

## THE GOVERNMENT

### DECREE No. 121/2004/ND-CP OF MAY 12, 2004 ON SANCTIONING OF ADMINISTRATIVE VIOLATIONS IN THE FIELD OF ENVIRONMENTAL PROTECTION

#### THE GOVERNMENT

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

*Pursuant to the December 27, 1993 Law on Environmental Protection;*

*Pursuant to the July 2, 2002 Ordinance on Handling of Administrative Violations;*

*At the proposal of the Minister of Natural Resources and Environment,*

#### DECREES:

##### Chapter I

#### GENERAL PROVISIONS

##### **Article 1.- Regulation scope**

1. This Decree prescribes acts of administrative violation in the field of environmental protection, the sanctioning forms, levels, competence and procedures and the remedial measures.

2. Administrative violations in the field of environmental protection mean acts of violating the regulations on State administration in the

field of environmental protection, intentionally or unintentionally committed by individuals or organizations, which are not crimes but must be administratively handled under the provisions of the Ordinance on Handling of Administrative Violations and this Decree.

3. Administrative violations in the field of environmental protection, prescribed in this Decree, include:

a) Violation of regulations on environmental standard registration, environmental impact evaluation reports and other regulations on environmental protection;

b) Violation of regulations on environmental pollution, depletion and incident prevention and combat.

4. Acts of administrative violation on environmental protection prescribed in other decrees of the Government (hereinafter referred to as relevant decrees) shall comply with the provisions of such decrees.

##### **Article 2.- Sanctioned subjects**

1. Vietnamese individuals and organizations that commit acts of administrative violations in the field of environmental protection shall all be sanctioned according to the provisions of this Decree and the relevant decrees.

2. Foreign individuals and organizations that commit acts of administrative violation in the field of environmental protection within the territory, exclusive economic zone and continental shelf of the Socialist Republic of Vietnam shall all be sanctioned like Vietnamese individuals and organizations according to the provisions of this

Decree and the relevant decrees, except for cases where the international agreements which the Socialist Republic of Vietnam has signed or acceded to otherwise provide for.

3. Individuals being minors who commit acts of administrative violation in the field of environmental protection shall be sanctioned according to the provisions in Article 7 of the Ordinance on Handling of Administrative Violations.

**Article 3.- Sanctioning principles**

1. All acts of administrative violation in the field of environmental protection must be detected and sanctioned in time and immediately stopped.

The sanctioning must be conducted in a swift, just, fair and thorough manner; all environmental consequences caused by administrative-violation acts must be addressed strictly according to the provisions of law.

2. Individuals and organizations shall be sanctioned for administrative violations in the field of environmental protection only when they commit violation acts prescribed in this Decree and other decrees of the Government prescribing the sanctioning of administrative violations related to environment.

3. An act of administrative violation in the field of environmental protection shall be administratively sanctioned only once.

A person or an organization, that commits many acts of administrative violation in the field of environmental protection, shall be sanctioned for each of those violation acts.

If many persons or many organizations, that jointly commit an act of administrative violation in the field of environmental protection, each violating person or organization shall be sanctioned.

4. The sanctioning of administrative violations in the field of environmental protection must be based on the nature and seriousness of the violations, the personal records of the violators as well as the extenuating and/or aggravating circumstances in order to decide on appropriate handling forms and measures.

5. Sanctions shall not be imposed on administrative violations in the field of environmental protection, which are committed in cases of emergency circumstances, unexpected incidents or on administrative violations committed by individuals who suffer from mental diseases or other ailments which deprive them of the capacity to cognize or control their acts.

**Article 4.- Extenuating circumstances and aggravating circumstances**

The extenuating circumstances and aggravating circumstances applicable in the sanctioning of administrative violations to violation acts prescribed in Chapter II of this Decree shall comply with the provisions in Articles 8 and 9 of the Ordinance on Handling of Administrative Violations.

**Article 5.- Statute of limitations for sanctioning of administrative violations**

1. The statute of limitations for sanctioning of an administrative violation in the field of environmental protection shall be two years

counting from the date such administrative violation act is committed; past the above-mentioned statute of limitations, the sanction shall not be imposed, but the remedial measures prescribed at Point a, Point b, Point c or Point d, Clause 3, Article 7 of this Decree, shall still be applied.

2. For individuals against whom the criminal proceedings are initiated, who are prosecuted or brought to trial according to criminal procedures as decided and later decisions are issued to suspend the investigation or suspend their cases, but their violation acts show signs of administrative violations related to environmental protection, they shall be sanctioned for administrative violations related to environmental protection; the statute of limitations for sanctioning the administrative violations shall be three months counting from the date the competent persons receive the suspension decisions and dossiers on the violation cases.

3. Within the time limits prescribed in Clauses 1 and 2 of this Article, if individuals or organizations commit new administrative violations in the field of environmental protection or deliberately shirk or obstruct the sanctioning, the statute of limitations for sanctioning prescribed in Clauses 1 and 2 of this Article shall not apply. The statute of limitations for sanctioning administrative violations shall be recalculated from the time the new administrative violations are committed or the time the acts of deliberately shirking or obstructing the sanctioning terminate.

**Article 6.-** The time limit for being considered not yet being sanctioned for administrative violations

Individuals and organizations, that are sanctioned for administrative violations in the field of environmental protection, shall be considered not yet being sanctioned for administrative violations in the field of environmental protection if past one year counting from the date they complete serving the sanctioning decisions or the date the sanctioning decisions expire, they do not relapse into violations.

**Article 7.-** Sanctioning forms and remedial measures

1. For each act of administrative violation in the field of environmental protection, the violating individual or organization shall only be subject to one of the following principal sanctioning forms:

- a) Caution;
- b) Fine.

The maximum fine level for one act of violation in the field of environmental protection shall be VND 70,000,000.

2. Depending on the nature and seriousness of their violations, the violating individuals or organizations may be subject to the application of one or all of the following additional sanctioning forms:

- a) Deprivation of the right to use the certificates of environmental standard satisfaction and assorted permits with contents related to environmental protection (hereinafter referred to as environment permits), definite or indefinite;

- b) Confiscation of material evidences and/or means used for commission of administrative

violations in the field of environment.

3. Apart from the sanctioning forms prescribed in Clauses 1 and 2 of this Article, individuals and organizations that commit administrative violations in the field of environmental protection may also be compelled to apply one or many of the following remedial measures:

a) Being compelled to apply environmental protection measures for a definite period of time as requested by the State management agencies in charge of environmental protection;

b) Being forced to apply measures to address the environmental pollution, depletion and/or incidents caused by their violation acts;

c) Being forced to take out of the Vietnamese territory or to re-export goods or articles which cause environmental pollution;

d) Being forced to destroy environment-polluting goods, articles.

4. Those violating individuals or organizations that fail to voluntarily apply the measures prescribed at Points a, b, c and/or d, Clause 3 of this Article shall be subject to coercive measures and must bear all expenses for the application of such coercive measures. The coercive execution shall comply with the provisions in Article 66 of the Ordinance on Handling of Administrative Violations.

### **Chapter II**

#### **ACTS OF ADMINISTRATIVE VIOLATION IN THE FIELD OF ENVIRONMENTAL PROTECTION, SANCTIONING FORMS AND LEVELS**

**Article 8.-** Violation of the regulation on

environmental standard registration, environmental impact assessment report, environmental standard certificates and other environment-related permits

1. Caution or a fine of between VND 500,000 and 1,000,000 for act of failing to register the environmental standards by establishments, which, as prescribed, are subject to register the environmental standards for submission to the State management agencies in charge of environmental protection for certification, but proceeding with the construction of their works.

2. A fine of between VND 1,000,000 and 2,000,000 for act of failing to make reports on environmental impact assessment by establishments which, as prescribed, are subject to make environmental impact assessment reports for submission to the State management agencies in charge of environmental protection for ratification, but proceeding with the construction of their works.

3. A fine of between VND 1,500,000 and 3,000,000 for act of failing to register the environmental standard satisfaction by operating establishments which, as prescribed, are subject to register the environmental standards.

4. A fine of between VND 3,000,000 and 5,000,000 for one of the following violation acts:

a) Failing to register environmental standards by operating establishments in industrial parks, which, as prescribed, are subject to register the environmental standards;

b) Failing to make reports on environmental impact assessment by operating establishments which, as prescribed, are subject to make

environmental impact assessment reports;

c) Operating without environment-related permits according to regulations of the State management agencies in charge of environmental protection by establishments which are subject to make written registration of environmental standards.

5. A fine of between VND 5,000,000 and 10,000,000 for act of operating without environment-related permits according to regulations of the State management agencies in charge of environmental protection by establishments which are subject to make environmental impact assessment reports and industrial park establishments which are subject to make environmental standard registration.

6. Other measures against violations prescribed in this Article:

a) Being compelled to definitely make environmental standard registration, to make environmental impact assessment reports;

b) Being compelled to definitely carry out procedures for being granted the environment-related permit.

**Article 9.-** Violation of regulations on materialization of the contents in the written registration of environmental standards, the environmental impact assessment reports

1. Caution or a fine of between VND 500,000 and 2,000,000 for act of failing to comply with the contents in the certified written environmental standard registration.

2. A fine of between VND 2,000,000 and 5,000,000 for act of failing to materialize the contents in the certified environmental impact

assessment reports.

3. A fine of between VND 3,000,000 and 5,000,000 for act of failing to comply with the contents in the certified written environmental standard registrations of establishments in industrial parks or in the ratified environmental impact assessment reports.

4. A fine of between VND 5,000,000 and 10,000,000 for act of failing to comply with the contents in the certified written environmental standard registrations of establishments operating in industrial parks or in the ratified environmental impact assessment reports.

5. Other measures against the violations prescribed in this Article:

Forced materialization for a definite time, for violations prescribed in Clauses 1, 2, 3 and 4 of this Article.

**Article 10.-** Violation of regulations on discharge of waste water

1. Caution or a fine of between VND 100,000 and 500,000 for act of discharging waste water less than twice in excess of the permitted norms.

2. A fine of between VND 2,000,000 and 8,000,000 for act of discharging waste water twice or more in excess of the permitted norms.

3. A fine of between VND 15,000,000 and 30,000,000 for act of discharging waste water containing hazardous substances in excess of the permitted norms.

4. A fine of between VND 60,000,000 and 70,000,000 for act of discharging waste water containing radioactive substances which

contaminate environment with radioactivity in excess of the permitted level.

5. Additional sanctioning forms and remedial measures applicable to the violations prescribed in this Article:

a) Deprivation of the right to use environment permits for between 90 and 180 days for violations prescribed in Clauses 2 and 3 of this Article;

Indefinite deprivation of the right to use environment permits for the violations prescribed in Clause 4 of this Article;

b) Forced overcoming of consequences caused by violation acts prescribed in Clauses 1, 2, 3 and 4 of this Article.

**Article 11.-** Violation of regulations on discharging gas, dust

1. Caution or a fine of between VND 100,000 and 500,000 for one of the following violation acts:

a) Discharging gas, dust in excess of the permitted norms into the environment;

b) Discharging the stinking smells, bad smells directly into the environment without going through environmental pollution-restricting devices.

2. A fine of between VND 2,000,000 and 5,000,000 for violation acts prescribed at Point a, Clause 1 of this Article in excess of the permitted norms twice or more.

3. A fine of between VND 15,000,000 and 30,000,000 for act of discharging waste gas, dust containing hazardous substances in excess of the permitted norms.

4. A fine of between VND 60,000,000 and

70,000,000 for act of discharging waste gas, dust containing radioactive substances which contaminate the environment with radioactivity in excess of the permitted level.

5. The additional sanctioning forms and remedial measures applicable to violation acts prescribed in this Article:

a) Deprivation of the right to use environmental standard certificates for between 90 and 180 days for the violations prescribed in Clauses 2 and 3 of this Article;

The definite deprivation of the right to use the environmental standard certificates for the violations prescribed in Clause 4 of this Article;

b) Forced overcoming of consequences caused by violation acts prescribed in Clauses 1, 2, 3 and 4 of this Article.

**Article 12.-** Violation of regulations on discharging solid wastes

1. Caution or a fine of between VND 100,000 and 500,000 for act of discharging solid wastes in contravention of regulations.

2. A fine of between VND 2,000,000 and 5,000,000 for the violation act prescribed in Clause 1 of this Article, thus causing environmental pollution.

3. A fine of between VND 15,000,000 and 30,000,000 for violation act prescribed in Clause 2 of this Article in cases where the solid wastes contain hazardous wastes in excess of the permitted norms.

4. A fine of between VND 60,000,000 and 70,000,000 for violation act prescribed in Clause 1 of this Article in cases where the solid wastes

contain radioactive substance which contaminates environment with radioactivity in excess of the permitted level.

5. Additional sanctioning forms and remedial measures applicable to violation acts prescribed in this Article:

a) Deprivation of the right to use environment permits for between 90 and 180 days for the violations prescribed in Clauses 2 and 3 of this Article;

Indefinite deprivation of the right to use environment permits for the violations prescribed in Clause 4 of this Article;

b) Forced overcoming of consequences caused by the violation acts prescribed in Clauses 1, 2, 3 and 4 of this Article.

**Article 13.-** Violation of regulations on noise, vibration degrees

1. Caution or a fine of between VND 500,000 and 1,000,000 for acts of causing noises or vibration in excess of the permitted environmental norms.

2. A fine of between VND 2,000,000 and 5,000,000 for acts of causing noises, vibration in excess of the permitted environmental norms during the period of between 22.00 hrs and 06.00 hrs of the following day;

3. Other measures against violation acts prescribed in this Article.

Forced overcoming of consequences caused by the violation acts prescribed in Clause 1, Clause 2 of this Article.

**Article 14.-** Violation of regulations on waste

management, transportation and handling

1. Caution or a fine of between VND 500,000 and 2,000,000 for acts of managing, transporting and handling wastes and/or environment pollutants in contravention of the regulations on environmental protection.

2. A fine of between VND 2,000,000 and 5,000,000 for violation acts prescribed in Clause 1 of this Article, which cause environmental pollution.

3. A fine of between VND 5,000,000 and 10,000,000 for acts of managing, transporting and handling wastes, which are hazardous or contain radioactive substance, in contravention of the regulations on environmental protection.

4. A fine of between VND 20,000,000 and 30,000,000 for acts of managing, transporting and handling hazardous wastes, thus causing environmental pollution.

5. A fine of between VND 60,000,000 and 70,000,000 for acts of managing, transporting and handling wastes which contain radioactive substances, thus contaminating the environment with radioactivity in excess of the permitted levels.

6. Additional sanctioning forms and remedial measures applicable to the violation acts prescribed in this Article:

a) Deprivation of environment permits for between 90 and 180 days, for the violations prescribed in Clauses 2, 3 and 4 of this Article

Indefinite deprivation of environment permits for the violations prescribed in Clause 5 of this Article;

b) Forced overcoming of consequences caused by violation acts prescribed in Clauses 2, 3, 4 and 5 of this Article.

**Article 15.-** Violation of the regulations on import or export of discarded materials

1. A fine of between VND 2,000,000 and 5,000,000 for acts of importing, exporting, transiting, temporarily importing for re-export, temporarily exporting for re-import, transshipping discarded materials against the regulations of the State management agencies in charge of environmental protection.

2. A fine of between VND 5,000,000 and 10,000,000 for acts of importing, exporting, transiting, temporarily importing for re-export, temporarily exporting for re-import, border-gate transshipping discarded materials without permission of the State management agencies in charge of environmental protection.

3. A fine of between VND 10,000,000 and 20,000,000 for the violation acts prescribed in Clause 1, Clause 2 of this Article, which cause the environmental pollution.

4. A fine of between VND 55,000,000 and 70,000,000 for acts prescribed in Clause 2 of this Article in case of hazardous wastes or radioactive substances in excess of the permitted environmental norms.

5. Remedial measures applicable to the violation acts prescribed in this Article:

a) Forced destruction or re-export of discarded materials or hazardous wastes;

b) Forced overcoming of consequences caused by the violation acts prescribed in Clause

3, Clause 4 of this Article.

**Article 16.-** Violation of the regulations on activities of research, production, import of technologies, toxic chemicals, genomic organisms and products thereof

1. A fine of VND 5,000,000 and 10,000,000 for acts of importing technologies, toxic chemicals, genomic organisms and products thereof in contravention of the State's regulations on environmental protection.

2. A fine of between VND 10,000,000 and 20,000,000 for acts of importing technologies, toxic chemicals, genomic organisms and products thereof without permission of competent State bodies.

3. A fine of between VND 30,000,000 and 45,000,000 for acts against the regulations on research, application, transfer, production, transportation of genomic organisms and products thereof.

4. A fine of between VND 55,000,000 and 70,000,000 for violation acts prescribed in Clause 1, Clause 2 or Clause 3 of this Article, which cause the environmental pollution.

5. Additional sanctioning forms and remedial measures applicable to violation acts prescribed in this Article:

a) Deprivation of the right to use permits for between 30 and 90 days for violations prescribed in this Article;

b) Forced destruction or re-export;

c) Forced overcoming of consequences caused by violation acts prescribed in Clause 4 of this Article.

**Article 17.-** Violation of regulations on nature conservation

1. Caution or a fine of between VND 200,000 and 1,000,000 for acts of exploiting nature conservation zones, national parks in contravention of regulations on environmental protection.

2. A fine of between VND 15,000,000 and 30,000,000 for acts of exploiting nature conservation zones against the environmental protection regulations, causing environmental depletion.

3. A fine of between VND 50,000,000 and 60,000,000 for acts of exploiting national gardens in contravention of the environmental protection regulations, causing the environmental depletion.

4. Remedial measures applicable to violation acts prescribed in this Article:

Forced overcoming of consequences caused by violation acts prescribed in Clause 2 or Clause 3 of this Article.

**Article 18.-** Violation of regulations on prevention and combat of environmental incidents in oil and gas prospection, exploration, exploitation, transportation

1. A fine of between VND 2,000,000 and 5,000,000 for one of the following violation acts:

a) Failing to equip means to prevent, combat oil leakages, fires and explosions, spillages as provided for by competent State bodies;

b) Failing to draw up plans to prevent and combat oil leakages, fires and explosions or spillages as provided for by competent State bodies. A fine of between VND 10,000,000 and 20,000,000 for acts of causing oil leakages, fires

and explosions or spillages.

3. A fine of between VND 55,000,000 and 70,000,000 for violation acts prescribed in Clause 2 of this Article, causing the environmental pollution.

4. Remedial measures applicable to violation acts prescribed in this Article:

Forced application of measures to redress the environmental pollution caused by violation acts prescribed in Clause 2 or Clause 3 of this Article.

**Article 19.-** Violation of regulations on production, transportation, trading, import, storage and/or use of fireworks and matters likely to cause fires and/or explosions

1. Caution or a fine of between VND 2,000,000 and 5,000,000 for acts of producing, transporting, trading in, importing, storing and/or using fireworks and matters likely to cause fires and/or explosions in contravention of regulations on environmental protection.

2. Caution or a fine of between VND 5,000,000 and 15,000,000 for acts of producing, transporting, storing and/or using fireworks and fire and/or explosion-prone matters, thus causing the environmental pollution.

3. A fine of between VND 15,000,000 and 30,000,000 for acts of using assorted explosives extracted from bombs, mines, grenades and other weapons to produce fireworks.

4. A fine of between VND 55,000,000 and 70,000,000 for violation acts prescribed in Clause 1, Clause 2 or Clause 3 of this Article, causing the environmental incidents.

5. Additional sanctioning forms and remedial measures applicable to violation acts prescribed in this Article:

a) Confiscation of goods, articles;

b) Forced application of measures to redress the environmental pollution caused by violation acts prescribed in Clause 2, 3 or 4 of this Article.

**Article 20.-** Violation of regulations on soil pollution

1. Caution or a fine of between VND 100,000 and 500,000 for acts of burying or discharging into soil environmental pollutants in contravention of the environmental protection regulations.

2. A fine of between VND 5,000,000 and 15,000,000 for violation acts prescribed in Clause 1 of this Article, which cause soil pollution.

3. A fine of between VND 20,000,000 and 35,000,000 for violation acts prescribed in Clause 2 of this Article in cases where the pollutants contain hazardous wastes in excess of the permitted norms.

4. A fine of between VND 60,000,000 and 70,000,000 for violation acts prescribed in Clause 2 of this Article in cases where the pollutants contain radioactive substances which contaminate the environment with radioactivity in excess of the permitted level.

5. Remedial measures applicable to violation acts prescribed in this Article:

Forced application of measures to redress the environmental pollution or degeneration caused by violation acts prescribed in Clauses

2, 3 and/or 4 of this Article.

**Article 21.-** Violation of regulations on water pollution

1. Caution or a fine of between VND 100,000 and 500,000 for acts of discharging into water pollutants in excess of the permitted norms.

2. A fine of between VND 5,000,000 and 15,000,000 for violation acts prescribed in Clause 1 of this Article, which cause water pollution.

3. A fine of between VND 20,000,000 and 30,000,000 for violation acts prescribed in Clause 2 of this Article in cases where the pollutants contain hazardous wastes in excess of the permitted environmental norms.

4. A fine of between VND 60,000,000 and 70,000,000 for violation acts prescribed in Clause 2 of Article in cases where the pollutants contain radioactive substances which contaminate the environment with radioactivity in excess of the permitted level.

5. Remedial measures applicable to violation acts prescribed in this Article:

Forced application of measures to redress the environmental pollution and/or depletion caused by violation acts prescribed in Clauses 2, 3 and/or 4 of this Article.

**Article 22.-** Violation of regulations on air pollution

1. A fine of between VND 5,000,000 and 15,000,000 for acts of discharging assorted smokes, dusts, hazardous substances or other

hazardous elements into the air, causing air pollution.

2. A fine of between VND 20,000,000 and 35,000,000 for violation acts prescribed in Clause 1 of this Article in cases where the pollutants contain hazardous wastes which cause bad consequences on human beings and nature.

3. A fine of between VND 60,000,000 and 70,000,000 for violation acts prescribed in Clause 1 of this Article in cases where the pollutants contain radioactive substances which contaminate the environment with radioactivity in excess of the permitted level.

4. Remedial measures applicable to violation acts prescribed in this Article:

Forced overcoming of consequences caused by violation acts prescribed in Clauses 1, 2 and/ or 3 of this Article.

**Article 23.** - Violation of regulations on rescue and redress of consequences of environmental incidents

1. Caution or a fine of between VND 100,000 and 500,000 for one of the following acts:

a) Failing to report in time to the People's Committees, the nearest State management agencies in charge of environment protection on environmental incidents upon the detection thereof.

b) Failing to apply measures under one's own responsibility to address environmental incidents in time.

c) Failing to abide by or improperly abiding by the order on urgent mobilization of human

resources, supplies and means for redressing the environmental incidents.

2. A fine of between VND 2,000,000 and 5,000,000 for violation acts prescribed in Clause 1 of this Article in case of causing environmental pollution.

3. A fine of between VND 5,000,000 and 10,000,000 for violation acts prescribed in Clause 1 of this Article in case of causing environmental pollution on vast areas, requiring long time for overcoming the consequences thereof.

4. Other measures against violation acts prescribed in this Article:

Forced application of measures to address environmental pollution and/or depletion caused by violation acts prescribed in Clauses 1, 2 and/ or 3 of this Article.

**Article 24.** - Acts of obstructing activities of State management over environmental protection

1. Caution or a fine of between VND 200,000 and 500,000 for acts of obstructing the work of investigating, studying, controlling and/or assessing current environmental situation.

2. Caution or a fine of between VND 1,000,000 and 3,000,000 for acts of untruthfully reporting on the current environmental situation to the State management bodies in charge of environmental protection.

3. A fine of between VND 1,000,000 and 4,000,000 for acts of obstructing the work of environmental protection inspection and examination conducted by State management

bodies in charge of environmental protection.

4. Other measures against the violations prescribed in this Article:

Forced realization of requests of State management bodies in charge of environmental protection.

### *Chapter III*

## **SANCTIONING COMPETENCE AND PROCEDURES**

**Article 25.** - Competence of the presidents of the People's Committees at different levels to sanction administrative violations

1. The commune/ward/township People's Committee presidents are competent:

- a) To impose caution;
- b) To impose fines of up to VND 500,000;
- c) To confiscate environment-polluting goods, articles valued at up to VND 500,000;
- d) To force the remedy of environmental pollution and/or depletion caused by violation acts;
- e) To force the destruction of environment-polluting goods, articles;

2. The presidents of the People's Committees of rural districts, urban districts, provincial capitals or towns are competent:

- a) To impose caution;
- b) To impose fines of up to VND 20,000,000;
- c) To confiscate environment-polluting goods, articles;
- d) To force the application of measures to

redress the environmental pollution caused by violation acts;

e) To force the destruction of environment-polluting goods, articles.

3. The provincial/municipal People's Committee presidents are competent:

- a) To impose caution;
- b) To impose fines of up to VND 70,000,000;
- c) To deprive of the right to use the environment permits granted by provincial/municipal Services of Natural Resources and Environment;
- d) To confiscate environment-polluting goods, articles;
- e) To force the application of measures to redress the environmental pollution and/or depletion caused by violation acts;
- f) To force the destruction of environment-polluting goods, articles.

**Article 26.** - Competence of specialized environmental protection inspectors to sanction administrative violations

1. Specialized natural resource and environment inspectors of the provincial/municipal Services of Natural Resources and Environment and of the Ministry of Natural Resources and Environment, who are on official duty, are competent:

- a) To impose caution;
- b) To impose fines of up to VND 200,000;
- c) To confiscate environment-polluting goods, articles, valued at up to VND 2,000,000;
- d) To force the destruction of environment-

polluting goods, articles;

e) To force the application of measures to redress the environmental pollution and/or degeneration caused by violation acts.

2. Specialized natural resource and environment chief inspectors of the provincial/municipal Services of Natural Resources and Environment are competent:

- a) To impose caution;
- b) To impose fines of up to VND 20,000,000;
- c) To deprive of the right to use environment permits under their jurisdiction;
- d) To confiscate environment-polluting goods, articles;
- e) To force the destruction of environment-polluting goods, articles;
- f) To force the application of measures to redress the environmental pollution and/or depletion caused by violation acts prescribed in this Article.

3. The environment chief inspector of the Ministry of Natural Resources and Environment is competent:

- a) To impose caution;
- b) To impose fines of up to VND 70,000,000;
- c) To deprive of the right to use environment permits under their jurisdiction;
- d) To confiscate environment-polluting goods, articles;
- e) To force the destruction of environment-polluting goods, articles;
- f) To force the application of measures to redress the environmental pollution and/or degeneration caused by violation acts.

**Article 27.-** Competence of State management bodies and specialized State inspection organizations to sanction administrative violations regarding the environmental protection

Besides the persons with sanctioning competence, defined in Articles 25 and 26 of this Decree, the persons having the sanctioning competence under the provisions of the Ordinance on Handling of Administrative Violations, if detecting administrative violation acts prescribed in this Decree which fall within their respective fields and areas of management, are all entitled to sanction them but strictly in accordance with the provisions of Article 42 of the Ordinance on Handling of Administrative Violations.

**Article 28.-** Procedures for sanctioning administrative violations

1. Upon detecting acts of administrative violation in the field of environmental protection, the persons having sanctioning competence must order the immediate stoppage of such violation acts.

2. The administrative violation-sanctioning order and procedures shall be effected as follows:

a) For administrative violations subject to caution or a fine of up to VND 100,000, the persons having the sanctioning competence shall issue decisions to sanctions them on spot.

The sanctioning decisions must be inscribed clearly with the day, month and year of issuance; the full names and addresses of the violators or the names and addresses of violating

organizations; acts of violation; places where the violations are committed; the full names and positions of the decision issuers; the applicable clauses and articles of legal documents. These decisions must be handed to the sanctioned individuals and organizations, each with one copy.

In case of fines, the decisions must clearly state the fine levels. The violating individuals and organizations may pay fines on spot to the competent sanctioning persons; in case of on-spot payment of fines, they shall be given the fine collection receipts.

b) For administrative violations subject to a fine of over VND 100,000, the competent sanctioning persons must make records on the administrative violations. The administrative violation records must be inscribed clearly with the dates and places of making the records; the full names and positions of record makers; the full names, addresses and occupations of violators or the names and addresses of violating organizations; acts of violation, measures to prevent administrative violations and ensure the sanctioning (if any); the conditions of temporarily seized goods, articles; statements of violators or representatives of violating organizations; in case of availability of witnesses, victims or representatives of victimized organizations, the full names and addresses of the victims must be clearly inscribed.

3. The fined organizations and individuals must pay fines at the State Treasuries defined in the sanctioning decisions and shall be given the fine collection receipts.

In remote, far-flung areas, on rivers and sea, in areas difficult to access or outside the working hours, the sanctioned individuals and

organizations may pay fines to the competent sanctioning persons. The competent sanctioning persons have the responsibility to collect fines on spot and remit them into the State Treasuries as provided for in Clause 3, Article 58 of the Ordinance on Handling of Administrative Violations. The sanctioned persons may refuse to pay fines if no fine collection receipts are issued.

4. When confiscating the environment-polluting goods and/or articles, the persons having the sanctioning competence must make records thereon, which must clearly state the names, quantities, conditions, quality of the confiscated goods and/or articles and be signed by the confiscators, the sanctioned persons or representatives of the sanctioned organizations and the witnesses. In case of necessity to seal off the environment-polluting goods and/or articles, such must be conducted in the presence of the sanctioned persons or representatives of the sanctioned organizations and the witnesses.

5. The sanctioned individuals and organizations must execute the sanctioning decisions within 10 days after being handed the sanctioning decisions. Past the above-said time limit, if the sanctioned individuals and organizations fail to voluntarily execute the sanctioning decisions, they shall be forced to execute them as provided for in Article 66 of the Ordinance on Handling of Administrative Violations.

6. Individuals fined with VND 500,000 or more may postpone the execution of the sanction in cases where they meet with particular financial difficulties. The procedures and time limit for postponement of the fining decisions shall comply with the provisions of Article 65 of the Ordinance on Handling of Administrative

Violations.

**Article 29.-** Deprivation of the right to use permits

1. Individuals and organizations that are granted assorted environment permits by State management bodies in charge of environmental protection can all be deprived of the right to use such permits if their administrative violations are directly related to the provisions on the use of such permits.

Upon deciding to deprive of the right to use permits, the competent persons must make records thereon, clearly stating the reasons for the deprivation of the right to use the permits according to the contents prescribed in Article 59 of the Ordinance on Handling of Administrative Violations, and at the same time force the stoppage of violations.

The deprivation of the right to use permits shall be effected only after the written decisions are issued by the competent persons defined in Clause 3, Article 25; Clauses 2 and 3, Article 26 of this Decree. The decisions must be sent to the handled individuals and organizations, and at the same time notified to the permit-granting offices.

The competent persons defined in Clauses 1, 2, 3 of Article 25 of this Decree may propose the environment permit-granting agencies to withdraw the permits.

2. The definite deprivation of the right to use permits shall be applied to the first-time violations which can be redressed. Upon the expiry of the duration inscribed in the sanctioning decisions, the persons having the sanctioning competence must return the permits to the

organizations and/or individuals that are entitled to use the permits.

3. The indefinite deprivation of the right to use permits shall apply to the following cases:

- a) The permits are granted ultra vires;
- b) The permits contain contents contrary to the environmental protection regulations;
- c) The environmental protection regulations are violated so seriously that the violators' continued operations cannot be permitted.

**Article 30.-** Provisions on application of other administrative measures

1. The persons with sanctioning competence, defined in Articles 25, 26 and 27 of this Decree, when deciding to apply other administrative measures, must base themselves on law provisions, the actual damage extents caused by administrative-violation acts, and must bear responsibility before law for their decisions.

2. Individuals and organizations subject to the application of other administrative measures must execute such sanctioning forms within 10 days after being handed the sanctioning decisions, except otherwise provided for by law. In case of failure to execute them, they shall be forced to do so within the prescribed time limit. The expenses for the forced execution shall be covered by the individuals and/or organizations forced to execute them.

3. Where material evidences and/or means of environment protection-related administrative violations must be confiscated or destroyed, the records thereon must be made with the signatures of the decision makers, the

sanctioned persons and the witnesses, and the material evidences of administrative violations *must be handled strictly according to the provisions of Articles 60 and 61 of the Ordinance on Handling of Administrative Violations.*

#### **Chapter IV**

### **COMPLAINTS, DENUNCIATIONS, HANDLING OF VIOLATIONS**

#### **Article 31.- Complaints and denunciations**

1. Individuals and organizations sanctioned for administrative violations in the field of environmental protection or their lawful representatives may complain about the sanctioning decisions of competent persons.

Citizens may denounce to competent State bodies illegal acts concerning administrative sanction in the field of environmental protection.

2. The procedures for lodging complaints and denunciations and the settlement of complaints and denunciations shall comply with the provisions in Articles 118 of the Ordinance on Handling of Administrative Violations.

3. The initiation of lawsuits against decisions on sanctioning of administrative violations, decisions on application of measures to prevent, and ensure the sanctioning of, administrative violations in the field of environmental protection shall comply with the law provisions on procedures for settlement of administrative cases.

**Article 32.-** Handling of persons with competence to sanction administrative violations in the field of environmental protection.

The persons with competence to sanction administrative violations in the field of environmental protection, who harass for bribes, tolerate or cover up violators, fail to sanction or sanction inappropriately, sanction beyond their competence, shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability; if causing damage to the State, citizens and/or organizations, they must pay compensations therefor according to law provisions.

**Article 33.-** Handling of violations committed by persons sanctioned for administrative violations

Persons who are sanctioned for administrative violations in the field of environmental protection, if committing acts of resisting officials on duty, delaying or shirking the execution of the sanction or committing other violation acts, shall, depending on the nature and seriousness of the violations, be handled for administrative violations or examined for penal liability; if causing damage, they must pay compensations therefor according to law provisions.

#### **Chapter V**

### **IMPLEMENTATION PROVISIONS**

#### **Article 34.-** Implementation effect

This Decree takes implementation effect 15 days after its publication in the Official Gazette.

This Decree replaces the Government's Decree No.26/CP of April 26, 1996 prescribing the sanctioning of administrative violations regarding environmental protection.

**Article 35.-** Guidance and implementation

responsibilities

The Minister of Natural Resources and Environment shall, within his/her functions, tasks and powers, have to guide and organize the implementation of this Decree.

The ministers, the heads of the ministerial-level agencies, the heads of the Government-attached agencies and the presidents of the provincial/municipal People's Committees shall have to implement this Decree.

***On behalf of the Government***

***Prime Minister***

**PHAN VAN KHAI**