

THE GOVERNMENT

THE SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

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DECREE

Detailing a number of articles of the Law on Environmental Protection^(*)

Pursuant to the December 25, 2001 Law on Organization of Government;
Pursuant to the June 23, 2014 Law on Environmental Protection;
At the proposal of the Minister of Natural Resources and Environment,
The Government promulgates the Decree detailing a number of articles of the Law on Environmental Protection.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree details Point dd, Clause 1, Article 38; Clause 5, Article 61; Clause 3, Article 68; Clause 7, Article 70; Clause 3, Article 75; Clause 5, Article 104; Clause 3, Article 146; Clause 2, Article 151; and Clause 3, Article 167 of the Law on Environmental Protection, including:

1. Environmental improvement and rehabilitation and payment of deposits for environmental improvement and rehabilitation for mineral exploitation activities.
2. Control of pollution of the soil environment.
3. Environmental protection in craft villages.
4. Environmental protection in the import and breaking of used seagoing ships.
5. Certification of the environmental management system; insurance for environmental damage compensation liability and handling of seriously polluting establishments.
6. Incentives and supports for environmental protection activities.
7. Community participation in environmental protection.

Article 2. Subjects of application

This Decree applies to agencies, organizations, households and individuals operating in the territory of the Socialist Republic of Vietnam, including the mainland, islands, sea and airspace.

Article 3. Interpretation of terms

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

1. Environmental improvement and rehabilitation means activities to bring the environment and eco-system in the affected environmental area closer to the original environmental state or achievement of safety and environmental standards and regulations to serve purposes beneficial to humans.

2. Payment of deposits for environmental improvement and rehabilitation means that an organizations or individual deposits an amount of money in the Vietnam Environment Protection Fund or the local environmental protection fund (below referred to as the environmental protection

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fund) to secure the organization's or individual's responsibility for environmental improvement and rehabilitation for mineral exploitation activities.

3. Environmental improvement and rehabilitation plan means solutions to environmental improvement and rehabilitation in mineral exploitation activities approved by a competent state management agency.

4. Waste treatment means the process of using technological and technical solutions (different from pre-processing) in order to reduce, eliminate, isolate, burn, destroy or bury waste and hazardous elements in such waste.

5. Waste treatment facilities include hazardous waste treatment facility, domestic solid waste treatment facility and ordinary waste treatment facility.

6. Technical infrastructure for environmental protection in craft villages which is encouraged to be developed includes the centralized water drainage and wastewater collection and treatment system; system of points and equipment of collection, gathering and transportation of ordinary solid wastes and hazardous wastes; and greeneries in public areas.

7. Environment-friendly technology means the technology causing less harm to the environment compared with similar ones during operation.

8. Environment-friendly establishment means the establishment meeting criteria of energy conservation, water saving and waste reduction, re-use and re-cycling.

9. Environment-friendly product means the product meeting criteria of eco-label criteria and eco-label certification.

10. Community means the community of people living in the same hamlet, village, street group or residential point.

Chapter II

ENVIRONMENTAL IMPROVEMENT AND REHABILITATION AND PAYMENT OF DEPOSITS FOR ENVIRONMENTAL IMPROVEMENT AND REHABILITATION FOR MINERAL EXPLOITATION ACTIVITIES

Article 4. General provisions on environmental improvement and rehabilitation for mineral exploitation activities

1. All organizations and individuals exploiting minerals must have a plan for environmental improvement and rehabilitation and pay a deposit for environmental improvement and rehabilitation to be submitted to a competent state management agency for approval.

2. A plan for environmental improvement and rehabilitation must conform with the local socio-economic development master plan, mineral exploitation master plan and land use and environmental protection master plan.

3. Environmental improvement and rehabilitation shall be carried out right during the mineral exploitation.

4. The State shall encourage and create conditions for organizations and individuals exploiting minerals to continue their land rent and enjoy incentive policies in case of environmental improvement and rehabilitation into tourist sites, eco-areas or recreation areas for purposes beneficial to humans.

Article 5. Subjects required to prepare plans for environmental improvement and rehabilitation and additional plans for environmental improvement and rehabilitation

1. The subjects required to prepare a plan for environmental improvement and rehabilitation (below referred to as plan) include:

a/ Organizations and individuals that compile dossiers to apply for mineral exploitation licenses;

b/ Organizations and individuals that are exploiting minerals but have not had an approved plan or have not paid a deposit for environmental improvement and rehabilitation;

c/ Organizations and individuals that are exploiting minerals and have had an approved plan but fail to implement it within 24 months from the time of its approval shall prepare a plan again.

2. The subjects required to prepare an additional plan for environmental improvement and rehabilitation (below referred to as additional plan) include:

a/ Organizations and individuals that already have a mineral exploitation license and an approved plan but change the area, depth and capacity of mineral exploitation;

b/ Organizations and individuals that request change of contents of environmental improvement and rehabilitation compared with the approved plan.

3. The following subjects are not required to prepare a plan:

a/ Organizations and individuals that exploit minerals for use as ordinary building materials within the boundaries of work construction investment projects approved or permitted by competent state management agencies and use the exploited products only for such works;

b/ Households and individuals that exploit minerals for use as ordinary building materials in the residential land area under their land use rights for building works within such area.

Article 6. Time to prepare and submit plans and additional plans for appraisal, contents of these plans

1. The time to prepare and submit for appraisal plans and additional plans is prescribed as follows:

a/ Organizations and individuals having a mineral exploitation investment project mentioned at Point a, Clause 1, Article 5 shall prepare and submit a plan to a competent agency for appraisal and approval before applying for a mineral exploitation license;

b/ Organizations and individuals specified at Point b, Clause 1, Article 5, in addition to being sanctioned for their administrative violation, shall prepare and submit a plan to a competent agency for appraisal and approval before December 31, 2016;

c/ Organizations and individuals specified in Clause 2, Article 5 shall prepare and submit an additional plan to a competent agency for appraisal and approval before applying for a new mineral exploitation license or change of solutions to environmental improvement and rehabilitation.

2. A plan must include the following principal contents:

a/ Characteristics of mineral exploitation, current state of the natural, economic and social environment, and eco-system affected during the mineral exploitation;

b/ Solutions to environmental improvement and rehabilitation; analysis, evaluation and selection of the best solution for environmental improvement and rehabilitation;

c/ List and volume of items of environmental improvement and rehabilitation under the selected solution;

d/ Implementation plan; division of the implementation plan by year and stage of environmental improvement and rehabilitation; management and monitoring program during the environmental improvement and rehabilitation; plan for inspection and certification of plan completion;

dd/ Cost estimate for environmental improvement and rehabilitation for each item of environmental improvement and rehabilitation under the selected plan; deposits to be paid according to roadmap.

3. An additional plan must include the following principal contents:

a/ Characteristics of mineral exploitation, current state of the natural, economic and social environment of the project area at the time of making the additional plan;

b/ Changes in contents of environmental improvement and rehabilitation compared with the approved plan; analysis, assessment and selection of the best solution for environmental improvement and rehabilitation;

c/ List and volume of additional items of environmental improvement and rehabilitation;

d/ Implementation plan; division of the implementation plan by year and stage of environmental improvement and rehabilitation; management and monitoring program during the environmental improvement and rehabilitation; plan for inspection and certification of additional plan completion;

dd/ Cost estimate for environmental improvement and rehabilitation for each additional item of environmental improvement and rehabilitation, excluding the implemented items.

Article 7. Appraisal and approval of plans and additional plans

1. The competence to appraise and approve a plan or an additional plan is defined as follows:

a/ The Ministry of Natural Resources and Environment shall appraise and approve plans and additional plans for mineral exploitation projects under its licensing competence;

b/ The People's Committees of provinces and centrally run cities (below referred to as provincial-level People's Committees) shall appraise and approve plans and additional plans of mineral exploitation projects under their licensing competence.

2. A plan or an additional plan shall be appraised by an appraisal council. The council must be composed of representatives of state management agencies of environmental protection and geology and minerals, experts in the field of such plan, including chairman of the council, a deputy chairman in case of necessity; a secretary, two critics and other members. For plans under the appraisal and approval competence of the Ministry of Natural Resources and Environment, the council must consist of a representative of the provincial-level People's Committee of the locality where the plan is implemented.

3. The expense for appraisal of a plan or an additional plan shall be paid in accordance with law by the organization and individual exploiting minerals.

Article 8. Payment of deposits for environmental improvement and rehabilitation for mineral exploitation activities

1. The amount of deposit must equal the total fund for items of environmental improvement and rehabilitation. The fund for each item of environmental improvement and rehabilitation must comply with the norms and unit price used in the locality at the time of preparation of the plan or additional plan. In case the locality has no norm or unit price, the norm or unit price set by a relevant ministry or sector shall be applied. In case the relevant ministry or sector has no norm or unit price, the market price shall be applied.

2. Organizations and individuals exploiting minerals shall pay deposits annually or by each period taking into account of inflation factors.

3. Organizations and individuals exploiting minerals shall pay deposits in the local environmental protection fund or Vietnam Environment Protection Fund. The deposits shall be paid and refunded in Vietnam dong.

4. The deposit is entitled to an interest rate equal to the lending interest rate of the environmental protection fund in which the deposit is paid and is calculated from the time of depositing. Organizations and individuals may draw interest only once after obtaining a certificate of completion of all contents of the plan or additional plan.

5. The deposit shall be refunded on the basis of the organization's or individual's completion of each part or the whole of contents of environmental improvement and rehabilitation under the approved plan or additional plan.

6. In case the organization or individual is dissolved or bankrupt after paying the deposit and has not carried out the environmental improvement and rehabilitation under the approved plan or additional plan, the agency competent to approve the plan or additional plan shall use the deposited amount including its interest for environmental improvement and rehabilitation.

Article 9. Certification of completion of a plan or an additional plan

1. An organization or individual, after having completed each part or the whole contents of environmental improvement and rehabilitation of the plan or additional plan, shall compile a dossier on completion of the plan or additional plan to request inspection and certification of completion by a competent agency.

2. The agency competent to inspect and certify completion of a plan or an additional plan is the agency that has approved such plan or additional plan.

3. The inspection and certification of completion of all contents of a plan or an additional plan shall be conducted in the course of testing and acceptance of results of implementation of the mine closing plan. A decision on mine closing must include the content of completion of the entire plan or additional plan. The decision on mine closing can replace the certificate of completion of the entire plan or additional plan.

Article 10. Responsibilities of management agencies and units

1. Responsibilities of the Ministry of Natural Resources and Environment:

a/ To develop and issue guidelines on the order, procedures and contents of appraisal, approval, inspection, and certification of completion, of plans or additional plans, payment of deposits for environmental improvement and rehabilitation;

b/ To perform the uniform state management of environmental improvement and rehabilitation and payment of deposits for environmental improvement and rehabilitation for mineral exploitation activities;

c/ To appraise, approve, inspect, and certify the completion of, plans and additional plans under its competence;

d/ To develop and issue technical guidelines on environmental protection, improvement and rehabilitation in mineral exploitation activities;

dd/ To conduct periodic examination and inspection of environmental protection, improvement and rehabilitation activities of organizations and individuals exploiting minerals and report on implementation results to the Prime Minister.

2. Responsibilities of ministries, ministerial-level agencies and government-attached agencies (below referred to as ministries and sectors):

a/ To coordinate with the Ministry of Natural Resources and Environment in developing and issuing or submitting to competent authorities for issuance documents related to environmental improvement and rehabilitation and payment of deposits for environmental improvement and rehabilitation for mineral exploitation activities;

b/ To coordinate with the Ministry of Natural Resources and Environment and other related agencies and organizations in implementing regulations on environmental improvement and rehabilitation and payment of deposits for environmental improvement and rehabilitation for mineral exploitation activities in accordance with this Decree;

c/ The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, guiding the management and use of deposits for environmental improvement and rehabilitation at the environmental protection funds.

3. Responsibilities of provincial-level People's Committees:

a/ To appraise, approve, inspect, and certify the completion of, plans and additional plans under their competence;

b/ To examine, inspect and guide the environmental improvement and rehabilitation and payment of deposits for environmental improvement and rehabilitation by organizations and individuals exploiting minerals in localities under their management;

c/ To report to the Ministry of Natural Resources and Environment on the results of environmental improvement and rehabilitation and payment of deposits for environmental improvement and rehabilitation, and on the management and use of deposits before December 31 every year.

4. Responsibilities of the environmental protection funds:

a/ To receive deposits from, and certify in writing the payment of deposits, by organizations and individuals exploiting minerals;

b/ To refund the deposits and interests thereon to the organizations and individuals under regulations;

c/ To manage and use the deposits in accordance with law. To send annual reports on the management and use of the deposits to the provincial-level People's Committees, the Ministry of Natural Resources and Environment and the Ministry of Finance;

d/ To urge organizations and individuals exploiting minerals to pay deposits for environmental improvement and rehabilitation on schedule and propose competent authorities to issue decisions to sanction the late payment of deposits.

5. Responsibilities of organizations and individuals exploiting minerals

a/ To prepare and submit plans or additional plans to competent authorities for appraisal and approval; inform the contents of approved plans or additional plans to the commune-level People's Committee or Fatherland Front Committee of the locality where they carry out mineral exploitation activities for inspection and supervision;

b/ To carry out environmental improvement and rehabilitation and pay deposits for environmental improvement and rehabilitation according to regulations;

c/ To develop and submit to competent authorities proposals for inspection and certification of completion of each part or the whole of plans or additional plans;

d/ To pay charges for the appraisal, inspection, and certification of completion, of plans or additional plans in accordance with law;

dd/ To report on the environmental improvement and rehabilitation and payment of deposits for environmental improvement and rehabilitation to the agency having approved the plans or additional plans and the local environmental protection management agency before December 15 every year.

Chapter III

CONTROL OF POLLUTION OF THE SOIL ENVIRONMENT

Article 11. Identification, listing, assessment and control of factors likely to cause pollution of the soil environment

1. The factors likely to cause pollution of the soil environment which shall be identified, listed, assessed and controlled are the pollutants generated from:

a/ Natural process: Climate change, flooding, saltwater intrusion, desertification, deposition of pollutants from the atmospheric circulation, natural disasters and natural weathering;

b/ Human activities: Activities generating chemicals intentionally or unintentionally; wastes from agricultural and industrial production, business, services and people's daily life; mineral exploitation and processing; waste recycling and treatment; retention and storage of plant protection chemicals and drugs, warfare toxins.

2. Factors likely to cause pollution of the soil environment shall be controlled as follows:

a/ Application of measures to prevent and limit environmental impacts of the generating sources;

b/ Constant monitoring and supervision;

c/ Timely isolation and treatment upon signs of environmental pollution.

3. The Ministry of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with the ministries, sectors and localities in, reviewing and summarizing and submitting to the Prime Minister for promulgation the list of sources and production, business and service establishments that generate factors of pollution of the soil environment to be strictly controlled; provide guidance on the listing, assessment and identification of and measures to prevent and control factors likely to cause pollution of the soil environment.

Article 12. Control of pollution of the soil environment at production business and service establishments

1. Production, business and service establishments shall take measures to strictly monitor and supervise stages and areas generating factors likely to cause pollution of the soil environment; promptly detect, isolate and handle these factors upon signs of pollution; prepare and implement plans for prevention of and response to environmental incidents in accordance with law.

2. The following establishments shall monitor the quality of the soil environment periodically and report the result to the environmental management agency under regulations of the Ministry of Natural Resources and Environment:

a/ Waste treatment establishments;

b/ Mineral exploitation establishments;

c/ Chemical production establishments and production, business and service establishments using hazardous chemicals on the list of generated wastes subject to monitoring issued by the Ministry of Natural Resources and Environment as stipulated in Clause 2, Article 121 of the Law on Environmental Protection.

3. Upon transfer of land use rights, the transferee of land use rights has the right to request the transferor of land use rights to provide information on the quality of the soil environment in the area over which land use rights are transferred.

4. The establishments specified in Clause 2 of this Article, upon change of the land use purpose to residential land or commercial land, shall assess the quality of the soil environment and make public the information among the land users. The quality of the soil environment shall be certified to be suitable to the purpose of use as residential land or commercial land by the agency competent to approve environmental impact assessment reports or by the agency competent to certify environmental protection plans. In case the quality of land in the area where the land use purpose is changed does not suit the purpose of use as residential land or commercial land, the current and future users of land for residential or commercial purpose must have a plan for treating the soil environment to suit the land use purpose.

Article 13. Control of pollution of the soil environment in areas polluted with chemical warfare agents, residues of plant protection chemicals and other hazardous substances

1. The polluted land areas to be treated by the State include:

a/ Area of pollution of the soil environment due to chemical warfare agents;

b/ Area of pollution of the soil environment due to residues of plant protection chemicals;

c/ Area of pollution of the soil environment without identified polluters.

2. Pollution of the soil environment to be treated by the State shall be controlled as follows:

a/ Listing and preliminarily surveying the polluted areas and preliminarily assessing the risks;

b/ Surveying in detail to determine the scope and extent of pollution and assessing risks of pollution;

c/ Developing models and solutions to pollution treatment and environmental improvement and rehabilitation;

d/ Zoning, isolating, treating, improving and rehabilitating the environment according to approved solutions.

dd/ Performing observation and monitoring after the environmental treatment, improvement and rehabilitation.

3. Provincial-level People's Committees shall prepare plans for environmental treatment, improvement and rehabilitation for the areas specified in Clause 1 of this Article and submit these plans to the Ministry of Natural Resources and Environment for appraisal and approval.

An organization or individual that wishes to conduct environmental treatment, improvement and rehabilitation for using the land for another purpose shall prepare a plan for environmental treatment, improvement and rehabilitation and submit it to the provincial-level People's Committee for appraisal, approval, inspection and certification of completion of environmental improvement and rehabilitation before land use.

4. The establishments named in the list mentioned in Clause 3, Article 11 of this Decree outside the areas specified in Clause 1 of this Article shall organize the survey, assessment, zoning, treatment and rehabilitation upon occurrence of pollution of the soil environment.

5. The quality of the soil environment in areas polluted with chemical warfare agents, residues of plant protection chemicals and other hazardous chemicals shall be publicized to related organizations and individuals.

Article 14. Responsibilities of agencies to control pollution of the soil environment

1. The Ministry of Natural Resources and Environment shall:

a/ Elaborate regulations and guidance on assessing the receipt capacity of the soil environment according to the use purpose;

b/ Issue guidance on identification, listing, assessment, zoning and control of factors likely to cause pollution of the soil environment, provide information on the quality of the soil environment, and certify the quality of land in areas changed into residential land or commercial land under Clause 4, Article 12 of this Decree;

c/ Develop and update the national information system on areas with polluted land and control of pollution of the soil environment;

d/ Summarize and publicize the quality of the soil environment and factors likely to cause pollution of the soil environment nationwide;

dd/ Guide methods for publicizing information about the quality of the soil environment.

2. The Ministry of National Defense and the Ministry of Public Security shall assume the prime responsibility for, and coordinate with provincial-level People's Committees in, conducting surveys and making statistics of information about the quality of the soil environment of land areas used for national defense and security and send the results to the Ministry of Natural Resources and Environment for summarization; and shall organize the treatment of polluted land areas under their respective management.

3. Provincial-level People's Committee shall:

a/ Organize survey, assessment and publicize information about factors likely to cause pollution of the soil environment in their localities; and monitor the quality of the soil environment in public areas;

b/ Publicize information about the quality of the soil environment (maps, reports on assessment of land quality, land degradation and pollution) under the land law; update information on the control of pollution of the soil environment in their localities in the national information system on control of pollution of the soil environment;

c/ Issue warnings about areas with the land quality unsuitable to their use purpose; monitor and supervise the preparation and implementation of plans for treatment, improvement and rehabilitation of the soil environment to suit the use purpose of land users or polluters named in the list mentioned in Clause 3, Article 11 of this Decree;

d/ Organize the treatment of polluted land areas in their localities.

Chapter IV

ENVIRONMENTAL PROTECTION IN CRAFT VILLAGES

Article 15. General provisions on environmental protection in craft villages

1. A plan for environmental protection in a craft village must include the contents, methods and order of environmental protection in the craft village; actual situation of production and daily-life activities in the craft village; types and volume of generated wastes; organization of environmental protection activities in the craft village in general, measures of reduction, collection and treatment of wastes generated from the craft village; arrangement of resources for environmental protection activities and responsibilities of related organizations and individuals.

2. Environmental protection technical infrastructure in craft villages with no less than 20% of the number of production establishments having business lines encouraged to develop (below referred to as craft village encouraged to develop) shall be invested with state budget funds. Provincial-level People's Committees shall allocate local budgets for investment in environmental protection technical infrastructure in craft villages encouraged to develop and mobilize resources for investment in environmental protection technical infrastructure in craft villages in their localities.

3. Production establishments which have business lines encouraged to develop in craft villages are those on the list provided in Appendix I to this Decree. In each period, the Ministry of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with the ministries, sectors and localities in, reviewing Appendix I to this Decree for submission to the Prime Minister for amendment and supplementation suitable to reality.

4. The Ministry of Agriculture and Rural Development shall promulgate or submit to competent authorities for promulgation incentive and support mechanisms and policies for establishments which have business lines encouraged to develop and for craft villages encouraged to develop; and coordinate with the Ministry of Natural Resources and Environment in establishing environmental protection criteria in the recognition of craft villages.

Article 16. Environmental protection responsibilities of production establishments in craft villages

1. To implement environmental protection measures mentioned in the environmental impact assessment report, written environmental protection commitment, detailed environmental protection plan, simple environmental protection plan or report on environmental protection measures.

In case a production establishment that has business lines encouraged to develop in a craft village has not made any environmental impact assessment report, written environmental protection commitment, detailed environmental protection plan or simple environmental protection plan, it shall prepare a report on environmental protection measures, describing activities of the establishment, types of wastes generated, measures to reduce and control dust, heat, noise, vibration, collect and treat wastewater on the spot, and classification, storage, self-treatment or transfer of solid wastes, and send it to the local environmental management agency for examination and monitoring.

2. To fully pay environmental protection charges and financial obligations in accordance with law for environmental protection activities of craft villages.

3. Service, business and production establishments in craft villages other than those specified in Clause 3, Article 15 of this Decree shall comply with Clause 3, Article 70 of the Law on Environmental Protection and regulations on environmental protection applicable to service, business and production establishments.

Article 17. Responsibilities of commune-level People's Committees

1. To prepare plans for environmental protection in craft villages in their communes and submit them to the district-level People's Committee for approval before implementing these plans.

2. To urge the preparation of environmental protection contents in the conventions or regulations of craft villages.

3. To arrange officers knowledgeable about law and environmental management to monitor the implementation of environmental protection in craft villages; provide guidance on activities of self-managed environmental protection organizations in craft villages.

4. To prioritize allocation of environmental non-business and other funds for environmental protection, investment in, repair and renovation of environmental protection technical infrastructure works in the craft villages which are encouraged to develop in their localities.

5. To properly manage, operate and maintain environmental protection technical infrastructure projects or works in craft villages which are handed over to them.

6. To regularly guide and inspect the implementation of the law on environmental protection by establishments in their localities and handle their violations.

7. To disseminate information among people and improve their awareness about the responsibility for environmental protection; to guide establishments on recovery, recycling, re-use and on-the-spot treatment of wastes.

8. To publicize information about the environmental status and environmental protection in craft villages in the local mass media, through local mass and socio-political organizations and at meetings of commune-level People's Committees and People's Councils.

9. To annually report to the district-level People's Committee on the environmental protection and generation and treatment of wastes in craft villages in their localities before October 30 every year or irregularly upon request.

Article 18. Responsibilities of district-level People's Committees

1. To survey and list craft villages and craft villages encouraged to develop, production establishments which conduct business lines encouraged to develop in craft villages in their

localities; to direct district-level business registration agencies to consider and revoke the business household certificates of production establishments in craft villages which do not conduct business lines encouraged to develop but cause serious environmental pollution and fail to ensure the required distance from residential areas.

2. To urge, approve and guide commune-level People's Committees in implementing, and inspecting the implementation of, plans for environmental protection in craft villages.

3. To direct the development of, inspect and monitor the implementation of, contents of environmental protection in the regulations or conventions of craft villages.

4. To review and propose master plans on industrial clusters or arrangement of concentrated livestock breeding areas and production areas outside residential areas to comply with the regulations on environmental protection in order to plan and relocate out of residential areas production establishments which do not conduct business lines encouraged to develop but cause environmental pollution.

5. To prioritize the allocation of environmental non-business funds for environmental management and other funds for investment in, building, upgrade and renovation of environmental protection technical infrastructure works in the craft villages encouraged to develop in their localities.

6. To guide, examine and inspect the implementation of the law on environmental protection by production establishments in their localities and handle their violations.

7. To disseminate the law on environmental protection; to organize activities to encourage service, business and production establishments to apply cleaner production solutions and environmental friendly technologies, and collect and recycle wastes.

8. To publicize information about the environmental status and environmental protection in craft villages in the local mass media and at meetings of district-level People's Committees and People's Councils.

9. To summarize and report to the provincial-level People's Committee on the environmental protection and generation and treatment of wastes from craft villages in their localities once a year before November 30 every year or irregularly upon request.

Article 19. Responsibilities of provincial-level People's Committees

1. To summarize and publicize the list of craft villages and craft villages encouraged to develop, production establishments which have business lines encouraged to develop; the plan for craft village development and plan for change of business lines or relocation out of residential areas for production establishments which do not conduct business lines encouraged to develop but cause environmental pollution in their localities.

2. To allocate local budget funds for the environmental protection in craft villages. To prioritize the allocation of environmental non-business funds and other funds for environmental management and investment in the building of works for environmental protection and renovation and upgrade of environmental protection technical infrastructure works in the craft villages which are encouraged to develop.

3. To formulate and promulgate or submit to competent authorities for promulgation and implement incentive and support mechanisms and policies for production establishments which conduct business lines encouraged to develop; support mechanisms and policies for polluting establishments which shall be relocated out of residential areas or shall change their production activities.

4. To ensure conditions for environmental protection in the recognition of craft villages.

5. To assess the extent of craft village pollution, prepare plans for treatment of craft village environmental pollution, including:

a/ Calculating volumes of wastewater, gas emissions, ordinary solid waste and hazardous solid waste generated from the establishments in the craft villages;

- b/ Assessing the extent of environmental pollution of surface water, groundwater, land and air;
- c/ Preparing and taking measures to remedy craft village environmental pollution.

6. To direct the planning and approval of, and investment of funds, in environmental protection technical infrastructure in craft villages which are encouraged to develop; the planning of industrial parks, industrial clusters, livestock farming areas and production areas outside residential areas to comply with the regulations on environmental protection in order to relocate polluting production establishments out of residential areas.

7. To manage the collection, transport, re-cycling and treatment of rural waste or waste from the operation of establishments in craft villages.

8. To guide, examine and inspect the implementation of the law on environmental protection by production establishments in their localities and handle their violations.

9. To publicize information about the environmental status and environmental protection in craft villages in local mass media and at meetings of provincial-level People's Committees and People's Councils.

10. To report to the Ministry of Natural Resources and Environment on the environmental protection and generation and treatment of wastes from craft villages in their localities once a year before December 30 or irregularly upon request.

Article 20. Responsibilities of the Ministry of Natural Resources and Environment

1. To promulgate or submit to competent authorities for promulgation regulations and conditions on environmental protection for craft villages; the national technical regulations on environment for production establishments which conduct business lines encouraged to develop; to coordinate with the Ministry of Finance in promulgating or submitting to competent authorities for promulgation incentive and support mechanisms and policies on environmental protection for production establishments which conduct business lines and for craft villages encouraged to develop.

2. To manage and update information and data on environmental protection in craft villages nationwide; to publicize the list of polluting craft villages and seriously polluting craft villages; to instruct and inspect the implementation of regulations on environmental protection in craft villages.

3. To guide the treatment of wastes generated from activities of production establishments which are encouraged to develop in craft villages.

4. To guide contents and the order of development and approval of craft village environment protection plans and the preparation of reports on environmental protection measures of production establishments which are encouraged to develop in craft villages.

5. To guide and organize the training, experience dissemination and provision of information about environmental law, solutions to environmental protection and environmentally friendly production, exhibitions, fairs, promotion of environmentally friendly products and environmental technologies for production establishments which are encouraged to develop in craft villages.

Article 21. Policies to encourage development of craft villages and production establishments which conduct business lines encouraged to develop

1. Giving priority to the allocation of budgets for construction of environmental protection infrastructure under relevant laws; introduction and promotion of products in commercial and tourism activities; training and dissemination of knowledge about environmental protection among the communities, self-managed environmental protection organizations and commune-level environmental management officers.

2. Giving priority in the process of consideration and approval and provision of soft loans of credit institutions on environment, Vietnam Environment Protection Fund, sectoral environmental

protection funds and local environmental protection funds for environmental protection projects under regulations on operation and organization of the environmental protection fund.

3. Giving priority in the process of consideration and selection to implement industrial and agricultural extension programs and the national target program on new countryside building; giving priority in the receipt and implementation of the models of waste treatment from international projects and in the performance of state budget-funded tasks, schemes and projects.

Chapter V

ENVIRONMENTAL PROTECTION IN THE IMPORT AND BREAKING OF USED SEAGOING SHIPS

Article 22. Environmental protection requirements for used seagoing ship-breaking establishments

1. A project to build a seagoing ship-breaking establishment must have a report on environmental impact assessment approved by the Ministry of Natural Resources and Environment.

2. A seagoing ship-breaking establishment shall apply the environmental management system standard according to national standard TCVN ISO 14001.

3. When breaking a ship, a seagoing ship-breaking establishment shall make an environmental protection plan and submit it to the Ministry of Natural Resources and Environment for approval. The plan must include the following main contents:

- a/ Plan for prevention, response to and remedy of environmental incidents during ship breaking;
- b/ Plan for collection, storage, transportation and treatment of ordinary and hazardous wastes during ship breaking;
- c/ Measures to treat wastewater and gas emissions generated from the ship breaking to ensure compliance with relevant national technical regulations on environment;

The Ministry of Natural Resources and Environment shall provide specific guidance on the procedures and dossiers and organize the assessment and approval of environmental protection plans in used seagoing ship breaking.

4. The process of assessment and certification of environmental protection plans in used seagoing ship breaking

a/ Sixty days before ship breaking, a ship breaking establishment shall send an environmental protection plan in used seagoing ship breaking, made according to the form provided in Appendix IV to this Decree, to the General Department of Environment;

b/ Within 20 days, the Vietnam Environment Administration shall organize the assessment and certification of the environmental protection plan in used seagoing ship breaking.

c/ If the environmental protection plan in used seagoing ship breaking meets the law-prescribed requirements for environmental protection, within 10 days, the Vietnam Environment Administration shall issue a decision to approve the environmental protection plan in used seagoing ship breaking. The form of approval decision is provided in Appendix V to this Decree;

d/ If the environmental protection plan in used seagoing ship breaking fails to meet the law-prescribed requirements for environmental protection, within 5 days, the Vietnam Environment Administration shall issue a written notice clearly stating the reason to the establishment.

5. Conditions for technical and technological facilities and human resources for environmental protection for seagoing ship-breaking establishments:

a/ Having a dry dock or specialized yard on land and appropriate ashore towing equipment and ensuring environmental protection conditions for use as the direct site for ship breaking;

b/ Having technologies and equipment to break seagoing ships and treat accompanying impurities up to environmental technical regulations and in accordance with the law on waste management;

c/ Having technical equipment and measures to control pollution and protect the environment at the site of ship breaking;

d/ Having employees who possess environmental protection training certificates as required by the Ministry of Natural Resources and Environment.

Article 23. Environmental protection requirements on imported seagoing ships for breaking

1. An importer of seagoing ships for breaking must, in addition to carrying out import procedures under current regulations, present a certificate of conformity with the environmental national technical regulation applicable to seagoing ships imported for breaking granted by a conformity certification organization.

2. The Ministry of Natural Resources and Environment shall appoint conformity certification organizations in accordance with the law on technical regulations and standards, and guide the order and procedures for assessing environmental protection conditions for the seagoing ships imported for breaking.

Article 24. Responsibilities of ministries, agencies and provincial-level People's Committees for the import and breaking of used seagoing ships

1. The Ministry of Natural Resources and Environment shall organize the implementation of regulations on environmental protection in the import and breaking of used seagoing ships.

2. The Ministry of Transport shall coordinate with the Ministry of Natural Resources and Environment in implementing the regulations on environmental protection in the import and breaking of used seagoing ships.

3. Related ministries and sectors shall, within the scope of their competence, coordinate with the Ministry of Natural Resources and Environment in implementing the regulations on environmental protection in the import and breaking of used seagoing ships.

4. Within the scope of their powers, provincial-level People's Committees shall organize the inspection and monitoring of compliance with the law on environmental protection in the activities of seagoing ship-breaking establishments under this Decree and other relevant laws.

Chapter VI

CERTIFICATION OF THE ENVIRONMENTAL MANAGEMENT SYSTEM; INSURANCE OF ENVIRONMENTAL DAMAGE COMPENSATION LIABILITY; HANDLING OF SERIOUSLY POLLUTING ESTABLISHMENTS

Section 1

CERTIFICATION OF THE ENVIRONMENTAL MANAGEMENT SYSTEM

Article 25. Establishments subject to certification of the environmental management system

1. Service, business and production establishments which are operating with large amount of waste likely to seriously impact the environment on the list specified in Appendix II to this Decree shall obtain certification of their environmental management systems.

2. Establishments having a valid certificate of conformity with national standard TCVN ISO 14001 issued by a certification organization which has registered its operational field under law are not required to obtain certification of their environmental management systems.

The heads of the establishments shall send a written commitment to complying with all contents specified in Article 27 of this Decree to the agency with certification competence.

3. In each period, the Prime Minister shall consider and decide on the modification of the list of services, business and production establishments which shall obtain certification of their environmental management systems at the proposal of the Ministry of Natural Resources and Environment.

Article 26. Time to obtain certification of the environmental management system

1. Establishments which are carrying out their service, business or production activities shall obtain certification of their environmental management systems for the first time within 12 months from the effective date of this Decree.

2. Establishments other than those specified in Clause 1 of this Article shall obtain certification of their environmental management systems for the first time after having carried out their service, business or production activities for 12 months but within no more than 24 months from the time they commence their service, business or production activities.

Article 27. Contents of the environmental management system

1. Contents of an environmental management system:

a/ Plan or process of operating production establishments in accordance with the law on environmental protection;

b/ Commitment to effectively using production processes and equipment to conserve energy and raw materials and minimize environmental pollution;

c/ Establishment and maintenance of a process for continuous monitoring of environmental impacts of production activities; environmental objectives and indicators for environmental protection activities and assessment of their effectiveness;

d/ Determination, implementation and maintenance of the role, responsibilities and powers of the establishment's leadership and employees concerning environmental protection; arrangement of environmental management officers; provision of necessary resources for the establishment's environmental protection work;

dd/ Program to raise the employees' and workers' awareness about the environmental impacts of production activities at the establishment and measures to minimize such impacts (at least once a year);

e/ Priority policies toward suppliers and contractors that are recognized as environmentally friendly establishments or having eco-labeled products.

g/ Plan for publication of annual environmental reports; plan for provision of information to customers and adjacent communities on necessary environmental protection measures.

2. The environmental management system shall be adjusted in a timely manner to align with changes during the establishment's operation.

Article 28. Certification of the environmental management system

1. A dossier of request for certification of the environmental management system must comprise:

a/ Written request for certification of the environmental management system;

b/ Report on the environmental management system of the establishment.

2. The owner of a service, business or production establishment shall send a dossier of request for certification of the environmental management system to the agency with certification competence, permissibly by e-mail.

3. After receiving the dossier, the agency with certification competence shall consider it and issue a written notice to the owner of the establishment for completion of the dossier within 3 days in case the dossier is invalid or incomplete.

4. After receiving a valid dossier, the agency with certification competence shall organize the certification and grant a certificate of environmental management system within 30 days.

In case of refusal to grant a certificate of the environmental management system, the agency with certification competence shall issue a written notice clearly stating the reason to the owner of the establishment.

5. The certificate of environmental management system must be valid for 5 years from the date of grant.

6. The Ministry of Natural Resources and Environment shall stipulate the form of report, order and procedures for certification of environmental management system of establishments.

Article 29. Competence to certify the environmental management system

1. The Ministry of Natural Resources and Environment shall certify the environmental management system for establishments not related to the field of national defense or security.

2. The Ministry of National Defense or the Ministry of Public Security shall certify the environmental management system for the establishments related to the field of national defense or security, respectively.

Article 30. Change and re-certification of the environmental management system

1. In case an establishment sees changes toward reduction in environmental protection requirement and responsibility determined in the environmental management system or changes in scale, capacity and technology that increase negative environmental impacts, such changes shall be approved in writing by the certification agency. This agency shall reply in writing within 20 days from the date of receipt of a valid dossier.

2. The establishment shall submit a dossier for re-certification of the environmental management system at least 90 day before the expiration of its certificate of environmental management system. The dossier must comprise:

- a/ Written request for re-certification;
- b/ Certificate of environmental management system;
- c/ Report on compliance with contents of the certified environmental management system.

If there are changes in contents of the certified environmental management system, the establishments shall clearly state such changes.

3. The process of re-certification of environmental management system must comply with Article 28 of this Decree. The time limit for processing dossiers and re-granting certificates of environmental management system is 20 days.

Section 2

INSURANCE FOR ENVIRONMENTAL DAMAGE COMPENSATION LIABILITY

Article 31. Buyers of insurance for environmental damage compensation liability

1. Organizations and individuals carrying out the following service, business and production activities shall buy insurance for environmental damage compensation liability or set up risk provision funds under law:

- a/ Oil and gas activities including prospecting, exploration, mine development and exploitation, including also activities directly serving these activities;
- b/ Chemical, oil and gas production and business;
- c/ Use of specialized seagoing ships for transportation of petroleum, petroleum products or other dangerous goods when operating in port waters and seas of Vietnam;

d/ Storage, transportation and treatment of hazardous waste; transportation of dangerous goods.

2. Based on the type, scale, characteristics and location of operation, the Ministry of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with the Ministry of Finance and other relevant agencies in, making a list of establishments obliged to buy insurance for environmental damage compensation liability; and stipulating the minimum liability for each establishment.

3. The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, stipulating in detail the setting up of risk provision funds.

Article 32. Object of insurance

1. The object of insurance for environmental damage compensation liability is the liability of insurance buyers for costs arisen to perform the environmental damage compensation liability in the following cases:

a/ The water environment used for the purposes of conservation, daily-life activities, entertainment, production and other purposes is polluted, severely polluted or particularly severely polluted;

b/ The soil environment used for the purpose of conservation, daily-life activities, entertainment, production and other purposes is polluted, severely polluted or particularly severely polluted;

c/ The natural ecosystem which belongs or does not belong to a nature conservation zone is degraded;

d/ Endangered, precious and rare species which enjoy prioritized protection under law are killed or wounded.

2. The environmental scope affected shall be determined depending on the type, scale, characteristics and location of operation of liability insurance buyers.

Section 3

HANDLING OF SERIOUSLY POLLUTING ESTABLISHMENTS

Article 33. Principles and grounds to determine seriously polluting establishments

1. Polluting or seriously polluting establishments shall be determined objectively, equally and lawfully and based on the environmental national technical regulations and seriousness of acts of violation causing environmental pollution, including:

a/ Acts of discharging wastewater, gas emissions and dust in excess of the environmental national technical regulations;

b/ Acts of causing noise and vibration in excess of the environmental national technical regulations;

c/ Acts of improperly burying or discharging into the soil or water environment pollutants in solid, liquid or muddy form which makes the soil, water or air environment exceed the national technical regulations on surrounding environmental quality.

2. Factors for determining the seriousness of violation of polluting acts:

a/ For the acts specified at Point a, Clause 1 of this Article, these factors include volume of wastewater, gas emissions and dust from an establishment; number of times in excess of the environmental national technical regulations of the specific environmental parameters and number of specific environmental parameters exceeding the national technical regulation on wastes existing in wastewater, gas emissions and dust from an establishment;

b/ For the acts specified at Point b, Clause 1 of this Article, these factors include number of times in excess of the national technical regulations on noise and vibration; affected subjects; point of time and location of such acts;

c/ For the acts specified at Point c, Clause 1 of this Article, these factors include number of times in excess of the national technical regulations on quality of surface water, ground water, seawater, surrounding air and the soil environment of the environmental parameters caused by such acts.

3. The environmental parameters exceeding the environmental national technical regulations shall be determined on the basis of results of observation of such environmental parameters against the corresponding environmental national technical regulations. The observation shall be carried out by a unit possessing a certificate of eligibility to provide environmental observation services.

4. The Ministry of Natural Resources and Environment shall stipulate criteria for determining seriously polluting establishments.

Article 34. The list of seriously polluting establishments and pollution treatment measures

1. After being administratively sanctioned, a seriously polluting establishment shall be listed together with its pollution treatment measures and the time limit for implementation, except cases subject to suspension or ban from operation.

2. Pollution treatment measures for a listed seriously polluting establishment must include:

a/ Relocation to a place conformable with planning and the load capacity of the environment;

b/ Improvement, upgrading or construction of the waste treatment system up to national technical regulations on environment;

c/ Environmental improvement and rehabilitation in the polluted area.

3. While taking its pollution treatment measures, a seriously polluting establishment shall take appropriate pollution reduction measures which shall be determined in the list of seriously polluting establishments.

4. The Ministry of Natural Resources and Environment shall guide the examination, result evaluation and certification of completion of resolute pollution treatment measures at seriously polluting establishments; and assume the prime responsibility for inspecting and examining the resolute handling of seriously polluting establishments nationwide.

Article 35. Order and procedures to decide on the list of seriously polluting establishments

1. The agency with environmental protection inspection and examination functions shall send to the provincial-level Natural Resources and Environment Department inspection or examination results and related dossiers within 5 days after issuing a notice of inspection or examination conclusions (except establishments inspected or examined by the Ministry of National Defense or the Ministry of Public Security).

2. Within 30 days after receiving environmental protection inspection or examination results and expertise solicitation results of competent state agencies and based on criteria for classification of seriously polluting establishments, the provincial-level Natural Resources and Environment Department shall make a list of seriously polluting establishments in its locality and report it to the provincial-level People's Committee and the Ministry of Natural Resources and Environment and concurrently send this list to related ministries and sectors.

3. Within 20 days after receiving the provincial-level Natural Resources and Environment Department's report, the provincial-level People's Committee shall summarize the list of seriously polluting establishments in its locality and report this list and related dossiers to the Ministry of Natural Resources and Environment for review, summarization and reporting to the Prime Minister; for an establishment under the management of a ministry or sector, it shall consult that ministry or sector before listing such establishment.

4. Within 30 days after the issuance of environmental protection examination or inspection conclusions and expertise solicitation results and based on criteria for classification of seriously polluting establishments, the professional environmental protection agency of the Ministry of National Defense or the Ministry of Public Security shall make a list of seriously polluting establishments in the defense or security sector, report it to the Minister of National Defense or the Minister of Public Security and concurrently send this list to the Ministry of Natural Resources and Environment for monitoring.

5. Within 20 days after receiving the professional environmental protection agency's report, the Ministry of National Defense or the Ministry of Public Security shall send the list of seriously polluting establishments under its management and related dossiers to the Ministry of Natural Resources and Environment for review, summarization and reporting to the Prime Minister.

6. Within 30 days after receiving reports of provincial-level People's Committees, the Ministry of National Defense and the Ministry of Public Security and based on its inspection and expertise solicitation results, the Ministry of Natural Resources and Environment shall review, summarize and report to the Prime Minister, or approve under the authorization of the Prime Minister, the list of seriously polluting establishments.

7. The list of seriously polluting establishments shall be accompanied with the handling measures prescribed in Clause 2, Article 34 of this Decree.

Article 36. Publicity of the list of seriously polluting establishments and pollution treatment measures

1. Five days after being approved, the list of seriously polluting establishments and pollution treatment measures shall be sent to the Ministry of Natural Resources and Environment, line ministries and provincial-level People's Committees of localities where establishments carry out seriously polluting activities.

2. After receiving the competent state agency's approval decision, the Ministry of Natural Resources and Environment shall publish information on seriously polluting establishments on its website and the website of the Vietnam Environment Administration until those establishments are certified to have completed pollution treatment measures.

3. After receiving the competent state agency's approval decision, the provincial-level People's Committee shall publish information on seriously polluting establishments in its locality on its website and in the mass media until those establishments are certified to have completed pollution treatment measures and concurrently notify the competent state agency's decision approving the list of seriously polluting establishments to district-level People's Committees of localities where these establishments carry out seriously polluting activities.

4. After receiving the competent state agency's approval decision, the district-level People's Committee shall:

a/ Publish on its website information on seriously polluting establishments operating in the locality which are required to take pollution treatment measures under the competent state agency's decision until those establishments are certified to have completed pollution treatment measures; and concurrently notify the competent state agency's decision approving the list of seriously polluting establishments to commune-level People's Committees of localities where these establishments carry out seriously polluting activities;

b/ Regularly provide information in the local public-address system on seriously polluting establishments required to take pollution treatment measures under the competent state agency's decision.

5. After receiving the competent state agency's approval decision, the commune-level People's Committee shall:

a/ Post up at its office information on seriously polluting establishments operating in the locality which are required to take pollution treatment measures under the competent state agency's decision;

b/ Notify seriously polluting establishments operating in the locality required to take pollution treatment measures under the competent state agency's decision to hamlets, villages and street quarters and equivalent and socio-political organizations of the commune for coordinated supervision of implementation.

Chapter VII

INCENTIVES AND SUPPORTS FOR ENVIRONMENTAL PROTECTION ACTIVITIES

Article 37. Principles of providing incentives and supports

1. The State shall provide land- and capital-related incentives and supports; exempt and reduce taxes for environmental protection activities; subsidize prices and support sale of products created from environmental protection activities and provide other incentives and supports for environmental protection activities.

2. Organizations and individuals that carry out different environmental protection activities entitled to incentives and supports may enjoy incentives and supports corresponding to those activities in accordance with this Decree.

3. Those carrying out environmental protection activities entitled to incentives and supports prescribed by this Decree and other legal documents may enjoy incentives and supports under the legal document with higher incentives and supports.

4. In case a newly promulgated law or policy which prescribes higher incentives and supports than those already enjoyed by investors under this Decree, investors may enjoy incentives and supports under the new regulation. The Ministry of Planning and Investment shall assume the prime responsibility for, and coordinate with the Ministry of Finance and the Ministry of Natural Resources and Environment in, guiding the order and procedures to appraise and approve incentives and supports for investment projects in accordance with this Decree.

5. The level and scope of incentives and supports for environmental protection activities shall be adjusted in line with the environmental protection policy in each period.

Article 38. Beneficiaries of incentives and supports

1. Beneficiaries of incentives and supports include organizations and individuals engaged in environmental protection work investment; and environmental protection production, business and service activities provided in Appendix III to this Decree.

2. Scientific and technological research and technology transfer in environmental protection are entitled to incentives and supports prescribed by the law on science and technology and technology transfer.

3. The Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, defining other renewable energies in accordance with Clause 13, Appendix III to this Decree.

Section 1

INFRASTRUCTURE AND LAND INCENTIVES AND SUPPORTS

Article 39. Supports for infrastructure construction investment

The investor of an environmental protection work construction project provided in Clause 1, 2 or 6 of Appendix III to this Decree is entitled to supports for infrastructure construction investment as follows:

1. The State shall prioritize the allocation of land attached to technical infrastructure works or work items (roads, electricity, water supply and drainage, information and communication, energy) available outside the project scope connected with the general technical infrastructure system of the area.

2. In case the State cannot allocate land attached to technical infrastructure works or work items available outside the project scope connected with the general technical infrastructure system of the area, the project investor is entitled to the policy as for investment support for construction of infrastructure outside fences of industrial parks, export-processing zones and hi-tech zones in accordance with the investment law.

Article 40. Land rental incentives, supports for ground clearance and compensation

1. The investor of a project to build centralized residential wastewater treatment systems provided in Clause 1, Appendix III to this Decree, or to build centralized ordinary solid waste treatment establishments provided in Clause 2, Appendix III to this Decree, is entitled to land rental incentives in accordance with the land law as for those in the sectors entitled to special investment incentives, and to state support for compensation and ground clearance money.

An investor that has advanced compensation and ground clearance costs under an approved plan is entitled to deductions in accordance with the land law.

2. The investor of a project to build the works provided in Clause 4, 5, 9 or 10, Appendix III to this Decree is entitled to land rental incentives in accordance with the land law as for those in the sectors entitled to special investment incentives.

3. An investor carrying out investment activities to build production establishments provided in Clause 11, 12, 13 or 14, Appendix III to this Decree is entitled to land rental incentives in accordance with the land law as for those in the sectors entitled to investment incentives.

Article 41. Land-related financial incentives for seriously polluting establishments to be relocated

1. Seriously polluting establishments to be relocated (below referred to as establishments) that were allocated land by the State without land use levy payment or with land use levy payment before July 1, 2014 (before the effective date of the 2013 Land Law) or were lawfully transferred land use rights with the land use levy paid to the State or the amount paid for the transferred land use rights originated from the State may use all the money collected from the auction of land use rights and land-attached assets (after deducting costs for organizing the auction), record such money as state budget capital in accordance with law and use it to pay land use levy, land rental and costs for relocation and technological renewal and improvement and to implement investment projects at new production establishments.

Those having their old production establishments recovered and used for public purpose are entitled to the State's provision of capital for payment of land use levy, relocation and technological renewal and improvement and implementation of investment projects at new production establishments corresponding to the value of land use rights and land-attached assets of those land lots at the market price at the time of recovery.

2. Establishments that were allocated land by the State with land use levy payment before July 1, 2014, or rented land with lump-sum rental payment or were lawfully transferred land use rights with paid land use levy or money paid for the transferred land use rights not originated from the

state budget may change the use purpose for the land area at old establishments in conformity with the detailed land use planning, urban construction planning and rural residential point construction planning already approved by competent state agencies in accordance with the land law.

Establishments that no longer use land may transfer the land use rights to others for use under planning for the remaining use period in accordance with the land law.

Section 2

CAPITAL AND TAX INCENTIVES AND SUPPORTS

Article 42. Investment capital mobilization incentives

1. Incentives from the Vietnam Environment Protection Fund, local environmental protection funds and other credit institutions:

a/ Investors of projects on the activities specified in Clauses 1 and 2, Appendix III to this Decree that apply treatment technology with the rate of treated waste to be buried accounting for under 30% of the total collected solid waste may borrow loans with preferential interest rates not exceeding 50% of the State's investment credit interest rate announced by a competent agency at the time of borrowing and the total loan amount not exceeding 80% of the total work construction investment and receive priority in post-investment support or loan guarantee;

b/ Investors of projects on the activities specified in Appendix III to this Decree other than those specified at Point a, Clause 1 of this Article may borrow loans with preferential interest rates not exceeding 50% of the State's investment credit interest rate announced by a competent agency at the time of borrowing and the total loan amount not exceeding 70% of the total work construction investment and receive priority in post-investment support or loan guarantee.

2. Incentives from the Vietnam Development Bank:

Investors of projects on the activities specified in Appendix III to this Decree are entitled to investment credit incentives as for projects on the list of those entitled to investment credit loans as prescribed by current law.

3. In addition to the incentives specified in Clauses 1 and 2 of this Article, investors of projects on the activities specified in Clause 11, Appendix III to this Decree are entitled to state support of 10% of the total capital invested in equipment for application of environmental protection inventions.

4. Investors of projects on the activities specified in Appendix III to this Decree other than the activities specified in Clauses 3 and 8, Appendix III to this Decree, which are projects under plans or strategies promulgated by the Prime Minister, the Government or the National Assembly and in the domains prescribed in the Law on Public Debt Management and its guiding documents, shall be given priority in consideration and use of official development assistance (ODA).

5. The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment in, guiding the order and procedures for the investment capital support prescribed in Clause 3 of this Article.

6. The Ministry of Planning and Investment shall assume the prime responsibility for, and coordinate with the Ministry of Finance and the Ministry of Natural Resources and Environment in, guiding in detail the implementation of Clause 4 of this Article.

7. The Ministry of Natural Resources and Environment shall guide the lending and provide post-investment interest rate support and investment credit guarantee for projects borrowing loans from the Vietnam Environment Protection Fund. Provincial-level People's Committees shall guide the lending and provide post-investment interest rate support and investment credit guarantee for projects borrowing loans from local environmental protection funds.

Article 43. Enterprise income tax incentives

Enterprises' incomes from the implementation of new investment projects specified in Clauses 1, 2, 4, 5, 6, 9 and 10, Appendix III to this Decree and new production projects specified in Clauses 11, 12, 13 and 14, Appendix III to this Decree are entitled to enterprise income tax incentives as for those in the environmental protection sector as prescribed by the law on enterprise income tax.

Article 44. Import and export duty incentives

1. Imported machinery, means, devices and materials used for the activities specified in Clauses 10 and 14, Appendix III to this Decree are entitled to import duty incentives as for those in the sectors entitled to special investment encouragement in accordance with the law on import and export duty.

2. The Ministry of Finance shall stipulate the exemption and reduction of export duty for the products specified in Clause 12, Appendix III to this Decree when they are exported.

3. The Ministry of Natural Resources and Environment shall guide in detail the list of products specified in Clause 12, Appendix III to this Decree.

Article 45. Value-added tax incentives

1. Goods and services produced and traded from environmental protection activities are subject to the value-added tax policy under the law on value-added tax.

2. The Prime Minister shall stipulate value-added tax incentives for a number of particular environmental protection products and services.

Section 3

PRICE AND PRODUCT SALE SUPPORTS

Article 46. Price subsidy for environmental protection products and services

Investors carrying out the following activities or supplying the following products that satisfy criteria of public-utility products and services are entitled to price subsidy in accordance with the law on production and supply of public-utility products and services:

1. The activities specified in Clauses 2 and 9, Appendix III to this Decree, and background environmental monitoring activities specified in Clause 8, Appendix III to this Decree.

2. Products from the environmental protection activities specified in Clauses 12 and 13, Appendix III to this Decree.

Article 47. Product sale supports

1. Heads of state budget-funded agencies or units shall prioritize public procurement of the products specified in Clauses 12 and 13, Appendix III to this Decree upon their purchase of those products.

The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, developing the regulation on public procurement of environment-friendly products as prescribed in this Clause.

2. Organizations and individuals shall prioritize the procurement of environment-friendly products under the guidance of the Ministry of Natural Resources and Environment.

Section 4

OTHER INCENTIVES AND SUPPORTS

Article 48. Supports for product promotion and waste sorting at source

1. The State shall encourage organizations, individuals, enterprises and cooperatives to carry out the following activities:

a/ Promoting products created from environmental protection activities, recovering and processing discarded products;

b/ Producing and disseminating films and television programs on environmental protection in order to raise public awareness about environmental protection and use of environment-friendly products;

c/ Providing free tools for people to sort domestic waste and discarded products at source.

2. Expenses for the activities specified in Clause 1 of this Article shall be accounted into production costs of organizations, individuals, enterprises and cooperatives.

3. The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment and the Ministry of Information and Communications in, guiding the implementation of the policies prescribed in Clauses 1 and 2 of this Article.

Article 49. Environmental protection awards

1. Once every two years, the Ministry of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with the Ministry of Science and Technology, the Vietnam Chamber of Commerce and Industry and Vietnam Television in, organizing the selection, awarding and honoring of organizations and individuals recording outstanding achievements in environmental protection and recovery and processing of discarded products.

2. The Ministry of Natural Resources and Environment shall specify the structure of awards and awarding criteria and procedures; and coordinate with the Ministry of Finance in specifically setting the levels of spending for environmental protection awards.

3. Provincial-level People's Committees shall specify local environmental protection awards.

4. Funds for organizing and conferring awards shall be taken from non-business funds for environment, the Vietnam Environment Protection Fund, donations from organizations and individuals and other lawful funding sources.

Chapter VIII

COMMUNITY PARTICIPATION IN ENVIRONMENTAL PROTECTION

Article 50. Community representatives

1. A community may select an organization or a person to represent it through its plenary meeting or to represent households in the community.

2. An organization or a person that agrees to represent a community shall carry out activities within the scope authorized by that community and take responsibility before the community and law for its/his/her activities.

Article 51. Provision of environmental information for communities

1. Environmental information which shall be provided periodically at least once a year must include:

a/ Legal documents on environment;

b/ Reports on the current state of national and local environments; specialized environmental reports made and announced by the state management agency of natural resources and environment;

c/ List of seriously polluting establishments and areas where the environment is severely polluted and degraded; areas at risk of environmental incidents made and announced by the state management agency of natural resources and environment;

d/ List of and information on waste sources, wastes likely to harm human health and the environment made and announced by the state management agency of natural resources and environment;

dd/ Specialized environmental publications and print products, documents on environment for public information and other relevant issues;

e/ Results of inspection, examination and handling of violations committed by production, business and service establishments in residential areas;

g/ Environmental protection activities of production, business and service establishments in residential areas;

h/ Licenses related to the exploitation, use and protection of natural resources and environment of production, business and service establishments in residential areas.

2. Environmental information shall be provided in the following forms:

a/ Documents, print products, publications whose distribution addresses are published in the mass media;

b/ Publishing on the official websites of the state management agency of natural resources and environment; project investors; and owners of production, business and service establishments;

c/ Posting up at production, business and service establishments; and offices of commune-level People's Committees;

d/ Holding press conferences;

dd/ Holding community meetings to provide information;

e/ Other forms as prescribed by law.

3. The time for providing information in the forms prescribed at Points b and c, Clause 2 of this Article is at least 30 days.

4. Responsibility to provide environmental information for communities:

a/ The state management agency of natural resources and environment shall provide the information specified at Points a through e, Clause 1 of this Article;

b/ Production, business and service establishments shall provide the information specified at Points g and h, Clause 1 of this Article.

Article 52. Community consultation and supervision of environment

1. Before being decided, the following guidelines and policies of the State need community consultation of environment:

a/ Development of environmental protection strategies, master plans, plans, programs and schemes at national, regional, inter-regional and provincial levels;

b/ Development of legal documents on environmental protection;

c/ Determination of environmental indicators under national, inter-regional, regional and provincial economic socio-economic development strategies, master plans and plans.

2. Before deciding on the guidelines and policies specified in Clause 1 of this Article, competent state management agencies shall consult communities about environmental issues through publishing draft documents on websites or in the mass media.

3. The state management agency of natural resources and environment shall receive and process recommendations on environment from communities; give feedback to the latter on whether or not to take up those recommendations in the forms specified in Clause 2, Article 51 of this Decree.

4. The consultation about strategic environmental assessment and environmental impact assessment must comply with the law on strategic environmental assessment and environmental impact assessment.

5. The community supervision of public investment in environmental protection must comply with the law on public investment.

Article 53. Evaluation of environmental protection results of production, business and service establishments

1. Community representatives have the right to participate in the evaluation of environmental protection results of the following subjects:

a/ Project owners in the implementation of contents of approved environmental impact assessment reports and contents of licenses related to the exploitation, use and protection of natural resources and environment;

b/ Organizations and individuals in the implementation of remedial measures under decisions on sanctioning of administrative violations in environmental protection; and the implementation of contents of licenses related to the exploitation, use and protection of natural resources and environment;

c/ Owners of production, business and service establishments in the implementation of environmental protection commitments or plans and contents of licenses related to the exploitation, use and protection of natural resources and environment.

2. Evaluation contents:

a/ Implementation of contents of licenses related to the exploitation, use and protection of natural resources and environment;

b/ Implementation of environmental impact assessment reports; environmental protection commitments; and environmental protection plans;

c/ Implementation of remedial measures under decisions on sanctioning of administrative violations in environmental protection.

3. Based on environmental information periodically provided by establishments, communities or their representatives shall evaluate the implementation of activities related to the evaluation contents specified in Clause 2 of this Article according to the criteria of properly and fully implementing required contents. Community evaluation of environmental protection results serves as one of the grounds for awarding production, business and service establishments in environmental protection.

Article 54. Formation and implementation of community-based environmental protection models

1. The State shall encourage and adopt mechanisms and policies to support communities to form and implement community-based models for protection of natural resources and environment, sustainable development, conservation and rational use of natural resources and response to climate change.

2. Communities shall participate in the development of objectives, activity programs, supervision, evaluation of effectiveness of programs on protection of nature reserves and national parks; and participate in the management and protection of nature reserves and national parks.

3. Communities have the right to take the initiative in developing and implementing community-based models for protection of natural resources and environment and join state management agencies of natural resources and environment in supervising and examining the management of nature reserves and national parks.

4. The state management agency of natural resources and environment shall assume the prime responsibility for, and coordinate with and guide communities in, developing community-based environmental protection and natural resource protection models and sustainable production and sale models; and promulgate incentive mechanisms for communities to protect the environment, conserve and rationally use natural resources and apply sustainable production and sale models.

Chapter IX

IMPLEMENTATION PROVISIONS

Article 55. Transitional provisions

1. Dossiers received before the effective date of this Decree by competent state agencies for settlement according to environment-related administrative procedures shall be processed in accordance with the law at the time of dossier receipt.

2. Environmental protection activities and products from environmental protection activities which have enjoyed incentives and supports under the Government's Decree No. 04/2009/ND-CP of January 14, 2009, on incentives and supports for environmental protection activities, may enjoy incentives and supports for the remaining period. Those eligible for higher incentives and supports prescribed in this Decree are entitled to incentives and supports prescribed in this Decree.

3. Provincial-level People's Committees shall appraise and approve additional plans for environmental improvement and rehabilitation of environmental improvement and rehabilitation projects or schemes approved by provincial-level Natural Resources and Environment Departments or district-level People's Committees before the effective date of this Decree.

4. Provincial-level People's Committees shall certify the completion of plans or additional plans for environmental improvement and rehabilitation of environmental improvement and rehabilitation projects or schemes or additional projects or schemes on environmental improvement and rehabilitation approved by provincial-level Natural Resources and Environment Departments or district-level People's Committees before the effective date of this Decree.

5. Projects, additional projects, schemes or additional schemes on environmental improvement and rehabilitation approved before the effective date of this Decree are not required to make a plan or an additional plan as guided in this Decree.

6. Organizations or individuals exploiting minerals that paid deposits before the effective date of the Prime Minister's Decision No. 71/2008/QĐ-TTg of May 29, 2008, on payment of deposits for environmental improvement and rehabilitation for mining activities, but the contents of their plans for environmental improvement and rehabilitation do not comply with the contents of environmental improvement and rehabilitation plans prescribed in the 2014 Environmental Protection Law and this Decree shall re-make plans for environmental improvement and rehabilitation in accordance with this Decree and submit them to competent agencies for approval before December 31, 2016.

Article 56. Effect

1. This Decree takes effect on April 1, 2015.

2. The following documents cease to be effective on the effective date of this Decree:

a/ The Government's Decree No. 80/2006/ND-CP of August 9, 2006, detailing and guiding the implementation of the Environmental Protection Law;

b/ The Government's Decree No. 21/2008/ND-CP of February 28, 2008, amending and supplementing a number of articles of Decree No. 80/2006/ND-CP of August 9, 2006, detailing and guiding the implementation of the Environmental Protection Law;

c/ The Government's Decree No. 04/2009/ND-CP of January 14, 2009, on incentives and supports for environmental protection activities;

d/ The Prime Minister's Decision No. 18/2013/QD-TTg of March 29, 2013, on environmental improvement and rehabilitation and payment of deposits for environmental improvement and rehabilitation for mining activities.

Article 57. Implementation responsibilities

1. Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of provincial-level People's Committees shall implement this Decree; and review their promulgated legal documents which are contrary to the Environmental Protection Law and this Decree for amendment and supplementation.

2. The Minister of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of provincial-level People's Committees in, guiding and examining the implementation of this Decree; and guiding the training and retraining in public information about, and dissemination of the law on environmental protection.-

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG

Appendix I

LIST OF BUSINESS LINES ENCOURAGED TO DEVELOP IN CRAFT VILLAGES

(To the Government's Decree No. 19/2015/ND-CP of February 14, 2015)

No.	Type of production	Size
I	PRODUCTION OF CRAFTS AND FINE-ART ARTICLES OR DOMESTIC UTILITIES	No more than 10 employees/ establishment
1	Rattan, bamboo and ivory bamboo weaving, weaving of fishing cages, baskets, coops and mats, water hyacinth weaving, jute weaving	
2	Embroidery, lacing, knitting, crochet	
3	Coir matting, coir yarn	
4	Traditional bricks and tiles, pottery, earthen pigs, earthen kilns, jar casting	
5	Fine art articles made from coconut and dried seashell	
6	Conical hat, mat and broom making	
7	Dried ground sticky rice (<i>com dep</i>), nipa palm weaving	
8	Wooden clogs, mortars, pestles, chopping boards, chopsticks	

9	Incense production	
10	Fine art articles made from wood, lacquer and horn	
11	Metals and gemstones	
12	Silk reeling, weaving of cloth, silk, crape, linen and brocade	
13	Folk painting, fishing nets, <i>do</i> paper, crape paper	
14	Traditional musical instruments	
15	Vietnamese traditional medicine	
16	Napping, net weaving, fine-tooth comb making	
17	Charcoal burning	
18	Traditional casting and blacksmithing for making farming tools and domestic utilities	Under 0.2 ton/day/ establishment
19	Stone fashioning	No more than 10 employees/ establishment; no material sawing and splitting stages
II	REARING AND PLANTATION OF ORNAMENTAL CREATURES	No more than 10 employees/ establishment
III	MANUAL PROCESSING AND PRESERVATION OF AGRICULTURAL, FOREST AND AQUATIC PRODUCTS FOR FOOD	
1	Tea	Under 0.1 ton of product/day/ establishment
2	Dried meat, Chinese sausage	Under 0.1 ton of product/day/ establishment
3	Production of sugarcane, green young rice	Under 0.1 ton of product/day/ establishment
4	Traditional jam and confectionery of Hanoi	Under 0.1 ton of product/day/ establishment
5	Manual production of fish sauce and soy sauce	Under 500 liters of product/ day/establishment
6	Production of tofu, rice vermicelli, cake and cassava vermicelli	Under 0.1 ton of product/day/ establishment
7	Liquor brewing	Under 100 liters of product/ day/establishment
8	Processing of aquatic products	Under 0.1 ton of product/day/ establishment
9	Processing of starch	Under 0.1 ton of product/day/ establishment

Appendix II

LIST OF PRODUCTION, BUSINESS AND SERVICE ESTABLISHMENTS SUBJECT TO CERTIFICATION OF THE ENVIRONMENT MANAGEMENT SYSTEM*(To the Government's Decree No. 19/2015/ND-CP of February 14, 2015)*

No.	Type of production, business and service establishments	Size/capacity
1	Establishments storing radioactive substances or discharging radioactive waste	In excess of the immunity limit set by the law on radiation safety and control
2	Oil refineries, petrochemical plants; petroleum exploitation establishments	All
3	Establishments producing basic chemicals, paint, printing ink, rubber, pesticides, detergents, additives and chemical fertilizer	Annual capacity of 10,000 tons of product or higher
4	Establishments exploiting rare earth, radioactive minerals; sorting and enriching rare earth and radioactive minerals	Annual capacity of 50,000 tons of product or higher
5	Ship breaking establishments	All
6	Seaports	Receiving ships with tonnage of 50,000 DWT or higher
7	Battery production establishments	Annual capacity of 300,000 KWh or 600 tons of product or higher
8	Establishments exploiting solid minerals (including waste earth and rock, minerals)	Annual capacity of 500,000 m ³ of original exploitation or higher
9	Establishments processing and refining rare earth, color metals and radioactive metals	Annual capacity of 200,000 tons of product or higher
10	Pig-iron and steel refining establishments	Annual capacity of 200,000 tons of product or higher
11	Industrial parks, export-processing zones, hi-tech zones, industrial clusters, tourist service and recreation zones, urban centers	Area of 200 ha or larger
12	Zones for recycling, treating, burying and destroying hazardous wastes collected from production, business and service establishments	All
13	Zones for recycling, treating, burying and destroying ordinary solid wastes	Daily capacity of 250 tons or higher
14	Establishments operating centralized industrial wastewater treatment systems	Daily capacity of 5,000 m ³ of wastewater or higher

15	Aquatic product processing establishments	Annual capacity of 5,000 tons of product or higher
16	Cement plants	Annual capacity of 1.2 million tons of product or higher
17	Pulp mills	Annual capacity of 25,000 tons of product or higher
18	Alcohol and liquor plants	Annual capacity of 1 million liters of product or higher
19	Beer and beverage plants	Annual capacity of 50 million liters of product or higher

Appendix III

LIST OF ENVIRONMENTAL PROTECTION ACTIVITIES ENTITLED TO INCENTIVES AND SUPPORTS

(To the Government's Decree No. 19/2015/ND-CP of February 14, 2015)

1. Centralized wastewater treatment with a designed capacity of 2,500 m³ of wastewater/day or higher for urban areas of grade IV or higher.
2. Collection, transportation and centralized treatment of ordinary solid waste.
3. Treatment or co-treatment of hazardous waste.
4. Treatment and improvement of environmentally polluted zones in public areas.
5. Response to and tackling of oil spill, chemical and other environmental incidents.
6. Construction of environmental protection technical infrastructure in industrial parks and clusters and craft villages.
7. Relocation and transformation of operation of seriously polluting establishments.
8. Environmental monitoring.
9. Cremation and electric cremation services.
10. Environmental damage assessment; environmental health assessment; environmental assessment of goods, machinery, equipment and technologies.
11. Production and application of environmental protection inventions protected by the State through granting patents for invention or patents for utility solutions.
12. Production of environment-friendly products with Vietnamese green labels issued by the Ministry of Natural Resources and Environment; products from waste recycling and treatment as certified by competent state agencies.
13. Production of petrol, diesel fuel and bio-fuel certified to be conformable with regulations; bio-coal; energy generated from wind power, sunlight, tide, geothermal heat and other forms of renewable energy.
14. Production and import of specialized machinery, equipment and vehicles used directly for collecting, transporting and treating waste; environmental monitoring and analysis; production of renewable energy; treatment of environmental pollution; response to and tackling of environmental incidents.
15. Production, business and service activities of environment-friendly establishments eco-labeled by the Ministry of Natural Resources and Environment.-