

IMPLEMENTATION OF ENVIRONMENTAL PROTECTION SCHEMES

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

Pursuant to the Government's Decree No. 25/2008/ND-CP of March 4, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Natural Resources and Environment;

Pursuant to the Government's Decree No. 21/2008/ND-CP of February 28, 2008, amending and supplementing a number of articles of the Government's Decree No. 80/2006/ND-CP of August 9, 2006, which details and guides the implementation of a number of articles of the Law on Environmental Protection,

The Ministry of Natural Resources and Environment guides the formulation, approval or certification of environmental protection schemes and the examination and inspection of implementation of environmental protection schemes as follows:

THE MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT

I. GENERAL PROVISIONS

1. Scope and subjects of application

CIRCULAR No. 04/2008/TT-BTNMT OF SEPTEMBER 18, 2008, GUIDING THE FORMULATION AND APPROVAL OR CERTIFICATION OF ENVIRONMENTAL PROTECTION SCHEMES AND THE EXAMINATION AND INSPECTION OF

a/ This Circular guides in detail the formulation, approval or certification of environmental protection schemes; the examination and inspection of implementation of environmental protection schemes and the certification of completion of the contents of

environmental protection schemes for production, business or service zones and production, business or service establishments (below collectively referred to as production, business or service establishments and zones), which possess no decisions approving environmental impact assessment reports or written certifications of the registration of satisfaction of environmental standards specified in Clause 9, Article 1 of the Government's Decree No. 21/2008/ND-CP of February 28, 2008, amending and supplementing a number of articles of the Government's Decree No. 80/2006/ND-CP of August 9, 2006, which details and guides the implementation of a number of articles of the Law on Environmental Protection (below referred to as Decree No. 21/2008/ND-CP).

b/ This Circular applies to state agencies; and domestic and foreign organizations and individuals that are owners of production, business or service establishments and zones (below collectively referred to as organizations and individuals) engaged in activities related to the contents specified at Point a of this Section.

2. Application of environmental standards and technical regulations

When formulating environmental protection schemes, organizations and individuals shall apply national environmental standards and technical regulations (Vietnam's compulsory environmental standards), local environmental technical regulations and other regulations in treaties to which Vietnam is a contracting party.

II. FORMULATION AND APPROVAL OR CERTIFICATION OF ENVIRONMENTAL PROTECTION SCHEMES

1. Formulation of environmental protection schemes

Organizations and individuals defined at Point 1, Clause 9, Article 1 of Decree No. 21/2008/ND-CP shall formulate environmental protection schemes for their production, business or service activities and submit them to environmental protection state management agencies defined in this Circular for approval or certification.

Environmental protection schemes specified at Points 3 and 4, Clause 9, Article 1 of Decree No. 21/2008/ND-CP shall be expressed in accordance with the required structures and contents specified in Appendices 1 and 2 to this Circular (*not printed herein*).

Mining establishments are required to formulate environmental rehabilitation and restoration projects under the Prime Minister's Decision No. 71/2008/QĐ-TTg of May 29, 2008, on making of deposits for environmental rehabilitation and restoration in mining activities.

2. Dossiers of application for approval or certification of environmental protection schemes

2.1. Dossiers of application for approval of environmental protection schemes

The number of documents in and form of a dossier of application for the approval of an

environmental protection scheme are specified as follows:

a/ One (01) written application for the approval of the scheme, made by an organization or individual according to the form set in Appendix 3 to this Circular (*not printed herein*).

b/ Seven (07) copies of the scheme bound in volume, with its cover and supplementary cover made according to the form set in Appendix 4 to this Circular (*not printed herein*), and with the organization's or individual's signature and full name and title, and stamp appended on the supplementary cover.

If a production, business or service establishment or zone is located in two (02) or more provinces or centrally run cities (below collectively referred to as provinces), the number of copies of the environmental protection scheme shall be added corresponding to the number of provinces directly affected by wastes for comments as provided for at Point 2, Clause 9, Article 1 of Decree No. 21/2008/ND-CP.

c/ One (01) copy of one of the following papers: business registration certificate, investment license, investment certificate; mining license or license for other activities, granted by a competent state agency;

d/ One (01) copy of the econo-technical report or feasibility study report or the investment project already approved by a competent agency (*if any*).

2.2. Dossiers of application for certification of environmental protection schemes

The number of documents in and form of a dossier of application for the certification of an environmental protection scheme are specified as follows:

a/ One (01) written application for the certification of the scheme, made by an organization or individual according to the form set in Appendix 3 to this Circular (*not printed herein*).

b/ Three (03) copies of the scheme bound in volume, with its cover and supplementary cover made according to the form set in Appendix 4 to this Circular (*not printed herein*), and with the organization's or individual's signature and full name and title, and stamp appended on the supplementary cover.

If a production, business or service establishment or zone is located in two (02) or more districts, provincial towns or cities (below collectively referred to as districts), the number of copies of the environmental protection scheme shall be added corresponding to the number of districts directly affected by wastes for comments as provided for at Point 2, Clause 9, Article 1 of Decree No. 21/2008/ND-CP.

c/ One (01) copy of one of the following papers: business registration certificate, investment license, investment certificate; mining license or license for other activities, granted by a competent state agency;

d/ One (01) copy of the econo-technical report or feasibility study report or the investment project already approved by a competent agency (*if any*).

3. Approval or certification of environ-

mental protection schemes

3.1. *Agencies approving or certifying environmental protection schemes*

a/ *Provincial-level environmental protection agencies (provincial-level Natural Resources and Environment Services) shall receive dossiers and approve environmental protection schemes for production, business or service establishments and zones of a nature and size corresponding to those required to make environmental impact assessment reports.*

b/ *District-level environmental protection agencies (district-level Natural Resources and Environment Sections) shall receive dossiers and certify environmental protection schemes for production, business or service establishments and zones in their localities, except those specified at Item a of this Point.*

c/ *Management Boards of industrial parks, export-processing zones or economic zones (below referred to as Management Boards) set up under the Government's Decree No. 29/2008/ND-CP of March 14, 2008, on industrial parks, export-processing zones and economic zones, which have their environmental protection divisions set up under the Government's Decree No. 81/2007/ND-CP of May 23, 2007, providing for environmental protection organizations and divisions at state agencies and state enterprises, may approve or certify environmental protection schemes for production, business or service establishments operating in industrial parks, export-processing zones or economic zones.*

d/ *Environmental protection agencies under*

the Ministry of Defense and the Ministry of Public Security shall receive dossiers and approve or certify environmental protection schemes for production, business or service establishments and zones in the defense and security domains.

For establishments operating in two (02) or more provinces or two (02) or more districts, *provincial-level Natural Resources and Environment Services* or *district-level Natural Resources and Environment Sections* of the localities where the environment is most adversely affected by the operation of these establishments or where the establishments' wastes are first gathered shall receive dossiers and approve or certify *environmental protection schemes*. In case the establishments' operation causes the same negative impact on the environment in some localities, organizations or individuals may select one of those localities to have their environmental protection schemes approved or certified.

3.2. *Environmental protection scheme-approving order and procedures*

a/ *Dossiers of application for the approval of environmental protection schemes specified at Point 2.1, Clause 2, Section II of this Circular shall be submitted to agencies competent to approve environmental protection schemes. If dossiers are invalid or incomplete, within three (03) working days after receiving the dossiers, the approving agencies shall notify in writing organizations or individuals thereof for dossier modification or supplementation.*

b/ *After receiving valid dossiers, agencies*

approving environmental protection schemes shall consider the dossiers and set up teams for on-site inspection of environmental protection at production, business or service establishments and zones. Such a team is composed of representatives of the provincial-level Natural Resources and Environment Service, the Management Board (for production, business or service establishments in industrial parks, export-processing zones or economic zones), the district-level Natural Resources and Environment Section under the district-level People's Committee of the locality where production, business or service establishments and zones are operating, and some environmental experts. When necessary, representatives of the concerned provincial agencies, departments and branches may be invited to join the team. Inspection results shall be recorded in writing with signatures of the participants. Decisions to set up inspection teams and inspection records shall be made according to the forms set in Appendices 5 and 6 to this Circular (not printed herein).

In the course of inspection, if finding that organizations' or individuals' data analyzing environmental parameters in wastes are unreliable, the approving agencies shall take and analyze waste samples for control as a basis to decide on handling measures in accordance with the law on environmental protection. Funds for organizing inspections and taking and analyzing waste samples for control (if any) comply with current regulations.

Results of the inspection of environmental protection at production, business or service

establishments and zones serve as a basis for competent agencies to approve environmental protection schemes.

In case environmental protection schemes need to be supplemented or completed, organizations and individuals shall modify them based on conclusions made by inspection teams. The time of completing an environmental protection scheme is not included in the time limit for its approval. The number of completed environmental protection schemes to be submitted to approving agencies includes three (03) copies, for establishments outside industrial parks, export-processing zones or economic zones, or four (04) copies, for establishments in industrial parks, export-processing zones or economic zones, enclosed with one (01) copy recorded in a compact disk.

c/ The time limit for approving an environmental protection scheme of an organization or individual is twenty (20) working days; or twenty-five (25) working days, if waste samples must be taken for analysis and control.

In case an environmental protection scheme must be consulted under Point 2, Clause 9, Article 1 of Decree No. 21/2008/ND-CP, the approval time limit may be extended for seven (07) working days. Natural Resources and Environment Services of the provinces directly affected by wastes of production, business or service establishments and zones shall give written replies within five (05) working days after receiving consultation-gathering documents of approving agencies. Consulted agencies which give no replies shall be regarded

as agreeing with environmental protection schemes. Documents gathering and giving consultations on environmental protection schemes shall be made according to the forms set in Appendices 7 and 8 to this Circular (*not printed herein*).

Natural Resources and Environment Services of consulted provinces which send their officials to inspection teams are not required to give written consultations. The approval of environmental protection schemes of organizations and individuals operating in industrial parks, export-processing zones or economic zones or of defense and security establishments is not subject to consultation of other relevant provincial-level professional agencies in charge of environmental protection.

d/ Heads of agencies approving environmental protection schemes shall issue decisions approving environmental protection schemes according to the form set in Appendix 9 to this Circular (*not printed herein*).

e/ After an environmental protection scheme is approved, the approving agency shall sign and append a certification stamp on the back side of the supplementary cover of each copy of the environmental protection scheme according to the form set in Section 10.1 of Appendix 10 to this Circular (*not printed herein*); and concurrently send the approved scheme enclosed with the scheme-approving decision to the organization or individual for implementation.

For establishments in industrial parks, export-processing zones or economic zones, the

approving agency shall send one (01) copy of the environmental protection scheme to the provincial-level Natural Resources and Environment Service.

3.3. Environmental protection scheme-certifying order and procedures

a/ Dossiers of application for the certification of environmental protection schemes specified at Point 2.2, Clause 2, Section II of this Circular shall be submitted to agencies with certifying competence. In case dossiers are invalid or incomplete, within three (03) working days after receiving the dossiers, the certifying agencies shall notify in writing organizations or individuals thereof for dossier modification or supplementation.

b/ After receiving a valid dossier, the certifying agency shall conduct on-site inspection with the participation of representatives of the district-level Natural Resources and Environment Section, the Management Board (for production, business or service establishments in industrial parks, export-processing zones or economic zones) and some environmental experts. When necessary, representatives of concerned provincial and district agencies, departments and branches may be invited to join the inspection team. Inspection results shall be recorded in writing with signatures of the participants. Inspection records shall be made according to the form set in Appendix 6 to this Circular (*not printed herein*).

In the course of inspection, if finding that organizations' or individuals' data analyzing

environmental parameters in wastes are unreliable, the certifying agencies shall take and analyze waste samples for control as a basis to decide on handling measures in accordance with the law on environmental protection. Funds for organizing inspections and taking and analyzing waste samples for control (if any) comply with current regulations.

Results of the inspection of environmental protection at production, business or service establishments and zones serve as a basis for competent agencies to certify environmental protection schemes.

In case environmental protection schemes need to be supplemented or completed, organizations and individuals shall modify them based on conclusions of inspection teams. The time of completing an environmental protection scheme is not included in the certification time limit. The number of completed environmental protection schemes to be submitted to certifying agencies includes three (03) copies, for establishments outside industrial parks, export-processing zones or economic zones, or four (04) copies, for establishments in industrial parks, export-processing zones or economic zones, enclosed with one (01) copy recorded in a compact disk.

c/ The time limit for certifying an environmental protection scheme of an organization or individual is fifteen (15) working days; or twenty (20) working days, if waste samples must be taken for analysis and control.

In case an environmental protection scheme must be consulted under Point 2, Clause 9,

Article 1 of Decree No. 21/2008/ND-CP, the time limit for certification may be extended for five (05) working days. Natural Resources and Environment Sections of the districts directly affected by wastes of production, business or service establishments and zones shall give written replies within three (03) working days after receiving consultation-gathering documents of certifying agencies. Consulted agencies which give no replies shall be regarded as agreeing with environmental protection schemes. Documents gathering and giving consultations on environmental protection schemes shall be made according to the forms set in Appendices 7 and 8 to this Circular (*not printed herein*).

Natural Resources and Environment Sections of the consulted districts, which send their officials to inspection teams, are not required to give written consultations. The certification of environmental protection schemes of organizations and individuals operating in industrial parks, export-processing zones or economic zones or of defense and security establishments is not subject to consultation of other relevant district-level professional agencies in charge of environmental protection.

d/ Heads of agencies certifying environmental protection schemes shall issue written certifications of the registration of environmental protection schemes according to the form set in Appendix 11 to this Circular (*not printed herein*).

e/ After an environmental protection scheme

is certified, the certifying agency shall sign and append a certification stamp on the back side of the supplementary cover of each copy of the environmental protection scheme according to the form set in Section 10.2 of Appendix 10 to this Circular (*not printed herein*); and concurrently send the certified scheme enclosed with the written certification of the registration of the scheme to the organization or individual for implementation.

For establishments in industrial parks, export-processing zones or economic zones, the certifying agency shall send one (01) copy of the environmental protection scheme to the district-level Natural Resources and Environment Section.

III. RESPONSIBILITY OF PRODUCTION, BUSINESS OR SERVICE ESTABLISHMENT AND ZONE OWNERS TO IMPLEMENT ENVIRONMENTAL PROTECTION SCHEMES

1. After environmental protection schemes are approved or certified, organizations and individuals shall seriously take environmental protection measures under environmental protection schemes and competent state agencies' approving decisions or written certifications. The deadline for completing waste treatment and environmental protection works is December 31, 2009.

While implementing the contents and requirements of approved or certified environmental protection schemes, organizations

and individuals shall take measures to minimize the discharge of pollutants into the environment. Organizations or individuals that violate environmental protection regulations shall be handled in accordance with law; those causing environmental pollution, degradation or damage or economic losses shall tackle the pollution, restore the environment and pay damages according to law.

2. Within fifteen (15) working days after completing environmental protection measures under the approved or certified environmental protection schemes, organizations and individuals shall report in writing on the completed contents to approving or certifying agencies for inspection or certification.

The number and form of a dossier of application for the certification of completion of the contents in an approved or certified environmental protection scheme are specified as follows:

a/ One (01) written application for the certification of completion of the scheme, made by an organization or individual according to the form set in Appendix 12 to this Circular (*not printed herein*).

b/ Three (03) reports on completion of the contents and requirements of the approved or certified scheme, made according to the form set in Appendix 13 to this Circular (*not printed herein*).

c/ Three (03) sets of the results of sample analysis of wastes treated up to technical regulations on waste, observed by the organization or individual that shall take

responsibility before law for the accuracy of such results.

Organizations which have designed, built and installed waste treatment and environmental protection works or work items for production, business or service establishments and zones may not take and analyze treated waste samples for such works or work items. Funds for taking samples and analyzing environmental parameters in treated wastes shall be paid by production, business or service establishments and zones.

IV. RESPONSIBILITY TO EXAMINE, INSPECT, AND CERTIFY COMPLETION OF CONTENTS OF ENVIRONMENTAL PROTECTION SCHEMES

1. Examination and inspection of the implementation of environmental protection schemes

a/ Provincial-level Natural Resources and Environment Services shall examine and inspect the environmental protection by production, business or service establishments and zones after their environmental protection schemes are approved.

b/ District-level People's Committees shall examine and inspect the environmental protection by production, business or service establishments and zones after their environmental protection schemes are certified. District-level Natural Resources and Environment Sections shall assist district-level People's Committees in examining and

supervising the implementation of contents of certified environmental protection schemes in their localities.

c/ Management Boards shall assume the prime responsibility for, and coordinate with environmental protection agencies at all levels in, examining and inspecting according to law the environmental protection by production, business or service establishments operating in industrial parks, export-processing zones and economic zones after their environmental protection schemes are approved or certified.

d/ Agencies tasked by the Ministry of Defense or the Ministry of Public Security to approve or certify environmental protection schemes shall examine and inspect the environmental protection by production, business or service establishments and zones in the defense and security domains.

e/ The environmental protection examination and inspection comply with the Law on Environmental Protection and the law on examination and inspection.

2. Agencies certifying the completion of contents of approved or certified environmental protection schemes

Agencies approving or certifying environmental protection schemes shall consider schemes and certify the completion of contents of approved or certified environmental protection schemes.

3. Order of and procedures for certification of completion of environmental protection measures under approved or certified

environmental protection schemes

a/ Agencies approving or certifying environmental protection schemes shall receive organizations' or individuals' dossiers of application for the certification of completion of contents of approved or certified environmental protection schemes under Clause 2, Section III of this Circular. If the dossiers are *invalid or incomplete*, within five (05) working days after receiving the dossiers, the approving or certifying agencies shall guide the re-*compilation* or supplementation of the dossiers.

b/ Within fifteen (15) working days after receiving valid dossiers, agencies approving or certifying environmental protection schemes shall conduct *on-site inspections* which are similar to that for the approval or certification of environmental protection schemes.

c/ Heads of agencies approving or certifying environmental protection schemes shall issue to *organizations or individuals* written certifications of completion of the contents of approved or certified environmental protection schemes.

Written certifications of completion of environmental protection measures under approved or certified environmental protection schemes shall be made according to the form set in Appendix 14 to this Circular (*not printed herein*) and sent to organizations, individuals and concerned agencies for implementation.

V. HANDLING OF PROBLEMS

1. Owners of production, business or service establishments and zones operating between

after July 1, 2006, and the effective date of this Circular, that fail to comply with regulations on the formulation, evaluation and approval of environmental impact assessment reports or certifications of the registration of environmental protection commitments shall abide by this Circular.

2. Organizations and individuals that are implementing environmental protection schemes under the guidance in this Circular are regarded as redressing their administrative violation acts of *failing to formulate environmental impact assessment reports* or to register environmental protection commitments under law.

VI. ORGANIZATION OF IMPLEMENTATION

1. Ministries, ministerial-level agencies, government-attached agencies and concerned People's Committees at all levels shall organize the implementation of this Circular.

2. Provincial-level Natural Resources and Environment Services shall assume the prime responsibility for, and coordinate with Management Boards and district-level People's Committees in, scrutinizing and notifying *production, business or service establishments and zones* which operated before the effective date of this Circular *without decisions* approving environmental impact assessment reports, or certifications of the registration of satisfaction of environmental standards or environmental protection commitments thereof for implementation.

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

4. Ministries, branches, provincial-level People's Committees, environmental protection agencies at all levels, and concerned organizations and individuals should promptly report any problems arising in the course of implementation to the Ministry of Natural Resources and Environment for consideration and settlement.

Minister of
Natural Resources and Environment
PHAM KHOI NGUYEN