

THE GOVERNMENT

DECREE No. 140/2006/ND-CP OF NOVEMBER 22, 2006, PROVIDING FOR THE ENVIRONMENTAL PROTECTION AT STAGES OF ELABORATION, EVALUATION, APPROVAL AND IMPLEMENTATION OF DEVELOPMENT STRATEGIES, PLANNINGS, PLANS, PROGRAMS AND PROJECTS

THE GOVERNMENT

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

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

Pursuant to the Government's Decree No. 80/2006/ND-CP of August 9, 2006, detailing and guiding the implementation of a number of articles of the Law on Environmental Protection;

Pursuant to the Government's Decree No. 81/2006/ND-CP of August 9, 2006, on sanctioning of administrative violations in the domain of environmental protection;

At the proposal of the Planning and Investment Minister,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Governing scope

1. This Decree provides for the environmental protection at stages of elaboration, evaluation, approval and implementation of development strategies, plannings, plans, programs and projects.

2. Development strategies governed by this Decree

include national and regional socio-economic development strategies; strategies for nationwide branch or sector development.

3. Development plannings governed by this Decree include overall plannings on socio-economic development of regions (including special territories and key economic regions), provinces and centrally run cities; plannings on nationwide branch or sector development.

4. Development plans governed by this Decree include national, provincial or municipal socio-economic development plans and plans on nationwide branch or sector development.

5. Development programs governed by this Decree mean socio-economic development programs.

6. Development projects governed by this Decree include domestic investment projects and foreign investment projects, specifically as follows:

a/ Projects on construction of national important works;

b/ Projects involving the partial use of land areas of, or exerting adverse impacts on, natural conservation zones, national parks, historical-cultural relics, natural heritages, scenic places and beauty spots, which have been classified;

c/ Projects which are likely to adversely affect water sources of river basins, coastal areas and areas where the ecosystem is protected;

d/ Projects on construction of infrastructures of economic zones, industrial parks, hi-tech parks, export processing zones, industrial complexes, craft villages;

e/ Projects on construction of new urban centers or population areas;

f/ Projects on large-scale exploitation and use of underground water or natural resources;

g/ Other projects with big latent dangers of exerting adverse impacts on the environment.

The list of projects subject to elaboration of environmental impact assessment reports is provided for in the Government's Decree No. 80/2006/ND-CP of August 9, 2006, detailing and guiding the implementation of a number of articles of the Law on

Environmental Protection.

Article 2.- Subjects of application

This Decree applies to Vietnamese agencies, organizations and citizens and foreign organizations and individuals residing in the territory of the Socialist Republic of Vietnam and conducting activities related to the elaboration, evaluation, approval and implementation of development strategies, plans, programs and projects.

If a treaty to which the Socialist Republic of Vietnam is a contracting party contains different provisions, the provisions of that treaty prevail.

Article 3.- Interpretation of terms

In this Decree, the following terms are construed as follows:

1. Development strategy means a system of overall, comprehensive, basic and long term national socio-economic development undertakings, which reflects the system of basic development viewpoints and objectives, major methods and solutions to long-term national socio-economic development.

2. Overall planning on socio-economic development of a region or territory means a study of rational socio-economic development and spatial organization of socio-economic activities in a certain region or territory within a given period of time.

3. Branch or sector development planning means a study involving options on development and rational distribution of branches or sectors for a long term throughout the country and in different regions or territories.

4. Key economic region means a part of the national territory, consisting of a number of provinces or cities that have favorable development conditions and factors and great economic potentials, and play the role of a driving force for national development.

5. Development plan means the systematic determination of specific activities for socio-economic development according to set objectives and targets within a given period of time. A plan consists of targets, measures, mechanisms and policies aiming to achieve

objectives set during the plan period.

6. Development program means a combination of objects invested under a specific plan in order to achieve certain objectives. A development program consists of a number of projects that are closely interrelated in terms of execution organization, operation and use to achieve the program's common objectives.

7. Development project means a combination of objects invested with various resources to build, expand or renovate specified material foundations, thus increasing their quantity, expanding their areas, raising their quality from low to high and upgrading their structures from simple to complex level in order to achieve a growth in quantity or an improvement in quality of invested objects within a given period of time.

Article 4.- General principles

It is a must to attach importance to, consider and weigh up the environmental protection right from the emergence of development ideas or orientations and throughout the course of elaboration, evaluation, approval and implementation of strategies, plans, programs and projects in order to ensure the economically, socially and environmentally sustainable development of the country. It is prohibited to carry out activities which bring about immediate benefits but cause severe and long-term environmental consequences.

Article 5.- Implementation responsibilities

1. To protect the environment is the duty and responsibility of all organizations and individuals conducting activities related to the elaboration, evaluation, approval and implementation of development strategies, plans, programs and projects in the territory of Vietnam.

2. Managing units, investors, agencies deciding on approval of development strategies, plans, programs and projects shall adopt specific solutions to prevent, limit and remedy environmental incidents in the course of implementation of those development strategies, plans, programs and projects.

3. The entire population have benefits from, and

obligations to participate in, the environmental protection and contribute opinions, inspect and supervise the observance of regulations on environmental protection by development strategies, plannings, plans, programs and projects.

Chapter II

PROVISIONS ON THE ENVIRONMENTAL PROTECTION AT STAGES OF ELABORATION, EVALUATION, APPROVAL AND IMPLEMENTATION OF DEVELOPMENT STRATEGIES, PLANNINGS, PLANS, PROGRAMS AND PROJECTS

Article 6.- The stage of elaboration of development strategies, plannings, plans, programs and projects

1. For development strategies, plannings and plans:

a/ Elaborated development strategies, plannings and plans must ensure the harmony of socio-economic development and environmental protection objectives. Orientations for development objectives and environmental protection objectives must conform to the sustainable development criteria.

b/ When development strategies, plannings and plans are elaborated, there must be environmental impact assessments and forecasts as well as environmental protection targets and measures. In development plans, there must be norms of investment in building the capacity to organize the environmental management and supervision, prevent and treat environmental pollution, improve and protect the environment. Environmental targets must constitute part of the system of plan targets at various levels and be elaborated concurrently with socio-economic targets in development plans of branches, sectors or localities.

c/ Agencies tasked to elaborate development strategies, plannings or plans shall make strategic environmental assessment reports simultaneously with those strategies, plannings or plans.

d/ Contents of strategic environmental assessment reports shall comply with the provisions of Article 16 of the Law on Environmental Protection.

e/ When the elaboration of development strategies,

plannings and plans is studied, opinions of concerned ministries, branches, localities, scientists and experts must be gathered. Particularly, when urban and rural plannings are studied for elaboration, they must be publicized for comments by people and People's Councils in the planned areas.

2. For development programs and projects:

a/ Environmental impacts must be considered right at the stage of study and elaboration of those development programs and projects.

b/ Investors of development programs and projects defined in Clauses 5 and 6, Article 1 of this Decree shall make environmental impact assessment reports simultaneously with those programs or feasibility study reports of projects, then submit them to competent state agencies for approval.

c/ Contents of environmental impact assessment reports comply with the provisions of Article 20 of the Law on Environmental Protection.

d/ Investors of development programs and projects shall make environmental impact assessment reports by themselves or hire consultancy service organizations to do so, and take responsibility for the figures and information stated in those environmental impact assessment reports.

e/ Investors shall explain any change in scales, contents, execution durations and completion time limits of programs and projects with the approving agencies and, when requested by competent authorities, make additional environmental impact assessment reports.

f/ Provisions on environmental protection at the stage of elaboration of a program shall apply to the whole program and each project under that program.

Article 7.- The stage of evaluation and approval of development strategies, plannings, plans, programs and projects

1. For development strategies, plannings and plans

a/ To be-evaluated contents of development strategies, plannings and plans must include the environmental protection ones.

b/ Apart from required documents, the evaluation

dossiers of strategies, plannings and plans must also contain results of competent authorities' evaluation of strategic environmental assessment reports.

c/ The evaluation of strategic environmental assessment reports shall comply with the provisions of Article 17 of the Law on Environmental Protection. Agencies competent to evaluate those strategic environmental assessment reports shall report evaluation results to heads of agencies competent to approve strategies, plannings and plans for use as a basis for approving those strategies, plannings and plans.

d/ The competence to organize the evaluation of strategies, plannings and plans shall comply with the current provisions of law.

In the course of evaluation, competent state agencies shall invite concerned ministries, branches, localities, consultancy organizations and scientists to participate in the evaluation on the basis of contracts signed with agencies competent to organize the evaluation and shall take responsibility for the evaluation results.

Agencies organizing the evaluation may base themselves on opinions of ministries, branches, localities and organizations participating in the evaluation to request agencies submitting the strategies, plannings or plans to clarify or supplement them.

e/ The time limit for evaluation of a development strategy, planning or plan shall be 45 days after the evaluating agency receives a complete and valid dossier, excluding the time for modifying or supplementing the dossier.

f/ The competence to approve development strategies, plannings and plans shall comply with the current provisions of law.

g/ Authorities competent to approve strategies, plannings and plans shall base themselves on dossiers, proposals on approval of strategies, plannings and plans, evaluation reports of agencies tasked to organize the evaluation and the results of evaluation of strategic environmental assessment reports to consider and decide on the approval of those strategies, plannings and plans.

Contents of approval decisions must include

environmental protection contents.

h/ After development strategies, plannings and plans are approved, competent state management agencies shall publicize them on mass media so that people know them, the inspect and supervise the implementation thereof.

2. For development programs and projects.

a/ To be-evaluated contents of development programs and projects must include environmental protection ones.

b/ Apart from required documents, the evaluation dossiers of development programs and projects must also contain competent authorities' decisions on approving environmental impact assessment reports.

c/ The evaluation and approval of environmental impact assessment reports of development programs and projects shall comply with the provisions of Articles 21 and 22 of the Law on Environmental Protection. Agencies setting up councils to evaluate environmental impact assessment reports shall report the results of evaluation of environmental impact assessment reports to heads of agencies competent to approve programs and projects for use as a basis for approving those programs and projects.

d/ The competence to organize the evaluation of development programs and projects shall comply with the current provisions of law.

e/ Authorities competent to evaluate development programs and projects shall use their fully capable professional bodies to organize the evaluation of programs and projects and may invite concerned agencies to participate in evaluation councils.

Agencies organizing the evaluation of development programs and projects shall be held responsible before law for their evaluation contents.

The time limit for evaluation of a development program or project shall comply with the current provisions of law.

f/ Authorities competent to approve and grant investment licenses to development programs and projects shall base themselves on the evaluation reports of programs and projects, the decisions approving

environmental impact assessment reports and other necessary dossiers to consider and decide on the approval of those development programs and projects.

Development programs and projects specified in Clauses 5 and 6, Article 1 of this Decree are approved and licensed for investment only after the approval of their environmental impact assessment reports.

Approval decisions must include environmental protection contents.

g/ Provisions on environmental protection at the stage of evaluation and approval of programs apply to the whole programs and each project under those programs.

Article 8.- The stage of implementation of development strategies, plannings, plans, programs and projects

1. For development strategies, plannings and plans

a/ In the course of implementation of development strategies, plannings and plans, the environmental protection contents stated in strategic environmental assessment reports must be fully complied with.

b/ The Natural Resources and Environment Ministry shall assume the prime responsibility for, and coordinate with the Planning and Investment Ministry, line-managing ministries, provincial/municipal People's Committees in, supervising, examining and inspecting the compliance with provisions on environmental protection of development strategies, plannings and plans. The supervision, inspection and examination shall comply with the current provisions of law.

c/ Ministries, branches and provincial/municipal People's Committees shall settle according to their competence or propose the Prime Minister to settle complaints and handle petitions of organizations and individuals, which are related to environmental protection, in the course of implementation of development strategies, plannings and plans.

d/ Annually, ministries, branches and provincial/municipal People's Committees shall make reports on examination, inspection and supervision of the compliance with the provisions on environmental protection of development strategies, plannings and

plans, then send them to the Natural Resources and Environment Ministry for sum-up and reporting to the Prime Minister.

e/ The contents of examination, inspection and supervision of compliance with the provisions of environmental protection of development strategies, plannings and plans shall comply with the contents of strategic environmental assessment reports.

2. For development programs and projects:

a/ In the course of implementation of development programs and projects, owners of those programs and projects shall fully observe the contents of the environmental impact assessment reports specified in Clause 1, Article 23 of the Law on Environmental Protection.

b/ Agencies approving the environmental impact assessment reports shall direct and organize the examination, inspection and supervision of observance of environmental protection contents and application of environmental protection measures by development programs and projects; receive and handle according to their competence population communities' petitions concerning environmental issues related to currently implemented programs and projects.

c/ Development programs and projects must obtain certification of satisfaction of requirements in the decisions approving environmental impact assessment reports. Dossiers, procedures and contents of inspection and certification comply with current provisions of relevant legal documents.

d/ Provisions on environmental protection at the stage of implementation of programs apply to the whole programs and each project under those program.

Chapter III

RESPONSIBILITIES OF AGENCIES

Article 9.- Responsibilities of the Planning and Investment Ministry

1. To ensure the observance of the provisions on environmental protection in the elaboration of socio-economic development strategies, overall plannings and

plans of the whole country and territorial regions, as well as long-term, five-year and annual plans.

2. To ensure the observance of the provisions on environmental protection in the evaluation of branch and regional development plans of ministries, ministerial-level agencies, government-attached agencies, provinces and centrally run cities; master plans on industrial parks, export processing zones; and development programs and projects falling under the jurisdiction of the National Assembly, the Government or the Prime Minister.

3. To coordinate with ministries, ministerial-level agencies, government-attached agencies and provincial/municipal People's Committees in ensuring the observance of the provisions on environmental protection at the stages of elaboration, evaluation, approval and implementation of development strategies, plans, programs and projects falling under the jurisdiction of the National Assembly, the Government or the Prime Minister.

4. To coordinate with ministries, ministerial-level agencies, government-attached agencies and provincial/municipal People's Committees in supervising, examining and inspecting the observance of the environmental protection provisions of development strategies, plans, programs and projects falling under the jurisdiction of the National Assembly, the Government or the Prime Minister.

Article 10.- Responsibilities of the Natural Resources and Environment Ministry

1. To uniformly manage the evaluation and approval of strategic environmental assessment reports and environmental impact assessment reports nationwide; to organize the evaluation of strategic environmental assessment reports and the evaluation and approval of strategic environmental assessment reports falling under its competence; to guide the elaboration of strategic environmental assessment reports.

2. To assume the prime responsibility for, and coordinate with the Planning and Investment Ministry, line-managing ministries and provincial/municipal People's Committees in, supervising, examining and inspecting the compliance with the provisions on

environmental protection of development strategies, plans, programs and projects falling under the jurisdiction of the National Assembly, the Government or the Prime Minister, to annually sum up and report to the Prime Minister on the supervision, examination and inspection of the compliance with the environmental protection provisions of development strategies, plans, programs and projects.

3. To ensure the observance of the provisions on environmental protection at the stages of elaboration, evaluation, approval and implementation of branch or sector development plans and projects falling under its competence.

4. The Natural Resources and Environment Minister shall guide the regime of supervision, examination and inspection, and prescribe the regime of reporting on the compliance with the environmental protection provisions of development strategies, plans, programs and projects.

Article 11.- Responsibilities of ministries, ministerial-level agencies and government-attached agencies

1. To ensure the observance of the provisions on environmental protection at the stages of elaboration, evaluation, approval and implementation of branch or sector development strategies, plans, programs and projects falling under their respective competence.

2. To supervise, examine and inspect the compliance with the environmental protection provisions of branch or sector development strategies, plans, programs and projects falling under their respective competence; to make and send annual reports on implementation results to the Natural Resources and Environment Ministry.

Article 12.- Responsibilities of provincial/municipal People's Committees

1. To ensure the observance of the provisions on environmental protection at the stages of elaboration, evaluation, approval and implementation of local development strategies, plans, programs and projects falling under their respective competence.

2. To supervise, examine and inspect the compliance

with the environmental protection provisions of local development strategies, plannings, plans, programs and projects falling under their respective competence; to make and send annual reports on implementation results to the Natural Resources and Environment Ministry.

Article 13.- Handling of violations

1. If functional agencies, organizations and individuals involved in the elaboration, evaluation, approval and implementation of development strategies, plannings, plans, programs and projects violate this Decree's provisions on environmental protection, they shall be administratively sanctioned.

2. Acts of administrative violation in environmental protection, sanctioning forms, levels, competence and procedures, and measures to remedy consequences shall comply with the provisions of the Government's Decree No. 81/2006/ND-CP of August 9, 2006, on sanctioning of administrative violations in environmental protection.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 14.- Implementation effect

This Decree takes effect 15 days after its publication in "CONG BAO."

Article 15.- Responsibilities to guide and implement this Decree

The Planning and Investment Minister and the Natural Resources and Environment Minister shall, within the ambit of their functions, tasks and powers, guide and organize the implementation of this Decree.

Ministers, heads of ministerial-level agencies, heads of government-attached agencies and presidents of provincial/municipal People's Committees shall implement this Decree.

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG