

The Law of Georgia on Environmental Impact Permit

Article I General Provisions

Article 1. Scope of the Law

1. This Law regulates any organized activity or action which concerns indefinite range of persons and is characterized by an increased threat to human health and life.

2. This Law specifies the complete list of activities on the territory of Georgia subject to mandatory expertise and legal bases for the issuance of environmental impact permits for their implementation, carrying out ecological expertise during the issuance of permits, public information and participation in the process of environmental impact assessment and decision-making on the issuance of permits.

Article 2. Objectives and Tasks of this Law

1. The objectives of this Law include:

a) To protect human health, natural environment as well as cultural and material values during implementation of the activity;

b) To guarantee the basic right of Georgian citizens stipulated by the Constitution of Georgia - to receive a complete, objective and timely information as to a state of his/her working and living environment and ensure public participation in design-making on important environmental matters;

c) To consider environmental, social and economic interests of the State and the public in making important decisions related to the implementation of the activity.

2. The tasks of this Law include:

a) To define and protect the rights and responsibilities of a developer, public and the State in the field of permitting;

b) To protect the environment and natural resources from irreversible qualitative and quantitative changes and promote their rational use.

Article 3. Definition of Terms

The terms used in this Law shall have the following meaning:

a) Environmental Impact Permit (hereinafter – permit) – a right granted to the Developer for an indefinite term by the Ministry of Environment Protection (hereinafter – Ministry) in accordance with the rules and procedures established by the Georgian legislation. The permit shall form a legal basis for initiating the activity; *(11.03.2011. N4400)*;

(a) Environmental Impact Permit (hereinafter – permit) – a right granted to the Developer for an indefinite term by the Ministry of Environment and Natural Resources

Protection (hereinafter – Ministry) in accordance with the rules and procedures established by the Georgian legislation. The permit shall form a legal basis for initiating the activity; (25.03.2013. N478 shall be enacted on the 40th day after publishing));

b) Developer – any natural person, legal entity, or other organizational unit prescribed under the Law (which is not a legal entity) who initiates an activity that is subject to ecological expertise and applies to the relevant body to obtain a permit on implementation of the activity that is subject to ecological expertise;

c) Construction permit – a permit considered by the subparagraph “v” of the Article 3 of the Law of Georgia on Licenses and Permits;

d) Environmental Impact Assessment (hereinafter EIA) – is a procedure which aims to examine the planned activity for the purpose of protecting various components of environment, population, landscape and cultural heritage. EIA studies, identifies and describes any direct and indirect impact of the activity on human health and safety, vegetation and wildlife, soil, air, water, climate, landscape, ecosystems and historical monuments, or the combination of these factors, including the impact of these factors on cultural values (cultural heritage) and socio-economic factors;

e) Environmental standards – environmental standards specified by the Law of Georgia on Protection of the Environment.

f) Technical summary – design concept of the planned activity; (4.05.2010 N 3051)

Chapter II Permitting Procedures

Article 4. Activities Subject to Ecological Expertise and Bodies Authorized to Grant Rights on Implementation of Activities

1. Activities subject to the ecological expertise include:

- a. Processing of minerals (the processing of construction (including inert) materials, except for those envisaged under subparagraph "c" of this paragraph, are not subject to ecological expertise);
- b. Any manufacturing technology, which uses asbestos;
- c. Production of cement, asphalt, lime, plaster and brick;
- d. Manufacturing of glass and glass products;
- e. Recycling of solid domestic waste (including the waste incineration plants) and/or the arrangement of landfills;
- f. Disposal of toxic and other hazardous waste and its burial, and/or the recycling of this waste, decontamination;
- g. The manufacture of any capacity related to coal gasification, dilution, briquetting and coking;
- h. Construction of main oil and gas pipelines;
- i. Arrangement of storages and terminals for oil and oil products, as well as

liquid and natural gas when the volume of one of the tanks located on the territory of these storages and terminals, or the total volume of these tanks exceeds 1,000 cubic meters;

- j. Construction of international and national roadways, railways and bridges located thereon, and underway crossings, as well as the buildings for the engineering protection of these highways, railroads and their territories;
- k. Installation of high-voltage (35 kV or more) air and cable transmission lines and substations (110 kV and more);
- l. Construction of a hydro-electric power station (2 MW or more) and a thermal power plant (10 MW and more);
- m. Construction of an underground railway;
- n. Creation of a water reservoir (10,000 cubic meters and more);
- o. Placement of a wastewater treatment facility (with volume of 1,000 cubic meters or more per 24 hours) and the main sewage collector;
- p. Construction of an aerodrome, airport, railway station and a sea port;
- q. Arrangement of a dam, harbor, pier, breakwater and shaft;
- r. Chemical industry, namely: chemical processing of intermediate products and production of chemical substances; manufacturing and processing of pesticides, mineral fertilizers, chemical dye, polish, peroxides and elastic material (rubber or plastic materials); production of gunpowder and other explosives; production of accumulators; manufacturing of graphite electrodes;
- s. Oil and gas refineries (500 tons or more per 24 hours);
- t. Any metallurgical production (with the capacity of more than a ton per hour), except for the cold processing of metals and jewelry production;
- u. Arrangement of storage of toxic and other hazardous substances.

2. Any construction related to the activities specified in the paragraph 1 of this Article or any modification of manufacturing technology which changes the terms of use of the technology is also subject to ecological expertise.

3. If the activity considered by the paragraph 1 of this Article requires a construction permit, an administrative body authorized to issue construction permits shall ensure involvement of the Ministry as a different administrative body in the administrative procedure initiated for the purpose of issuance of the construction permit in accordance with the rule established the Law of Georgia on Licenses and Permits;

4. In the case specified by the paragraph 3 of this Article the Ministry shall issue a conclusion of ecological expertise of the documents submitted by the administrative body authorized to issue construction permits to the Ministry which shall be approved by the regulation of the Minister of Environment Protection of Georgia (hereinafter – Minister). In this case the application submitted by the permit seeker to the administrative body authorized to issue construction permits shall meet the requirements of the Articles 6 and 7 and the paragraph 4 of the Article 8 (11.03.2011. N4400)

(4. In the case specified by the paragraph 3 of this Article the Ministry shall issue a conclusion of ecological expertise of the documents submitted by the administrative body authorized to issue construction permits to the Ministry which shall be approved by the regulation of the Minister of Environment and Natural Resources Protection of Georgia (hereinafter – Minister). In this case the application submitted by the permit seeker to the administrative body authorized to issue construction permits shall meet the requirements of the Articles 6 and 7 and the paragraph 4 of the Article 8 (25.03.2013. N478 shall be enacted on the 40th day after publishing))

5. In the case specified by the paragraph 3 of this Article the conclusion of ecological expertise shall be issued at the second stage of the issuance of the construction permit. The conclusion of ecological expertise shall form a part of the construction permit and its (conclusion of ecological expertise) conditions shall be obligatory for the construction permit seeker (or holder).

6. If the activity considered by the paragraph 1 of this Article does not require construction permit, a permit shall be issued on the basis of ecological expertise to be approved by the regulation of the Minister. Ecological expertise shall be carried by the Ministry in accordance with the procedures established by the Georgian legislation.

7. The conclusion of ecological expertise and its conditions shall be permit conditions.
(4.05.2010 N 3051)

Article 5. Environmental Technical Regulations

1. Any activity not covered by the paragraph 1 of the Article 4 of this Law shall meet the requirements of the environmental technical regulations.

2. Environmental technical regulations of the activity considered by the paragraph 1 of this Article shall be approved by the regulation of the Minister on Environmental Technical Regulations.

Article 6. Public Hearing of the EIA Report

1. The Developer shall hold a public hearing of the EIA report prior to its submission to a permitting body (in the case considered under the paragraph 3 of the Article 4 of the Law the Developer shall hold a public hearing of the EIA report prior to the initiation of the second stage of issuing a construction permit by the administrative body authorized to issue construction permits specified by the Law of Georgia on Licenses and Permits).

2. For the purpose of organizing EIA public hearing the Developer shall publish the information about the planned activity. The information shall be published in national print periodical as well as in print periodical (if any) of the administrative territory of that self-governance unit where the activity is planned to be implemented.

3. The information about the planned activity shall contain:

- a) the purpose, title and location of the planned activity;

- b) address where the activity related documents (including the EIA report) will be available for the public;
- c) deadlines for submission of public opinions;
- d) time and venue of EIA report public hearing.

4. The developer shall:

- e) submit hard and electronic copies of the EIA report to the permitting administrative body (and also to the administrative body authorized to issue construction permits in the case specified in the paragraph 3 of the Article 4 of the Law) within 1 week after announcing about planned activity in print media;
- f) receive and consider written remarks and opinions submitted by the public representatives within 45 days after announcing about planned activity;
- g) organize public hearing about the planned activity not earlier than 50 days and not later than 60 days after announcing about planned activity;
- h) invite representatives of the bodies of relevant local self-governance, the Ministry, the Ministry of Economy and Sustainable Development of Georgia and other concerned administrative bodies to the EIA public hearing in writing (11.03.2011. N4400).

5. Any representative of the public shall have the right to attend the public hearing.

6. The public hearing of EIA report shall be held at the administrative centre of the self-governing unit where the proposed activity is planned to be implemented.

Article 7. Documenting the Results of EIA Public Hearing

1. The Developer shall prepare a protocol of the results of the EIA public hearing within 5 days after the EIA public hearing. The protocol shall reflect in detail all comments and opinions presented during the EIA public hearing. The protocol shall be signed by the Developer (or his/her authorized representative) and representatives of relevant self-governance bodies, the Ministry and the Ministry of Economy and Sustainable Development of Georgia (in case of their presence of the EIA public hearing) (11.03.2011. N4400).

2. The Developer shall study written comments and opinions of the public and consider their arguments during the development of the final version of EIA report.

3. If the Developer fails to consider the comments and opinions of the public, he/she shall justify the reasons for non-consideration of comments and opinions and inform the author(s) in writing. The Developer shall submit this written justification (together with the relevant written comments and opinions) to the permitting body (to the administrative body authorized to issue construction permits in the case specified in the paragraph 3 of the Article 4 of this Law) together with the protocol of the EIA public hearing and the EIA report. The documents specified under this paragraph shall be an integral part of the EIA report.

4. Within one year after the EIA public hearing, documenting its results and finalizing the EIA report the Developer shall be authorized to submit an application on obtaining a permit (or construction permit) to the permitting body (to the administrative

body authorized to issue construction permits in the case specified in the paragraph 3 of the Article 4 of this Law) in accordance with this Law and the rule specified by the Georgian legislation.

Article 8. Documents to be Submitted for Permitting

1. To obtain a permit the Developer shall submit a written application to the Ministry. The application shall be submitted, discussed and considered in accordance with the rule established by the Law of Georgia on Licenses and Permits.

2. The Developer shall submit the following documents along with the application and the information specified by the Law of Georgia on Licenses and Permits:

a) EIA report (5 hard copies and electronic version) developed in accordance with the norms established by the Georgian legislation;

b) situational plan of the planned activity (with indication of distances);

c) volumes and types of expected emissions (technical report of the inventory of stationary sources of pollution and the harmful substances emitted/discharged by them and the draft standards of maximum allowable emissions/discharges of harmful substances (4 copies);

(c) volumes and types of expected emissions (Draft standards of maximum allowable emissions/discharges of harmful substances (4 copies); (25.03.2013. N478 shall be enacted on the 40th day after publishing))

d) a brief summary of the activity (in the form of a technical summary); (4.05.2010 N 3051)

e) notification about a confidential part of the submitted application.

3. The Developer shall also submit a full scheme of the technological cycle even if the activity contains a commercial and/or state secret. In such case, this part of the application shall be submitted separately in accordance with the paragraph 2 of this Article.

4. In the case considered by the paragraph 3 of the Article 4 of this Law the Developer seeking for a construction permit shall submit the following additional documentation to the administrative body authorized to issue construction permit along with the documents required for obtaining the construction permit:

a) situational plan of the planned activity (with indication of distances) – this document shall be submitted at the first stage of issuing a construction permit;

b) a brief summary of the activity (in the form of a technical summary). This document shall be submitted at the first stage of issuing a construction permit; (4.05.2010 N 3051)

c) EIA report (5 hard copies and electronic version) developed in accordance with the norms established by the Georgian legislation. This document shall be submitted at the second stage of issuing a construction permit;

d) volumes and types of expected emissions (technical report of the inventory of stationary sources of pollution and the harmful substances emitted/discharged by them and

the draft standards of maximum allowable emissions/discharges of harmful substances (4 copies). This document shall be submitted at the second stage of issuing a construction permit;

(d) volumes and types of expected emissions. (Draft standards of maximum allowable emissions/discharges of harmful substances (4 copies)). This document shall be submitted at the second stage of issuing a construction permit; (25.03.2013. N478 shall be enacted on the 40th day after publishing)).

e) notification about a confidential part of the submitted application – This document shall be submitted at the second stage of issuing a construction permit.

Article 9. The Rule of Permitting

1. The Ministry shall make a decision on issuance of a permit in accordance of the simple administrative procedure specified under the Chapter VI of the General Administrative Code of Georgia and the Law of Georgia on Licenses and Permits within 20 days after the receipt of the application.

2. The Ministry shall ensure carrying out ecological expertise of the documents submitted by the Developer in accordance with the Law of Georgia on Ecological Expertise and develop a conclusion of ecological expertise.

3. The permit shall be issued only in the case of a positive conclusion of ecological expertise.

Article 10. EIA procedure

1. Environmental Impact Assessment is determination of a nature and level of a source of any expected environmental impact of a planned activity during the development of activity related documentation and environmental decision-making, as well as the assessment of environmental, social and economic outcomes of the planned activity.
2. The Developer shall organize and carry out the EIA.
3. As a result of the EIA process an EIA report shall be developed.
4. The EIA procedure and the requirements to the EIA content shall be defined by the Georgian legislation and the EIA Regulations to be approved by the Minister through the relevant regulation.
5. The Developer shall cover all costs associated with the EIA procedure.

Article 11. Activities Exempt from EIA

1. The activity can be exempt from EIA if the state interest requires launching the planned activity without delay and making timely decision on it.

2. The special EIA Council shall discuss the application of the Developer on exempt

from EIA and develop relevant proposals. The composition and the rule of operation of the EIA Council shall be specified by the Minister.

3. In the case specified under the paragraph 1 of this Article a decision on the proposals developed by the special EIA Council shall be made by the Minister in agreement with the concerned agency. *(3.11.2009 N 1918)*

Article 12. Rights and Obligations of the Developer

1. The Developer is obliged to submit an objective data to permitting body (to the body authorized to issue construction permits in the case specified in the paragraph 3 of the Article 4 of the Law).

2. In case of obtaining a permit (or construction permit) the Developer shall:

- a) carry out the activity in accordance with the conditions of the conclusion of ecological expertise;
- b) take measures to mitigate the impact on the environment, which are required by the permitting body after the beginning of implementation of the activity;
- c) in case of obtaining a construction permit meet the conditions specified by the conclusion of ecological expertise both at the construction and operation stages.
- d) during implementation of the planned activity undertake all measures which are considered necessary by the ecological expertise or/and approved by the experts and reflected in the conclusion of ecological expertise or/and its conditions *(4.05.2010 N 3051)*

3. The Developer shall be entitled to address the Ministry with the request to change a condition of ecological expertise if he/she justifies that its fulfillment cannot ensure reduction or avoidance of environmental impact, or/and if he/she justifies the necessity and efficiency of changing a permit condition for reduction or avoidance of environmental impact (28.10.2010. N3780).

4. In the case specified under the paragraph 3 of this Article the Developer shall submit to the Ministry a justified request which shall be considered by the consultative body under the Ministry – the Commission for Review of Conditions of Ecological Expertise (hereinafter – Commission). The Commission shall develop relevant proposals. The list of documents to be submitted to the Commission and the rule of operation of the Commission shall be defined by the regulation of the Minister on Approval of the Regulation of the Commission for Review of Conditions of Ecological Expertise (28.10.2010. N3780).

5. After discussing the issue the Commission shall submit a relevant recommendation to the Minister. In case of a positive recommendation the Minister shall bring the issue to the Government of Georgia. In the case of consent from the Government of Georgia the Minister shall issue a relevant individual regulation (28.10.2010. N3780)

Article 13. Grounds for Refusal to Permit

Permit shall not be granted when:

- a) the requirements of the Law of Georgia on Licenses and Permits and the current

environmental legislation of Georgia are violated;

b) the conclusion of ecological expertise of the proposed activity is negative.

Article 14. Appeal of the Refusal to Permit

The decision of a permitting body on refusal to permit can be appealed at superior authority or court.

Article 15. Duties and Responsibilities of Permitting Body

Duties and responsibilities of a permitting body shall be specified in accordance with the Article 29 of the Law of Georgia on Licenses and Permits.

Article 16. Design of Permit Certificate

The design of permit certificate shall be specified by the regulation of the Minister.

Article 17. Loss or Damage of Permit Certificate

1. In case of loss or damage of a permit certificate a permit holder shall address the Ministry with a written request to issue a duplicate permit certificate.

2. Within 2 days after receipt of the application specified in the paragraph 1 of this Article the Ministry shall issue the duplicate permit certificate, enter the relevant information into the internal permit register and in the cases considered by the Law inform a body authorized to maintain the state permit register about it to make a relevant changes into the state permit register.

3. The duplicate permit certificate has the same legal effect as the original one.

4. The fee for issuance of a duplicate permit certificate shall be specified by the Law of Georgia on Fees of Licenses and Permits.

Article 18. Transfer of a Permit to a Third Party

1. The permit holder shall be entitled to assign the permit to any third party.

2. In the case of assigning the permit to a third party the permit holder and the assignee shall submit a joint application, indicating the type of the permit to be assigned and the relevant registration number, to the Ministry. The application shall include:

a) Extracts from the Register of Entrepreneurs and Non-Entrepreneurial (Non-commercial) Legal Persons of a permit holder and permit assignee – for a legal person of private law and individual entrepreneur; copies of identification documents established by the Georgian legislation – for natural persons. A legal person of public law shall submit certified copies of founding documents together with the application; *(3.11.2009 N 1970 shall be enacted from January 1, 2010)*

b) Documents evidencing the transfer of a permit to a third party.

3. The Ministry shall discuss the application on transfer of a permit to a third party in accordance with the simple administrative procedure specified under the General Administrative Code of Georgia, make a change in the permit register on the basis of a

relevant decision and issue a relevant permit certificate.

4. The permit assignee shall be entitled to implement relevant activity only after making a decision specified by the paragraph 3 of this Article.

5. The permit assignee shall comply with the conditions specified by the permit.

Article 19. Control of the Compliance with Permit Conditions *(4.05.2010 N 3051)*

1. Control of the compliance with permit conditions shall be carried out in accordance with the Law of Georgia on Licenses and Permits except for the cases considered under this Law.

2. Within the competences assigned by the Georgian legislation the Ministry of Environment Protection and the Agency of Natural Resources - Legal Entity of the Public Law within the structure of the Ministry of Energy and Natural Resources of Georgia shall control the compliance of the Developer with permit conditions *(5.05.2011 N4659 shall be enacted from May 15, 2011)*

(2. The Department of Environmental Supervision (hereinafter – Department) – subordinated body to the Ministry shall control the compliance of the Developer with permit. *(25.03.2013. N478 shall be enacted on the 40th day after publishing)*)

3. The permitting body shall inform the Ministry about the issuance of a permit without delay in the case specified under the paragraph 5 of the Article 4 of this Law.

4. The Ministry of Environment Protection and the Agency of Natural Resources - Legal Entity of the Public Law within the structure of the Ministry of Energy and Natural Resources of Georgia shall control the compliance with the conditions of the conclusion of ecological expertise reflected in permit conditions in the case specified under the paragraph 5 of the Article 4 of this Law *(5.05.2011 N4659 shall be enacted from May 15, 2011)*

(4. The Department shall control the compliance with the conditions of the conclusion of ecological expertise in the case specified under the paragraph 5 of the Article 4 of this Law *(25.03.2013. N478 shall be enacted on the 40th day after publishing)*)

5. The bodies specified under the paragraph 2 of this Article shall control the compliance with permit conditions by means of selective examination *(5.05.2011 N4659 shall be enacted from May 15, 2011)*

(5. The Department shall control the compliance with permit conditions by means of selective examination *(25.03.2013. N478 shall be enacted on the 40th day after publishing)*)

Article 20. Liability for Violation of Permit Conditions and Permit Revocation

Liability for violation of permit conditions and the rule of permit revocation shall be established by the Law of Georgia on Licenses and Permits.

Article 21. Legal Position of Persons Holding Environmental Permits on Activities Specified by this Law or Having Positive Conclusion of State Ecological Expertise until Enactment of the Law of Georgia on Licenses and Permits

Persons holding environmental permits or having positive conclusion of state ecological expertise on activities specified by the paragraphs 1 and 2 of the Article 4 of this Law prior to enactment of the Law of Georgia on Licenses and Permits shall have the right to apply for environmental impact permit certificate on the basis of application. The Ministry shall make a decision on issuance of a permit certificate on the basis of a conclusion of state ecological expertise. In this case the applicant shall be granted an exemption from fee.

Chapter III Transitional and Final Provisions

Article 22. Transitional Provisions

1. Environmental permits or environmental impact permits issued prior to enactment of this Law for the activities subject to ecological expertise pursuant to the paragraphs 1 and 2 of the Article 4 of this Law shall retain a legal force and all provisions of this Law shall be applicable to these permits.

2. Any activity subject to ecological expertise pursuant to the paragraphs 1 and 2 of the Article 4 of this Law the implementation of which was started prior to enactment of the Law of Georgia on Environmental Impact Permit shall be subject to environmental impact permitting till January 1, 2010 in accordance with the plan (program) agreed with the Ministry *(12.06.2009 N 1174)*

2¹. Landfill of non-hazardous waste the operation of which was started prior to enactment of this Law shall be subject to permitting till January 1, 2014 *(22.03.2011. N4458)*

3. The EIA report submitted for permitting in the cases considered under paragraphs 2 and 2¹ shall contain the analysis of the current state of the environment (environmental audit) and a plan of measures for reduction of the impact of the current activity on the environment *(22.03.2011. N4458)*

Article 23. Regulations to be Issued for Enactment of this Law
(28.10.2010. N3780)

1. The following regulations shall be issued by the Minister till January 1, 2008:

- a) on Environmental Technical Regulations;
- b) on Approval of the Regulations of Environmental Impact Assessment;
- c) on Procedural Rules of the Special Environmental Impact Assessment Council. 2.

The regulation on Approval of the Regulations of the Commission for Review of Conditions of Ecological Expertise shall be issued by the Minister till September 1, 2011 (11.03.2011. #4400)

Article 24. Abolished Regulations

The following shall be abolished after enactment of this Law:

a) The Law on Environmental Permit dated October 15, 1996 (News of the Parliament, #27-28/4, November 21, 1996, pp. 5);

b) The Resolution # 154 of the Government of Georgia on Approval of the Regulations on the Rules and Conditions for Issuance of Environmental Impact Permit dated September 1, 2005 (Legislative News of Georgia, 02.09.2005, #104, Art. 1161);

c) Order # 59 of the Minister of Environment Protection and Natural Resources of Georgia on Approval of the Regulations of Environmental Impact Assessment and Enclosed Instructions for the Projects of Main Pipelines dated May 16, 2002 (Legislative News of Georgia, 24.05.2002, N50, Art. 470);

d) Order # 139 of the Minister of Environment Protection and Natural Resources of Georgia on Approval of the Regulations of the Special Environmental Impact Assessment Council of the Ministry of Environment Protection and Natural Resources of Georgia dated June 15, 2005 2002 (Legislative News of Georgia, 2005, N74, Art. 791).

Article 25. Entry into Force

This Law shall enter into force from January 1, 2008

Acting President of Georgia

Nino Burjanadze

Tbilisi

December 14, 2007

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