

DECREES:

Decree No. 07/2009/ND-CP of January 22, 2009, amending and supplementing a number of articles of the Government's Decree No. 160/2005/ND-CP of December 27, 2005, which details and guides the implementation of the Law on Minerals and the Law Amending and Supplementing a Number of Articles of the Law on Minerals

THE GOVERNMENT

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

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

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

Article 1. To amend and supplement a number of articles of the Government's Decree No. 160/2005/ND-CP of December 27, 2005, which details and guides the implementation of the Law on Minerals and the Law Amending and Supplementing a Number of Articles of the Law on Minerals (below referred to as Decree No. 160/2005/ND-CP), as follows:

1. To add Clause 2a to, and amend and supplement Clause 3 of, Article 3 as follows:

"2a/ To determine, approve and publicize areas opened to bidding for mineral exploration or exploitation under Article 23 (amended and supplemented) of Decree No. 160/2005/ND-CP; and to organize bidding under regulations.

3. To determine areas in which mineral resources have been surveyed and assessed under Clause 1, Article 9 of the Law on Minerals; to supply the Ministry of Industry and Trade and the Ministry of Construction with mineral survey and assessment documents to serve mineral exploration, exploitation, processing and use planning; to determine and submit to the Prime Minister for decision national mineral-resource reserve areas under Article 23a (amended and supplemented) of Decree No. 160/2005/ND-CP; to zone off areas where exist hazardous minerals under Article 15 of the Law on Minerals and notify concerned state agencies thereof; and to organize an inventory of approved mineral deposits nationwide."

2. To amend and supplement Point b of Clause 1, and Clause 2, of Article 4 as follows:

"b/ To collaborate with the Ministry of Natural

Resources and Environment in determining areas opened to bidding for mineral exploration or exploitation under Article 23 (amended and supplemented) of Decree No. 160/2005/ND-CP;

2. The Ministry of Industry and Trade shall promulgate a list, conditions and criteria for export or restricted export, of minerals, excluding those used as construction materials or raw materials for cement production; the Ministry of Construction shall promulgate a list, conditions and criteria for export or restricted export, of minerals used as construction materials or raw materials for cement production.”

3. To amend and supplement Points b and g, Clause 1 of Article 6 as follows:

b/ To assume the prime responsibility for, and collaborate with the Ministries of Natural Resources and Environment; Industry and Trade; Construction; Defense; Public Security; Culture, Sports and Tourism; Agriculture and Rural Development; Transport; and Home Affairs, and concerned ministries and branches in, zoning off and approving areas where mining is banned under Article 20 (amended and supplemented) of Decree No. 160/2005/ND-CP; to zone off and submit to the Prime Minister for approval areas where mining is temporarily banned under Article 21 of Decree No. 160/2005/ND-CP;

g/ To determine, approve and publicize areas opened to bidding for mineral exploration or exploitation under Article 23 (amended and supplemented) of Decree No. 160/2005/ND-CP; and to organize bidding under regulations;”

4. To amend and supplement Points e and f, Clause 3 of Article 12 as follows:

“c/ Identifying national mineral-resource reserve areas already decided by the Prime Minister;

f/ Identifying areas where mining is banned or temporarily banned and areas opened to bidding for mineral exploration or exploitation already approved by competent authorities under regulations;”

5. To add Point d below to Clause 2 of Article 17:

d/ If applying for licenses to exploit minerals for use as ordinary construction materials for which exploration is not required under Clause 2, Article 41 (amended and supplemented) of the Law on Minerals, apart from the conditions specified at Points a, b and c of this Clause, applicants must also satisfy the condition that to-be-exploited products will be used only for maintaining or repairing infrastructure works or dikes.”

6. To amend and supplement Points d and f of Clause 1, and Clause 2 of Article 20 as follows:

“d/ Areas within safety protection corridors or boundaries of transport infrastructure works, or within safety protection corridors of high-voltage grids, irrigation works, dikes or communication works;

f/ Urban centers, trade zones, tourist zones or important infrastructure works; industrial parks, excluding areas under mineral processing projects.

2. Provincial-level People’s Committees shall decide to approve areas where mining is banned after obtaining written agreements of concerned ministries and branches and notify in writing the

Ministry of Natural Resources and Environment, the Ministry of Industry and Trade and the Ministry of Construction.”

7. To amend and supplement Article 23 as follows:

“Article 23. Areas opened to bidding for mineral exploration or exploitation

1. Areas opened to bidding for mineral exploration or exploitation include:

a/ Areas in which natural resource potential has been surveyed and assessed with state budget funds and which have natural resource prospects and are approved by competent authorities to be opened to bidding for mineral exploration;

b/ Mines which have been explored with state budget funds and are approved by competent authorities to be opened to bidding for mining.

2. Competence and responsibilities to determine, approve and publicize areas opened to bidding for mineral exploration or exploitation:

a/ The Ministry of Natural Resources and Environment shall assume the prime responsibility for, and collaborate with the Ministry of Industry and Trade and the Ministry of Construction in, determining areas opened to bidding for mineral exploration or exploitation, except those falling within the approval competence of provincial-level People’s Committees under Point g, Clause 1, Article 6 (amended and supplemented) of Decree No. 160/2005/ND-CP, and decide to approve these areas after obtaining written agreements of the Ministry of Industry and Trade and the Ministry of Construction;

b/ Provincial-level People’s Committees shall determine and approve areas opened to bidding for mineral exploration or exploitation with regard

to minerals falling within the licensing competence under Point b, Clause 1, Article 56 (amended and supplemented) of the Law on Minerals and Clause 2, Article 26 (amended and supplemented) of Decree No. 160/2005/ND-CP;

c/ The Ministry of Natural Resources and Environment and provincial-level People’s Committees shall publicize areas opened to bidding for mineral exploration or exploitation after they are approved.

3. The Ministry of Natural Resources and Environment shall assume the prime responsibility for, and collaborate with the Ministry of Finance, the Ministry of Industry and Trade and the Ministry of Construction in, specifying principles and methods of valuating mineral resources as a basis for mineral exploitation bidding.

4. The Ministry of Natural Resources and Environment shall assume the prime responsibility for, and collaborate with the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Industry and Trade and the Ministry of Construction in, submitting to the Prime Minister for promulgation a Regulation on bidding for mineral exploration and exploitation.”

8. To add Article 23a below:

“Article 23a. Areas with minerals to be reserved as national mineral resources

1. Areas with minerals to be reserved as national mineral resources include:

a/ Areas in which mineral resource potential has been surveyed or assessed or for which to-be-reserved mineral deposits have been explored or approved for sustainable development;

b/ Areas with geological premises and mineral resource prospects in which mineral resource

potential has not yet been assessed or for which mineral deposits have neither been explored nor approved.

2. The Ministry of Natural Resources and Environment shall assume the prime responsibility for, and collaborate with the Ministry of Industry and Trade and the Ministry of Construction in, determining and submitting to the Prime Minister for approval national mineral-resource reserve areas.

3. Mineral survey, exploration and exploitation activities in national mineral-resource reserve areas are subject to only the Prime Minister's approval."

9. To amend and supplement Clause 2 of Article 26 as follows:

"2. The size of an area with mineral-resource potential assessment results approved by a competent state agency, which is not included in the national master plan on mineral exploration, exploitation or processing or which does not belong to a national mineral-resource reserve area will fall under provincial-level People's Committees' competence to license mineral exploitation or processing under Point b, Clause 1, Article 56 of the Law on Minerals."

10. To amend and supplement Clause 2 of Article 29 as follows:

"2. The rates of the fee for the exclusive right to mineral exploration are VND 50,000/ha/year in the first year, VND 80,000/ha/year in the second year, and VND 100,000/ha/year in the third and fourth years."

11. To amend and supplement Article 45 as follows:

"Article 45. Responsibilities of provincial-level People's Committees for coordinated appraisal for licensing mineral exploration, exploitation and processing

1. When areas where mining is banned or temporarily banned have not yet been approved and notified under regulations, the Ministry of Natural Resources and Environment shall, before licensing mineral exploration, exploitation or processing according to its competence, obtain written opinions of provincial-level People's Committees of localities where exist minerals, only on areas projected to be licensed for mineral exploration, areas for mineral exploitation or areas for building mineral processing plants related or not related to areas where mining is banned or temporarily banned.

2. Provincial-level People's Committees shall assume the prime responsibility for, and collaborate with concerned ministries and branches in, inspecting and determining areas projected to be licensed for mineral exploration, areas for mineral exploitation or areas for building mineral processing plants related or not related to areas where mining is banned or temporarily banned, and give a written reply to the Ministry of Natural Resources and Environment within thirty (30) days after receiving a written request of the Ministry of Natural Resources and Environment.

3. In special cases when minerals need to be explored or exploited in areas where mining is banned or temporarily banned, state agencies with licensing competence defined in Clause 1, Article 56 of the Law on Minerals shall report such cases to the Prime Minister for consideration and decision."

Article 2. To replace the phrase “Ministry of Industry” in Articles 4, 6, 12, 21, 22, 37, 41 and 42 of Decree No. 160/2005/ND-CP with the phrase “Ministry of Industry and Trade”, and the phrase “provincial-level Industry Services” in Clause 2, Article 6 of Decree No. 160/2005/ND-CP with the phrase “provincial-level Industry and Trade Services”.

Article 3. This Decree takes effect 45 days from the date of its signing.

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