation measures shall be carried out based on calculations of doses in the critical groups of population. A critical group of population shall be determined by analysing and identifying a critical path by which the radioactive substances will reach the group in question.

16. The distribution of radioactive pollution in surface water and groundwater shall be calculated based on special hydrological and hydrogeological studies that are performed to determine the velocity of filtration of solutions and contaminants, their migrating properties, as well as the sorption capacities of water-bearing rocks.

17. Damage that has been caused by an emergency radioactive pollution shall be estimated based on the cost of reclamation works.

## **Chapter 45. State Control in the Field of Emission and Absorption of Greenhouse Gases**

### **Article 310. Fundamental Principles of the Protection of Climate and Ozone Layer of the Earth**

The protection of the climate and ozone layer of the Earth shall be based on the following fundamental principles:

1) prevention, mitigation of irreversible consequences of a climate change (including the global climate change) and degradation of the Earth's ozone layer;

2) mandatory state control of emissions of greenhouse gases and ozone-depleting substances into the atmosphere;

3) ensuring transparent, complete and reliable information in respect of the climate change and degradation of the Earth's ozone layer; and

4) scientifically-sound, systematic and integrated approach to the matters of protection of the climate and ozone layer of the Earth.

### **Article 311. State Control in the Field of Protection of Climate and Ozone Layer of the Earth**

State control in the field of protection of climate and ozone layer of the Earth shall be executed by the environment protection authority.

### **Article 312. Earth Climate and Ozone Layer Protection Programmes and Measures to Implement Them**

1. The environment protection authority and other government agencies shall develop appropriate state, industrial and regional—in collaboration with local executive agencies—special-purpose programmes of protection of climate and ozone layer of the Earth, with due regard to the measures of reduction of greenhouse gases emissions and consumption of ozone-depleting substances, greenhouse gases monitoring data, and based on the results of control of greenhouse gases emissions and ozone-depleting substances.

2. Projects proposals for the protection of climate and ozone layer of the Earth may be open for public consultations in order to take into consideration the suggestions from citizens and public associations in the planning and implementation of measures of prevention and mitigation of the consequences of a climate change (including the global climate change) and degradation of the ozone layer of the Earth.

### **Article 313. Maximum Permissible Emissions of Greenhouse Gases and Regulation in the Consumption of Ozone-depleting Substances**

1. Limits (quotas) of maximum permissible emissions of greenhouse gases and consumption of ozone-depleting substances shall be established for the purposes of state regulation.

2. Maximum permissible emissions of greenhouse gases shall be established by the environment protection authority separately for each type of sources of greenhouse gases.

3. Ozone-depleting substances may be imported into the Republic of Kazakhstan subject to permits issued by the environment protection authority.

### **Article 314. General Requirements Applicable to Business and Other Activities Involving Emissions of Greenhouse Gas and Ozone-depleting Substances**

1. Import, export of ozone-depleting substances and products containing the same, operations involving ozone-depleting substances, repair, assembly, and maintenance of equipment containing the same shall be deemed as environmentally hazardous activities and shall be carried out on the basis of a permit of the environment protection authority, issued in the procedure set out by the Government of the Republic of Kazakhstan.

2. Design, installation, construction, re-construction and operation of business and other activities in the course of urban development shall be carried out with due account to the reduction of emissions of greenhouse gases and maintaining the level of absorption of the same.

### **Article 315. State Accounting of Sources of Greenhouse Gases and Consumption of Ozone-depleting Substances**

1. Legal entities that own sources of emissions of greenhouse gases and consume ozone-depleting substances shall be subject to state registration in the procedure set out by the Government of the Republic of Kazakhstan.

2. A list of organisations carrying out statistical monitoring in the field of protection of the climate and ozone layer of the Earth shall be determined by the environment protection authority in collaboration with government statistics agencies.

### **Article 316. State Accounting and State Registry of Consumption of Ozone-depleting Substances**

1. The environment protection authority shall draw up a state registry of consumption of ozone-depleting substances that are controlled under the international treaties of the Republic of Kazakhstan.

2. For purposes of a state registry of consumption of ozone-depleting substances individuals and legal entities that import and consume such substances must, on an annual basis, not later than the end of the second quarter in the year following the reporting year, submit to the environment protection authority data on annual consumption of ozone-depleting substances.

3. Information contained in the state registry of consumption of ozone-depleting substances shall be open for public and published.

### **Article 317. State Inventory and State Registry of Greenhouse Gases**

1. The environment protection authority shall, once a year, make an inventory of emissions and absorption of greenhouse gases and draw up a state registry of emissions of greenhouse gases.

2. For the purpose of inventory of emissions and absorption of greenhouse gases legal entities having sources and absorbers of greenhouse gases shall, on an annual basis, not later than the end of the second quarter in the year following the reporting year, submit to the environment protection authority baseline data that are required for the inventory and drawing up a state registry of greenhouse gases.

3. Information contained in the state registry of greenhouses shall be open for public and published.

### **Article 318. Production Control of Greenhouse Gases and Ozone-depleting Substances**

1. Legal entities that have sources of emission of greenhouse gases and ozone-depleting substances shall carry out production control by drawing up, annually, an inventory of emissions of greenhouse gases and ozone-depleting substances in the procedure as set out by the environment protection authority.

2. Details on the environmental protection departments and persons responsible for conducting the production control of emissions of greenhouse gases and ozone-depleting substances, as well as the results of the inventory of greenhouse gases and ozone-depleting substances shall be submitted to the environment protection authority.

## **Section 9. Responsibility for Environmental Violations and Resolution of Environmental Disputes**

### **Chapter 46. Responsibility for Environmental Violations and Resolution of Environmental Disputes**

#### **Article 319. Types of Environmental Violations**

Environmental violations may be of the following types:

1) violations of the environmental legislation of the Republic of Kazakhstan entailing property liability;

2) administrative violations in the field of environmental protection and use of natural resources; and

3) environmental crimes.

### **Article 320. Liability for Violations of the Environmental Legislation of the Republic of Kazakhstan**

Violations of the environmental legislation of the Republic of Kazakhstan shall entail liability in accordance with laws of the Republic of Kazakhstan.

### **Article 321. Mandatory Compensation of Damage Caused by a Violation of the Environmental Legislation of the Republic of Kazakhstan**

1. Persons who have committed an environmental violation must compensate the damage caused in accordance with this Code and other legislative acts of the Republic of Kazakhstan.

2. Compensated must be the damage which has been caused to the environment, human health, property of individuals and legal entities and the State, as a result of:

- 1) destruction and damage of natural resources;
- 2) unauthorised and irrational use of natural resources;
- 3) unauthorised pollution of the environment, including emergency unauthorised salvo emissions and discharges, placement of industrial and consumption waste; and
- 4) excessive environmental pollution.

3. Damage caused to human health, property of individuals and legal entities, and the state property shall be compensated either voluntarily or pursuant to a court decision issued in accordance with the legislation of the Republic of Kazakhstan. The damage must be compensated in full with due account to the degree of the injured person's disability, amount of expenses required for such person's medical treatment, care and health rehabilitation, as well as other costs and losses.

4. Environmental damage inflicted as a result of a violation of the environmental legislation of the Republic of Kazakhstan shall be compensated either voluntarily or pursuant to a court decision issued on the basis of an economic estimate of the damage, such estimate being determined in accordance with the provisions of this Code.

5. Individuals and legal entities whose business poses a heightened degree of threat to the environment must compensate the damage which has been caused by the threat's source, unless they prove that the damage has been caused as a result of an uncontrollable force or through the injured party's own fault.

6. A moral damage caused as a result of a violation of the environmental legislation of the Republic of Kazakhstan shall be compensated in the procedure prescribed by the civil legislation of the Republic of Kazakhstan.

### **Article 322. Procedure for Compensating Damage Caused by a Violation of the Environmental Legislation of the Republic of Kazakhstan**

1. A party who has caused damage to the environment shall have the right to repair such damage voluntarily or otherwise compensate it. The person's responsibility with respect to the repair or compensation of damage shall be set out in a letter of guarantee.

2. The compensation may be paid in a monetary form at the violator's own cost, or it may be covered by insurance.

3. The monetary form of compensation includes monies paid for restoration of the environment to the state it was in prior to the damage, the cost of measures on reproduction of natural resources, monies to compensate other losses incurred by the injured party, including loss of profit.

4. If parties agree so, the court may decide that the damage must be compensated in-kind by obliging the party at fault to carry out measures on restoration of the environment.

5. In-kind forms of compensation of damage include the measures on restoration of the environment to the state it existed prior to the damage and provision of an equivalent-value natural resource in exchange for the destroyed or damaged resource. In-kind compensation of damage shall

be carried by concluding an agreement and/or contract setting out procedures, conditions, deadlines and extent to which the damage caused would be compensated.

6. The collected amounts of the compensation shall be paid to the state budget or, in cases provided for by the legislation of the Republic of Kazakhstan, to the injured party.

7. Compensation of damage shall not release the party at fault from administrative and criminal liability.

### **Article 323. Resolution of Environmental Disputes**

1. Environmental disputes shall be resolved by courts in the procedure as set out by the legislative acts of the Republic of Kazakhstan.

2. Environmental disputes involving various parties within the context of environmental law may be resolved through negotiations, including with the assistance of experts, or under a pre-agreed procedure of dispute resolution.

## **Chapter 47. Final and Transition Provisions**

### **Article 324. Transition Provisions**

1. Nature use permits that had been obtained by nature users before this Code has entered into force shall remain in force until the expiry of their term of validity.

2. After expiry of the nature use permits individuals and legal entities of the Republic of Kazakhstan must obtain environmental permits.

3. The owners of landfills and long-term waste storages must prepare and reconcile with the environment protection authority actions plans to bring their facilities in compliance with the environmental requirements as set out in Chapter 43 by 31 December 2007.

4. Within one year after this Code has entered into force individuals and legal entities having licenses for environmental project design, regulatory services, environmental appraisal and environmental audit must re-register their licenses with the environment protection authority in the procedure set out by the legislation of the Republic of Kazakhstan. Such licenses shall cease to be valid after expiry of their term.

5. Licenses for carrying out environmentally-hazardous activities as per the list approved by the Government of the Republic of Kazakhstan which may not be subject to licensing under this Code shall cease to be valid on the date this Code enters into force.

Within six months after this Code has entered into force, individuals and legal entities that have licenses for carrying out environmentally-hazardous activities as per the list approved by the Government of the Republic of Kazakhstan shall return such licenses to the environment protection authority.

### **Article 325. Application of this Code**

This Code shall apply to legal relationships that have arisen after this Code has entered into force.

Legal acts regulating the relationships in the field of environment protection, reproduction and use of natural resources, which had been adopted before this Code entered into force, shall apply to the extent they do not contradict the provisions of this Code.

### **Article 326. Entry into Force**

1. This Code shall enter into force on expiry of ten calendar days of its official publication.

2. The following laws of the Republic of Kazakhstan shall be recognised as having ceased to be in force:

1) Law of the Republic of Kazakhstan dated 18 March 1997 “ On Environmental Review” (the Bulletin of the Parliament of the Republic of Kazakhstan, 1997, issue No. 6, page 67; 1998,

issue No. 24, page 443; 1999, issue No. 11, page 357; 2003, issue No. 14, page 112; 2004, issue No. 23, page 142);

2) Law of the Republic of Kazakhstan dated 15 July 1997 “ On the Environmental Protection” (the Bulletin of the Parliament of the Republic of Kazakhstan, 1997, issue No. 17-18, page 213; 1998, issue No. 24, page 443; 1999, issue No. 11, page 357; issue No. 23, page 931; 2001, issue No. 13-14, page 171; issue No. 24, page 338; 2002, issue No. 17, page 155; 2004, issue No. 10, page 57, issue No. 23, page 137 and 142; 2005, issue No. 7-8, page 23, issue No. 14, page 57; 2006, issue No. 1, page 5; issue No. 3, page 22);

3) Law of the Republic of Kazakhstan dated 11 March 2002 “On the Protection of the Atmospheric Air” (the Bulletin of the Parliament of the Republic of Kazakhstan, 2002, issue No. 5, page 54; 2004, issue No. 23, page 142; 2006, issue No. 1, page 5; issue No. 3, page 22).

President of the Republic of Kazakhstan

N. NAZARBAYEV

Astana, Akorda, 9 January 2007

No. 212-III ZRK