

Law of the People's Republic of China on Environmental Impact Assessment (2016Amendment)[Effective]

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Law of the People's Republic of China on Environmental Impact Assessment

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Table of Contents

Chapter I General Provisions

Chapter II Appraisal of the Environmental Impacts of Programs

Chapter III Appraisal of the Environmental Impacts of Construction Projects

Chapter IV Legal Liabilities

Chapter V Supplementary Provisions

Chapter I General Provisions

Article 1 The present Law has been enacted for the purpose of carrying out the strategy of sustainable development, prevent the unfavorable impacts of programs and constructions projects upon the environment after they are carried out, and promote the concerted development of the economy, society and environment.

Article 2 The term appraising environmental impacts as mentioned in the present Law refers to the methods and institutions for analyzing, predicting and appraising the impacts of programs and construction projects that might incur after they are carried out so as to propose countermeasures for preventing or mitigating the unfavorable impacts and make follow-up monitoring.

Article 3 To work out any of the programs as described in Article 9 of the present Law or to build any project within the territory of the People's Republic of China or within other seas subject to the jurisdiction of the People's Republic of China, appraisals shall be conducted about the environmental impacts according to the present Law.

Article 4 The appraisals of the environmental impacts shall be objective, open and impartial, and shall take the impacts imposed upon the various environmental factors and the corresponding ecosystem by the programs or construction project after they are carried out so as to provide a scientific basis for decision-making.

Article 5 The state encourages relevant entities, experts and the general public to participate in the appraisal of the environmental impacts in appropriate ways.

Article 6 The state shall strengthen the construction of the basic databases for the appraisal of environmental impacts and the system of indicators for appraisal, encourage and support the scientific research of the methods and technical specifications for appraising environmental impacts, and build a system for sharing the information about environmental impacts so as to make the environmental impact appraisals more scientific.

The administrative department in charge of the environmental protection under the State Council shall, in collaboration with other relevant departments under the State Council, organize, establish and improve the basic databases for appraising environmental impacts and the system of appraisal indicators.

Chapter II Appraisal of the Environmental Impacts of Programs

Article 7 The relevant departments of the State Council and the local people's governments at (above) the level of the cities with districts as well as the relevant departments thereof shall, in the process of working out the relevant programs concerning the use of land and the programs for constructing, developing and utilizing the areas, drainage areas or sea areas, conduct environmental impact appraisals, draft chapters or explanations concerning environmental impacts. In the chapters or explanations of the programs concerning environmental impacts, an analysis, prediction and appraisal of the environment impacts of the program after it is implemented shall be made, and countermeasures shall be put forward for preventing or mitigating the unfavorable environmental impacts. Such chapters or explanations shall form a part of the draft of the programs and shall be reported to the organ in charge of the examination and approval of the programs.

The examination and approval organ may not approve any draft of program which does not have a chapter or explanation of the environmental impacts.

Article 8 With regard to the relevant special programs of industry, agriculture, animal husbandry, forestry, energy, water conservancy, communications, municipal construction, tourism, and natural resources development (hereafter special programs), the relevant departments of the State Council and the local people's government of the cities with districts as well as the relevant departments thereof shall, prior to reporting the draft of the special program for examination and approval, organize appraisals of environmental impacts, and submit a report of environmental impacts to the organ in charge of the examination and approval of the special program.

For the directive program for the special programs as mentioned in the preceding paragraph, an appraisal shall be made about the environmental impacts according to the provisions of Article 7 of the present Law.

Article 9 The specific scope of programs for which environmental impact appraisals shall be made according to the provisions of Articles 7 and 8 of the present Law shall be prescribed by the administrative department under the State Council in charge of environmental protection jointly with other relevant departments of the State Council and be submitted to the State Council for ratification.

Article 10 The report of the environmental impacts of special program shall include the following elements:

- a. An analysis, prediction and appraisal of the environmental impacts that might occur if the program is implemented;
- b. The countermeasures for predicting or mitigating the unfavorable environmental impacts;
- c. The conclusion of the appraisal upon the environment.

Article 11 In case a program may cause unfavorable environmental impacts or directly involve the environmental interests of the general public, the organ that works out the special programs shall, prior to submitting the draft of the programs for examination and approval, seek the opinions of the relevant entities, experts and the general public about the draft of the report about the environmental impacts by holding demonstration meetings or hearings or by any other means, except it is provided by the state that it shall be kept confidential.

The drafting organ shall take the opinions of the relevant entities, experts and the general public about the draft report of environmental impacts into careful consideration, and shall attach a remark whether the opinions are adopted or refused to the report of environmental impacts to be submitted for examination and approval.

Article 12 The organ that works out a special program shall, when reporting the draft of the program for examination and approval, submit the report about the environmental impacts at the same time. In case it fails to submit the report about the environmental impacts, the examination and approval organ may not grant approval.

Article 13 When the people's government at (above) the level of the cities with districts examines the draft of a special program and before making the decision, the administrative department in charge of environmental protection designated by the people's government or other relevant departments shall summon the representatives of relevant departments and experts to form an examination and approval group so as to examine the report of environmental impacts. The examination and approval group shall submit their opinions in written form.

The experts of the examination and approval group as described in the preceding paragraph shall be determined randomly from the list of experts within the relevant majors of the databases of experts established by the administrative departments of the State Council in charge environmental protection.

The measures for the examination of the special programs subject to the examination and approval of the relevant departments of the people's government on the provincial level and above shall be formulated by the administrative department of the State Council in charge of environmental protection jointly together with other relevant departments of the State Council.

Article 14 Where the examination team offers an amendment opinion, the authority that makes the special plan shall, according to the conclusion of the environmental impact report and examination opinion, amend and improve the draft plan, and give an explanation on the adoption of the conclusion of the environmental impact report and the examination opinion; and give the reason if it does not adopt the conclusion or the opinion.

When examining and approving the draft of a special program, the people's government at (above) the level of the cities with districts and on higher levels or the relevant departments of the people's government shall take the conclusion of the report of environmental impacts and the opinions of examination as an important basis for their decision-making. In case the conclusion of the report about the environmental impacts or any of the examination opinions is not accepted in the examination and approval, an explanation shall be made and shall be kept in archivist files for further reference.

Article 15 After a program which has significant environmental impacts is carried out, the drafting organ shall organize follow-up appraisals about the environmental impacts in good time, and report the results of appraisal to the organ of

examination and approval. If it finds that there are obviously unfavorable environment impacts, it shall propose improvement measures in good time.

Chapter III Appraisal of the Environmental Impacts of Construction Projects

Article 16 The state practices classified management over the appraisals of the environmental impacts of construction projects according to the seriousness of the impacts.

The construction entities shall work out the report of environmental impacts, the report form of environmental impacts or the registration form of environmental impacts (hereafter environmental impact appraisal documents) according to the following principles:

- a. If the environmental impacts may be significant, it shall work out a report of environmental impacts so as to include an all-round appraisal of the environmental impacts;
- b. If the environment impacts may be gentle, it shall work out a report form of environmental impacts so as to include an analysis or special appraisal of the environmental impacts;
- c. If environment impacts may be very small so that it is not necessary to conduct an appraisal of the environmental impacts, it shall fill in a registration form of the environmental impacts.

The names of the construction projects subject to classified management of appraisal of environmental impacts shall be determined and published by the administrative department of the State Council in charge of environmental protection.

Article 17 The report of the environmental impacts of a construction project shall include the following elements:

- a. An introduction of the construction project;
- b. The surrounding environment of the construction project;
- c. An analysis, prediction and appraisal of the environmental impacts that may be caused by the construction project;
- d. The measures for protecting the environment of the construction project as well as a technical and economical demonstration;
- e. An analysis of the economic gains and losses of the environmental impacts that may be caused by the construction project;
- f. Suggestions for carrying out environmental monitoring over the construction project;
- g. Conclusion of appraisal of the environmental impacts.

For a construction project which involves water conservancy, there shall be a plan of water conservancy which has been examined and approved by the administrative department of water.

Article 18 The appraisal of the environmental impacts of a construction project shall not be a repetition of the appraisal of the environmental impacts of the program.

As the program of an integrated construction project, the appraisal of the environmental impacts shall be conducted on the basis of the construction project rather than of the program.

Where a specific construction project is covered in a plan on which environmental impact assessment has been

conducted, the conclusion of environmental impact assessment of the plan shall be taken as an important basis of environmental impact assessment of the construction project, and the content of environmental impact assessment of the construction project shall be simplified according to the examination opinion of environmental impact assessment of the plan.

Article 19 The institution that provides technical services, upon entrustment, to the appraisal of the environmental impacts of a construction project shall be subject to the examination and inspection of the administrative department of the State Council in charge of environmental protection. If it passes the examination and inspection and is granted a certificate of qualifications, it shall provide services of appraisal of the impacts according to the grade as prescribed in the certificate and the scope of appraisal, and shall be responsible for the conclusion of appraisal. The requirements of qualifications and the measures of administration of the institutions that provide technical services to the appraisal of the environmental impacts of construction projects shall be formulated by the administrative department of the State Council in charge of environmental protection.

The administrative department of the State Council in charge of environmental protection shall publish the names of institutions that have obtained a certificate of qualifications for providing technical services to the appraisal of the environmental impacts of construction projects.

There shall not exist any relationship of interest between the institutions that provide technical services to the appraisal of the environmental impacts of construction projects and the administrative department in charge of environmental protection and any other department of examination and approval.

Article 20 The report of environmental impacts or the report form of environmental impacts as included in the environmental impact appraisal documents shall be formulated by the institutions that have corresponding qualifications for making appraisals of the environmental impacts.

No entity or individual may designate for any construction entity any institution to make appraisals of the environmental impacts of any construction project.

Article 21 Unless it is provided by the state that it is necessary to keep confidential, for the construction projects which may impose significant environmental impacts and for which it is necessary to work out a report of environmental impacts, the construction entity shall, before submitting the construction project for examination and approval, seek the opinions of relevant entities, experts and the general public by holding demonstration meetings, hearings or by any other means. The report of environmental impacts submitted by the construction entity for examination and approval shall include an explanation of why the opinions of relevant entities, experts and the general public is accepted or rejected.

Article 22 The environmental impact report and report form of a construction project shall be submitted by the construction entity to the environmental protection administrative department with the approval authority for approval in accordance with the provisions of the State Council.

The approval of marine environmental impact report on a marine construction project shall be governed by the provisions of the Marine Environment Protection Law of the People's Republic of China.

The approval department shall make an approval or disapproval decision and notify the construction entity in writing respectively within 60 days of receipt of the environmental impact report and within 30 days of receipt of the environmental impact report form.

The state shall conduct recordation administration of the environmental impact registration form.

No fees may be charged for the examination and approval of the environmental impact report and report form of a construction project and for the recordation of the environmental impact registration form.

Article 23 The administrative department of the State Council in charge of environmental protection shall be responsible for examining and approving the environmental impact appraisal documents of the following construction projects:

- a. Special construction projects including nuclear facilities and top secret projects;
- b. Construction projects that include different provinces, autonomous regions or municipalities directly under the Central Government;
- c. Construction projects subject to the examination and approval of the State Council or the relevant departments authorized by the State Council.

The power to examine and approve the environmental impact appraisal documents of any construction project not mentioned in the preceding paragraph shall be subject to the prescription of the people's government of the provinces, autonomous regions and municipalities directly under the Central Government.

In case a construction project may cause unfavorable environmental impacts covering more than one administrative region or if the relevant administrative departments of environmental protection have disputes over the appraisal conclusion of the impacts imposed by the project concerned upon the environment, the environmental impact appraisal documents shall be subject to the examination and approval of the administrative department of environmental protection that is the superior of all the administrative departments concerned.

Article 24 If, after the environmental impact appraisal document of a construction project has been approved, either the nature or scale or venue or the production techniques employed or the measures for preventing pollution and preventing ecological damage has undergone substantial changes, the construction entity shall submit anew the environmental impact appraisal documents of the construction project for examination and approval.

In case five years has passed after the environmental impact document of a construction project is approved when it is decided to start the construction of the project, the environmental impact appraisal document thereof shall be submitted to the original examination and approval department for examination and approval anew. The original examination approval department shall, within 10 days after receiving the environmental impact appraisal document of the construction project, inform the construction entity of the opinions of examination in written form.

Article 25 Where the environmental impact assessment document of a construction project fails to undergo the examination of the approval department in accordance with the law or is disapproved after examination, the construction entity shall not commence construction.

Article 26 In the process of constructing a project, the construction entity shall carry out the countermeasures for environmental protection as proposed in the comments of the examination and approval department of the environmental impact report, the report form of environmental impacts and environmental impact appraisal documents.

Article 27 If, in the process of building or operating a project, any circumstance that is inconsistent with the approved environmental impact appraisal document occurs, the construction entity shall organize a post-appraisal of the environmental impacts, take measures for improvement and report to the original examination and approval department of the environmental impact appraisal documents and the examination and approval department of the construction project for archival purposes. The original examination and approval department of the environmental impact appraisal document may order the construction entity to conduct the post-appraisal of the environmental impacts and take measures for improvement.

Article 28 The administrative department of environmental protection shall make follow-up inspections to the environmental impacts incurred after the construction project is put into production or use, and shall find out the causes of and those responsible for any serious environmental pollution or ecological damages. If it is caused by the untruthful environmental impact appraisal document worked out by the institution that provides technical services to the environmental impact appraisal of the construction project, the institution shall be subject to assuming legal liabilities as provided in Article 33 of the present Law. If it is caused by the negligence of duties or malfeasance of any of the staff of the examination and approval department who has granted approval to the environmental impact appraisal document that should not have been approved, the person concerned shall be subject to assuming the legal liabilities as provided in Article 35 of the present Law.

Chapter IV Legal Liabilities

Article 29 Where any authority that makes a plan fails to organize environmental impact assessment in violation of the provisions of this Law, or practices fraud or neglects duty when organizing environmental impact assessment, which causes that the environment impact assessment is significantly inconsistent with the facts, the superior authority or the supervisory authority shall, in accordance with law, take disciplinary actions against its directly responsible person in charge and other directly liable persons.

Article 30 Where any program examination and approval organ unlawfully approves any program draft for which a chapter or explanation of the environmental impacts should have been drafted or any special program draft to which an environmental impact report should have been attached, the person in-charge or other personnel who are held to be directly responsible shall be given an administrative punishment by the superior organ or the government supervision organ.

Article 31 Where a construction entity unlawfully commences the construction of a project without submitting for approval its environmental impact report or report form in accordance with the law, or without reporting for approval anew or requesting the re-examination of the environmental impact report or report form in accordance with the provision of Article 24 of this Law, the environmental protection administrative department at or above the county level shall order it to cease construction, and according to the circumstances of violation of law and damage, impose a fine of not less than 1% but not more than 5% of the total investment of the construction project on it, and order it to restore to the original state; and in accordance with the law, take disciplinary actions against the directly responsible person in charge and other directly liable persons of the construction entity.

Where the construction entity unlawfully commences construction of a project without obtaining the approval of its environmental impact report or report form or without obtaining new approval of the original approval department upon examination, it shall be punished or given disciplinary action in accordance with the provisions of the preceding paragraph.

Where the construction entity fails to undergo recordation formalities for the environmental impact registration form of a construction project in accordance with the law, the environmental protection administrative department at or above the county level shall order it to undergo recordation, and impose a fine of not more than 50,000 yuan on it.

The construction entity of any marine construction project that commits any violation of law as set forth in this Article shall be punished in accordance with the provisions of the Marine Environment Protection Law of the People's Republic of China.

Article 32 Where any institution that provides, upon entrustment, technical services in making environmental impact appraisals for construction projects is remiss or practices fraud in the appraisal work so that the appraisal documents are inconsistent with the facts, it shall be degraded or the qualification certificate thereof shall be canceled by the administrative department of environmental protection that has granted to it the qualifications for environmental impact appraisals, and be fined up to three times the commissions charged. If any crime has been constituted, it shall be subject to criminal liabilities.

Article 33 Where the department responsible for the examination, approval and recordation of environmental impact assessment documents of construction projects charges fees in examination and recordation, its superior authority or supervisory authority shall order it to return the fees; and if the circumstances are serious, take disciplinary actions against its directly responsible person in charge and other directly liable persons in accordance with the law.

Article 34 In case any of the staff of the administrative department of environmental protection or any other department seeks private gains by illegal means or abuses its power or neglects its duties or unlawfully grants approval to any environmental impact appraisal document of any construction project, he shall be given an administrative punishment. If any crime has been constituted, he shall be subject to criminal liabilities.

Chapter V Supplementary Provisions

Article 35 The people's government of the provinces, autonomous regions and municipalities directly under the Central Government may, according to the practical situation of the local places, demand that environmental impact appraisals be conducted for the programs worked out by the county-level people's government within their respective jurisdictions. The specific measures shall be formulated by the provinces, autonomous regions and municipalities directly under the Central Government according to the provisions of Chapter II of the present Law.

Article 36 The measures for conducting environmental impact appraisals to the construction projects of military facilities shall be formulated by the Central Military Committee according to the present Law.

Article 37 The present Law shall become effective on September 1, 2003.