

THE GOVERNMENT

DECREE No. 160/2005/ND-CP OF DECEMBER 27, 2005, DETAILING AND GUIDING THE IMPLEMENTATION OF THE LAW ON MINERALS AND THE LAW AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE LAW ON MINERALS

THE GOVERNMENT

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

Pursuant to the March 20, 1996 Law on Minerals and the June 14, 2005 Law Amending and Supplementing a Number of Articles of the Law on Minerals;

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

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Regulation scope

This Decree details and guides the implementation of the Law on Minerals, passed on March 20, 1996, by the IXth National Assembly at its 9th session, and the Law Amending and Supplementing a Number of Articles of the Law on Minerals, passed on June 14, 2005, by the XIth National Assembly at its 7th session (hereinafter referred to collectively as the Law on Minerals).

Article 2.- Application subjects

Subject to this Decree are:

1. State management agencies in charge of minerals; state management agencies in charge of mineral exploitation and processing industries.
2. Organizations performing the tasks of basic geological survey of mineral resources.
3. Organizations and individuals engaged in mineral activities (including mineral prospecting, exploration, exploitation and processing).
4. Other organizations and individuals involved in the management and protection of mineral resources.

Chapter II

STATE MANAGEMENT OF MINERALS

Article 3.- Powers and responsibilities of the Ministry of Natural Resources and Environment in the state management of minerals

The Ministry of Natural Resources and Environment shall perform the function of state management of minerals in accordance with the provisions of Clause 2, Article 55 of the Law on Minerals, having the following powers and responsibilities:

1. To submit to the Government draft laws and legal documents on mineral resources; submit to the Prime Minister for promulgation or promulgate according to its competence legal documents on basic geological surveys of mineral resources, on management and protection of mineral resources and activities.
2. To elaborate, and direct the implementation of, plannings and plans on basic geological surveys of mineral resources nationwide; approve state-funded schemes on, and reports on the results of,

basic geological surveys of mineral resources conducted under the State-assigned plans by units under the Ministry's management.

3. To determine mineral-deposited areas already surveyed and assessed according to the provisions of Clause 1, Article 9 of the Law on Minerals; supply to the Ministry of Industry and the Ministry of Construction documents on surveys and evaluation of minerals in service of mineral exploration, exploitation, processing and use planning; zone off areas with hazardous minerals according to the provisions of Article 15 of the Law on Minerals and notify relevant state agencies thereof; organize the inventory of approved mineral deposits nationwide.

4. To grant, extend, withdraw and allow the return of mineral activity permits, to permit the transfer or further exercise of the rights to mineral activities in case of inheritance according to its competence provided for at Point a, Clause 1, Article 56 of the Law on Minerals.

5. To propagate, disseminate law on minerals, guide and inspect the observance the law on minerals by branches, localities, organizations and individuals; inspect and examine basic geological surveys of mineral resources and mineral activities as well as the management and protection of mineral resources.

6. To settle disputes, complaints and denunciations about basic geological surveys of mineral resources and mineral activities according to its competence provided for in Article 57 of the Law on Minerals and the law on complaints and denunciations.

7. To organize the registration, gathering and summing up of the results of basic geological surveys of mineral resources and the situation of mineral activities nationwide; organize the archive and management of mineral resource documents

and samples in accordance with the provisions of law.

8. To act as the standing body of the Mineral Deposit Evaluating Council.

Article 4.- Powers and responsibilities of the Ministry of Industry and the Ministry of Construction in the state management of mineral exploitation and processing industries

1. The Ministry of Industry and the Ministry of Construction shall perform the function of state management of mineral exploitation and processing industries according to the provisions of Clauses 3 and 4, Article 55 of the Law on Minerals, having the following powers and responsibilities:

a/ To report to the Government policies, strategies, plannings and plans on mineral exploration, exploitation, processing and use under their respective management; direct and inspect the implementation thereof after they are approved.

b/ To report to the Prime Minister for approval regions where mineral exploration and exploitation may be put up for bidding under the provisions of Clause 2, Article 23 of this Decree;

c/ To promulgate regulations on mineral exploitation and processing standards, processes and technologies.

2. The Ministry of Industry shall promulgate lists of export minerals and minerals restricted from export, their conditions and standards.

Article 5.- Organization and operation of the Mineral Deposit Evaluating Council

1. The Mineral Deposit Evaluating Council is based at the Ministry of Natural Resources and Environment. Its membership shall be decided by the Prime Minister.

2. The Mineral Deposit Evaluating Council shall assist the Government in performing the following tasks:

a/ To evaluate, consider and approve mineral deposits stated in reports on exploration of minerals, except for minerals to be used as common building materials and peat.

b/ To make statistics on mineral deposits, except for minerals used as common building materials and peat, and supply them to concerned agencies for elaborating mineral exploration, exploitation, processing and use plans;

c/ To appraise regulations on decentralization of mineral deposits and regulations on the contents of reports on mineral deposit prospecting and evaluation for promulgation by the Minister of Natural Resources and Environment;

d/ To consider, approve and recognize mineral deposit calculation norms.

Article 6.- Powers and responsibilities of People's Committees at all levels in the state management of minerals

1. People's Committees of provinces or centrally-run cities (hereinafter referred to collectively as provincial-level People's Committees) shall have the following powers and responsibilities:

a/ To promulgate according to their competence legal documents guiding the implementation of state regulations on management and protection of mineral resources as well as management of mineral activities in localities;

b/ To assume the prime responsibility for, and coordinate with the ministries of Natural Resources and Environment, Planning and Investment, Industry, Construction, Defense, Culture and Information, Agriculture and Rural Development, and Transport, and Vietnam National Administration

of Tourism in, zoning off and reporting to the Prime Minister for decision regions where mineral activities are banned according to the provisions of Article 20 of this Decree; zone off and report to the Prime Minister for decision regions where mineral activities are temporarily banned according to the provisions of Article 21 of this Decree;

c/ To organize the elaboration of, and submit to the People's Councils of the same level for approval, plans on exploration, exploitation, processing and use of minerals of types falling under their permit-granting competence provided for at Point b, Clause 1, Article 56 of the Law on Minerals;

d/ To direct the organization of popularization and dissemination of, and education about, the law on minerals; apply measures to protect mineral resources, environment and other natural resources in accordance with the provisions of law; ensure security and social order in regions where minerals exist;

e/ To approve mineral deposits stated in reports on exploration of minerals used as common building materials and peat;

f/ To grant, extend, withdraw and allow the return of mineral activity permits; permit the transfer or further exercise of the rights to mineral activities in case of inheritance according to their competence provided for at Point b, Clause 1, Article 56 of the Law on Minerals;

g/ To report to the Prime Minister for approval and publicization regions for bidding for exploration or exploitation of minerals used as common building materials and peat, and minerals in the already surveyed, evaluated or explored regions; approve mineral deposits which are not included in the national plan on mineral exploration, exploitation and processing already approved by competent state bodies or not subject to national

mineral reserves; organize biddings in accordance with regulations after getting approval;

h/ To direct inspection and examination of the observance of the law on minerals in localities; settle, or join in the settlement of, disputes, complaints or denunciations about mineral activities and handle violations of the law on minerals in localities according to their competence provided for in Article 57 of the Law on Minerals and the law on complaints and denunciations;

i/ To handle the assignment or lease of land for mineral activities in localities in accordance with the provisions of land law.

2. Provincial/municipal Services of Natural Resources and Environment, Services of Industry and Services of Construction shall assist provincial-level People's Committees in performing the state management of minerals and mineral exploitation and processing industries. The state management tasks and powers of provincial/municipal Services of Natural Resources and Environment, Services of Industry and Services of Construction shall be stipulated by the Minister of Natural Resources and Environment, Minister of Industry and Minister of Construction, respectively.

3. People's Committees of urban districts, rural districts, provincial towns or cities, and communes, wards or townships shall have the following powers and responsibilities in the state management of minerals:

a/ To apply measures for management and protection of mineral resources, environment and labor safety in mineral activities; ensure security and social order in regions where minerals exist;

b/ To handle according to their competence procedures for assignment or lease of land, use of infrastructure, and other related issues for organizations and individuals permitted to explore,

exploit and/or process minerals in localities in accordance with the provisions of law;

c/ To propagate, disseminate and educate about the law on minerals; handle violations in accordance with the provisions of law.

Chapter III

BASIC GEOLOGICAL SURVEY OF MINERAL RESOURCES

Article 7.- Activities of basic geological survey of mineral resources

Basic geological survey of mineral resources shall include the following activities:

1. Surveying and discovering mineral potentiality and concurrently elaborating regional geological maps, maps of geological incidents, environmental geology, marine mineral geology, topical maps, and conducting research into geological and mineral topics.

2. Assessing mineral resource potentiality of each mineral type or group and prospective geological structures in order to discover new mines.

Article 8.- Management of activities of basic geological survey of mineral resources

1. Activities of basic geological survey of mineral resources shall be conducted simultaneously with basic geological survey under the state planning and plans.

2. Based on the planning on basic geological survey of mineral resources already approved by the Prime Minister and the assigned state budget plans, ministries and ministerial-level agencies shall organize the evaluation and approval of schemes on, and reports on the results of, basic geological surveys of mineral resources conducted

by their attached units.

3. The Ministry of Natural Resources and Environment shall specify the contents of projects on basic geological survey of mineral resources, the state geological archives and a geological museum; promulgate norms and unit prices in basic geological surveys of mineral resources.

Article 9.- Rights and obligations of organizations conducting basic geological surveys of mineral resources

1. Organizations conducting basic geological surveys of mineral resources shall have the following rights:

a/ To conduct activities of basic geological survey of mineral resources according to projects already ratified by competent agencies and assigned plans;

b/ To be commended and/or rewarded by the State when recording achievements in geological and mineral researches and discoveries;

c/ To send samples abroad for analysis and testing under the schemes already approved by competent state agencies.

2. Organizations conducting basic geological surveys of mineral resources shall have the following obligations:

a/ To observe econo-technical processes, regulations and norms in activities of basic geological survey of mineral resources;

b/ To ensure truthfulness and sufficiency of collected and synthesized data and information on geology and minerals; to keep state secrets about information on geology and minerals in accordance with the provisions of law;

c/ To protect the environment, mineral resources and other resources in the process of conducting basic geological surveys of mineral resources;

d/ To submit reports on the results of basic geological surveys of mineral resources to the Geological Archives and geological and mineral samples to the Geological Museum of the Ministry of Natural Resources and Environment.

Article 10.- Storing of results of basic geological surveys of mineral resources

1. Reports on the results of basic geological surveys of mineral resources as well as geological and mineral samples must be registered and preserved at the Geological Archives and Geological Museum of the Ministry of Natural Resources and Environment.

2. The Geological Archives and Geological Museum shall have to preserve state secrets about data and information on mineral resources, geological samples and minerals; create favorable conditions for organizations and individuals to refer to and use data and information on mineral resources in accordance with the provisions of law.

Chapter IV

MINERAL PLANNING

Article 11.- Planning on basic geological surveys of mineral resources

1. The elaboration of basic geological surveys of mineral resources must be based on the following:

a/ The national socio-economic development, defense and security strategies, plans and plans;

b/ The results of mineral survey and evaluation already conducted; the characteristics of geological structures with mineral potentials and prospects.

2. Contents of a planning on basic geological survey of mineral resources shall cover:

a/ Making a geological and mineral survey map of 1/50,000 or 1/25,000 scale; establishing a geological and mineral database and information system;

b/ Evaluating potential ground and underground mineral resources with regard to each type and group of minerals; determining areas with mineral resource prospects;

c/ Determining the investment scale and demands for equipment, techniques, analytical methods and testing in service of basic geological surveys of mineral resources;

d/ Mapping out solutions and a schedule for implementation of the planning.

3. The Ministry of Natural Resources and Environment shall direct the implementation of the plannings on basic geological survey of mineral resources after they are approved by the Prime Minister.

Article 12.- Mineral exploration, exploitation and use plannings

Mineral exploration, exploitation and use plannings must ensure the following principles:

a/ Exploiting and using rationally, thriftily and efficiently mineral resources to meet immediate demands while taking into account scientific and technological development and future demands for minerals;

b/ Ensuring the requirements of protection of the environment, natural landscapes historical and cultural relics, places of scenic beauty and other natural resources;

c/ Local plannings on mineral exploration, exploitation, processing and use must be compatible with the national mineral exploration, exploitation, processing and use planning already approved by the Prime Minister.

2. The elaboration of mineral exploration, exploitation, processing and use plannings must be based on the following:

a/ Socio-economic development, defense and security strategies, plannings and plans;

b/ Results of nationwide geological basic survey of mineral resources;

c/ Natural, socio-economic conditions of the regions where minerals exist and the market demand;

d/ Scientific and technological advances in mineral exploration, exploitation, processing and use;

e/ Results of implementation of previous plannings on exploration, exploitation, processing and use of minerals of the same type.

3. A mineral exploration, exploitation, processing and use planning shall have the following contents:

a/ Surveying, studying, summing up and assessing natural, socio-economic conditions and the current state of mineral exploration, exploitation, processing and use;

b/ Assessing the situation of implementation of previous plannings on mineral exploration, exploitation, processing and use; identifying the objectives of mineral exploration, exploitation, processing and use and mineral-use demands in each period;

c/ Identifying regions, mines and types of mineral which need investment in exploration, exploitation and processing;

d/ Identifying regions where mineral activities are restricted and regions for mineral activity bidding;

e/ Identifying the national mineral resource reserve area;

f/ Orientating investment in, sciences and

technologies for, mineral exploration, exploitation, processing and use.

h/ Mapping out solutions and a schedule for implementation of the planning.

4. Responsibilities for directing, inspecting and monitoring the implementation of mineral prospecting, exploitation, processing and use plannings are provided as follows:

a/ The Ministry of Industry shall direct, inspect and monitor the implementation of plannings on exploration, exploitation, processing and use of minerals, except for minerals used as building materials and materials for cement production, after they are approved by the Prime Minister;

b/ The Ministry of Construction shall direct, inspect and monitor the implementation of plannings on exploration, exploitation, processing and use of minerals used as building materials and materials for cement production, after they are approved by the Prime Minister;

c/ Provincial-level People's Committees shall organize the direction and inspection of the implementation of plannings on exploration, exploitation, processing and use of minerals of the types falling under their permit-granting competence provided for at Point b, Clause 1, Article 56 of the Law on Minerals, after they are approved by the People's Councils of the same level.

Chapter V

PRECIOUS, RARE, SPECIAL AND HAZARDOUS MINERALS

Article 13.- Precious and rare minerals

Precious and rare minerals mean metals commonly seen in auto-generating forms or natural mixtures with other metals, minerals in the group

of diamonds or gemstones of special economic value, which are used in high techniques and technologies or for making jewelry, including gold, silver, platinum, diamond, ruby, sapphire (corundum) and emerald.

Article 14.- Special and hazardous minerals

1. Special and hazardous minerals mean radioactive metals, rare earth and minerals containing radioactive or hazardous elements, which, though being of high value in industries, exert adverse impacts on the environment, such as uranium (U), thorium (Th), lanthanum (La), selenium (Se), praseodymium (Pr), neodymium (Nd), samarium (Sm), europium (Eu), gadolinium (Gd), terbium (Tb), dysprosium (Dy), holmium (Ho), erbium (Er), thulium (Tm), ytterbium (Yb), lutetium (Lu), yttrium (Y), and such minerals as mercury, arsenic, lead, zinc and asbestos.

2. The exploration, exploitation and processing of special and hazardous minerals must comply with the provisions of law on minerals and other provisions of law on radiation safety and control.

Chapter VI

MINERALS USED AS COMMON BUILDING MATERIALS

Article 15.- Minerals used as common building materials

Minerals used as common building materials include those with components, physical characteristics, composition, colors or other characteristics failing to meet the requirements for use as raw materials for processing or production of products of higher value, compared to those used as common materials according to Vietnamese standards.

Article 16.- List of minerals used as common building materials

1. Sand of all kinds (except for silica) with SiO_2 content of less than 85%, not containing such mineral substances as casiterite, wolframite, monazite, zircon, ilmenite or gold.

2. Brick and tile clay under Vietnamese standards, clay of all types (except bentonite and kaolin), which fail to meet the requirements for production of construction ceramic products according to Vietnamese standards, for production of chamotte or cement of Vietnamese standards.

3. Sandstone, quartzite with SiO_2 content of less than 85%, not containing metal minerals, self-generating metals, radioactive and rare elements, or failing to meet the requirements for use as paving stones or decorative stones under Vietnamese standards.

4. Sedimentary rocks (except those containing keramzite or diatomite), magma (except basalt columns or pumice), degenerated rocks not containing metal minerals, self-generating minerals, gemstones, semi-precious stones, radioactive and rare elements, which fail to meet the requirements for use as paving stones or decorative stones under Vietnamese standards or for use as feldspar for production of construction ceramic products under Vietnamese standards.

5. Slates of all kinds, except for roofing and firing slates and slates containing sericites, disten or silimanite with a content of over 30%.

6. Pebbles, gravels, grits not containing gold, platinum, gemstones or semi-precious stones (decorative quartz, topaz, beryl, ruby, sapphire, zircon), laterite, not containing self-generating metals or metal minerals.

7. Limestone, lime clay and marble of all kinds (except for stalactite, white limestone and white

marble) which are not up to the requirements for use as raw materials for production of portland cement, paving stones or decorative stones under Vietnamese standards.

8. Dolomite stones with the MgO content of less than 15% and those not up to the requirements for use as materials for production of construction glass, paving stones or decorative stones under Vietnamese standards.

Chapter VII

ORGANIZATIONS AND INDIVIDUALS ENGAGED IN MINERAL ACTIVITIES

Article 17.- Scope of mineral activities of organizations and individuals

The scope of mineral activities of organizations and individuals defined in Article 6 of the Law on Minerals is provided as follows:

a/ Domestic enterprises, including foreign-invested enterprises, of all economic sectors, which have business registration certificates or licenses for investment in mineral activities, may prospect, explore, exploit and process minerals;

b/ Foreign enterprises having Vietnam-based representative offices or branches may prospect and explore minerals;

c/ Individuals having mineral activity business registration certificates may prospect, explore, exploit and process minerals for use as common building materials and fully extract minerals.

2. Organizations and individuals defined in Clause 1 of this Article that meet the following conditions shall be considered for the grant of mineral activity permits:

a/ Having mineral exploration, exploitation and processing schemes compatible with mineral exploration, exploitation, processing and use

plannings already approved by competent state agencies;

b/ For mineral exploration, exploitation and processing activities, having specialized personnel, advanced equipment, technologies and methods for mineral exploration, exploitation and processing.

c/ Having reports on assessment of environmental impacts or written registrations of satisfaction of environmental standards, which have been approved or certified by competent state agencies in accordance with the provisions of environment protection law.

Article 18.- Conditions for mineral exploration

1. Specialized geological organizations set up or permitted for setting up by competent state agencies or other economic organizations set up under the provisions of enterprise law and investment law may conduct mineral exploration when meeting all the following conditions:

a/ Their technical managers are geological engineers who have worked in the field of mineral exploration for at least five (5) years; are knowledgeable about and firmly grasp normative documents on mineral exploration;

b/ Their personnel and technical workers are specialized in geological survey, hydrogeology, construction geology, geophysics, drilling, exploitation, digging and relevant domains;

c/ They have necessary specialized equipment and tools for construction of mineral exploration works.

Article 19.- Criteria for executive managers of mines

Executive managers of mines appointed according to Article 36 of the Law on Minerals must fully meet the following criteria:

1. On professional qualifications:

a/ Executive managers of mines exploited by pit-mining methods must be pit-mining engineers or pit-building engineers who have been directly involved in the mining of pits for at least five (05) years;

b/ Executive managers of mines exploited by opencast-mining method must be opencast-mining or pit-mining engineers who have been directly involved in opencast mining for at least three (03) years; if they are exploration geological engineers, they must be trained in mining techniques and have been directly involved in opencast mining for at least five (5) years;

c/ Executive managers of non-metal mines exploited by opencast-mining method without industrial explosives or mines of minerals used as common building materials, which are exploited by simple manual methods, must have an intermediate or higher degree in mining or geological exploration; if they only have an intermediate mining degree, they must have been directly involved in opencast mining of minerals for at least three (3) years; if they only have an intermediate geological exploration degree, they must have been trained in mining techniques and directly involved in mineral exploitation at opencast mines for at least three (3) years.

2. On managerial and administration capacity:

a/ Firmly grasping the provisions of legal documents on minerals and other relevant provisions of law related to mineral exploration, exploitation and processing;

b/ Firmly grasping technical processes, regulations, criteria and principles on mining designs, technical mining norms, use of industrial explosives, internal regulations and labor safety rules in mining which have been promulgated by competent state agencies;

c/ Having organizational and managerial skills

and practical experience in handling the exploitation techniques, labor safety techniques and environmental protection.

Chapter VIII

MINERAL ACTIVITY REGIONS AND AREAS

Article 20.- Regions banned from mineral activities

1. Regions banned from mineral activities shall include:

a/ Regions with historical-cultural relics or places of scenic beauty which have been classified or zoned off for protection under decisions of provincial-level People's Committees;

b/ Special-use forests, protective forests, new alluvial grounds with naturally generating submerged saline forests, nature conservation zones, submerged land conservation zones and geological conservation zones;

c/ Regions under land use plannings exclusively for defense or security or which may adversely affect defense or security tasks;

d/ Regions within safety protection corridors of communication, irrigation, dyke or communication infrastructure works;

e/ Regions marked off exclusively for religions;

f/ Urban centers, industrial parks, trade areas, tourist resorts or important infrastructure works.

2. Presidents of provincial-level People's Committees shall decide to approve regions banned from mineral activities and notify in writing the Ministry of Natural Resources and Environment, the Ministry of Industry and the Ministry of Construction of such regions after they are approved.

Article 21.- Regions temporarily banned from

mineral activities

1. Regions temporarily banned from mineral activities shall be determined in the following cases:

a/ Due to unexpected requirements on defense or security;

b/ Due to the requirements for nature conservation and preservation of historical and cultural relics or places of scenic beauty which are being considered for recognition or have been recognized by the State or which have been detected in the mineral exploration and exploitation process;

c/ Due to the requirements of preventing or overcoming aftermaths of natural disasters.

2. Ministers, heads of ministerial-level agencies, heads of Government-attached agencies and presidents of provincial-level People's Committees shall report to the Prime Minister for approval regions temporarily banned from mineral activities and notify in writing the Ministry of Natural Resources and Environment, the Ministry of Industry and the Ministry of Construction of such regions after they are approved.

Article 22.- Regions restricted from mineral activities

1. Regions restricted from mineral activities mean regions restricted in one of the following forms:

a/ Being reserved exclusively for one or several monopoly organizations in mineral activities;

b/ Being restricted in terms of exploitation output;

c/ Being restricted in terms of the export of exploited products.

2. Ministers, heads of ministerial-level agencies, heads of Government-attached agencies and presidents of provincial-level People's Committees

shall report to the Prime Minister for approval regions restricted from mineral activities and notify in writing the Ministry of Natural Resources and Environment, the Ministry of Industry and the Ministry of Construction of such regions after they are approved.

Article 23.- Regions opened to bidding for mineral exploration and exploitation

1. Regions opened to bidding for mineral exploration and exploitation shall include the following:

a/ Regions which have been prospected and evaluated in terms of minerals with the state budget capital and already approved by the Prime Minister to be opened to bidding for exploration;

b/ Mineral mines which have been explored with state budget capital sources and have been approved by the Prime Minister to be opened to bidding or selection of exploitation contractors.

2. The Minister of Industry and the Minister of Construction shall report to the Prime Minister for approval and announcement regions opened to bidding for mineral exploration and exploitation, regions or mineral mines which have been explored and are opened to bidding for exploitation or selection of exploitation contractors, and shall organize bidding under regulations after getting approval, except for regions opened to bidding but falling under the reporting competence of provincial-level People's Committees as provided for at Point g, Clause 1, Article 6 of this Decree.

3. The Ministry of Planning and Investment shall submit to the Prime Minister for promulgation a regulation on mineral exploration and exploitation bidding.

Article 24.- Area of a region subject to mineral prospecting

1. The area of a region subject to mineral prospecting granted under a mineral prospecting permit shall not exceed five hundred square kilometers (500 km²), except for special cases where the Prime Minister's permission is required.

2. Mineral-prospecting permits shall be granted to many organizations or individuals conducting mineral activities in the same region.

Article 25.- Area of a region for mineral exploration

1. The area of a region to be explored under a permit for exploration of metals or gemstones (diamond, ruby, sapphire, emerald) shall not exceed fifty square kilometers (50 km²).

2. The area of a region to be explored under a permit for exploration of coal or non-metal minerals (except for minerals to be used as common building materials) in the mainland, with or without water surface, shall not exceed one hundred square kilometers (100 km²).

3. The area of a region to be explored under a permit for exploration of assorted minerals (except for minerals to be used as common building materials) in the mainland shall not exceed two hundred square kilometers (200 km²).

4. The area of a region to be explored under a permit for exploration of minerals for use as common building materials in the mainland shall not exceed two square kilometers (02 km²) or one square kilometer (01 km²) for a region with water surface.

5. The area of a region to be explored under a permit for exploration of mineral water or natural thermal water shall not exceed two square kilometers (02 km²).

6. Organizations and individuals meeting all the conditions specified in Article 6 of the Law on

Minerals and Clause 2, Article 17 of this Decree shall be granted not more than five permits, excluding granted exploration permits which have become invalid, provided that the total explored area under such exploration permits in relation to a mineral shall not double the area to be explored under a permit specified in Clause 1, 2, 3, 4 or 5 of this Article, except for special cases permitted by the Prime Minister.

Article 26.- Area of a region subject to mineral exploitation

1. The area of a region to be exploited under a mineral exploitation permit shall be considered on the basis of the compatibility of the investment project on mineral exploitation with the mineral deposit permitted for inclusion in the exploitation design, which has been ratified by a competent state agency.

2. The area of a mineral region shown on a map of a scale of 1: 50,000 or larger, for which mineral survey and evaluation results are already available and approved by competent state agencies and which is not included in the national exploration, exploitation and processing plans or belongs to the national mineral resource deposit shall come under the mineral exploration and exploitation permit-granting competence of provincial-level People's Committees as provided for at Point b, Clause 1, Article 56 of the Law on Minerals.

Article 27.- Area of a region under exploitation of minerals used as common building materials in cases where mineral exploration is not required

The area of a region under exploitation of minerals used as common building materials under a permit in cases where mineral exploration is not required shall, according to the provisions of Clause 2, Article 41 of the Law on Minerals, not exceed

ten hectares (10 ha) for an organization and one hectare (01 ha) for an individual.

Chapter IX

FINANCE AND PROPERTY RIGHTS IN MINERAL ACTIVITIES

Article 28.- Fees for the grant of mineral activity permits

1. Fees for the grant of mineral activity permits include permit-granting fee and permit extension fee.

2. The Finance Ministry shall specify fee rates, procedures for collection, payment, management and use of fees of all types related to the grant of mineral activity permits.

Article 29.- Fee for the exclusive right to mineral exploration

1. A fee for the exclusive right to mineral exploration shall be calculated based on the exploration area unit and the valid term of a mineral exploration permit.

2. The rates of fee for the exclusive right to mineral exploration are provided as follows:

The 1st year: VND 300,000/km²/year;

The 2nd year: VND 400,000/km²/year;

The 3rd year: VND 550,000/km²/year;

The 4th year: VND 700,000/km²/year.

3. The fee for the exclusive right to mineral exploration shall not be collected in the following cases:

a/ The valid term of an exploration permit, including the term of extension, is less than 12 months;

b/ The exploration is conducted in a region permitted for exploitation by organizations or

individuals.

4. The Finance Ministry shall specify procedures for collection, payment, management and use of the fee for the exclusive right to mineral exploration.

Article 30.- Payment of deposit for mineral exploration

1. Organizations and individuals granted mineral exploration permits shall have to pay a deposit at the state treasury, except where the permitted exploration is funded with the state budget.

2. A deposit shall be paid in lump sum at the time of granting an exploration permit. The deposit level shall be equal to twenty five per cent (25%) of the estimated cost of exploration in the first exploration year.

3. Organizations and individuals permitted to explore minerals may, instead of paying a deposit, make collateral at a credit institution licensed to operate in Vietnam.

4. Six (06) months after a mineral exploration permit takes effect, if the exploration is not carried out and the permit becomes invalid, the deposit or collateral money shall be remitted into the state budget.

5. Six (06) months after a mineral exploration permit takes effect, if the exploration is carried out in compliance with the set plan, the organizations or individuals permitted to conduct exploration shall be refunded the deposit or collateral money.

6. The Finance Ministry shall assume the prime responsibility for, and coordinate with the State Bank in, stipulating procedures for payment and management of mineral exploration deposits or collateral.

Article 31.- Use of information on the results of state budget-funded mineral prospecting and exploration

1. Organizations and individuals using information on the results of state budget-funded mineral prospecting or exploration shall have the following responsibilities and rights to such information:

a/ To pay charges for the use of such information by either of the following modes: lump-sum payment or installment payment based on exploitation output;

b/ To transfer or bequeath such information after fully paying charges for the use thereof;

c/ In case of installment payment based on exploitation output, they must not transfer, bequeath or disclose such information to other organizations or individuals, except for the supply of such information to competent state agencies under regulations of the Ministry of Natural Resources and Environment.

2. Organizations and individuals permitted to prospect, explore and/or exploit minerals with state-budget capital sources must neither supply nor transfer information on mineral prospecting or exploration results to other organizations or individuals, except for the supply of such information to competent state agencies under regulations of the Ministry of Natural Resources and Environment. Where organizations or individuals refund state budget amounts invested in mineral prospecting or exploration, the use of information on prospecting and/or exploration results shall comply with the provisions of Clause 1 of this Article.

3. The Finance Ministry shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, stipulating the method of valuation, mode and procedures for payment of charges for the use of data and information on results of state budget-funded mineral prospecting and exploration.

Article 32.- Use of information on the results of mineral prospecting, exploration and/or exploitation funded by organizations or individuals

1. Organizations and individuals permitted to prospect, explore and/or exploit minerals shall have the right to transfer or bequeath information on the results of mineral prospecting, exploration and/or exploitation funded with their own capital sources.

2. Six (06) months after the expiration of their mineral exploration permits, if organizations or individuals fail to report to competent state agencies for approval mineral deposits or fail to submit applications for exploitation permits when the mineral deposits have been approved, competent state agencies shall be entitled to supply information on minerals related to such permits to other organizations or individuals.

Article 33.- Use of land in case of transfer or inheritance of the rights to mineral exploitation and/or processing

The use of land in case of transfer or inheritance of the rights to mineral exploitation and/or processing shall comply with the provisions of land law.

Article 34.- Ownership of assets upon the expiration of mineral exploration, exploitation and/or processing permits

1. Upon the expiration of mineral exploration, exploitation and/or processing permits, the ownership of assets related to mineral exploration, exploitation and/or processing activities shall be handled in accordance with the provisions of Point b, Clause 2, Article 30, Points b and c, Clause 2, Article 40 of the Law on Minerals, and Points b and c, Clause 2, Article 57 of this Decree.

2. The Finance Ministry shall specify methods of valuation of transferred assets and procedures

for transfer to the State of assets of organizations or individuals permitted to explore, exploit and/or process minerals in case of expiration of their permits.

Article 35.- Collateral for environment restoration in mineral exploitation

1. Organizations and individuals permitted to exploit minerals must pay collateral for environment and land restoration at the Vietnam Environment Protection Fund.

2. The levels of collateral for environment and land rehabilitation shall be based on the exploitation and rehabilitation process and progress as well as environment and land rehabilitation cost estimates determined in feasibility study reports, mine designs and reports on assessment of environmental impacts or the written registrations of satisfaction of environmental standards, which have been approved or certified by competent state agencies under the provisions of law on environment protection.

3. Collateral shall incur interests as demand deposit of the Vietnam Environment Protection Fund.

4. The Finance Ministry shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, guiding the procedures for registration, management and use of collateral for environment restoration in mineral exploitation.

Article 36.- Deduction of budget revenues from mineral exploitation and processing activities for localities

1. Deductions of budget revenues from mineral exploitation and processing activities for local budgets must be reflected in annual state budget estimates and may be used only for investment in

public infrastructure in the regions where minerals are exploited and processed.

2. The management and use of budget revenues from mineral activities in the regions where minerals are exploited and processed shall comply with decisions of the Prime Minister.

Article 37.- State investment in mineral exploration

1. The State may invest in the exploration of some kinds of mineral in which investment from other capital sources cannot be attracted or it is so required by socio-economic tasks.

2. The Ministry of Planning and Investment shall assume the prime responsibility for, and coordinate with the Ministry of Finance, the Ministry of Natural Resources and Environment, the Ministry of Industry and the Ministry of Construction in, appraising mineral exploration projects requested to be funded by the state before submitting them to the Prime Minister for consideration and approval.

Enterprises allocated with capital for mineral exploration shall have to refund such capital to the State by mode of installment payment based on mineral output when mines are put into exploitation.

3. The use of information on exploration results stipulated in Clause 1 of this Article shall comply with the provisions of Article 31 of this Decree.

Chapter X

APPRAISAL, APPROVAL OF SCHEMES AND REPORTS IN MINERAL ACTIVITIES

Article 38.- Appraisal of mineral prospecting and exploration schemes

1. The Ministry of Natural Resources and Environment and provincial-level People's

Committees shall, according to their mineral activity permit-granting competence provided for in Clause 1, Article 56 of the Law on Minerals, organize the appraisal of mineral prospecting and exploration schemes before deciding to grant mineral prospecting and exploration permits.

2. The Ministry of Natural Resources and Environment shall decide on the elaboration and appraisal of mineral prospecting and exploration schemes.

Article 39.- Appraisal and approval of mineral exploration reports

1. Mineral exploration reports shall be appraised according to the following requirements:

a/ Their reliability in terms of mineral deposit, content and quality, including accompanied useful minerals;

b/ Their reliability in terms of hydrogeological and geological conditions of works related to the feasibility study of mineral exploitation.

2. Reports on exploration of minerals, except for minerals used as common building materials and peat, must be deposited in the state geological archives. Reports on exploration of minerals used as common building materials and peat must be submitted to the provincial/municipal Natural Resources and Environment Services of localities where minerals are explored.

Article 40.- Appraisal and approval of mineral exploitation investment projects

1. The appraisal and approval of mineral exploitation investment projects being domestic investment projects shall comply with the provisions of investment and construction law.

2. The appraisal of mineral exploitation investment projects being foreign direct investment

projects shall comply with the provisions of law on foreign investment in Vietnam.

Article 41.- Appraisal and approval of mine designs

1. Mine designs under mineral exploitation investment projects shall be appraised and approved according to the provisions of construction law.

2. Organizations or individuals appraising mine designs must be economically independent from designing organizations or individuals and shall take responsibility before law for their appraisal results.

3. The Ministry of Industry shall guide in detail the contents of designs, procedures for appraisal and approval of mine designs.

Article 42.- Reports on mineral activities

1. Organizations and individuals permitted to carry out mineral activities shall have to report their activity results to state management agencies in charge of minerals and take responsibility for the accuracy and truthfulness of reported data and information.

2. Reports on mineral activities include:

a/ Report on mineral prospecting activities, report on mineral exploration activities, report on mineral exploitation activities and report on mineral processing activities;

b/ Report on mineral activities within a province or centrally-run city.

3. The regime of reporting on mineral activities is stipulated as follows:

a/ Reports on mineral activities shall be made biannually and annually. The first six-month period shall be counted from January 1 to June 30 of the reporting year. The yearly period shall be counted

from January 1 to December 31 of the reporting year.

b/ Apart from implementing the reporting regime mentioned at Point a of this Clause, when requested by competent state management agencies in charge of minerals, organizations and individuals permitted to carry out mineral activities must make extraordinary reports on the situation of mineral activities.

4. Responsibilities for submission of reports on mineral activities are stipulated as follows:

a/ Organizations and individuals permitted to carry out mineral activities shall have to make the reports defined at Point a, Clause 2 of this Article and shall, within five (5) days after the end of the reporting period defined in Clause 3 of this Article, have to submit those reports to provincial/municipal Natural Resources and Environment Services of localities where mineral activities are carried out. For organizations and individuals conducting mineral activities under permits granted by the Ministry of Natural Resources and Environment, they shall also have to submit the reports to the Vietnam Geological and Mineral Department under this Ministry;

b/ Provincial/municipal Services of Natural Resources and Environment shall have to assist provincial-level People's Committees in making reports defined at Point b, Clause 2 of this Article and shall, within fifteen (15) days after the end of the reporting period defined in Clause 3 of this Article, send those reports to the Ministry of Natural Resources and Environment (Vietnam Geological and Mineral Department), the Ministry of Industry and the Ministry of Construction.

5. The Ministry of Natural Resources and Environment shall guide forms of reports defined in Clause 2 of this Article.

Article 43.- Mine-closing schemes

1. Mine-closing schemes must be appraised and approved in terms of contents and requirements on safety, environment and land rehabilitation and other requirements according to the provisions of Points b and d, Clause 2, Article 40 of the Law on Minerals.

2. State agencies competent to grant permits for exploitation of minerals of certain kinds shall also be competent to appraise and approve schemes on the closure of mines of minerals of such kinds.

3. The Ministry of Natural Resources and Environment shall specify contents of mine-closing schemes and procedures for the closure of mines.

Chapter XI**MINERAL ACTIVITY PERMITS**

Article 44.- Bases for the grant of mineral activity permits

Bases for the grant of mineral activity permits include:

1. State socio-economic development strategies; strategies on development of mineral-related industries.

2. State policies on mineral resources; mineral exploration, exploitation, processing and use plans already approved by competent state agencies.

3. Socio-economic efficiency of every specific project in mineral activities, associated with the requirements on the protection of ecology, natural landscapes, historical-cultural relics, defense and security.

4. The legal status of permit applicants under the provisions of law and conditions stipulated in

Article 6 of the Law on Minerals, and Clause 2, Article 17 of this Decree.

5. Prospecting or exploration schemes in the areas other than those already permitted or being surveyed and evaluated in terms of minerals by competent state agencies.

6. Mineral deposits, feasibility study reports, reports on assessment of environmental impacts or written registrations of satisfaction of environmental standards which have been approved or certified in accordance with the provisions of law, for cases of application for mineral exploitation and processing permits.

7. Documents of provincial-level People's Committees on the area to be explored for exploitation or construction of mineral processing plants according to the provisions of Article 45 of this Decree.

8. With regard to special and hazardous minerals stipulated in Clause 1, Article 14 of this Decree, the Prime Minister's permission for mineral exploration and/or exploitation and processing is required.

Article 45.- Responsibilities of provincial-level People's Committees for coordination in conducting appraisal for the grant of mineral exploration and exploitation permits

1. Before granting mineral exploration permits or mineral exploitation and processing permits according to its competence, the Ministry of Natural Resources and Environment shall consult in writing provincial-level People's Committees of localities where minerals exist on the exploration area, exploitation area or the area for construction of mineral processing plants.

2. Provincial-level People's Committees shall assume the prime responsibility for, and coordinate

with relevant ministries and branches in, inspecting and determining whether the areas to be explored under mineral exploration permits for mineral exploitation, or mineral exploitation areas or areas for construction of mineral processing plants are related to regions banned or temporarily banned from mineral activities as defined in Articles 20 and 21 of this Decree or not.

3. In special cases where mineral exploration or exploitation should be conducted in regions banned or temporarily banned from mineral activities as defined in Articles 20 and 21 of this Decree, state agencies competent to grant permits specified in Clause 1, Article 56 of the Law on Minerals must report such to the Prime Minister for consideration and decision.

Article 46.- Grant of mineral activity-investment licenses for foreign organizations and individuals or joint ventures with foreign parties

1. Before granting investment licenses for mineral activities, investment-licensing bodies must gather written opinions of mineral activity permit-granting agencies defined in Clause 1, Article 56 of the Law on Minerals. Within thirty (30) days after receiving complete and valid dossiers, mineral activity permit-granting agencies must reply investment-licensing bodies.

2. In case of divergent opinions, investment-licensing bodies shall submit them to the Prime Minister for consideration and decision.

Article 47.- Valid term of a mineral processing permit

The valid term of a mineral processing permit defined in Article 44 of the Law on Minerals shall be determined on the basis of mineral processing-investment projects and lawful mineral resources but must not exceed 30 years and may be extended

under the provisions of Article 51 of this Decree.

Article 48.- Extension of mineral prospecting permits

1. A mineral prospecting permit shall be extended when all the following conditions are met:

a/ The to-be prospected region has an area of one hundred kilometers (100 km²) or more;

b/ No organization or individual has applied for exploration in the region subject to permit extension;

c/ The mineral-prospecting organization or individual has fulfilled all obligations specified in the granted permit at the time of application for the extension thereof.

2. A mineral prospecting permit may be extended only once for not more than 12 months.

Article 49.- Extension of mineral exploration permits

1. A mineral exploration permit shall be extended when all the following conditions are met:

a/ The organization or individual permitted to explore minerals has fulfilled all obligations specified in the granted permit at the time of application for the extension thereof;

b/ The exploration permit is still valid for at least thirty (30) days;

c/ Upon each extension, at least thirty percent (30%) of the exploration area under the granted permit must be returned.

2. A mineral exploration permit may be extended no more than twice with a total extension duration not exceeding twenty four (24) months.

3. Where the extended duration of an exploration permit has expired while the organization or individual permitted to explore minerals, though having fulfilled the exploration

volume under the scheme and provisions of the exploration permit, has not yet obtained enough grounds for formulation of an exploitation investment project, the exploration permit may be re-granted for a term not exceeding twenty four (24) months for the area with the permit previously extended but not further extended.

Article 50.- Extension of mineral exploitation permits

1. A mineral exploitation permit may be extended if, at the time of application for extension, the organization or individual permitted to exploit minerals has fulfilled all obligations specified in the granted exploitation permit and other obligations provided for by the law on minerals and relevant laws.

2. A mineral exploitation permit may be extended many times to be compatible with mineral deposits which have already been approved by competent state agencies but have not yet been exploited; the total extension duration shall not exceed twenty (20) years.

Article 51.- Extension of mineral processing permits

1. A mineral processing permit may be extended if at the time of application for extension, the permitted processing organization or individual has fulfilled all obligations specified in the granted processing permit as well as other obligations provided for by the law on minerals and relevant laws.

2. Having lawful mineral sources suitable to the processing capacity and the allowed duration of extension.

3. A mineral-processing permit may be extended many times to be compatible with the lawful mineral sources; the total extension duration shall not

exceed twenty (20) years.

Article 52.- Return of mineral activity permits or areas under mineral activities part by part

Organizations and individuals permitted to carry out mineral activities may return the areas under such activities part by part or return the mineral activity permits according to the following provisions:

1. They have fulfilled all law-prescribed obligations at the time of application for permit extension; have restored the environment and land and assured safety in the to-be returned areas;

2. Within ninety (90) days after returning their exploration permits, organizations or individuals permitted to explore minerals must fulfill all obligations stipulated at Point b, Clause 2, Article 30 of the Law on Minerals.

Within six (06) months after their exploitation or processing permits are returned, organizations or individuals permitted to exploit minerals must fulfill all obligations stipulated at Points b, c and d, Clause 2, Article 40 of the Law on Minerals; organizations or individuals permitted to process minerals must fulfill all obligations stipulated at Points b, c and d, Clause 2, Article 57 of this Decree.

3. The return of such permits is allowed in writing by the permit-granting agencies.

Article 53.- Transfer of the rights to explore, exploit or process minerals

The transfer of the rights to explore, exploit or process minerals must comply with the following provisions:

1. Organizations or individuals permitted to explore, exploit or process minerals may transfer the rights thereto to other organizations or individuals for further exercise of their rights and obligations already provided in the permits and

according to the provisions of law.

2. The transferors may transfer such rights only when, by the time of application for transfer, they have fully observed the relevant regulations and fulfilled their obligations under the granted exploration, exploitation or processing permits.

3. The details of transfer must be reflected in contracts between the transferors and transferees under the provisions of law; apart from the contracts and applications for transfer of the exploration, exploitation or processing rights, the organizations or individuals permitted to conduct exploration, exploitation or processing must also have reports on the exploration, exploitation or processing results already achieved by the time of application for transfer.

4. Organizations or individuals transferred with the rights to explore, exploit or process minerals must meet all the conditions stipulated in Article 6 of the Law on Minerals and Clause 2, Article 17 of this Decree; with regard to precious, rare, special and hazardous minerals, they must also comply with the provisions of Clause 8, Article 44 of this Decree.

5. Where the mineral exploitation or processing right transferees are foreign organizations or individuals or joint ventures with foreign parties, they must have investment licenses granted by competent state agencies under the provisions of law on foreign investment in Vietnam. Where foreign joint-venture enterprises are converted into enterprises with 100% foreign capital, such conversion must also be approved by the state agency in charge of investment, which shall serve as a basis for the grant of new exploitation or processing permits.

6. The transfer of the rights to explore, exploit or process minerals of organizations or individuals permitted to explore, exploit or process minerals

must be permitted by the agencies competent to grant such permits and transfer tax must be paid in accordance with the provisions of law.

The Finance Ministry shall submit to the Government tax rates for transfer of the rights to explore, exploit or process minerals.

Article 54.- *Inheritance of the rights to explore, exploit or process minerals*

1. Individuals permitted to explore, exploit or process minerals may bequeath the rights thereto by testament or by law.

2. Persons inheriting the rights to explore, exploit or process minerals shall continue to exercise such rights when the permits are still valid and must satisfy all the conditions stipulated in Article 6 of the Law on Minerals and Clause 2, Article 17 of this Decree. If failing to meet such conditions for further operation, the case shall be settled as follows:

a/ The heirs may transfer such rights to other organizations or individuals in accordance with the provisions of Article 53 of this Decree;

b/ Where the heirs fail to exercise such rights within six (06) months as from the time of enjoying the inheritance under legal provisions, the exploration, exploitation or processing permits shall be considered expired.

3. Where the exploration, exploitation or processing permits expire under the provisions of Point b, Clause 2 of this Article, the heirs shall have the rights and obligations provided for at Point b, Clause 2 of Article 30, Points b, c and d, Clause 2 of Article 40 of the Law on Minerals, Clause 2, Article 57 of this Decree.

Article 55.- *Time limit for redressing violations in mineral prospecting, exploration and exploitation*

1. When organizations and individuals permitted

to prospect minerals violate one of the obligations specified in Article 23 of the Law on Minerals, the time limit for redressing their violations shall be thirty (30) days after receiving written notices of state agencies competent to grant permits provided for in Clause 1, Article 56 of the Law on Minerals.

2. When organizations and individuals permitted to explore minerals violate one of the obligations specified in Article 27 of the Law on Minerals, the time limit for redressing their violations shall be sixty (60) days after receiving written notices of state agencies competent to grant permits provided for in Clause 1, Article 56 of the Law on Minerals.

3. When organizations and individuals permitted to exploit minerals violate one of the obligations specified in Article 33 of the Law on Minerals, the time limit for redressing their violations shall be ninety (90) days, counting from the date the permit-granting agencies defined in Clause 1, Article 56 of the Law on Minerals issue written notices.

Article 56.- Withdrawal of mineral processing permits

A mineral processing permit shall be withdrawn in the following cases:

1. The organization or individual permitted to process minerals fails to strictly comply with the mineral-processing contents and plan under the processing project and provisions of the granted processing permit.

2. The organization or individual permitted to process minerals violates one of the provisions of Article 46 of the Law on Minerals but fails to redress such violation within ninety (90) days after receiving a written notice from the state agency competent to grant permits as defined in Clause 1, Article 56 of the Law on Minerals.

3. The processing region is declared to be banned or temporarily banned from mineral activities according to the provisions of Clause 2, Article 14 of the Law on Minerals and Articles 20 and 21 of this Decree.

4. The individual permitted to process minerals dies without heirs or the organization permitted to process minerals dissolves or goes bankrupt without any organization or individual inheriting its rights and obligations.

Article 57.- Invalidation of mineral processing permits

1. A mineral-processing permit shall cease to be valid in the following cases:

- a/ It expires;
- b/ It is returned;
- c/ It is withdrawn.

2. When a mineral processing permit becomes invalid:

- a/ The rights related to such permit shall no longer exist;
- b/ All works or facilities for environment protection in the processing regions shall be placed under state ownership and must be neither dismantled nor destroyed;

c/ Apart from assets specified at Point b, Clause 2 of this Article, organizations and individuals permitted to process minerals must relocate all their assets from the mineral-processing regions;

d/ Organizations and individuals permitted to process minerals must fulfill all obligations related to environment and land rehabilitation under the provisions of the Law on Minerals, this Decree and other relevant provisions of law.

Article 58.- Use of land in mineral activities

The assignment and lease of land in mineral activities shall comply with the provisions of land law.

Chapter XII

ORDER AND PROCEDURES FOR THE GRANT OF MINERAL ACTIVITY PERMITS, EVALUATION AND APPROVAL OF MINERAL DEPOSITS

Article 59.- Dossiers for the grant, extension or return of mineral-prospecting permits

1. Dossiers of application for mineral-prospecting permits shall each comprise:

a/ The application for a mineral prospecting permit, enclosed with a map of the region to be prospected;

b/ The mineral-prospecting scheme, which clearly states geological bases and kinds of mineral to be prospected, prospecting method and volume; prospecting time limit and schedule, and financial sources;

c/ A copy of the written certification of the legal status of the organization applying for a mineral prospecting permit, notarized by a state public notary.

2. Dossiers of application for extension of mineral-prospecting permits

A dossier of application for permit extension must be submitted to the authorized agency 30 days before the expiration of the permit, comprising:

a/ The application for permit extension;

b/ The report on the results of mineral prospecting and work volume, and the fund already used by the time of application for extension.

Where a mineral-prospecting permit has expired but the dossier of application for extension is still

under consideration, the organization or individual permitted to prospect minerals can operate till the time a decision on extension or a written reply not permitting such extension is issued.

3. A dossier of application for the return of a mineral-prospecting permit shall comprise:

a/ The application for the return of the permit;

b/ The report on results of mineral prospecting and work volume, and the fund already used by the time of returning the permit.

Article 60.- Dossiers of application for the grant, re-grant, extension, return or transfer of mineral exploration permits, or for the further transfer of the rights to explore minerals

1. Dossiers of application for mineral exploration permits shall each comprise:

a/ The application for a mineral exploration permit;

b/ The mineral exploration scheme made according to regulations, enclosed with a map of the to-be explored region;

c/ A copy of the written certification of the legal status, notarized by a state public notary, for the applicant being a domestic organization, or of the investment license, notarized by a state public notary, for the applicant being a foreign organization or joint-venture with foreign parties.

2. Dossiers of application for the re-grant of mineral exploration permits

In case of application for the re-grant of an exploration permit defined in Clause 3, Article 25 of the Law on Minerals and Clause 3, Article 49 of this Decree, the dossier must be submitted to the authorized agency at least thirty (30) days before the expiration of the permit, comprising:

a/ The application for the re-grant of the mineral

exploration permit;

b/ The report on exploration results, the performed exploration volume and the exploration program and volume to be further performed;

c/ The map of the region under the exploration permit to be re-granted.

3. Dossiers of application for extension of mineral exploration permits.

Dossiers of application for extension of mineral exploration permits must be submitted to authorized agencies at least thirty (30) days before the expiration of permits, each comprising:

a/ The application for extension of the mineral exploration permit;

b/ The report on exploration results, the performed exploration volume; the exploration program and volume to be further performed;

c/ The map of the region under exploration, which must exclude at least thirty (30%) of the area under exploration according to the already granted permit.

Where a mineral exploration permit has expired but the dossier of application for extension is still under consideration, the organization or individual permitted to explore minerals can continue their operation till the time the permit extension is effected or a written reply not permitting the extension is issued.

4. Dossiers of application for the return of mineral exploration permits or part of the mineral exploration area shall each comprise:

a/ The application for the return of the mineral exploration permit or part of the mineral exploration area;

b/ The report on results of mineral exploration, the exploration volume already performed by the time the permit or part of the mineral exploration

area is returned;

c/ The map of the region to be further explored; the further exploration work or program (in case of return of part of the exploration area).

5. Dossiers of application for the transfer of the rights to explore minerals shall each comprise:

a/ The application for the transfer of the rights to explore minerals, enclosed with the transfer contract and the list of assets to be transferred;

b/ The report on the exploration results, the performed work volume and relevant obligations under regulations, which have been fulfilled by the time of application for the transfer of the rights to exploration;

c/ A copy of the written certification of the legal status, notarized by a state public notary, for the transferee being a domestic organization, or of the investment license (if any), notarized by a state public notary, for the transferee being a foreign organization or a joint-venture with foreign parties.

The transfer of the rights to exploration shall be approved with the grant of a new exploration permit to replace the old one.

6. Dossiers of application for further exercise of the rights to explore minerals shall each comprise:

a/ The application for further exercise of the rights to explore minerals; the report on exploration results, the performed work volume and the further exploration program;

b/ A copy of the legal document notarized by a state public notary proving that the concerned organization or individual inherits the rights to explore minerals;

c/ A copy of the written certification of the legal status of the inheriting organization, which is notarized by a state public notary.

The permission for further exercise of the rights

to explore minerals shall be approved with the grant of a new exploration permit to the inheriting organization or individual to replace the old one.

Article 61.- Dossiers of application for the grant, extension, return or transfer of mineral exploitation permits, or for further exercise of the rights to exploit minerals

1. Dossiers of application for mineral exploitation permits shall each comprise:

a/ The application for a mineral exploitation permit, enclosed with a map of the region under mineral exploitation;

b/ The decision approving mineral deposits, issued by the competent state agency under regulations;

c/ The feasibility study report on mineral exploitation, enclosed with the approval decision according to regulations;

d/ The report on assessment of environmental impacts or the written registration of satisfaction of environmental standards, which has been approved or certified by a competent state agency in accordance with the provisions of environment protection law;

e/ A copy of the written certification of the legal status, notarized by a state public notary, for the applicant being a domestic organization other than the organization already granted the exploration permit, or of the investment license, notarized by a state public notary, for the applicant being a foreign organization or a joint-venture with foreign parties.

2. Dossiers of application for extension of mineral exploitation permits

Dossiers of application for extension of mineral exploitation permits must be submitted to authorized agencies 90 days before the expiration of the permits, each comprising:

a/ The application for extension of the mineral exploitation permit;

b/ The map of the current mining area, enclosed with the report on exploitation results by the time of application for extension; the remaining mineral deposits and the area applied for further exploitation.

Where a mineral exploitation permit has expired while the dossier of application for permit extension is still under consideration, the organization or individual permitted to exploit minerals may continue to operate till the permit extension is effected or a written reply not permitting such extension is issued.

3. Dossiers of application for return of mineral exploitation permits or part of the mineral exploitation area shall each comprise:

a/ The application for the return of the mineral exploitation permit or part of the mineral exploitation area;

b/ The map of the current exploitation area, enclosed with the results of mineral exploitation by the time of returning the permit or part of the exploitation area;

c/ The mine-closing scheme already evaluated and approved according to the provisions of law, for cases where the exploitation permit is returned.

4. Dossiers of application for transfer of the rights to exploit minerals shall each comprise:

a/ The application for transfer of the rights to exploit minerals and the transfer contract, enclosed with the list of assets to be transferred;

b/ The report on exploitation results and obligations already fulfilled by the time of application for transfer of the rights to exploitation, enclosed with a map of the current exploitation area at the time of application for the transfer;

c/ A copy of the written certification of the legal status, notarized by a state public notary, for the transferee being a domestic organization, or the copy of the investment license, notarized by a state public notary, for the transferee being a foreign organization or joint-venture with foreign parties.

The transfer of the rights to exploitation shall be approved with the grant of a new exploitation permit to the transferee, in replacement of the old one.

5. Dossiers of application for further exercise of the rights to exploit minerals shall each comprise:

a/ The application for further exercise of the rights to exploit minerals;

b/ A copy of the legal document, notarized by a state notary public, proving that the applicant is entitled to inherit the rights to exploit minerals;

c/ A copy of the written certification of the legal status of the inheriting organization, notarized by a state notary public;

d/ The map of the current exploitation area, enclosed with the report on results of mineral exploitation by the time of application for the further exercise of the rights to exploit minerals.

The further exercise of the rights to exploit minerals shall be approved with the grant of a new mineral exploitation permit to the inheriting organization or individual, in replacement of the old one.

6. For the grant of mineral exploitation permits in the case stipulated in Clause 2, Article 41 of the Law on Minerals and in cases where minerals are exploited in the already surveyed and evaluated areas which fall beyond the national mineral exploitation and processing planning, already approved by competent state agencies, or do not belong to the national mineral reserves stipulated at Point b, Clause 1, Article 56 of the Law on

Minerals, the dossiers of application for exploitation permits shall not include decisions approving mineral deposits.

Article 62.- Dossiers of application for grant, extension, return or transfer of mineral processing permits or for further exercise of the rights to process minerals

1. Dossiers of application for mineral-processing permits shall each comprise:

a/ The application for a mineral processing permit;

b/ The feasibility study report on mineral processing, enclosed with the approval decision according to regulations;

c/ A copy of the written certification of the legal status, notarized by a state notary public, for the applicant being a domestic organization, or of the mineral processing-investment license, notarized by a state notary public, for the applicant being a foreign organization or joint venture with foreign parties;

d/ The report on assessment of environmental impacts or the written registration of satisfaction of environmental standards already approved or certified by a competent state agency according to the provisions of environment protection law;

2. Dossiers of application for extension of mineral processing permits

Dossiers of application for extension of mineral processing permits shall be submitted to authorized agencies 90 days before the expiration of the permits, each comprising:

a/ The application for extension of the mineral processing permit;

b/ The report on mineral processing results by the time of application for extension, the expected

mineral-processing output.

Where a mineral-processing permit has expired but the dossier of application for extension is still under consideration, the organization or individual permitted to process minerals can still continue operation until the extension of the permit or the issuance of a written reply to the organization applying for such extension, which states the reasons why the permit extension is not allowed.

3. Dossiers of application for return of mineral-processing permits shall each comprise:

a/ The application for return of the mineral-processing permit;

b/ The report on results of mineral processing from the date the permit becomes valid to the date of its return.

4. Dossiers of application for transfer of the rights to process minerals shall each comprise:

a/ The application for transfer of the rights to process minerals;

b/ The contract on transfer of the rights to process minerals, enclosed with a list of transferred assets and their values; the report on results of mineral processing and obligations already fulfilled by the time of application for transfer of the rights to process minerals;

c/ A copy of the written certification of the legal status, notarized by a state public notary, for the applicant being a domestic organization, or a copy of the investment license, notarized by a state public notary, for the applicant being a foreign organization or a joint venture with foreign parties.

The transfer of the processing rights shall be approved with the grant of a new processing permit to the transferee, in replacement of the old one.

5. Dossiers of application for further exercise of the rights to process minerals shall each comprise:

a/ The application for further exercise of the rights to process minerals;

b/ A copy notarized by a state public notary of the legal document, proving that the applicant is entitled to inherit the mineral processing rights;

c/ A copy of the written certification of the legal status of the inheriting organization, notarized by a state public notary;

d/ The report on mineral-processing results and the plan on future mineral processing activities.

The further exercise of the rights to process minerals shall be approved with the grant of a new mineral-processing permit to the inheriting organization or individual, in replacement of the old one.

Article 63.- Order of granting the permits

1. Within sixty (60) working days after receiving complete and valid dossiers from domestic organizations applying for mineral activity permits, from foreign organizations or joint-ventures with foreign parties applying for mineral-prospecting or exploration permits, the authorized agencies shall have to evaluate the dossiers and submit them to competent state agencies for consideration of the grant of permits. For complicated cases, which need more time for consideration and evaluation, the evaluation time limit may be longer but must not exceed ninety (90) working days as from the date the complete and valid dossiers are received.

2. Within thirty (30) working days after foreign organizations or individuals or joint ventures with foreign parties have been granted investment licenses and have submitted complete and valid dossiers of application for mineral exploitation and processing permits under regulations, the dossier-receiving agencies must complete the evaluation of dossiers and submit them to agencies competent

to grant permits.

3. Within thirty (30) working days after receiving the complete and valid dossiers of application for extension or return of permits or return of part of the mineral activity area, transfer of the rights to mineral activities or further exercise of the rights to mineral activities in case of lawful inheritance of such rights, the dossier-receiving agencies must complete the evaluation of dossiers, submit them to the competent state agencies for consideration and decision.

4. The time limit specified in Clause 1 and Clause 3 of this Article shall not cover the time for gathering comments of concerned agencies on matters relating to the grant of mineral activity permits.

5. Within seven (07) working days after receiving the complete and valid dossiers submitted by authorized agencies, competent state agencies shall consider and decide to grant or not to grant mineral activity permits, then hand the dossiers back to the dossier-receiving agencies. In case of not granting permits, they must give written replies and clearly state the reasons therefor.

6. The dossier-receiving agencies shall take responsibility for handing mineral activity permits to the applying organizations.

7. The Vietnam Geological and Mineral Department shall receive dossiers of application for mineral activity permits falling under the granting competence of the Ministry of Natural Resources and Environment; provincial/municipal Services of Natural Resources and Environment shall receive dossiers of application for mineral activity permits falling under the competence of provincial-level People's Committees.

8. The Ministry of Natural Resources and Environment shall provide forms of application and

mineral activity permit and maps of regions subject to mineral activity permits.

Article 64.- Dossiers for evaluation, consideration and approval of mineral deposits

A dossier for evaluation, consideration and approval of mineral deposits shall comprise:

1. An official letter requesting evaluation, consideration and approval of mineral deposits.

2. The exploration scheme and a copy of the mineral exploration permit, notarized by a state public notary.

3. The minutes on acceptance of the volume and quality of the exploration work, which has been executed by the organization or individual granted a mineral exploration permit.

4. Four dossier sets, including three print sets and one CD set, consisting of an explanation of the exploration report, appendices, drawings and original documents.

Article 65.- Order of evaluation, consideration and approval of mineral deposits

1. The Office of the Mineral Deposit Evaluating Council shall receive dossiers of request for evaluation, consideration and approval of mineral deposits, which are submitted to the Council; provincial/municipal Services of Natural Resources and Environment shall receive dossiers of request for evaluation, consideration and approval of mineral deposits, which are submitted to provincial-level People's Committees.

2. Within thirty (30) working days after receiving the complete and valid dossiers stipulated in Article 64 of this Decree, the state agencies competent to consider and approve mineral deposits shall have to complete the evaluation, consideration and approval of mineral deposits. In case of disapproval, they must give written replies and

clearly state the reasons therefor.

Chapter XIII

FULL EXTRACTION OF MINERALS

Article 66.- Area of a region for full extraction of minerals

The area of a region for full extraction of minerals under a permit granted to an organization shall not exceed ten (10) hectares, and not exceed (01) hectare for an individual.

Article 67.- Extension of permits for full extraction of minerals

A permit for full extraction of minerals may be extended many times but the total extension duration shall not exceed twenty four (24) months, under the following conditions at the time of application for extension:

1. The organization or individual permitted to fully extract minerals have fulfilled the obligations stipulated in Article 52 of the Law on Minerals;
2. The permit for full extraction of minerals remains valid for no less than thirty (30) days.

Article 68.- Order and procedures for, the grant, extension or return of permits for full extraction of minerals

The order of, and procedures for, the grant, extension or return of permits for full extraction of minerals shall comply with the provisions of Articles 61 and 63 of this Decree.

Chapter XIV

INSPECTION AND SETTLEMENT OF COMPLAINTS AND DENUNCIATIONS

Article 69.- Mineral inspectorate

1. Mineral inspectorate means inspectorate specialized in minerals.

2. The organization, tasks and powers of mineral inspectorate shall be provided by the Government.

Article 70.- Settlement of complaints and denunciations

The settlement of complaints and denunciations in the field of minerals shall comply with the provisions of law on complaints and denunciations.

Chapter XV

IMPLEMENTATION PROVISIONS

Article 71.- Implementation effect

This Decree takes effect 15 days after its publication in "CONG BAO" and replaces the Government's Decree No. 76/2000/ND-CP of December 15, 2000, detailing the implementation of the Law on Minerals (amended).

Article 72.- Responsibilities of ministries, ministerial-level agencies, Government-attached agencies, People's Committees of provinces and centrally-run cities, and relevant organizations and individuals

1. The Minister of Natural Resources and Environment and concerned ministers shall, within the ambit of their functions, tasks and powers, have to guide the implementation of this Decree.

2. Ministers, heads of ministerial-level agencies, heads of the Government-attached agencies, presidents of provincial/municipal People's Committees and concerned organizations and individuals shall have to implement this Decree.

On behalf of the Government
Prime Minister
PHAN VAN KHAI