

# Newsletter

January 2022

## What's new?

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Classification of  
Investment Project

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Guidance on  
Environmental License  
Application

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Exemption from  
Environmental  
Registration

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Recycling Obligation

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Waste Management



- Contributed by Benjamin Yap Soon Tat and Le Thi Kim Quy -

## Regulatory Framework on Environment is Further Detailed by Recently Issued New Decree

Decree No. 08/2022/ND-CP of the Government (**Decree 08**) was recently issued with its immediate effect from 10 January 2022, with the aim at detailing certain articles of the new 2020 Law on Environmental Protection.

**Environmental Criteria for Classification of Investment Project** is clearly set out in Decree 08 to ensure the compliance as well as to ensure increase consistency between the 2020 Law on Environmental Protection and other legal instruments.

In particular, three elements, including scale and types of business, used land area and used water area; or scale of exploiting natural resources and environmental sensitive factors, should have been taken into account when classifying an investment project.



*Bach Ho Oilfield in the East Vietnam Sea*

In respect of investment project qualifying as business at risk of causing environmental pollution, the capacity of that project shall be determined and clarified in the investment project proposal, feasibility study reports, economic - technical reports or equivalent documents of the project. There are three categories to which an investment project's capacity may fall into, including large, medium and small.

The scale of used land area and used water area (including used marine area) of a project is also a criterion used for classification of investment projects. While the scale of used land area and used water area shall be classified into three groups including large, medium and small scale, the scale of used marine area and exploitation of natural resources is divided into two groups based on the authority to grant the respective permit in accordance with the law on natural resources, marine and island environment, and other relevant legal documents.

Another remarkable criterion to be used for classifying investment project is environmental sensitive factors of the project. For that purpose, Decree 08 is doing its best to expand the types and characteristics of investment projects that are associated with sensitive environmental impacts by enumeration method. Those types and characteristics cover projects discharging wastewater into surface water used for domestic water supply, projects with migration or resettlement, projects with use of land or land with surface water of nature reserve, historical - cultural relics, scenic spots, etc.

**Application file for Environmental License is further guided** through Decree 08 by setting out contents of proposal for issuance of the environmental license, one of compulsory documents to be composed in the application file as required by the 2020 Law on Environmental Protection.

Main contents of the proposal for each investment project include without limitation to general information about the investment project; the conformity of the investment project with the environmental protection planning and environmental capacity; proposal for waste monitoring contents (on an automatic, continuous and periodic basis) and other contents depending on investment project type.



Picture from:  
<https://www.freepik.com/search?format=search&query=environment>

The projects to which the above-mentioned proposal is required include projects having the approval for the appraisal of the environmental impact assessment report before trial operation; Group II project not subject to environmental impact assessment; establishments, concentrated production, business and service zones, and industrial clusters operating with environmental criteria equivalent to Group I or Group II project; Group III project; and establishments operating with environmental criteria equivalent to Group III project.

**In terms of Environmental Registration,** Decree 08 clarified subjects exempted from environmental registration compared to general regulation in the 2020 Law on Environmental Protection. That clarification is meaningful in helping the investors easily determine on their own whether their investment project is subject to environmental registration to ensure better compliance with the laws.

## Recycling obligation, a new remarkable point of the new Law on Environmental Protection, is now also specified in Decree 08

In particular, Decree 08 provides, in its Appendix No. XXII, for detailed descriptions of types of products and packaging, including batteries, machine oils, tubes and tyres, along with their corresponding compulsory recycling rates and recycling procedures.

The compliance by organisations and individuals manufacturing and importing such products and packaging when selling them in Vietnam is a must. Regardless of that, Decree 08 also introduces cases where the manufacturers/importers are not subject to recycling obligations, such as manufacturers of packaging for export, temporary import, re-export; or for researching, studying or experimenting purposes whose revenue from sales and service provision in the previous year is less than VND30 billion (approx. USD1.3 million).

In cases where the recycling is a must, while the Law allows manufacturers and importers to select either to organise the recycling of products and packaging or to make a financial contribution to the Vietnam Environment Protection Fund to support the recycling of products and packaging, Decree 08 allows those, who select their own organization of products recycling and packaging, to carry out the recycling themselves; hire a qualified recycling service provider; authorise a qualified third party to organise the recycling entirely; or combine the aforementioned methods.



Picture from: <https://www.freepik.com/search?format=search&query=recycle>

Regardless of any option selected, manufacturers and importers are obliged to register their annual recycling plans and report the results of their recycling activities in the previous year to the competent authority, which is the Ministry of Natural Resources and Environment in the case, prior to 31 March of each year. The party in charge of complying with these obligations, in the case where the manufacturers/importers decide to carry out their recycling activities by way of authorizing a qualified third party, is that third party.

**In the aspect of waste management,** Decree 08 further sets forth general requirements on both solid waste and liquid waste. In particular, those require the compliance by both individuals and organizations for the purpose of fully utilizing their value arising from a number of activities (i.e. production, business activities or daily life activities). In details, Decree 08 provides clear solutions and order of priority to apply to which the usage of waste products, solid waste and liquid waste shall adhere.



Picture from: <https://www.freepik.com/search?format=search&query=waste%20management>

The orders of applying solutions in the case of the usage of waste products and solid waste include: reusing waste products; repairing, maintaining or upgrading defective products, old products to prolong their lifetime; utilizing parts and components of waste products; recycling solid waste to recover raw materials and fuel in service of production activities in accordance with the laws; handling solid waste in combination with recovering energy in accordance with the laws; and burying solid waste in accordance with the laws.

Likewise, in respect of the liquid waste, the application of solutions shall follow the priority including handling and reusing wastewater directly for production, business and service activities; handling and transferring wastewater in order to reuse for other production, business and service activities; transferring to another unit for the purpose of processing and reusing; and handling and discharging wastewater that satisfies the technical regulations on environment; all of which shall be in accordance with the laws.

In addition to the above, Decree 08 requires the collection and transportation of both solid waste and liquid waste arising from the operation of non-tariff zones, export processing zones and domestic export processing enterprises to comply with the provisions on collection and transportation of waste outside non-tariff zones, export processing zones as well as export processing enterprises.

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