

THE GOVERNMENT

No.: 127/2014/NĐ-CP

THE SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

Ha Noi, 31 December 2014

DECREE

REGULATING THE REQUIREMENTS APPLICABLE TO ENVIRONMENTAL MONITORING SERVICE ACTIVITIES

Pursuant to the Law on Organization of the Government dated 25 December 2001;

Pursuant to Environmental Protection Law dated 23 June 2014;

Pursuant to Corporate Law dated 29 November 2005;

Pursuant to Trade Law dated 14 June 2005;

Pursuant to the Law on Science and Technology dated 18 June 2013;

As requested by the Minister of Natural Resources and Environment;

The Government hereby promulgates this Decree to regulate the requirements for organizing environmental monitoring service activities.

Chapter I

GENERAL PROVISIONS

Article 1. Governing scope

This Decree regulates the requirements for environmental monitoring service activities; required documents and procedure for the issuance, validity extension, business scope amendment, re-issuance, temporary validity suspension, revocation and cancellation of the Environmental Monitoring Services Certificate.

Article 2. Applicable subjects

This Decree is applicable to environmental management agencies, companies organizing environmental monitoring services (hereafter referred to as “organizations”) in the territory of S.R. Vietnam.

Article 3. Definition of terminology

The terms herein and hereunder are interpreted as follows:

1. Environmental monitoring activities include field/ site monitoring activities and environmental analyses.
2. Field/ site monitoring activities include sampling, measurement, testing and parameter analyses right on the site or sample protection and transportation to laboratories for analyses.
3. Environmental analysis activities include sample processing and parameter analyses in laboratories.
4. Organization of environmental monitoring services include the following:
 - a) Company establishment in accordance with the Corporate Law;
 - b) Scientific and technological organizations established under the Law on Science and Technology;
 - c) Non-income generating environmental organizations will be established and operated in conformity with governmental Decree No. 55/2012/ND-CP dated 28 June 2012 which regulates the establishment, re-structuring and/or dissolution of non-income generating public units.

Chapter II

REQUIREMENTS FOR ELIGIBILITY FOR ENVIRONMENTAL MONITORING SERVICE LICENSING

Article 4. Environmental monitoring service certificate

1. Environmental monitoring service certificate will be granted to an organization that carries out field/ site monitoring activities once it meets the requirements defined in Article 8 herein.
2. Environmental monitoring service certificate will be granted to an organizations that carries out environmental analyses once they meet the requirements defined in Article 9 herein.
3. An environmental monitoring service certificate will be valid for 36 months since the issuance date and may be extended multiple times, not over 36-month validity each.

Article 5. Content of the Certificate

1. An environmental monitoring service certificate contains the following key information:
 - a) Name of organization, address, the leader;
 - b) Field and scope of activities indicated in the Certificate;

c) Issuance date and validity of the Certificate;

d) Issuing authorities.

2. The template of Environmental Monitoring Service Certificate is specifically regulated by the Ministry of Natural Resources and Environment.

Article 6. Competence of related governmental authorities regarding evaluation of eligibility for environmental monitoring services; issuance, validity extension, business scope modification, re-issuance, temporary validity suspension, revocation and cancellation of an environmental monitoring service Certificate

1. The Ministry of Natural Resources and Environment is entitled to grant, extend, modify the business scope, re-issue, temporarily suspend the validity of, revoke and cancel the environmental monitoring service certificates.

2. The Ministry of Natural Resources and Environment will promulgate detailed regulations on the evaluation of eligibility for environmental monitoring services as defined in Articles 8 and 9 herein.

The Ministry of Natural Resources and Environment will promulgate detailed regulations on the evaluation of the requirements for environmental monitoring services as defined in Articles 8 and 9 herein.

Article 7. Fees and charges for environmental monitoring service licensing

1. An organization requesting for environmental monitoring service licensing shall pay the evaluation fee regarding eligibility for environmental monitoring services and an additional fee in case of being granted with an environmental monitoring service Certificate, having the Certificate extended, modified on business scope and re-issued in accordance with related laws.

2. The Ministry of Finance, taking the lead, will cooperate with the Ministry of Natural Resources and Environment to stipulate the evaluation fees regarding eligibility for environmental monitoring services and the fees for issuing, extending the validity of, modifying the business scope of and re-issuing the environmental monitoring service Certificates in accordance with related laws.

Article 8. Requirements for eligibility for environmental monitoring service Licensing with regard to site/ field monitoring

An organization eligible for environmental monitoring service Licensing in the field of site/ field monitoring shall meet the following requirements:

1. Granted with company establishment Decision or scientific and technological activity Certificate or business registration Certificate or investment Certificate issued by the competent governmental authorities, which covers environmental monitoring activities.

2. Eligible in terms of personnel for carrying out environmental monitoring activities as detailed hereunder:

- a) The organization leader holds university degree or higher;
- b) Adequate work force to carry out site/ field environmental monitoring activities with regard to the environmental components and monitoring parameters to be certified;
- c) Assigned leader of the site/ field environmental monitoring team who holds university degree or higher and specializing in either environment, chemistry, biology, forestry, pedology, nuclear physics, radiation, geography or geology and has at least 24-month experiences in environmental monitoring;
- d) The site/ field monitoring operators will be accordingly qualified at primary level, holding the primary monitoring rank on natural resources; not over 30% of whom are at primary level.

3. Eligible in terms of equipment, monitoring methodology and material facilities to carry out the site/ field environmental monitoring activities as regulated hereunder:

- a) Adequate equipment, utilities and chemicals for on-site sampling, sample protection and measurement, testing, analyses of environmental monitoring parameters of the environmental components to be certified, with guaranteed precision and in accordance with the methodology regulated by the Ministry of Natural Resources and Environment;
- b) Available process for equipment protection, safe use, maintenance, inspection and calibration in accordance with the regulations of the competent governmental authorities or manufacturers;
- c) Available process for sampling equipment use and/or operation, on-site sample protection and measurement, testing and/or analyses;
- d) Well-equipping the workers with labor protection and safety utilities for their on-site monitoring work;
- dd) Established office and adequate particular area to ensure the quality of on-site monitoring work and management of monitoring data and/or results.

Article 9. Requirents for eligibility for environmental monitoring service Licensing with regard to environmental analysis

An organization eligible for environmental monitoring service Certification in the field of environmental analysis shall meet the following regulated requirements:

- 1. Granted with company establishment Decision or scientific and technological activity Certificate or business registration Certificate or investment Certificate issued by the competent governmental authorities, which covers environmental monitoring activities.

2. Eligible in terms of personnel for carrying out environmental analysis activities as detailed hereunder:

- a) The organization leader holds university degree or higher;
- b) Adequate work force to carry out environmental analysis activities with regard to the environmental components and analysis parameters to be certified;
- c) The laboratory manager holds university degree or higher, majoring in either chemistry, environment, biology, pedology, nuclear physics, radiation, geography or geology and has at least 5-year, 3-year, 2-year experiences in case of university, master degree, doctorate degree holder, respectively, in environmental analysis;
- d) The leader of the environmental analysis team holds a degree at least higher than university degree, majoring in either chemistry, environment, biology, pedology, nuclear physics, radiation, geography or geology and has at least 18-month experiences in the environmental analysis fields to be certified or is capable of proficient use of at least one specialized equipment of the laboratory.
- dd) The staff in charge of quality and quality control of the laboratory holds university degree or higher, majoring in either chemistry, environment, biology, pedology, nuclear physics or radiation and has at least 3-year experiences in environmental analysis;
- e) The laboratory analyst, except the laboratory manager, leader of the analysis team and the staff in charge of quality and quality control are all qualified at intermediate level or higher, trained on the environmental analysis fields to be certified.

3. Eligible in terms of equipment, methodology and material facilities to carry out environmental analysis activities as detailed hereunder:

- a) Adequate equipment, utilities and chemicals to carry out sample processing, environmental parameter analyses related to the environmental components to be certified, with guaranteed precision and following the analytical method as regulated by the Ministry of Natural Resources and Environment;
- b) Available process for analytical equipment protection, safe use, maintenance, inspection and calibration in accordance with the regulations of the competent governmental authorities or manufacturers;
- c) Available process on the use and/or operation of all environmental analytical equipment;
- d) Well-equipping the environmental analysts with labor protection and safety utilities;
- dd) Available process on the protection and/or use of chemicals, measurement-based samples, standard samples and the process for analytical sample processing and/or storage in accordance with the regulations issued by the competent governmental authorities or manufacturers;

e) Established office, with adequate particular area to ensure the quality of environmental analyses and proper maintaining of laboratory ambient conditions (lighting, power source, moisture, temperature, sterilization, ventilation) in accordance with the analysis methodology regulated by the competent governmental authorities or manufacturers;

g) Available measures related to industrial hygiene, fire safety and extinguishment, and strict adherence to laboratory waste collection, management and treatment in accordance with related legal regulations.

Article 10. Modification of environmental monitoring service activities

1. In case of any modification related to the requirements stated in Article 8 and 9 herein, related organization shall notify the Ministry of Natural Resources and Environment in writing within 60 days since the modification day.

2. Within 15 working days since the receiving date of the written notification sent by related organization, the Ministry of Natural Resources and Environment will consider the case; in case the organization can no longer meet the regulated requirements, the issued Certificate will be revoked and/or cancelled as defined in Clause 2 of Article 16 herein.

Chapter III

ISSUANCE, VALIDITY EXTENSION, CONTENT MODIFICATION, RE-ISSUANCE, TEMPORARY SUSPENSION, REVOCATION AND CANCELLATION OF AN ENVIRONMENTAL MONITORING SERVICE CERTIFICATE

Article 11. Certification for eligible environmental monitoring service activities

1. An organization that wishes to involve in environmental monitoring service activities shall carry out the application procedure for environmental monitoring service Certificates.

2. The application document for environmental monitoring service Certificate shall be made in 2 sets, each includes the following:

a) 01 original of the application for environmental monitoring service Certificate as per Form No. 1 in the Appendix attached herewith;

b) 01 original company profile as per Form No. 2 in the Appendix attached herewith.

3. Procedure on environmental monitoring service certification:

a) An organization applying for the Certificates shall submit the document as stated in Clause 2 of this Article, by hand deliver or post, to the Ministry of Natural Resources and Environment;

b) Within 3 working days since the receiving date of the application document, the Ministry of Natural Resources and Environment will send an acknowledgment letter to the organization

applicant by post in case the document is adequate as regulated. In case the document is inadequate or ineligible, the Ministry of Natural Resources and Environment shall notify such to the organization for their supplementation;

c) Within 45 working days since the receiving date of the application document and appraisal fee regarding eligibility for environmental monitoring services, the Ministry of Natural Resources and Environment shall appraise and/or issue the environmental monitoring service Certificate to the organization applicant. The appraisal includes application review, evaluation, actual inspection at the organization applicant's premises;

d) In case of rejecting the issuance of the environmental monitoring service Certificate, the Ministry of Natural Resources and Environment shall notify the organization applicant in writing with clear reasons;

dd) The application document for environmental monitoring service certification shall only be valid for 6 months, since the date it is submitted. In case 6-month time is over, the organization that applies for, requests for validity extension, modification of the certificate content and/or re-issuance of the Certificate shall re-submit with a new application document.

Article 12. Extension of an environmental monitoring service Certificate

1. An organization that wishes to extend the validity of the environmental monitoring service Certificates shall submit the validity extension request document 3 months before the Certificate becomes invalid.

2. The request document for validity extension of the environmental monitoring service Certificate shall be made in 2 sets, each includes the following:

a) 01 original request letter for validity extension of the environmental monitoring service Certificate as per Form No. 3 in the Appendix attached herewith;

b) 01 original company profile as per Form No. 2 in the Appendix attached herewith.

3. Procedure on validity extension for environmental monitoring service certificates:

a) The organization requesting for validity extension for the Certificate shall submit the document as stated in Clause 2 of this Article, by hand deliver or post, to the Ministry of Natural Resources and Environment;

b) Within 3 working days since the receiving date of the document, the Ministry of Natural Resources and Environment will send an acknowledgment letter to the requesting organization by post in case the document is adequate as regulated. In case the document is inadequate or ineligible, the Ministry of Natural Resources and Environment shall notify such to the organization for their supplementation;

c) Within 30 working days since the receiving date of the document and appraisal fee regarding eligibility for environmental monitoring services, the Ministry of Natural Resources and Environment shall appraise and/or extend the validity of the environmental monitoring service Certificate to the organization applicant. The appraisal includes application review, evaluation, actual inspection at the organization's premises;

d) In case of rejecting the extension of the environmental monitoring service Certificate's validity, the Ministry of Natural Resources and Environment shall notify the requesting organization in writing with clear reasons;

Article 13. Modification of the content of an environmental monitoring service Certificate

1. An organization involving in environmental monitoring services, that wishes to modify the field and/or scope of their on-site environmental monitoring and analyses indicated in the issued Certificate or its company is incorporated and/or merged, shall carry out the procedure to modify its environmental monitoring service Certificate if it is still in demand for continuing the environmental monitoring service activities.

Content of an environmental monitoring service Certificate shall not be entitled to modification if the Certificate is still valid for 6 months.

2. The document requesting for modification of the environmental monitoring service Certificate shall be made in 2 sets, each includes the following:

a) 01 original letter of request for modifying the content of the environmental monitoring service Certificate as per Form No. 4 in the Appendix attached herewith;

b) 01 original company profile as per Form No. 2 in the Appendix attached herewith.

3. Procedure for modifying the environmental monitoring service Certificate:

a) An organization requesting for modification of the Certificates shall submit the document as stated in Clause 2 of this Article, by hand deliver or post, to the Ministry of Natural Resources and Environment;

b) Within 3 working days since the receiving date of the document, the Ministry of Natural Resources and Environment will send an acknowledgment letter to the organization requesting for Certificate content modification by post in case the document is adequate as regulated. In case the document is inadequate or ineligible, the Ministry of Natural Resources and Environment shall notify such to the organization for their supplementation;

c) Within 30 working days since the receiving date of the document and appraisal fee regarding eligibility for environmental monitoring services, the Ministry of Natural Resources and Environment shall apprais and/or modify the content of the concerned environmental monitoring service Certificate. The appraisal includes application review, evaluation, actual inspection at the organization's premises;

d) In case of rejecting the modification of the environmental monitoring service Certificate, the Ministry of Natural Resources and Environment shall notify the organization applicant in writing with clear reasons;

Article 14. Re-issuance of an environmental monitoring service Certificate

1. An environmental monitoring service Certificate shall be considered for re-issuance in the following cases:

a) The Certificate is lost;

b) The Certificate is damaged by tear and wear and become unusable.

2. Required request document for re-issuance of the environmental monitoring service Certificate

a) In case an application document for environmental monitoring service certification submitted by an organization to the Ministry of Natural Resources and Environment is still valid (within 6-month period since the date the acknowledgment letter is issued), such organization will prepare and submit 01 original letter of request for re-issuance of the environmental monitoring service Certificate as per Form No. 5 in the Appendix attached herewith; a certified true copy of the issued Certificate (if any);

b) In case an application document for environmental monitoring service certification submitted by an organization to the Ministry of Natural Resources and Environment is no longer valid (over 6 months since the date the acknowledgment letter is issued), such organization shall prepare 2 sets of document, each includes: 01 original letter of request for re-issuance of the environmental monitoring service Certificate, 01 original company profile as per Forms No. 5, No. 2 in the Appendix attached herewith, respectively; and a certified true copy of the issued Certificate (if any).

3. Procedure for re-issuing an environmental monitoring service Certificate:

a) An organization requesting for re-issuance of a granted Certificate shall submit the document as regulated in Clause 2 of this Article, by hand deliver or post, to the Ministry of Natural Resources and Environment;

b) Within 5 working days since the receiving date of the organization's letter of request for Certificate re-issuance as stated in Point a of Clause 2 of this Article and the appraisal fee regarding eligibility for environmental monitoring services, the Ministry of Natural Resources and Environment shall appraise and/or re-issue the environmental monitoring service Certificate to the requesting organization. The appraisal shall regard consideration of the organization's submitted document.

c) Within 5 working days since the receiving date of the organization's document as defined in Point b of Clause 2 of this Article, the Ministry of Natural Resources and Environment shall send an acknowledgment letter to the requesting organization by post in case the document is

adequate as regulated. In case the submitted document is inadequate or ineligible, the Ministry of Natural Resources and Environment shall notify such to the organization for their document refining. Within 20 working days since the receiving date of the document and appraisal fee regarding eligibility for environmental monitoring services, the Ministry of Natural Resources and Environment shall appraise and/or re-issue the environmental monitoring service Certificate to the requesting organization;

d) In case of rejecting the re-issuance of the environmental monitoring service Certificate, the Ministry of Natural Resources and Environment shall notify the requesting organization in writing with clear reasons;

dd) In case an environmental monitoring service Certificate is lost, and the related organization is re-issued with another Certificate but the lost Certificate is found afterwards, the organization shall submit the found Certificate to the Ministry of Natural Resources and Environment.

Article 15. Temporary suspension of the Certificate's validity

An environmental, monitoring service Certificate shall be temporarily suspended in the following cases:

1. The related organization involves improperly in environmental monitoring activities in terms of licensed business scope and/or field;
2. The related organization makes improper use of its environmental monitoring service Certificate;
3. The related organization fails to adhere to the regulations stated in the Certificate;
4. The related organization fails to adhere strictly and adequately to technical regulations on environmental monitoring processes and/or methodology as stipulated by the Ministry of Natural Resources and Environment; it fails to maintain the quality assurance and control plan for environmental monitoring.

Article 16. Revocation, cancellation of the environmental monitoring service Certificate

An environmental monitoring service Certificate shall be revoked and/or cancelled in the following cases:

1. The related organization is prohibited from operation, announces its bankruptcy status, is dissolved, splitted;
2. The related organization fails to meet one of the requirements defined in Articles 8 and 9 herein;
3. The related organization fails to adhere strictly and adequately to the technical regulations on environmental monitoring processes and/or methodology as stipulated by the Ministry of Natural

Resources and Environment; it fails to maintain the quality assurance and control plan for environmental monitoring.

Chapter IV

IMPLEMENTATION

Article 17. Effect

1. This Decree takes enforcement effect as of 15 February 2015. It supersedes governmental Decree 27/2013/ND-CP dated 29 March 2013 regulating the requirements applicable to environmental monitoring service organizations.
2. Application documents for environmental monitoring service certification which have been submitted to the Ministry of Natural Resources and Environment before this Decree is enforced shall be processed in accordance with the then legal regulations by the submission time.
3. The certificates already issued in conformity with Decree No. 27/2013/ND-CP shall remain their value, unless they are extended, modified on the content and/or re-issued as regulated in Articles 12, 13 and 14 herein.

Article 18. Responsibilities

1. The Ministry of Natural Resources and Environment shall give guidance, arrange the enforcement and inspection on the enforcement of this Decree; intra vires settle entanglements incurred during the implementation of the Decree
2. The Ministers, Head of Ministerial-level agencies, governmental agencies, Chairmen of People's Committees at various levels and related organizations shall execute this Decree.

**FOR THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung

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