

Measures for Administration of Preliminary Review of Land Use for Construction Projects

December 29, 2008

No. 42 Decree of the Ministry of Land and Resources of the People's Republic of China Measures for Administration of Preliminary Review of Land Use for Construction Projects

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The Measures for Administration of Preliminary Review of Land Use for Construction Projects amended and adopted at the 13th ministerial meeting of the Ministry of Land and Resources on November 12, 2008 is hereby promulgated, which shall take effect on January 1, 2009.

Minister Xu Shaoshi

November 29, 2008

Measures for Administration of Preliminary Review of Land Use for Construction Projects

(Adopted at the 5th ministerial meeting of the Ministry of Land and Resources on June 28, 2001, revised at the 9th ministerial meeting of the Ministry of Land and Resources on October 29, 2004, and amended at the 13th ministerial meeting of the Ministry of Land and Resources on November 12, 2008)

Article 1 For the purpose of guaranteeing the implementation of the overall planning on land utilization, bringing into full play the macro-control function of land supply and controlling the total volume of the land used for construction, the current Measures is formulated in accordance with the Land Administration Law of the People's Republic of China, the Regulations on Implementation of the Land Administration Law of the People's Republic of China and the Decision of the State Council on Deepening the Reform and Rigidly Enforcing Land Administration.

Article 2 The preliminary preview of land use for construction projects referred to in the Measures shall mean the review lawfully conducted by the administrative department of land and resources on land utilization matters involved in construction projects at the stages of approval, ratification and filing of construction projects.

Article 3 The preliminary review shall abide by the following principles:

- (1) Complying with the overall planning on land utilization;
- (2) Protecting cultivated land, especially basic farmland;
- (3) Utilizing land rationally and intensively; and
- (4) Complying with the state policies of land supply.

Article 4 The land used for construction projects shall be subject to preliminary review at different levels.

The construction projects, which need to be reviewed and approved by the People's Government or by the development and reform department and other departments of the People's Government that has approval power, shall be preliminarily reviewed by the administrative department of land and resources of the People's Government.

The construction projects, which need to be ratified and files, shall be preliminarily reviewed by the administrative department of land and resources at the same level with the ratification and filing organ.

Article 5 For a construction project that needs to be examined and approved, the entity using the land for construction shall file an application for preliminary review at the stage of feasibility study.

For a construction project that needs to be ratified, the entity using the land for construction shall file an application for preliminary review before applying for ratification and filing.

For a construction project that needs to be filed, the entity using the land for construction shall file an application for preliminary review after handling the filing.

Article 6 For a construction project that shall be preliminarily examined by the Ministry of Land and Resources as required by Article 4 of the Measures, the Ministry of Land and Resources shall entrust the administrative department of land and resources at the provincial level at the locality of the project to accept the application. However, if the construction project occupies land within the scope of urban land for construction use as determined in the planning, the administrative department of land and resources at the city level shall be entrusted to accept the application. After acceptance of the application, the said administrative department shall give its opinions on preliminary review, and transfer and submit them to the Ministry of Land and Resources.

As to the land used for secret-involving military projects or particular construction projects approved by the State Council, the entity using the land for construction may directly file an application for preliminary review to the Ministry of Land and Resources.

The small-sized and scattered land used for construction projects such as electrical wire tower bases, well drilling positions, and communication stations the preliminary review of which should be completed in the charge of the Ministry of Land and Resources shall be preliminarily examined by the administrative department of land and resources at the provincial level and be reported to the Ministry of Land and Resources for filing purposes.

Article 7 Where any construction project of approval sort has been approved the proposals for the projects or any construction project that needs to be filed applies for the preliminary review of land use, the entity shall submit the following documents:

- (1) The application form for preliminary review of the land used for the construction project:
- (2) The application report for preliminary review, including the basic information on the planned construction project, the planned location, the basis of the planned area of the land use and the indicators of the land used suitable for construction, the initial plan on supplementing cultivated land, compensation fee for requisition of land and the planned arrangement for capital of land reclamation of mine projects;
- (3) Reply documents of proposals for the projects or approval documents of project for filing purpose;
- (4) Where any construction project of sole site selection plans to select the site located in the region apt to geologic hazards in the geologic hazard prevention planning, it shall submit the evaluation report of geologic hazard risk; and
- (5) The documents proving whether to cover major mineral resources issued by the administrative department of land and resources in the region where the sites of construction projects are separately selected.

Where any construction project belongs to the construction project of approval sort that can be directly examined and approved the feasibility study report or any construction project that needs to be ratified, it shall not submit the preceding documents required in Items (3), (4) and (5) with application for the preliminary review of land use.

The application form for preliminary review as prescribed in Paragraph 1 of this Article shall be uniformly formulated by the Ministry of Land and Resources.

Article 8 With respect to any construction project the feasibility study report of which needs to be directly examined and approved or any construction project that needs to be checked and approved, the entity shall upon completion of the preliminary review of land use and prior to the review and approval of land use go through such formalities as geologic hazard risk assessment and information certification of mineral resources coverage in accordance with the relevant laws and regulations.

Article 9 When transferring and submitting the application for preliminary review on use of land, the administrative department of land and resources entrusted by the Ministry of Land and Resources to be responsible for the preliminary review shall provide the following documents:

- (1) Opinions from the preliminary review for submitted documents in accordance with the relevant provisions in Article 11 of the Measures;
- (2) The drawing on overall planning at the county level or above on land utilization, which indicates the scope of land used for the project, and other relevant drawings; and

(3) Where, under the circumstances as prescribed in Article 26 of the Land Administration Law of the People's Republic of China, the land used for a construction project demands to amend the overall planning on land utilization, such materials shall be submitted as the amended planning which has been demonstrated by the relevant departments and experts, the evaluation report on the impacts of the construction project to the implementation of the planning and the minutes of the hearing on amending the planning.

Article 10 The administrative department of land and resources shall accept the applications for preliminary review that accord with Article 7 of the Measures. Where any application or document falls short of the provisions, the administrative department of land and resources shall either on the spot or within 5 days inform the applicant or the organ that has transferred and submitted the documents in written form. If the department fails to inform, the application or document shall be deemed as having been accepted and taken over.

The administrative department of land and resources entrusted by the Ministry of Land and Resources to be responsible for the preliminary examination shall, within 20 days as of acceptance of the application, finish preliminary review, and transfer and submit the application to the Ministry of Land and Resources.

Article 11 The preliminary review shall include the following contents:

(1) Whether the selected locality of the land used for construction projects accords with the overall planning on land utilization; and whether it conforms to policies of the state on land supply and the conditions prescribed in laws and regulations on land administration;

(2) Whether the scale of land used for construction project complies with the relevant provisions of indexes of land used for construction;

(3) Whether the initial plan on supplementing cultivated land is feasible;

(4) The planned arrangement for compensation fees for requisition of land and capital for land reclamation of mine projects; and

(5) In the case of any land used for a construction project under the circumstances as prescribed in Article 26 of the Land Administration Law of the People's Republic of China, which demands to amend the overall planning on land utilization, whether the proposal on amending the planning and the evaluation report on the impacts of the construction project to the implementation of the planning comply with laws and regulations.

Article 12 The administrative department of land and resources shall, within 20 days as of acceptance of the application for preliminary review or as of receipt of the transferred and submitted documents, finish the review and issue its opinions from preliminary review. If it fails to issue its opinions from preliminary

review within 20 days, the period may be extended for ten days more with approval of the responsible person of the administrative department of land and resources in charge of the preliminary review.

Article 13 The opinions from preliminary review shall include the conclusive opinions on the contents prescribed in Article 11 of the Measures, and the concrete requirements on the entity using the land for construction.

Article 14 The opinions from preliminary review are the must documents for the approval of the project feasibility study report and ratification of application report of construction project.

Article 15 The period of validity of a preliminary review document of the land use for a construction project shall be two years as of the approval date. Where, in a preliminarily examined project, major adjustments need to be made such as the purpose of the land, the locality of the construction project, the entity concerned shall apply for preliminary review again.

Where the construction project has not been preliminarily examined or fails to pass the preliminary review, the entity concerned shall not be approved the feasibility study report and the application report of ratification for construction project; to convert the land for agricultural use into that for construction use or to have the land requisitioned, nor shall it go through the land supply procedures. Where no major change occurs while the relevant content of preliminary review is reported for approval for the land used for construction, it shall not be repeatedly reviewed.

Article 16 The Measures shall come into force as of January 1, 2009.