

# LEGAL UPDATE VIETNAM

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**Decree 05/2025/ND-CP Amends Decree 08/2022/ND-CP Guiding Law On Environmental Protection**

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**Decree 19/2025/NĐ-CP Detailing Law On Investment Regarding Special Investment Procedures**

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**Decree 174/2024/NĐ-CP On Administrative Sanctions For Violations In The Field Of Insurance Business**

# DECREE 05/2025/ND-CP AMENDS DECREE 08/2022/ND-CP GUIDING LAW ON ENVIRONMENTAL PROTECTION

Decree 05/2025/ND-CP, enacted and effective on 6 January 2025, amends Decree 08/2022/ND-CP guiding law on environmental protection ("**Decree 05**").

## 1. Supplementary Guidelines on Environmental Permits

According to the Law on Environmental Protection 2020, investors must obtain an environmental permit for investment projects in Groups I, II, and III that generate wastewater, dust, emissions, or hazardous waste requiring treatment ("**Environmental Permit**"). The classification of an investment project is based on factors such as scale, capacity, industry type, waste type, and environmental impact, as outlined in Law on Environmental Protection 2020.

Decree 05 provides new guidelines for the Law on Environmental Protection on submitting Environmental Permit dossiers and paying appraisal fees in specific cases. The key provisions are as follows:

- Authority for Issuing Environmental Permits

According to the Law on Environmental Protection, the initial authority determination is based on each project's scale, location, and specific content. The authority to issue Environmental Permits shall fall under a higher-level agency for cases where Investment projects or facilities operating at the exact location, with the same investor, and having an approved Environmental Impact Assessment Report (EIAR) or additional approval(s)<sup>1</sup> from other competent authorities. The "higher-level agency" means the Ministry of Natural Resources and Environment (if the initial authority belongs to the Provincial People's Committee) and the Provincial People's Committee (if the initial authority belongs to the District People's Committee).

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<sup>1</sup> Under Environmental Protection Law (Article 171), when considering issuing an Environmental Permit, in addition to considering the EIAR, the licensing authority may consider other environmental approvals such as: Preliminary Environmental Impact Assessment Report, Detailed Environmental Impact Assessment Report, Supplementary Environmental Impact Assessment Report, Re-Established Environmental Impact Assessment Report, Environmental Protection Plan and document confirming the simple environmental protection plan, Registration Of Environmental Standards, Environmental Protection Commitment, Environmental Protection Plan issued by other competent authorities related to environment.

Decree 05 provides specific guidance on determining the authority responsible for granting Environmental Permit, addressing a gap in previous regulations where this issue was unclear.

- Integration of Environmental Permits

If investment projects or facilities are adjacent, have the same investor, and share a wastewater or air emission treatment system, they may be considered for integration into a single Environmental Permit.

- Division of Projects and Environmental Law Compliance

When dividing an investment project with an existing Environmental Permit, the investor must apply for a new one for each project before the old Environmental Permit expires. However, in any event, they must apply no later than six months from the project or facility splitting date. In this case, the previously issued EIAR (if any) will be the basis for granting the new Environmental Permit to the separated projects.

- Application Submission and Appraisal Fees

Enterprises must submit Environmental Permit applications and pay the appraisal fees according to the abovementioned guidelines to ensure compliance with the latest regulatory framework.

## 2. Specifying the Deadline for Environmental Permit Application

Decree 05 adds several regulations regarding the Environmental Permit application deadline.

- Suppose the existing Environmental Permit has less than 12 months left before expiration. In that case, the project investor or facility must complete the application and submit it to the permitting authority to renew the permit before it expires. After this deadline (12 months), the investor must restart the entire environmental permit application process from the beginning and obtain a new permit.
- The project investor or facility must complete the Environmental Permit application and submit it to the permitting authority within a maximum of 12 months from the date the environmental permitting authority issues a request for revisions or additional documents.

### **3. Addition of Cases Requiring Environmental Permit Adjustment**

Decree 05 adds circumstances that trigger the adjustment of Environmental Permits. Accordingly, the enterprises must apply for an *adjustment* of their Environmental Permits when Investment projects, facilities, industrial production zones, business and service centers, or industrial clusters experience an increase in scale, production capacity, or a change in production technology leading to modifications in the permit content.

However, if changes in production technology result in increased negative environmental impacts, the investors cannot adjust the issued Environmental Permit but must *re-apply* for a new one. Such cases include:

- (i) Increase the total volume of wastewater or total volume of dust and exhaust gas discharged into the environment when the project comes into official operation or
- (ii) Increase negative impacts on biodiversity or biodiversity loss; increase the possibility of landslides, subsidence, and flooding; increase the discharge of pollution parameters in environmental technical regulations on environmental quality; or change the natural landscape of the project implementation area.

### **4. Additional Requirements for Wastewater Management**

Decree 05 adds new wastewater management requirements to Article 57 of Decree No. 08/2022/NĐ-CP. One significant new requirement is that wastewater treatment systems of production, business, and service facilities categorized as having a high risk of environmental pollution under Appendix II of Decree No. 08/2022/NĐ-CP, with a discharge volume of 50 m<sup>3</sup>/day or more, must be equipped with: (i) An independent electricity meter; (ii) An output flow meter; (iii) an operation logbook for wastewater treatment. The logbook must include complete records of (i) output flow volume, key wastewater parameters at both input and output (if applicable), (iii) electricity consumption, and (iv) the type and quantity of chemicals used.

# DECREE 19/2025/ND-CP DETAILING LAW ON INVESTMENT REGARDING SPECIAL INVESTMENT PROCEDURES

Decree 19/2025/ND-CP ("**Decree 19**"), enacted and effective on 10 February 2025, detailing the Law on Investment regarding Special Investment Procedures, effective 10 February 2025.

In contrast to standard investment procedures regulated by the Investment Law and Decree 31/2021/ND-CP, Decree 19 outlines special investment procedures ("**SIP**") for specific projects in industrial parks, export processing zones, high-tech zones, concentrated information technology zones, free trade zones and functional areas in economic zones in the following fields:

- Investment in constructing innovation centers and research & development centers.
- Investment in the semiconductor integrated circuit industry, design technology, components manufacturing, integrated electronic microcircuits, flexible electronics, chips, and semiconductor materials.
- Investment in the development and production of high-tech products included in the Prime Minister's decision.

Registering investment projects according to SIP is optional when meeting the above conditions. Under SIP, investors will benefit from simplified procedures and less onerous legal requirements, such as not having to carry out procedures for Investment Policy Approval and technology appraisal according to investment laws, EIAR, construction permits, or other approval, acceptance, and permission in the fields of construction, fire prevention, and fighting. When conducting investment registration under these procedures, the investors must comply with specific requirements that differ from standard investments.

We highlight some of the key requirements below.

## 1. Financial Guarantees for SIP Projects

Aside from complying with regulations on the commitments to implement the project under the Law on Investment 2020 and Decree 31/2021/ND-CP, in most instances, SIP investors must provide an escrow deposit or submit a bank guarantee covering the obligation to provide the escrow deposit within 30 days from the date of issuance of the IRC.

Suppose the investment project involves using land requiring land compensation and resettlement. In that case, the investors must deposit into escrow or submit a bank guarantee commitment before the compensation, support, and resettlement plan is approved by the competent authority or/before the land lease decision is issued or the land use purpose is changed.

The investor will be refunded the escrow deposit when the investor provides the investment authority with the Acceptance Certificate for the completed construction works to start operation.

## **2. Notice of Construction Requirements**

Although this procedure exempts investors from obtaining a construction permit before building factories, plants, or infrastructure, investors must inform the investment authority and the authority on local construction order management (i.e., Provincial People's Committee) at least 30 days before the start of the construction.

## **3. Environmental Permit**

As mentioned, investors are exempted from EIAR procedures when registering under the SIP. However, the investors must still complete other environmental procedures where applicable, including obtaining an Environmental Permit<sup>2</sup>, Preliminary Environmental Impact Assessment<sup>3</sup>, and Environmental Registration<sup>4</sup> per the Environmental Protection Law. If an investor is required to get an Environmental Permit under the Law on Environmental Protection, the investor must carry out the procedures for obtaining the Environmental Permit before commencing construction.

When applying for an Environmental Permit, investors should note the following:

- The agency with authority to issue EIAR (in case the project's criteria are subject to EIAR under environmental laws) shall issue the Environmental Permit, not the agency with authority to issue an Environmental Permit according to the Law on Environmental Protection.
- Investors must follow the procedures in the Law on Environmental Protection applicable to investment projects not subject to an EIAR.

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<sup>2</sup> Environmental Permit is applied for investment projects in Groups I, II, and III that generate wastewater, dust, emissions, or hazardous waste requiring treatment.

<sup>3</sup> Preliminary Environmental Impact Assessment is applied for investment projects in Groups I.

<sup>4</sup> Environmental Registration is applied for Investment projects that generate waste are not subject to Environmental Permit.

# DECREE 174/2024/ND-CP ON ADMINISTRATIVE SANCTIONS FOR VIOLATIONS IN THE FIELD OF INSURANCE BUSINESS

Decree 174/2024/ND-CP, enacted on 30 December 2024 and effective on 15 February 2025, on administrative sanctions for violations in the field of insurance business ("**Decree 174**"). Decree 174 significantly increases penalties for insurance-related business activities.

## 1. Increased Fines for Fraudulent Insurance Activities.

Under prior law, the maximum fine for violating insurance compensation and payment regulations was 100 million VND (see Article 14 of Decree 98/2013/ND-CP).

Decree 174 details penalties for fraudulent activities in the insurance sector, including collusion with beneficiaries to settle insurance claims or payouts unlawfully; falsification of documents or intentional misrepresentation to deny insurance claims when a covered event has occurred; falsification of documents/records or deliberate misrepresentation in insurance claim dossiers; and self-inflicted damage to property or health to obtain insurance benefits, except in cases otherwise regulated by law. If the circumstances of these violations are not severe enough to warrant criminal prosecution, they are subject to fines from VND20 million to 50 million.

A fine of up to VND 200 million applies to fraudulent acts committed by a commercial entity as specified under Clause 1, Article 213 of the 2015 Penal Code (amended and supplemented in 2017) for the "crime of fraud in the insurance business," where the misappropriated amount is below VND 200 million, or the damage caused is below VND 400 million, or the offense does not meet the threshold for criminal prosecution.

Additionally, violators are required to return the misappropriated funds.

## 2. New Penalties for Insufficient Explanation Insurance Clauses

Insurance companies that fail to clearly and thoroughly explain insurance benefits, exclusion clauses, and their rights and obligations to the policyholder when entering an insurance contract are subject to a penalty ranging from VND60 million to 100 million.

## 3. New Penalties for Non-compliant Advertising of Life Insurance Products

Insurance companies providing information and advertising about life insurance products in a manner not compliant with the law are subject to a VND80 million to 100 million fine.

#### **4. Increased Fines for Violations Related to the Management of Insurance Brokerage Businesses**

Decree 174 increases the penalties for violations related to the management of insurance brokerage enterprises.

A fine ranging from VND 140 million to 180 million shall be imposed on an insurance brokerage enterprise for committing any of the following violations:

- The deputy Director or deputy General Director, Chief Accountant, or head of a professional department of the insurance brokerage enterprise does not meet the required qualifications.
- The Chairman of the Board of Directors, Chairman of the Members' Council, Director, or General Director does not meet the required qualifications.
- Changing the Chairman of the Board of Directors, Chairman of the Members' Council, Director, or General Director without obtaining prior written approval from the Ministry of Finance.

Under current regulations, the maximum fine for the abovementioned violation is up to 70 million VND (Article 9 of Decree 98/2013/ND-CP).



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