

THE MINISTRIES**THE MINISTRY OF TRANSPORT****Circular No. 09/2010/TT-BGTVT of April 6, 2010, on environmental protection in the development of transport infrastructure**

Pursuant to November 29, 2005 Environmental Protection Law No. 52/2005/QH11 and guiding documents;

Pursuant to November 26, 2003 Construction Law No. 16/2003/QH11 and guiding documents;

Pursuant to the Government's Decree No. 51/2008/ND-CP of April 22, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Transport;

Pursuant to the Government's Decree No. 81/2007/ND-CP of May 23, 2007, providing for environmental protection organizations and sections in state agencies and state enterprises;

The Minister of Transport provides for environmental protection in the construction of transport infrastructure as follows:

Chapter I**GENERAL PROVISIONS**

Article 1. Scope of regulation and subjects of application

This Circular provides for environmental protection in the development of transport infrastructure.

This Circular applies to agencies, organizations and individuals involved in the development of

transport infrastructure.

Article 2. Interpretation of terms

In this Circular, the terms below are construed as follows:

1. Environmental protection means activities to preserve a healthy, clean and beautiful environment; prevent and mitigate adverse impacts of construction activities on the environment and respond to environmental incidents; remedy environmental pollution and deterioration; restore and improve the environment; rationally and effectively exploit and use natural resources; and preserve the biodiversity in the development of transport infrastructure.

2. Environmental report means a document elaborated by an agency, unit or individual engaged in the construction of transport infrastructure to provide information concerning data on natural environment elements, deposits, ecological and economic value of natural resources, environmental impacts, waste, pollution and deterioration degrees and information on other environmental issues.

Chapter II**ENVIRONMENTAL PROTECTION
CONTENTS IN TRANSPORT
INFRASTRUCTURE DEVELOPMENT
STRATEGIES, PLANNINGS AND PLANS**

Article 3. Environmental protection contents in transport infrastructure development strategies, plannings and plans

1. Organizations in charge of elaborating transport infrastructure development strategies, plannings and plans under the management of the Ministry of Transport shall conduct the strategic environmental assessment under the

Government's Decree No. 140/2006/ND-CP of November 22, 2006, providing for environmental protection in the elaboration, appraisal, approval and implementation of development strategies, plannings, plans, programs and projects: the Natural Resources and Environment Ministry's Circular No. 05/2008/TT-BTNMT of December 8, 2008, guiding strategic environmental assessment, environmental impact assessment and environmental protection commitment (below referred to as Circular No. 05/2008/TT-BTNMT).

2. The Ministry of Transport shall establish a council for appraisal of strategic environmental assessment reports of transport infrastructure development strategies, plannings and plans under the Government's Decree No. 80/2006/ND-CP of August 9, 2006 (below referred to as Decree No. 80/2006/ND-CP) detailing and guiding a number of articles of the Law on Environmental Protection, and Decree No. 21/2008/ND-CP of February 28, 2008, amending and supplementing a number of articles of Decree No. 80/2008/ND-CP (below referred to as Decree No. 21/2008/ND-CP).

Chapter III

ENVIRONMENTAL PROTECTION IN TRANSPORT INFRASTRUCTURE CONSTRUCTION INVESTMENT

Article 4. Environmental protection in the stage of making investment preparations for transport infrastructure construction projects

1. The investor of an investment project on transport infrastructure construction shall elaborate an environmental impact assessment report or make a written environmental protection commitment document under Decree No. 80/2006/ND-CP, Decree No. 21/2008/ND-CP and

Circular No. 05/2008/TT-BTNMT and comply with environmental protection measures stated in the environmental impact assessment report or the written environmental protection commitment approved by a competent authority.

2. The Ministry of Transport shall appraise and approve environmental impact assessment reports of projects falling within its competence according to Decree No. 80/2006/ND-CP and Decree No. 21/2008/ND-CP. For projects beyond the Transport Ministry's approving competence, project investors shall send to the Ministry of Transport a copy of the document showing the results of appraisal of the environmental impact assessment reports by a competent state management agency before approving the investment projects or making investment decisions.

3. Projects environmental impact assessment reports shall be incorporated in bidding dossiers and bid winners shall commit to fulfill all environmental protection contents stated in approved reports.

4. Investors of investment projects on transport infrastructure construction shall allocate funds for environmental protection work, which is regarded as a constituent of the projects, right at the stage of project formulation. Funds for a project's environmental protection work consist of funds for the performance of environmental protection work in the stage of project formulation and in the course of project implementation under law.

Article 5. Environmental protection in the course of implementation of transport infrastructure construction projects

1. Project investors shall guide and request contractors to fulfill environmental protection commitments stated in the approved

environmental impact assessment reports or written environmental protection commitments of the projects.

2. Project investors shall manage the performance of environmental protection work in construction activities and perform the following jobs:

a/ Conducting periodical inspection of the observance of environmental protection regulations according to the projects' construction schedule;

b/ Working out an environmental protection plan and regularly directing the implementation of this plan for promptly responding to environmental incidents occurring in the construction process.

c/ Disseminating the environmental protection plan, which constitutes an important part of their working plans, among their employees for compliance.

3. Contractors and construction units shall comply with regulations on environmental protection in construction activities; meet environmental standards and regulations and realize environmental protection solutions set forth in environmental impact assessment reports or written environmental protection commitments.

4. Environmental protection work to be carried out by contractors and construction units includes the following principal activities:

a/ Raising the awareness about and the sense of environmental protection; updating and disseminating regulations on environmental protection to employers and employees;

b/ Managing the transportation and treatment of solid and liquid wastes and gas emissions (including dusts), hazardous waste, ordinary waste, household waste, used materials and fuels

and other pollutants resulting from the process of project formulation and implementation. Wastes must be controlled and treated under regulations before being discharged into the environment;

c/ Carrying out environmental monitoring and periodical observation of wastes, air, water, noise, vibration and other pollutants resulting from construction activities in the process of project implementation; applying waste reduction and pollution control solutions approved in environmental impact assessment reports or written environmental protection commitments.

d/ Recording and archiving information on the current state of waste treatment equipment, systems and facilities;

e/ Managing hazardous waste under the Natural Resources and Environment Ministry's Circular No. 12/2006/TT-BTNMT of December 26, 2006, guiding practice conditions and procedures for compilation of dossiers, registration and licensing of hazardous waste management practice and identification numbers, and Decision No. 23/2006/QĐ-BTNMT of December 26, 2006, promulgating the list of hazardous waste;

f/ Elaborating plans on, and preparing physical and technical foundations for, responding to environmental incidents and remedying consequences of environmental incidents;

g/ Step by step applying a cleaner production process to all production activities of service establishments in all stages of implementation of transport infrastructure construction projects. Construction activities include:

- Managing, maintaining, repairing and operating vehicles, equipment and construction machinery; preventing the leakage or loss of materials and fuels so as to reduce energy loss;

- Researching into and applying new and advanced technologies which are efficient and environmentally friendly; renewing existing equipment and technologies in order to reduce energy and fuel consumption, aiming to restrict the dispersion of polluting waste and reduce environmental pollution;

- Re-using and re-cycling construction refuse for use for beneficial purposes right at production establishments; applying the outcome of scientific research or new technologies to turn construction refuse and waste into useful products which are conformable with technical regulations and meet environmental safety and sanitation standards;

- Encouraging the application of solutions to rationally and economically exploiting and using natural materials for construction activities so as to ensure the ecological balance;

- Updating, preserving and making environmental reports under Article 7 of this Circular;

h/ Satisfying environmental protection requirements set forth in decisions approving environmental impact assessment reports or written environmental protection commitments throughout the course of project implementation; attaching importance to environmental rehabilitation after construction completion (also referred to as environmental restoration);

i/ Encouraging contractors and construction units to manage the environment according to standard ISO 14.000.

Article 6. Setting up of enterprises' environmental protection funds

Contractors and construction units are encouraged to set up environmental protection funds under Clause 1, Article 115 of the Law on Environmental Protection.

Chapter IV

ENVIRONMENTAL INSPECTION AND REPORTING

Article 7. Reporting regime

1. Environmental reports of transport infrastructure construction projects shall be elaborated on an annual basis and upon the project termination and summarized once every 5 years to serve the elaboration of environmental reports of the whole transport sector which will be incorporated in national environmental reports.

2. The Vietnam Road Administration, specialized departments, project management units, corporations and companies under the Transport Ministry shall summarize environmental reports on the performance of environmental protection work in transport infrastructure construction projects under their management.

3. Provincial-level Transport Departments shall monitor and summarize environmental reports of transport infrastructure construction projects which fall under their management competence or are carried out in their localities.

4. Agencies and units mentioned in Clauses 2 and 3 of this Article shall send environmental reports (made according to the form provided in Appendix 1 - *not printed herein*) of transport infrastructure construction projects which have been or are being implemented to the Transport Ministry before December 31 every year for summarization and reporting under law. Reports must be in writing and sent by email.

5. Contractors and construction units shall send environmental reports (made according to the form provided in Appendix 2 - *not printed herein*) of transport infrastructure construction projects they implement to projects investors for

summarization and reporting under Clauses 1, 2, 3 and 4 of this Article.

6. In cases of contingencies, the Ministry of Transport shall request contractors and construction units to report or supply information in writing. Requested units shall supply information and give written replies within 10 working days after receiving a written request from the Ministry of Transport.

Article 8. Information and contents of environmental reports of contractors and construction units

1. Annual and irregular environmental reports of contractors and construction units are not regarded as secret information and must be publicized upon request of competent state management agencies under law.

2. Contractors, construction units and organizations and individuals that supply information included in environmental reports shall take responsibility before law for such information as well as consequences of the supply of false information.

Article 9. Inspection of environmental protection work in transport infrastructure construction projects

1. The Vietnam Road Administration, specialized departments, project management units, corporations and companies under the Ministry of Transport and provincial-level Transport Departments shall elaborate and implement plans on inspection of environmental protection work in transport infrastructure construction projects under their management. Inspection plans of management agencies and units shall be implemented as follows:

a/ Plans on inspection of environmental protection work in transport infrastructure

construction projects shall be elaborated on an annual basis and their implementation results shall be reported to the Ministry of Transport;

b/ Plans on periodical inspection of environmental protection work in transport infrastructure construction projects shall be notified in writing to contractors and construction units at least 5 working days in advance counting from the date of receiving the written notification;

c/ Inspection covers the observance of the law on environmental protection in the construction of transport infrastructure and the implementation of contents approved in environmental impact assessment reports or written environmental protection commitments.

2. Apart from inspection mentioned in Clause 1 of this Article, when requested, the Ministry of Transport shall conduct extraordinary inspection of environmental protection work performed by its attached agencies, contractors and construction units in the course of implementation of transport infrastructure construction projects.

Chapter V

RESPONSIBILITIES AND RIGHTS IN ENVIRONMENTAL PROTECTION WORK

Article 10. Responsibilities of contractors and construction units

1. To perform environmental protection work in accordance with law and this Circular.

2. To comply with the regime of inspection, examination and reporting on environmental protection work in transport infrastructure construction to superior management agencies.

3. To perform environmental protection work in accordance with approved environmental impact assessment reports or written

environmental protection commitments and environmental protection contents in project-approving decisions.

4. To coordinate with local administrations in handling environmental issues stemming from to the construction of transport infrastructure.

5. To prevent and mitigate negative impacts on the environment resulting from construction activities or production, business or service activities carried out in service of the construction.

Article 11. Rights of contractors and construction units

1. To request the Ministry of Transport to facilitate their access to preferential loans from the Vietnam Development Bank or the Environmental Protection Fund for investment projects on preventing, mitigating or treating pollution, improving environmental quality and responding to environmental incidents under current regulations.

2. To be provided with technical assistance and counseling in the process of formulating projects and programs on waste reduction, re-cycle or re-use, application of the quality management system according to standard ISO 14.001, application of cleaner production systems, production and use of products with ecological labels and environmentally friendly products under current mechanisms and in compliance with law.

3. To be provided with support to raise their awareness about environmental management, environmental management tools and information on environmental protection in the construction of transport infrastructure.

4. To have their brands and environmentally friendly products advertised free-of-charge on the Transport Ministry's website.

Article 12. Responsibilities of the Vietnam

Road Administration, specialized departments, project management units and investors

1. To strictly abide by the law on environmental protection and this Circular.

2. To conduct communication and education so as to raise the sense of environmental protection for laborers in their affiliated units.

3. To organize specialized sections or arrange full-time or part-time cadres in charge of environmental protection in the construction of transport infrastructure; to report to the Ministry of Transport information related to environmental protection in their agencies.

4. To direct the implementation of plans on inspection, examination, supervision and handling of environmental issues stemming from the process of construction under their management.

5. To guide their affiliated units to make environmental state reports according to the form provided in Appendix 2 (*not printed herein*).

6. To elaborate environmental protection regulations applicable to organizations units and individuals involved in the implementation of transport infrastructure construction projects under their management.

Article 13. Responsibilities of the Transport Ministry's counseling agencies

1. The Environment Department shall guide environmental protection in works or projects under the management of the Ministry of Transport and the implementation of this Circular. Specifically, it shall:

a/ Collaborate with functional agencies in inspecting and overseeing the observance of regulations on environmental protection by transport infrastructure construction projects;

b/ Annually, report to the Transport Ministry's

leadership on the implementation of environmental protection activities under transport infrastructure development strategies, plans and plans approved by competent authorities;

c/ Appraise strategic environmental reports and environmental impact assessment reports of investment projects on construction of transport infrastructure to be approved by the Ministry of Transport under law;

d/ Inspect and oversee the observance of approved environmental impact assessment reports of transport infrastructure construction projects;

e/ Make certification of project investors' compliance with contents of environmental impact assessment reports, additional environmental impact assessment reports (if any) and decisions approving these reports before the projects are commissioned;

f/ Guide and approve environmental observation plans; monitor and settle environmental issues arising in the formulation, implementation and operation of transport infrastructure construction projects;

g/ Settle issues related to the environment and environmental protection for transport infrastructure construction projects in the domains managed by the Ministry of Transport which are funded with foreign loans so as to ensure the compliance with domestic laws on environmental protection and other requirements of donors.

2. The Transport Ministry's Inspectorate shall assume the prime responsibility for, and coordinate with the Environment Department and concerned units in, inspecting and examining the observance of this Circular.

3. The Planning and Investment Department shall assume the prime responsibility for, and coordinate with the Environment Department and

the Finance Department in, allocating funds for transport infrastructure construction projects according to current regulations on environment.

4. The Transport Engineering Construction and Quality Management Bureau shall assume the prime responsibility, and coordinate with the Environment Department in, inspecting the observance of environmental protection regulations; and supervise the implementation of environmental observation and pollution control programs during the process of project formulation at the proposals made in the approved bid dossiers of contractors.

Article 14. Responsibilities of local agencies

1. Provincial-level People's Committees shall direct provincial-level Transport Departments to guide and inspect the implementation of this Circular by contractors and construction units which carry out transport infrastructure construction projects under their management; join in environmental inspection and examination teams and take the initiative in studying the situation and developments of environmental issues in transport infrastructure works and projects in their localities so as to work out appropriate measures for coordinated management and implementation.

2. Provincial-level Transport Departments shall coordinate with concerned agencies in elaborating and implementing programs on inspection of the performance of environmental protection work and handling of environmental issues in transport infrastructure construction projects under their management.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 15. Effect

This Circular takes effect 45 days from the date of its signing. Any problems arising in the implementation process should be promptly reported to the Ministry of Transport for consideration and settlement.

Article 15. Implementation responsibilities

The chief of the Ministry's Office, the Ministry's Chief Inspector, directors of concerned departments, the director of the Vietnam Road Administration, directors of specialized departments, heads of agencies, directors of provincial-level Transport Departments, and concerned organizations and individuals shall implement this Circular.-

Minister of Transport
HO NGHIA DUNG