

Law of the People's Republic of China on Evaluation of Environmental Effects

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Chapter I General Provisions

Article 1 This Law is enacted in order to implement the sustainable development strategy, to take precautions against adverse effects on the environment after implementation of plans and completion of construction projects, and to promote the coordinated development of the economy, society and environment.

Article 2 Evaluation of environmental effects mentioned in this Law consists of the analysis, prediction and assessment made of the possible environmental effects after implementation of plans and completion of construction projects, ways put forth and measures for preventing or mitigating the adverse effects on the environment, and the methods and systems applied for follow-up monitoring.

Article 3 When plans within the scope specified in Article 9 of this Law are formulated, the environmental effects produced by the projects to be constructed within the territory of the People's Republic of China or within the sea areas under the jurisdiction of the People's Republic of China shall be evaluated in accordance with this Law.

Article 4 The environmental effects shall be evaluated in an objective, open and impartial manner, with an all-round consideration given to the possible effects on the various environmental factors and on the ecological system, which is composed of the factors, after a plan is implemented or a project is constructed, providing a scientific basis for decision-making.

Article 5 The State encourages relevant units, specialists and the public to participate in the evaluation of environmental effects in an appropriate manner.

Article 6 The State strengthens the establishment of a basic data base and evaluation index system for evaluation of environmental effects, encourages and supports scientific research in the approaches and technical standards for evaluation of environmental effects, establishes the necessary system for jointly sharing of information on the evaluation of environmental effects and sees to it that such evaluation is highly scientific.

The competent administrative department for environment protection under the State Council shall, in conjunction with the relevant departments under the State Council, take charge of establishing a sound basic data base and evaluation index system for evaluation of environmental effects.

Chapter II Evaluation of Environmental Effects of Plans

Article 7 When making arrangements for formulating plans for the utilization of land for construction in or development and utilization of certain areas, river basins and sea areas, the relevant departments under the State Council, local people's governments at or above the level of the city divided into districts and the relevant departments under them shall see to it that environmental effects are evaluated in the process of formulation and that in the plan is devoted to such effects a chapter or an explanation on the effects is given.

The chapter or explanation on environmental effects in a plan shall include an analysis, prediction and assessment of the possible environmental effects produced after implementation of the plan and the ways and measures put forth for preventing or mitigating the adverse effects on the environment, which, as a component part of a draft plan, shall be submitted together with the plan to the authority for examination and approval of plans.

The examination and approval authority shall examine and approve no draft plan without a chapter devoted to or an explanation made on environmental effects.

Article 8 Before submitting for examination and approval their special draft plans, which the relevant departments under the State Council, local people's governments at or above the level of the city divided into districts and the relevant departments under them make arrangements for drawing up and which are related to the development of industry, agriculture, animal husbandry, forestry, energy, water conservancy, transportation, urban construction, tourism and natural resources (hereafter referred to as special plans, in short), they shall have the environmental effects evaluated and submit written reports

on environmental effects to the authorities that examine such special plans before giving approval.

As for the guidance plans for the special plans mentioned in the preceding paragraph, environmental effects shall be evaluated in accordance with the provisions in Article 7 of this Law.

Article 9 The specific scope of the environmental effects to be evaluated, as is required for the plans specified by the provisions of Articles 7 and 8 of this Law shall be prescribed by the competent administrative department for environment protection under the State Council in conjunction with the relevant departments under the State Council and be submitted to the State Council for approval.

Article 10 The written report on the environmental effects of a special plan shall include the following:

- (1) an analysis, prediction and assessment of the possible effects on the environment produced after implementation of the plan;
- (2) ways and measures for preventing or mitigating adverse environmental effects; and
- (3) conclusion on the evaluation of environmental effects.

Article 11 As for a special plan, which may cause adverse effects on the environment and may have a direct bearing on the rights and interests of the public in respect of the environment, the authority that draw up the plan shall, before submitting the draft of the plan for examination and approval, hold demonstration meetings or hearings, or solicit in other forms the comments and suggestions from the relevant units, specialists and the public on the draft report on environmental effects, except where secrets need to be guarded as required by State regulations.

The authority that draws up the plan shall seriously consider the comments and suggestions put forward by the relevant units, specialists and the public on the draft of the written report on environmental effects and attach to the written report on environmental effects to be submitted for examination its explanations on why it adopts or rejects those comments and suggestions.

Article 12 When submitting a draft plan to the examination and approval authority for examination, the authority that draws up the special plan shall attach to it the written report on environmental effects; and if it fails to do so, the examination and approval authority shall refuse to examine the draft plan.

Article 13 Before the people's government at or above the level of the city divided into districts examines a draft special plan and makes a decision on it, the competent administrative department for environment protection or other departments designated by the government shall call together the representatives and specialists of the departments concerned for forming an examination group to examine the written report on environmental effects. The examination group shall put forth its opinions in writing after examination.

The specialists of the examination group specified in the preceding paragraph shall be determined through random selection from the name list of the relevant professional specialists in the specialists base established in accordance with the regulations of the competent administrative department for environment protection under the State Council.

Measures for examination of the written reports on environmental effects attached to the special plans which are subject to examination and approval by the relevant department under the people's governments at or above the provincial level shall be formulated by the competent administrative department for environment protection under the State Council in conjunction with the relevant departments under the State Council.

Article 14 When examining a draft special plan, the people's government at or above the level of the city divided into districts or the relevant department under the people's government at or above the provincial level shall make the conclusion on the report on environmental effects and the opinions after examination the important basis for decision-making.

Where the conclusion on the report on environmental effects and the opinions after examination are not adopted in the course of examination, an explanation shall be made and filed for the record.

Article 15 After the plan which exerts considerable effects on the environment is carried out, the authority that draws up the plan shall, without delay, make arrangements for follow-up evaluation of the effects, and report the result of the evaluation to the examination and approval authority; and once it discovers obvious adverse effects on the environment, it shall put forth measures for improvement.

Chapter III Evaluation of Environmental Effects of Construction Projects

Article 16 On the basis of the extent of the effects exerted on the environment by construction projects, the State exercises, in a classified manner, control over the evaluation of the effects of construction projects on the environment.

A construction unit shall, in accordance with the following provisions, make arrangements for preparing a written report on the environmental effects or a statement on such effects or filling out a registration form of environmental effects (hereinafter referred to as the document for evaluation of environmental effects, in general):

(1) where considerable effects may be exerted on the environment, preparing a written report on environmental effects, in which a comprehensive evaluation of the effects on the environment shall be made;

(2) where mild effects may be exerted on the environment, preparing a statement on the effects, in which an analysis or special evaluation of the effects shall be made; or

(3) where the effects on the environment are very little and therefore it is not necessary to make an evaluation of them, filling out a registration form of environmental effects.

A classified catalogue for control over the evaluation of the environmental effects of construction projects shall be worked out and published by the competent administrative department for environment protection under the State Council.

Article 17 The written report on the evaluation of the environmental effects of a construction project shall include the following:

(1) a brief introduction to the construct project;

(2) the existing environment of the construction project;

(3) an analysis, prediction and assessment of effects that the construction project may exert on the environment;

(4) protective measures for the environment of the construction project and technical and economic demonstrations of the measures;

(5) an analysis of the economic losses and benefits by the construction project to the environmental effects;

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

(7) a conclusion on the evaluation of environmental effects.

With respect to a construction project that has a bearing on soil and water conservation, an additional plan for soil and water conservation that has been examined and approved by the competent administrative department for water is essential.

The contents and forms of the statement on and registration form of environmental effects shall be worked out by the competent administrative department for environment protection under the State Council.

Article 18 Attention shall be paid to avoiding repetition of the evaluation of the environmental effects of a construction project in the evaluation of the environmental effects of a plan.

With respect to a plan which is part of an integrated construction project, for which an evaluation of the environmental effects exerted by the construction project shall be made, no evaluation of such effects of the plan is required.

The construction unit may simplify the evaluation of the environmental effects exerted by the specific construction projects contained in the plan, the environmental effects of which have already been evaluated.

Article 19 The institutions to be entrusted with the provision of technical services for evaluation of the environmental effects of construction projects shall be the ones which are considered qualified after appraisal and examination by the competent administrative department for environment protection under the State Council, to which the said department has issued qualification certificates, which provide services for evaluation of environmental effects in conformity with their grade and within the scope of evaluation as specified in their qualification certificates, and which are responsible for the conclusion they made on the evaluation. The qualifications and administration measures regarding the institutions that provide technical services for evaluation of environmental effects of construction projects shall be worked out by the competent administrative department for environment protection under the State Council.

The competent administrative department for environment protection under the State Council shall publish the name list of the institutions providing technical services for evaluation of the environmental effects of construction projects that have obtained qualification certificates.

No institutions providing technical services for evaluation of the environmental effects of construction projects may have any relations of interest with the competent administrative department for environment protection that is in charge of examination and approval of the document for evaluation of environmental effects or the relevant examination and approval departments.

Article 20 Among the documents for evaluation of environmental effects, the forms of written reports or statements on environmental effects shall be designed by the institutions with the appropriate qualifications for evaluation of environmental effects.

No units or individuals may designate any institution to evaluate for a construction unit the environmental effects of construction projects.

Article 21 Except where secrets need to be guarded, as required by State regulations, the unit of the construction project which may cause considerable effects on the environment and for which a written report on environmental effects is required to be prepared shall, before submitting for examination and approval, the report on the environmental effects of the construction project, hold demonstration meetings or hearings, or solicit in other forms the comments and suggestions from relevant units, specialists and the public on the written report.

The construction unit shall attach its explanations on why it adopts or rejects the comments and suggestions put forward by the relevant units, specialists and the public to the written report submitted for approval.

Article 22 The document for evaluation of the environmental effects of a construction project shall, in accordance with the regulations of the State Council, be submitted by the construction unit for examination and approval to the competent administrative department for environment protection that has the power of examination and approval; where the construction project is subordinated to the competent department of its trade, the written report or the statement on its environmental effects shall, after preliminary examination by the said department, be submitted for examination and approval to the competent administrative department for environment protection that has the power of examination and approval.

The written report on marine environmental effects of a marine engineering project shall be examined and approved in accordance with the provisions of the Marine Environment Protection Law of the People's Republic of China.

The examination and approval department shall, within 60 days from the date it receives a written report on environmental effects, or within 30 days from the date it receives a statement on environmental effects, or within 15 days from the date it receives a registration form of environmental effects, respectively make a decision after examination, and inform the construction unit of its decision in writing.

No fees whatever may be collected for preliminary examination, examination and verification, or examination and approval of the document for evaluation of the environmental effects of a construction project.

Article 23 The competent administrative department for environment protection under the State Council shall be in charge of examination and approval of the following documents for evaluation of the environmental effects of construction projects:

- (1) construction projects of a special nature, such as nuclear institutions and most confidential projects;
- (2) construction projects spanning administrative regions of provinces, autonomous regions or municipalities directly under the Central Government; and
- (3) construction projects subject to examination and approved by the State Council or by the relevant department authorized by the State Council.

The limits of power for examination and approval of the documents for evaluation of the environmental effects of construction projects, other than the ones specified in the preceding paragraph, shall be defined by the people's governments of provinces, autonomous regions or municipalities directly under the Central Government.

Where the relevant competent administrative departments for environment protection disagree with each other over the conclusion on evaluation of the environmental effects of the construction project that may cause adverse environmental effects over administrative regions, the document for evaluation of the environmental effects shall be submitted for examination and approval to their common competent administrative department for environment protection at the next higher level.

Article 24 Where, after the document for evaluation of the environmental effects of a construction project is approved, major changes are made in the nature, scale and location of the construction project, in the production techniques adopted, or in the measures taken for prevention and control of pollution and for prevention of damage of the ecology, the construction unit shall submit a new document for evaluation of the environmental effects of the construction project for examination and approval.

Where decision is made for starting construction of a project more than five years following the date the document for evaluation of the environmental effects is approved, the said document shall be submitted to the original examination and approval department for examination and verification anew; the said department shall, within 10 days from the date it receives the document for evaluation of the environmental effects

of the construction project, inform the construction unit of the result of the examination and verification in writing.

Article 25 Where the document for evaluation of the environmental effects of a construction project is not examined, or is examined but not approved, by the examination and approval department specified by law, the department for examination and approval of the said project shall not be allowed to approve construction of the project and the construction unit shall not be allowed to start construction.

Article 26 In the process of construction of a project, the construction unit shall simultaneously implement the measures for protection of the environment contained in the comments and suggestions put forth by the examination and approval department when examining and approving the written report or statement on the environmental effects and the document for evaluation of the environmental effects.

Article 27 Where, in the process of construction and operation of a project, things inconsistent with what is stated in the examined and approved document for evaluation of environmental effects occur, the construction unit shall make arrangements for post-evaluation of the environmental effects and take measures for improvements, and submit a report to the department for original examination and approval of the document for evaluation of environmental effects and to the original department for examination and approval of the construction project for the record; and the original department for examination and approval of the document for evaluation of environmental effects may also instruct the construction unit to make post-evaluation of the environmental effects and to take measures for improvements.

Article 28 The competent administrative department for environment protection shall conduct follow-up inspection of the environmental effects caused after a construction project is put into production or use. Where serious pollution is caused to the environment or damage is caused to the ecology, the causes shall be ascertained and the responsibility shall be investigated. Where it is because the document for evaluation of the environmental effects drawn up by the institution providing technical services for evaluation of the environmental effects of construction projects is untrue, its legal responsibility shall be investigated in accordance with the provisions of Article 33 of this Law; and where it is because the staff member of the examination and approval department approves the said document due to his negligence or dereliction of duty, which according to law he should not have approved, his legal responsibility shall be investigated in accordance with the provisions of Article 35 of this Law.

Chapter IV Legal Responsibility

Article 29 Where the department in charge of drawing up plans, in violation of the provisions of this Law, practices fraud or negligence of duty when making arrangements for evaluation of environmental effects, so that the evaluation of the environmental effects is seriously inconsistent with the facts, the persons directly in charge and the other persons directly responsible shall, according to law, be given administrative sanctions by the authority at a higher level or by the supervisory authority.

Article 30 Where the authority for examination and approval of plans, in violation of law, approves a draft plan, in which a chapter or an explanation on environmental effects required by law is not contained, or a special draft plan, to which a written report on environmental effects should be attached, as required by law, but is not attached, the persons directly in charge and the other persons directly responsible shall, according to law, be given administrative sanctions by the authority at a higher level or the supervisory authority.

Article 31 Where a construction unit starts construction before submitting the document for evaluation of the environmental effects of a construction project for approval, as is required by law, or before submitting a new document for approval or submitting the document for examination and verification anew, as is required by the provisions of Article 24 of this Law, the competent administrative department for environment protection that has the power to examine and approve the document for evaluation of the environmental effects of the said project shall instruct the construction unit to stop constructing and to go through formalities within a time limit; if it fails to do so at the expiration of the time limit, it may be fined not less than RMB 50,000 yuan but not more than 200,000 yuan, and the persons directly in charge of the construction unit and the other persons directly responsible shall, according to law, be given administrative sanctions.

Where a construction unit starts construction when the document for evaluation of the environmental effects of a construction project is not approved or is not examined, verified and approved anew by the original examination and approval department, the competent administrative department for environment protection that has the power to examine and approve the document for evaluation of the environmental effects of the said project shall instruct the construction unit to stop constructing; it may be fined not less than 50,000 yuan but not more than 200,000 yuan; and the persons directly in charge of the construction unit and the other persons directly responsible shall, according to law, be given administrative sanctions.

Where a construction unit of a marine engineering project commits the illegal acts mentioned in the preceding two paragraphs, it shall be punished in accordance with the provisions in the Marine Environment Protection Law of the People's Republic of China.

Article 32 Where the examination and approval department approves construction of a project, the environmental effects of which are not evaluated as required by law, or the document for evaluation of the environmental effects of which is not approved according to law, the persons directly in charge and the other persons directly responsible shall, according to law, be given administrative sanctions by the authority at a higher level or by the supervisory authority; and if a crime is constituted, criminal responsibility shall be investigated according to law.

Article 33 Where the institution entrusted with the provision of technical services for evaluation of the environmental effects of a construction project is not responsible for or practises fraud, in the evaluation of the environmental effects, so that the document for such evaluation is inconsistent with the facts, the competent administrative department for environment protection which confers on it the qualification for evaluation of environmental effects, shall lower its grade of qualification or revoke its qualification certificate, and impose a fine of not less than the amount, but not more than three times the amount, of the fees it collects for the services; if a crime is constituted, criminal responsibility shall be investigated according to law.

Article 34 Where the department in charge of preliminary examination, examination and verification, or examination and approval of the documents for evaluation of the environmental effects of construction projects collects fees for examination and approval, the authority at the next higher level or the supervisory authority shall instruct it to return the fees; and if the circumstances are serious, the persons directly in charge and the other persons directly responsible shall, according to law, be given administrative sanctions.

Article 35 Where staff members of the competent administrative department for environment protection and other departments, engaging in malpractices for personal gains, abusing their powers, or neglecting their duties, approve the documents for evaluation of the environmental effects of construction projects in violation of law, they shall, according to law, be given administrative sanctions; and if a crime is constituted, criminal responsibility shall be investigated according to law.

Chapter V Supplementary Provisions

Article 36 People's governments of provinces, autonomous regions or municipalities directly under the Central Government, in the light of local conditions, may require that

environmental effects be evaluated in respect of the plans drawn up by people's governments at the county level under their respective jurisdiction. Specific measures in this regard shall be worked out by the provinces, autonomous regions and municipalities directly under the Central Government in reference to the provisions in Chapter II of this Law.

Article 37 Measures for evaluation of the environmental effects of construction projects of military installations shall be worked out by the Central Military Commission of the People's Republic of China in accordance with the principles of this Law.

Article 38 This Law shall go into effect as of September 1, 2003.