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REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON THE PREVENTION OF POLLUTION DAMAGE TO THE MARINE ENVIRONMENT BY LAND-SOURCED POLLUTANTS

[Note]=(Adopted at the 61st Executive Meeting of the State Council on May 25, 1990, promulgated by Decree No.61 of the State Council of the People's Republic of China on June 22, 1990 and effective as of August 1, 1990)

Full Text

Article 1 These Regulations are formulated in accordance with the Marine Environment Protection Law of the People's Republic of China and for the purposes of strengthening the supervision and administration of land pollution sources and preventing pollution damage to the marine environment by land-sourced pollutants.

Article 2 "Land pollution sources" (hereinafter referred to as "land sources") mentioned in these Regulations refer to places or installations in or by which to discharge pollutants from the land into the sea thereby causes or may cause pollution damage to the marine environment.

"Land-sourced pollutants" mentioned in these Regulations refer to pollutants discharged from "land sources" stipulated in the preceding paragraph.

Article 3 These Regulations apply to all organizations and individuals who discharge land-sourced pollutants into the sea within the territory of the People's Republic of China.

With respect to the prevention of pollution damage to the marine environment by ship scrapping, the Regulations on the Prevention of Environmental Pollution by Ship Scrapping shall apply.

Article 4 The environmental protection department under the State Council shall be in charge of the prevention of pollution damage to the marine environment by land-sourced pollutants of the whole country.

The environmental protection departments of the coastal local people's governments at county level and above shall be in charge of the prevention of pollution damage to the marine environment by land-sourced pollutants in their respective administrative areas.

Article 5 The discharge of land-sourced pollutants into the sea by any organization or individual must be conducted in compliance with the standards for discharge of pollutants and the relevant regulations promulgated by the state or the localities.

Article 6 Any organization or individual who has to discharge land-sourced pollutants into the sea must report to and register with the environmental protection department in the place where it or he is located with respect to the pollutant discharging and treating facilities that it or he possesses and the kind(s), quantity and density of the pollutants to be discharged under normal operational conditions, and must provide with materials regarding the prevention of pollution damage to the marine environment by land-sourced pollutants. A copy of registrations and materials mentioned above shall be sent to the administrative department of marine affairs.

If major changes have taken place in the kind(s), quantity and density of the pollutants to be discharged, or pollutant treating facilities are dismantled or left idle, prior approval shall be obtained from the environmental protection department in the locality as well as the original examining and approving department.

Article 7 Any organization or individual discharging land-sourced pollutants into the sea in excess of the national or local discharge standards shall pay a fee for excessive discharge and shall assume responsibility for eliminating and controlling the pollution.

Article 8 No organization or individual may establish outlets for discharging sewage within special marine reserves, marine sanctuaries, seashore scenic and tourist areas, saltworks reserves, bathing beaches, important fishing areas and other areas which need special protection.

Those outlets already established within the areas stipulated in the preceding paragraph, where the discharge of pollutants is in excess of the national or local discharge standards, shall be improved within a prescribed period of time.

Article 9 If an enterprise or institution discharges land-sourced pollutants into the sea and has thereby caused severe environmental pollution, it shall be required to eliminate and control the pollution within a prescribed period of time.

Article 10 For enterprises and institutions directly under the jurisdiction of a department under the State Council or a people's government of a province, an autonomous region, or a municipality directly under the central government, the proposal for a deadline for the elimination or control of pollution shall be made by the environmental protection department of the people's government of the province, autonomous region, or municipality directly under the central government, and shall be reported to the people's government at the same level for the decision. For enterprises and institutions under the jurisdiction of a people's government at city or county level or below, such proposal shall be made by the environmental protection department of the people's government of the city or county, and shall be reported to the people's government at the same level. Such enterprises and institutions shall accomplish the elimination or control of pollution within the prescribed period of time.

Article 11 It is prohibited to pile up, discard, or dispose of solid wastes along seashores and beaches without approval. If it is really necessary to pile up or dispose of solid wastes for the time being, a written application shall be submitted according to the examining and approving procedures stipulated by the environmental protection departments of the coastal provinces, autonomous regions, and municipalities directly under the central government.

The application shall mainly include the following contents:

- (1) the name and address of the applicant;
- (2) the place and covering area of solid wastes to be piled up and disposed of;
- (3) the types and composition of solid wastes, amount of solid wastes to be piled up and disposed of per year, total amount of solid wastes to be stockpiled up and disposed of and the height of solid wastes to be piled up;
- (4) the time of period within which to pile up and dispose of solid wastes and final means of disposal of them;
- (5) the pollution damage to the marine environment possibly caused by piling up and disposing of solid wastes;
- (6) technology and measures for preventing the marine environment from pollution damage caused by piling up and disposing of solid wastes; and
- (7) other matters required to be explained by the examining and approving organ.

The environmental protection department of the local people's government at county level or above shall order the completion of the examining and approving procedures within a time limit for those existing sites in which solid wastes are temporarily piled up and disposed of without its approval.

Article 12 Any organization or individual who has been approved to set up waste yards and treatment facilities shall build dikes and facilities against raising dust and leakage of wastes. Prior to their use, the dikes and facilities shall pass the inspection by the environmental protection department that approved the establishment of the waste yards and treatment facilities.

It is prohibited to pile up and discard wastes of other types which have not been approved in the waste yards and treatment facilities which have been used with approval. It is prohibited to pile up wastes containing hypertoxic, radioactive, soluble or volatile substance out of doors. Piling up not out of doors shall not be carried out as final means of disposal of the above-mentioned wastes.

Article 13 It is prohibited to discharge toxic and harmful waste water along seashores and beaches by improper means of dilution or permeation.

Article 14 It is prohibited to discharge waste water containing high-level or middle-level radioactive substance into the sea.

Any discharge of waste water containing low-level radioactive substance into the sea shall be carried out in strict compliance with the state provisions and standards concerning radioactive protection.

Article 15 It is prohibited to discharge oils, acid liquid, alkaline liquid or toxic liquid into the sea.

No oil-polluted water, waste water containing harmful heavy metals or industrial waste water of other types may be discharged into the sea before it has been properly treated and conforms to the standards for discharge of pollutants and the relevant regulations stipulated by the state or the localities. Residual dregs after treatment shall not be cast off into the sea.

Article 16 No waste water carrying pathogens may be discharged into the sea before it has been properly treated and conforms to the standards for discharge of pollutants and the relevant regulations stipulated by the state or the localities.

Article 17 In case of the discharge of heated waste water into the sea, the water temperature shall be in compliance with the relevant provisions of the state.

Article 18 The discharge of industrial waste water and domestic sewage containing organic and nutrient substance into sea areas with low capacities of self-purification shall be controlled in scale. The outlets for discharging sewage shall be set up in sea areas suitable for current exchange and rational means of discharge shall be carried out to prevent eutrophication of the sea water.

Article 19 It is prohibited to discard medicines and medical instruments having lost efficacy or use of which is prohibited along seashores and beaches.

Article 20 The environmental protection departments of provinces, autonomous regions and municipalities directly under the central government in the estuaries shall be in charge of the investigation and dealing with of accidents of pollution damage to the marine environment by land-sourced pollutants which occur in the estuaries and are conclusively proved to be caused by river waters carrying pollutants. If the river flows across different provinces, autonomous regions or municipalities directly under the central government, the environmental protection department and the water conservancy department of the people's government at provincial, autonomous regional and municipal level in the estuary shall cooperate with the environmental protection department and water conservancy department of the people's government of involved provinces, autonomous regions and municipalities and the river basin administrative department in investigating and dealing with the accident.

Article 21 With respect to those coastal regions adjacent or opposite to one another discharging land-sourced pollutants into the same sea area, the relevant local people's governments shall jointly

formulate measures for the prevention of pollution damage to the marine environment by land-sourced pollutants.

Article 22 Any organization or individual who causes an accident of pollution damage to the marine environment by land-sourced pollutants shall promptly take measures to deal with the accident and shall, within 48 hours after the happening of the accident, report to the environmental protection department of the local people's government on the time, place, type of the accident, the amount of pollutants discharged, economic losses, victims and other preliminary information and a copy of the preliminary report shall be sent to each of the relevant departments. Upon the investigation of the accident, a written report accompanied with relevant documentary evidence shall be sent to the environmental protection department of the local people's government.

The environmental protection department of the people's government at various levels shall, upon the receipt of the preliminary report on a accident of pollution damage to the marine environment by land-sourced pollutants, take measures promptly in consultation with the relevant departments to eliminate or reduce the pollution. The accident shall be investigated and dealt with by the environmental protection department of the people's government at county level or above together with the relevant departments, or by a department authorized by the environmental protection department of the people's government at county level or above itself.

Article 23 The environmental protection department of the people's government at county level or above together with the department in charge of the project shall, according to its scope of powers to project administration, conduct an on-the-spot inspection of the organization or individual discharging land-sourced pollutants. The inspection receiver shall truthfully report information and provide materials and the inspectors shall be responsible for keeping technical and business secrets for the inspection receiver. If otherwise provided for in the laws and regulations, the provisions stipulated above in this article shall not apply.

Article 24 Where anyone violates these Regulations under any of the following circumstances, the environmental protection department of the people's government at county level or above shall order the correction and may concurrently fine an amount of not less than 300 yuan but not more than 3,000 yuan.

- (1) refusing to report or falsely reporting on registrations for discharge of pollutants; or
- (2) refusing or obstructing the environmental protection department that is conducting an on-the-spot inspection, or practising fraud in the on-the-spot inspection.

Article 25 Where anyone forces in use facilities against pollution set up in waste yards and treatment facilities which have not been inspected and accepted by the environmental protection department or have not passed the inspection, the environmental protection department shall order the correction and may concurrently fine an amount of not less than 5,000 yuan but not more than 20,000 yuan.

Article 26 Where anyone violates these Regulations under any of the following circumstances, the environmental protection department of the people's government at county level or above shall order the correction and may concurrently fine an amount of not less than 5,000 yuan but not more than 100,000 yuan.

- (1) changing the kind(s) of pollutants to be discharged, or increasing the quantity and density or dismantling or leaving idle pollutant treating facilities without the approval of the environmental protection department in the locality and the original examining and approving department; or

- (2) establishing outlets for discharging sewage within the areas stipulated in the first paragraph of Article 8 of these Regulations.

Article 27 Where anyone violates these Regulations under any of the following circumstances, the environmental protection department of the people's government at county level or above shall order the correction and may concurrently fine an amount of not less than 1,000 yuan but not more than 20,000 yuan; if the circumstances are serious, a fine of not less than 20,000 yuan but not more than 100,000 yuan may be imposed upon.

(1) discharging toxic and harmful waste water along seashores and beaches by improper means of dilution or permeation;

(2) discharging waste water containing high-level or meddle-level radioactive substance into the sea;

(3) discharging oils, acid liquid, alkaline liquid or toxic liquid into the sea;

(4) discarding medicines and medical instruments having lost efficacy or use of which is prohibited along seashores and beaches;

(5) failing to comply with the standards for discharge of pollutants and the relevant regulations stipulated by the state or the localities when discharging oil-polluted water, waste water carrying pathogens, heated waste water, waste water containing low-level radioactive substance, waste water containing harmful heavy metals or industrial waste water of other types into the sea, or casting off residual dregs after treatment into the sea; or

(6) without the approval of the environmental protection department of the local people's government at county level or above, piling up, discarding, or disposing of solid wastes along seashores and beaches, or piling up and disposing of wastes of other types which have not been approved in the waste yards and treatment facilities, or piling up wastes containing hypertoxic, radioactive, soluble or volatile substance out of doors.

Article 28 Where an enterprise or institution fail to eliminate and control the pollution within a time limit as stipulated, it shall pay an amount of two times the fee for excessive discharge, and may be concurrently fined an amount of not less than 10,000 yuan but not more than 100,000 yuan according to the seriousness of damage and loss, or be ordered the suspension of business or closing down.

The environmental protection department shall decide on a fine. The people's government that decides on a deadline for the elimination and control of pollution shall decide on the suspension of business or closing down; the suspension of business or closing down of an enterprise or institution directly under the jurisdiction of a department under the State Council shall be subject to the approval of the State Council.

Article 29 Where anyone fails to pay the fee for excessive discharge according to the provisions, the environmental protection department of the people's government at county level or above shall, in addition to recovering the fee and a late payment fine, impose a fine of not less than 1,000 yuan but not more than 10,000 yuan.

Article 30 Where anyone causes an accident of pollution damage to the marine environment by land-sourced pollutants and has thereby caused major economic losses, the environmental protection department of the people's government at county level or above shall impose a fine of an amount of percent 30 of the direct losses but not exceeding a maximum of 200,000 yuan.

Article 31 The environmental protection department of the people's government at county level may decide on a fine of not more than 10,000 yuan and shall report a fine exceeding 10,000 yuan to the higher level's environmental protection department for an approval.

The environmental protection department of the people's government at the level analogous to a city directly under a provincial government may decide on a fine of not more than 50,000 yuan and shall report a fine exceeding 50,000 yuan to the higher level's environmental protection department for an approval.

The environmental protection department of the people's government at the level of province, autonomous region and municipality directly under the central government may decide on a fine of not more than 200,000 yuan.

All fines shall be handed over to the national treasury and neither organization nor individual may retain or divide them up.

Article 32 An organization or individual who has paid a fee for excessive discharge or has been imposed upon a fine shall not be exempted from responsibilities for eliminating pollution, removing damage and compensation.

Article 33 If a party involved does not agree with a decision on administrative penalty, he may, within 15 days as from the date of receiving the notification on the penalty, apply for reconsideration according to law; if he does not agree with the decision of consideration, he may, within 15 days as from the date of receiving the decision of consideration, bring a lawsuit before a people's court. A party may directly bring a lawsuit before a people's court within 15 days as from the date of receiving the notification on the penalty. If, upon the expiration of the period, the party has not applied for reconsideration or has neither brought a lawsuit before a people's court nor performed the decision on penalty, the department that imposed the penalty shall apply to the people's court for compulsory enforcement.

Article 34 Where a staff member of the environmental protection department abuses his powers, neglects his duties or engages in malpractice for his personal interests, the department to which he belongs or the higher level's department shall impose disciplinary sanction upon him; if a crime has been constituted, he shall be investigated for criminal responsibility according to law.

Article 35 The people's governments of the coastal provinces, autonomous regions and municipalities directly under the central government may formulate measures for the implementation in accordance with these Regulations.

Article 36 The environmental protection department under the State Council shall be responsible for the interpretation of these Regulations.

Article 37 These Regulations shall come into force as of August 1, 1990.