

4 June 2009

REGULATION REGARDING PERMITS AND LICENSES THAT MUST BE OBTAINED PURSUANT TO THE ENVIRONMENTAL LAW

This article provides brief information regarding the principles and procedures of environmental permits or environmental permits and licenses that must be obtained pursuant to the Environmental Law No. 2872.

The Regulation Regarding Permits and Licenses that Must Be Obtained Pursuant to the Environmental Law (the “Regulation”) was published in the Official Gazette No. 27214, dated 29 April 2009 and will be enforced starting 1 January 2010.

The purpose of the Regulation is to determine the acts and actions of the facilities and activities listed in Annex 1 and Annex 2 of the Regulation regarding permits and licenses that should be obtained and the responsibilities and obligations of the competent authorities, environmental management units, environmental officers, environmental consultancy firms, enterprises and managers related to these acts and actions. The Regulation also aims to combine various environmental permits into one consolidated permit or license.

Article 3 of the Regulation defines (i) environmental permits as the utilization permits for emission, discharge, noise control, deep sea discharge and stabilized purification sludge which are issued pursuant to the legislation; (ii) environmental permit document which will be issued to enterprises to protect the environment such as air, water and soil; and (iii) environmental permit and license document as the document that comprises the environmental permits and licenses that will be issued pursuant to the Regulation.

Pursuant to the Regulation, the enterprises which have high impact on environmental pollution (listed in Annexes 1 and 2 of the Regulation) are under the obligation to obtain an environmental permit or an environmental permit and license. The facilities and activities governed by the Regulation, as listed in Annexes 1 and 2, include industries related to crude petroleum, natural gas, coal and peat drilling, energy, minerals and building materials, and chemicals. Should the emissions of an enterprise not listed in Annexes 1 and 2 be above the limits, the enterprise should also obtain an environmental permit.

The enterprises listed in Annex 1 of the Regulation should apply to the Ministry of Environment and Forest (the “Ministry”) for the issuance of an environmental permit or environmental permit and license. On the other hand, the enterprises listed in Annex 2 should apply to the Provincial Department of Environment and Forestry (the “Department”) for the issuance of an environmental permit or environmental permit and license. However, the

Ministry may transfer the authorization of issuing an environmental permit or environmental permit and license for the enterprises listed in Annex 1 to the Department.

It is the duty of the environmental management unit, environmental officer or an environmental consultancy firm authorized by the Ministry to apply to obtain the environmental permit or environmental permit and license on behalf of the enterprise. The application must be submitted to the relevant authority electronically and must contain an electronic signature. The application should be examined by the relevant authority within 2 months.

Before the enforcement of the Regulation, an environmental permit or an environmental permit and license issued to an enterprise are valid for 10 years. In the instance where there are no differences in terms and conditions of the environmental permit or environmental permit and license, the enterprise should apply to the relevant authority for renewal of the permit or permit and license 3 months before the validity period ends.

After the Regulation is enforced on 1 January 2010, existing enterprises should for renewal of an environmental permit or environmental permit and license at least 30 days before the expiration of the permit or license. However, since the environmental permits and licenses were originally being issued individually before the Regulation was enforced, when applying for a renewal of an environmental permit or environmental permit and license, the permit or license that has the earlier expiration date should be used as a basis.

In the case where an enterprise possesses permanent environmental permits and licenses, it should apply to obtain an environmental permit or environmental permit and license pursuant to the Regulation no later than 2 years starting from the date of enforcement of the Regulation.

Please contact us if you require further information about the Regulation and its implementation. ⊕