

THE GOVERNMENT

No: 175/CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

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Ha Noi , Day 18 month 10 year 1994

**DECREE No.175-CP ON THE 18th OF OCTOBER 1994 OF THE GOVERNMENT
GUIDING THE IMPLEMENTATION OF THE LAW ON ENVIRONMENTAL
PROTECTION**

THE GOVERNMENT

Pursuant to the Law on Organization of the Government on the 30th of September 1992;

Pursuant to the Law on Environmental Protection on the 27th of December 1993;

At the proposal of the Minister of Science, Technology and Environment,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- This Decree stipulates details for the implementation of the Law on Environmental Protection passed by the National Assembly of the Socialist Republic of Vietnam on the 27th of December 1993 and promulgated by the President of the State in Decision No.29L/CTN on the 10th of January 1994.

Article 2.- The stipulations of this Decree apply to all activities of Vietnamese organizations and individuals and foreign organizations and individuals on the territory of the Socialist Republic of Vietnam covered by the Law on Environmental Protection.

Article 3.- The stipulations on environmental protection concerning international relations must be carried out in conformity with the Law on Environmental Protection and other prescriptions concerned of Vietnam's law and the international treaties which Vietnam has signed or acceded to.

In case and international treaty which Vietnam has signed or acceded to stipulates differently from this Decree, the stipulations of that international treaty shall prevail.

Chapter II

**DIVISION OF RESPONSIBILITIES IN STATE MANAGEMENT OF ENVIRONMENTAL
PROTECTION, RESPONSIBILITIES OF ORGANIZATIONS AND INDIVIDUALS FOR
ENVIRONMENTAL PROTECTION**

Article 4.-

1. The Ministry of Science, Technology and Environment exercising unified State management of environment protection on a national scale, is responsible for

organizing and guiding the activities for environmental protection within their function and tasks as follows:

a./ Drawing up statutory provisions on environmental protection and submit them to the Government for promulgation, or promulgate them within its jurisdiction;

b/ Working out the strategy and policy on environmental protection and submit them to the Government for approval;

c/ Chairing the building of long-term and annual plans for preventing, fighting and overcoming environmental degradation, environmental pollution and environmental accidents, for environmental protection projects and other projects concerning environmental protection, submit them to the Government for decision, and cooperate with other branches concerned in carrying them out;

d/ Organizing, building and managing the system of observatories for environmental protection;

e/ Evaluating the present state of the environment on a national scale and making periodical reports on it to the Government and the National Assembly;

f/ Checking Reports on the environmental effect of projects and establishments as stipulated at Chapter III of this Decree;

g/ Guiding the organization of research and the application of scientific and technological advances in environmental protection; organizing the building and application of a system of environmental safety standards; issuing or withdrawing certificates of environmental standards; organizing the training of environmental staff for the management of environmental protection;

h/ Guiding and supervising the implementation of the Law on Environmental Protection by the various branches, localities, organizations and individual; organizing the inspection of environmental protection, and handling complaints and denunciations about environmental protection within its powers;

i/ Reporting to the Government on its participation in international organizations, its signing of or accession to international treaties on environmental protection, and its participation in international activities concerning environmental protection.

2. The Department of Environment has the task of helping the Minister of Science, Technology and Environment exercise the function of State management in environmental protection on a national scale.

The tasks, powers and organization of the Department of Environment shall be defined by the Minister of Science, Technology and Environment.

Article 5.-

1. The ministries, agencies at ministerial level and agencies attached to the Government in furtherance of their function, tasks and powers are responsible for exercising State management of environmental protection as follows;

a/ Drafting documents on environmental protection within the scope of their activity in conformity with the stipulations of the Law on Environmental Protection, submit them to the Government for promulgation, or promulgate them within their powers;

Working out the strategy and policies of their branch for environmental protection in conformity with the general strategy and policies of the whole country on environmental protection;

b/ Guiding and checking the implementation of the law, plans and measures on environmental protection within their branch and at the establishments directly under their management as directed by the Ministry of Science, Technology and Environment;

c/ Managing the projects of their branch relating to environmental protection;

d/ Jointly checking reports on the evaluation of environmental effect of projects, production establishments and businesses as stipulated at Chapter III of this Decree;

e/ Settling disputes, complaints and denunciations, and petitioning for punishment of violations of the law on environmental protection within their powers as stipulated by law.

2. The ministries, agencies at ministerial level and agencies attached to the Government shall cooperate with the Ministry of Science, Technology and Environment in doing the following work:

a/ Surveying, observing, studying and evaluating the present state of environment within their branch;

b/ Building a plan to prevent, fight and overcome environmental degradation, environmental pollution and environmental accidents within their branch, submit it to the Government for decision, and organizing its implementation;

c/ Studying and applying scientific and technological advances in the field of environmental protection within their branch;

d/ Carrying out education and dissemination of the knowledge and law on environmental protection within their branch.

Article 6.-

1. The People's Committees of provinces and cities under the Central Government are responsible for exercising State management of environmental protection as follows:

a/ Issuing within their powers documents on environmental protection in their locality;

b/ Directing and inspecting the implementation of the regulations of the State and the locality on environmental protection in their locality;

c/ Checking report on the evaluation of environmental effect of projects and establishments as stipulated at Chapter III of this Decree;

d/ Granting certificates of environmental standards to production establishments and businesses, or withdrawing them;

e/ Cooperating with the institutions at the central level in supervising, inspecting and handling violations of the Law on Environmental Protection in the locality; urging all organizations and individuals to observe the Law on Environmental Protection;

f/ Receiving and settling disputes, complaints, denunciations on environmental protection within their powers, or submitting them to the authorized institutions for settlement.

2. The Science, Technology and Environment Office is responsible to the People's Committees of provinces and cities under the Central Government in exercising State management of environmental protection in their locality.

The tasks, powers and organization of the Science, Technology and Environment Office are stipulated by the People's Committees of provinces and cities under the Central Government under the guidance of the Ministry of Science, Technology and Environment.

Article 7.- The State institutions and mass organizations have the following task in the protection of the environment:

1. Ensuring strict implementation at the premises of public offices and mass organizations of the stipulations of law and of central and local institutions on environmental protection;

2. Conducting popularization and education for the staff of public offices and mass organizations to raise their sense of responsibility in environmental protection;

3. Within their responsibility and powers, checking, campaigning for and supervising the implementation of the Law on Environmental Protection, promptly discovering any violations of the Law on Environmental Protection, and reporting it to the authorized institution for settlement.

Article 8.- All production organizations and businesses are obliged to strictly abide by the law:

1. Evaluating environmental effects; ensuring strict observance of environmental standards; preventing, fighting and overcoming the consequences for environmental degradation, environmental pollution and environmental accidents;

2. Making financial contribution to environmental protection, compensating for any losses caused by environmental damage as stipulated by law;

3. Supplying full documents and creating conditions for supervisory and inspection groups or for inspectors in the discharge of their functions; abiding by any decision by an inspection group or inspectors;

4. Conducting popularization and education for cadres and workers to raise their sense of responsibility for environmental protection; making periodical reports to the State

managing institution for environmental protection in the locality on the present state of environment in their area of activity.

Chapter III

EVALUATION OF ENVIRONMENTAL EFFECT

Article 9.- The investors, project owners or directors of public offices and enterprises must evaluate the environmental effect of the following projects and institutions;

1. Master plans for regional development, the zoning and plans for development of branches, provinces and cities directly under the Central Government, the planning of urban centers and residential quarters;
2. Projects on economic, scientific, medical, cultural, social, security and defense;
3. Projects in vested or funded by foreign organizations or individuals, or international organizations, or built with loans from them or as joint ventures with them on Vietnamese territory;
4. The projects mentioned at Points 1, 2 and 3 of this Article which were ratified before the 10th of January 1994, but which have not been evaluated for their environmental effect as required;
5. The economic, scientific, medical, cultural, social, security and defense establishments put into operation before the 10th of January 1994.

Article 10.-

1. The environmental effect should be evaluated as follows:

- a/ Evaluating the present state of the environment in the area of operation of the project or the establishment;
- b/ Evaluating the effect exerted on the environment by the operation of the project or the establishment;
- c/ Proposing measures for environmental protection.

2. The stipulations in this Article should be included in a special report called the Report on the evaluation of environmental effect.

Article 11.-

1. With regard to the projects mentioned at Points 1, 2, 3 and 4 of Article 9, the making of the Report on the evaluation of environmental effect should be undertaken in two steps: preliminary and in details (those projects mentioned at Point 4 should be evaluated in details only).

The contents of the Report on the preliminary evaluation of environmental effect is stipulated at Appendix 1.1;

The contents of the Report on the detailed evaluation of environmental effect is stipulated at Appendix 1.2.

2. With regard to the projects mentioned at Point 5 of Article 9, the contents of the Report on the evaluation of environmental effect is stipulated at Appendix 1.3.

Article 12.-

1. The mentors used in evaluating environmental effect must be objective, scientific and practical, and up to current international standard.
2. The report on the evaluation of environmental effect must be made by those agencies and organizations that have a qualified staff and necessary facilities.
3. The report on the evaluation of environmental effect must be made on the basis of Vietnam s environmental norms. As for those areas which do not yet have environmental norms, a written agreement should be reached with the State institution in charge of environmental protection.

Article 13.- The dossier applying for the expertise of the Report on the evaluation of environmental effect includes the following:

1. With regard to the projects mentioned at Points 1, 2, 3, and 4 of Article 9;

a/ A report on the evaluation of environmental effect;

b/ The dossier of the project and attached appendices.

2. With regard to the projects mentioned at Point 5 of Article 9:

a/ A report on the evaluation of environmental effect;

b/ A report on the present production and business activities of the establishment and other issues concerned.

3. The dossier applying for expertise should be made in 3 copies. With regard to the projects mentioned at Point 3 of Article 9, the document should be made in Vietnamese.

Article 14.-

1. The expertise of the Report on the evaluation of environmental effect of those projects and establishments currently in operation is classified into 2 levels:

a/ At the central level, it is expertized by the Ministry of Science, Technology and Environment. According to concrete cases, the Ministry of Science, Technology and Environment can assign it to a Ministry specializing in the field;

b/ At the local level, it is expertized by the Science, Technology and Environment Office.

2. The Ministry of Science, Technology and Environment shall submit to the Government the list of projects of which the Report on the evaluation of environmental effect needs to be submitted to the National Assembly.

Article 15.-

1. The State managing institution for environmental protection is responsible for expertising the Report on the evaluation of environmental effect.

2. If necessary, an expertise council shall be established.

a/ The Expertise Council at the central level shall be established by decision of the Ministry of Science, Technology and Environment.

b/ The Expertise Council in provinces and cities directly under the Central Government is established by decision of the Presidents of the People's Committees of provinces and cities directly under the Central Government.

3. The Council is composed of scientists, managers, and may also include representatives of social organizations and representatives of the people. However, its membership should not exceed 9 persons.

Article 16.- The time for expertising the Report on the evaluation of environmental effect should not exceed 2 months after all necessary documents are received.

With regard to the projects mentioned at Point 3 of Article 9, the time for expertise must conform to the time schedule set for the granting of an investment license.

Article 17.- The State managerial institution on environmental protection is responsible for supervising the technical designing and the carrying out of measures for environmental protection at the proposal of the Expertise Council.

Article 18.- In case of disagreement with the conclusion of the Expertise Council, the investor, the Project manager or director of a public office or enterprise... may complain to the institution that decided the establishment of the Council and to the State managerial institution on environmental protection of higher level.

The complaint should be considered and settled within 1 to 3 months after it is received.

Article 19.- With regard to the projects mentioned at Article 9 of this Decree which are under the management of the Ministry of Defense and the Ministry of the interior, the Minister of Defense and the Minister of the Interior should organize the compilation and expertise of the Report on the evaluation of environmental effect as directed by the Ministry of Science, Technology and Environment.

Article 20.-

1. With regard to the projects mentioned at Point 5, Article 9, of this Decree, the compilation and expertise of the Report on the evaluation of environmental effect should be undertaken step by step and within the time frame set by the Ministry of Science, Technology and Environment.

2. The results of the expertise of the Report on the evaluation of environmental effect of the establishments currently in operation are classified into the 4 following types for settlement:

a/ Those that are permitted to continue their operation without further measures for environmental protection;

b/ Those that must invest in building waste-treatment facilities;

c/ Those that must change their technology and be re-located;

d/ Those that must stop their operation.

Chapter IV

PREVENTION, FIGHTING AND OVERCOMING ENVIRONMENTAL DEGRADATION, ENVIRONMENTAL POLLUTION AND ENVIRONMENTAL ACCIDENTS

Article 21.- The sue and exploitation of national parks, natural preserves, historic and cultural relic sites, and scenic spots... must be permitted by the managerial institution of the branch concerned. Before issuing the permit, the managerial institution must obtain written approval of the State managerial institution on environmental protection.

After receiving the permit for exploitation and use, the organization or individual whose name is written in the permit must register with the local administration which is directly in charge of the conservation sites concerned.

The permit must specify these points; the area and scope of use, the purpose and the time for exploitation, and the measures for environmental protection during the exploitation.

Article 22.- All organizations and individuals engaged in activities concerning the environment must observe the environmental norms.

The list of Vietnam's environmental norms includes;

1. The environmental norm for the protection of soil;
2. The environmental norm for the protection of water;
3. The environmental norm for the protection of the air;
4. The environmental norm for noise;
5. The environmental norm for radiation and ionization;
6. The environmental norm for protection of residential quarters;
7. The environmental norm for protection of production areas;
8. The norm for environmental evaluation in the protection of forests;
9. The norm for environmental evaluation in the protection of animal and plant life;
10. The norm for environmental evaluation in the protection of the ecology;

11. The environmental norm for the protection of the sea;
12. The environmental norm for the planning of industrial, urban and civil constructions;
14. The environmental norm for the transportation, stockpiling and use of toxic and radio-active elements;
15. The environmental norm for the exploitation of open cut mines and underground mines;
16. The environmental norm for motorized means of transport;
17. The environmental norm for the establishments using micro-organisms;
18. The environmental norm for the protection of the subsoil;
19. The environmental norm for environmental protection of tourist sites;
20. The environmental norm for the import-export sector;
21. The environmental norm for hospital and clinics for treatment of special diseases.

All the norms in the above list are compiled and issued by the Ministry of Science, Technology and Environment in conjunction with the other ministries and branches concerned.

Article 23.- Any organization and individual, that want to export or import animals or plants (including seeds), micro-organisms, and gene sources, must have a permit from the managerial office of the branch concerned and the State managerial institution for environmental protection and a quarantine certificate from the authorized quarantine office of Vietnam. When they discover the danger of items listed in the permit spreading diseases to humans, animals and poultry, or dangers of causing environmental pollution or degradation, they must urgently report it to the local administration and the nearest State managerial institution for environmental protection to take measures to isolate or destroy them immediately.

With regard to endangered species of animal and plants listed in the Convention on International Trading of Endangered Species (CITES), the Law on the Protection and Development of Forests and the Ordinance on the Protection of Aquatic Resources should be strictly observed. The list of species covered by this Article is announced by the Ministry of Forestry, the Ministry of Aquatic Resources, and the Ministry of Agriculture and Food Industry.

Article 24.- Any organization and individual who want to export or import toxic chemicals and microbiological products must have a permit from the managerial office of the branch concerned and the State managerial institution for environmental protection and must scrupulously abide by the current norms of Vietnam. In their application, they must specify the purpose of the use, the quantity, the technical properties, the composition and formula, if any, the trade brand, the firm and the country that produce it. The organization and individual concerned are responsible for exporting or importing exactly the items and the quantity listed in the permit.

In case the items are past the expiry date and must be destroyed, they must send in an application specifying the quantity, the technical properties and the technology for destruction, and the destruction must be supervised by the State managerial institution on environmental protection and the authorized police office.

With regard to botanical protection substances, the Ordinance on Botanical Protection and Quarantine must be strictly observed.

Article 25.- The importation of whole equipment and technology for projects and joint ventures can be made only after the economic and technical feasibility study has been ratified and the Report on the evaluation of environmental effect of the protect has been expertised by the State managerial institution for environmental protection.

With regard to important single pieces of equipment concerning environmental protection, the State managerial institution for environmental protection can, if necessary, consider and allow their importation.

The granting of permits for these cases is effected according to the following assignment of authority:

- The Ministry of Science, Technology and Environment grants import permits for those projects and joint ventures ratified by the Expertise Council of the State.

- The local Science, Technology and Environment Office grants permits for all other cases under the guidance of the Ministry of Science, Technology and Environment.

Article 26.-

1. All means of transport, trains, vehicles and vessels should not emit more smoke, dust, oil and toxic exhaust into the environment than the levels stipulated. For those means or transport imported into Vietnam after the Law on Environmental Protection takes effect, they must meet the exhaust norms before being put into operation.

2. All motorized means of transport in operation must not produce more noise than the levels stipulated.

3. For those means of transport put into operation before the Law on Environmental Protection takes effect, they must apply technical solutions to minimize the smoke and toxic exhaust they discharge into the environment. From the 1st of April 1995, all motorized means of transport in the cities must ensure a level of smoke discharge not exceeding 60 Hartridge units, should not emit the above-mentioned pollutants and should not produce noise above the levels permitted.

Those means of transport which fail to meet these norms shall be suspended.

4. The motorized means of transport must not use their horns when they pass by hospitals, sanatoria, schools and densely populated areas at noon time and after 22:00 hrs.

The Ministry of Communications and Transport is responsible for examining and granting permits for those means of transport which meet the environmental norms.

Article 27.-

1. All production units, businesses, hospitals, hotels, restaurants... Which have solid or liquid waste matter or exhaust must treat it before discharging them; the waste-treatment technology must be examined and ratified by the authorized State managerial institution.

2. Waste matter from daily life in the cities and other urban centers, and industrial parks must be collected, transported and treated in accordance with the regulations for waste treatment.

3. Such waste matter containing micro-organisms and disease-causing viruses must be carefully treated before being discharged into public dumping grounds in accordance with current regulations.

4. Such waste matter containing toxic chemicals hard to decompose must be treated by special technology and must not be discharged into the dumping grounds reserved for waste matter from daily life.

Article 28.-

1. The export or import of waste matter containing toxic elements or disease-causing viruses which could cause environmental pollution is strictly banned.

2. The Ministry of Science, Technology and Environment guides the branches and localities in drawing up the lists of sub-standard raw materials and discarded materials which meet the norms of environmental hygiene and are permitted to be imported for use as materials for production, and submit them to the Prime Minister for decision.

Article 29.- As from the 1st of January 1995, the production, transport, trading, stockpile and use of all sorts of firecrackers on the entire Vietnamese territory is strictly banned.

The Government shall stipulate the production and use of fireworks on a number of special anniversaries and New Year days.

Article 30.-

1. The Minister of Science, Technology and Environment shall report to the Prime Minister cases of environmental accidents of particular gravity and proposes urgent solutions to the Prime Minister for decision.

2. Cases of environmental accidents of particular gravity are accidents that cause enormous and serious losses:

a/ To the lives and property of many people;

b/ To economic, social, security and defense establishments;

c/ To vast areas encompassing many cities and provinces;

d/ To areas of international influence.

3. The Minister of Defense and the Minister of the Interior shall organize a special task force to handle environmental accidents. The Ministry of Science, Technology and Environment together with the Ministry of the Interior, the Ministry of Defense and other ministries and branches concerned shall plan the building of such forces and submit the plan to the Prime Minister for approval.

Article 31.- The payment for expenses incurred in handling environmental accidents by organizations and individuals involved must be based on the agreement among the organizations and individuals mobilized and the institution authorized to mobilize them.

The Ministry of Finance shall stipulate in detail the modalities of payment for these expenses.

Chapter V

FINANCIAL SOURCES FOR ENVIRONMENTAL PROTECTION

Article 32.- The financial sources for environmental protection include:

1. The State budget allocations for activities of environmental protection, for scientific research and the State management of environmental protection.

2. The fee of expertizing Reports on the evaluation of environmental effect of socio-economic projects; the fee for environmental protection paid by those organizations and individuals who use environmental factors for the purpose of production and business in accordance with the detailed stipulations of the Ministry of Finance;

3. Other sources (fines for infringement on regulations for environmental protection, contributions by socio-economic organizations...).

Article 33.- The Government shall set up the National Reserve Fund for overcoming environmental degradation, environmental pollution and environmental accidents with the aim of coping with emergency cases of environmental accidents, environmental pollution and environmental degradation.

The financial sources for this Fund come from State budget allocations, contributions by businesses (including joint ventures with foreign countries), contributions by Vietnamese and foreign individuals and organizations for activities of environmental protection in Vietnam.

The Ministry of Science, Technology and Environment and the Ministry of Finance are responsible for making regulations for the management and use of this fund.

Article 34.- All organizations and individuals engaged in production and trading in the following fields must pay fees for environmental protection:

- Exploiting oil and gas and other subsoil resources;

- Air and sea ports, bus stations and railway stations;

- Motorized means of transport;

- Other fields of production and business causing environmental pollution.

Those foreign organizations and individuals engaged in production and business activities that cause environmental pollution must pay fees for environmental protection.

The rate of environmental protection fees depends on the level of harm that the activities of production and business could cause to the environment.

The Ministry of Science, Technology and Environment and the Ministry of Finance shall guide the collection and use of the environmental protection fees.

Article 35.- The financial sources for carrying out the task of environmental protection each year are used for the following work:

1. Conducting basic surveys on environmental factors with special attention paid to soil, water, air, forests, the sea and the cultural aspects.
2. Surveying the state of environmental pollution in the provinces, major cities, industrial zones, important populated areas, and the sea areas where oil and gas are being exploited...
3. Taking measures to protect, restore and improve the environment, control waste matter (particularly toxic waste) in the cities and industrial zones;
4. Projects to conserve and restore the ecological systems of importance for long-term socio-economic development and the maintenance of bio-diversity (including national parks, natural preserves and reserves, ecological system of submerged land at river mouths and coastal areas, ecological systems of coastal submerged forests, coral reefs, endangered wildlife species, protection of genetic pools...)
5. Building infrastructure projects necessary for environmental protection.

Article 36.- The Ministry of Science, Technology and Environment and the Ministry of Finance shall stipulate the modalities to collect, spend and manage the financial sources and property in environmental protection in conformity with the current regulations of management.

Chapter VI

INSPECTION ON ENVIRONMENTAL PROTECTION

Article 37.- The Ministry of Science, Technology and Environment is responsible to the Government for organizing and guiding the implementation of specialized inspection on environmental protection with the following tasks:

1. Inspecting the environmental protection by the ministries and branches, and the implementation of the function of State management of the People's Committees at various levels in the localities for environmental protection.
2. Inspecting the observance of the Law on Environmental Protection: norms and stipulations on the prevention, fighting and overcoming environmental degradation,

environmental pollution and environmental accidents in the course of use and utilization of the environmental factors by organizations and individuals.

Article 38.- The organization, powers and scope of activity of inspectors specialized environmental protection are jointly stipulated by the Ministry of Science, Technology and Environment and the General Inspector of the State in accordance with the Law on Environmental Protection and the Inspection Ordinance.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 39.- This Decree takes effect as from the date of its signing,

All earlier 4 stipulations which are contrary to this Decree are now annulled.

Article 40.- The Ministers, the Heads of agencies at ministerial level and the Heads of agencies attached to the Government, the Presidents of the People's Committees of provinces and cities directly under the Central Government are responsible for giving detailed guidance on the implementation of this Decree within their function and powers.

On behalf of the Government

Prime Minister

VO VAN KIET