

GOVERNMENT SOCIALIST REPUBLIC OF VIETNAM  
No. 175/CP Independence-Freedom-Happiness

Hanoi, 18 October 1994

**GOVERNMENT DECREE**

**on providing Guidance for the Implementation of the Law on  
Environmental Protection**

THE GOVERNMENT

- Pursuant to the Law on Organisation of the Government dated September 30, 1992;
- Pursuant to the Law on Environmental Protection dated December 27, 1993;
- On the proposal of the Minister of Science, Technology and Environment

DECREES:

Chapter I

General Provisions

Article 1:

This Decree shall make detailed stipulations for the implementation of Law on Environmental Protection passed by the National Assembly of the Socialist Republic of Vietnam on December 27, 1993 and announced by Decision No. 29L/CTN dated January 10, 1994 of the President of State.

Article 2:

The Provisions of this Decree are applied to all activities of all Vietnamese organisations, individuals and all foreign organisations and individuals living and working on the territory of the Socialist Republic of Vietnam as prescribed in the Law on Environmental Protection.

Article 3:

Those provisions on environmental protection relating to international relations have to be implemented in accordance with provisions of Law on Environmental Protection with other relevant provisions of the Vietnamese Law and of the international treaties signed or participated by Vietnam.

In the case the provisions of international treaties signed or participated by Vietnam are different from those of this decree, the provisions of those international treaties shall be applied.

Chapter II

Distribution of responsibility of state management on environment protection; responsibility of organisations and individuals for environment protection

Article 4:

1) The Ministry of Science, Technology and Environment undertakes the integrated State management on environmental protection on a nation-wide scale and bears responsibility to organise and direct activities of environmental protection within its functions and duties such as:

- a. To work out and present to the government to promulgate in accordance with its authority the legal documents on environmental protection;
- b. To work out strategies and policies of environmental protection and present them to the Government for promulgation;
- c. To preside over the drafting process, to present documents to the Government for decision and to coordinate in organising implementation of long-term and yearly plans on preventing, resisting and overcoming environmental deterioration, pollution, incidents and on the projects of environmental protection and projects relating to environmental protection.
- d. To organise, construct and manage a general system of experimental observation of the environment;
- e. To access the environmental status quo of the whole country and to periodically report to the Government and the National Assembly on its findings;
- f. To appraise the reports on assessment on environmental effects of the projects and local units as prescribed in Chapter III of this Decree;
- g. To conduct research work and provide guidance of the application of scientific and technological advances in the field of environmental protection; to organise the formation and application of a system of environmental standards; to issue, withdraw certificates acknowledging environmental standards; to organise training courses for environmental scientists and cadres of environmental management and protection;
- h. To provide guidance and to inspect other branches, localities, organisations and individuals on the implementation of the Law on Environmental Protection; to organise environmental inspections; to handle complaints and charges relating to environmental protection within its scope of authority;
- i. To present to the Government all proposals on the participation of international organisations, the signing or participating of international treaties on environmental protection, to carry out activities relating to environmental protection.

2. The Environmental Department bears the responsibility for assisting the Minister of Science, Technology and Environment to perform the function of state management of environmental protection on a nation-wide scale.

The tasks, powers, and organisation of the Environment Department shall be stipulated by the Minister of Science, Technology and Environment.

#### Article 5:

1. The Ministries, Ministerial ranking bodies and offices belonging to the Government, according to their scope of responsibilities and in accordance with the provisions of the Law on Environmental Protection, such as:

- a. To draft and propose the Government to issue in accordance with its authority, the legal documents of environmental protection within their scope of responsibilities and in accordance with the provisions of the Law on Environmental Protection.

To Work out their own strategies and policies of environmental protection in accordance with the general strategy and policy of environmental protection of the whole country.

b. To direct and inspect the implementation of the provisions of the Law, the plans and measures of environmental protection in accordance with the guidance of the Ministry of Science, Technology and Environment within their own branches and the units under their own direct management.

c. To manage their own branches' projects relating to environmental protection.

d. To coordinate in appraising the reports on assessment of environmental effects of the projects, the production, business units in accordance with the provisions in Chapter III of this Decree.

e. To handle the disputes, claims, charges and to propose measures to deal with violations of environmental protection within the authority of the Law.

2. The Ministries, Ministerial ranking bodies, offices belonging to the Government coordinate with the Ministry of Science, Technology and Environment to conduct the following activities:

a. To investigate, observe, study and assess the current environmental situation within their own branches.

b. To draft and present proposals to the Government for decision and to organises the implementation of plans on preventing, resisting and overcoming environmental deterioration, pollution and incidents within their own branches.

c. To study and apply the scientific and technological advances in the field of environmental protection within their own branches.

d. To educate, propagandise and spread the knowledge, laws on environmental protection within their own branches.

Article 6:

1. The People's Committees of provinces and cities under Central Government bear responsibilities for the implementation of state management on environmental protection, such as:

a. To issue, in accordance with their authorities, legal documents of environmental protection in their localities.

b. To direct and inspect the implementation of the state and local regulations on environmental protection within their own localities.

c. To appraise the reports on assessment of environmental effects of the projects and local units as prescribed in Chapter III of this Decree.

d. To issue and withdraw certificates acknowledging environmental standards of the production business enterprises.

e. To coordinate with the Central offices in examining, inspecting and dealing with violations of law on environmental projection in their localities, to remind other organisations and individuals to realise the provisions of Law on Environmental Protection.

f. To receive and handle the disputes, complaints, charges and proposal on environmental protection in their own assigned powers or forward to the authoritative offices for settlement.

2. The provincial Department of Science, Technology and Environment are responsible before the People's Committees of the provinces and cities under Central Government for the implementation of state management environmental protection in their localities.

The tasks, powers and machinery organisation of the provincial Department of Science, Technology and Environment are stipulated by People's Committees of the provinces and cities under Central Government in accordance with the guidance of the Ministry of Science, Technology and Environment.

#### Article 7:

The state offices and mass associations of people bear the following responsibilities in environmental protection:

1. To assure strict implementation, within their offices and associations, of all the regulations of the law, of the Central offices and local authorities on environmental protection.
2. To propagandise and educate so as to raise the sense of responsibility of each member of the offices and associations on environmental protection.
3. Within their own scopes of responsibility and powers to inspect, educate and observe the implementation of the laws on environmental protection, to timely discover and report violations of laws on environmental protection to authoritative offices for settlement.

#### Article 8:

All production and business organisations have to strictly comply with the provisions of laws on:

1. Assessing environmental impact; assuring the correct implementation of environmental standards; preventing, resisting and overcoming environmental deterioration, pollution and incidents.
2. Contributing finance to the cause of environmental protection and compensating for damages resulting from detrimental acts to the environment, as prescribed by law.
3. Providing complete documents and creating favourable conditions for inspecting delegations or inspectors while they are conducting their missions; complying with the decisions of the inspecting delegations or inspectors.
4. Conducting propaganda and educational operations to raise the conscience of cadres and workers in environmental protection; periodically reporting to the offices in charge of state management of environmental protection in their localities on the current situation of environment in their operating areas.

### Chapter III

#### Assessment of environmental impact

#### Article 9:

The investors, project managers or directors of the offices and enterprises ... belonging to the following areas have to conduct assessment of environmental impact:

1. The overall strategies for regional development, strategies and plans for development of provinces and cities under central government, strategies for urban and population development;
2. The economic, scientific, health care, cultural, social, security and defence projects;
3. Projects being carried out on the territory of Vietnam with the funds invested, assisted, granted or contributed by foreign organisations or individuals or international organisations.

4. The projects mentioned in items 1, 2 and 3 of this article being approved before January 10, 1994 but not yet assessed environmental impact as required;

5. The economic, scientific, health care, cultural, security and defence units that have been operating before January 10, 1994.

#### Article 10:

1. The scope for assessing environmental impact includes:

- a. To assess the current situation of the environment in the operating area of the project or unit.
- b. To assess impact occurring to the environment as a result of the activities of the project or unit.
- c. To present measures for environmental resolution.

2. All the contents mentioned in this Article are presented in a form of a separate report called Report of Assessment on Environmental Impact.

#### Article 11:

1. For the objects mentioned in items 1, 2, 3 and 4 of Article 9, the formation of reports of assessment on environmental impacts shall be conducted in two stages: Preliminary and Detailed (the objects exclusively mentioned in item 4 have to make detailed assessment only).

The contents of the report of preliminary assessment on environmental impact are stipulated in Appendix I.2.

2. For the objects mentioned in item 5 of Article 9, the contents of a report of assessment on environmental impact are stipulated in Appendix I.3.

#### Article 12:

1. The methods used to assess environmental impact must be, by their nature, scientific, practical and in accordance with the current international standards.

2. Reports of assessment on environmental impact must be made by offices with adequate professional expertise and facilities.

3. All organisations and units have to use Vietnamese environmental standards to prepare reports of assessment on environmental impact. Those fields whose environmental standards have not been set up, have to get agreement, in the form of documentation, from offices in charge of state management on environmental protection.

#### Article 13:

A dossier for appraising a report of assessment on environmental impact includes:

1. For those objects mentioned in items 1, 2, 3 and 4 of Article 9:

- a. A report of assessment in environmental impact.
- b. Dossier of the project and related appendices.

2. For those objects mentioned in item 5 of Article 9:

a. A report of assessment on environmental impact

b. A report on the current situation of production and business operations and other relevant issues of the unit.

3. All documents in a dossier for appraisal are made in 3 copies.

For the objects mentioned in item 3 of Article 9, the documents should be made in Vietnamese.

Article 14:

1. The work of appraising report of assessment on environmental impact by ongoing projects and operating units is separated into two levels:

a. The Ministry of Science, Technology and Environment shall appraise the Central level. In certain cases, the Ministry of Science, Technology and Environment can empower a special branch to conduct the appraisal;

b. The local level shall be appraised by the provincial Departments of Science, Technology and Environment.

2. The Ministry of Science, Technology and Environment is responsible for presenting the Government a list of projects whose reports of assessment on environmental impacts should be introduced to the National Assembly for consideration.

Article 15:

1. The offices assigned with State management of environmental protection are responsible for appraising reports of assessment on environmental impact.

2. In case of necessity, an Appraising Council shall be set up.

a. The Ministry of Science, Technology and Environment shall decide the establishment of an Appraising Council on the Central level.

b. The chairmen of the People's Committees of the provinces and cities under Central Government will decide the establishment of Appraising Councils at the provincial level.

3. The composition of an Appraising Council includes scientists, managing officials, possibly the representatives of social organisations and ordinary people. The number of Council members cannot exceed 9.

Article 16:

The period of time for appraising a report of assessment on environmental impact can not be longer than 2 months from the date all related documents are received.

For the objects mentioned in item 3 of Article 9 the period of time for appraisal must be in harmony with the period of time prescribed for issuing investment licenses.

Article 17:

Offices assigned with state management of environmental protection are responsible for the supervision of design and conducting measures to protect the environment according to the suggestions of the Appraising Council.

#### Article 18:

In case they do not agree with the conclusion of the Appraising Council, the investors, project managers of directors of the enterprises, units, etc. ... have a right to make complaints to the office which decided the establishment of the Appraising Council and to the upper-levelled office assigned with state management of environmental protection.

The complaints have to be considered and resolved in a maximum period of 3 months since the date of the complaints are received.

#### Article 19:

For those objects mentioned in Article 9 of this Decree being controlled by the Ministries of Defence and Interior, the Ministers of Defence and Interior shall conduct the making and appraising reports of assessment on environmental impacts on accordance with the guidance of the Ministry of Science, Technology and Environment.

#### Article 20:

1. For the objects mentioned in item 5 Article 9 of this Decree, the making and appraising reports of assessment on environmental impact must be conducted step by step and within a fixed time according to the guidance of the Ministry of Science, Technology and Environment.

2. The results of the appraisals over reports of assessment on environmental impact of the operating enterprises and units are classified into the 4 following categories for settlement:

- a. Being permitted to continue its operations without environmental penalty;
- b. Having to invest in building facilities to deal with the waste materials;
- c. Having to change the technology, to move to other place'
- d. Having to suspend its operations.

#### Chapter IV

Preventing, resisting and overcoming environmental deterioration, pollution and incidents.

#### Article 21:

The utilisation and exploitation of national gardens, natural preservation areas, areas of historical and cultural values relics, natural scenery, etc. ... must be permitted by the management body of the concerned branch. Before issuing licenses, the management body of concerned branch has to obtain agreement (in writing) from the state management office for environmental protection.

After receiving documents permitting utilisation and exploitation, the organisations or individuals whose names are recorded in the licenses, have to conduct registration procedures with the local authorities who directly control the above-mentioned preservation areas.

In a license, the following contents must be clearly recorded: The object and scope being granted for utilisation, the purpose and duration of exploitation, the precautions and measures for environmental protection during exploitation.

Article 22:

The organisations and individuals conducting operations relating to the environment have to comply with environmental standards.

The kinds of Vietnamese environmental standards include:

1. Environmental standards for land protection;
2. Environmental standards for water protection;
3. Environmental standards for air protection;
4. Environmental standards to regulate noise pollution;
5. Environmental standards in the field of radiation and ionisation;
6. Environmental standards for environmental protection in residential areas;
7. Environmental standards for environmental protection in production areas;
8. The standards for environmental assessment in the field of forestry protection;
9. The standards for environmental assessment in the field of protection of biological systems;
10. The standards for environmental assessment in the field of protection of ecological systems;
11. Environmental standards for protection of the sea and oceans;
12. Environmental standards for the protection of natural preservation areas and natural landscapes;
13. Environmental standards in the field of planning for industrial, urban and civil constructions;
14. Environmental standards concerning the transportation, storage and utilisation of toxic and radioactive materials;
15. Environmental standards in the exploitation of surface and underground mines;
16. Environmental standards for motorised transportation;
17. Environmental standards for establishments using micro-organisms;
18. Environmental standards for environmental protection of tourist areas;
19. Environmental standards in the field of export and import;
20. Environmental standards for hospitals and special illness-treatment areas.

The Ministry of Science, Technology and Environment shall coordinate with the related ministries and branches in preparing and issuing on standards on the above list.

#### Article 23:

All organisations and individuals when exporting or importing species of animals, vegetation (including seeds), micro-organisms and gene sources must have permission from the management body of the concerned branch and the office for state management of environmental protection and must also obtain certificates of epidemic tests from an authoritative office for epidemic control in Vietnam. When these organisations and individuals discover that the objects defined in the licenses are likely to pose a danger by causing epidemic diseases to human beings, cattle, poultry or by causing environmental pollution or deterioration, they have to urgently report to the nearest local authority office for State management of environmental protection to enable immediate measures to deal with the problem by confinement or eliminations, to be taken.

For precious and rare animals, and vegetation as defined in "Convention on International Trade of Endangered Species" (CITES) all organisations and individuals have to strictly comply with the Law on Forestry and Protection and Development and the Ordinance on Protection of Aquatic Resources. The list of sorts and species of those objects mentioned in this article are released by the Ministry of Forestry (Appendix III), the Ministry of Fisheries, the Ministry of Agriculture and Foodstuff Industry.

#### Article 24:

Any organisations and individuals wishing to export or import toxic chemicals have to obtain permission from the management body of the concerned industries and the State management body for environmental protection and also must strictly comply with current Vietnamese standard.

In applications, the exact purpose of the utilisation, quantity, and special technical characteristics, composition, formula (if available), commercial name, the name of the company which produced it and the name of the country where it was proceed must be made clear. These organisations and individuals have to export or import the exact types and amounts as defined in the licenses.

In case the above-mentioned materials and products' usefulness has expired, thus requiring disposal, their owners must reveal the amounts of waste, special technical characteristics and the disposal technology clearly, and the disposal process must be supervised by the body for state management of environmental protection and the empowered office of public security.

With chemicals of vegetation protection, they have to strictly comply with the Ordinance on Vegetation Protection and Epidemic Control.

#### Article 25:

The imports of complete equipment and technology as required by projects and joint ventures can only be conducted after economic-technical justifications have been approved together with the appraisal conclusion on reports of assessment on environmental impacts of the projects made by the body for state management on environmental protection.

For the important separate equipment of environmental protection, when considering them necessary, the body for the state management on environmental protection shall consider and grant permission for importing.

The distribution of power to different levels to grant licenses for this kind of operation shall be as follows:

- The Ministry of Science, Technology and Environment shall issue import licenses to those projects and joint ventures approved by the State Council of Appraisal.

- The provincial Department of Science, Technology and Environment shall issue licenses for the remaining cases in accordance with the guidance of the Ministry of Science, Technology and Environment.

Article 26:

1. All transportation means operating on land, railway and water surface are not allowed to emit smoke, dust, oil and gas containing toxins surpassing the defined standards into the surrounding environment (Appendix IV). For the above mentioned transportation means, if they are imported into Vietnam after the Law on Environmental Protection came into effect, they have to meet the requirements of waste standards before being operated.
2. For all engine-transportation means, when their owners operate them, they have to ensure that the noise level does not surpass the stipulated levels (Appendices V1, V2, V3, V4).
3. For the transportation means being granted permission to operate before the effective date of the Law on Environmental Protection, their owners have to apply technical alterations to minimise the amounts of smoke and toxic waste emitted into the environment. From April 1, 1995 all motorised transportation means operating in urban areas have to guarantee that the smoke levels emitted does not exceed 60 Hartridge units, they are not allowed to emit the above-mentioned substances causing environmental pollution, nor cause noise surpassing the permitted levels.

Any means of transportation failing to reach the above-mentioned standards shall be suspended from operation.

4. The owners of engine-transportation means if passing hospitals, sanatoria, schools and densely populated residential areas at rest time (noon) and after 22.00 hours are not allowed to use horns.

The Ministry of Transportation and Communications is responsible for organising the examination and issue of licenses for transportation means, acknowledging their satisfaction of environmental standards.

Article 27:

All production and business establishments, hospitals, hotels, restaurants, etc. ... having discharged substances in forms of solid, liquid and gas have to organise the treatment so as to reach environmental standards before discharging out of the management scope of their establishments, the technologies for treatment of the above-mentioned discharged substances have to be approved by the authoritative body of state management.

2. Everyday, discharged substances in urban and industrial areas have to be collected, transported, and treated in accordance with regulations on management of discharged substances.
3. Discharged substances containing toxic chemicals which are hard to dissolve have to be treated by a separate technology instead of being discharged into areas for daily life discharged substances.

Article 28:

1. The import and export of discharged substances containing toxic elements or pathogenic microbes possibly causing environmental pollution are prohibited.
2. The Ministry of Science, Technology and Environment shall provide guidance for all branches and localities to make the lists of secondary and waste materials which satisfy the standards of environmental hygiene and therefore are allowed to import as production materials so as to present them to Prime Minister of the Government for decision.

#### Article 29:

From January 1st 1995, the production, transportation, trading, storage and use of all kinds of crackers are prohibited on the whole territory of Vietnam.

The Government shall make stipulations about production and use of fireworks on some special holidays and festivals.

#### Article 30:

1. The Ministry of Science, Technology and Environment shall submit to the Prime Minister of the Government the specially serious cases of environmental incidents and propose the urgent measures of treatment for the Prime Minister to Decide.

2. The specially serious cases of environmental incidents are those causing immense and serious damages to:

- a. Lives and properties of several people.
- b. Economic, social, security and national defence establishments.
- c. Widespread area of many provinces' and cities' territory.
- d. Area of international influence.

3. The Minister of National Defence and the interior will organise a specialised force to act as the key instrument in coping with environmental problems.

The Ministry of Science, Technology and Environment working together with the Ministries of National Defence and Interior and related ministries and branches will work out the plan to form this force and submit the plan to the Prime Minister of the Government for his/her decision.

#### Article 31:

The payment of costs in overcoming environmental incidents for organisations and individuals that are mobilised shall be conducted on the principle of agreement between the mobilised organisations, individuals and with the authority to mobilise.

The Ministry of Finance shall make detailed stipulations for this kind of payment.

#### Chapter V

The financial sources for the task of environmental protection.

#### Article 32:

The financial sources for the task of environmental protection include:

1. The State budget allocation for activities of environmental protection, for the tasks of scientific research and state management on environmental protection;
2. Fees of appraisals over assessment reports on the environmental impacts of socio-economic projects; fees of environmental protection contributed in accordance with the detailed stipulations of the Ministry of Finance by organisations and individuals who utilise environmental components for the purposes of production and business.

3. Other sources (such as fines charged on administrative violations, funds contributed by any socio-economic organisations).

Article 33:

The Government shall establish a National Reserve Fund for dealing with environmental deterioration, pollution and incidents. This Fund will be used to cope with emergency cases of environmental incidents, pollution and deterioration.

The financial sources for the above-mentioned Fund includes money extracted from the State Budgets, contributions from different enterprises (including joint ventures with foreigners), contributions by organisations and individuals in and outside of Vietnam, to activities of environmental protection in Vietnam.

The Ministry of Science, Technology and Environment and the Ministry of Finance will work out management regulations and use of this Fund.

Article 34:

All organisations and individuals who conduct production and business operations in the following fields or with the following objects have to pay fees for environmental protection:

- Exploiting oil, gas or other mineral resources;
- Airports, seaports, bus stations, railway stations;
- Motorised transportation;
- Other fields of production and business causing environmental pollution.

Foreign organisations and individuals conducting production and business operations which cause environmental pollution have to pay environmental protection fees.

The fee level depends on the harmful level possibly caused to the environment by production and business operations.

The Ministry of Science, Technology and Environment and the Ministry of Finance shall provide detailed guidance on collection and use of environmental protection fees.

Article 35:

The financial sources for the task of environmental protection shall be spent annually on the following articles:

1. Basic surveys on environmental elements, especially of land, water, air, forest, sea and related activities ....
2. Surveys on situations of environmental pollution in big provinces and cities, industrial areas, dense residential areas, water areas of ongoing exploitation ....
3. Measures of environmental protection, restoration and improvement and of management of discharged substances (especially toxic ones) in cities and industrial areas;

4. Projects of preservation and restoration of ecological systems having important meaning to the sustainable socio-economic development and biological diversity (including national gardens, protected natural reserves, the ecological systems of submerged land in river estuaries and coast lines, the ecological systems of salt-marsh forests, submerged coral reefs, rare and precious species of creatures, protection of gene resources ....)

5. Basic construction of necessary facilities for environmental protection.

Article 36:

The Ministry of Science, Technology and Environment and the Ministry of Finance shall make stipulations on the collection, payment and management of finance and properties in operations of environmental protection in accordance with the existing regime of management.

Chapter VI

Inspection of environmental protection

Article 37:

The Ministry of Science, Technology and Environment bears responsibility before the Government to organise and conduct the implementation of professional inspection on environment protection, with the following duties:

1. To inspect the activities of environmental protection of all ministries and branches and the performance of state management in environmental protection of the People's Committees of different levels in their localities.
2. To inspect the compliance with provisions of the Law on Environmental Protection: standards, regulations on preventing, resisting and overcoming environmental deterioration, pollution and incidents when utilising and exploiting environmental components by organisations and individuals.

Article 38:

The organisation, power and scope of activities of professional inspection on environmental protection will be unanimously stipulated by the Minister for Science, Technology and Environment and the State's General Inspector in accordance with provisions of the Law on Environmental Protection and the Ordinance on Inspection.

Chapter VII

Provisions for implementation

Article 39:

This Decree shall come into effect from the signing date. All previously issued regulations which are contrary to this Decree shall be hereby repealed.

Article 40:

All Ministries, Heads of Ministerial ranking bodies, Heads of Offices belonging to the Government; Chair people of the People's Committees of provinces and cities under Central authorities are responsible for providing detailed guidance, according to their functions and powers, for the implementation of this decree.

On behalf of the Government

The Prime Minister  
Signed VO VAN KIET