

Part I. LEGAL DOCUMENTS

DECREES:

THE GOVERNMENT

Chapter I

GENERAL PROVISIONS

**DECREE No. 102/2008/ND-CP OF
SEPTEMBER 15, 2008, ON THE COLLEC-
TION, MANAGEMENT, EXPLOITATION
AND USE OF NATURAL RESOURCES
AND ENVIRONMENTAL DATA**

Article 1.- Governing scope

This Decree provides for the collection, management, exploitation and use of land, water resources, geological and mineral, environmental, hydrometeorological, topographic and cartographic, marine and island natural resources and environmental (below collectively referred to as natural resource and environmental) data; and responsibilities and powers and agencies, organizations and individuals in the collection, management, exploitation and use of natural resources and environmental data.

THE GOVERNMENT

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

*Pursuant to the November 26, 2003 Land
Law;*

*Pursuant to the May 20, 1998 Law on Water
Resource;*

*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;*

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

*Pursuant to the December 10, 1994
Ordinance on Exploitation and Protection of
Hydrometeorological Works;*

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

Article 2.- Subjects of application.

1. This Decree applies to state agencies, domestic organizations and individuals, overseas Vietnamese, and foreign organizations and individuals (below collectively referred to as organizations and individuals) in the collection, management, exploitation and use of natural resources and environmental data.

2. In case a treaty to which the Socialist Republic of Vietnam is a contracting party contains provisions different from those of this Decree, the provisions of that treaty prevail.

Article 3.- Natural resources and

environmental data

Natural resources and environmental data must be originals, including documents, samples and data already processed and archived according to regulations. Natural resources and environmental data include:

1. Land data, covering:

a/ Data on land categorization, assessment, statistics and inventory, land categorization maps and land use status maps; grant of certificates of the rights to use land and assets attached to land; and survey data on land prices;

b/ Approved land use plannings and plans;

c/ Cadastral maps; results of land allocation, land lease, land recovery, land use purpose change, and exercise of land user rights.

2. Water resources data, covering:

a/ Quantity and quality of surface water and ground water;

b/ Hydro-geological survey data;

c/ Data on water resources exploitation and use;

d/ Plannings on river basins, management, exploitation and protection of international water sources;

e/ Results of the grant, extension, revocation or return of licenses for, or licensing, the exploration, exploitation and use of water resources; filling up of bored wells;

f/ Data on water resources-affecting elements.

3. Geological and mineral data, covering:

a/ Statistics of mineral reserves;

b/ Outcomes of basic geological surveys of mineral resources and geological and mineral samples;

c/ Plannings and plans on basic geological surveys of mineral resources, and plannings on exploration, extraction, processing and use of minerals;

d/ Maps of regional geology, catastrophe geology, environmental geology, mineral geology, hydrogeology and engineering geology, and operational layers of geology and mineral;

e/ Areas where mineral activities are put for bidding; areas where exist special or hazardous minerals; and areas where mineral activities are banned or temporarily banned;

f/ Reports on mineral activities; annual reports on the state management of mineral activities;

g/ Results of the grant, extension, revocation or return of licenses for, or licensing, mineral activities, or licensing the continued exercise of the right to carry out mineral activities.

4. Environmental data, covering:

a/ Environmental survey results;

b/ Biodiversity data and information;

c/ Data and information on strategic environmental assessment, environmental impact assessment and environmental protection commitment;

d/ Outcomes of competent state agencies' settlement of compensation for environmental damage;

e/ List of and information on discharge sources and wastes threatening to pollute the environment;

f/ Areas experiencing environmental pollution, degradation or incidents; areas prone to environmental incidents; list of seriously polluting establishments and list of seriously polluting establishments already excluded from the former list;

g/ Outcomes of surveys of the actual state of the environment, hazardous wastes and ordinary solid wastes;

h/ Environmental observation information and data allowed to be exchanged;

i/ Results of the grant, extension and revocation of environmental licenses.

5. Hydrometeorological data, covering:

a/ Basic survey documents and data on hydrometeorology, air and water environments, climate change, ozone layer depletion;

b/ Charts, maps, photos taken by satellite, films and photos of objects subject to hydrometeorological research;

c/ Technical dossiers of hydrometeorological works;

d/ Results of the grant, extension and revocation of hydrometeorological licenses.

6. Topographic and cartographic data, covering:

a/ National reference system;

b/ National system of original topographic data; system of fundamental survey points and

specialized fundamental survey points;

c/ System of aero photos and satellite photos in service of topography and cartography;

d/ System of topographic maps, base maps, national boundary maps, fundamental cadastral maps, administrative maps, general geographical maps and other operational layers;

e/ Geographical information system;

f/ Secondary documentary information formed from topographic and cartographic documentary information mentioned at Points a, b, c, d and e of this Clause and documentary information of topographic and cartographic documentary information integrated with other documentary information;

g/ Results of the grant, extension and revocation of topographic and cartographic licenses.

7. Marine and island natural resources and environmental data, covering:

a/ Data on land with sea water surface;

b/ Data on sea bottom terrain;

c/ Data on sea water's mechanical property;

d/ Data on marine geology, marine geophysics and marine minerals;

e/ Data on marine oil and gas;

f/ Data on marine organisms;

g/ Data on the sea environment quality;

h/ Data on marine hydrometeorology;

i/ Data on islands;

j/ Other data related to marine natural

resources and environment.

8. Results of competent state agencies' settlement of natural resources and environment-related disputes, complaints and denunciations.

9. Standards, technical regulations and economic-technical norms on natural resources and environment.

10. Results of projects, programs and scientific and technological research subjects on natural resources and environment.

11. Other data related to the domains under the Ministry of Natural Resources and Environment's state management.

Article 4.- Principles of collection, management, exploitation and use of natural resources and environmental data

The collection, management, exploitation and use of natural resources and environmental data must adhere to the following principles:

1. Serving in time state management work, meeting socio-economic development requirements and maintaining defense and security;

2. Ensuring accuracy, truthfulness and objectivity;

3. Ensuring scientificity, and convenience for exploitation and use;

4. Ensuring timeliness, adequacy and systematicity;

5. Data must be used for proper purposes;

6. Data exploiters and users shall fulfill

financial obligations;

7. Observance of the law on protection of state secrets.

Article 5.- The State's incentive policies

The State adopts policies to encourage organizations and individuals to invest in surveying and building a natural resource and environmental database and donating their collected natural resources and environmental data to ensure the unified exploitation and use of natural resources and environmental data nationwide.

Article 6.- International cooperation on natural resources and environmental data

The State adopts policies to develop cooperation with foreign countries and organizations and international organizations in surveying, researching, sharing and supplying natural resources and environmental data; encourage the sharing of information relating to international natural resources and environmental data; and coordinate in data research and survey, facilitating the effective management and exploitation of international natural resources and environmental data.

Chapter II

COLLECTION AND MANAGEMENT OF NATURAL RESOURCES AND ENVIRONMENTAL DATA

Article 7.- State management of natural

resources and environmental data

1. Promulgating legal documents, standards, technical regulations and econo-technical norms in the collection, management, exploitation and use of natural resources and environmental data.

2. Approving plans to collect natural resources and environmental data.

3. Providing for data archive and preservation.

4. Providing for financial regulations applicable to the collection, exploitation and use of natural resources and environmental data.

Article 8.- Collection of natural resources and environmental data

1. Annually, ministries, ministerial-level agencies, government-attached agencies and People's Committees of provinces and centrally run cities (below collectively referred to as provincial-level People's Committees) shall elaborate, approve, and organize the implementation of, plans to collect natural resources and environmental data.

2. The Ministry of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with concerned ministries and branches and provincial-level People's Committees in, directing data collection and processing work in order to build databases.

Article 9.- Responsibilities and powers of

organizations and individuals in the collection and submission of natural resource and environmental data

1. To observe technical regulations and econo-technical norms in data collection, archive and submission.

2. To submit collected data to data management agencies, in case data collection is funded with state budget capital or capital originating from the state budget.

3. To take responsibility before law and compensate for damage in accordance with law for the supply of inaccurate data which cause damage to data exploiters and users.

4. Not to abuse data supply to harass for bribes, seek profits or disseminate data in contravention of law.

5. To refuse data supply requests which are against this Decree and relevant provisions of law.

Article 10.- Funds for collection and processing of natural resources and environmental data

Funds for collecting and processing natural resources and environmental data, building a national database on natural resources and environment and natural resources and environmental databases of ministries, branches and provincial-level People's Committees come from the state budget and other sources in accordance with law.

*Chapter III***EXPLOITATION AND USE OF
NATURAL RESOURCES AND
ENVIRONMENTAL DATA**

Article 11.- Publication of lists of natural resources and environmental data

1. Lists of natural resources and environmental data shall be published on the mass media, the Internet and websites of central and local agencies to meet the requirements of the community and national socio-economic development.

2. The Ministry of Natural Resources and Environment shall publish a national list of natural resources and environmental data; ministries and branches shall publish lists of their collected natural resources and environmental data; and provincial-level People's Committees shall publish local lists of natural resources and environmental data.

3. Ministries, branches and provincial-level People's Committees shall take responsibility for their published data and abide by regulations on protection of state secrets in the natural resources and environment domain.

Article 12.- Form of and procedures for exploitation and use of natural resources and environmental data

1. Natural resources and environmental data shall be exploited and used in the following forms:

a/ On the Internet and websites according to regulations of data management agencies. The Ministry of Natural Resources and Environment and provincial-level People's Committees shall specify forms of data exploitation on the Internet and websites;

b/ Through cards or letters of demand;

c/ Under contracts signed between data management agencies and data exploiters and users according to law.

2. Data exploitation and use in the form of cards or letters of demand must comply with the following provisions:

a/ Organizations or individuals wishing to exploit and use data shall submit cards of demand or send letters of request to data management agencies defined in Article 15 of this Decree;

b/ Upon receiving valid letters of demand from organizations or individuals wishing to exploit and use data, data management agencies shall supply data to those organizations and individuals. The time limit for data supply shall be agreed by the parties. If refusing to supply data, data management agencies shall give written replies clearly stating the reason.

Article 13.- Responsibilities and powers of organizations and individuals that exploit and use natural resource and environmental data

Organizations and individuals that exploit and use natural resources and environmental data have the following responsibilities and powers:

1. To adhere to the data exploitation and use

principles specified in Article 4 of this Decree;

2. Not to supply to a third party for exploitation and use data supplied by competent state agencies, unless it is so agreed under contracts;

3. To pay for data exploitation and use for cases specified in Clause 2, Article 14 of this Decree;

4. To promptly notify data management agencies of errors in supplied data;

5. To be entitled to lodge complaints and denunciations according to law when their right to exploit and use data is infringed upon;

6. To be entitled to compensation according to law when the supplied data are inaccurate, causing damage to them.

Article 14.- Funds for exploitation and use of natural resource and environmental data

1. The exploitation and use of natural resource and environmental data collected with state budget capital or capital originating from the state budget for defense and security purposes, to meet the Party and State leaders' requirements or in a state of emergency are not subject to fulfillment of financial obligations.

2. Organizations and individuals that exploit and use data not specified in Clause 1 of this Article shall fulfill financial obligations.

3. The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment

in, guiding the collection, remittance and use of charges for exploitation of natural resources and environmental data.

Chapter IV

RESPONSIBILITIES AND POWERS OF AGENCIES MANAGING NATURAL RESOURCES AND ENVIRONMENTAL DATA

Article 15.- Responsibility to perform the state management of collection, management, exploitation and use of natural resources and environmental data

1. The Government shall perform the unified management of collection, management, exploitation and use of natural resources and environmental data.

The Ministry of Natural Resources and Environment is answerable to the Government for performing the state management of collection, management, exploitation and use of natural resources and environmental data.

2. Ministries, ministerial-level agencies and government-attached agencies shall take responsibility before the Government for the collection, management, exploitation and use of natural resources and environmental data they have collected.

3. Provincial-level People's Committees shall, within the ambit of their functions and tasks, manage the collection, management, exploitation and use of natural resources and

environmental data in their localities.

Provincial-level Natural Resources and Environment Services shall assist provincial-level People's Committees in managing the collection, management, exploitation and use of natural resources and environmental data in their localities.

Article 16.- Responsibilities and powers of the Ministry of Natural Resources and Environment

1. To submit to the Government or the Prime Minister for promulgation or promulgate according to its competence legal documents, mechanisms, policies, standards, technical regulations and econo-technical norms on the collection, management, exploitation and use of national natural resources and environmental data.

2. To include plans to survey and collect natural resources and environmental data in their plans and tasks, then submit them to competent authorities for approval and organize the implementation of the approved plans.

3. To guide ministries, branches and provincial level People's Committees in data collection, management, exploitation and use.

4. To build and manage a national database on natural resources and environmental data; to supply natural resources and environmental data to organizations and individuals in accordance with law.

5. To build a national system of natural

resources and environment observation.

6. To compile and distribute natural resources and environmental data every five years.

Article 17.- Responsibilities and powers of ministries and branches

Within their management scope, ministries, ministerial-level agencies and government-attached agencies shall:

1. Promulgate technical regulations and econo-technical regulations on the collection, management, exploitation and use of natural resources and environmental data upon request and according to characteristics of data;

2. Include plans to survey and collect natural resources and environmental data in their plans and tasks, then submit them to competent authorities for approval and organize the implementation of the approved plans;

3. Inspect, assess and check upon take-over surveyed and collected products;

4. Develop and manage natural resources and environmental databases they have collected;

5. Supply under law data to the national database on natural resources and environment and organizations and individuals that need natural resources and environmental data; exchange natural resources and environmental data under their management with other concerned ministries and branches and provincial-level People's Committees;

6. Archive collected natural resources and

environmental data.

Article 18.- Responsibilities and powers of provincial-level People's Committees

Provincial-level People's Committees have the following responsibilities and powers:

1. To build natural resources and environmental databases and manage their collected databases at provincial-level Services of Natural Resources and Environment;

2. Include plans to survey and collect natural resources and environmental data in their plans and tasks, then submit them to competent authorities for approval and organize the implementation of the approved plans;

3. Inspect, assess and check upon take-over surveyed and collected products;

4. Supply data to the national database on natural resources and environment;

5. Supply under law data to organizations and individuals that wish to exploit and use data;

6. Exchange natural resources and environmental data with other ministries, branches and localities according to law;

7. Archive collected natural resources and environmental data at the Information Centers of provincial-level Services of Natural Resources and Environment;

8. Direct organizations and individuals in supplying and archiving data at provincial-level Services of Natural Resources and Environment.

Article 19.- Mechanism of coordination among ministries, branches and provincial-level People's Committees

1. Ministries, branches and provincial-level People's Committees shall closely coordinate with one another in surveying, collecting and managing natural resources and environmental data for effective exploitation and use of data.

2. The Ministry of Natural Resources and Environment shall promulgate a regulation on coordination in sharing natural resources and environmental data among ministries, branches and provincial-level People's Committees.

Chapter V

**HANDLING OF VIOLATIONS,
SETTLEMENT OF DISPUTES,
COMPLAINTS AND DENUNCIATIONS**

Article 20.- Handling of violations

1. Organizations and individuals that commit acts of illegally appropriating, destroying or damaging natural resources and environmental data; or exploiting or using natural resources and environmental data in contravention of this Decree or relevant provisions of law shall, depending on the nature and severity of their violations, be administratively sanctioned or examined for penal liability; if causing damage, they shall pay compensation.

2. Persons who abuse their positions or powers to damage or lose natural resources and environmental data or obstruct the exploitation

and use of natural resources and environmental data shall, depending on the nature and severity of their violations, be disciplined or examined for penal liability; if causing damage, they shall pay compensation.

Article 21.- Settlement of disputes, complaints and denunciations

1. The Ministry of Natural Resources and Environment, ministries, ministerial-level agencies, government-attached agencies and provincial-level People's Committees shall, within the ambit of their functions and tasks, receive and settle disputes in the collection, management, exploitation and use of natural resources and environmental data.

2. The settlement of complaints and denunciations about the collection, management, exploitation and use of natural resources and environmental data complies with the law on complaints and denunciations.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 22.- Processing of natural resources and environmental data surveyed and collected before the effective date of this Decree

Natural resources and environmental data surveyed and collected with state budget capital or capital originating from the state budget before the effective date of this Decree shall be processed according to the following provisions:

1. For data which have been checked upon take-over and assessed, agencies or organizations managing these data shall supply all of them to the Natural Resources and Environment Ministry's national database on natural resources and environment. The time limit for supplying these natural resources and environmental data is 6 months from the effective date of this Decree.

2. For natural resources and environmental data which have not yet been checked upon take-over or assessed or are being collected, heads of agencies or organizations allocated with state funds for surveying and collecting natural resources and environmental data shall evaluate, check upon take-over and assess data and put them into use under the provisions of this Decree. The time limit for submitting natural resources and environmental data into the national database is 6 months after a project or task is completed.

3. For projects, schemes, subjects or programs being implemented with state budget capital, organizations or individuals shall supply their data to data management agencies under the provisions of this Decree.

4. Contents and tasks being performed by agencies, organizations or individuals under the Government's Decree No. 162/2003/ND-CP of December 19, 2003, promulgating the Regulation on collection, management, exploitation and use of water resources data and information, and the Government's Decree No. 101/2007/ND-CP of June 13, 2007, on collection, management, exploitation and use

of marine resources and environmental data, may continue to be performed within the specified time limits, and their natural resources and environmental data must be submitted into the national database under Clause 2 of this Article.

Article 23.- Implementation effect

1. This Decree takes effect 15 days after its publication in “CONG BAO.”

2. This Decree replaces the Government’s Decree No. 162/2003/ND-CP of December 19, 2003, promulgating the Regulation on collection, management, exploitation and use of water resources data and information, and the Government’s Decree No. 101/2007/ND-CP of June 13, 2007, on collection, management, exploitation and use of marine resources and environmental data.

Article 24.- Organization of implementation

1. The Minister of Natural Resources and Environment shall guide and inspect the implementation of this Decree.

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

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG