

Provisions of Zhejiang Province for the Management of Port Coastlines

(Adopted at the 57th Executive Meeting of the People's Government of Zhejiang Province, promulgated by Decree No.280 of the People's Government of Zhejiang Province on October 12, 2010)

Article 1

With a view to strengthening the management of port coastlines and promoting the protection and rational exploitation and utilization of port coastline resources, these Provisions are formulated in accordance with the "Port Law of the People's Republic of China", the "Port Regulations of Zhejiang Province", other relevant laws and regulations, and in the light of the actual circumstances of this Province.

Article 2

These Provisions shall be applicable to the planning, utilization and management of port coastlines within the administrative area of this province.

Article 3

The exploitation and utilization of port coastlines shall be performed under the guideline of unified planning, organized development and rational exploitation.

Article 4

The provincial transport administrative departments are responsible for the supervision over the port coastlines management work in this Province. The provincial shipping and port administration departments are responsible for the specific management work. The administrative departments at municipal or county level are responsible for the specific implementation of the administrative management of port coastlines governed by the local people's governments. The provincial shipping and port administrative departments and the local port management departments are generally referred to as port management departments.

The departments of development and reform, economic and information technology, marine and fishery departments, land and resources, housing and rural-urban development (planning), water resources, environmental protection, maritime safety and other relevant departments shall perform their respective duties in the management of port coastlines.

Article 5

The provincial administrative departments and port management departments shall strengthen the investigation of port coastline resources, and boost the utilization efficiency of port coastlines of low utilization by means of integration and so on.

Article 6

The detailed regulatory plans for port districts shall optimize the overall layout of the water areas and land areas, specify the range of the port coastlines and the water and land areas thereof, coordinate the supporting facilities for collection and distribution transportation, water supply and drainage, power supply, communication, safety, port management, environmental protection and so on, and adapt the plans to the infrastructure layout in urban and rural planning.

The detailed regulatory plans for port districts shall be formulated and approved in accordance with relevant provisions of the “Port Regulations of Zhejiang Province”.

Article 7

The utilization of port coastlines shall comply with the provincial port layout planning, overall port planning and the detailed regulatory plans for port districts. No unit or individual is permitted to use the port coastlines against port planning.

Article 8

The utilization of port coastlines by government-invested port facilities projects shall comply with relevant state and provincial regulations on the management of government-invested projects.

Article 9

Should the utilization of port coastlines by the port facilities projects be subject to approval according to state regulations, the construction units or individual may file an application for project evaluation and submit relevant materials to the development and reform administrative departments with approval authority of the region where the port is located.

Upon receipt of the application, the development and reform administrative departments shall conduct preliminary evaluation of the project in conjunction with departments of port management, economic and information technology, land and resources, marine and fishery, housing and urban-rural development (planning), environmental protection and maritime safety, and issue preliminary evaluation opinions for projects meeting the following requirements:

1. in accordance with port planning, marine functional regionalization, overall planning for land utilization and urban and rural planning, and adopting rational utilization of port coastlines and land and sea areas;

2. being in line with industrial orientation, and in favor of industrial distribution optimization and industrial upgrading;

3. meeting the environmental protection demands; and

4. abiding by relevant laws, regulations and rules.

In case the project is evaluated to fall short of the requirements, the development and reform administrative departments shall explain the situation to the construction units or individuals.

Article 10

Approval formalities requested by construction units or individuals for the utilization of port coastlines, site selection, utilization of land and sea areas, environmental impact evaluation and so on supported by preliminary evaluation opinions shall be handled in a timely manner according to law by the departments concerned, unless the main investors, content, scale, location or any other important item of the port facilities project are significantly altered.

Article 11

Applications for the utilization of port coastlines in constructing wharves and other port facilities shall be submitted to the local port management departments in accordance with the following provisions:

1. applications for the utilization of deepwater port coastlines, with evaluation opinions issued by the provincial transport administrative departments in conjunction with the provincial development and reform administrative departments, shall be submitted to relevant state organs for approval according to law;

2. applications for the utilization of non-deepwater coastlines suited for constructing 3000-ton-level or above berths, with evaluation opinions issued by the local port management departments, shall be submitted to the provincial transport administrative departments and approved with the consent of the provincial development and reform administrative departments; and

3. applications for the utilization of other non-deepwater port coastlines shall be approved by the local port management departments with the consent of the development and reform administrative departments at the same level.

Article 12

The construction units or individuals shall submit the following application materials for the utilization of port coastlines:

1. Application Form for the Utilization of Port Coastlines;

2. feasibility report or application addressing the necessity, feasibility and

economic rationality of the utilization of port coastlines by the construction projects;
and

3. other materials as stipulated by relevant laws, regulations and rules.

Article 13

The port management departments shall evaluate the rationality of the construction projects upon acceptance of their applications for the utilization of port coastlines in accordance with the following provisions:

1. applications for the utilization of deepwater port coastlines shall be evaluated for rationality by experts organized by the provincial shipping and port administrative departments; and

2. applications for the utilization of non-deepwater port coastlines by construction projects of passenger transport facilities and dangerous goods operation workplaces shall be evaluated for rationality by experts organized by the local port management departments.

Article 14

For port facilities projects subject to approval according to state regulations, the construction units or individuals shall submit applications for authorization to the enterprise investment administrative departments upon completion of the examination and approval formalities concerning port coastlines utilization, site planning, preliminary examination of land use, utilization of sea areas, environmental impact evaluation and so on. The enterprise investment administrative departments shall determine in a timely manner approval or disapproval of the applications according to law.

The authorization of port facilities projects shall be executed in accordance with relevant state and provincial regulations.

Article 15

Should the port coastlines be used by port facilities projects providing the right to the use of state-owned land and sea areas through bid invitation, auction, listing or other public competitions, the land and resources and marine and fishery administrative departments shall, in conjunction with port management departments, incorporate the requirements with respect to the utilization of port coastlines into the plan for assignment of the right to the use of state-owned construction land and sea areas. The base price of the right to the use of the state-owned construction land and sea areas shall measure up to the use value of the port coastlines.

Port facilities projects using the port coastlines are entitled to the use of land and

sea areas occupied by the projects. The port coastlines and the land and sea areas thereof shall be subject to the same term of use.

Article 16

The local port management departments shall conduct on-site supervision at the commencement of the port facilities projects and verify the specific coordinate position of the port coastlines involved according to the approval documents for the use of port coastlines.

Upon verification of their specific coordinate positions, the port coastlines shall be registered with the local port management departments. The registration certificates shall specify items including authorization number, the range and term of use of the port coastlines and so on.

Article 17

Units and individuals granted the permission to use the port coastlines shall start construction within 2 years after obtaining the permission. In case the construction of project fails to start within the prescribed time without applying for deferment to the original approval organization, the approval formalities shall be renewed according to relevant state laws.

Article 18

Units and individuals granted the permission to use the port coastlines shall use the port coastlines in accordance with the approved range and function, and shall not alter the range and function of the use of the port coastlines without approval. Where legitimate necessity arises for altering the range and function of the use of the port coastlines, the units or individuals shall submit written applications to local port management departments to be approved by the original approval organs.

If units and individuals granted the permission to use the port coastlines intend to legally transfer the right to use port coastlines or terminate the term of use of the port coastlines, they shall submit written report to the local port management departments for the transfer or termination to be handled by the original approval organs.

Article 19

Where necessity arises for port facilities construction projects to use the port coastlines temporarily, the construction units or individuals shall fulfill the approval formalities for temporary use of port coastlines in accordance with the provisions of "Port Regulations of Zhejiang Province".

The construction units or individuals shall use the port coastlines in accordance with the term of use, range, function and other requirements as stipulated by the

approval documents for temporary use of port coastlines, and shall demolish in due time the temporary facilities upon the expiration of the term of use or under circumstances where demolition is obligatory for the sake of public benefits.

Article 20

The provincial transport administrative departments and the port management departments shall establish and improve the inspection system, conduct regular supervision and inspection over the utilization and management of port coastlines, and investigate and punish in a timely manner the illegal actions conducted in the utilization and management of port coastlines according to law.

Any unit or individual is entitled to reporting illegal utilization and management of port coastlines. The provincial transport administrative departments and port management departments shall accept the report in a timely manner and handle the report according to law after investigation and verification.

Article 21

Should any conduct violating these Provisions be held legally accountable in accordance with relevant laws and regulations, such laws and regulations shall prevail.

Article 22

Should the provincial transport administrative departments, the port management departments, or any one of their staff commit any of the following actions, the person in charge held directly liable or any other person held directly liable shall be penalized by the competent organs within their administration authorities according to law; should the conduct constitute a crime, the person shall be investigated for criminal liability.

1. using port coastlines beyond the approved limits;
2. approving the use of port coastlines against the port planning;
3. failure to investigate and punish the illegal use of port coastlines according to law, which constitutes a serious breach of duty; or
4. other actions involving neglect of duties, abuse of power, or engagement in malpractice for personal gains.

Article 23

Should the construction units or individuals commit any of the following actions, the port management departments shall order rectification within a specified time limit; if the order is not carried out accordingly, the port management departments originally approving the use of the port coastlines shall terminate the port coastlines use permit,

the People's Court shall be requested to execute mandatory demolition of the illegally constructed facilities, and a fine of no less than 10,000 but not more than 50,000 yuan shall be imposed on the illegal actions:

1. constructing ports, docks or other port facilities against the regulatory plans for port districts; or
2. altering the range and function of the use of the port coastlines without approval.

Article 24

Should the temporarily constructed facilities using the port coastlines fail to be demolished within the prescribed term of use in violation of these Provisions, the local port management departments shall order timely demolition and impose a fine of up to 30,000 yuan; if the order is not carried out accordingly, the port management departments shall undertake the demolition and the expenses thus incurred shall be born by the construction units or individuals temporarily using the port coastlines.

Article 25

The present Provisions shall be effective as of December 1, 2010.