

## Notice of the State Oceanic Administration on Printing and Distributing the Administrative Provisions on Marine Functional Zonings

Promulgation date: 07-12-2007

Department: State Oceanic Administration

Effective date: 08-01-2007

Subject: Resources

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(No.18 [2007] of the State Oceanic Administration)

The oceanic offices (bureaus) of the coastal provinces, autonomous regions, and municipalities directly under the Central government:

For the purpose of implementing the Law of the People's Republic of China on the Administration of the Use of Sea Areas and the Marine Environmental Protection Law of the People's Republic of China, and regulating the establishment, examination and approval, revision and implementation of marine functional zonings, the State Oceanic Administration formulated the Administrative Provisions on Marine Functional Zonings, which are hereby printed and distributed to you for your earnest compliance and implementation.

July 12th, 2007

Administrative Provisions on Marine Functional Zonings

Chapter I General Provisions

Article 1 For the purpose of regulating the establishment, examination and approval, revision and implementation of functional divisions of the sea and making marine functional zonings more scientific, these Provisions are formulated in accordance with the Law of the People's Republic of China on the Administration of the Use of Sea Areas, the Marine Environmental Protection Law of the People's Republic of China and other relevant laws and regulations.

Article 2 Marine functional zonings of the sea shall be classified into four levels corresponding to administrative divisions, namely, national, provincial, municipal and county-levels.

Article 3 The State Oceanic Administration shall, together with the relevant departments under the State Council and the people's governments of the coastal provinces, autonomous regions and municipalities directly under the Central Government, work out the national marine functional zonings. The oceanic administrative department of a local people's government at the county level or above within the coastal areas shall, together with the relevant department of the people's government at the same level, work out the local marine functional zoning.

Article 4 National and provincial marine functional zonings shall be reported to the State Council for approval. Municipal or county-level marine functional zoning shall be reported to the local provincial people's government for approval and filed with the State Oceanic Administration for record.

Article 5 To revise a marine functional zoning, the original organ that worked out the marine functional zoning shall, together with the relevant department at the same level, propose the revision plan and report it to the original organ that approved the marine functional zoning for approval. The functions of sea areas as determined by the marine functional zoning may not be altered without approval.

Article 6 A mechanism involving the participation of the general public and scientific decision-making shall be established to work out and revise a marine functional zoning.

Article 7 The State Oceanic Administration shall be responsible for guiding, coordinating and supervising the implementation of provincial marine functional zonings. Provincial oceanic administrative departments shall be responsible for guiding, coordinating and supervising the implementation of municipal and county-level marine functional zonings.

## Chapter II Establishment of Marine Functional Zonings

Article 8 A marine functional zoning shall be worked out by following the following principles:

1. scientifically determining the functions of a sea area in light of the location, natural resources and natural environment and other natural quality of the sea area;
2. make an overall arrangement for the use of sea by various industries in light of the needs of social and economic development;
3. protecting and improving ecological environment, safeguarding the sustainable utilization of sea areas and promoting the development of marine economy;
4. safeguarding maritime traffic safety; and
5. safeguarding national defense safety and meeting sea-using demands of the army.

Article 9 A marine functional zoning shall be worked out on the basis of the marine functional zonings of the next higher level and by observing the Technical Guidelines for Marine Functional Zonings and other relevant state criteria and technical norms and using the basic data satisfying the relevant state requirements.

Article 10 The major tasks of the national marine functional zoning shall be: scientifically delimiting marine functional areas of class A and key marine functional areas of class B, clarifying the emphases and management requirements in exploiting and protecting marine functional areas, reasonably determining key sea areas of the whole nation and their principal functions and formulating the major measures for putting the marine functional zoning into practice.

The major tasks of provincial marine functional zoning shall be: in light of the requirements of the national marine functional zoning, scientifically delimiting class-A and class-B marine functional areas of this region, clarifying the spatial layout of marine functional areas, the emphases and management requirements in exploiting and protecting marine functional areas, zoning the adjacent sea areas and determining their principal functions, and formulating the specific measures for putting the marine functional zoning into practice in light of this province's characteristics.

The major tasks of municipal or county-level marine functional zoning shall be: in light of the requirements of the provincial marine functional zoning, scientifically delimiting class-A and class-B marine functional areas of this region and further classifying these marine functional areas in light of this region's social and economic development situation. The municipal or county-level marine functional zoning shall define the emphases and development sequence in the recent exploitation and protection of all functional areas, clarify the environmental protection requirements and measures for each marine functional zoning and propose the steps, measures and policy suggestions for implementing the marine functional zoning. The emphasis of the marine functional zoning of a municipality divided into districts shall be the sea areas adjacent to the municipal districts and to the divisional lines of the sea area of the county (city or district), while the emphasis of county marine functional zoning shall be the adjacent sea areas.

Article 11 The term of a marine functional zoning shall agree with the national economic and social

development programs and shall be no less than 5 years.

Article 12 The State Oceanic Administration shall be responsible for establishing the national marine functional zoning expert committee, while the provincial oceanic administrative departments shall be responsible for establishing the provincial marine functional zoning expert committee.

The national marine functional zoning expert committee shall be responsible for publishing the list of technical entities recommended to work out a certain marine functional zoning. The technical entity undertaking the task of working out the marine functional zoning shall be selected from such list.

Article 13 Before proposing a marine functional zoning, the oceanic administrative department shall summarize and evaluate the existing marine functional zonings and the implementation effects of the relevant sea-related programs, earnestly analyze the existing problems and newly emerged circumstances, make foresighted research from the perspectives of social and economic development, development and programming of marine industry, ability to supply marine resources, sea area utilization situation, marine environmental protection situation in coastal areas and take it as the basis for working out the marine functional zoning.

Article 14 A marine functional zoning shall be worked out in accordance with the following procedures:

1. the oceanic administrative department shall select a technical entity, organize the early study and file an application for working out the marine functional zoning and start working out the zoning after the application is approved. In particular, if it is a provincial marine functional zoning, the application shall be filed by the provincial oceanic administrative department with the State Oceanic Administration; if it is a municipal or county-level marine functional zoning, the application shall be filed by the municipal or county-level oceanic administrative department with the provincial oceanic administrative department;

2. the local people's government at or above the county level shall form a leading group led by government leaders with the participation of the leaders of all the relevant departments, and its working body shall be under the governance of the oceanic administrative department and play the role of organization and coordination throughout the whole process. The oceanic administrative department shall form a technical guiding group which is composed of experts of the relevant industries and shall provide guidance for the technical entity to work out the work scheme, the technical scheme and other works related to the marine functional zoning;

3. the work scheme and the technical scheme shall be reported to the government at the same level for approval after they are examined and finalized by the technical guiding group and the leading group. The technical entity shall, in accordance with the relevant criterions and norms of the state such as the Technical Guidelines for Marine Functional Zoning and in light of the requirements of the work scheme and the technical scheme, work out the marine functional zoning achievement exposure draft. If, in the process of working out the marine functional zoning, any important issue involving harbor shipment, utilization of fishery resources, exploitation of mineral resources, development of seashore tourism, utilization of seawater resources, enclosing and filling up the sea, marine pollution control, marine ecological environment protection or marine disaster prevention and control is encountered, the leading group shall organize the relevant experts to study and solve the issue.

4. the marine functional zoning text, registration form and chart shall be reported to the relevant governmental department, the oceanic administrative department of the next higher level, the local governments of the next lower level and military organs for their opinions. The opinions of sea-

using entities and the general public shall be heard sufficiently by way of announcing and consulting, and opinions adopted shall be publicized to the general public. A marine functional zoning achievement evaluation draft shall be formed after the relevant opinions are sufficiently heard;

5. the oceanic administrative department responsible for working out the marine functional zoning shall take charge of the marine functional zoning evaluation work. Experts to evaluate national and provincial marine functional zonings shall be selected out of the members of the national marine functional zoning expert committee, and experts to evaluate municipal or county-level marine functional zonings shall be selected out of the members of the provincial marine functional zoning expert committee. A marine functional zoning achievement draft to be submitted for examination and approval shall be formed after the evaluation draft is revised and improved on the basis of expert opinions. Marine functional zoning achievement documents shall be submitted in both paper form and electronic form.

Article 15 Marine functional zoning achievements shall include: text, registration form, chart, preparation explanation, zoning report, research materials and information system, etc.

### Chapter III Examination & Approval and Archive-filing of Marine Functional Zonings

Article 16 Before a marine functional zoning is reported to the higher authority for examination and approval, it shall be subject to the examination and verification of the people's government at the same level and the consent of the people's government shall be obtained. The contents to be examined and verified shall include:

1. whether the analysis on its exploitation and protection is conducted by proceeding from the actual situation, and is practical and realistic;
2. whether the goal determined matches the national economic and social development program of the region, and whether it is beneficial to the economic development and ecological environmental protection of the region;
3. whether the marine functional zoning has given overall consideration to all factors and whether it matches the relevant divisions and programs;
4. whether the division of marine functional areas has been sufficiently demonstrated;
5. whether there are corresponding policies and measures guaranteeing the implementation of the zoning, and whether the measures are feasible; and
6. the coordination with governmental departments and the government of the next lower level, and whether all major problems have been solved upon negotiations.

Article 17 After a marine functional zoning is reported to the higher authority, the oceanic administrative department of the people's government having the power to examine and approve shall take charge of the examination work. The major basis for examination shall be:

1. state guidelines and policies on ocean exploitation, utilization and protection;
2. the relevant state laws and the rules and regulations on the administration of marine functional zoning;
3. technical criteria and norms for marine functional zoning promulgated by the relevant state departments;
4. national economic and social development programs and other approved divisions and programs; and
5. marine functional zonings of the next higher level and those of the adjacent areas.

Article 18 A provincial marine functional zoning shall be examined in accordance with the following procedures:

1. the people's government of the province (autonomous region or municipality directly under the

Central Government) shall report it to the State Council after it is approved by the provincial people's government and send a copy to the State Oceanic Administration (to which zoning text, registration form, chart, explanation, zoning report and expert examination opinions shall be attached twentyfold);

2. the State Council shall forward the request for instructions filed by the provincial people's government to the State Oceanic Administration for examination, which shall file the marine functional zoning reported for approval together with the attached documents with different departments under the State Council and the people's governments of the adjacent provinces, autonomous regions or municipalities directly under the Central Government for opinions. The relevant departments and entities shall feedback their opinions to the State Oceanic Administration in written form within 30 days since they receive the documents requesting for opinions. If any department or entity fails to do so within the prescribed time limit, it shall be deemed as having no opinion;

3. the State Oceanic Administration shall put forward examination opinions within 15 days by taking the opinions from various sides into consideration. If it decides to disapprove the marine functional zoning or some department has significant opinions and it is indeed necessary to redo the zoning, the State Oceanic Administration may return the zoning to the provincial government which submitted all those documents for approval and ask it to re-report the zoning to the State Council for approval after redoing the zoning;

4. if the provincial marine functional zoning is approved upon examination, the State Oceanic Administration shall draw up an examination opinion and a reply draft and report them to the State Council for approval in accordance with the prescribed procedures.

Article 19 The procedures for the examination and approval of municipal and county-level marine functional zonings shall be formulated by the provincial oceanic administrative department and reported to the people's government of the province, autonomous region or municipality directly under the Central Government for approval.

Article 20 A provincial marine functional zoning which has been approved shall be reported to the state oceanic administrative department for record, while a municipal or county-level marine functional zoning which has been approved shall be reported to the state oceanic administrative department and the provincial oceanic administrative department for record. The contents to be filed for record shall include text, registration form, chart, explanation, zoning report and information system.

Article 21 After a marine functional zoning is approved, the people's government at the same level shall publicize the text within 30 workdays since the date of approval, except the contents concerning state secrets.

#### Chapter IV Assessment and Revision of Marine Functional Zonings

Article 22 After two years since an approved marine functional zoning is put into practice, the oceanic administrative department at or above the county level shall conduct an assessment on the implementation of the marine functional zoning and propose suggestions on general revision or significant revision of the marine functional zoning. The oceanic administrative department may undertake the assessment work by itself or entrust a technical entity to do so.

Article 23 General revisions refer to adjustments which are made in some sea areas, only involve class-B marine functional areas and do not involve any class-A marine functional area. Significant revisions refer to adjustments which are made in some sea areas and involve class-A marine functional areas, involve functional areas which do not change the natural quality of sea areas or involve changing functional areas for sea reclamation to those for sea-filling.

Where it is necessary to revise a marine functional zoning for public interest, national defense or large-scale energy or traffic infrastructure construction, upon the approval of the State Council, the marine functional zoning may be revised pursuant to the approval document of the State Council.

Article 24 A marine functional zoning may be revised in accordance with the following procedures:

1. where it is indeed necessary to revise the marine functional zoning in part sea area upon assessment, the oceanic administrative department shall work out a revision plan together with the relevant department at the same level, and, if it is an important revision, shall publicize the relevant situation and broadly solicit opinions;
2. after the revision plan is examined and approved by the people's government of the same level, it shall be reported to the people's government having the power to approve for approval. If it is a significant revision, the oceanic administrative department of the people's government having the power to approve shall demonstrate and evaluate the revision plan and take the demonstration and evaluation as the basis for approving it;
3. after the revision plan is approved, the people's government of the same level shall publicize the revised articles and clauses to the general public. Where the plan involves any revision of a marine functional zoning of the next lower level, such zoning shall be revised according to the approval document, and the revised one shall be reported to the provincial oceanic administrative department for record.

Article 25 In the case of any of the following circumstances, the original marine functional zoning shall not be adjusted in accordance with the revision procedures, but a new marine functional zoning shall be worked out in accordance with the procedures for the establishment of marine functional zonings:

1. the state or a coastal province, autonomous region or municipality directly under the Central Government organizes and conducts the establishment of the marine functional zoning in a unified way;
2. it is necessary to adjust more than one marine functional zoning involving more than one sea area as demanded by economic and social development; or
3. other circumstances specified by the State Council or the people's government of the province, autonomous region or municipality directly under the Central Government.

## Chapter V Implementation of Marine Functional Zonings

Article 26 A marine functional zoning shall be carried into effect immediately and strictly after it is approved. In the text, registration form and chart of the zoning, all class-A and class-B marine functional areas and the corresponding environmental protection requirements shall be determined as mandatory contents which shall be strictly put into practice.

Article 27 Marine functional zonings are the basis for working out sea-related programs. A marine environmental protection program shall be worked out on the basis of marine functional zonings. Where the planning for breeding industry, salt industry, traffic industry or tourism involves the use of sea areas, it shall agree with marine functional zonings. Land use planning, city planning and harbor planning shall be well connected with marine functional zonings.

Article 28 Projects using sea areas shall agree with marine functional zonings. A demonstration report on the use of sea areas shall clearly explain whether the site selection of the project concerned agrees with marine functional zonings.

An application for a project's use of sea which violates any marine functional zoning shall not be accepted, and the applicant shall be informed of the rejection. If the initiation of a project concerning

the use of sea areas has been approved by the state and the provincial people's government but it does not agree with the relevant marine functional zoning, the oceanic administrative department may propose re-selecting the site of the project.

As for sea-filling projects agreeing with marine functional zonings, it is necessary to exercise strict control over the filling scale in accordance with the relevant state criteria so as to use the sea in an intensive way.

Article 29 When working out a marine environmental protection program or a regional marine environmental protection program concerning key sea areas, the goals, standards and major measures for marine environmental protection and management shall be determined in light of the environmental protection requirements of various kinds of marine functional areas. The selection and delimitation and construction of various kinds of marine functional areas shall be based on marine functional zonings.

Selection of the location of a marine sewage discharge outlet, set-up of a deep-sea land-source pollutant discharge outlet, examination and approval of a marine (coastal) engineering project and selection and delimitation of a marine dumping site shall all be based on marine functional zonings. As for any marine (coastal) engineering project which fails to agree with the relevant marine functional zoning, the oceanic administrative department may not examine and approve the environmental impact report. Marine environmental monitoring, assessment, supervision and management shall be conducted in light of the environmental protection requirements of various kinds of marine functional zonings.

Article 30 The oceanic administrative departments at various levels shall strengthen surveillance and monitoring over marine functional areas and prevent illegal change of the purpose of sea areas. Any entity or individual illegally changes the purpose of sea areas shall be punished pursuant to the provision of Article 46 of the Law on the Administration of the Use of Sea Areas. Any entity or individual fails to use sea areas within the scope of authorization as specified in marine functional zonings shall be punished pursuant to the provision of Article 43 of the Law on the Administration of the Use of Sea Areas.

#### Chapter VI Supplementary Provisions

Article 31 The oceanic administrative departments at various levels and entities undertaking the task of working out marine functional zonings shall make more efforts in the administration of zoning-related archives and do a good job in establishing archives, filing them up and keeping them for future reference. Materials to be placed on file shall include marine functional zoning achievements and zoning management materials. Zoning management materials refer to the documentary materials related to the establishment, examination and approval, assessment and revision of marine functional zonings.

Article 32 The oceanic administrative departments at various levels shall make inquiries about approved marine functional zonings for applicants for using sea areas and other interested parties upon their applications. Contents to be inquired about shall include the text, registration form and chart of a marine functional zoning. If the inquiry can't be provided on the spot, it shall be provided within 5 days.

Article 33 These Provisions shall come into force as of August 1st, 2007.

