

Chapter 9. Environmental assessment

Article 104. General provisions on environmental assessment in the Republic of Kazakhstan

1. Environmental assessment refers to expert activities aimed at establishing compliance of the documentation which is the subject to environmental assessment with environmental legislation requirements and carried out in order to prevent possible adverse effects on the environment and public health and to ensure the ecological basis for sustainable development of the Republic of Kazakhstan.
2. The following types of environmental assessment are carried out in the Republic of Kazakhstan
 - 1) state environmental assessment;
 - 2) environmental assessment of projects in the field of construction and urban planning of territories (hereinafter - environmental assessment of projects);
 - 3) public environmental assessment.

Article 105. State environmental assessment

1. State environmental assessment is organized and conducted within their competence by the authorized body in the field of environmental protection and local executive bodies of regions (cities of republican significance, the capital) in the manner established by the environmental legislation of the Republic of Kazakhstan.
2. The following types of documents are subject to mandatory state environmental assessment:
 - 1) Category I documents:
 - pre-project and project documentation of the planned activity relating to the objects of category I, with the accompanying materials of the environmental assessment;
 - draft standards for emissions to the environment, related to objects of the first category;
 - drafts of normative legal acts of the Republic of Kazakhstan, normative-technical and instructional-methodological documents developed by the central state bodies, the implementation of which can lead to negative consequences for the environment;
 - projects of natural science and feasibility studies on the creation and expansion of specially protected natural areas, the abolition of state natural reserves and state protected zones of republican significance and the reduction of their territory;
 - biological rationales for the extraction and use of plant and animal life resources;
 - survey materials justifying the assignment of these territories to zones of ecological disaster or environmental emergency;

projects of economic activity that may have an impact on the environment of neighboring states or for the implementation of which it is necessary to use common objects with neighboring states or which affect the interests of neighboring states, including the “Baikonur” complex defined by international treaties of the Republic of Kazakhstan;

2) Category II documents:

Pre-project and project documentation of the planned activity relating to objects of category II in accordance with Article ____ of this Code, with its accompanying materials for environmental assessment;

draft standards for emissions to the environment, related to objects of category II in accordance with Article ____ of this Code;

drafts of normative legal acts of the Republic of Kazakhstan, normative-technical and instructional-methodological documents developed by local state administration bodies, the implementation of which can lead to negative consequences for the environment.

3) Category III documents:

materials about the possibility of destruction of goods placed under the customs procedure for destruction, providing for the possibility of burial, neutralization, recycling or destruction of goods by other means, as well as waste resulting from the destruction of goods, indicating the method and place of destruction.

3. The requirements of the first part of this clause do not apply to projects (feasibility studies and design and estimate documentation) for the construction and operation of facilities of categories II, III and IV, the construction of which is planned in the territory of existing or liquidated facilities of category I.

For projects (feasibility studies and design and estimate documentation) for the construction and operation of facilities of the first category, the state environmental assessment is carried out by an authorized body in the field of environmental protection as part of a comprehensive departmental assessment of construction projects. In such cases, environmental assessment of projects is not carried out.

4. Project documents in the field of subsoil use, which in accordance with the Code of the Republic of Kazakhstan "On Subsoil and Subsoil Use" are coordinated with the authorized body in the field of environmental protection, are not subject to mandatory state environmental assessment.

Article 106. Authorities carrying out state environmental assessment;

1. The state environmental assessment of documents of the first category is carried out by the authorized body in the field of environmental protection.
2. The state environmental assessment of documents of categories II and III is carried out by local executive bodies of the regions (cities of republican significance, the capital).

3. The authorized body in the field of environmental protection has the right to transfer part of the functions of the state environmental assessment, which is within its competence, to its territorial divisions.

Article 107. The procedure for conducting the state environmental assessment

1. Documentation for the state environmental assessment is presented in electronic form:
 - 1) the client (investor) of the planned management, economic, investment and other activities or a person authorized by him on the basis of a power of attorney;;
 - 2) the head of the state body that develops draft regulatory legal acts and plans that are subject to state environmental assessment.
2. The procedure for conducting state environmental assessment is determined by the authorized body in the field of environmental protection

Article 108. Dates of the state environmental assessment

1. State environmental assessment is carried out during:
forty five working days for category I documents;
thirty working days for category II documents;
fifteen working days for category III documents,
from the date of submission by persons specified in paragraph 1 of Article __ of this Code, a full package of documents determined by the procedure for conducting a state environmental assessment.

2. After receiving the documentation in accordance with Article ___ of this Code, the body issuing the conclusion of the state environmental assessment examines the documents for their completeness in period:

no more than five working days - for category I documents;

no more than three working days - for documents II and III categories.

In case of submission of an incomplete package of documents, the documents are subject to return to the person who submitted them.

3. If there are comments on the projects and the materials attached to them submitted for the state environmental assessment, the experts send such comments to the person who submitted them within:

twenty-five working days - for the category I documents, which are corrected by the client within ten working days from the date of issue of comments;

fifteen working days - for the category II documents, which are corrected by the client within five working days from the date of issue of the comments;

seven working days - for the category III documents, which are corrected by the client within three working days from the date of issue of comments.

4. In the case of non-correction of comments, a negative conclusion of the state environmental assessment is issued in the appropriate timeframes specified in paragraph 1 of this Article.
5. In case of correction of previously sent comments, a positive conclusion of the state environmental assessment.
6. State environmental assessment carried out on projects as part of a comprehensive off-site assessment of construction projects or a comprehensive city-planning assessment of city-planning projects is carried out in the manner and time specified by the legislation of the Republic of Kazakhstan on architectural, city-planning and construction activities.

Article 109. The conclusion of the state environmental assessment

1. The conclusion of the state environmental assessment is issued on the basis of the results of its implementation
2. The positive conclusion of the state environmental assessment contains conclusions on the admissibility and the possibility of making a decision on the implementation of the environmental assessment facility.
3. Under the implementation of the object of assessment is the beginning and the progress of work on the construction, operation, liquidation of industrial and other objects, the provision of services, the receipt of products and technologies for commercial use in accordance with the decisions provided for by the preliminary, pre-project and project documentation, as well as the introduction of regulatory legal Act, other actual implementation of the object of assessment.
4. It is not allowed to implement the object of assessment without prior receipt of a positive conclusion of the mandatory state environmental assessment.
5. Financing of the implementation of projects of the planned activity, for which it is obligatory to conduct a state environmental assessment by second-tier banks and other financial organizations of the Republic of Kazakhstan, is prohibited without a positive conclusion of the state environmental assessment.
6. The conclusion of the state environmental assessment is signed by the heads of expert departments of the authorized body in the field of environmental protection, territorial units of the authorized body in the field of environmental protection in the relevant territory or by the head of the expert department of local executive bodies of regions, cities of republican significance, the capital within their competence.
7. The positive conclusion of the state environmental assessment to the project documentation is valid for three years from the date of its issuance.

8. The cancellation of a positive conclusion of the state environmental assessment is carried out by the body that issued it, on the basis of a written request or the consent of the person to whom such an opinion was issued.
9. If a violation of the requirements of the environmental legislation of the Republic of Kazakhstan is identified, the deprivation (recall) of a positive conclusion of the state environmental assessment is carried out in a court of law.

Article 110. The rights of the heads of expert departments conducting state environmental assessment

1. Heads of expert departments carrying out state environmental assessment are entitled to:
 - 1) create, in accordance with the established procedure, environmental expert commissions, groups for carrying out state environmental assessment, involve domestic and foreign specialists, as well as legal entities in the work;
 - 2) monitor the activities of expert units, commissions and groups established;
 - 3) head the expert councils of the state environmental assessment, organize their activities;
 - 4) determine the methods of the state environmental assessment;
 - 5) reject materials submitted to the state environmental assessment that do not meet the requirements of the environmental legislation of the Republic of Kazakhstan;
 - 6) return for revision documents and materials containing errors in calculations and other violations, the correction of which requires additional research, prospecting or the allocation of additional funds;
 - 7) sign state environmental assessment reports;
 - 8) request additional materials necessary for carrying out state environmental assessment;
 - 9) submit to banks and other financial organizations information about the objects of assessment that have not received a positive conclusion of the state environmental assessment;
 - 10) prepare and transfer relevant materials to law enforcement and other authorities to resolve issues of bringing to justice those responsible for violation of the legislation of the Republic of Kazakhstan.
2. When organizing and conducting a state environmental assessment, the heads of expert departments are independent and act in accordance with the environmental legislation of the Republic of Kazakhstan.
3. Independence of heads of expert divisions is ensured by regulations on them, approved by the authorized body in the field of environmental protection and local executive

bodies, including the procedure for their appointment and dismissal and other conditions that do not contradict the legislation of the Republic of Kazakhstan.

Article 111. Expert of the State environmental assessment

1. The expert of the state environmental assessment is a person who has special knowledge and has sufficient experience necessary to conduct an environmental assessment, and is engaged in the prescribed manner by a state environmental assessment body to conduct state environmental assessment..
2. The expert of the state environmental assessment cannot be a representative of the client of the documentation subject to the environmental assessment, or the developer of the state environmental assessment facility, as well as individuals and legal entities who are in labor or other contractual relations with the client or developer.
3. The expert of the state environmental assessment is responsible for the assessment performed by him in accordance with the laws of the Republic of Kazakhstan..
4. The intervention of state bodies, individuals, legal entities and officials in the activities of an expert related to the conduct of a state environmental assessment is prohibited.
5. The violated rights of an expert of the state environmental assessment are subject to protection in a judicial and administrative procedure and the persons guilty of this violation shall be liable in accordance with the laws of the Republic of Kazakhstan.
6. The expert of the state environmental assessment has the right to:
 - 1) require the submission of additional materials that are relevant for a comprehensive and objective assessment of the object of state environmental assessment, within the time limit established in Article ___ of this Code;
 - 2) additionally involve specialists in environmental assessment;
 - 3) make proposals for improving the organization of the work of the assessment, methodology, procedure and principles for its implementation;
 - 4) form a special opinion on the object of state environmental assessment, which is attached to the conclusion of state environmental assessment.
7. The expert of the state environmental assessment is obliged to:
 - 1) provide comprehensive, objective and high-quality state environmental assessment;
 - 2) comply with the requirements of the environmental legislation of the Republic of Kazakhstan;
 - 3) conduct state environmental assessment based on current rules and regulations;
 - 4) observe the deadlines and procedure for carrying out state environmental assessment;

- 5) prepare well-reasoned conclusions of the state environmental assessment and timely transmit them to the authorities that make the decision on the implementation of the object of assessment, and clients;
- 6) when rejecting the objects under assessment from further consideration or returning the materials substantiating them for revision, objectively evaluate and substantiate the conclusions of the state environmental assessment;
- 7) ensure the safety of materials and coordinate their actions with regard to confidential documents with their owner, prevent disclosure of information entrusted to him.

Article 112. Attraction of external experts in the process of carrying out state environmental assessment

1. If conducting a state environmental assessment requires the involvement of external experts, state environmental assessment agencies have the right to apply for expert opinions to other state bodies, other organizations, as well as to individual specialists.
2. Involvement of external experts is carried out by the authorized body in the field of environmental protection, local executive bodies of regions, cities of republican significance, the capital in accordance with the legislation of the Republic of Kazakhstan on public procurement.

Article 113. Expert Councils of the State Environmental Assessment

1. When an authorized body in the field of environmental protection is created, expert councils of the state environmental assessment are consultative and advisory bodies and act in accordance with the provisions on them.
2. Provisions on expert councils of the state environmental assessment of the authorized body in the field of environmental protection, their personal compositions are approved by the heads of the authorized body in the field of environmental protection and its territorial bodies.
3. The members of the expert councils of the state environmental assessment may be officials of state bodies whose functions are related to environmental protection, scientists from research institutions, higher educational institutions, practitioners and members of the public..
4. The competence of the expert councils of the state environmental assessment are:
 - 1) discussion of complex problems of ensuring environmental safety, environmental protection, use and reproduction of natural resources during environmental assessment;
 - 2) consideration of the conclusions of the state environmental assessment regarding objects of increased environmental hazard.

Article 114. Publicity of State Environmental Assessment

1. Publicity of state environmental assessment and public participation in decision-making on environmental issues and the use of natural resources are ensured through public hearings.

2. All interested individuals and legal entities, public associations are given the opportunity to express their opinions during the state environmental environmental assessment.

3. The conclusion of the state environmental assessment shall be posted on the Internet resource of the relevant local executive body within five working days after its issuance.

4. Individuals and legal entities, public associations have the right to challenge the conclusion of the state environmental assessment in the manner prescribed by the legislation of the Republic of Kazakhstan.

5. After making a decision on the conclusion of the state environmental review, all interested parties are given the opportunity to receive information on the object of assessment in the manner provided for by this Code.

Article 115. Conduct of Public hearings

1. Public hearings are required for projects:

1) in the fields of agriculture and forestry, mining and manufacturing, construction, transport, electricity, heat supply, water supply, wastewater disposal, waste management and other sectors of the economy in accordance with the list determined by the authorized body in the field of environmental protection;

2) providing for the placement of objects in water protection zones and lanes and zones of sanitary protection of water supply sources;

3) providing for the placement of objects on lands of the state forest fund;

4) providing for logging on the lands of the state forest fund, including greening plantings within the boundaries of settlements;

5) providing for activities in specially protected natural territories and the territory of the former Semipalatinsk nuclear test site;

6) natural science and feasibility studies on the creation and expansion of specially protected natural areas, the elimination of state natural reserves and state protected zones of republican significance and the reduction of their territory;

7) biological justification for the extraction and use of plant and animal life resources;

8) survey materials justifying the assignment of these territories to zones of ecological disaster or environmental emergency;

9) economic activities that may have an on the environment of neighboring states or for the implementation of which it is necessary to use common objects with neighboring states or which affect the interests of neighboring states, including the Baikonur complex, defined by international treaties of the Republic of Kazakhstan.

2. The client (initiator) of the proposed activity has the right to contract, on a contractual basis, public associations for conducting public information events to participate in public hearings.

3. Twenty days prior to public hearings, local executive bodies shall provide open access to environmental information related to the environmental assessment procedure of the planned economic and other activity and the decision-making process on this activity through an Internet resource, as well as using other means of informing .

4. The procedure for holding public hearings is determined by the authorized body in the field of environmental protection.

Article 116. The procedure for consideration of disagreements in the implementation of state environmental assessment

1. Disagreements in the implementation of state environmental assessment are considered through negotiations or in court.

2. By negotiation, disagreements on state environmental assessment are considered by the authorized body in the field of environmental protection regarding the treatment of any of the interested parties, including the client of the planned activity, of the local executive body.

3. At the same time, the subject of disagreement cannot serve as a negative conclusion of the state environmental assessment, unless such a negative opinion was made in violation of the obligations established by this Code by an expert of the state environmental assessment.

Article 117. Financing of State Environmental Assessment

Funding of the state environmental assessment is provided from budget funds, as well as client funds.

Article 118. Environmental assessment of projects.

1. Environmental assessment of projects refers to an expert assessment of design decisions and calculations on issues of environmental safety and environmental engineering, which is part of:

2) comprehensive off-site expertise of projects (feasibility studies and design and estimate documentation) intended for construction of new or reconstruction (expansion, technical re-equipment, modernization) and overhaul of existing buildings and structures, their complexes, engineering and transport communications, conservation of unfinished objects and post-disposal (demolition) of objects that have exhausted their resources;

3) comprehensive urban planning expertise on projects of urban planning of territories, projects of master plans for cities of republican significance, the capital and cities of regional significance with an estimated population of over one hundred thousand inhabitants, subject to approval by the Government of the Republic of Kazakhstan or maslikhats of regions, cities of republican significance and the capital.

2. Environmental assessment of projects is carried out in the manner specified by the legislation on the architectural, urban planning and construction activities of the Republic of Kazakhstan, subject to the requirements of this Code.

3. For projects (feasibility studies and design and estimate documentation) for construction of objects of II, III and IV categories, environmental assessment of projects is carried out by experts certified in the manner prescribed by the legislation of the Republic of Kazakhstan on architectural, urban planning and construction activities.

4. The conclusion of a comprehensive departmental assessment of construction projects contains emission standards for the period of construction (reconstruction) and operation of the construction project.

5. Within the time limits and in accordance with the procedure established by the legislation of the Republic of Kazakhstan on architectural, town-planning and construction activities, local executive bodies in the field of environmental protection shall send permits for emissions into the environment to the bodies of comprehensive independent departmental assessment.

6. In the case of issuing a negative conclusion of a comprehensive extra-departmental assessment of projects, permission for emissions into the environment is not issued. Re-obtaining permits for emissions into the environment is carried out in the manner prescribed for projects newly submitted to conduct a comprehensive non-departmental assessment.

7. An expert in environmental assessment of construction projects is an individual certified in the manner prescribed by the legislation of the Republic of Kazakhstan on architectural, city-planning and construction activities to carry out expert work on a specific section (part) of projects that is in the staff of one of the expert organizations.

Article 119. Public Environmental Assessment

1. Public environmental assessment is a type of activity carried out on a voluntary basis by expert commissions established by public associations.

2. Public environmental assessment examines any economic and other activities for the observance of public interests to preserve the environment-friendly life and health of citizens.

3. Greenhouse gas emissions are not subject to public environmental review, with the exception of emissions of substances identified in accordance with this Code as pollutants.

4. The initiator of public environmental assessment may be individuals or public associations whose interests are affected in the event of the implementation of a public environmental assessment facility.

Article 120. Organizer of public environmental assessment

1. The organizer of a public environmental assessment shall be recognized by a public association, on whose behalf an application is submitted for a public environmental assessment and measures are taken to organize the work of the expert commission.

2. The organizer of public environmental assessment has the right to:

1) to request documents and materials necessary for carrying out public environmental assessment from the client of the object of public environmental assessment;

2) to create an expert commission for assessment;

3) to submit the conclusion of public environmental assessment to the local executive bodies and financial organizations.

3. The organizer of public environmental assessment is obliged to:

1) organize public environmental assessment in accordance with the requirements set out in this Code;

2) to ensure that the public is informed about the progress and results of the public environmental assessment and takes public opinion into account when drawing up the opinion of the public environmental review;

3) to ensure openness of the conclusion of public environmental assessment for all interested parties.

Article 121. Experts of public environmental review

1. An expert in public environmental assessment is a natural person who has scientific and (or) practical knowledge on the issue under consideration and who is engaged by the organizer of public environmental assessment to conduct a public review.

2. The expert of public environmental assessment may not be:

1) the representative of the client of the object of public environmental review;

2) a representative of the developer of the object of public environmental review;

3) an individual who has a labor or other contractual relationship with a specified client or developer of a facility for public environmental review;

4) a representative of a legal entity who is in a contractual relationship with the client or with the developer of the object of public environmental review.

3. The expert of public environmental assessment shall participate in its conduct in accordance with the legislation of the Republic of Kazakhstan and the task issued by the organizer of public environmental review.

4. An expert of public environmental assessment during a public environmental assessment has the right to express a dissenting opinion on the object of public environmental review, which is attached to the conclusion of a public environmental review.

5. The expert of public environmental assessment is obliged to:

1) comply with the requirements of the environmental legislation of the Republic of Kazakhstan;

2) to ensure the objectivity and validity of the conclusions of his opinion on the object of environmental assessment, as well as the consideration of comments and suggestions received by public environmental assessment from interested individuals and public associations;

3) to ensure the safety of materials and the confidentiality of information submitted for public environmental assessment, as well as the protection of intellectual property.

Article 122. Rights and obligations of the client of the object of public environmental assessment

1. The client of the object of public environmental assessment is a natural or legal person planning economic, investment and other activities.

2. The client of the object of public environmental assessment has the right to:

- 1) the protection of legally protected confidential information contained in the documentation for the planned activity;
- 2) receive information and have access to information on the progress and results of public environmental review;
- 3) to participate in public hearings and other events held as part of public environmental review;
- 4) to submit their explanations and comments to the opinion of the public environmental assessment to the body carrying out the state environmental review, local executive bodies.

3. The client of the object of public environmental assessment is obliged to:

- 1) to submit the necessary documents and materials for public environmental review;
- 2) to submit to the authorized body in the field of environmental protection a written response to the recommendations set forth in the opinion of the public environmental review.

Article 123. Financing of public environmental assessment.

Financing of public environmental assessment is carried out by:

- 1) own funds of public associations that organize and conduct public environmental assessment client;
- 2) voluntary donations, grants provided free of charge;
- 3) other sources that are not prohibited by legislative acts of the Republic of Kazakhstan.

Article 124. The procedure for registration of public environmental review

1. Public environmental assessment is carried out subject to registration of the application of the organizer of the assessment for its conduct.

2. An application for registration of a public environmental assessment shall be submitted by its organizer to the local executive bodies in whose territory the activities of the object of assessment are planned.

3. In the application for conducting a public environmental review, the following should be indicated:

- 1) the name and legal address of the organizer of public environmental review;
- 2) the nature of the activity stipulated by the charter of the organizer of public environmental review;
- 3) information on the composition of the expert commission of public environmental review;
- 4) information about the object of public environmental review, the timing of a public environmental review.

4. Local executive bodies are obliged to register or refuse to register it within ten working days from the date of submission of the application for public environmental review. An application for a public environmental review, the registration of which was not denied within a specified period, is considered to be registered.

5. Registration of an application for the organization of a public environmental assessment may be denied if:

1) public environmental assessment was previously conducted twice in relation to this object;

2) the object of public environmental assessment contains information constituting state, commercial and other secrets protected by law;

3) the charter of the organizer of public environmental assessment does not provide for the activities of this public association for conducting public environmental review;

4) the state environmental assessment of the proposed facility for public environmental assessment has been completed.

6. In the event of a refusal to register an application for a public environmental review, the local executive body informs the initiator and organizer of the public environmental assessment in writing with a justified reason for the refusal.

Article 125. Conclusion of public environmental assessment

1. The results of a public environmental assessment are drawn up in the form of a conclusion of a public environmental assessment, which is a recommendation.

2. The conclusion of the public environmental assessment should contain:

1) the name and legal address of the organizer of environmental assessment;

2) the surname, name, patronymic or full name of the client, the name and location of the object of public environmental review;

3) information on the registration of the application for public environmental assessment in a local executive body;

4) the timing of the public environmental review;

5) the composition of the documentation that underwent public environmental review, transfer of other documents used in the process of public environmental review;

6) the members of the expert commission of public environmental review;

7) a statement of the results of the assessment;

8) description of the task of conducting a public environmental review, defined by the organizer of the public environmental review;

9) a description of the process of public environmental review, including interaction with the public, the customer and other interested parties;

10) conclusions of public environmental review.

3. The findings of public environmental assessment should contain:

1) a conclusion on the compliance of the object of public environmental assessment with the requirements of the environmental legislation of the Republic of Kazakhstan;

2) a description of the completeness, quality and reliability of the environmental assessment carried out by the client;

3) a description of the positions of various groups of the public in relation to the planned activity, review of proposals and comments of the public;

4) expert opinion on the environmental and social acceptability of the implementation of the object of public environmental review;

5) proposals and recommendations to the body carrying out state environmental assessment, the client, government agencies and legal entities making decisions related to the implementation of the object of assessment.

4. The opinion of the public environmental assessment is signed by an authorized representative of the organizer of the public environmental review, the chairman and members of the expert committee.

5. The conclusion of public environmental assessment is sent to:

1) to the local executive body that conducted the registration of the application for public environmental review;

2) to the body carrying out the state environmental assessment of the facility;

3) to the client of the planned activity;

4) decision-making bodies associated with the implementation of the object of public environmental review;

5) in the media.

Article 126. Use of the results of public environmental assessment

1. The client of the planned activity is obliged to consider the conclusions and recommendations contained therein within one month from the date of receipt of the conclusion of the public environmental assessment and send comments to the state environmental assessment authority and the organizer of the public environmental review.

2. The conclusion of public environmental assessment should be considered during the state environmental review. The results of the review should be sent to the organizer of public environmental assessment and to the authorized body in the field of environmental protection.

3. The conclusion of a public environmental assessment review may also be taken into account when making decisions by local executive bodies, financial organizations and the client of the planned activity.

4. The results of public environmental assessment can also be taken into account conducting a comprehensive departmental assessment of projects (feasibility studies and design estimates) intended for the purposes such as construction of new or renovation (expansion, technical re-equipment, modernization), overhaul of existing buildings and structures, their

complexes, engineering and transport communications, conservation of unfinished objects and post-disposal (demolition) of objects that have exhausted their resources.