



Environmental information disclosure in corporate business activities under vietnamese law

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Abstract

Environmental information disclosure in corporate business activities is an essential legal obligation aimed at protecting the public's right of access to information, enhancing accountability, and promoting sustainable development. This article examines the legal issues surrounding environmental information disclosure under Vietnamese law, including its concept, characteristics, and legal implications. It further assesses the current regulatory framework governing this obligation and identifies key shortcomings in terms of legal consistency and enforcement effectiveness. Based on this analysis, the article proposes legal solutions to improve the regulatory framework and enhance the effectiveness of environmental information disclosure in business activities in Vietnam.

Keywords: Environmental information, Environmental information disclosure, Right of access to information, Corporate business activities, law

Introduction

In the context of globalization and integration, transparency of environmental information in business activities has become an essential requirement, demonstrating social responsibility and complying with the law. In Vietnam, although there are regulations on the disclosure of environmental information, there are still many limitations in implementation such as lack of synchronization in the law, ineffective supervision and incomplete awareness of businesses. These inadequacies reduce the effectiveness of the law and affect the public's right to access information. On that basis, this study focuses on theoretical analysis, assessing the current situation and proposing solutions to improve the law and improve the efficiency of the implementation of regulations on environmental information disclosure in business activities in Vietnam.

General issues regarding environmental information disclosure in corporate business activities

In the context of sustainable development, environmental information has increasingly become an essential factor, reflecting the connection between the legal responsibility of businesses and the interests of the community. In the field of environmental law, environmental information disclosure is understood as the provision and dissemination of data, reports and documents related to environmental impacts in business activities, as required by law or proactively, to subjects with access to information, according to the prescribed form and order. Disclosure of environmental information is a limited legal obligation, which does not mean sharing all the information that the enterprise owns. The scope of disclosure is clearly defined, usually including: environmental impact assessment reports, environmental protection plans, periodic monitoring results, information on waste, environmental incidents and compliance with the law. Subjects with access may include state management agencies, affected communities, socio-political organizations, press agencies, and other stakeholders. In essence, this is an obligation of transparency associated with the accountability of enterprises to the State and society. Properly and fully fulfilling this obligation not only ensures

the community's right to access information but also contributes to improving the efficiency of environmental management, supporting monitoring, inspection and prevention of violations.

From the above analysis, it can be generalized that the disclosure of environmental information in business activities is the process by which enterprises provide environmental information to subjects with access, in order to ensure transparency, strengthen accountability and promote effective environmental governance.

Legal characteristics of environmental information disclosure in business activities.

As an important content in environmental management, the disclosure of environmental information in business activities has the following basic legal characteristics:

Firstly, the disclosure of environmental information is a mandatory legal obligation, not depending on the subjective will of the enterprise.

This obligation arises from the requirement to comply with legal regulations on environmental protection, which are specified in legal documents such as the Law on Environmental Protection 2020 and decrees and circulars guiding its implementation. Enterprises, when carrying out activities that are likely to adversely affect the environment, must disclose certain types of information, according to the content, form and time prescribed by law. This is a clear manifestation of the principles of transparency and accountability in modern environmental law.

Secondly, disclosure of environmental information is a conditional disclosure obligation, determined within the legal limits.

Not all business information related to the environment is required to be disclosed, but only information that is clearly stipulated by law in terms of content, scope and access objects is subject to disclosure. At the same time, the disclosure must also comply with certain legal limits, such as the protection of trade secrets, information security or environmental security factors. This shows a balance

between the obligation of transparency and the right to protect the legitimate interests of the enterprise, and at the same time ensures that the performance of the obligation of disclosure does not exceed reasonable limits.

Thirdly, the disclosure of environmental information both serves the requirements of state management and ensures the community's right to access information.

The published information is the basis for the management agency to inspect and supervise the compliance with the law of the enterprise; at the same time, it is a basis for the community, people and social organizations to participate in monitoring and criticizing, contributing to preventing risks and protecting environmental interests. Thus, the obligation to disclose environmental information is not only administrative-technical, but also a concrete manifestation of the principle of democratization in the field of environmental governance.

In short, the disclosure of environmental information is a legal institution of a compulsory, highly technical nature and serves two goals at the same time: strengthening the effectiveness of state management and ensuring the right to access environmental information of society.

The role of environmental information disclosure in business activities

Disclosure of environmental information plays an essential role in promoting transparency and accountability of businesses, while contributing to enhancing the effectiveness of environmental governance and ensuring the interests of the community. From a legal and practical perspective, this obligation is meaningful in many aspects:

Firstly, the disclosure of environmental information is an important tool to ensure the implementation of the public's right to access information.

Information about the environmental impacts of a business is often directly related to the life, health and livelihood of the community. With adequate and timely access to information such as environmental impact assessment reports, monitoring data, information on environmental incidents or hazardous waste, people can participate in monitoring, criticizing and giving opinions on activities that have the risk of affecting their living environment. Therefore, disclosure of information is a necessary condition for the realization of the right to access environmental information – a right that is recognized in many progressive legal systems around the world, as well as in Vietnamese law.

Secondly, the disclosure of environmental information contributes to improving the accountability and effectiveness of legal compliance of enterprises.

Through the disclosure of information, businesses not only show compliance with legal regulations but also show their commitment to sustainable development principles. When information is made public, businesses will face pressure from society, the media and the market, thereby being forced to be more conscious in minimizing negative impacts on the environment. At the same time, the publicity also creates favorable conditions for management agencies in monitoring and handling violations, contributing to improving the efficiency of state management of the environment.

Thirdly, environmental information disclosure is a factor that supports improving competitiveness and building a positive image of businesses.

In the context of the green economy and ESG (environmental-social-governance) requirements increasingly becoming criteria for evaluating businesses in the international market, the transparency of environmental information has become an advantage in attracting investment, cooperation and market access. Businesses that seriously fulfill the obligation to disclose environmental information are often highly appreciated for their business ethics and management capacity, thereby building trust from partners, customers and the community.

In conclusion, the disclosure of environmental information in business activities is not only a requirement for legal compliance, but also an effective tool to protect public interests, enhance the effectiveness of state management and promote sustainable development of businesses in the modern economic environment.

Legal status and practice of implementation of regulations on disclosure of environmental information in business activities in Vietnam

1. Legal status of environmental information disclosure in business activities in Vietnam

In recent years, Vietnamese law has made significant strides in recognizing and regulating the obligation of enterprises to disclose environmental information. The current regulations are designed to promote transparency, enhance business accountability and ensure the public's access to information. The legal framework governing this content is built from the integration of many different legal disciplines, mainly the law on environmental protection and the law on access to information. Relevant legal provisions include both specialized laws and legal documents, of which the Law on Environmental Protection 2020 and the Law on Access to Information 2016 are prominent, along with the provisions of Decree No. 08/2022/ND-CP and Circular No. 02/2022/TT-BTNMT. In addition, a number of other laws such as the Law on Investment 2020, the Law on Enterprises 2020, the Law on Water Resources 2023 and other specialized documents also contribute to the formation of a legal foundation regulating the disclosure of environmental information in enterprises. In particular, Decree No. 45/2022/ND-CP stipulating sanctions for administrative violations in the field of environment has established sanctions for failing to properly fulfill the obligation to disclose information. The above-mentioned legal document system has covered key contents such as: determining the type of information that must be disclosed, the form and time of publication, the right to access and limit access to information, along with the mechanism for monitoring and handling violations. These are core issues that need to be analyzed in detail to assess the adequacy, effectiveness and applicability of the law in practice.

Firstly, regulations on types of environmental information that enterprises are obliged to disclose

The current environmental protection law, based on the Law on Environmental Protection 2020, has initially established an environmental information system that needs to be disclosed in investment, production and business activities of enterprises. Accordingly, enterprises are obliged to publish a number of main types of information, including:

approved environmental impact assessment reports; environmental protection plan; results of periodic environmental monitoring; information and data on waste, emissions and negative impacts on the environment; as well as information related to environmental incidents and corresponding response measures. These types of information are established on the basis of directly reflecting the relationship between the business activities of the enterprise and the surrounding environmental factors. The disclosure of the above information is not only a legal obligation but also shows the social responsibility of the enterprise to the community. At the same time, this is also the basis for state management agencies to perform the function of inspecting and supervising compliance with environmental laws more effectively. However, the current legal regulations on the list of mandatory information for disclosure of enterprises are still enumerated and prefer to the form of administrative management, not fully reflecting the dimensions of environmental information in the context of green transformation and sustainable development. Some types of information of great significance to the community, such as potential environmental risks, product life cycle assessment results, or specific levels of greenhouse emissions by industry, are still not clearly regulated in the group of information that needs to be disclosed. This shows that it is necessary to continue to improve the law in the direction of expanding and concretizing the types of information that are required to be disclosed, in line with international practices and requirements for green economic development in the new period.

Secondly, regulations on the form, time and method of information disclosure

The law has stipulated the forms, times and methods of disclosure of environmental information in the operation of enterprises, contributing to promoting transparency and accountability in environmental governance. Specifically, the forms of publicity are regulated with diversity and flexibility, including: posting at the head office of the enterprise, posting on the web portal of the enterprise or project owner, sending it to the competent state management agency and notifying the community affected by business activities. These forms not only create conditions for stakeholders to access information in a timely manner but also strengthen social supervision of environmental protection activities of enterprises.

In addition, the time of information disclosure is also relatively specific, associated with important stages in the life cycle of the investment project – such as before implementation, during implementation, or after the occurrence of abnormal environmental events (incidents, etc.). detecting violations, changing environmental protection plans, etc.). This cohesion contributes to ensuring that information is updated at the right time, avoiding the situation of publicizing the form or providing outdated information. Notably, Circular No. 02/2022/TT-BTNMT has specified the content, form, time and method of environmental information disclosure. This regulation helps ensure consistency in the way of disclosure among businesses and increase its applicability in environmental management practices. However, in some cases, the flexibility in choosing the form of disclosure leads to the phenomenon that businesses choose the least accessible method to the public, such as internal listing instead of

online publication. This shows the need for closer oversight and more effective vetting mechanisms to ensure that forms of disclosure actually achieve the goal of broad and fair access to information.

Thirdly, regulations on ensuring the right to access and limit access to environmental information in business activities of enterprises

One of the core contents of the current law related to the disclosure of environmental information is to establish a harmony between the public's right to access information and the right to information protection of the subjects who provide it. The Law on Access to Information 2016 plays a fundamental role in establishing citizens' right to access information, including environmental information held by state agencies. According to the provisions of this law, state agencies are obliged to publicize the types of information required as prescribed and provide information when there is a valid request from individuals and organizations. This creates a legal corridor that promotes transparency and accountability in environmental management. However, the right to access information is not an absolute right, but is placed within the limits necessary to protect other legitimate interests in society. The current law clearly stipulates access restrictions for information related to state secrets, business secrets, private life information and information that may harm national security or social order and safety if disclosed. In the context that environmental information can include technical data, production processes, waste treatment technology – which are trade secrets – it is especially important to define public boundaries. This limitation mechanism represents a balance between the requirement of openness and transparency to serve the goal of environmental management and monitoring with the requirement to protect the legitimate rights and interests of enterprises and related parties. However, in practice, the application of access limits is sometimes unclear, easily leading to the abuse of the concept of “trade secrets” to refuse to provide environmental information that should have been made public. This requires more detailed guidance on the classification, assessment and disclosure of environmental information, especially in cases where there is a risk of impacting public health or causing serious pollution.

Fourth, regulations on legal responsibility and mechanisms for monitoring the disclosure of environmental information in business activities of enterprises

Disclosure of environmental information is not only an administrative procedure but also a legal obligation with binding consequences. Existing legislation has established different types of liability for breaches of this obligation, including administrative, civil and, in some cases, possibly criminal. First of all, administrative responsibility is the most common form, specified in Decree No. 45/2022/ND-CP. Enterprises may be sanctioned for failing to disclose, improperly or untimely disclosing environmental information as prescribed. In addition to fines, violating enterprises can also be forced to rectify, re-publish or compensate for related costs if false information causes consequences.

Regarding civil liability, although there are no separate provisions for the case of misdisclosure of environmental

information, general principles in the Civil Code can be applied. If the business's behavior causes actual damage to the community or investors, they can claim compensation. However, proving the damage in practice still faces many difficulties. In serious cases, enterprises or their representatives may be prosecuted for criminal liability under the Criminal Code 2015 (amended in 2017) if the act of concealing or distorting information causes great consequences. However, the practice of applying criminal sanctions is still limited, because it is difficult to determine the causal relationship between behavior and environmental consequences. In addition to the regulations on handling violations, the mechanism for monitoring the disclosure of environmental information still has many inadequacies. Although the role of state agencies, communities and social organizations has been recognized, the coordination between these subjects is still ineffective. The monitoring mechanism is mainly post-check, lacking an open data platform and real-time monitoring electronic tools. As a result, many businesses only disclose information when requested, instead of being proactive and transparent. Thus, although the law has initially established a legal framework to regulate responsibilities and supervise the disclosure of environmental information, there is still a situation of scattered and inconsistent regulations. The completion of relevant legal regulations is an urgent requirement to improve the efficiency of implementation and promote a sustainable economic development model associated with environmental responsibility.

Implementation practices and shortcomings and limitations in the disclosure of environmental information in business activities of enterprises

Although the legal system on environmental information disclosure has established basic legal principles and obligations for businesses, the implementation in Vietnam is still difficult. Problems arise on both the side of businesses, state management agencies and the community receiving information. First of all, many businesses have not fully fulfilled the obligation to disclose environmental information as prescribed. This is mainly due to limited awareness, especially in small and medium-sized enterprises, when there is a lack of financial, human resources and technology. Some businesses also do not actively fulfill their public obligations due to concerns about affecting business reputation and interests. In addition, the application of the law is still inconsistent between businesses and state management agencies. Although the regulations are relatively clear, in practice there is still confusion about the form and method of publicity. Many public cases are only formal or passive, only taking place when there is a request for inspection from the authorities. The coordination between state agencies in supervising the implementation is also limited, reducing the effectiveness of legal regulations. From the community's side, although the right to access environmental information has been recognized by law, in practice it is still difficult to implement. People in many places have not been fully disseminated about this right, or have difficulty accessing, understanding and using information due to the lack of transparency, accessibility or regular updates. For state management agencies, the inspection and supervision of information disclosure is still ineffective due to the lack of professional human resources, technical tools and

interdisciplinary coordination mechanisms. Although sanctions for handling violations have been issued, they are not strong enough and lack deterrence in practice. In general, the limitations in law enforcement on environmental information disclosure stem from inadequate awareness, limited resources, lack of coordination between authorities and weak community participation. To overcome, it is necessary to have a synchronous solution from both the policy system, implementation capacity and technical support to improve the efficiency of environmental information disclosure in business activities.

Solutions to improve the law and improve the efficiency of the obligation to disclose environmental information in business activities

In order to improve the effectiveness of environmental information disclosure in business activities, and at the same time solve the current shortcomings and limitations, it is necessary to implement a number of synchronous and specific solutions, in order to improve the law, strengthen enforcement capacity and improve community participation in supervision.

1. Improving the legal system on environmental information disclosure

One of the urgent requirements today is to complete the legal framework for environmental information disclosure. Although Vietnamese law has initially developed basic regulations on environmental information disclosure, there is still a lack of synchronization and comprehensiveness. Review and unify legal documents: Current regulations on disclosure of environmental information are scattered in many different documents, increasing the complexity of application. Therefore, it is necessary to build a clear, complete and linked regulatory system between legal documents to ensure synchronization in the performance of public obligations. Introducing detailed regulations on public objects: It is necessary to clarify the criteria for classifying environmental information that enterprises must disclose, including: what type of information must be disclosed, who has the right to access information and how the form of disclosure must be implemented. This makes it easy for businesses and authorities to implement and supervise. Updating regulations in the direction of modernization: regulations on the application of information technology in publicity, for example, publicity via electronic platforms, creating an online environmental database so that all stakeholders can easily access information.

2. Strengthening the capacity of enterprises and state agencies in the performance of disclosure obligations

An important factor in improving the efficiency of environmental information disclosure is to strengthen the capacity of businesses and authorities. Supporting businesses, especially small and medium-sized enterprises. Small and medium-sized enterprises often have difficulty meeting environmental information disclosure requirements due to limited financial and technical resources. The state can facilitate support for these businesses by providing training, developing technical guidelines, and providing financial support in the performance of public obligations. Improving the supervisory capacity of state management agencies: Functional agencies need to strengthen their capacity to supervise, inspect and examine the disclosure of environmental information. This includes building a

professional team, training human resources with sufficient capacity to monitor and handle violations in this field.

3. Raising awareness and community participation

Awareness and community participation in monitoring and using environmental information is an indispensable factor in ensuring the effectiveness of environmental information disclosure. Strengthen propaganda and raise awareness of businesses and the community: The Government and social organizations need to organize propaganda campaigns about the importance of environmental information disclosure, raise awareness of businesses about the obligations and benefits of environmental information disclosure. At the same time, it is necessary to create opportunities for the community to participate in environmental monitoring and criticism activities. Building tools to support access to information for the community: Digital platforms, mobile applications, and websites need to be developed to help the community easily access and learn about environmental information. Communities need to be equipped with the tools and knowledge to be able to understand and use this information effectively in participating in monitoring and criticism.

In short, in order to achieve the goal of effectively disclosing environmental information, it is necessary to have a complete legal system, accompanied by synchronous solutions to improve the implementation capacity of both enterprises and state agencies, and promote the role of the community in monitoring and criticism. These solutions will help not only fulfill legal obligations but also improve corporate social responsibility, promoting sustainable development in Vietnam.

Conclusion

Disclosure of environmental information in business activities is an important legal requirement to ensure the public's right to access information, promote transparency and sustainable development. Although Vietnam has built a basic legal framework for this obligation, the implementation still faces many difficulties. The main reason is the lack of consistency in the application of the law, limited initiative from the business side and ineffective supervision mechanism. In order to improve the effectiveness of enforcement, it is necessary to improve the legal system, improve the capacity of relevant entities and increase community participation in supervision. At the same time, the addition of appropriate sanctions is also a necessary factor to ensure deterrence. The synchronous implementation of these solutions not only contributes to environmental protection but also improves business reputation and promotes economic development in the direction of sustainability.

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