

Title】 Regulation on Land Reclamation [Effective]

【法规标题】 土地复垦条例 [现行有效]

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Order of the State Council of the People's Republic of China

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The Regulation on Land Reclamation has been adopted at the 145th executive meeting of the State Council on February 22, 2011, which is hereby promulgated and shall come into force on the date of promulgation.

Premier Wen Jiabao

March 5, 2011

Regulation on Land Reclamation

Chapter I General Provisions

Article 1 In order to implement the basic state policy of cherishing and giving rational use to land as well as giving true protection to arable land, regulate the activities of land reclamation, strengthen the administration of land reclamation, and improve the social benefits, economic benefits and ecological

benefits of land utilization, this Regulation is formulated in accordance with the Land Administration Law of the People's Republic of China.

Article 2 The term “land reclamation” as mentioned in this Regulation refers to the activities of taking remedial measures on the land destroyed by production and construction activities and natural disasters so as to turn it into utilizable land.

Article 3 For the land destroyed by production and construction activities, the production and construction entities or individuals (hereinafter referred to as the “obligors of land reclamation”) shall be responsible for the reclamation in accordance with the principle of “He who destroys shall reclaim”. However, if the obligors of land reclamation of the land destroyed by production and construction activities cannot be determined due to historical reasons, the people's governments at or above the county level shall be responsible for organizing reclamation.

For the land destroyed by natural disasters, the people's governments at or above the county level shall be responsible for organizing reclamation.

Article 4 In the production and construction activities land should be economically and intensively utilized, and arable land should be occupied or used as little as possible; effective measures shall be taken on the land occupied according to law so as to reduce the acreage of land destroyed and lower the degree of destruction.

In land reclamation, the principles of scientific planning, adopting measures suited to local conditions, comprehensive treatment, economically feasible and reasonable utilization shall be adhered to. The priority for the use of reclaimed land shall be given to agriculture.

Article 5 The land and resources department of the State Council shall be responsible for the supervision and administration of land reclamation of the whole country. The land and resources departments of the local people's governments at or above the county level shall be responsible for the supervision and administration of land reclamation of their respective administrative regions.

Other relevant departments of the people's governments at or above the county level shall, in accordance with the provisions of this Regulation and their own duties, do a good job in the relevant work of land reclamation.

Article 6 The national standards for land reclamation shall be observed in such activities as formulating plans for land reclamation, carrying out land reclamation projects, conducting examination and acceptance of land reclamation, etc.. Where there is no national standard, the industrial standards for land reclamation shall be observed.

The establishment of the national standards and industrial standards for land reclamation shall be based on such factors as the type, degree, natural and geographic conditions, the feasibility of reclamation, etc. of the destroyed land, and the reclamation methods, targets and requirements for different types of destroyed land shall be determined according to the classification.

Article 7 The land and resources departments of the local people's governments at or above the county level shall establish a system to monitor land reclamation, and keep timely informed of the destruction of land resources and the effects of land reclamation within their respective administrative regions.

The land and resources department of the State Council and the land and resources departments of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall establish and improve their information management system of land reclamation, and collect, summarize and release the data of land reclamation.

Article 8 The land and resources departments of the local people's governments at or above the county level shall strengthen supervision and inspection on land reclamation according to their duties. The inspected entities or individuals shall faithfully report relevant information and provide necessary materials.

Any entity or individual shall not disturb or obstruct the work of land reclamation, or destroy land reclamation projects, facilities and equipments.

Article 9 The state shall encourage and support the scientific research and technical innovations on land reclamation, and popularize advanced land reclamation technologies.

Entities and individuals that make outstanding contributions in the work of land reclamation shall be rewarded by the people's governments at or above the county level.

Chapter II Reclamation of the Land Destroyed by Production and Construction Activities

Article 10 The obligors of land reclamation shall be responsible for the reclamation of the following destroyed land:

1. The land destroyed by surface mining, making tiles, digging sand digging, taking earth and other excavation on the earth's surface;
2. The land of surface subsidence caused by underground mining;
3. The land occupied by piling up solid wastes, such as mining stripping, barren rocks, mineral waste residues, coal ashes, etc.; and
4. The land destroyed by the temporary occupation in infrastructure construction activities, such as energy resources, transportation, water conservancy, etc. and other production and construction activities.

Article 11 Obligor of land reclamation shall formulate their plans for land reclamation in accordance with the standards for land reclamation and the provisions of the land and resources department of the State Council..

Article 12 A plan for land reclamation shall include the following contents:

1. A brief introduction to the project and the land utilization of the project area;
2. An analytical prediction of the destroyed land and the feasibility assessment of land reclamation;
3. The target tasks of land reclamation;
4. The quality requirements of land reclamation to be obtained and the measures taken;
5. An estimate (budget estimate) of the project and investment of land reclamation;
6. Arrangement of land reclamation costs;
7. An working scheme and schedule of land reclamation; and
8. Other contents as stipulated by the land and resources department of the State Council.

Article 13 An obligor of land reclamation shall, when handling the application for a piece of construction land or handling the application formalities for the right to exploitation, submit the plan for land reclamation along with other relevant materials for approval.

Where an obligor of land reclamation fails to formulate a plan for land reclamation or his plan for land reclamation does not meet the relevant requirements, the people's government with the approval authority shall not approve his use of land for construction, and the land and resources department with the approval authority shall not issue a mining license to him.

Where the formalities for construction land have been completed or a mining license has been received before the implementation of this Regulation, and the land is destroyed by production and construction activities continuously engaged in after the implementation of this Regulation, the obligor of land reclamation shall, in accordance with the provisions of the land and resources department of the State Council, supplement a plan for land reclamation.

Article 14 Obligor of land reclamation shall carry out their work of land reclamation in accordance with their plans for land reclamation. Mining enterprises shall also conduct dynamic monitoring and evaluation on the destruction of land.

Where the production and construction cycle lasts a long time and the reclamation needs to be conducted by stages, the obligor of land reclamation shall take overall consideration of the work of land reclamation and the production and construction activities as well as the implementation of the plan, and determine the target tasks, project planning and design, cost arrangement, project scheduling and time limit for completion of the land reclamation of each stage according to the production and construction schedule.

Article 15 Obligor of land reclamation shall list the cost for land reclamation in the cost of production or the gross investment of construction project.

Article 16 The obligor of land reclamation shall establish a system to control the quality of land reclamation, observe the standards for land reclamation and the standards for environmental protection, protect soil and the ecological environment, and avoid soil and underground water pollution.

Obligor of land reclamation shall first conduct topsoil stripping of the arable land, forest land and pasture to be destroyed, and the stripped surface soil shall be used in the reclamation of destroyed land.

It is prohibited to use heavy metal pollutants or other toxic or hazardous substances as refilling or filling materials. The land polluted by heavy metal pollutants or other toxic or hazardous substances shall not be used for planting edible crops if it does not reach the relevant national standards after reclamation.

Article 17 Obligor of land reclamation shall report the destruction of land, the using of land reclamation funds and the implementation of land reclamation projects of the current year to the land

and resources departments of the local people's governments at or above the county level before December 31 of each year.

The land and resources departments of the local people's governments at or above the county level shall strengthen supervision over land reclamation obligors' use of land reclamation funds and implementation of land reclamation projects.

Article 18 Where an obligor of land reclamation does not reclaim, or where he still fails the examination and acceptance of reclamation after making rectifications, it shall pay land reclamation fees, and the relevant land and resources department shall organize the reclamation on his behalf.

The amount of the land reclamation fees shall be determined in comprehensive consideration of the land type before destruction, the actual destroyed acreage, the degree of damage, the reclamation standards, the reclamation purposes, the amount of work needed for the completion of reclamation tasks and other factors. The specific administrative measures for the collection and use of land reclamation fees shall be formulated by the competent departments of public finance and price of the State Council together with the relevant departments under the State Council.

The land reclamation fees paid by obligors of land reclamation shall be exclusively used for land reclamation. No entity or individual may withhold, embezzle or misappropriate any of the fees.

Article 19 For the state-owned land or peasant collectively owned land used by other entities or individuals which is destroyed in the production and construction activities, the obligors of land reclamation shall, in addition to being responsible for the reclamation, also compensate for the losses of the entities or individuals.

The loss compensation fees shall be determined through negotiations between the obligors of land reclamation and the entities or individuals that suffer the loss in accordance with the actual amount of loss suffered; if the negotiations fail, they may apply for mediation to the land and resources department of the people's government at the locality of the land or lodge a civil lawsuit to the people's court according to law.

Article 20 Where an obligor of land reclamation does not perform the obligation of land reclamation according to law, the people's government with the approval authority shall not approve his new application for land for construction; the land and resources department with the approval authority shall not approve his new application for mining license or renewal, change or cancellation of mining license.

Chapter III Reclamation of the Destroyed Land Left from History and the Land Destroyed by Natural Disasters

Article 21 The land and resources department of the people's governments at or above the county level shall conduct surveys and evaluations on the land destroyed due to historical reasons and the land destroyed by natural disasters.

Article 22 The land and resources departments of the people's governments at or above the county level shall, on the basis of survey and evaluation and in accordance with the overall plan for land use, formulate special blueprints for land reclamation, determine the key areas, target tasks and requirements of reclamation, and organize the implementation thereof upon the approval of the people's governments at the same level.

Article 23 For the land destroyed due to historical reasons and the land destroyed by natural disasters, the people's governments at or above the county level shall invest funds in its reclamation, or attract nongovernmental investment in its reclamation by following the principle of "whoever invests gets the benefits". Where land obligees are definite, supportive and preferential measures may be taken to encourage them to reclaim voluntarily.

Article 24 The state shall administer the reclamation of the land destroyed due to historical reasons and the land destroyed by natural disasters on the basis of projects.

The land and resources departments of the people's governments at or above the county level shall determine the annual reclamation projects in accordance with the special blueprint for land reclamation and the annual capital arrangement of land reclamation.

Article 25 Where reclamation is conducted with government investment, the land and resources departments responsible for the organization of the implementation of land reclamation projects shall organize the formulation of design papers for the land reclamation projects so as to clarify the location, acreage, target tasks, project planning and design, scheduling and time limit for completion of reclamation projects.

Where reclamation is voluntarily carried out by a land obligee or conducted with nongovernmental investment, the land obligee or investment entity or individual shall organize the formulation of design papers for land reclamation projects, and implement it upon examination and approval of the land and resources departments responsible for the organization of the implementation of land reclamation projects.

Article 26 Where reclamation is conducted with government investment, the relevant land and resources departments shall, in accordance with the provisions of laws and regulations on public bidding, determine the construction entities of land reclamation projects through public bidding.

Where reclamation is voluntarily carried out by a land obligee or conducted with nongovernmental investment, the construction entity of the land reclamation project shall be determined by the land obligee or investment entity or individual itself according to law.

Article 27 Construction entities of land reclamation projects shall carry out reclamation in accordance with the design papers of the land reclamation projects.

The land and resources departments responsible for organizing the implementation of land reclamation projects shall improve their project management systems, and strengthen guidance, administration and supervision in the process of project implementation.

Chapter IV As-Built Inspection of Land Reclamation

Article 28 An obligor of land reclamation shall, after completing the land reclamation tasks in accordance with the requirements of the plan for land reclamation, apply for as-built inspection to the land and resources department of the local people's government at or above the county level where the land at issue is situated in accordance with the provisions of the land and resources department of the State Council, and the land and resources department receiving the application shall conduct an as-built inspection jointly with the departments of agriculture, forestry and environmental protection and other relevant departments at the same level.

To conduct an as-built inspection of land reclamation, relevant experts shall be invited for the field survey, who shall check whether the reclaimed land meets the standards for land reclamation and the requirements of the plan for land reclamation, and verify the type, acreage and quality of the reclaimed land. The preliminary result of the as-built inspection shall be announced to the general public and the opinions of the relevant obligees shall be attended to. Where a relevant obligee raises an objection against the accomplishment of the land reclamation, the land and resources department shall make further verification and investigation jointly with relevant departments, and feed it back to the relevant obligees; where the circumstance has been verified as true, it shall put forward rectification opinions to the obligor of land reclamation.

Article 29 The land and resources department responsible for the organization of as-built inspections shall, jointly with other relevant departments, complete the as-built inspection within 60 workdays since receiving an application for as-built inspection. If the obligor of land reclamation passes the as-built inspection, he shall be issued a letter of confirmation of passing the as-built inspection; if he fails in the as-built inspection, he shall be issued a letter of rectification opinions in which the matters requiring rectification shall be stated, and the obligor of land reclamation shall reapply for as-built inspection after completing the rectification.

Article 30 After a land reclamation project invested by the government is completed, the land and resources department responsible for organizing the implementation of the land reclamation project shall conduct a preliminary as-built inspection in accordance with the provisions of Paragraph 2 of Article 28 of this Regulation. After the preliminary as-built inspection is completed, the land and resources department responsible for organizing the implementation of the land reclamation project shall, in accordance with the provisions of the land and resources department of the State Council, apply to the land and resources department of the people's government at higher level for a final inspection. The land and resources department of the people's government at the higher level shall timely organize a final inspection jointly with the relevant departments.

After a land reclamation project voluntarily carried out by a land obligee or conducted with nongovernmental investment is completed, the land and resources department responsible for organizing the implementation of the land reclamation project shall conduct the as-built inspection jointly with the relevant departments.

Article 31 Where the land is reclaimed as agricultural land, the land and resources department responsible for organizing the as-built inspection shall, jointly with other relevant departments, conduct follow-up evaluation on the land reclamation effects within the future 5 years after the land passes the inspection, and put forward suggestions and measures for improving the land quality.

Chapter V Incentive Measures for Land Reclamation

Article 32 Where an obligor of land reclamation restores any arable land, forest land, pasture or other agricultural land destroyed by production and construction activities to the original status within the prescribed time limit, the farmland use tax paid shall be refunded in accordance with the provisions on taxation of relevant laws and regulations.

Article 33 Where the land destroyed due to historical reasons or the land destroyed by natural disasters of which reclamation is conducted with nongovernmental investment is state-owned land and no one has the right to use it, it may be given to the investment entity or individual for purposes of long-term crops farming, forestry, husbandry or fishery, subject to the approval of the people's government at or above the county level according to law.

Where the land destroyed due to historical reasons or the land destroyed by natural disasters of which reclamation is conducted with nongovernmental investment is collectively owned by farmers or state-owned and someone has the right to use it, the relevant land and resources department shall organize the investment entity or individual to sign with the land obligee an agreement on land reclamation so as to clarify the reclamation target tasks and the land use as well as income distribution after reclamation.

Article 34 Where the person who has the right to use the state-owned land destroyed due to historical reasons or destroyed by natural disasters, or the owner or the right holder of the land collectively owned by farmers destroyed due to historical reasons or destroyed by natural disasters voluntarily reclaims the destroyed land into arable land, he shall be subsidized by the local people's government at or above the county level.

Article 35 Where a local people's government at or above the county level reclaims any tract of construction land destroyed due to historical reasons or destroyed by natural disasters into arable land, a supplementary quota for arable land may be given as if it had been occupied for non-agricultural construction by the respective province, autonomous region or municipality directly under the Central Government in accordance with the relevant provisions of the state.

Chapter VI Legal Liabilities

Article 36 Where a department or its functionary responsible for the supervision and administration of land reclamation commits any of the following acts, the directly responsible person in charge and other directly liable persons shall be punished according to law; where a crime is constituted, the directly responsible person in charge and other directly liable persons shall be subject to criminal responsibilities:

1. Approving any construction land, mining license, or the renewal, change or cancellation of a mining license in violation of the provisions of this Regulation;
2. Withholding, embezzling or misappropriating any land reclamation funds;
3. Making falsifications in the as-built inspection of land reclamation;
4. Failing to perform the duties of supervision and administration or failing to investigate and punish the acts in violation of this Regulation according to law;

5. Extorting or accepting the properties offered by anyone or seeking any other benefit in the process of examining the plan for land reclamation, implementing land reclamation projects, organizing as-built inspections of land reclamation and conducting supervision and inspection thereof; or

6. Other acts of making favoritism, abusing the power or neglecting the duties.

Article 37 Where the formalities for construction land have been handled or a mining license has been received before the implementation of this Regulation, and the obligor of land reclamation who destroys the land in continuous production and construction activities after the implementation of this Regulation fails to supplement a plan for land reclamation in accordance with the relevant provisions, the land and resources department of the local people's government at or above the county level shall order him to make corrections within a prescribed time limit; if he fails to make corrections within the time limit, he shall be fined 100, 000 yuan up to 200, 000 yuan.

Article 38 Where an obligor of land reclamation fails to list the cost for land reclamation in the cost of production or the gross investment of construction project in accordance with the relevant provisions, the land and resources department of the local people's government at or above the county level shall order him to make corrections within a prescribed time limit; if he fails to make corrections within the time limit, he shall be fined 100, 000 yuan up to 500, 000 yuan.

Article 39 Where an obligor of land reclamation fails to conduct topsoil stripping of the arable land, forest land and pasture to be destroyed in accordance with the relevant provisions, the land and resources department of the local people's government at or above the county level shall order him to make corrections within a prescribed time limit; if he fails to make corrections within the time limit, he shall be fined 10, 000 yuan per hectare as per the acreage of land on which topsoil stripping shall be conducted.

Article 40 Where an obligor of land reclamation uses heavy metal pollutants or other toxic or hazardous substances as refilling or filling materials, the environmental protection department of the local people's government at or above the county level shall order him to terminate the illegal acts and take measures for treatment within a certain time limit to clear up pollution, and shall impose a fine of 100, 000 yuan up to 500, 000 yuan; if he fails to take measures for treatment within the time limit, the environmental protection department may appoint an entity capable of such treatment to do so with the necessary expenses being paid by the lawbreaker.

Article 41 Where an obligor of land reclamation fails to report the destruction of land, the using of land reclamation funds or the implementation of land reclamation projects in accordance with the relevant provisions, the land and resources department of the local people's government at or above the county level shall order him to make corrections within a prescribed time limit; if he fails to make corrections within the time limit, he shall be fined 20, 000 yuan up to 50, 000 yuan.

Article 42 Where a obligor of land reclamation shall pay land reclamation fees in accordance with the provisions of this Regulation but fails to do so, the land and resources department of the local people's government at or above the county level shall order him to make a payment within a prescribed time limit; if he fails to make the payment within the time limit, he shall be imposed a fine of one up to two times the payable land reclamation fees; and if the obligor of land reclamation is a mining enterprise, its mining license shall be revoked by the organ that issued the license.

Article 43 Where an obligor of land reclamation refuses or obstructs the supervision and inspection of the land and resources department, or makes falsifications in and the as-built inspection, the land and resources department shall order him to make corrections, and shall impose a fine of 20, 000 yuan up to 50, 000 yuan; if the relevant liable person's acts violate the public security administration, he shall be given a public security punishment by the public security organ according to law; and if a crime is constituted, the relevant liable person shall be subject to criminal responsibilities.

Where the destruction of land reclamation projects, facilities or equipments violates the public security administration, a public security punishment shall be given by the public security organ according to law; and if a crime is constituted, the violator shall be subject to criminal responsibilities.

Chapter VII Supplementary Provisions

Article 44 This Regulation shall come into force on the date of promulgation. The Provisions on Land Reclamation promulgated by the State Council on November 8, 1988 shall be simultaneously abolished.

