

and Environment, which was amended and supplemented by Decrees No. 19/2010/ND-CP of March 5, 2010, and No. 89/2010/ND-CP of August 16, 2010;

Pursuant to the Prime Minister's Decision No. 132/2008/QĐ-TTg of September 30, 2008, defining the functions, tasks, powers and organizational structure of the Vietnam Environment Administration of the Ministry of Natural Resources and Environment;

At the proposal of the general director of the Vietnam Environment Administration and the director of the Legal Affairs Department,

THE MINISTRIES

THE MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT

Circular No. 26/2011/TT-BTNMT of July 18, 2011, detailing a number of articles of the Government's Decree No. 29/2011/ND-CP of April 18, 2011, on strategic environmental assessment, environmental impact assessment and environmental protection commitment

Pursuant to the November 29, 2005 Law on Environmental Protection;

Pursuant to the Government's Decree No. 29/2011/ND-CP of April 18, 2011, on strategic environmental assessment, environmental impact assessment and environmental protection commitment;

Pursuant to the Government's Decree No. 25/2008/ND-CP of March 4, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Natural Resources

STIPULATES:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular guides in detail a number of articles of the Government's Decree No. 29/2011/ND-CP of April 18, 2011, on strategic environmental assessment, environmental impact assessment and environmental protection commitment (below referred to as Decree No. 29/2011/ND-CP).

Article 2. Subjects of application

1. This Circular applies to agencies, organizations and individuals that carry out activities related to:

a/ Strategies, master plans and plans specified in Article 3 of Decree No. 29/2011/ND-CP;

b/ Projects specified in Clause 1, Article 12 of Decree No. 29/2011/ND-CP;

c/ Projects and proposals on production, business or service provision activities specified in Article 29 of Decree No. 29/2011/ND-CP;

d/ Projects put into operation after July 1, 2006, which have had their environmental impact assessment reports approved under decisions issued by competent authorities but have not yet obtained written certifications of fulfillment of contents of these reports and requirements of decisions approving these reports.

2. This Circular does not apply to the appraisal of environmental impact assessment reports by institutional appraisal service providers.

Chapter 2

STRATEGIC ENVIRONMENTAL ASSESSMENT

Article 3. Subjects obliged to make and forms of strategic environmental assessment

1. Subjects obliged to make strategic environmental assessment and forms of strategic environmental assessment are specified in Clauses 1, 2 and 3, Article 3 and Part C, Appendix I to Decree No. 29/2011/ND-CP.

2. Subjects specified in Clause 5, Article 3 of Decree No. 29/2011/ND-CP may select by themselves forms of strategic environmental assessment.

3. Subjects obliged to make strategic environmental assessment specified in Part C, Appendix I to Decree No. 29/2011/ND-CP shall do so in the forms directed by the National Assembly, the Government and the Prime

Minister. In case directing documents of the National Assembly, the Government and the Prime Minister contain no specific requirements on forms of making detailed strategic environmental assessment, the Ministry of Natural Resources and Environment shall guide these forms.

Article 4. Elaboration of strategic environmental assessment reports

1. Time for strategic environmental assessment and requirements on use of strategic environment assessment results are specified in Article 4 of Decree No. 29/2011/ND-CP.

2. Agencies assuming the prime responsibility for making strategies, master plans and plans (below referred to as project owners) as specified in Clauses 1 and 3, Article 3 of this Circular shall elaborate and submit strategic environmental assessment reports to competent agencies for appraisal.

Article 5. Dossiers of request for appraisal of strategic environmental assessment reports

1. Project owners of subjects specified in Clause 2, Article 4 of this Circular shall send dossiers of request for appraisal of strategic environmental assessment reports under Clauses 2, 3 and 4 of this Article to agencies organizing the appraisal of strategic environmental assessment reports defined in Clause 1, Article 6 of this Circular.

2. A dossier of request for appraisal of a detailed strategic environmental assessment report in the form of separate report comprises:

a/ One (1) written request for appraisal, made according to the form provided in Appendix 1.1 to this Circular;

b/ Nine (9) copies of the detailed strategic environmental assessment report in the form of separate report of a strategy, master plan or plan which are bound together into a volume with the cover page and supplementary cover page formats and its structure and content complying with Appendices 1.2 and 1.3 to this Circular;

c/ Nine (9) copies of the draft strategy, master plan or plan;

d/ In case the number of members of the appraisal council is more than nine (9), or in other cases in which the appraisal requires additional copies, the project owner shall provide additional copies of the strategic environmental assessment report and the draft strategy, master plan or plan besides the number of copies specified at Points b and c of this Clause.

3. A dossier of request for appraisal of a detailed strategic environmental assessment report incorporated in a strategic report, master plan or plan comprises:

a/ One (1) written request for appraisal, made according to the form provided in Appendix 1.4 to this Circular;

b/ Nine (9) copies of the draft strategy, master plan or plan incorporating the detailed strategic environmental assessment report. The structure and contents of the detailed strategic environmental assessment report incorporated in the strategy, master plan or plan report comply with the form provided in Appendix 1.5 to this Circular;

c/ In case the number of members of the appraisal council is more than nine (9), or in other cases in which the appraisal requires additional copies, the project owner shall

provide additional copies of the draft strategy, master plan or plan besides the number of copies specified at Point b of this Clause.

4. A dossier of request for appraisal of a brief strategic environmental assessment report comprises:

a/ One (1) written request for appraisal, made according to the form provided in Appendix 1.6 to this Circular;

b/ Five (5) copies of the draft strategy, master plan or plan incorporating the brief strategic environmental assessment report. The structure and contents of the brief strategic environmental assessment report incorporated in the strategy, master plan or plan report comply with the form provided in Appendix 1.7 to this Circular.

5. Project owners of subjects specified in Clause 2, Article 3 of this Circular are not required to make dossiers of request for appraisal of strategic environmental assessment reports.

Article 6. Organization of appraisal of strategic environmental assessment reports

1. The competence to appraise strategic environmental assessment reports is provided in Clause 1, Article 7 of Decree No. 29/2011/ND-CP.

2. The appraisal of strategic environmental assessment reports is conducted by appraisal councils. The organization and operation of councils for appraisal of strategic environmental assessment reports are provided in Chapter 4 of this Circular.

3. The time limit for appraising strategic environmental assessment reports is specified in Article 8 of Decree No. 29/2011/ND-CP.

4. Within the time limit mentioned in Clause 3 of this Article, agencies appraising strategic environmental assessment reports shall organize the appraisal. For an invalid dossier, within seven (7) working days after receiving the dossier, the appraisal-organizing agency shall notify such in writing to the project owner for modification or supplementation.

Article 7. Responsibilities of project owners after their strategic environmental assessment reports are appraised

1. To comply with Article 9 of Decree No. 29/2011/ND-CP.

2. To re-send to the appraisal-organizing agency:

a/ Three (3) copies of the modified or supplemented strategic environmental assessment report, enclosed with one (1) copy on CD; one (1) copy of the modified or supplemented draft strategy, master plan or plan, and a written report on assimilation of opinions of the report-appraising agency, made according to the form provided in Appendix 1.8 to this Circular, in case the strategic environmental assessment report is made in the form of separate report;

b/ Three (3) copies of the modified or supplemented draft strategy, master plan or plan, enclosed with one (1) copy on CD; a written report on assimilation of opinions of the report-appraising agency, made according to the form provided in Appendix 1.8 to this Circular, in case the detailed strategic environmental assessment report is incorporated in the strategic report, master plan or plan or the brief strategic environmental assessment report.

Article 8. Reporting on results of appraisal

of strategic environmental assessment reports

1. An agency organizing the appraisal of a strategic environmental assessment report shall send a dossier reporting on appraisal results to a competent authority for appraisal and approval of a strategy, master plan or plan, which comprises:

a/ One (1) written report on results of appraisal of the strategic environmental assessment report, made according to the form provided in Appendix 1.9 to this Circular;

b/ One (1) copy of the project owner's written report on assimilation of opinions of the report-appraising agency.

2. The time limit for sending a dossier reporting on appraisal results is fifteen (15) working days after receiving a modified or supplemented strategic environmental assessment report enclosed with the project owner's written report.

Article 9. Responsibilities of agencies appraising and approving strategies, master plans or plans after receiving dossiers reporting on results of appraisal of strategic environmental assessment reports

1. To comprehensively and objectively consider proposals and recommendations stated in dossiers reporting on appraisal results of agencies organizing the appraisal of strategic environmental assessment reports and the assimilation of appraisal opinions by project owners.

2. In case of necessity, to request project owners to modify or supplement draft strategies, master plans or plans on the basis of examining dossiers reporting on results of appraisal of strategic environmental assessment reports.

Chapter 3

ENVIRONMENTAL IMPACT
ASSESSMENT

Article 10. Subjects obliged to elaborate and time of elaboration, appraisal and approval of environmental impact assessment reports

1. Owners of the following projects are obliged to elaborate environmental impact assessment reports:

a/ Projects numbered from 1 thru 143 and ~~numbered 145~~ in Appendix II to Decree No. 29/2011/ND-CP; projects with names different from but of nature and size equivalent to those of projects numbered 1 thru 143 in Appendix II to Decree No. 29/2011/ND-CP;

b/ Projects to renovate, expand, upgrade or raise the capacity of operating production, business or service establishments, of which environmental impact assessment reports have been approved, or written environmental protection commitments have been registered or certified, or written registrations of attainment of environmental standards have been certified, or environmental protection schemes have been approved or certified, to be equivalent to the subjects numbered 1 thru 143 in Appendix II to Decree No. 29/2011/ND-CP;

c/ Projects specified in Clause 5, Article 35 of Decree No. 29/2011/ND-CP.

2. Owners of projects specified in Clause 1 of this Article shall elaborate environmental impact assessment reports and submit them to competent agencies for appraisal and approval. The time of elaboration and submission for appraisal and approval of environmental impact assessment reports complies with Article 13 of

Decree No. 29/2011/ND-CP.

Article 11. Re-elaboration, appraisal and approval of environmental impact assessment reports

1. A project which has an approved environmental impact assessment report but has not yet been put into operation shall re-elaborate an environmental impact assessment report in the following cases:

a/ Change of the location of its implementation or failure to organize its implementation within thirty six (36) months after the issuance of the decision approving the environmental impact assessment report;

b/ Increase in scale or capacity or change of technology leading to a broader scope of impact or greater adverse impacts on the environment not caused by wastes or an increase in total volume of wastes or generation of new kinds of waste or wastes with contents of pollutants higher than previously calculated or forecast in the approved environmental impact assessment report.

2. The re-elaboration, appraisal and approval of environmental impact assessment reports for the cases specified in Clause 1 of this Article comply with Articles 12, 13, 14 and 15 of this Circular.

3. Project owners may implement the changed contents after their environmental impact assessment reports are approved.

Article 12. Consultation in the process of making environmental impact assessment reports

1. Consultation in the process of making

environmental impact assessment reports complies with Articles 14 and 15 of Decree No. 29/2011/ND-CP.

2. Written requests of project owners for consultation shall be made according to the form provided in Appendix 2.1 to this Circular.

3. Written replies of consulted agencies and organizations shall be made according to the form provided in Appendix 2.2 to this Circular.

4. In the consultation process, project owners shall assure that their written requests for consultation, which are enclosed with brief documents on their projects' major investment items, environmental issues and environmental protection solutions, are sent to consulted parties.

5. The time limit for a consulted party to issue a consultation reply is fifteen (15) days after receiving a written request for consultation from the project owner.

Article 13. A dossier of request for appraisal of an environmental impact assessment report

1. One (1) written request of the project owner for appraisal of an environmental impact assessment report, made according to the form provided in Appendix 2.3 to this Circular.

2. Seven (7) copies of the project's environmental impact assessment report. In case the number of members of the appraisal council is more than seven (7), or in other cases in which the appraisal requires, the project owner shall provide additional copies of the environmental impact assessment report. The cover page and supplementary cover page format and structure and contents of an environmental impact assessment report comply with the forms

provided in Appendices 2.4 and 2.5 to this Circular.

3. One (1) copy of the investment project (the feasibility study report).

4. For the case specified at Point b, Clause 1, Article 10 of this Circular, in addition to the documents specified in Clauses 1, 2 and 3 of this Article, there must be also one (1) copy of the decision approving the environmental impact assessment report or the written certification of the registration of attainment of environmental standards, the decision approving or written certification of the environmental protection scheme or the document proving the approved environmental protection commitment of the operating production, business or service establishment.

5. For the case specified in Clause 1, Article 11 of this Circular, in addition to the documents specified in Clauses 1, 2 and 3 of this Article, there must be also one (1) copy of the decision approving the environmental impact assessment report of the previous project.

Article 14. Organization of appraisal of environmental impact assessment reports

1. Responsibilities for organizing the appraisal, methods and activities of appraising environmental impact assessment reports are specified in Article 18 of Decree No. 29/2011/ND-CP.

2. The organization and operation of councils for appraisal of environmental impact assessment reports are specified in Chapter 4 of this Circular.

Article 15. Process of and time limit for appraisal and approval of environmental impact

assessment reports

1. The process of and time limit for appraisal and approval of environmental impact assessment reports are respectively specified in Articles 19 and 20 of Decree No. 29/2011/ND-CP.

2. After an environmental impact assessment report is appraised and adopted without modification or supplementation or adopted on the condition that it must be modified or supplemented, the project owner shall finalize the report, undersign each page of the report (except the cover page, which shall be made according to the form provided in Appendix 2.4 to this Circular), copied, bound into hard-back volumes, appended with seals (if any) and sent to the agency appraising the environmental impact assessment report in a number sufficient for being sent to the addresses specified in Clause 2, Article 21 of Decree No. 29/2011/ND-CP, enclosed with one (1) copy written on CD and the project owner's written explanation about the modifications or supplementations to the environmental impact assessment report at the request of the standing body of the appraising agency stated in its written notification of appraisal results.

3. Decisions approving environmental impact assessment reports shall be made according to the form provided in Appendix 2.6 to this Circular.

Article 16. Responsibilities of the agency approving environmental impact assessment reports and project owners after their environmental impact assessment reports are approved

1. Responsibilities of the agency approving

an environmental impact assessment report:

a/ To give a certification of approval of the environmental impact assessment report, made according to the form provided in Appendix 2.7 to this Circular;

b/ To send the approved environmental impact assessment report to the addresses specified in Clause 2, Article 21 of Decree No. 29/2011/ND-CP within fifteen (15) working days after approving this report.

2. Responsibilities of a project owner:

a/ To adjust its investment project to satisfy the requirements stated in the decision approving the approved environmental impact assessment report;

b/ To publicly disclose on the project which has the environmental impact assessment report approved under Article 22 of Decree No. 29/2011/ND-CP;

c/ To discharge the responsibilities specified in Chapter 5 of this Circular before putting the project into official operation.

Chapter 4

ORGANIZATION AND OPERATION OF STRATEGIC ENVIRONMENTAL ASSESSMENT REPORT APPRAISAL COUNCILS AND ENVIRONMENTAL IMPACT ASSESSMENT REPORT APPRAISAL COUNCILS

Article 17. Setting up of strategic environmental assessment report appraisal councils or environmental impact assessment report appraisal councils

1. Heads of the competent agencies defined in Clause 1, Article 7 of Decree No. 29/2011/

ND-CP shall decide to set up strategic environmental assessment report appraisal councils.

2. Heads of the agencies defined in Clause 1, Article 18 of Decree No. 29/2011/ND-CP shall decide or authorize heads of their attached specialized agencies in charge of environmental protection to decide to set up environmental impact assessment report appraisal councils.

3. An appraisal council shall be set up to appraise each strategic environmental assessment report or environmental impact assessment report.

4. Decisions to set up councils to appraise strategic environmental assessment reports or councils to appraise environmental impact assessment reports shall be made according to the form provided in Appendix 3.1 to this Circular.

Article 18. Composition and structure of strategic environmental assessment report appraisal councils and environmental impact assessment report appraisal councils

1. The composition and structure of a strategic environmental assessment report appraisal council are specified in Clause 5, Article 7 of Decree No. 29/2011/ND-CP.

2. The composition and structure of an environmental impact assessment report appraisal council are specified in Clause 3, Article 18 of Decree No. 29/2011/ND-CP. In case a project is located in an economic zone, industrial park, hi-tech park, export-processing zone, industrial cluster or another concentrated production, business or service zone (below collectively referred to as a concentrated production, business or service zone), an

appraisal council may be composed of representatives of the state agency directly managing the concentrated production, business or service zone and investor(s) in building and commercial operation of infrastructure facilities of this zone.

Article 19. Functions and working principle of strategic environmental assessment report appraisal councils and environmental impact assessment report appraisal councils

1. Strategic environmental assessment report appraisal councils and environmental impact assessment report appraisal councils (below collectively referred to as appraisal councils) have the function of giving advice to heads of agencies organizing the appraisal and take responsibility before law and agencies organizing the appraisal for the objectiveness and truthfulness of appraisal results.

2. Appraisal councils shall work on the principle of public and direct discussion among council members and between councils and project owners (except the case of appraisal of brief strategic environmental assessment reports in the form of collecting written comments or assessments) and make conclusions on assessment results under Clause 2, Article 33 of this Circular.

3. Councils appraising brief strategic environmental assessment reports shall work under Clause 6, Article 7 of Decree No. 29/2011/ND-CP.

4. Appraisal councils shall operate through their appraisal standing bodies set up by competent agencies defined in Clause 1, Article 7 and Clause 2, Article 18 of Decree No. 29/2011/ND-CP.

Article 20. Conditions and criteria for selection of members of appraisal councils

1. Council chairpersons or vice chairpersons must be professionally knowledgeable about the environment and have at least seven (7), five (5) or three (3) years' experience, for those possessing a university degree, a master or doctor diploma, respectively, or must be leaders of agencies organizing the appraisal or appraisal standing bodies.

2. Council members must be professionally knowledgeable about the environment or the field of the project (including at least one (1) professionally knowledgeable about the environment) and have at least seven (5), five (3) or three (1) years' experience, for those possessing a university degree, a master or doctor diploma, respectively.

3. Council secretaries must be staffs of appraisal standing bodies.

4. Other council members must be professionally knowledgeable about the environment or the field of the project and have at least five (3) or three (2) years' experience, for those possessing a master or doctor diploma, respectively.

Article 21. Responsibilities of council members

1. To study strategic environmental assessment reports or environmental impact assessment reports and related dossiers and documents provided by appraisal standing bodies.

2. To attend meetings of appraisal councils, conferences and seminars, participating in investigations and surveys conducted in the

process of appraisal of strategic environmental assessment reports or environmental impact assessment reports as arranged by appraisal standing bodies.

3. To make specialized reports on evaluation and appraisal of contents of strategic environmental assessment reports or environmental impact assessment reports as assigned by appraisal standing bodies.

4. To make their written comments on strategic environmental assessment reports or environmental impact assessment reports according to the form provided in Appendix 3.2 to this Circular, then send them to appraisal standing bodies at least one (1) working day before official meetings of appraisal councils; and to present these comments at official meetings of appraisal councils.

5. To fill in cards of appraisal of strategic environmental assessment reports or environmental impact assessment reports according to the form provided in Appendix 3.3 to this Circular.

6. To make written comments on strategic environmental assessment reports or environmental impact assessment reports already modified or supplemented by project owners after official meetings of appraisal councils when appraisal standing bodies so request in writing.

7. To manage documents provided to them under law and return these documents at the request of appraisal standing bodies after accomplishing their tasks.

8. To take responsibility before agencies organizing the appraisal and law for their comments and evaluations on strategic

environmental assessment reports or environmental impact assessment reports and jobs assigned to them in the process of appraisal.

Article 22. Powers of council members

1. To request appraisal standing bodies to provide sufficient documents relevant to dossiers of request for appraisal for study and evaluation.

2. To propose appraisal standing bodies to organize meetings, seminars and other activities to directly serve the appraisal work.

3. To attend meetings of appraisal councils; and meetings and seminars and other activities directly serving appraisal work as arranged by appraisal standing bodies.

4. To talk directly to project owners and consultants for elaboration of strategic environmental assessment reports or environmental impact assessment reports at meetings of appraisal councils; to reserve their opinions which are different from those of appraisal councils.

5. To enjoy remunerations according to current financial regulations for performing their tasks; to make written comments on strategic environmental assessment reports or environmental impact assessment reports; to attend meetings of appraisal councils, conferences and seminars and other activities assigned to them in the process of appraisal; to have travel, accommodations and other expenses for their participation in activities of appraisal councils paid under law.

Article 23. Responsibilities and powers of council chairpersons

In addition to the responsibilities and powers of council members specified in Articles 21 and 22 of this Circular, council chairpersons also have the following responsibilities and powers:

1. To chair meetings of appraisal councils.

2. To handle opinions raised at meetings of appraisal councils and make conclusions at these meetings.

3. To sign minutes of meetings of appraisal councils and take responsibility before agencies organizing the appraisal and law for conclusions made at these meetings.

Article 24. Responsibilities and powers of council vice chairpersons

In addition to the responsibilities and powers of council members specified in Articles 21 and 22 of this Circular, council vice chairpersons also have the responsibilities and powers like council chairpersons when the latter are absent.

Article 25. Responsibilities and powers of criticism members

In addition to the responsibilities and powers of council members specified in Clauses 1, 2, 3, 5, 6, 7 and 8, Article 21, and Article 22 of this Circular, criticism members also have to make written comments on contents of strategic environmental assessment reports or environmental impact assessment reports according to the form provided in Appendices 3.4 and 3.5 to this Circular.

Article 26. Responsibilities and powers of council secretaries

In addition to the responsibilities and powers of council members specified in Articles 21 and 22 of this Circular, council secretaries also have

the following responsibilities and powers:

1. To provide forms of written comments and cards of appraisal of strategic environmental assessment reports or environmental impact assessment reports to appraisal council members.

2. To report to council chairpersons on major problems of dossiers after studying by themselves and summarizing opinions of council members on these dossiers; to report to council chairpersons and appraisal standing bodies on activities specified in Clause 4, Article No. 18 of Decree No. 29/2011/ND-CP, if any.

3. To inform appraisal councils of comments of appraisal council members who do not attend official meetings of appraisal councils and written comments sent by provincial-level Natural Resources and Environment Departments to appraisal standing bodies, if any.

4. To make and sign minutes of meetings of appraisal councils; and take responsibility for the adequacy and truthfulness of these minutes.

5. To make dossiers and documents for settlement of expenses for activities of appraisal councils.

6. To perform other tasks to serve activities of appraisal councils at the request of appraisal standing bodies.

Article 27. Responsibilities and powers of council members being representatives of provincial-level Natural Resources and Environment Departments joining appraisal councils set up by ministries, ministerial-level agencies or government-attached agencies

In addition to the responsibilities and powers of council members holding different titles specified in this Circular, council members

being representatives of provincial-level Natural Resources and Environment Departments joining appraisal councils set up by ministries, ministerial-level agencies or government-attached agencies also have the following responsibilities and powers:

1. To collect and provide to appraisal councils information and documents relevant to strategies, master plans, plans and projects; and take responsibility for information and documents provided to appraisal councils.

2. To authorize in writing their colleagues to participate in activities of appraisal councils with responsibilities and powers of council members in case they cannot do so.

Article 28. Responsibilities and powers of appraisal standing bodies

1. To examine the validity of dossiers of request for appraisal of strategic environmental assessment reports or environmental impact assessment reports to serve as a basis for conducting the appraisal. For invalid dossiers, to issue documents on the return of dossiers within seven (7) working days, for strategic environmental assessment reports, and five (5) working days, for environmental impact assessment reports, after receiving them from project owners.

2. To draft decisions to set up appraisal councils with their composition and structure specified in Article 18 of this Circular, according to the form provided in Appendix 3.1 to this Circular, then submit them to competent authorities for consideration and issuance.

3. To request project owners to provide or additionally provide relevant documents in case of necessity and send them to appraisal council

members within five (5) working days after the issuance of decisions to set up appraisal councils.

4. To collect opinions of provincial-level Natural Resources and Environment Departments which have no representatives to join appraisal councils set up by ministries, ministerial-level agencies or government-attached agencies under Article 29 of this Circular.

5. To collect and provide information relevant to strategies, master plans, plans or projects to appraisal councils.

6. To hold meetings of appraisal councils and activities specified in Clause 7, Article 7, and Clause 4, Article 18 of Decree No. 29/2011/ND-CP.

7. To notify in writing project owners of appraisal results and requirements on completion of appraisal dossiers within five (5) working days after the last official meeting of appraisal councils. Such a notice must indicate one (1) of the following appraisal results: adoption without requiring modification or supplementation; adoption on the condition of modification or supplementation; rejection.

8. To review contents of strategic environmental assessment reports or environmental impact assessment reports resent by project owners after making modification or supplementation. In case of necessity, to request in writing a number of council members to further make their comments on modified or supplemented strategic environmental assessment reports or environmental impact assessment reports.

9. To draft written reports on results of

appraisal of strategic environmental assessment reports of strategies, master plans or plans, according to the form provided in Appendix 1.9 to this Circular, for cases of appraisal of strategic environmental assessment reports; to draft decisions approving environmental impact assessment reports of projects, according to the form provided in Appendix 2.6 to this Circular, for cases of appraisal of environmental impact assessment reports, then submit them to competent authorities for consideration and decision.

10. To make estimates and settlement of expenses for activities of appraisal councils.

Article 29. Collection of opinions of provincial-level Natural Resources and Environment Departments which have no representatives to join appraisal councils set up by ministries, ministerial-level agencies or government-attached agencies

1. Appraisal standing bodies shall send strategic environmental assessment reports to provincial-level Natural Resources and Environment Departments of localities directly related to environmental issues of strategies, master plans or plans and having no representatives to join appraisal councils, and send environmental impact assessment reports to provincial-level Natural Resources and Environment Departments of localities in which projects are implemented and having no representatives to join appraisal councils, for their opinions.

2. Provincial-level Natural Resources and Environment Departments shall send their written opinions to appraisal standing bodies within five (5) working days after receiving the latter's written requests.

3. Opinions of provincial-level Natural Resources and Environment Departments shall be considered and discussed at meetings of appraisal councils.

Article 30. Conditions for holding official meetings of appraisal councils

An official meeting of an appraisal council may be held only when the following conditions are fully satisfied:

1. It is attended (personal presence at the meeting or participation in an online meeting) by at least two-thirds of the total number of council members according to the setting up decision, of whom the council chairperson or a vice chairperson, in case the chairperson is absent (below collectively referred to as the meeting chairperson), at least one (1) criticism member and the council secretary must be present.

2. It is attended by a competent representative of the project owner or the person authorized by a competent person of the project owner.

3. The project owner has paid the charge for appraisal of the environmental impact assessment report under law.

Article 31. Participants in meetings of appraisal councils

1. Participants in meetings of appraisal councils shall be decided and invited by appraisal standing bodies.

2. Participants in meetings of appraisal councils may present their opinions at these meetings, follow the instructions of meeting chairpersons and enjoy remunerations as provided by law.

Article 32. Contents and proceedings of an official meeting of an appraisal council

1. The secretary shall read the decision to set up the appraisal council, introduce meeting participants, briefly report on the processing of the appraisal dossier and provide information on activities already conducted by the appraisal council and the appraisal standing body.

2. The meeting chairperson shall conduct the meeting with the powers specified in Article 23 of this Circular.

3. The project owner (or the consultancy unit authorized by the project owner) shall briefly present the strategic environmental assessment report or the environmental impact assessment report.

4. The project owner and appraisal council members shall exchange opinions and discuss unclear issues (if any) of the dossier.

5. Criticism members and other members of the appraisal council shall present their written comments.

6. The secretary shall read written comments of absent appraisal council members and opinions of the provincial-level Natural Resources and Environment having no representative to join the appraisal council.

7. Participants to present their opinions, if any.

8. The appraisal council may hold a separate meeting (as decided by the meeting chairperson to reach unanimity on its conclusions in case its members have contradictory opinions.

9. The meeting chairperson shall disclose conclusions of the appraisal council.

10. Appraisal council members shall raise

their opinions which are different from the conclusions disclosed by the meeting chairperson, if any.

11. The project owner shall present its/his/her opinions, if any.

12. The meeting chairperson shall announce the wrap-up of the meeting.

Article 33. Contents of conclusions of appraisal councils

1. Conclusions of an appraisal council must clearly show the following:

a/ The dossier contents' satisfaction of requirements;

b/ Problems of the dossier; requirements and recommendations related to the completion of the dossier (if any) based on opinions of members of the appraisal council;

c/ Appraisal results at one (1) of the three (3) levels: Adoption without requiring modification or supplementation; adoption on the condition of modification or supplementation; or rejection, based on results of counting of appraisal cards on the principle specified in Clause 2 of this Article.

2. The principle of making appraisal results:

a/ Adoption without requiring modification or supplementation: When all appraisal council members attending in the meeting and having appraisal cards (or written comments in case no meeting of the appraisal council to appraise the brief strategic environmental assessment reports) unanimously adopt the report without requiring modification or supplementation;

b/ Adoption on the condition of modification or supplementation: When at least two-thirds (2/3) of the total number of attending council

members having appraisal cards (or written comments in case no meeting of the appraisal council to appraise the brief strategic environmental assessment reports) agree to adopt the report or adopt the report on the condition that modification or supplementation must be made;

c/ Rejection: When over one-third (1/3) of the total number of council members having appraisal cards (or written comments in case no meeting of the appraisal council to appraise the brief strategic environmental assessment reports) reject the report.

Article 34. Form and contents of minutes of official meetings of appraisal councils

1. Minutes of official meetings of appraisal councils shall be made according to the form provided in Appendix 3.6 to this Circular. Opinions of project owners, council members and meeting participants must be fully and truthfully recorded in meeting minutes.

2. Minutes of official meetings of appraisal councils must be signed by meeting chairpersons and secretaries on the left bottom corner of each page and bear on the last page the signatures and full names and titles of these persons in the council.

Chapter 5

APPLICATION AND INSPECTION AND CERTIFICATION OF APPLICATION OF ENVIRONMENTAL PROTECTION WORKS AND MEASURES BEFORE PROJECTS ARE PUT INTO OFFICIAL OPERATION

Article 35. Responsibilities of project owners before putting their projects into official

operation

1. Before putting their projects into official operation, project owners shall:

a/ Fully discharge the responsibilities specified in Article 23 of Decree No. 29/2011/ND-CP and apply environmental protection works and measures to serve the operations of their projects as specified in Article 26 of Decree No. 29/2011/ND-CP;

b/ Operate on a trial basis waste treatment works to serve the operations of their projects;

c/ Make dossiers of request for inspection and certification of application of environmental protection works and measures to serve the operations of their projects, then send them to competent agencies specified in Clause 1, Article 39 of this Circular.

2. For projects without environmental protection works to serve their operations, project owners are not required to make dossiers of request for inspection and certification of application of environmental protection works and measures.

3. For projects on treatment of hazardous wastes:

a/ For projects on treatment of hazardous wastes without investments in production, business or service work items other than those for transportation, treatment, recycling or disposal of hazardous wastes and falling under the competence of the Natural Resources and Environment Ministry to grant hazardous waste management practice licenses, project owners are not required to discharge the responsibilities specified at Point c, Clause 1 of this Article but shall fully discharge the responsibilities specified in the Natural Resources and

Environment Ministry's Circular No. 12/2011/TT-BTNMT of April 14, 2011, on the management of hazardous wastes;

b/ For projects on treatment of hazardous wastes other than those specified at Point a of this Clause, project owners shall apply environmental protection works and measures to serve their project operations under this Circular in order to obtain competent agencies' certifications before applying for hazardous waste management practice licenses.

Article 36. Application and inspection and supervision of application of environmental protection works and measures at the stage of investment preparation and the stage of construction of projects

1. Project owners shall organize the application of environmental protection works and measures at the stage of investment preparation and the stage of construction of projects.

2. Agencies approving environmental impact assessment reports of projects shall inspect and supervise the application of environmental protection works and measures at the stage of investment preparation and the stage of construction of projects in case of necessity.

3. Inspection of the application of environmental protection works and measures at the stage of investment preparation and the stage of construction of projects shall be conducted by inspection teams set up by the agencies specified in Clause 1, Article 39 of this Circular with the composition and structure specified in Article 40 of this Circular. Inspection contents and responsibilities of inspection teams shall be decided by agencies

setting up these teams.

4. Agencies setting up inspection teams may hire independent consultancy units to supervise the application of environmental protection works and measures at the stage of investment preparation and the stage of construction of projects.

5. Agencies organizing the inspection shall notify in writing project owners of results of inspection of the application of environmental protection works and measures at the stage of investment preparation and the stage of construction of projects within fifteen (15) working days after the inspection is completed.

Article 37. Trial operation of waste treatment works

1. The trial operation of waste treatment works shall be conducted simultaneously with the trial operation of projects.

2. Before conducting the trial operation of waste treatment works, project owners shall notify in writing trial operation plans to agencies approving environmental impact assessment reports of projects, according to the form provided in Appendix 4.1 to this Circular.

3. The trial operation of waste treatment works may last for not more than six (6) months after its commencement.

4. In the course of trial operation of waste treatment works, project owners shall sample, measure and analyze by themselves the composition and particular characteristics of wastes before and after the treatment or hire qualified legal-person units to do so. The number of times of sampling and analysis of the composition of wastes in the course of trial

operation of waste treatment works of projects must be at least three (3) at different points of time. Points of time of sampling depend on the characteristics of each work item of a specific project in order to assure that waste samples are typical for different stages of project operation.

5. Subjects specified in Clause 4, Article 39 of Decree No. 29/2011/ND-CP are not required to conduct the trial operation of waste treatment works but shall take samples of wastes for analysis after being treated by constructed or installed waste treatment works for at least three (3) times at different points of time under normal production conditions, for making dossiers of request for inspection and certification of the application of environmental protection works and measures for project operation, in order to be inspected and certified before June 5, 2013.

6. In the course of trial operation of waste treatment works, if detecting that wastes discharged into the environment fail to meet current standards and regulations, project owners shall immediately stop the trial operation and apply measures to prevent the spreading of wastes into the environment and urgently notify such to the provincial-level Natural Resources and Environment Departments and related agencies of localities in which projects are implemented for direction and coordinated handling. In case an environmental incident occurs or wastes discharged into the environment fail to meet standards and regulations, causing damage to organizations and individuals, project owners shall pay compensations under law.

Article 38. Dossiers of request for inspection

and certification of the application of environmental protection works and measures for project operation

1. A dossier of request for inspection and certification of the application of environmental protection works and measures for project operation comprises:

a/ One (1) written request for inspection and certification of the application of environmental protection works and measures for project operation, made according to the form provided in Appendix 4.2 to this Circular;

b/ One (1) copy of the approving decision, enclosed with copies of the approved environmental impact assessment report;

c/ Five (5) copies of the report on results of the application of environmental protection works and measures for project operation, made according to the form provided in Appendix 4.3 to this Circular. For a project located in two (2) or more provinces or centrally run cities, the project owner shall send an additional number of copies of the report equal to the additional number of provinces or centrally run cities to serve inspection work;

d/ Annexes in a number of copies equal to that of copies of the report on results of the application of environmental protection works and measures specified at Point c of this Clause. Documents included in the annexes are specified in Clause 4, Article 25 of Decree No. 29/2011/ND-CP

2. For projects with phased investment or involving many independent items, project owners may make dossiers of request for inspection and certification of the application of environmental protection works and

measures for each phase of investment or each independent project item.

Article 39. Inspection and certification of the application of environmental protection works and measures for project operation

1. Ministries, ministerial-level agencies, government-attached agencies and provincial-level People's Committees shall assign their attached specialized agencies in charge of environmental protection (below referred to as inspection and certification agencies) to inspect and certify the application of environmental protection works and measures for the operations of projects falling under their competence for approving environmental impact assessment reports.

2. Inspection and certification agencies shall inspect and certify the application of environmental protection works and measures for project operation after receiving complete and valid dossiers specified in Article 38 of this Circular.

3. For projects specified in Clause 2, Article 38 of this Circular, inspection and certification agencies shall organize inspection and certification for each phase or independent item.

4. The procedures and time limit for and method of inspection and certification of the application of environmental protection works and measures for project operation are specified in Articles 27 and 28 of Decree No. 29/2011/ND-CP.

5. Inspection of the application of environmental protection works and measures for project operation shall be conducted by inspection teams set up by inspection and

certification agencies with the composition and structure specified in Article 40 of this Circular.

6. Inspection of the settlement of problems in environmental protection works and measures by project owners specified in Clause 4, Article 27 of Decree No. 29/2011/ND-CP complies with Article 44 of this Circular.

7. Certification of the application of environmental protection works and measures for project operation shall be made according to the form provided in Appendix 4.4 to this Circular.

Article 40. Setting up of teams for inspection of the application of environmental protection works and measures for project operation

1. Heads of inspection and certification agencies shall issue decisions to set up inspection teams according to the form provided in Appendix 4.5 to this Circular.

2. An inspection team is composed of officers of the inspection and certification agency, environmental experts and experts in fields related to the project, including one (1) head being an officer of the inspection and certification agency and possibly one (1) deputy head in case of necessity; one (1) secretary and team members.

3. In case the inspection and certification of the application of environmental protection works and measures are not conducted by provincial-level Natural Resources and Environment Departments, in addition to the persons specified in Clause 2 of this Article, an inspection team also includes a representative of the provincial-level Natural Resources and Environment Department of the locality where

the project is implemented.

4. For environmental impact assessment reports approved by provincial level People's Committees, in addition to the persons specified in Clause 2 of this Article, an inspection team may also include a representative of the district-level specialized agency in charge of environmental protection of the locality in which the project is implemented.

Article 41. Working principles of inspection teams

1. Inspection teams shall work on the principle of public discussion among their members and between their members and representatives of project owners at meetings and in the course of physical inspection of applied environmental protection works and measures.

2. An inspection team shall conduct physical inspection of environmental protection works and measures of a project when the following conditions are fully met:

a/ At least two-thirds (2/3) of its total members according to the setting by decision of the inspection and certification agency, including its head (or its deputy head in case the head is absent) and secretary, are present;

b/ The project owner's competent representative is present.

Article 42. Responsibilities and powers of inspection team members

1. General responsibilities and powers of inspection team members:

a/ To study dossiers of request for inspection and certification of the application of

environmental protection works and measures:

b/ To request, through team secretaries, project owners to provide information, documents and data relevant to projects for reference and study to make comments and evaluate environmental protection works and measures actually applied and shown in dossiers of request for inspection and certification;

c/ To attend meetings and participate in the inspection of the actual application of environmental protection works and measures conducted by inspection and certification agencies;

d/ To talk to project owners about environmental protection works and measures applied by project owners in the course of physical inspection;

e/ To make written comments on and evaluations of the application of environmental protection works and measures according to the form provided in Appendix 4.6 to this Circular, then send them to team secretaries for summarization; to take responsibility before agencies setting up inspection teams and before law for their comments and evaluations;

f/ To manage documents provided to them under law and return them at the request of agencies conducting the inspection and certification after accomplishing their tasks;

g/ To enjoy remunerations under current law for performing their tasks; to conduct site inspection; to attend meetings of inspection teams; to make written comments on and evaluations of the application of environmental protection works and measures.

2. Responsibilities and powers of inspection team secretaries:

In addition to the general responsibilities and powers specified in Clause 1 of this Article, inspection team secretaries also have the following responsibilities and powers:

a/ To contact project owners, inspection team members and related organizations and individuals for preparing working schedules of inspection teams;

b/ To summarize comments and evaluations of inspection team members and report them to team heads;

c/ To make sum-up reports on results of inspection of the application of environmental protection works and measures for project operation according to the form provided in Appendix 4.7 to this Circular;

d/ To draft minutes of inspection of the application of environmental protection works and measures in service of project operation in an adequate and accurate manner under Article 43 of this Circular.

3. In addition to the general responsibilities and powers of inspection team members specified in Clause 1 of this Article, inspection team deputy heads also have the responsibilities and powers of inspection team heads specified in Clause 4 of this Article in case inspection team heads are absent.

4. Responsibilities and powers of inspection team heads:

In addition to the general responsibilities and powers specified in Clause 1 of this Article, inspection team heads also have the following responsibilities and powers:

a/ To take general responsibility for activities of inspection teams;

b/ To assign tasks to inspection team members;

c/ To chair and monitor meetings of inspection teams;

d/ To assume the prime responsibility for handling recommendations, if any, of inspection team members, project owners and representatives of related agencies in the course of physical inspection.

Article 43. Contents and forms of presentation of inspection results

1. Results of inspection of the application of environmental protection works and measures for project operation and results of examination of dossiers shall be presented in a minutes of inspection of the application of environmental protection works and measures for project operation, made according to the form provided in Appendix 4.8 to this Circular.

2. Inspection minutes must truthfully and objectively indicate the actual state of environmental protection works and measures actually applied at the time of inspection.

3. Inspection minutes must be signed by inspection team heads (of deputy heads in case inspection team heads are absent), secretaries and competent representatives of project owners on each page and bear the signatures, full names and titles of these persons on the last page.

Article 44. Inspection of the settlement of problems in environmental protection works and measures by project owners

1. Inspection of the settlement of problems in environmental protection works and measures by project owners shall be conducted

by inspection teams already set up or set up again by inspection and certification agencies in case of necessity. In this case, the inspection must fully meet the conditions specified at Point a, Clause 2, Article 41 of this Circular.

2. Minutes of inspection of the settlement of problems in environmental protection works and measures for project operation by project owners shall be made according to the form provided in Appendix 4.9 to this Circular.

3. For projects with their environmental impact assessment reports approved by the Natural Resources and Environment Ministry, after receiving reports of project owners on the settlement of problems of the projects in dossiers and in reality, the inspection and certification agency of the Natural Resources and Environment Ministry shall consider and decide to inspect the settlement of problems in environmental protection works and measures by project owners by either of the following modes:

a/ Organizing the inspection under Clauses 1 and 2 of this Article;

b/ Authorizing the provincial-level Natural Resources and Environment Department of the locality in which the project is implemented to conduct the inspection.

4. Provincial-level Natural Resources and Environment Departments authorized under Point b, Clause 3 of this Article shall:

a/ Inspect the settlement of problems by project owners in reality according to the contents of documents of authorization within twenty (20) working days after receiving these documents;

b/ Make inspection minutes according to the form provided in Appendix 4.9 to this Circular;

c/ Send notices of inspection results, made according to the form provided in Appendix 4.10 of this Circular to authorizing agencies within five (5) working days after obtaining these results.

Chapter 6

ENVIRONMENTAL PROTECTION COMMITMENTS

Article 45. Subjects obliged to make and register written environmental protection commitments; contents of written environmental protection commitments

1. Owners of the following projects, organizations and individuals propose the following production, business or service activities (below collectively referred to as project owners) shall make and register written environmental protection commitments:

a/ Projects of natures, sizes and capacities not specified or below those listed in Appendix II to Decree No. 29/2011/ND-CP; proposals on production, business or service activities not subject to formulation of investment projects but likely to generate wastes;

b/ Projects or proposals on renovation, expansion, upgrading or raising of capacity of operating production, business or service establishments of which written environmental protection commitments have been registered and certified or registrations of attainment of environmental standards have been certified or environmental protection schemes have been approved or certified and for which environmental impact assessment reports are

not required, as specified at Point b, Clause 1, Article 10 of this Circular.

2. For projects or proposals on production, business or service activities which have their written environmental protection commitments already registered but have not yet been put into operation, written environmental protection commitments shall be re-made and re-registered in the following cases:

a/ They are relocated;

b/ They are not implemented within twenty four (24) months after their written environmental protection commitments are registered;

c/ Their sizes or capacities are increased or their technologies change, broadening the scope of impact or increasing adverse impacts on the environment not caused by wastes or the total volume of wastes or generating new kinds of waste or wastes with higher contents of pollutants compared to forecasts in registered written environmental protection commitments but not reaching a level subject to elaboration of environmental impact assessment reports.

Article 46. Dossiers of registration of written environmental protection commitments

1. A dossier of registration of a written environmental protection commitment for a project subject to making of written environmental protection commitments comprises:

a/ Three (3) copies of the written environmental protection commitment, with the cover page and supplementary cover page formats and its structure and content complying with the forms provided in Appendices 5.1 and 5.2 to this Circular;

b/ One (1) investment project (feasibility study report) bearing the signature (with full name and title) of competent representative and the seal (if any) of the project owner.

2. A dossier of registration of a written environmental protection commitment for a proposal on production, business or service activities subject to making of written environmental protection commitments comprises:

a/ Three (3) copies of the written environmental protection commitment, with its structure and content complying with the form provided in Appendix 5.3 to this Circular;

b/ One (1) written proposal on production, business or service activities certified by the signature of a competent representative and the seal (if any) of the production, business or service establishment.

3. For subjects specified at Point b, Clause 1, Article 45 of this Circular, in addition to documents specified in Clause 1 or 2 of this Article, a dossier of registration of a written environmental protection commitment must be enclosed with one (1) copy of the document proving the registration of this written commitment or the certification of the registration for attainment of environmental standards or the environmental protection scheme of the operating production, business or service establishment.

4. For subjects specified in Clause 2, Article 45 of this Circular, in addition to documents specified in Clause 1 or 2 of this Article, a dossier of registration of a written environmental protection commitment must be enclosed with one (1) copy of the document proving the registration of this written commitment of the

project and the previous proposal on production or business activities.

Article 47. Organization of registration of written environmental protection commitments

1. The registration of written environmental protection commitments complies with Articles 31, 32 and 33 of Decree No. 29/2011/ND-CP.

2. Documents of authorization by People's Committees of districts, towns or provincial cities (below collectively referred to as district-level People's Committees) for People's Committees of communes, wards or townships (below collectively referred to as commune-level People's Committees) to organize the registration of written environmental protection commitments shall be made according to the form provided in Appendix 5.4 to this Circular.

3. Notices issued by project owners and owners of production, business or service establishments on non-acceptance of written environmental protection commitments shall be made according to the form provided in Appendix 5.5 to this Circular.

Article 48. Responsibilities of project owners and state agencies after written environmental protection commitments are registered

1. Responsibilities of project owners after their written environmental protection commitments are registered are specified in Article 35 of Decree No. 29/2011/ND-CP and current regulations on environmental protection in the course of project implementation or organization of production or business activities.

2. For the cases specified in Clause 2, Article 45 of this Circular, project owners may organize

the implementation of changed contents only after their written environmental protection commitments are registered.

3. After accepting for registration written environmental protection commitments, authorized district-level or commune-level People's Committees shall:

a/ Issue notices, made according to the form provided in Appendix 5.6 to this Circular to project owners;

b/ Send written environmental protection commitments to related agencies defined in Article 34 of Decree No. 29/2011/ND-CP;

c/ Discharge responsibilities specified in Article 36 of Decree No. 29/2011/ND-CP.

Chapter 7

ORGANIZATION OF IMPLEMENTATION AND IMPLEMENTATION PROVISIONS

Article 49. Organization of implementation

1. Ministries, ministerial-level agencies, government-attached agencies, provincial-level and district-level People's Committees shall make reports on appraisal of strategic environmental assessment reports; appraisal and approval of environmental impact assessment reports, and registration of written environmental protection commitments under Article 38 of Decree No. 29/2011/ND-CP, and according to the forms provided in Appendices 6.1, 6.2, 6.3 and 6.4 of this Circular.

2. The Natural Resources and Environment Ministry shall assign the Vietnam Environment Administration to designate the Department for Environmental Impact Appraisal and Assessment to receive dossiers and act as the

standing body for appraisal of strategic environmental assessment reports and environmental impact assessment reports falling under its appraisal competence; inspect the application of environmental protection works and measures at the stages of investment preparation and construction; receive dossiers and inspect the application of environmental protection works and measures for the operations of projects which have their environmental impact assessment reports approved by the Natural Resources and Environment Minister.

3. State management agencies in charge of environmental protection at all levels shall increase investment in the system of information and data on activities related to strategic environmental assessment reports, environmental impact assessment reports and written environmental protection commitments.

Article 50. Implementation provisions

1. Ministers, heads of ministerial-level agencies and government-attached agencies and chairpersons of People's Committees at all levels shall implement this Circular.

2. This Circular takes effect on September 2, 2011.

The Natural Resources and Environment Ministry's Circular No. 05/2008/TT-BTNMT of December 8, 2008, guiding strategic environmental assessment reports, environmental impact assessment reports and written environmental protection commitments, and Circular No. 13/2009/TT-BTNMT of August 18, 2009, providing the organization and operation of councils for appraisal of strategic environmental assessment reports and

councils for appraisal of environmental impact assessment reports cease to be effective on the effective date of this Circular.

3. Any difficulties or problems arising in the course of implementation of this Circular should be promptly reported to the Natural Resources and Environment Ministry for guidance, study and appropriate amendments or supplements.

All appendices to this Circular are not printed herein.-

*Minister of
Natural Resources and Environment*
PHAM KHOI NGUYEN