

Regulation of Guangdong Province on Environmental Protection

Promulgation date: 09-24-2004
Effective date: 01-01-2005
Department: GUANGDONG PROVINCE
Subject: ENVIRONMENTAL PROTECTION

Announcement of the Standing Committee of the Tenth People's Congress of Guangdong Province (No.33)

The Regulation of Guangdong Province on Environmental Protection, which was adopted at the 13th meeting of the Standing Committee of the 10th People's Congress of Guangdong Province on September 24, 2004, is hereby promulgated and shall come into force as of January 1, 2005.

Standing Committee of the People's Congress of Guangdong Province
September 24, 2004

Regulation of Guangdong Province on Environmental Protection

Chapter I General Provisions

Article 1 The present Regulation is formulated in accordance with the Environmental Protection Law of the People's Republic of China and other laws and regulations for the purpose of protecting and improving the living environment and ecological environment, preventing and controlling pollution and other public hazards, safeguarding human health, and promoting the sustainable economic and social development, and in light of the actual situations of this Province.

Article 2 The present Regulation shall apply to the protection and improvement of living environment and ecological environment, and the prevention and control of such pollutants and other public hazards as waste gas, waste water, waste residues, dust, malodorous gases, radioactive substances, and noise, vibration and electromagnetic radiation, etc. within the administrative division of this Province.

Article 3 The people's governments at each level shall be responsible for the environmental quality within their respective administrative divisions, implement the leadership responsibility system for environmental quality, fulfill annual goals and tasks of environmental protection set for their terms of office, and make the environmental quality of their jurisdictions up to the prescribed standards. The goals and tasks of environmental protection set for their terms of office of the people's governments at each level shall be specified by their respective next higher people's governments.

Article 4 An administrative department of environmental protection of the people's government at or above the county level shall conduct unified supervision over and regulation of the environmental protection work within its own administrative division.

A representative office established at the district or township level by an administrative department of environmental protection of the people's government at the municipal or county level shall conduct unified supervision over and regulation of the environmental protection work within its own administrative division on the commission of the latter.

Article 5 The administrative departments of maritime affairs, fishing administration and fishing harbor supervision, marine and technological supervision, and the related departments of public security, transportation, railways and civil aviation shall, in accordance with relevant laws and regulations, conduct supervision over and regulation of the prevention and control of environmental pollution.

The administrative departments of land, water conservancy, agriculture, forestry, fishery and tourism

shall, in accordance with relevant laws and regulations, conduct supervision over and regulation of the resource conservation.

The administrative departments of economy and trade, development and reform, construction, industry and commerce, culture, public health and planning shall do a good job in environmental protection within the scope of responsibilities of their respective departments.

Article 6 The Provincial People's Government shall establish a coordinative mechanism of environmental protection for specified key areas and river basins, and conduct supervision over and regulation of the prevention and control of environmental pollution of these areas and river basins.

Article 7 When the people's governments at all levels formulate their programs and plans of national economy and social development and as well as significant economic, industrial and technological policies, and carry on such activities as resource development, regional land treatment, construction of development zones and city reconstruction, they shall make a comprehensive decision between environment and development, and adopt strategies and measures favorable for environmental protection.

The people's governments at each level shall popularize the clean production, encourage a reasonable use of resources, and promote the green consumption.

Article 8 The administrative departments of environmental protection of the people's governments at or above the county level shall publish the information relating to environmental quality without delay, at least issue a gazette of environmental situation of their respective administrative divisions every half a year, and safeguard the right-to-know of citizens relating to environmental quality.

All entities and individuals are obliged to reasonably utilize natural resources, protect the environment as well as prevent and control pollution, and have the right to claim for mitigating and eliminating the harm caused by pollution, and to report any act in violation of the laws and regulations of environmental protection.

The people's governments at all levels and the administrative departments of environmental protection thereof shall do a good job in dealing with the complaining people's letters and calls, setting up tip-off phones, and accepting and promptly dealing with any report from the general public.

Chapter II Planning for Environmental Protection

Article 9 The administrative department of environmental protection of the Provincial People's Government shall, pursuant to the national planning for environmental protection, the economic and social development planning as well as the plans of this Province, and in collaboration with the departments concerned, make an investigation and assessment of environmental situation of this Province, draw up the environmental protection planning of the whole Province or of a region and submit it to the Provincial People's Government for approval before implementation.

An administrative department of environmental protection of the people's government at the municipal or county level shall, pursuant to the environmental protection planning approved by the next higher people's government, and the environmental situation of its own administrative division, and in collaboration with the departments concerned, draw up the environmental protection planning of the present administrative division and the small areas thereof and report it to the people's government of corresponding level for approval before implementation after being examined and approved by the administrative department of environmental protection of the people's government at the next higher level.

The environmental protection planning, urban planning and land use planning shall coordinate with each other.

Article 10 The administrative department of environmental protection of the Provincial People's Governments shall draw up the guiding rules for working out an environmental protection planning.

Article 11 An environmental protection planning shall include the following items:

- (1) the planning period, scope of planning and features of the environment;
- (2) an analysis of the current situation and a forecast of environmental issues arising from national economy and social development like industrialization, agricultural industrialization, informatization and urbanization, and the appraisal and adjustment suggestions for regional development scale, direction and industrial structure on the strength of the environment and resource conditions;
- (3) an overall arrangement of regional environment and environmental functional areas;
- (4) environmental targets for each stage of the planning period;
- (5) protection of all environmental elements, prevention and control of pollution, and gross control of main pollutants;
- (6) protection of regional ecological environment;
- (7) reasonable exploitation, utilization and protection of resources;
- (8) prevention and control of significant environmental pollution, projects of ecological protection, and short-term treatment plans and performance analysis;
- (9) main measures and a collaborative and supervisory mechanism for carrying out the planning; and
- (10) any other item required by the guiding rules for working out the environmental protection planning.

Article 12 The administrative departments of environmental protection of the people's governments at or above the county level may, pursuant to the requirements for protecting and improving the living environment and ecological environment, revise their environmental protection planning; and the contents after revision shall not be lower than the requirements of their environmental protection planning approved by their respective next higher people's governments, and shall be reported for approval pursuant to the procedures as specified in Article 9 of the present Regulation.

Article 13 The drawing and revision of the environmental protection planning shall be conducted in such forms as demonstration and hearing in order to widely solicit opinions. The documents for reporting the environmental protection planning for approval shall be accompanied by the illustrations concerning the adoption of opinions of the general public. The approved environmental protection planning shall be made public to the general public.

Article 14 The funds necessary for working out the environmental protection planning shall be incorporated into the financial budget of corresponding level.

Article 15 The environmental protection planning is the basis for protecting ecological environment and controlling pollution, and all kinds of development and construction activities shall comply with the environmental protection planning.

The relocation, production-switch or closedown necessary for carrying out the environmental protection planning shall be solved by the local people's government through the adoption of corresponding measures, and be compensated according to law.

Article 16 The people's governments at each level shall organize related departments to supervise and inspect the implementation of the environmental protection planning and timely correct any act that goes against the planning.

Chapter III Control and Supervision and Administration of the Discharge of Pollutants

Article 17 The total amount control and concentration control shall apply to the discharge of pollutants. The administrative department of environmental protection shall distribute the index of total amount control in light of the local index of total amount control on discharging key pollutants, the standards for discharging pollutants, and the requirements of environmental quality of functional areas at the locality of the pollutant discharging entities as well as the related prescriptions. The specific measures shall be formulated by the Provincial People's Government.

Article 18 Any entity which discharges pollutants shall declare and register the discharge of pollutants pursuant to the prescriptions of the State, apply for a permit for discharging pollutants,

discharge pollutants according to the permit, and pay a fee for discharging pollutants according to the prescriptions.

No entity without a permit for discharging pollutants may discharge pollutants.

The administrative department which accepts an application for a permit for discharging pollutants shall decide, within 20 days after acceptance of the application, whether or not to issue the permit for discharging pollutants, notify the applicant in written form, and make it public.

Article 19 In case a significant change happens to the discharging situation of a pollutant discharging entity, it shall apply to the local administrative department of environmental protection for change registration 15 days in advance; in case a significant change results from a urgency, it shall be declared to the administrative department of environmental protection within 3 days after the change.

Article 20 A pollutant discharging entity shall, pursuant to the prescriptions of the State and the Province, timely fill in environmental statistical statements true to the fact, and shall not make any false or delayed report or refuse to report.

Article 21 A pollutant discharging entity shall set up a sewage exit according to the prescriptions of the State or the Province. Any sewage exit classified into the range of online monitor shall be installed with an online automatic monitor and control unit. The pollutant discharging entity shall normally use its online automatic monitor and control unit, and shall not dismantle it, leave it idle, transform or destroy it without approval.

Article 22 In case a pollutant discharging entity discharges pollutants in excess of the prescribed discharging standards or the total amount control index for discharging key pollutants, it shall be ordered to rectify and reform within the time limit by the administrative department of environmental protection or the department empowered by law to conduct environmental supervision and management, or be ordered to control the discharge within the time limit as set by the people's government.

Any pollutant discharging entity subject to rectification and reform and control within the time limit shall carry out the rectification and reform and control according to the requirements, and report on schedule the process of rectification and reform and control to the administrative department of environmental protection or the department empowered by law to conduct environmental supervision and management; it shall be subject to the check and acceptance of the administrative department of environmental protection or the department empowered by law to conduct environmental supervision and management after the task of rectification and reform and control are accomplished.

Article 23 In case a pollutant discharging entity discharges pollutants, which seriously pollutes the environment, the pollutant discharging entity shall be ordered to eliminate the pollution within the time limit as set by the administrative department of environmental protection. Where the pollutant discharging entity refuses to eliminate the pollution or fails to eliminate the pollution within the time limit, the entities concerned may be designated to eliminate the pollution by the administrative department of environmental protection, and the expenses incurred therefrom shall be assumed by the pollutant discharging entity.

Article 24 Where any pollutant discharging entity discharges pollutants, and thereby causes or probably causes an emergency which will deteriorate environmental quality, and jeopardize the safety of lives and property of citizens, the administrative department of environmental protection shall promptly take emergency measures, order the pollutant discharging entity to stop polluting, timely circulate a notice to such entities and inhabitants as are likely to be endangered, and report it to the people's governments at or above the county level of the locality and contiguous areas which may be effected.

Article 25 The administrative departments of environmental protection at the provincial and

municipal levels may directly investigate and prosecute any act resulting in serious pollution within their respective administrative divisions or pollution between different administrative divisions, or any act in violation of laws and regulations of environmental protection but not dealt with or ineffectively dealt with by the administrative departments of environmental protection of lower level.

Chapter IV Centralized Treatment of Pollutants

Article 26 An entity which engages in the centralized treatment of pollutants shall obtain a corresponding certificate pursuant to the prescriptions of the State.

An entity which engages in the centralized treatment of pollutants shall declare and get registered according to the prescriptions, and pay fees for discharging pollutants.

Article 27 A pollutant discharging entity may entrust any other entity which has obtained a corresponding certificate for centralized treatment of pollutants or professional operation of environmental protection facilities.

A pollutant discharging entity which delivers pollutants for centralized treatment shall sign an agreement for disposing pollutants to clarify the rights, obligations and duties of environmental protection of the two parties. The entity which engages in the centralized treatment of pollutants shall report to the administrative department of environmental protection at or above the county level for archival filing within 3 days after conclusion of the agreement.

For a pollutant discharging entity which doesn't submit pollutants for centralized treatment, it shall deal with the pollutants pursuant to the documents and replies of appraising the impacts on the environment.

Article 28 In case an entity which engages in the centralized treatment of pollutants finds any great change in the type, quantity or density of pollutants delivered for treatment by the pollutant discharging entities, it shall report to the local administrative department of environmental protection without delay. The administrative department of environmental protection shall conduct an investigation after receipt of the report and investigate and deal with any violation found.

Article 29 The construction of facilities for centralized treatment of pollutants shall comply with the requirements of environmental protection relating to construction projects, and its documents of appraising the impacts on the environment shall contain the schemes for maintenance and upkeep, retirement and closedown.

Article 30 An entity which engages in the centralized treatment of pollutants shall ensure that the facilities for centralized treatment of pollutants are in normal operation, the pollutant discharge complies with the specified standards, and an emergence system for accidents be established.

Where an entity which engages in the centralized treatment of pollutants needs to stop operating the facilities for centralized treatment of pollutants, it shall apply to and obtain agreement from the administrative department of environmental protection three months in advance, and notify the pollutant discharging entity simultaneously.

Where it is necessary to entrust anyone else to operate the facilities for centralized treatment of pollutants, an entity which engages in the centralized treatment of pollutants shall consult with any pollutant discharging entity for a solution, and report to the administrative department of environmental protection for archival filing which has approved the documents of appraising the impacts on the environment.

Article 31 In case a pollutant discharging entity disposes of sewage by using the facilities for centralized treatment of urban domestic sewage, it shall comply with the discharge standards and documents and replies of appraising the impacts on environment.

Chapter V Protection of Ecological Environment

Article 32 The people's governments at or above the county level shall conduct the ecological survey and regional environmental appraisal work within their respective administrative divisions, carve out ecological functional zones, and draw up a plan for ecological protection and construction and incorporate it into the environmental protection planning. The headwaters of rivers, important conservation zones for water sources, important zones for water and soil conservancy, important marine and fishery water areas may be divided into ecological functional zones to keep ecological balance of river basins and regions and improve the ecological and living environment. The final partitioning of ecological functional zones shall be made public to the general public; for the functions to be altered, it shall be reported for approval pursuant to the procedures for the environmental protection planning.

No mining, rock quarrying, sand quarrying, soil extracting and any other activity which will pollute the environment or destroy the ecology may be conducted within such special preservation zones like an ecological functional preservation zone, nature reserve established according to law, scenic resort, and forest park.

Article 33 The people's governments at all levels shall, in the course of urban construction and reconstruction, protect and map out a plan for any kind of important ecological lands, strictly protect the natural ecology of the headwaters of rivers, important conservation zones for water sources, flood storage areas of rivers, wetland preservation zones, preservation zones for agricultural ecology, important areas for water and soil conservancy, important fishery water areas, nature reserves, scenic resorts, combine the ecological protection with economic construction, and guard against the destruction of the ecological environment and the degradation of ecological functions.

Article 34 The people's governments at all levels shall strengthen the administration of agriculture and rural environment, advocate the comprehensive use of agricultural wastes, promote the application of clean energies like marsh gas and solar energy, launch the integrated pest control, and reasonably use such agrochemicals as pesticides, chemical fertilizers, agricultural plastic sheetings and plant growth regulators.

The administrative departments of environmental protection at or above the county level shall regularly test the related waters, soil and farm produces to avoid polluting the agricultural environment and farm produces and harming people's health when they use the industrial liquid wastes, urban sewage for irrigation or use garbage and other wastes for fertilization and soil improvement.

Article 35 The people's governments at or above the county level may carve out areas prohibited from livestock and poultry breeding pursuant to the needs for environmental protection. No livestock and poultry breeding industry may be conducted within the forbidden areas for livestock and poultry breeding.

Article 36 Groundwater should be rationally exploited and utilized and be prevented from exhausting water source and surface subsidence. No water surface, swamp, tidal land and billabong may be enclosed, occupied, filled and blocked without approval; no poisonous and harmful liquid waste may be discharged into the farmland and fishery waters.

Article 37 The people's governments at or above the county level shall strengthen the protection of drinking water sources and ensure the safety and cleanness of drinking water. No pollutant may be discharged into the drinking water sources.

Article 38 The people's governments at or above the county level shall strengthen the administration of biological safety, conduct the safety assessment necessary for the introduction of a foreign biological specie, intensify the import quarantine work to guard against any harmful foreign biological specie, and adopt measures against any pervasion of invaded harmful foreign biological species.

Chapter VI Legal Liabilities

Article 39 The main principals and the principals in-charge of the people's governments, administrative departments of environmental protection at each level as well as the departments empowered by law to conduct environmental supervision and management shall be subject to administrative sanctions in case they are playing leading roles in the precaution and occurrence of serious environmental pollution accidents within their respective administrative divisions.

Article 40 In case any people's government or department concerned at any level fails to enforce the environmental protection planning or violates the environmental protection planning, the main principals and persons held directly responsible shall be subject to administrative sanctions.

Article 41 The principal and person held directly responsible shall be subject to administrative sanctions in case any people's government or administrative department of environmental protection at any level thereof violates the present Provisions and are under any of the following circumstances:

- (1) failing to timely publish the information relating to environmental quality, and failing to regularly issue the gazette of environmental situation;
- (2) refusing to answer the tip-off phone calls, refusing to accept the tip-off, or failing to timely deal with the tip-off; or
- (3) failing to make a decision as to whether or not to issue the permit for discharging pollutants and notify the applicant in written form within the prescribed time.

Article 42 Where any supervisory and regulatory person of environmental protection or any functionary of other departments concerned abuses his power or neglects his duties or wrongly serves his friends or relatives, and if such act constitutes a crime, he shall be subject to criminal responsibilities; if such act doesn't constitute a crime, he shall be given an administrative sanction.

Article 43 Where an entity violates Paragraph 1 of Article 18 of the present Provisions and fails to discharge pollutants pursuant to its permit for discharging pollutants, it shall be ordered to get right by the administrative department of environmental protection of the people's government at or above the county level, and may be fined 10,000 yuan up to 50,000 yuan; if the circumstances are serious or it fails to correct within the time limit, the permit for discharging pollutants may be revoked by the administrative organ who issued it.

Where any entity discharges pollutants without a permit for discharging pollutants or after the permit for discharging pollutants is revoked, it shall be ordered to stop the discharge of pollutants by the administrative department of environmental protection of the people's government at or above the county level, and it shall be fined 50,000 yuan up to 100,000 yuan; if such act causes serious environmental pollution or it refuses to stop discharging pollutant within the time limit, it shall be ordered to stop producing or business operations.

Article 44 Anyone who fails to declare a significant change of discharge circumstances as in violation of Article 19 of the present Provisions shall be punished.

Article 45 Anyone who makes any false report or refuses to report or makes frequent late reports of environmental statistical statement as in violation of Article 20 of the present Provisions shall be ordered to corrected by the administrative department of environmental protection at or above the county level, and be fined 1,000 yuan up to 20,000 yuan; if the circumstances are serious, the offender shall be fined 20,000 yuan up to 50,000 yuan in addition.

Article 46 In case a pollution discharging entity violates Article 21 of the present Provisions and fails to set up a discharge exit pursuant to the prescriptions of the State, or dismantles, leaves idle, transforms or destroys its online automatic monitor and control unit without approval, it shall be ordered to correct by the administrative department of environmental protection of the people's government at or above the county level, and be fined 2,000 yuan up to 10,000 yuan.

Article 47 In case an entity which engages in the centralized treatment of pollutants violates

Paragraphs 1 and 2 of Article 30 of the present Provisions and fails to operate normally or stops operating, without approval of the administrative department of environmental protection, the facilities for centralized treatment of pollutants, it shall be ordered to correct by the administrative department of environmental protection of the people's government at or above the county level, and may be fined 50,000 yuan up to 100,000 yuan.

Article 48 Any violation of Article 35 of the present Provisions and engagement in livestock and poultry breeding industry in the forbidden areas for livestock and poultry breeding, the areas for livestock and poultry breeding shall be closed and the related equipments shall be pulled down by the people's government at or above the county level,.

Article 49 Anyone who violates Paragraph 3 of Article 32 and Article 36 of the present Provisions shall be punished pursuant to the laws and regulations of the State.

Chapter VII Supplementary Provisions

Article 50 The small areas as referred to in the present Provisions include small townships, small river basins, all types of economic development zones, offshore sea areas, ecological preservation zones and other areas requiring for special protection.

Article 51 The present Provisions shall come into force as of January 1, 2005.