

付属資料 11 環境に係わるカザフスタン共和国法の法制度及び環境影響評価に係わる行政手続き

11-1 環境に係わるカザフスタン共和国法の法制度

カザフスタン共和国では、1997 年に環境全般に関する二つの大きな立法があった。環境についての基本法とでも言うべき、環境保全法(On Environmental Protection=以下 OEP と略)と環境影響評価審査を定めた State Ecological Expertise 法(以下 SEE と略)がそれである。OEP 法によると、連邦機関、州機関、自治体、市民の環境に係わる機能、権利、義務を明確に規定し、環境に係わる情報公開や市民参加まで唱っている。また、国が管理・規制し、排出などの許容限度を定めるべき、環境要素が規定されている。注目すべきは、大気、水、土壌の質のほか放射能汚染も対象とされていることである。OEP 法では、環境影響評価(OVOSS)の実施と審査機関(Ecological Expertise)の設置が規定されている。SEE 法はこれを受けて、アセスの対象と評価審査の手続きを具体的に定めている。以下に両法の骨子を概観する。なお、SEE 法及び OEP 法の英文仮訳を 11-3 節に掲載した。

1) 環境保全法

この法の環境影響評価に関連する規定を概観すると、

第十章 経済活動等に対するエコロジカルな要求

第 46 節 環境影響評価

- 環境影響評価書は事業計画書や設計書に必須である。
- 環境影響評価を実施するための手続きはエコロジカル エキスパティース法で定められる。

第 48 節 プロジェクト計画に対するエコロジカルな要求

- 地域計画、企業の事業計画、建築構造物の計画、農業、水供給、下水道プロジェクト、水資源開発計画、運輸通信施設、技術プロセス、器材、その他のプロジェクト等の計画に当っては環境の質基準に言及し廃棄物の発生を最小に抑制し、環境汚染を効果的に防除し、天然資源の利用と再生にも言及すること。
- 国のエコロジカル エキスパティースから肯定的コメントが賦与されず、認可のないプロジェクトは融資の条件を満足しない。

第十一章 エコロジカル エキスパティース

第 63 節 エコロジカル エキスパティース(の設置)とその狙い

- エコロジカル エキスパティースは、経済活動等による環境の質への影響やエコロジカルな要求への適合性や負の環境影響の回避を意図するエキスパティースの設置目的との満足性をチェックする。さらに、中央行政機関では環境保全に係わる事項は(CoE 法 の Section 7,8)

エコロジー生物資源省(現在の名称では天然資源環境保全省)

同省傘下の国家エコロジカルエキスパティース(SEE)

が所管している。

- 地方では環境保全に係わる事項は(上記 CoE 法 の Section 10)

地方代表機関

国の環境行政の出先機関

地方自治体

が所管している。

2) 国家エコロジカル・エキスパティーズ(SEE)法

具体的に環境影響評価の審査と関連行政手続きを規定している条項は、

第14条 事業計画の環境影響評価書の許可申請を受理するのは SEE である。(Section 14)

第 27 条その2 審査結果は環境省の決定で法的強制力のあるものとなる。

第 16 条その2 環境影響評価の実施者は、第一義的にはプロジェクトのスポンサーである。

第 27 条その4 SEE の審査結果が負の影響とでた場合は事業への金融機関からの融資はない。

SEE 法 第三章 中央政府のエコロジカル エキスパティーズ

第 14 条 中央政府のエコロジカル エキスパティーズに提出を必要とされる書類とマテリアル

本法第 6 節の定めるエコロジカル エキスパティーズの目的に沿って、対象とするのは

- 1) あらゆる計画、設計、プロジェクト、事業概要、国の投資プロジェクト、所有権の移転や民営化に係わるものを含む。
- 2) 水、森林、土地に係わる複合プロジェクト案、環境修復を含む天然資源保全プロジェクト案
- 3) 対象地域の環境調査結果
- 4) 経済特別区、特別自然管理区域、経済区を含む都市や地域の開発平面図
- 5) 建設、改修、開発、再整備、生産設備や建築構造物の改造や廃棄、動植物資源の利用の正当化に係わる FS
- 6) 海外からの導入や、天然資源開発使用に係わるライセンスや許可書類を含む、
新しい機器、技術、材料、物質についての環境要求を明示した書類
- 7) 環境(放射能を含む)安全性、環境保全、事業実施に係わる天然資源の効率的管理等
についての法令案、技術規準や指針
- 8) 有害な自然現象や事業実施(公衆団体、地方代表、当局の要求で)に係わる当該地域
エコロジカル状況の評価
- 9) 既存生産設備による環境への負の影響(監視当局、住民代表、行政当局からの和解に
よる)の評価記録
- 10) 環境保全に係わる「カ」共和国中央行政当局の決定についてのその他マテリアル及び書
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第 16 条 環境影響評価

その1 事業の実施者(発注者=ザカズチク)、設備の所有者、地方ないし中央行政当局 は
環境影響や人の健康への評価を作成せねばならない。

その2 環境影響や人の健康への評価は、設計や仕様に必要な項目であり、共和国や地
域所管当局、中央行政機関、地方社会団体、裁判所、検察事務所、ないし設備所有
者が担当するが、環境に係わる中央行政当局やその地方支所が和議で担当すること
もある。

第 20 条 中央政府のエコロジカル エキスパティーズにおけるエキスパートの権限

その5 — 国のエコロジカル エキスパティーズは

- 4) 規定の検討期間と手順に従う。
- 5) 意見を付け、事業実施のためタイムリーに当局に提出する。

第 24 条 中央政府のエコロジカル エキスパティーズにおける手順(プロセス)

その1 個別専門家が評価し、公正中立な専門家コメントとしてとりまとめるためには多くの段階がある。

その2 国のエキスパティーズ評価の手順は

- 1) 評価結果の提出記録
- 2) 提出情報とデータの完備性の予備評価
- 3) 当該情報解析処理態様の評価
- 4) 個別専門家検討結果と意見の取りまとめと許可ないし却下の判定を含む最終段階

第26条 審査に要する期間

その1 検討評価期間は3ヶ月とするが提出書類の量により最長六ヶ月までとすることができる。

その2 必要書類の提出を以て検討評価開始とみなす。

その3 上記1,2に拘わらず、環境を所管する中央行政当局は検討期間を決定することができる。

第27節 審査の結果

その1 国のエコロジカル エキスパティーズの検討は審査結果の決定を以て終了とする。

その2 環境を所管する中央行政機関の許可を以て、審査結果はあらゆる法人、個人を法的に拘束する。

その3 負の審査結果の場合、実施者は所定期間内に新たな申請をするか断念するかを選択となる。その4 ポジティブな結果が賦与されない限り、国や商業銀行や外国金融機関からの融資はない。

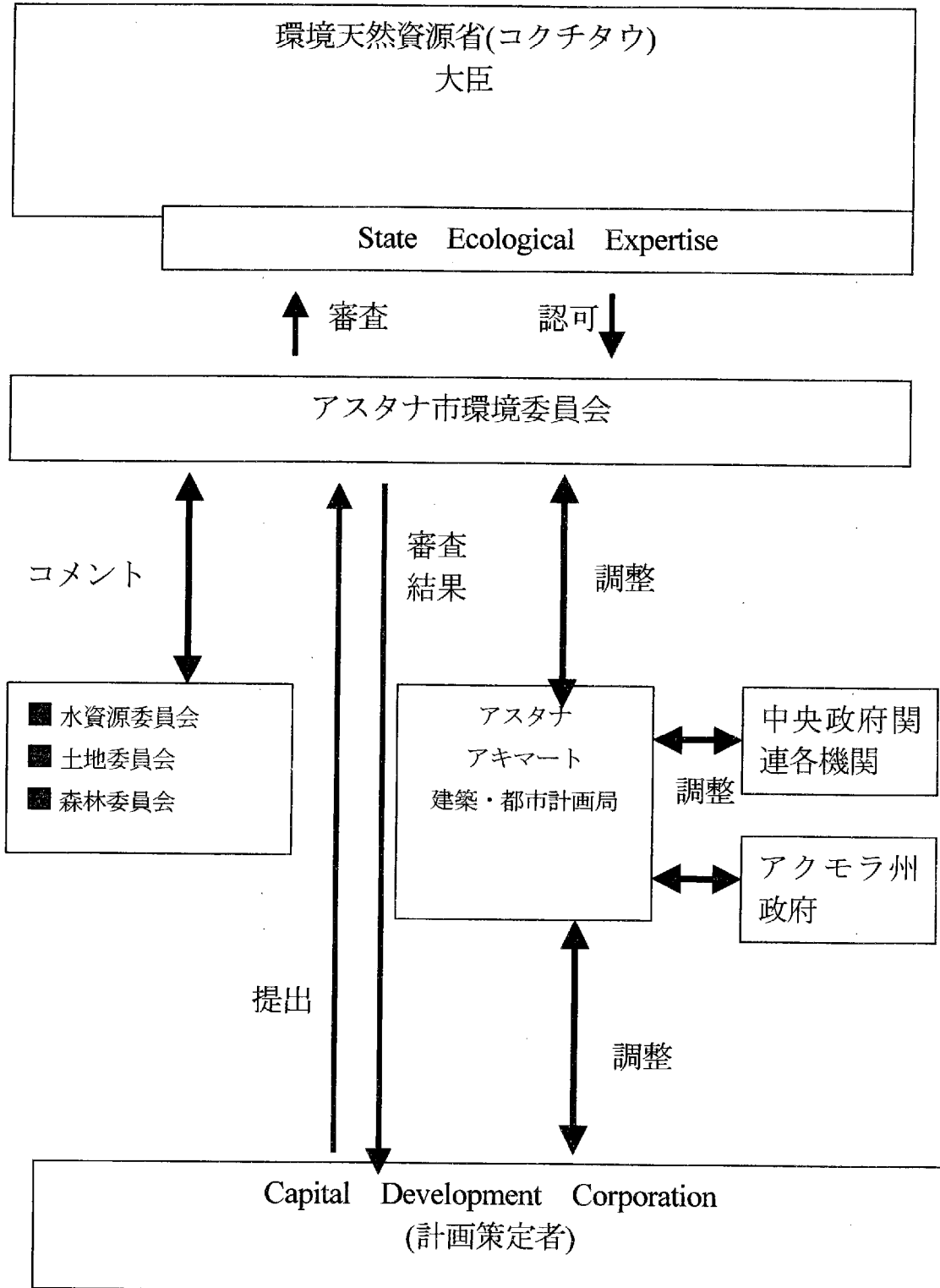
3) 政令264『アクモラ州、アスタナ市等の開発に係わる環境浄化プロジェクトの実施について』、1999年3月18日

この新しい政令は、2030年までのカザフスタン開発計画に沿って、アクモラ州、アスタナ市等の開発に係わる環境浄化プロジェクトを推進する目的で制定された。推進のための省庁を横断して推進評議会が設定されることとなった。本法の基本理念は『環境保全と開発に係わる国家計画(NPEPD)』のフレームの中で構想された。ユーラシアの国際河川であるイルテシユ河の保全はパブロダール地域のみならず、イルテシユ-カラガンダ水路によるアスタナ首都圏への水供給源としても重要な意義を有している。今後同評議会の活動開始で動きが活発化するものと思われる。

11-2 「カ」国環境影響評価に係わる行政手続き

カザフスタンでは前節11-1のように、法令の定めにより、地域計画(都市計画)の策定に際して環境影響評価の事業者による実施と(州または市の)環境委員会による審査を経て、国のステート エコロジカル エキスパティーズによる事業実施可否の最終判断が下される。本調査はアスタナ市環境委員会で受理し、必要な場合は国の専門家の意見をいれつつ、実質的な検討を行う。受理後は、土地委員会、連邦水資源(イシム河流域所管の)委員会、森林委員会などにもコメントを求め、事業計画による環境へのマイナスインパクトが認められなくなつたと環境委員会が判断するまで事業案の見直しが続けられる。この間の所要日数は45日以下で、その後ステート・エコロジカル・エキスパティーズ(SEE)に送付され最終判断を求める。SEEでは2ヶ月以下で最終判断を下す。以上の流れを図11-1に示す。

図 11-1 「カ」国環境影響評価に係わる行政手続き



11-3 カザフスタンの環境関連法英文仮訳

1. 国家エコロジカルエキスパティーズ (SEE) 法

LAW OF THE REPUBLIC OF KAZAKHSTAN ON ENVIRONMENTAL EXPERT ASSESSMENT

This Law shall govern public relations in the sphere of environmental expert assessment to prevent adverse impact of management, business and other operations on environment, life and health of the people of the Republic of Kazakhstan,

Chapter 1, General Provisions

Article 1. Terms and Definitions

Environmental assessment shall mean the determination of business and other operations compliance with environment quality standards and environment requirements, feasibility of scheduled projects to prevent their possible adverse impact on environment and relating consequences,

Customer of documents to be subjected to expert assessment shall be a legal entity or individual generating the design order and funding scheduled operation.

Assessment initiator shall be a legal entity or individual, including the customer, demanding state or public environmental assessment.

Implementation of the assessed project shall mean the start and carrying out the construction, operation, abandonment of industrial or other facilities, provision of services, launch of products and technologies under solutions contained in designs and specifications, the enactment of laws and other actual operation of the assessed project.

Environmentally hazardous operations shall mean direct and indirect operations, including management and investments, which adversely impact or may adversely impact people's health and environment.

Environmentally hazardous facility shall mean the subject of the assessment which, when implemented, may adversely impact or adversely impacts people's health and environment.

Environmental risk shall mean the probability of consequences unfavourable for environment and people's health resulting from any man-induced modification of natural objects and factors (whether willful, incidental, gradual or disastrous).

Article 2. Legislation of the Republic of Kazakhstan on Environmental Expert Assessment

Legislation of the Republic of Kazakhstan on environmental expert assessment shall be based on the Constitution of the Republic of Kazakhstan and consist of this Law and other regulations of the Republic of Kazakhstan governing the issues of environmental expert assessment.

Article 3. Objectives of Environmental Expert Assessment

Objectives of environmental expert assessment shall be to:

- 1) prevent possible negative influence of scheduled management, business, investment and other operations on peoples health and environment;
- 2) assess the compliance of scheduled management, business, investment and other operations with environmental requirements at stages preceding implementation decisions and during construction and implementation;
- 3) provide for expert assessment of forecast environment modifications resulting from the implementation and development of productive force,

Article 4. Tasks of Environmental Expert Assessment

Environmental expert assessment shall be performed to,

- 1) establish the completeness and accuracy of the expert appraisal of scheduled management, business, investment and other operations impact on environment and people's health, including analysis of possible social, economic and environmental consequences.
- 2) to arrange a comprehensive scientifically justified analysis and assessment of scheduled management, business, investment and other operations impact on environment and people's health;
- 3) to *check* compliance of assessed specifications with environmental requirements specified in laws, standards, regulations and rules of the Republic of Kazakhstan applicable within the Republic of Kazakhstan;
- 4) to prepare expert assessment findings to be presented to decision-making authorities and provide concerned agencies and broad public with necessary information.

Article 5. Principles of Environmental Expert Assessment

Environmental expert assessment shall be guided by the following principles:

- 1) compulsory conduct of state environmental expert assessment;
- 2) interaction with control and supervisory divisions of ministries, state committees and departments, other central and local executive authorities;
- 3) unbiased and scientific substantiation of expert assessment findings;
- 4) independent expert agencies and experts;
- 5) transparency;
- 6) complex nature of expert assessment and the diversity of its types;
- 7) priority of environmental, medical and biological concerns.

Article 6. Objects of Environmental Expert Assessment

1. Objects of environmental expert assessment shall be:
 - 1) plans, designs and project specifications, agreements, contracts relating to nature management, including international treaties;
 - 2) draft laws and regulations to be adopted in the Republic of Kazakhstan and impacting environment and people's health;
 - 3) assessments of nature managers compliance with requirements to the protection of environment and people's health (environmental audit) in the process of business operations;
 - 4) documents submitted for the purpose of environmental justification with applications for licences for and certificates of natural resources use and environment protection.
2. Objects of environmental expert assessment shall also include findings of complex examination of areas to be assigned special legal status (natural reserves, environmentally unfavourable zones, etc.).

Article 7. Subjects of Environmental Expert Assessment

Subjects of environmental expert assessment shall be-

- 1) central executive authorities of the Republic of Kazakhstan in charge of environment protection and their local branches as regards organization and conduct of any state environmental expert assessment;
- 2) ministries, state committees, other central and local executive authorities involved in state environmental expert assessment by central executive authorities of the Republic of Kazakhstan in charge of environment protection and their local branches;
- 3) public environment protection associations, research institutions and their environmental assessment divisions;
- 4) individuals engaged to conduct environmental expert assessment.

Article 8. Types of Environmental Expert Assessment

1. Initiators of environmental expert assessment shall announce its conduct in mass media. When necessary, such announcement shall also be published by environmental assessment agencies.

2. Upon completion of environmental assessment responsible agencies shall within one month publish their findings in mass or other media.

Chapter 2. Powers of Public Authorities of the Republic of Kazakhstan Responsible for Environmental Expert Assessment

Article 10. Powers of the Government of the Republic of Kazakhstan and Central Executive Authorities Relating to Environmental Expert Assessment

1. The Government of the Republic of Kazakhstan shall:
 - 1) when appropriate, co-operate with foreign states in the conduct of state environmental expert assessment of facilities and complexes located within such states and affecting interests of the Republic of Kazakhstan;
 - 2) establish the procedure of co-operation of state and other environmental assessment agencies;
 - 3) perform other functions relating to environmental expert assessment subject to applicable law of the Republic of Kazakhstan.
2. Ministries, state committees and departments shall:
 - 1) cause and arrange performance of interstate and state programmes as regards requirements to environmental expert assessment;
 - 2) arrange the implementation of scientific and technological solutions based on environmental assessment recommendations;
 - 3) provide broad public with reliable information on environmental assessment findings;
 - 4) perform other functions relating to environmental expert assessment subject to applicable law, environment protection regulations and rules of the Republic of Kazakhstan.

Article 11. Powers of Central Executive Authorities of the Republic of Kazakhstan and Central Executive Authorities Relating to Environmental Protection

1. Central executive authorities of the Republic of Kazakhstan responsible for environment protection and their local branches shall be exclusively entitled to conduct state environmental expert assessment.
2. Within their powers central executive authorities responsible for environment protection shall:
 - 1) arrange and conduct state environmental expert assessment;
 - 2) co-ordinate environmental assessments in the Republic of Kazakhstan, methodic regulation of environmental assessment irrespective of departmental subordination and ownership;
 - 3) prepare and duly approve instructions and methodic guides for the assessment of impact on environment and state environmental expert assessment, including their procedures;
 - 4) co-ordinate and approve regulations for business and other operations providing for due regard for environmental requirements;
 - 5) co-ordinate research of environmental impact for environmental expert assessment;
 - 6) control and co-ordinate compliance of appropriate ministries, departments and institutions with environment protection requirements and rules during the development of plans, designs and specifications;
 - 7) duly co-operate with foreign environmental assessment agencies to conduct consultations, joint assessments, exchange results of research and methods, involve foreign specialists;
 - 8) provide for adequate training of experts engaged in state environmental assessment agencies, other concerned associations and entities;
 - 9) duly issue licences for environment protection designs, standards and operations relating to environmental assessment;
 - 10) appoint expert commissions, engage as guest experts qualified domestic and foreign scientists, representatives of ministries, state committees and other central and local executive authorities, public associations and environment protection movements;
 - 11) obtain from ministries, state committees, other central and local executive authorities and legal entities reference and other materials required for state environmental expert assessment;

- 12) exercise control over compliance of ministries, state committees, legal entities with resolutions and requirements state environmental expert assessment during project implementation.

Article 12. Powers of Local Representative and Executive Authorities

Local representative and executive authorities shall:

- 1) determine sources of environmental assessment funding;
- 2) exercise control over compliance of environmental assessment with requirements of applicable law,
- 3) inform people on the results of environmental assessment conducted on their decisions.

Executive authorities shall execute agreements for expert assessment with special expert agencies and individuals.

Chapter 3. State Environmental Expert Assessment

Article 13. Forms of State Environmental Expert Assessment

1. State environmental expert assessment shall mean a type of expert operations performed by central executive authorities of the Republic of Kazakhstan in charge of environment protection and their local branches. Such assessment shall be conducted before making any legal, organizational and economic decisions relating to nature management and impact on environment and people's health. Implementation of projects lacking findings of state environmental expert assessment shall be prohibited.
2. State environmental expert assessment shall be repeatedly conducted in the event of nature management modification upon adjustments based of comments of earlier state assessment on court orders or may be initiated by the Government and central executive authorities of the Republic of Kazakhstan responsible for environment protection.

Article 14. Documentation and Materials Subjected to State Environmental Expert Assessment

State environmental expert assessment shall apply to objects referred to in Article 6 of this Law irrespective of their departmental subordination and ownership, including:

- 1) any plans, designs, projects, forecasts, environmental and other programmes, basic operation concepts, state investment projects, agreements, contracts, including those implying changes of ownership and other forms of privatization, projects of productive force development and location;
- 2) draft complex projects (if water, forest, land and other natural resources protection, including projects of environment rehabilitation and land recultivation);
- 3) findings of complex area environmental examinations;
- 4) draft general development layouts prepared for cities and territories, including special economic zones and areas of special nature management and economic regime;
- 5) feasibility studies and projects of construction, reconstructions, development, re-equipment, remodelling and abandonment of productions facilities and complexes, buildings and structures, biological justifications of the development and use of fauna and flora resources;
- 6) documentation substantiating environmental requirements to new equipment, technology, materials and substances, including those purchased abroad, documentation supporting permits (licenses) for the withdrawal (and use) of natural resources;
- 7) draft laws, regulations, technical standards and instructions relating to environmental (including radiation) safety, environment protection and efficient nature management during business and other operations;
- 8) assessment of regional ecological situations resulting from hazardous natural phenomena, business and other operations (requested by public associations, local representative and executive authorities);
- 9) records of assessment of existing production facilities adversely impacting environment (on resolutions of supervising authorities, local representative and executive authorities);
- 10) other materials and documentation on resolutions of central executive authorities of the Republic of Kazakhstan responsible for environment protection.

Article 15. Requirements to Documentation Submitted for State Environmental Expert Assessment

1. Documentation submitted for state environmental expert assessment shall contain:
 - 1) complex environmental, social and economic appraisal of scheduled operations impact on environment and people's health over the period of such operations and the statement of ecological consequences of such operations;
 - 2) approvals of scheduled business operations by central and local executive authorities and public opinion obtained in the manner established by central executive authorities of the Republic of Kazakhstan in charge of environment protection.
2. Documentation submitted for state environmental expert assessment shall contain resolutions on:
 - 1) implementation of efficient materials, power-saving, low-waste and waste-free technologies;
 - 2) efficient use and reproduction of natural resources, complex recycling and utilization of industrial and consumption waste;
 - 3) efficient wastewater treatment and its use for production purposes prohibiting non-treated wastewater discharge into natural streams and water basins and terrain;
 - 4) efficient - and guaranteed arrangements providing for the atmosphere protection from pollution;
 - 5) preservation and restoration of soil, vegetation and fauna, strict compliance with preserve status assigned to natural objects;
 - 6) protection of people and environment from adverse impact of man-induced physical, chemical and biological factors.
3. Expert divisions of central executive authorities of the Republic of Kazakhstan in charge of environment protection may request additional information required for state environmental expert assessment.

Article 16. Assessment of Impact on Environment

1. Assessment of the impact on environment and people's health shall be provided by initiators of scheduled business operations and owners of operated facilities or central and local executive authorities.
2. Assessment of the impact on environment and people's health shall be a compulsory and integral part of designs and specifications and shall be initiated for operated facilities by republic and regional supervisory agencies, central executive authorities, local public associations, courts of law, offices of public prosecutors and facilities proper or resolved by central executive authorities of the Republic of Kazakhstan in charge of environment protection and their local branches.
3. Assessment of the impact on environment shall be conducted at all design states and take into account:
 - 1) the state of local environment;
 - 2) alternative ways of achieving set business objectives, including rejection of scheduled business operations;
 - 3) prospects of regional social and economic development;
 - 4) other requirements of applicable environmental law of the Republic of Kazakhstan.
4. Assessment of the impact on environment shall include:
 - 1) types and extent of impact of scheduled operations on environment, including environmental risk;
 - 2) forecasts of environment modifications resulting from the implementation of scheduled operations and their social and economic consequences;
 - 3) arrangements for environment protection during scheduled operations;
 - 4) compliance with all applicable regulations.
5. Upon completion of the assessment the customer shall prepare and submit assessment results including the statement of ecological consequences of scheduled or existing business operations to obtain a resolution on their implementation.

Article 17. Powers of Managers of Expert Divisions Performing State Environmental Expert Assessment

1. Managers of expert divisions may:
 - 1) duly appoint environment expert commissions, teams, other groups to conduct environmental assessment, engage under contracts highly qualified domestic and foreign specialists and scientists, including foreigners and legal entities;
 - 2) exercise control over expert divisions (institutions, organizations), appointed commissions and teams;
 - 3) head environmental expert assessment boards and arrange their operations;
 - 4) determine expert assessment methods;
 - 5) reject submitted materials non-complying with environmental standards and regulations;
 - 6) return for correction documents and materials containing calculation errors and other inconsistencies requiring additional research, surveys or funds;
 - 7) sign findings of environmental assessment;
 - 8) revoke earlier positive expert opinions in case of newly discovered circumstances hazardous for environment or the customer non-compliance with requirements of such opinions;
 - 9) request additional scientific, design, methodic and other materials required for expert assessment;
 - 10) present materials on facilities denied positive expert opinion to banks and other funding institutions;
 - 11) prepare and deliver appropriate materials to law enforcement and other authorities to bring actions against persons violating applicable law of the Republic of Kazakhstan.
2. Managers of expert divisions shall be head environment experts of districts, cities, regions and the Republic of Kazakhstan.

Article 18. Warranties of Independent Operation of State Environmental Assessment Managers

1. Managers of environmental assessment divisions shall independently manage and perform environmental assessments and act as specified in this Law and other regulations of the Republic of Kazakhstan.
2. Independence of managers of environmental assessment divisions shall also be proclaimed in appropriate statutes approved by central executive authorities of the Republic of Kazakhstan responsible for environment protection and including:
 - 1) procedure of their appointment and dismissal;
 - 2) other provisions consistent with the applicable law of the Republic of Kazakhstan on public service.

Article 19. Expert Commissions for State Environmental Expert Assessment

1. Expert commissions shall be formed to perform environmental assessment of particular facilities by authorities empowered to appoint, initiate and conduct state or public environmental assessment. Expert commissions shall contain groups in charge of different assessment lines.
2. Results of the expert commission operations shall be presented in the form of their common findings. The format, contents, procedure of implementing and contesting such findings shall be specified by expert divisions appointing environmental assessment also stipulating proceedings of the expert commission.
3. Expert commissions shall be assigned rights and responsibilities established by appointing agencies subject to applicable law of the Republic of Kazakhstan.

Article 20. State Environment Expert

1. The state environment expert shall be a person possessing special knowledge and experience required for environmental assessment and duly engaged by expert divisions.
2. The state environment expert may not be a representative of the customer of the documentation submitted for expert appraisal or a project designer nor legal entities and individuals maintaining labour or other contracted relations with the customer or designer.
3. The state environment expert shall bear responsibility for its findings as specified by applicable law of the Republic of Kazakhstan.
4. The state environment expert may:
 - 1) request additional information significant for a comprehensive and unbiased appraisal subject to Article 15 hereof,
 - 2) engage highly qualified specialists;

- 3) make proposals for improving the assessment procedure, methods and principles;
- 4) express an independent opinion about the assessed object to be attached to the state environmental assessment findings.
5. The state environment expert shall:
 - 1) provide for integrated, unbiased, high-quality assessment;
 - 2) comply with requirement of the law on environmental assessment and other regulations;
 - 3) be guided by applicable standards and rules;
 - 4) comply with approved assessment schedules and procedures;
 - 5) prepare a justified opinion and timely submit it to authorities resolving on the implementation and customers;
 - 6) give valid reasons and justifications of expert findings if further consideration is rejected or submitted materials are returned for correction,
 - 7) provide for safe custody of submitted materials, co-ordinate its operations with confidential documents with their proprietors and avoid disclosure of received information.

Article 21. Guarantees of State Experts' Rights

1. Public authorities, legal entities and officials shall be prohibited to interfere in environmental assessment conducted by state experts unless such experts violate applicable law of the Republic of Kazakhstan.
2. Violated rights of state experts, including pecuniary losses and moral damage shall be protected judicially and administratively and persons guilty of such violations shall bear responsibility under applicable law of the Republic of Kazakhstan.

Article 22. State Environment Expert Boards

1. Environmental assessment divisions of central executive authorities of the Republic of Kazakhstan in charge of environment protection shall appoint expert boards as special advisory bodies regulated by appropriate statutes.
2. Statutes on expert boards of central executive authorities, their regional, city and district branches and the composition of such boards shall be prepared and approved respectively by heads of central executive authorities of the Republic of Kazakhstan in charge of environment protection and their local branches.
3. Experts boards may consist of officials of environment protection agencies, scientists engaged in research institutions and colleges, highly-qualified practitioners and public representatives.

Article 23. Powers of State Environment Expert Boards

1. State environment expert boards shall have jurisdiction over:
 - 1) discussion of complex issues of environmental safety, environment protection, use and reproduction of natural resources for the purpose of environmental assessment;
 - 2) review of environmental assessment findings relating to particularly environmentally hazardous facilities;
 - 3) prepare proposals for environmental assessment improvement.
2. Expert boards shall also perform other functions specified in their statutes.

Article 24. Procedure of State Environmental Expert Assessment

1. This procedure shall include a number of stages at which expert divisions shall perform assessment and prepare justified and unbiased expert opinions.
2. The procedure of state environmental expert assessment shall include:

- 1) recording of assessment applications;
 - 2) preliminary assessment, i.e. establishing the availability and completeness of submitted information and data, including assessment of scheduled operations impact on environment and their compliance with applicable law of the Republic of Kazakhstan and requirements;
 - 3) basic assessment of necessary scope including analytical processing of the said information, comparison and appraisal of environmental hazards, adequacy and sufficiency of the implementation substantiation;
 - 4) final stage including summarizing of particular expert opinions and results, preparation of a common expert opinion and findings, approval or rejection.
3. Expert divisions may reject assessment applications when:
- 1) the customer fails to present documents referred to in Article 15 of this Law;
 - 2) presented assessments of impact on environment or statements of ecological consequences do not meet established requirements or contain erroneous data making unbiased decisions impossible.

Article 25. Conduct of State Environmental Expert Assessment

State environmental expert assessment shall be conducted by:

- 1) full-time employees of expert divisions within central executive authorities of the Republic of Kazakhstan in charge of environment protection and their local branches;
- 2) expert commissions appointed by central executive authorities of the Republic of Kazakhstan in charge of environment protection and their local branches engaging outside experts;
- 3) interindustry expert commissions appointed by central executive authorities of the Republic of Kazakhstan in charge of environment protection.

Article 26. Period of State Environmental Expert Assessment

1. State environmental expert assessment shall be completed within a period of three months that may be extended to maximum six months subject to the volume and contents of presented documentation. Any extension over six months may only be requested by the customer obliged to guarantee additional payment.
2. State environmental expert assessment shall be deemed commenced upon receipt by expert divisions of all required documents subjected to preliminary expert appraisal and the presentation by the customer of Payment orders. Preliminary expert appraisal shall not last longer than two weeks.
3. The state expert assessment period shall be determined and extended by central executive authorities of the Republic of Kazakhstan responsible for environment protection.

Article 27. Findings of State Environmental Expert Assessment

1. State environmental expert assessment shall be completed by preparing expert findings specifying whether the scheduled operations implementation may be permitted.
2. Upon approval by central executive authorities of the Republic of Kazakhstan responsible for environment protection conclusions and proposals of the expert findings shall become binding on all legal entities and individuals.
3. In case of negative findings the customer shall make corrections according to the findings' proposals and submit all documents for a new expert appraisal within an established period or give up scheduled operations.
4. State and commercial banks and other financial institutions "I not fund and implement projects lacking positive findings of state environmental expert assessment.

Article 28. Term of Expert Findings

Positive findings of state environmental expert assessment relating to designs and specifications shall be valid for two years of the date of their issue till the launch of construction and those relating to the documentation of operating or constructed enterprises for a term of five years.

Chapter 4. Public Environmental Assessment

Article 29. Application of Public Environmental Assessment

1. Public environmental assessment shall mean voluntary activities carried out by expert commissions formed by people, public associations, and scientific institutions to perform environmental assessment of any types of operations. Public environmental assessment may be conducted independently for facilities subjected to state environmental expert assessment.

2. Public environmental assessment shall generate information findings and recommendations.

Article 30. Powers of Public Associations in the Sphere of Environmental Assessment

Management of public associations engaged in environmental assessment shall perform such assessment according to their charters and statutes and in compliance with applicable law of the Republic of Kazakhstan.

Article 31. Procedure of Public Environmental Assessment

1. Procedure of public environmental assessment shall include:

- 1) state registration of scheduled public environmental assessment;
- 2) announcement of the assessment in mass media;
- 3) preparation of public assessment findings;
- 4) publication of public assessment findings in mass media.

2. The announcement referred to above shall indicate the assessment initiator, location of the public expert team and assessed projects.

Article 32. State Registration of Public Environmental Assessment

1. Public environmental assessment shall be registered by local executive authorities in the manner stipulated by central executive authorities of the Republic of Kazakhstan in charge of environment protection.

2. Registration applications shall contain the composition of public expert teams, projects subjected to public assessment and the period of such assessment.

Chapter 5. Environmental Assessment Finding

Article 33. Funding of State Environmental Expert Assessment

1. State environmental expert assessment shall be funded from the Republic's and local budgets, payments for expert appraisal and allocations by nature protection funds.

2. State expert assessment shall be funded by initiators of business operations (customers) as specified by the Government of the Republic of Kazakhstan.

Article 34. Funding of Public Environmental Assessment

Public environmental assessment shall be funded by public environment protection associations- and foundations or by volunteers.

Chapter 6. Rights and Responsibilities of Applicants for Environmental Assessment

Article 35. Rights of Customers of Documentation Subjected to Environmental Assessment

Customers may:

1) present written or oral explanations, comments and proposals relating to assessed facilities or particular designs and substantiations;

- 2) familiarize themselves with preliminary and final findings of environmental assessment;
- 3) demand additional, repeated or control environmental assessment;
- 4) timely make corrections and amendments not requiring detailed research and calculations;
- 5) terminate agreements for public expert services in case of non-compliance with applicable law of the Republic of Kazakhstan, terms of such agreements or customers' rights;
- 6) apply to courts of law for indemnity against damage caused by violation of applicable law of the Republic of Kazakhstan during environmental assessment.

Article 36. Responsibilities of Customers of Documentation Subjected to Environmental Assessment

Customers shall:

- 1) prepare and present high-quality information required for environmental assessment;
 - 2) provide subjects of environmental assessment with required materials and consultations, data, estimates, additional developments relating to assessed facilities;
 - 3) resolve on further implementation of scheduled operations subject to public opinion.
- In case of state environmental expert assessment customers shall:
- 1) make due payments;
 - 2) comply with instructions and recommendations related in expert findings, timely eliminate all shortcomings and errors;
 - 3) submit projects for repeated assessment within periods specified by expert agencies.

Chapter 7. Settlement of Differences Connected with Environmental Expert Assessment

Article 37. Settlement of differences connected with environmental expert assessment

1. Differences arising between state environmental experts and customers reflected in statements of differences shall be settled by central executive authorities of the Republic of Kazakhstan in charge of environment protection in co-operation with the state expert agency issuing findings and the customer.

2. Generally such differences shall be settled within one month of the receipt of the statement of differences and other required materials. When necessary, this period may be extended to three months by central executive authorities of the Republic of Kazakhstan responsible for environment protection.

3. Adopted resolutions may be appealed in courts of law ruling the liability of entities and officials according to applicable law of the Republic of Kazakhstan.

4. Property disputes connected with environmental expert assessment shall be settled judicially.

5. Differences arising from public environmental assessment may be settled in accordance with this Article.

Article 38. Invalidation of Expert Findings

1. Expert findings may be invalidated if their preparation was connected with:

- 1) non-compliance with the established procedure;
- 2) non-compliance with or distortion of environmental standards and regulations, requirements of environmental safety, efficient use and reproduction of natural resources;
- 3) violation of people's right for favourable environment, other environmental rights and interests, rights of expert assessment participants;
- 4) other events violating the rights of parties engaged in environmental assessment.

2. Environmental assessment agencies shall bear responsibility for their resolutions under applicable law of the Republic of Kazakhstan.

Chapter 8. Types of Non-Compliance with the Environment Protection Law of the Republic of Kazakhstan in Respect of Environmental Expert Assessment

Article 39. Types of non-compliance with the environment protection law of the Republic of Kazakhstan in respect of environmental expert assessment

1. Any of the following events shall be deemed non-compliance with the environment protection law of the Republic of Kazakhstan in respect of environmental expert assessment:
 - 1) non-observance of the established procedure of state environmental expert assessment;
 - 2) forging of environmental assessment findings;
 - 3) violation of the procedure set forth for the publication of expert findings, including prior to the approval of final findings;
 - 4) issue of environment protection licenses or construction or other operations without positive findings of state environmental expert assessment;
 - 5) deviation from the procedure of expert commission appointment and proceedings;
 - 6) environmental expert assessment performed by unlicensed entities, public associations and other organizations;
 - 7) non-compliance with the requirements to environmental safety, environment protection, efficient use and reproduction of natural resources during environmental assessment;
 - 8) preventing the arrangement and conduct of public environmental assessment;
 - 9) failure to provide expert agencies and organizations with required materials, information and data;
 - 10) compelling experts to unjustified environmental assessment or generation of distorted and biased findings;
 - 11) non-performance of legally established expert functions or obligations provided by agreements for expert services;
 - 12) unreasonable rejection to register state or public environmental expert assessment.
2. Law of the Republic of Kazakhstan may specify other types of non-compliance with the environment protection law in respect of environmental expert assessment

Article 40. Responsibility for Non-Compliance with the Law on Environmental Expert Assessment of the Republic of Kazakhstan

Legal entities and individuals, foreign citizens and stateless persons leased or managing business facilities within the Republic of Kazakhstan shall be responsible for non-compliance with laws and regulations on environmental expert assessment under applicable law of the Republic of Kazakhstan,

Chapter 9. International Co-operation in Environmental Expert Assessment

Article 41. International co-operation in environmental expert assessment

1. International co-operation in environmental expert assessment shall provide for environmental safety of people, environment protection and efficient use of natural resources under appropriate agreements.
2. If international agreements ratified by the Republic of Kazakhstan stipulate other rules than those specified in the law on environmental expert assessment of the Republic of Kazakhstan rules of international agreements shall prevail.
3. Tim Government or central executive authorities of the Republic of Kazakhstan in charge of environment protection may initiate international environmental expert assessment.

President of the Republic of Kazakhstan
N.NAZARBAEV

Almaty, March 18, 1997