



## ECOLOGY INDUSTRY AND LEGAL UPDATE

**KALIKOVA  
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*law firm*

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### Industry Update

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November 22, 2016

#### **SIETS collected KGS 7 million in environmental fines since beginning of year**

Since the beginning of the year 2016, there were collected KGS 7 million in environmental fines. This was reported by Maksat Omurov, the head of the environmental safety unit of SIETS.

According to him, there were initiated 547 environmental cases for the amount of KGS 9,700,000, of which only KGS 7,000,000 were collected.

“Thus, in November, two Karakol residents were detained for illegally catching 238 specimens of endemic lake whitefish. The economic damage caused by this offence is estimated at almost half a million Kyrgyz Soms”, the official noted.

According to the official, there were issued 1,451 orders to take corrective action to address environmental infringements.

“In the first 10 months of 2016, we issued 23 fines worth KGS 38,580 and initiated actions worth KGS 62,974 for committing wild fauna infringements; as well as 238 fines worth KGS 407,000 and actions worth KGS 3,622,000 for committing wild flora infringements”, Maksat Omurov reported.

He added that 80% of fines and actions were actually collected.

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### Legal Update

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September 20, 2016

#### **Order of Ministry of Health of Kyrgyz Republic of September 20, 2016 № 715 “On phasing out clinical mercury thermometers and replacing them by electronic thermometers in Bishkek Health Organizations”**

This Order was issued by the Ministry of Health to improve the medical waste management in Bishkek and to implement joint action plans for phasing out mercury waste in the health sector as part of the GEF/UNDP project to protect human health and the environment from unintentional releases of POPs and mercury from the unsound disposal of healthcare waste in Kyrgyzstan.

The Order defines the list of the pilot health organizations included in the action plan for phasing out mercury thermometers and distributing electronic analogue and aims to coordinate and monitor implementation of the action plan for phasing out clinical mercury thermometers and replacing them by electronic ones in the pilot health organizations in Bishkek, as well as collection of clinical mercury thermometers and placing them under temporary storage.

All costs associated with phasing out clinical mercury thermometers and their replacement by electronic thermometers in Bishkek pilot health organizations will be attributed to the GEF/UNDP project.

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September 24, 2016

## **Kyrgyzstan signed Paris Agreement on Climate Change**

As part of his visit to New York to participate in the general debate of the 71st session of the UN General Assembly, Erlan Abdyldaev, the Minister of Foreign Affairs of the Kyrgyz Republic signed the Paris Agreement on Climate Change.

At the opening ceremony, Miguel de Serpa Soares, United Nations Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, thanked Kyrgyzstan for accession to such an important agreement and expressed hope for a speedy ratification of the Agreement.

Abdyldaev also met with UN Secretary General Ban Ki-moon to discuss status and prospects of cooperation between Kyrgyzstan and the United Nations Organization.

NB:

The Paris Agreement was adopted by all 196 parties to the UN Framework Convention on Climate Change at the 21th session of the Conference of the Parties to the UNFCCC held in Paris on December 12, 2015. The implementation of the Paris Agreement is essential for achieving sustainable development goals. The agreement represents a "road map" of measures that will help reduce emissions and strengthen resilience to climate change.

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September 19, 2016

## **Parliament discussed low fines for environmental infringements**

Kyrgyzstan applies very low fines for environmental infringements and hunting of rare animals. This was noted by Rasul Artykbaev, the Deputy Chairman of SIETS, at the Q&A session with the members of the Parliament.

MP Abylkayyr Uzakbaev ("Onuguu-Progress") expressed concerns over the interests of ordinary people who might suffer from effects of a 25% increase in the fine amount and pointed out the problem of ignoring environmental infringements committed by large resorts.

Artykbaev reported that the total amount of the fines collected in 2013 was KGS 4,186,000 as opposed to KGS 9,379 in 2014, and KGS 11,776 in 2015. Even if the fine rates are raised, the proceeds from fines will increase only by KGS 25-30 million. However, the main

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September 2, 2016

## **Government Resolution approving guidance on form and substance of draft maximum permissible emission and temporarily agreed emission limits of September 2, 2016 № 479**

The Government approved the guidance on the form and substance of the draft maximum permissible emission and temporarily agreed emission limits in furtherance of the laws of the Kyrgyz Republic "On Air Protection", "On Environmental Protection", Articles 10 and 17 of the Constitutional Law of the Kyrgyz Republic "On Government of Kyrgyz Republic".

The guidance on the form and substance of the draft maximum permissible emission and temporarily agreed emission limits (the Guidance) sets forth the requirements for the form and substance of the draft maximum permissible emission (MPE) and temporarily agreed emission (TAE) limits.

The Guidance is developed to help business entities of any legal form draft MPE (TAE) limits for their existing, planned or reconstructed facilities of economic and other purposes, and to help state environmental authority establish MPE (TAE) limits.

The Guidance applies to business entities which own production and other facilities related to hazard categories I and II according to Annex 2 to the Law of the Kyrgyz Republic "General Technical Regulation on Ensuring Environmental Safety in Kyrgyz Republic".

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August 19, 2016

## **Amendments to Certain Legislative Acts of Kyrgyz Republic (Water Code, Water Act)**

The proposed amendments aim to remove inconsistencies between the Water Code of the Kyrgyz Republic, the Water Act of the Kyrgyz Republic and the Law of the Kyrgyz Republic "On Administrative Policies and Administrative Procedures", which was adopted on July 31, 2015. This law regulates the relationship between the administrative authorities and physical and legal persons in the exercise of administrative procedures and defines the procedure for appealing against administrative acts, actions and omissions.

The above law provides that administrative acts, actions and omissions should be challenged in administrative (pre-trial) proceedings, and then, in court. Respective amendments are proposed to the Water Code and the Water Act.

point here is that sanctions against environmental offenders are too low.

"There are cases when our inspectors coming on an inspection are being denied access and offered money to leave. For example, the hunters who kill animals costing USD 15,000 may be fined not more than KGS 1,500 even if caught in the act", he said.

He also added that sometimes, business entities building USD 1 million worth of facilities may be fined not more than KGS 50,000.

It should be noted that on September 17, 2016 the Parliamentary Committee on Agricultural Policy, Water Resources, Environment and Regional Development adopted in the first reading the draft law on amendments to the Code of Administrative Liability.

The MPs reviewed the amendments concerning fines for illegal construction and redesign. The amendments propose to remit the proceeds from fines directly to the state budget.

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September 13, 2016

## **UN to allocate USD 30-40 million to Kyrgyzstan for adapting to climate change**

The UN Green Climate Fund may allocate USD 30-40 million to the Kyrgyz Republic for adapting to the impacts of climate change. This was reported by the press service of the State Agency for Environmental Protection and Forestry.

Abdykalyk Rustamov, the Director of the Agency, met with UNDP representatives to discuss the concept of preparing the national application to the Green Climate Fund.

"UNDP is ready to allocate up to USD 100 thousand for the preparation of the project document. The Green Climate Fund does not provide financial resources for the preparation of such document. We, as a national coordinator for all climate change adaptation projects, are ready to develop the appropriate document taking into account all recommendations", Daniyar Ibragimov, the head of the UNDP Environment & Disasters Programme, said.

The main objective of the project will be to ensure the efficient use of water in Osh, Jalal-Abad and Batken regions, taking climate change into account. In case of approval of the project application, Kyrgyzstan will receive USD 30-40 million for the project implementation. All funds will be allocated as grant. "Many projects in our country have overlapping aims. It is

Pre-trial procedure includes initiation of administrative proceedings by submission of administrative complaint by the person concerned, consideration of complaint by the administrative authority and adoption of decision that can be challenged in the higher administrative authority or court.

The amendments, if approved, will help resolve disputes between individuals or legal entities and administrative authorities through administrative procedures as a prerequisite for protection of their rights and interests.

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necessary to prevent submission of similar applications.

The Agency will ensure approval of the project by all ministries and departments concerned", Rustamov stressed.

NB: The Green Climate Fund is a unique global platform to respond to climate change by investing in low-emission and climate-resilient development. The Fund was established by 194 governments to limit or reduce greenhouse gas (GHG) emissions in developing countries, and to help vulnerable societies adapt to the unavoidable impacts of climate change. The Fund is accountable to the United Nations Organization.

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