

THE PRIME MINISTER

Decision No. 24/2012/QĐ-TTg of June 1, 2012, on special-use forest development investment policies for the 2011-2020 period

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the 2002 Law on the State Budget;

Pursuant to the 2004 Law on Forest Protection and Development;

Pursuant to the 2005 Investment Law;

Pursuant to the Government's Decree No. 23/2006/ND-CP of March 3, 2006, on implementation of the Law on Forest Protection and Development;

Pursuant to the Government's Decree No. 117/2010/ND-CP of December 24, 2010, on organization and management of the special-use forest system;

At the proposal of the Minister of Planning and Investment;

The Prime Minister promulgates this Decision on special-use forest development investment policies for the 2011-2020 period.

Chapter I

GENERAL PROVISIONS

Article 1. Viewpoints on special-use forest development investment and investment promotion

1. Special-use forests are national assets. Protecting and developing special-use forests are the responsibilities of the State and the entire society.
2. The State invests in building essential infrastructure facilities and physical foundations and assures funds for operation of the forest management and protection apparatus and for biodiversity monitoring and surveillance, scientific research, human resource training, communication and education on forest protection, and improvement of living conditions for inhabitants in special-use forests and forest buffer zones.
3. The State encourages the development of forest environmental services and ecotourism in special-use forests under law in order to generate revenues to cover expenses, increase incomes for cadres, civil servants and public employees and gradually replace state budget investments.

4. The State adopts investment support policies and creates benefit sharing mechanisms for all economic sectors and village communities investing in special-use forest protection and development.

Article 2. Objectives of special-use forest development investment and investment promotion policies

1. To adopt special-use forest development investment and investment promotion policies so as to increase investment effectiveness. To assure close supervision of special-use forests by management agencies of all levels and, at the same time, promote special-use forest management units' sense of initiative in managing or providing commercial services in special-use forests with a view to increasing revenue sources from these forests on the principle of combining conservation and development.

2. To link special-use forest users' benefits with their responsibilities for forest development investment and forest protection and development so as to increase the efficiency of state investment capital.

3. To mobilize various economic sectors to invest in special-use forest protection and development. To gradually reduce the state payroll and increase the involvement of local communities in special-use forest protection work.

4. To invest in special-use forest development for conservation of the nature, standard specimens of forest ecosystems and forest genetic resources; scientific research; protection of historical and cultural relics and scenic places; and relaxation and tourism in combination with protection, contributing to environmental protection.

Article 3. Scope of regulation and subjects of application

1. This Decision provides investment contents and criteria; state budget funds for special-use forest management and protection and mechanisms to encourage special-use forest development investment.

2. This Decision applies to state agencies, organizations, communities, households and individuals engaged in special-use forest investment and development in Vietnam.

Article 4. Interpretation of terms

1. Special-use forest management unit is a forest owner that is assigned by the State to manage one or more than one special-use forest under the law on forest protection and development.

2. Buffer zone communities, including all village communities legally residing in areas sharing a common natural boundary with, or lying within,

a special-use forest, are called village communities in the special-use forest's buffer zones.

3. Investment-deciding agencies: Ministries and central sectors, for projects of special-use forest management units managed by ministries or central sectors, or provincial-level People's Committees, for projects of locally managed special-use forest management units (below collectively referred to as competent authorities).

Chapter II

STATE BUDGET INVESTMENT IN SPECIAL-USE FORESTS

Article 5. Special-use forest development planning and investment projects

1. Special-use forest development planning: Special-use forest management units shall elaborate master plans on special-use forest development (covering also ecotourism development) for submission to competent authorities for approval; the planning period is 10 years.

2. Formulation and approval of investment projects: Management units shall formulate special-use forest development investment projects in conformity with approved master plans and submit them to competent authorities for approval according to current state regulations on investment management.

Article 6. Special-use forest development investment items and criteria

Special-use forest development investment shall be made step by step in an economical manner based on investment capital capacity. State budget funds shall be invested in work items in special-use forests according to the following order of priority:

1. Offices and temporary lodging facilities for staff members:

a/ Offices of special-use forest management units as prescribed in the Prime Minister's Decision No. 147/1999/QĐ-TTg of July 5, 1999, and Decision No. 260/2006/QĐ-TTg of November 14, 2006, providing criteria and norms for use of offices of state agencies and non-business units;

b/ Forest management and protection stations with an average area of 200 m²/station and other support and auxiliary facilities such as hygienic water and protection fences;

c/ Temporary lodging facilities (condominiums) close to workplaces for staff members who do not have their own houses in these localities, with an average norm of 12 m²/person;

d/ Independent power systems (solar power, wind power, hydropower, etc.) in special cases in which special-use forest management units or forest management and protection stations are located in areas not yet connected to the national power grid.

2. Roads:

a/ Roads linking existing main roads to offices of special-use forest management units, to be built to grade-III, -IV or -V standards in conformity with the grades of these roads;

b/ Internal roads within service-administrative sub-zones and staff members' residential areas; signposts and forest patrol roads not exceeding 1.5 meters wide;

c/ Landing stages, to be built in conformity with special-use forest development master plans and capital balancing capacity, for riverside or seaside special-use forest management units or forest management and protection stations.

3. Fire alarm devices and forest fire prevention and fighting facilities and equipment, including: forest fire lookout towers, canal systems, drilling houses, reservoirs and dams, water tanks, firebreaks, fire signs and other fire prevention and fighting equipment and devices under the guidance of the Ministry of Agriculture and Rural Development.

4. Works built under other approved projects including: nurseries-cum-gardens for collection and conservation of flora genetic resources; wildlife rescue and pasture centers; environmental education centers-cum-guest houses; fauna and flora museums; and scientific research facilities.

5. Infrastructure facilities serving ecotourism and environmental services, with priority given to tourist infrastructure investment projects under approved master plans of special-use forest management units that are piloting the transformation of business sections.

Article 7. Non-business funds and special-use forest management and protection funds

1. State budget funds for regular non-business activities shall be provided for operations of special-use forest management units as decided by competent authorities, and be allocated within annual state budget expenditure estimates.

2. In addition to the regular non-business funds specified in Clause 1 of this Article, the State shall allocate stable forest management and protection funds for special-use forest management units to take the initiative in hiring or contracting local communities or procuring

equipment and devices for forest management and protection work. The average funding level is VND 100,000/ha/year, calculated on the total area of assigned forests (the specific level shall be decided by competent agencies). Spending items of this funding source shall be approved annually by competent authorities.

3. Annual plans on spending forest management and protection funds on each specific item shall be publicized at special-use forest management units and copied and sent to their subordinate units.

Article 8. Support for development of communities residing in special-use forests' buffer zones

1. State budget funds shall be provided at VND 40 million/village/year to support village communities residing in special-use forest' buffer zones in joining the management of these forests.

2. This funding source shall be spent on such items as: making investment to raise production development capacity (agricultural and forestry extension, plant varieties, animal breeds and equipment for small-scale agricultural and forest product processing); supporting the procurement of building materials for villages (for public works such as clean water, lighting electricity, information and communication, roads, cultural houses, etc.).

3. Special-use forest management units shall manage this funding source according to current regulations on management of non-business economic funds. Detailed funding estimates shall be annually elaborated and proposed by villages. Special-use forest management units shall assume the prime responsibility for, and coordinate with commune-level People's Committees in, working with each village for co-approval of these funding estimates (without having to formulate investment projects). Spending plans must be associated with special-use forest protection plans and commitments. Special-use forest management units may transfer support funds of villages that fail to properly discharge forest protection tasks to others. Local communities shall supervise the implementation of this provision according to grassroots democracy regulations.

Article 9. Funding sources for investment in special-use forests

1. Central budget funds shall be invested in special-use forests managed by the Ministry of Agriculture and Rural Development.

2. Local budget funds shall be invested in locally managed special-use forests. Central budget funds shall be supported for targeted investment in locally managed national parks and special-use forests in border and island districts of localities facing budget difficulties.

3. Revenues generated from service provision and business association and partnership, revenues of business sections or joint-stock companies providing services in special-use forests (if any) and revenues from forest environment rents or forest environmental service charges or other service charges by special-use forest management units.

4. Funds raised lawfully from organizations and individuals for special-use forest development investment.

5. The total investment and non-business fund from the state budget for implementation of this policy is estimated at VND 5,500 billion, of which investment capital accounts for 50%.

Chapter III

SPECIAL-USE FOREST DEVELOPMENT INVESTMENT PROMOTION

Article 10. Ecotourism business in special-use forests

1. The State encourages all economic sectors to make investment to develop ecotourism in special-use forests.

2. Ecotourism development in special-use forests complies with approved master plans, the Law on Enterprises, the Law on Forest Protection and Development, this Decision and other current state regulations.

a/ In strictly protected sub-zones: It is permitted to build footpaths not exceeding 1.5 meters wide and tents and plant signposts serving forest patrol and ecotourism activities which, however, must not affect the natural landscape of forests;

b/ In ecological restoration sub-zones: It is permitted to open main roads and build works serving forest protection and development and service-tourism activities. The area of ecotourism infrastructure facilities must not exceed 20% of the total area planned for service-tourism activities, of which the area for construction of works serving service-tourism activities must not exceed 5%, and that for building of footpaths, stop-spots and car-parks, 15%;

c/ The area for construction of works serving service-tourism activities in a service-administrative sub-zone, landscape protection zone or scientific research forest zone must not exceed 20% of such sub-zone's or zone's total area.

Article 11. Experimental transformation of dependent cost-accounting ecotourism business sections of special-use forest management units into joint-stock companies

1. Existing dependent cost-accounting ecotourism business sections (tourism centers, tourism divisions, etc.) of special-use forest management units, which earn an annual turnover of over VND 300 million may be transformed into joint-stock companies in which the special-use forest management units hold the dominant shares representing at least 51% of charter capital (below referred to as joint-stock companies).
2. The Ministry of Agriculture and Rural Development shall assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment in, selecting a national park under its management and a locally managed national park to carry out the experimental transformation into joint-stock companies under Clauses 1, 3 and 4 of this Article.
3. The transformation of ecotourism business sections into joint-stock companies must comply with the Government's Decree No. 59/2011/ND-CP of July 18, 2011, on transformation of state enterprises into joint-stock companies (below referred to as Decree No. 59/2011/ND-CP). Special-use forest management units shall formulate and submit transformation schemes to competent authorities for approval. Assets to be transferred from special-use forest management units to special-use forest development joint-stock companies include: guest houses, rights to exploit ecotourism sites, tourist centers, representative offices (including land outside the area of special-use forests) and other assets useful for business activities. These assets shall be valued under Decree No. 59/2001/ND-CP and current guiding documents; when valuating assets built on planned special-use forest land, the land use right value must not be included.
4. Special-use forest development joint-stock companies shall carry out all business activities of special-use forest management units (including collection of forest entrance charges). Special-use forest development joint-stock companies shall rent the forest environment at the prescribed floor rents; and rent sightseeing places from special-use forest management units for business; rents shall be determined by the two parties once every 5 years and the maximum lease term is 50 years.

Article 12. Lease of special-use forest environment for ecotourism development

1. Based on approved special-use forest development master plans, special-use forest management units may lease the special-use forest environment (in association with land and water surface) to organizations and individuals for ecotourism business but may not outsource the sale of entrance tickets to special-use forest areas other than the area leased to these organizations.

2. Forest environment rents shall be decided by competent authorities or determined through bidding, for cases in which two or more organizations or individuals propose to rent the forest environment. The initially determined rents shall be adjusted by the two parties once every 5 years but each adjustment must not exceed 2% of turnover. The maximum lease term is 50 years. Upon the expiration of the lease term, if the tenant has strictly complied with the signed contract, the special-use management unit may consider extending the lease term for another 20 years at most.
3. In addition to lease of the forest environment for business purposes, special-use forest management units may also lease the forest environment on a short-term basis for scientific research (without exerting any impacts on the forest environment). Rents shall be agreed upon between involved parties under the law on forest protection and development.
4. Before signing forest environment lease contracts, special-use forest management units shall take an inventory of forest resources available on leased areas for use as a basis for lease and supervision activities.
5. The Ministry of Agriculture and Rural Development shall coordinate with the Ministry of Finance in guiding the calculation of special-use forest rents.

Article 13. Special-use forest development investment incentives

1. Service and investment activities in special-use forests are eligible for enterprise income tax incentives under Article 8 of the Government's Decree No. 69/2008/ND-CP of May 30, 2008, on policies to encourage socialized activities in the educational, health, cultural, sports and environmental sectors. Besides, special-use forest development investment projects under approved master plans are entitled to the highest incentives under current state regulations.
2. In case the infrastructure construction land area under an approved special-use forest development investment project accounts for less than 5% of the special-use forest concerned, construction activities may be carried out according to the approved project schedule. After completing investment in the project or upon the local five-year land use planning period, the special-use forest management unit shall carry out procedures for change of the land use purpose once for all land-occupying work items at competent authorities for approval.
3. Special-use forest management units may use dead plants and animals collected in areas under their management (with certification of district-level forest ranger and police forces) for forest management and protection, scientific research or ecotourism development purposes. Before

using these plants and animals, special-use forest management units shall report on such use to competent authorities.

Article 14. Use of proceeds from ecotourism activities in special-use forests

All revenues, including revenues from service provision, lease of the forest environment and collection of forest environmental service charges (under Decree No. 99/2010/ND-CP), profits shared from business associations and partnerships, profits of special-use forest management units in special-use forest development joint-stock companies (if any) and other lawful revenues, may be used as follows:

1. 25% of these revenues may be used to replace state budget non-business funds and forest management funds specified in Articles 7 and 8 of this Decision. After state budget allocations are wholly replaced, the remainder (if any) may be spent on the items specified in Clause 2 of this Article.
2. The remaining 75% may be used by special-use forest management units on the following items according to the following order of priority:
 - a/ Salary increase for their staff members but the total salary level (including the basic salary and support amount) must not exceed 2.5 times the prescribed basic salary;
 - b/ Provision of support for development of communities in special-use forests' buffer zones (under Article 8 of this Decision);
 - c/ Investment and ecotourism development activities;
 - d/ Deduction to set up funds under the Government's Decree No. 43/2006/ND-CP of April 25, 2006, providing public non-business units' autonomy and accountability for their tasks, organizational apparatus, payroll and finances.

Chapter IV

ORGANIZATION OF IMPLEMENTATION

Article 15. Responsibilities of ministries, sectors and localities

1. The Ministry of Agriculture and Rural Development shall:
 - a/ Inspect and supervise the implementation of this Decision and annually send supervisory reports to the Prime Minister, the Ministry of Planning and Investment and the Ministry of Finance;
 - b/ Formulate and promulgate criteria for annual evaluation of special-use forest management and protection work.
2. The Ministry of Planning and Investment shall:

- a/ Assume the prime responsibility for, and coordinate with the Ministry of Finance and the Ministry of Agriculture and Rural Development in, balancing development investment capital for submission to the Prime Minister for decision;
- b/ Perform the state management of investments in special-use forests; and coordinate with the Ministry of Agriculture and Rural Development, the Ministry of Finance and provincial-level People's Committees in, inspecting and supervising these investments;
- c/ Guide the implementation of Article 11 of this Decision;
- d/ Make comprehensive evaluation of this policy in all economic, social and environmental aspects once every 3 and 5 years for reporting to the Prime Minister for its amendment and supplementation.

3. The Ministry of Finance shall:

- a/ Assume the prime responsibility for, and coordinate with related ministries and sectors in, balancing and assuring non-business funds and forest management funds for ministries, sectors and localities; and clearly indicate expenditure items on special-use forest development in annual budget expenditure plans for submission to the Prime Minister for approval;
- b/ Guide in detail the spending contents and levels specified in Articles 7 and 8 of this Decision.

4. Provincial-level People's Committees shall:

- a/ Within 2 years after the effective date of this Decision, chairpersons of provincial-level People's Committees shall grant land use right certificates to special-use forest management units in their localities which have not yet obtained such certificates;
- b/ Assure sufficient investment funds and forest management non-business funds according to Articles 6, 7 and 8 of this Decision for management units of locally managed special-use forests under the law on the state budget;
- c/ Direct special-use forest management units to formulate master plans and investment projects for approval according to regulations;
- d/ Direct, organize, inspect and supervise the implementation of this Decision in their localities. In the first quarter of every year, send reports on the implementation of this Decision to the Ministry of Agriculture and Rural Development, the Ministry of Planning and Investment and the Ministry of Finance for summarization.

Article 16. Investment management and supervision

1. Capital construction planning and investment management comply with the current state regulations. Special-use forest management units shall formulate and submit to competent state agencies for approval, and organize the implementation of, master plans, plans, programs and projects to invest in special-use forest protection and development; and act as investors of state budget-funded work construction projects in assigned special-use forest areas.
2. Special-use forest management units shall bear full responsibility before competent agencies for the use of state budget investment capital, assuring that this capital source is economically and effectively used for proper purposes and proper beneficiaries.
3. Special-use forest management units shall make biannual and annual supervisory reports on the implementation of strategies, master plans and plans on, and finances arising from, their lease of the forest environment, and send these reports to investment-deciding agencies and relevant provincial-level agencies.
4. Competent state agencies shall supervise investment and forest management and protection activities of special-use forest management units according to regulations.

Article 17. Implementation provisions

1. This Decision takes effect on July 20, 2012.
2. All previous regulations contrary to this Decision are annulled.
3. Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of provincial-level People's Committees shall implement this Decision.-

Prime Minister
NGUYEN TAN DUNG