

Decree No. 155/2000

Of Ministry of the Environment

of 5 May 2000

Amending Decree No. 299/1995 Coll. of the Ministry of the Environment of the Slovak Republic concerning the conditions for authorization of emission and polluting matter measurement, and concerning the principles regarding the exercise of this activity.

The Ministry of the Environment of the Slovak Republic (hereinafter only "Ministry") according to Article 17(e) of the Act No. 134/1992 Coll. of the Slovak National Council concerning state administration of air protection as amended by the Act No. 148/1994 Coll. of the National Council of the Slovak Republic (full wording No. 32/1995 Coll.) has adopted as follows:

Section I

Decree No. 299/1995 Coll. of the Ministry of the Environment of the Slovak Republic concerning the conditions for authorization of emission and polluting matter measurement, and concerning the principles regarding exercise of this activity is amended as follows:

1. Footnote No. 2 shall be as follows:

"2) For example Article 7 and 11 of the Act No. 309/1991 Coll., and Article 5 of the Act No. 401/1998 Coll. concerning charges for air pollution."

2. In Article 2(1) the words "(hereinafter "measurement")" shall be replaced by the words "(hereinafter "authorized measurement")".

3. The word "measurement" shall be replaced by the words "authorized measurement" in whole text of the Order.

4. To Article 3 shall be added paragraphs 5 and 6 as follows:

"(5) Authorized person prepares report on authorized measurement, details of which are listed in Annex 2. The body of air protection for which the report on authorized measurement is assigned may request completion of additional necessary data.

(6) Report on authorized measurement shall have gradually numbered pages; number of pages shall be noticed in its conclusion. The report from authorized measurement shall be tied by a thread, ends of which shall be sealed, or responsible person shall authorize each page".

5. Point a) of Article 4(1) shall be as follows:

a) has the business license for enterprise^{4a)} on the territory of the Slovak Republic in the area of activity for which he requests authorization, or referred activity is stated in the Charter or Statute, ⁵⁾".

Footnotes 4a and 5 shall be read as follows:

"^{4a)} Article 2(2) points a) to c) and Article 21 of the Commercial Code.

⁵⁾ For example Articles 21 to 23 of the Act No. 333/1995 Coll. of the National Council of the Slovak Republic concerning budgetary rules as amended by latter provisions, the Act No. 172/1990 Coll. concerning universities as amended by latter provisions".

6. From point b) of Article 4(1) the words "as experimental laboratory" shall be deleted.

7. Point d) of Article 4(2) shall be as follows:

”d) is listed in quality handbook^{6a)} as a person qualified for performance and professional assessment of authorized measurement results,”.

Footnote 6a shall be as follows:

”^{6a)} STN EN 45001 (01 5253) General criteria for testing laboratories' operation.”.

8. In point b) of Article 8(3) the word ”entire” shall be inserted after the word ”finished”.

9. In Article 4(4) new footnote 6b shall be inserted above the word ”air”.

Footnote 6b shall be as follows:

”^{6b)} Annex 2 of the Government Regulation No. 92/1996 Coll. of the Government of the Slovak Republic implementing the Act No. 309/1991 Coll. concerning air protection against emission and polluting matters (Act on air) as amended by latter provisions”.

10. Paragraphs 2 and 3 of Article 5 shall be as follows:

”(2) Applicant shall specify in application

a) name or business name and registered office;

b) identification number (ICO);

c) name, surname, personal number, and function of person or persons, who are statutory body or they are its members, or authorized representatives, who are entitled to act on behalf of applicant's statutory body in matters of authorized measurements;

d) definition of fields, subjects, and methodologies of authorized measurement (Article 2(4)), for which the authorization is requested;

e) name, surname, and personal number of responsible persons according to specialization in classification according to point d);

f) date of application submission, name, surname, and signature of persons mentioned under points c) to e) and applicant's stamp imprint.

3. Applicant shall attach to the application according to paragraph 2

a) certified document according to Article 4(1) point a), which must not be older than three months;

b) original of valid certificate on accreditation or its certified copy;

c) quality handbook with annexes,^{6a)}

d) documents and working methods confirming validity and compliance with methodology requirements for which the authorizations is requested,

e) original or certified copy of letter of attorney or authorization for person or persons, who are entitled to act on behalf of applicant's statutory body in matters of authorized measurements,;

f) affidavit of persons referred to under point e) on compliance with requirement according to Article 4(1) point d), and affidavit stating that remuneration of employees is independent on authorized measurements results;

g) affidavit of responsible persons and persons referred to under point e) on authorized measurements practice according to conditions and rules of authorized measurements practice defined by this Decree, legal provisions concerning air protection, and according to supplementary criteria and requirements defined by the Ministry;

h) subcontractors' documents according to points a) to g) and according to paragraph 2, points a) to e), if practice of selected parts of authorized measurements by subcontractors is requested; quality handbook according to point c) shall be submitted whole or its parts describing the practice quality system of selected parts of authorized measurements shall be submitted;

i) document confirming administrative fee payment according to special regulation.⁹⁾”.

Footnote 9 shall be as follows:

”⁹⁾ Item 170 point c) of Annex of the Act No. 145/1995 Coll. of the National Council of the Slovak Republic concerning administrative fees as amended by latter provisions.”.

11. Footnote 8 shall be deleted.

12. Paragraph 5 of Article 5 shall be deleted.

Present paragraph 6 shall be marked as paragraph 5.

13. In new marked paragraph 5 of Article 5 the words "2 to 5" shall be replaced by the words "2 to 4".

14. In paragraph 1 of Article 6 the words "and subcontractors" shall be added to the end.

15. Paragraph 2 of Article 7 shall be deleted.

Present paragraphs 3 to 5 shall be marked as paragraphs 2 to 4.

16. Second sentence shall be deleted in new marked paragraph 3 of Article 7.

17. In Article 10 the words "Article 5(2), points c) to d)" shall be replaced by the words "Article 5(2), point a) to e)" and the words "Article 5(5)" shall be deleted.

18. Paragraphs 3 and 4 of Article 12 shall be as follows:

"(3) The application to performe authorized measurement shall be submitted by a person according to paragraph 1, who is authorized for performance of single authorized measurement under exceptional circumstance. Applicant shall present data in application according to Article 5(2) and reasoning of special circumstance according to paragraph 2.

(4) The applicant shall attach to the application according to paragraph 3

- a) data on operator of air pollution source or on participant of proceeding, who requests an approval or other decision of air protection body;
- b) data on purpose of single authorized measurement;
- c) identification data of single authorized measurement subject and its classification;
- d) data on subcontractors according to Article 5(2) point a) to e), if they are supposed to execute selected parts of single authorized measurement, and their contribution to single authorized measurement;
- e) data on applicant's responsible person and on subcontractors' responsible persons according to Article 5(4) points b) to d) relating to the subject and field of single authorized measurement;
- f) brief description of single authorized measurement object, and its operational and technical parameters decisive from the point of view of single authorized measurement objective;
- g) list of measured data and methodologies, for which a permission for single authorized measurement is requested, and expected uncertainty of single authorized measurement results;
- h) documents and working procedures proving the possibility of single authorized measurement performance according to the methodologies relating to present state of technique (Article 2(4));
- i) brief description of single authorized measurement procedure and review of possibilities of single authorized measurement performance according to legal acts relating to the matters of air protection, and according to the methodologies relating to present state of technique (Article 2(4));
- j) draft of special conditions for single authorized measurement, if needed, and expected schedule of single authorized measurement opening;
- k) written affidavit of applicant's and subcontractors' responsible persons on good moral character, and truth of data according to point e);
- l) applicant's written obligation that single authorized measurement will be performed according to rules of single authorized measurement principles, which are listed in Annex 1, and applicant will meet requirements for authorized measurement report listed in Annex 2."

19. Paragraph 2 of Article 13 shall be as follows:

"(2) Everyone may consult the list on Ministry, regional or district offices. The list is accessible also in electronic form."

20. In Article 14(1) the word "1999" shall be replaced by the word "2003".

21. In Article 14(3) the words "Article 5(3) points b), c), and e)" shall be replaced by the words "Article 5(3) points b) and i)".

22. Annex 1 shall be as follows:

"PRINCIPLES OF AUTHORIZED MEASUREMENT PERFORMANCE

1. To perform authorized measurements according to methods and methodics relating to present state of authorized measurement technology which are in relation to specified pollution limits according to legal provisions in force and others technical provisions relating to air protection and to authorized measurement (Article 2).
2. To report the subject, purpose, measured data and planned date of authorized measurement opening at least ten working days before, and real date of authorized measurement if it is not identical with planned schedule at least two working days before its opening for emission and polluting matter measurement to the district office, on whose territory authorized measurement is performed, and to organization carrying out an inspection of result correctness – for authorized measurement of emissions to substantially competent inspection body of air protection of the Slovak Environmental Inspectorate and for authorized measurement of polluting matters to territorially competent workstation of the Slovak Hydrometeorological Institute.
3. To explain the report on authorized measurement and relating documents on request of state administration body for air protection or organization accredited to check correctness of results.
4. To file the reports, records, documents, and supporting documents describing conditions of authorized measurement, original findings and implied results from them, calculations, summary tables on compliance with regulatory requirements in matters of air protection and regulatory parameters of authorized measurement methodology at least during four years from report submission or from report amendment of authorized measurement.
5. Maintain secrecy against third parties in matters of business or service secret of air pollution source operator (participant of proceeding). Acting bodies of state administration for air protection or organizations entitled to check the correctness of results of authorized measurements are not considered to be third parties.
6. To carry out regular internal inspection of authorized measurement practice quality according to approved quality handbook or another corresponding document and to keep consistent records on internal quality inspection.
7. To participate on inter-laboratory or other correspondent reference measurements set by the Ministry.
8. To send the list of carried out authorized measurements with brief introduction of customer's data, purpose, subject, time, and summary table of authorized measurement results to the Ministry or to organization designated by the Ministry once a year.
9. To guarantee for agreed performance of authorized measurement in relation to customer according to generally binding legal provisions in force and concluded contract – usually on inspection activity.
10. To enable the correctness check up of authorized measurement results; to enable on request the check up of authorized measurement on the place, to offer whole and authentic information relating to data correctness assessment of authorized measurement results including performance of eventual reference inter-laboratory tests or relating analysis of verifying samples immediately.
11. To perform authorized measurements exclusively by responsible persons and other activities by professionally trained persons as it is defined in quality handbook or corresponding procedure handbook.
12. To perform selected parts of authorized measurement, and especially analytical test or another similar sample testing, specific quality determination of waste gas composition and outdoor atmosphere in the events listed in authorization (Article 7) by the subcontractor with condition that subcontractor

12.1 is listed in quality handbook of authorized person and subcontract conditions are duly detailed;

12.2 performs assessments and tests according to methodology relating to present state of technology (Article 2) and proves (Article 6) confirmed and documented validity of requirements compliance for authorization awarding within the frame of inspection;

12.3 has requirements for authorization awarding, supplementary criteria and requirements defined by the Ministry, rules of authorized measurement practice and report properties from selected part of authorized measurement according to importance of corresponding measures of this Order and according to performed selected parts of authorized measurement implemented in his system of quality;

12.4 is familiar within necessary scope with relating circumstances determining professional subcontract performance.

13. Do not perform authorized measurement if the impartiality of authorized person, responsible person or subcontractor is in question relating to measurement subject, relevant body of air protection, and to participants of proceeding. Crucial principles to assess the impartiality of authorized person, responsible person or subcontractor are:

13.1 To exclude direct or indirect advantage or sanction relating to authorized measurement result except appropriate financial remuneration for performance.

13.2 Do not perform authorized measurements for private need and for other persons economically or personally connected to authorized person. ¹⁾

13.3 Remuneration of authorized persons and other employees participating on authorized measurement must not depend on authorized measurement results.

13.4 To exclude property or community property of copyrights, patents and improvement suggestions or other similar rights relating to subject of authorized measurement, for example patent protection.

13.5 To exclude the affinity to persons listed above directly profiting in relation to results of authorized measurement or persons who could be punished based on authorized measurement results regardless the form of punishment, for example members of statutory bodies of legal persons or natural persons authorized for business enterprise, responsible employees of internal organization unit far to lowest level of responsible employee of measured source or workplace including shifter or foreman.

13.6 Moreover, to exclude the affinity to the person acting on behalf of the air protection body in a particular proceeding.

13.7 To exclude a participation of state administration employees of air protection and employees entitled to inspect the correctness of results in statutory, supervisory and inspection bodies of a legal person or their share in organization; the only exception is a share in the form of coupon privatization, while it is not dominating.

13.8 To examine properly observation of this principle before authorized measuring assuming that for assessment of possible questions of impartiality is authorized person, responsible person, and subcontractor familiar with the matter.

13.9 If impartiality is in question, to discuss particular case with corresponding body of air protection before authorized measurement is performed in order to exclude possible uncertainty. Even reasonable doubt is determining for failure to comply with these principles; later in this course the air protection body does not investigate nor prove the prejudice and correctness of authorized measurement results.

13.10 In special cases, if some from above listed principles of impartiality cannot be observed, authorized measurement may be performed only under special conditions defined by corresponding air protection body.”.

Footnote 1 shall be read as follows:

”¹⁾ Article 23(6) of the Act No. 366/1999 Coll. on Income Taxes.”.

23. Annex 2 shall be as follows:

”AUTHORIZED MEASUREMENT REPORT REQUIREMENTS

1. Front page:

Particularly identification data on qualified person and responsible person, number of authorization, accurate report title, date of report edition, signature of person responsible for authorised measurement, name, function and signature of person who is entitled to act on behalf of statutory body of authorized person in matter of authorized measurements and stamp imprint shall be mentioned.

2. Data on participant of proceeding (applicant for approval or source operator):

Particularly identification data, number of contract on authorized measurement – usually a contract on inspection activity, and date of its completion shall be mentioned.

3. Purpose of authorized measurement.

4. Object of authorized measurement:

Particularly the valid title, identification data, localization and authorized measurement subject classification shall be mentioned.

5. Summary review and professional assessment of authorized measurement results:

Summary table of authorized measurement results prepared according to authorized measurement purpose including uncertainty data, professional assessment of authorized measurement results and instruction on validity of authorized measurement results shall be mentioned.

6. Participants of authorized measurement:

Particularly data on the those authorized person’s employees, who performed particular authorized measurement including data on those subcontractors, who performed selected parts of authorized measurement according to Annex 1, point 12 of this Decree, and on their share on authorized measurement shall be mentioned.

7. Operational and technical parameters of authorized measurement object:

The specified values of authorized measurement object according to documentation and real values of operational and technical parameters during authorized measurement shall be mentioned.

8. Procedure and evaluation of authorized measurement results:

Chronological written description of authorized measurement procedure according to particular times of authorized measurement starting with the planning of authorized measurement, introduction of methodology identification and specific conditions for samples taking and authorized measurement, projection of measurement places localization and measurement points, data on technical measurement equipment and provision of their sequence, system description of measured data and relating values, conformity appreciation of real conditions of authorized measurement with requirement for authorized measurement, which are specified by legal provisions on atmosphere protection and authorized measurement methodology, description of uncertainty assessment, evaluation and professional appraisal of authorized measurement results shall be mentioned; tables of partial measurement results, calculations, figures, graphs, records etc. shall be marked gradually according to listing in description and shall be attached to the authorized measurement report.

9. Other important facts on authorized measurement:

Particularly the documents on negotiations, documents on specific conditions of authorized measurement, declaration of proceeding participant, specific measures to provide the credibility of authorized measurement results, if they were applied, shall be mentioned.

10. Final clause:

The number of pages of authorized measurement report, list of annexes with number of pages of each annex and conditions for duplication of summary review and professional assessment of authorized measurement results, eventually whole report from authorized measurement shall be mentioned.

Section II

This Decree shall enter into force on June 1, 2000.

Laszlo Miklos, s.m.