

ENVIRONMENTAL IMPACT ASSESSMENT LAW OF THE PEOPLE'S REPUBLIC OF CHINA

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Chapter I General Provisions

Article 1

This Law is formulated for the purpose of realizing sustainable development strategy, preventing adverse impacts on the environment from implementation of plans and construction projects, and promoting coordinative development of the economy, society and environment.

Article 2

"Environmental Impact Assessment" (hereafter termed EIA) as used in this Law refers to the methodology and system of performing analysis, projection and evaluation on potential environmental impacts resulted from implementation of a plan or a construction project, proposing countermeasures and measures to prevent or alleviate adverse impacts, and carrying out tracing monitoring.

Article 3

This Law shall apply to plans within the scopes stipulated in Article 9 of this Law and to the construction of projects with potential environmental impacts in the territory of the People's Republic of China and other sea areas under the jurisdiction of the People's Republic of China.

Article 4

EIA must be objective, open and impartial, comprehensively consider impacts on various environmental factors and the ecosystem they form after the implementation of the plan or construction project, and thus provide scientific basis for the decision-making.

Article 5

The state shall encourage all relevant units, experts and the public to participate in the EIA in proper ways.

Article 6

The state shall strengthen establishment of basic databases and assessment indicators system for EIA, encourage and support scientific researches on methodologies and technical specifications for EIA, set up necessary EIA information sharing system, so as to improve the scientific character of EIAs.

The competent department of environmental protection administration under the State Council shall, in conjunction with relevant departments under the State Council, organize establishment and improve the basic databases and assessment indicators system for EIA.

Chapter II Environmental Impact Assessment for Plans

Article 7

The relevant departments under the State Council, local people's governments at or above the level of municipality with districts and relevant departments under them shall, for the land-use plans and construction and exploitation plans of regions, river basins and sea areas they organize to prepare, organize EIA and prepare chapters or descriptions on environmental impacts of the plans.

The chapter or description on environmental impact of a plan shall perform analysis, projection and evaluation on the potential environmental impacts resulted from implementation of the plan, propose countermeasures and measures to prevent or alleviate adverse environmental impacts, and submit them, as component of the draft plan, to relevant review and approval departments of the plan.

For the draft plans without chapters or descriptions on environmental impacts, the review and approval departments shall not approve the plan.

Article 8

The relevant departments under the State Council, local people's governments at or above the level of municipality with districts and relevant departments under them shall, for the industrial, agricultural, livestock breeding, forestry, energy, water conservancy, transportation, urban construction, tourism, natural resources and other specific plans (hereafter termed specific plans) they organize to prepare, organize EIAs before the submission of the draft specific plans for approval, and submit the environmental impact statements (hereafter termed EISs).

For the guiding plans in the specific plans listed in the provisions of the preceding paragraph, the EIA shall be performed according to the stipulation in Article 7.

Article 9

The detailed scope of plans for which EIA shall be performed under stipulations of Articles 7 and 8 shall be stipulated by the competent department of environmental protection administration under the State Council shall, in conjunction with relevant departments under the State Council, and submitted to the State Council for approval.

Article 10

The contents of an EIS shall include:

- (1) Analysis, projection and evaluation on the potential environmental impacts resulted from implementation of the plan;
- (2) Countermeasures and measures to prevent or alleviate adverse environmental impacts; and
- (3) Conclusions of the EIA.

Article 11

The institutions responsible for preparing the specific plan shall hold expert meetings and public hearings or in other forms to solicit comments and suggestions on the draft EIS of relevant units, experts and the public, except for those that are confidential as the state stipulates.

The plan preparing institutions shall seriously consider the comments and suggestions on the draft EIS of relevant units, experts and the public, and specify a description on having adopted or not adopted the comments and suggestions in the EIS that is submitted for review.

Article 12

The institutions responsible for preparing the specific plan shall submit the EIS together with the draft plan to the approval institutions for review and approval. The approval institutions shall not approve the plan until the EIS is submitted.

Article 13

The people's government at or above the level of municipality with districts shall designate the competent department of environmental protection administration or other departments to organize a review group participated by representatives of relevant departments and experts to examine the EIS of a plan, before making any decisions on whether to approve the draft specific plan.

The experts to participate in the review group as prescribed in the provisions of the preceding paragraph shall be selected in random from the expert lists of relevant specialties in the expert database set up in accordance with requirements of the competent department of environmental protection administration under the State Council.

The review methods of EISs for specific plans that shall be reviewed and approved by relevant departments of people's governments at or above the provincial level shall be formulated by the competent department of environmental protection administration under the State Council, in conjunction with relevant departments under the State Council.

Article 14

The relevant departments of the people's governments at or above the level of municipality with districts or the people's governments at or above the provincial level shall take the EIS conclusions and the review opinions as important decision-making basis, when reviewing the specific plans.

During review procedure, explanations shall be made and documented in case of any deny or ignorance of the EIS conclusions and the review opinions.

Article 15

After the implementation of plans with significant environmental impacts, the plan-preparation institutions shall timely organize tracing assessment and report the assessment results to the approval institutions, and timely propose improvement measures if obvious adverse environmental impacts are found.

Chapter III Environmental Impact Assessment for Construction Projects

Article 16

The state shall execute classified administration on EIAs for construction projects according to different degrees of environmental impacts of the construction projects.

The construction unit shall prepare EIS, environmental impact form (hereafter termed EIFs) or fill in environmental impact registration table (hereafter generally called EIA document) in accordance with the following stipulations:

- (1) Preparing EIS for construction projects possibly with significant environmental impacts, to perform a comprehensive assessment for the environmental impacts;
- (2) Preparing EIF for construction projects possibly with slight environmental impacts, to perform analysis or specific assessment for the environmental impacts; and
- (3) Filling in environmental impact registration table for construction projects possibly with very small environmental impacts and not needing an EIA.

The list of classified administration for EIA of construction projects shall be formulated and promulgated by the competent department of environmental protection administration under the State Council.

Article 17

The EIS of a construction project shall include the following contents:

- (1) Outline of the construction project;
- (2) Current status of surrounding environment of the construction project;
- (3) Analysis, projection and evaluation on the potential environmental impacts of the construction project;
- (4) Environmental protection measures and the technical and economic justifications for the construction project;
- (5) Cost-benefit analysis of the environmental impacts of the construction project;
- (6) Suggestions on implementation of environmental monitoring for the construction project; and
- (7) Conclusions of the EIA.

For the construction projects involving water and soil conservation, the water and soil conservation schemes reviewed and approved by the competent department of water administration shall be required.

The contents and formats of EIFs and environmental impact registration table shall be formulated by the competent department of environmental protection administration under the State Council.

Article 18

Any duplication shall be avoided between the EIA of a construction project and that of a plan.

For the plan of an integrated construction project, an EIA for a construction project, not an EIA for a plan, shall be performed.

For individual construction projects contained in a plan for which an EIA has been performed, the EIAs by the construction units may be simplified.

Article 19

The institutions that are entrusted to provide technical services on EIA for construction projects shall engage in EIA services according to qualification levels and assessment scopes specified by the certificates granted by the competent department of environmental protection administration under the State Council after examining their qualifications. The institutions shall be responsible for the assessment conclusions that made. The qualification conditions and management methods for the institutions to provide technical services on EIA for construction projects shall be formulated by the competent department of environmental protection administration under the State Council.

The competent department of environmental protection administration under the State Council shall publicize the list of certified institutions to provide technical services on EIA for construction projects.

The institutions to provide technical services on EIA for construction projects must not have any interest with the competent department of environmental protection administration or other relevant approval departments for approving the EIA documents of construction projects.

Article 20

The EISs or EIFs in the EIA documents shall be prepared by qualified institutions for EIA.

None of units or individuals can designate institutions to perform EIA for the construction projects of theirs.

Article 21

Except for those that are confidential as the state stipulates, for the construction projects that have potential significant environmental impacts and shall prepare EISs, the construction units shall hold expert meetings and public hearings or in other forms to solicit comments and suggestions of relevant units, experts and the public, before submitting the EISs for approval.

The EISs submitted by construction units for approval shall specify a description on having adopted or not adopted the comments and suggestions of relevant units, experts and the public.

Article 22

The EIA documents of construction projects shall be submitted to the competent departments of environmental protection administration by construction units, as the State Council's stipulates. In case that the construction units have the competent departments of sectoral administration, the EISs or EIFs shall be pre-reviewed by the competent departments of sectoral administration before submitting them to the competent departments of environmental protection administration for approval.

The marine EISs for marine engineering construction projects shall be approved in accordance with the *Marine Environmental Protection Law of the People's Republic of China*.

The approval departments shall make approval decisions and notify the construction units in written forms within 60 days after receiving the EISs, within 30 days after receiving the EIFs, and within 15 days after receiving the environmental impact registration tables, respectively.

There shall be no charge on pre-reviewing, examining or approving the EIA documents for the construction projects.

Article 23

The competent department of environmental protection administration under the State Council shall be responsible for reviewing and approving the EIA documents of the construction projects as follows.

- (1) The nuclear facilities, strictly confidential works and other construction projects with special characters;
- (2) The construction projects spanning different provinces, autonomous regions or municipalities directly under the Central Government; and
- (3) The construction projects that are to be reviewed and approved by the State Council or relevant departments under the authority of the State Council.

The authority of approval for the EIA documents of the construction projects other than those stipulated in the provisions of the preceding paragraph shall be stipulated by the people's governments of provinces, autonomous regions or municipalities directly under the Central Government.

In case that the construction projects may cause adverse environmental impacts spanning different administrative regions, and that there are disputes on the EIA conclusions among the competent departments of environmental protection administration, the EIA documents shall be reviewed and approved by the competent department of environmental protection administration at the higher level.

Article 24

After the approval of the EIA documents of the construction projects, if there are any major variations of the construction projects in the project nature, scale, site, adopted production process or measures to prevent and control pollution and prevent ecological disruption, the construction units shall re-submit the EIA documents of the construction projects for re-approval.

If the construction unit decides to start construction of a project over 5 years after the approval of the EIA documents of the project, the EIA documents shall be submitted to

the original approval department for re-examination. The original approval department shall notify the construction units about the examination results in written forms within 10 days after receiving the EIA documents of the construction project.

Article 25

The project approval department must not approve the construction, and the construction unit must not start to construct before the EIA documents of the construction project are reviewed and approved by legally stipulated approval department.

Article 26

During the construction of the project, the construction unit shall simultaneously implement the environmental protection countermeasures proposed in the EIS, EIF and the remarks of approval for the EIA documents.

Article 27

In case of any inconsistency with EIA documents during project construction and operation, the construction unit shall organize a post-assessment of the environmental impacts, adopt improvement measures, and report to the original EIA document approval department and original project approval department for documentation. The original EIA document approval department may also request the construction unit to perform a post-assessment of the environmental impacts and adopt improvement measures.

Article 28

The competent departments of environmental protection administration shall perform tracing inspection on the environmental impacts after the construction projects are put into production or service, and find out reasons and identify responsibilities for present the serious environmental pollution or ecological disruption. The institutions that have provided technical services to the EIA of the construction project and prepared untrue EIA documents shall be investigated for criminal responsibility according to Article 33 of this Law. The approval department persons with dereliction or neglect of his duty who have approved the EIA documents that should not have been approved shall be investigated for criminal responsibility according to Article 35 of this Law.

Chapter IV Legal Liability

Article 29

For any plan-preparation institution which violates this Law and resort to trickery and fraud while organizing EIA, thereby causing seriously untrue EIA, the person in charge who is directly responsible and any other persons who are directly responsible shall be subject to administrative sanction by the competent higher authorities or by the supervision administration.

Article 30

For any plan approval institution which violates this Law to approve the draft plan that shall prepare chapters or descriptions on environmental impacts but have not prepared or approve the draft specific plan that shall submit EIS but have not, the person in charge who is directly responsible and any other persons who are directly responsible

shall be subject to administrative sanction by the competent higher authorities or by the supervision administration.

Article 31

Any construction unit which has not submitted EIA documents of the construction projects for approval in accordance with the Law or has not re-submitted the EIA documents for re-approval or applied for re-examination in accordance with Article 24 of this Law, and arbitrarily start to construct shall be ordered to stop construction and supplement formality within prescribed time by the competent departments of environmental protection administration which have the authority to approve the EIA documents of the construction project. If the supplementary formality is not accomplished within the deadline, it may be imposed a fine of between RMB 50000 and RMB 200000. The person in charge who is directly responsible for the construction unit and any other persons who are directly responsible shall be subject to administrative sanction.

Any construction unit which arbitrarily starts to construct before the EIA documents of the construction projects are approved or re-examined and approved shall be ordered to stop construction and may be imposed a fine of between RMB 50000 and RMB 200000. The person in charge who is directly responsible for the construction unit and any other persons who are directly responsible shall be subject to administrative sanction.

Any construction unit of marine engineering construction project which violates the provisions in the preceding two paragraphs shall be punished in accordance with stipulations of the *Marine Environmental Protection Law of the People's Republic of China*.

Article 32

If EIA has not been performed for the construction project as stipulated by the Law, or the EIA documents have not been approved according to the Law, the project approval department arbitrarily approve the construction of the project, the person in charge who is directly responsible and any other persons who are directly responsible shall be subject to administrative sanction by the competent higher authorities or by the supervision administration; if his act constitutes a crime, he shall be investigated for criminal responsibility according to law.

Article 33

For any institution which has been entrusted to provide technical service for EIA of any construction project but has not worked properly and resort to trickery and fraud while performing EIA, thereby resulting in untrue EIA documents, the qualification level shall be lowered by the competent departments of environmental protection administration or the certificate be revoked, and a fine of between one and three times of the EIA fee shall be imposed on the institution; if its act constitutes a crime, it shall be investigated for criminal responsibility according to law.

Article 34

Any department which imposes charge on pre-reviewing, examining or approving the EIA documents for the construction projects shall be ordered to return the charge by the competent higher authorities or by the supervision administration; if the case is serious

enough, the person in charge who is directly responsible and any other persons who are directly responsible shall be subject to administrative sanction.

Article 35

Any person in the competent departments of environmental protection administration or other departments who abuses his power, neglects his duty, engages in malpractices for personal gains, or violate the Law to approve the EIA documents for construction projects shall be given administrative sanction; if his act constitutes a crime, he shall be investigated for criminal responsibility according to law.

Chapter V Supplementary Provisions

Article 36

The people's governments of provinces, autonomous regions and municipalities directly under the Central Government may, based on the actual situations of their territory regions, request EIAs for the plans prepared by the people's governments at the county level. The detailed methods shall be formulated by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government, referring to Chapter II of this Law.

Article 37

The methods for EIAs for military facilities construction projects shall be formulated by the Central Military Commission, referring to the principles in the Law.

Article 38

This Law shall enter into force on September 1, 2003.