

**THE MINISTRY OF NATURAL RESOURCES
AND ENVIRONMENT****DECISION No. 19/2007/QĐ-BTNMT OF
NOVEMBER 26, 2007, PROMULGATING THE
REGULATION ON THE CONDITIONS FOR
AND PROVISION OF THE SERVICE OF
APPRAISING ENVIRONMENTAL IMPACT
ASSESSMENT REPORTS****THE MINISTER OF NATURAL
RESOURCES AND ENVIRONMENT**

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

*Pursuant to the Government's Decree No. 91/
2002/ND-CP of November 11, 2002, defining the
functions tasks, powers and organizational structure
of the Ministry of Natural Resources and
Environment;*

*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;*

*At the proposal of the director of the
Environmental Impact Appraisal and Assessment
Department and the director of the Legal Department,*

DECIDES:

Article 1.- To promulgate together with this
Decision the Regulation on the conditions for and
provision of the service of appraising environmental
impact assessment reports.

Article 2.- This Decision takes effect 15 days after
its publication in "CONG BAO."

Article 3.- Ministers, heads of ministerial-level
agencies, heads of government-attached agencies,

presidents of provincial/municipal People's
Committees, and concerned organizations and
individuals shall implement this Decision.

*Minister of Natural Resources and
Environment*
PHAM KHOI NGUYEN

**REGULATION ON THE CONDITIONS FOR
AND PROVISION OF THE SERVICE OF
APPRAISING ENVIRONMENTAL IMPACT
ASSESSMENT REPORTS**

*(Promulgated together with the Natural Resources
and Environment Minister's Decision No. 19/2007/
QĐ-BTNMT of November 26, 2007)*

Chapter I**GENERAL PROVISIONS****Article 1.-** Scope of regulation

This Regulation provides for the conditions for
and provision of the service of appraising
environmental impact assessment reports of
investment projects in Vietnam, except for investment
projects in the defense or security domain and
investment projects involving state secrets.

Article 2.- Subjects of application

This Regulation applies to state management
agencies; appraisal service organizations appraising
environmental impact assessment reports; and other
organizations and individuals involved in the
provision of the service of appraising environmental
impact assessment reports.

Article 3.- Principles on the provision of the

appraisal service

1. Vietnamese and foreign organizations that meet all conditions specified in Article 6 of this Regulation may register to be selected for the provision of the service of appraising environmental impact assessment reports.

2. The service of appraising environmental impact assessment reports is provided on the basis of contracts signed between agencies in charge of selecting organizations providing the service of appraising environmental impact assessment reports (referred to as appraisal service-selecting agencies) defined in Article 21 of the Law on Environmental Protection and organizations selected to provide the appraisal service (referred to as appraisal service organizations).

3. Appraisal service organizations may invite managers, scientific, technological and technical experts who possess appropriate professional qualifications to participate in the appraisal of environmental impact assessment reports, except for the cases specified in Clauses 4 and 5 of this Article.

4. Organizations and individuals that have assumed the main responsibility for or participated in elaborating the environmental impact assessment report of a specific project may not assume the prime responsibility for or participate in appraising the environmental impact assessment report of that project.

5. Organizations and individuals that are complained or denounced for violations of law on environmental protection or other illegal acts may not assume the prime responsibility for or participate in the appraisal of environmental impact assessment reports.

Article 4.- Expenses for the appraisal service

Expenses for the appraisal service comply with the Finance Ministry's regulations.

Article 5.- Appraisal by appraisal service organizations

Environmental impact assessment reports of investment projects in one of the following cases may be appraised by appraisal service organizations:

1. Projects occupying partly or wholly the land area of a national park, nature reserve, bio-reserve, world heritage or ranked historical or cultural relic.

2. Projects in one of the following domains: atomic power, thermonuclear power, nuclear reactors, hydroelectric power, irrigation with the construction of reservoirs, coastal aquaculture, construction of seaports, river harbors, airfields or airports, oil refinery, petrochemistry, production of base chemicals, production of plant protection drugs, production of fertilizers using or emitting radioactive substances, oil and gas exploitation, exploitation of special or hazardous minerals, waste recycle and landfill.

3. Projects for which investors or project owners have filed a written request for appraisal through the appraisal service.

4. Projects subject to elaboration of additional environmental impact assessment reports and their previous environmental impact assessment reports have been appraised through the appraisal service.

Chapter II

**CONDITIONS FOR AND
RESPONSIBILITIES AND POWERS OF
APPRAISAL SERVICE ORGANIZATIONS**

Article 6.- Capacity conditions on appraisal service organizations

Appraisal service organizations must meet the following conditions:

1. Having the legal person status; employing scientific, technological and technical cadres who possess professional qualifications suitable to investment projects, including at least three (03) specialists who have worked for at least five (05) years in the domain of environmental impact assessment.

2. Having appropriate facilities and equipment for

measuring, taking and analyzing environmental samples and other related samples suitable to the characteristics and execution sites of projects. If having inadequate facilities and equipment as prescribed, these organizations may hire facilities and equipment for appraisal.

Article 7.- Responsibilities and powers of appraisal service organizations

1. Appraisal service organizations have the following responsibilities:

a/ To abide by legal provisions on appraisal of environmental impact assessment reports and other relevant legal provisions;

b/ To strictly comply with regulations on operation of appraisal service organizations specified in Chapter IV of this Regulation;

c/ To take responsibility before law and appraisal service-selecting agencies for their appraisal results;

d/ To pay all expenses related to the re-appraisal or additional appraisal in case their appraisal results are not approved by appraisal service-selecting agencies;

2. Appraisal service organizations have the following powers:

a/ To request investors, project owners or units providing consultancy on making environmental impact assessment reports to supply necessary information and data for the appraisal of these reports; to adjust, supplement and complete environmental impact assessment reports in accordance with legal provisions on environmental protection;

b/ To request investors, project owners or units providing consultancy on making environmental impact assessment reports to coordinate with one another in conducting measurements and surveys at the execution sites of the projects in case of necessity;

c/ To report and propose appraisal service-selecting agencies to coordinate in settling difficulties and problems in the course of providing the appraisal service.

Chapter III

SELECTION OF APPRAISAL SERVICE ORGANIZATIONS

Article 8.- Announcement on the selection of appraisal service organizations

After deciding on the selection of the form whereby environmental impact assessment reports are to be appraised by appraisal service organizations, appraisal service-selecting agencies shall make announcement on the selection of organizations providing the service of appraising environmental impact assessment reports of investment projects on at least one central daily newspaper and their websites (if any). Such an announcement contains:

1. The name of the investment project, its investor or project owner and execution site

2. The branch, domain and scope of the investment project.

3. The contact address of the appraisal service-selecting agency.

4. The requirement on the time limit for appraisal.

5. The deadline for registration for participation in the selection of appraisal service organizations.

6. Other information and requirements relating to the selection (if any).

Article 9.- Registration for participation in selection of appraisal service organizations

1. Appraisal service organizations wishing to provide the service of appraising environmental impact assessment reports shall send a dossier of registration for participation in the selection to appraisal service-selecting agencies, comprising:

a/ A written registration for participation in the selection of organizations providing the service of appraising environmental impact assessment reports, including commitments on the reliability and accuracy of the declared information and the proposed funds and time for completion of appraisal services;

b/ A declaration on satisfaction of conditions for provision of the appraisal service; a declaration on training courses attended and professional activities carried out by cadres and specialists engaged in appraisal, enclosed with certified copies of documents evidencing their legal status and professional qualifications as prescribed by law.

2. The time limit for registration for participation in the selection of appraisal service organizations is specified by appraisal service-selecting agencies but must be between three (03) and five (05) working days from the date of making announcement on the selection to the date appraisal service-selecting agencies receive dossiers.

Article 10.- Selection of appraisal service organizations

After the time limit for registration for participation in the selection of appraisal service organizations specified in Clause 2, Article 9, of this Regulation, appraisal service-selecting agencies shall close the registration book and conduct the selection. The selection is conducted on the following principles:

1. Only organizations that have filed valid registration dossiers as prescribed in Article 6 of this Regulation are included in the selection list.

2. Where only one (01) organization has a valid registration dossier as prescribed in Article 6 of this Regulation, that organization will be selected to provide appraisal services.

3. Where two (02) or more organizations have valid registration dossiers as prescribed in Article 6 of this Regulation, appraisal service-selecting organizations shall select the organization that satisfies criteria in the following order of priority:

a/ The organization with personnel, material-technical foundations and experience most suitable to characteristics of investment projects will be selected to provide the appraisal service;

b/ In case several organizations satisfy the requirements specified at Point a of this Clause, the organization offering the shortest time limit and

smallest fund for the appraisal will be selected;

c/ Where all organizations satisfy the requirements specified at Points a and b of this Clause, the organization that has submitted a registration dossier first will be selected.

Article 11.- Announcement of selection results and appraisal service contracts

1. After obtaining selection results, appraisal service-selecting agencies shall send a written notice to and invite the selected appraisal service organizations to sign contracts on the provision of appraisal services for environmental impact assessment reports.

2. Contracts on the provision of the service of appraising environmental impact assessment reports comply with current legal provisions and must clearly identifying the responsibilities of involved parties, funds, products and deadline for completion.

Chapter IV

OPERATION OF APPRAISAL SERVICE ORGANIZATIONS

Article 12.- Receipt, study and processing of appraisal dossiers

1. After signing appraisal service contracts, appraisal service organizations shall receive dossiers from appraisal service-selecting agencies and conduct the appraisal.

2. In case there arise any matters related to the appraisal of environmental impact assessment reports that need to be clarified or further studied, appraisal service organizations may request investors or project owners to organize working sessions or provide necessary information.

3. Investors or project owners shall work with or provide relevant information to appraisal service organizations in service of the appraisal at the latter's request.

Article 13.- Field surveys at project execution sites

1. In case of necessity, appraisal service

organizations may request investors or project owners to coordinate and create favorable conditions to conduct field surveys at project execution sites. Investors or project owners shall make plans and arrange cadres to participate in these surveys.

2. When wishing to work with agencies performing the state management of environmental protection and other concerned agencies in the localities where the projects are to be executed on matters related to the appraisal of environmental impact assessment reports, appraisal service organizations shall directly contact these agencies or may request appraisal service-selecting agencies to introduce them to these agencies.

Article 14.- Processing of appraisal results and completion of environmental impact assessment reports

1. Processing of appraisal results:

a/ For environmental impact assessment reports that satisfy all prescribed requirements, appraisal service organizations shall send reports on appraisal results to appraisal service-selecting agencies for consideration and ratification;

b/ For environmental impact assessment reports that need to be amended or supplemented before submission for ratification, appraisal service organizations shall guide investors, project owners or units providing consultancy on making environmental impact assessment reports to complete these reports;

c/ For environmental impact assessment reports that are unqualified for submission for ratification, appraisal service organizations shall send a written notice to appraisal service-selecting agencies for consideration and handling.

2. Investors or project owners shall complete environmental impact assessment reports at the request of appraisal service organizations until these reports are approved by appraisal service organizations.

In case investors or project owners believe that appraisal service organizations' requests are groundless or fall beyond their ability, they shall send

reports thereon to appraisal service-selecting agencies for direction, guidance and settlement.

3. The time for investors or project owners to complete environmental impact assessment reports is not included in the appraisal time limit stated in the contracts between appraisal service organizations and appraisal service-selecting agencies, and the appraisal time limit prescribed for appraisal service-selecting agencies by the environmental protection law.

Article 15.- Reporting and submission of appraisal dossiers

1. Within five (05) working days after receiving environmental impact assessment reports already completed by investors or project owners as requested, appraisal service organizations shall send reports on appraisal results to appraisal service-selecting agencies, enclosed with one (01) copy of the dossier of appraisal of the environmental impact assessment report and one (01) compact disk recorded with the contents of the dossier.

2. A report on appraisal results has the following principal contents:

a/ A brief description of the process of organizing and conducting the appraisal of the environmental impact assessment report;

b/ Evaluation of the contents and quality of the environmental impact assessment report according to environmental protection law;

c/ Existing problems concerning the reliability and quality of the environmental impact assessment report which are due to *force majeure* objective causes;

d/ Proposal regarding the ratification of the environmental impact assessment report and other recommendations.

3. Within five (05) working days after receiving dossiers of appraisal results, appraisal service-selecting agencies shall send to the appraisal service organizations a notice on the approval of appraisal results and liquidate the signed appraisal service contracts; in case of non-approval of appraisal results, appraisal service-selecting agencies shall issue a

written notice to the appraisal service organizations, clearly stating the reasons and requirements.

Article 16.- Finalization, duplication and sending of environmental impact assessment reports

1. After obtaining appraisal service-selecting agencies' written approval of appraisal results, appraisal service organizations shall notify the investors or project owners on the finalization and duplication of environmental impact assessment reports.

2. Investors or project owners shall duplicate environmental impact assessment reports in an appropriate quantity as prescribed in the Natural Resources and Environment Ministry's Circular No. 08/2006/TT-BTNMT of September 8, 2006, guiding strategic environmental assessment, environmental impact assessment and environmental protection commitments and send these reports to appraisal service organizations.

3. Appraisal service organizations shall inspect environmental impact assessment reports finalized and duplicated by investors or project owners and send them to appraisal service-selecting agencies for performance of procedures for consideration and ratification.

Article 17.- Archive of appraisal dossiers

Appraisal service organizations shall archive one (01) complete dossier on the whole process of evaluating each environmental impact assessment report under each signed contract in service of inspection, comparison and processing work in case of necessity.

Chapter V

IMPLEMENTATION PROVISIONS

Article 18.- Organization of implementation

1. The Department for Environmental Impact Appraisal and Assessment under the Ministry of Natural Resources and Environmental shall supervise

and inspect the implementation of this Regulation and, annually, report the implementation results to the Minister of Natural Resources and Environmental.

2. The Natural Resources and Environment Ministry's Inspectorate shall coordinate with concerned units in inspecting and detecting violations; carry out examination and handle violations within the scope of its competence or propose handling measures according to regulations.

3. Any difficulties and problems arising in the course of implementing this Regulation should be promptly reported to the Ministry of Natural Resources and Environment for consideration and settlement.

Minister of Science and Technology
PHAM KHOI NGUYEN