

Regulations on Environmental Management of Construction Project

(Promulgated by Decree No. 253 of the State Council on November 29, 1998)

Chapter I General Provisions

Article 1 These Regulations are formulated with a view to preventing construction projects from generating new pollution and damaging the ecological environment.

Article 2 These Regulations shall be applicable to construction projects having impacts on the environment within the territory of the People's Republic of China and territorial sea areas under the jurisdiction of the People's Republic of China.

Article 3 State standards and local standards for the discharge of pollutants must be complied with respecting construction projects that generate pollution; requirements for aggregate control of discharge of major pollutants must be met in areas subjects to aggregate control of discharge of major pollutants.

Article 4 Industrial construction projects should adopt clean production techniques with low energy consumption, low materials consumption and low pollutant generation, and rationally exploit natural resources to prevent environmental pollution and ecological damage.

Article 5 Measures must be taken in reconstruction projects, expansion projects and technological transformation projects to treat original environmental pollution and ecological damage related to the said projects.

Chapter II Environmental Impact Assessment

Article 6 The State implements a construction project environmental impact assessment system. The work of construction project environmental impact assessment shall be undertaken by units having acquired qualification certificates.

Article 7 The State practices classified control over construction project environmental protection in accordance with the extent of the environmental impact of the construction project in accordance with the following provisions:

(1) An environmental impact statement should be prepared for a construction project that may cause major impacts on the environment, providing comprehensive and detailed evaluations of the pollution generated and environmental impacts caused by the construction project;

(2) An environmental impact form should be compiled for a construction project that may cause light impacts on the environment, providing analyses or special-purpose evaluations of the pollution generated and environmental impacts caused by the construction project; and

(3) An environmental impact registration form should be completed and submitted for a construction project that has very small impacts on the environment and necessitates no environmental impact assessment.

A catalog for the classified control of construction project environmental protection shall be compiled and published by the competent department of environmental protection administration under the State Council.

Article 8 The environmental impact statement shall contain the following information:

(1) An overview of the construction project;

(2) Current state of the environment surrounding the construction project;

(3) Analysis and predictions of environmental impacts which may be caused by the construction project;

(4) Measures for environmental protection and their financial and technical authentication;

(5) Environmental impact economic cost-benefit analysis if;

(6) Proposals for environment monitoring of the construction project; and

(7) Conclusions of the environmental impact assessment.

A scheme for water and soil conservation examined and approved by the competent department of water administration must be prepared for construction projects involving water and soil conservation.

The contents and formats of the construction project environmental impact form and environmental impact registration form shall be prescribed by the competent department of environmental protection under the State Council.

Article 9 A construction unit should, at the construction project feasibility study stage, submit the construction project environmental impact statement, environmental impact form or environmental impact registration form for approval; however, for railway and communications construction projects, environmental impact statements or environmental impact forms may, prior to the completion of the projects' preliminary design, be submitted for approval by the competent department of environmental protection administration with authority to issue such approvals.

For a construction project that necessitates no feasibility study pursuant to relevant State provisions, the construction unit should, prior to the commencement of construction, submit the construction project environmental impact statement, environmental impact form or environmental impact registration form for approval; where application for a business license is required, the construction unit should, prior to the applying for the business license, submit the construction project environmental impact statement, environmental impact form or environmental impact registration form for approval.

Article 10 Construction project environmental impact statements, environmental impact forms or environmental impact registration forms shall be submitted by construction units to competent departments of environmental protection administration with authority for examination and approval; where construction projects have competent departments of trades, their environmental impact reports or environmental impact statements should, upon preliminary examination of the competent departments of trades, be submitted to the competent departments of environmental protection administration with authority of examination and approval for examination and approval.

Coastal engineering construction project environmental impact statements or environmental impact form shall, upon examination and verification by the competent department of maritime administration, be submitted with the views of the maritime administration to the competent department of environmental protection administration for examination and approval.

Competent departments of environmental protection administration should, within 60 days starting from the date of receipt of the construction project environmental impact statement, within 30 days from the date of receipt of the environmental impact form, and within 15 days starting from the date of receipt of the environmental impact registration form, make a decision on examination and approval and notify the construction units in writing of their decisions.

No fees whatsoever shall be collected for the preliminary examination, examination and verification, and examination and approval of construction project environmental impact statements, environmental impact forms or environmental impact registration forms.

Article 11 The competent department of environmental protection administration under the State Council is responsible for approval of environmental impact statements, environmental impact forms or environmental impact registration forms for the following projects:

(1) Construction projects involving nuclear or top-secret technologies, etc;

(2) Trans-provinces, trans-autonomous regions and trans-municipality construction projects; and

(3) Construction projects receiving approval from the State Council or from related agency authorized by the State Council.

Limits on examination and approval authority with respect to construction project environmental

impact statements, environmental impact forms or environmental impact registration forms, in addition to those provided for in the preceding paragraph, shall be prescribed by people's governments of the provinces, autonomous regions and municipalities directly under the Central Government.

Where a construction project causes trans-administrative area environmental impacts and a dispute arises between competent departments of environmental protection administration over the conclusions of the environmental impact assessment, the environmental impact statement or the environmental impact form shall be submitted to the joint competent department of environmental protection administration at the next-higher level for examination and approval.

Article 12 Where major changes take place in the nature, scale, or location of or production techniques adopted with respect to the construction project after approval of the construction project environmental impact statement, environmental impact form or environmental impact registration form, the construction unit should re-submit the construction project environmental impact statement, environmental impact form or environmental impact registration form for approval.

Where a construction project starts construction 5 years after the date of approval of the construction project environmental impact statement, environmental impact form or environmental impact registration form, its environmental impact statement, environmental impact form or environmental impact registration form should be submitted to the original examination and approval organ for re-examination and re-verification. The original examination and approval organ should, within 10 days of the date of receipt of the construction project environmental impact statement, environmental impact form or environmental impact registration form, notify the construction unit in writing of its views on examination and verification; failure to notify the construction unit upon expiration of the 10 days shall be construed as approval.

Article 13 The State implements a qualification examination system for units engaging in the work of construction project environmental impact assessment.

Units engaging in the work of construction project environmental impact assessment must obtain a qualification certificate issued by the competent department of environmental protection administration under the State Council, engage in the work of construction project environmental impact assessment consistent with the grade and scope prescribed in the qualification certificate, and be responsible for the assessment conclusions. The competent department of environmental protection administration under the State Council should publish at regular intervals the list of units engaging in the work of construction project environmental impact assessment that have already been issued qualification certificates. Specific measures in this regard shall be developed by the competent department of environmental protection administration under the State Council.

Units engaging in the work of construction project environmental impact assessment must strictly comply with the rates for the collection of fees prescribed by the State.

Article 14 Construction units may employ an open tender mechanism for selection of the units engaging in the work of construction project environmental impact.

No administrative organ shall appoint units engaging in the work of environmental impact assessment as construction units.

Article 15 Construction units should, in preparing the environmental impact statement, solicit the views of the units and residents in the locality wherein the construction project is located pursuant to relevant provisions of law.

Chapter III Construction of Environmental Protection Facilities

Article 16 Environmental protection facilities with the main body of the project must be designed, built and commissioned simultaneously with respect to the construction project.

Article 17 The preliminary design of a construction project should, pursuant to the requirements of environmental protection design standards, contain information on environmental protection, and identify measures for the prevention and treatment of environmental pollution and ecological damage,

as well as a budgetary estimate for investment in the chapter on environmental protection on the basis of the approved construction project environmental impact statement or environmental impact form.

Article 18 Where trial production is required upon completion of the main body of the construction project, the project's environmental protection facilities must undergo simultaneous trial run with the main body of the project.

Article 19 The construction unit should, during the trial production of a construction project, monitor the operations of the environmental protection facilities and the environmental impacts of the construction project.

Article 20 The construction unit should, upon completion of a construction project, file an application with the competent department of environmental protection administration that examined and approved the construction project environmental impact statement, environmental impact form or environmental impact registration form for approval inspections to be conducted upon completion of the construction of environmental protection facilities required for the construction project.

Approval inspections at completion of construction of environmental protection facilities should be conducted simultaneously with the acceptance checks for completion of construction of the main body of the project. Where trial production is required for the construction project, the construction unit should, within 3 months from the date that said construction project commences trial production, file an application with the competent department of environmental protection administration that examined and approved the construction project environmental impact statement, environmental impact form or environmental impact registration form for approval inspections to be conducted upon completion of the construction of environmental protection facilities required for the construction project.

Article 21 For construction projects that are built in phases, or that commence production or are delivered for use in phases, approval inspections at their environmental protection facilities should be conducted in phases.

Article 22 Competent departments of environmental protection administration should, within 30 days starting from the date of receipt of the application for approval inspections upon completion of the construction of the environmental protection facilities, complete the acceptance checks.

Article 23 Construction projects may only formally commence production or be delivered for use when the environmental protection facilities required for the construction project have been constructed and have passed approval inspection.

Chapter IV Legal Liability

Article 24 Whoever commits any of the following acts in violation of the provisions of these Regulations shall be ordered by the competent department of environmental protection administration responsible for the examination and approval of the construction project environmental impact statements, environmental impact forms or environmental impact registration forms fulfill the requirements within a given time period; those failing to fulfill the requirements on expiry of the given time period but commence construction without authorization shall be ordered to stop the construction and may be subject to a fine of RMB 100,000 Yuan or less:

(1) Failure to file an application for approval of the construction project environmental impact statement, environmental impact form or environmental impact registration form;

(2) Failure to file a new application for approval of the construction project environmental impact statement, environmental impact form or environmental impact registration form where major changes take place in the nature, scale, or location of or production techniques adopted for the construction project; and

(3) Failure to submit the construction project environmental impact statement, environmental impact form or environmental impact registration form to the original examination and approval unit for re-examination and re-verification where the construction project commence construction 5 years from the date of approval of the construction project environmental impact statement, environmental impact

form or environmental impact registration form.

Article 25 Those who commence construction without authorization, without approval of the construction project environmental impact statement, environmental impact form or environmental impact registration form, or without approval stemming from re-examination and re-verification of such documents by the original examination and approval unit shall be ordered by the competent department of environmental protection administration responsible for the examination and approval of the construction project environmental impact statement, environmental impact form or environmental impact registration form to stop construction and restore the project site to its original state within a given time period, and may be subject to a fine of RMB 100,000 Yuan or less.

Article 26 Where the environmental protection facilities built for the construction project that goes into trial production fail to commence trial run simultaneously with the main body of the project in violation of the provisions of these Regulations, the construction project shall be ordered by the competent department of environmental protection administration responsible for the examination and approval of the construction project environmental impact statement, environmental impact form or environmental impact registration form to rectify the situation within a given time period; those who fail to make such a rectification on expiry of the given time period shall be ordered to stop the trial production, and may be subject to a fine of RMB 50,000 Yuan or less.

Article 27 A construction unit that fails to file an application for approval inspection upon completion of the construction of the environmental protection facilities of a construction project that is operating in the trial production stage for more than 3 months in violation of the provisions of these Regulations, shall be ordered by the competent department of environmental protection administration that examined and approved the said construction project environmental impact statement, environmental impact form or environmental impact registration form to fulfill the requirement of approval inspection upon completion of the environmental protection facilities within the given time period; those who fail to fulfill said required shall be ordered to stop the trial production and may be subject to a fine of RMB 50,000 Yuan or less.

Article 28 Where the main body of the project formally goes into production or is delivered for use without the completion of construction of environmental protection facilities required for the construction project, or without undergo and passing approval inspections in violation of the provisions of these Regulations, shall be ordered by the competent department of environmental protection administration that examined and approved the construction project environmental impact statement, environmental impact form or environmental impact registration form to stop the production or use, and may be subject to a fine of RMB 100,000 Yuan or less.

Article 29 The qualification certificate of any unit engaging in the work of construction project environmental impact assessment that engages in fraudulent activity in the work of environmental impact assessment shall be revoked by the competent department of environmental protection administration under the State Council, and such unit may concurrently be subject to a fine equaling from 1-3 times the fee collected for the unit's work.

Article 30 Any functionary of the competent department of environmental protection administration who engages in malfeasance for selfish gains, abuses his power, or neglects his duties constituting a crime shall be subject to investigation for the criminal liability according to the law; where a crime has not been committed administrative sanctions shall be imposed according to the law.

Chapter V Supplementary Provisions

Article 31 Environmental impact assessment should be conducted in developing construction planning for regional development such as valley development, economic development zone construction, new urban district construction and old urban district reconstruction. Specific measures shall be developed separately by the competent department of environmental protection administration under the State Council in conjunction with other competent departments under the State Council.

Article 32 Environmental protection administration of offshore oil drilling and exploitation construction projects shall be subject to the provisions of the State Council concerning environmental protection administration of offshore oil drilling and exploitation.

Article 33 Environmental protection administration of military installation construction projects shall be subject to the relevant provisions of the Central Military Commission.

Article 34 These Regulations shall come into force as of the date of promulgation.