

Provisions on the Conservation of Biological Resources in Bohai Sea

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The "Provisions on the Conservation of Biological Resources in Bohai Sea", which were deliberated and adopted at the 2nd executive meeting of the Ministry of Agriculture on January 15, 2004, are hereby promulgated, and shall come into force on May 1, 2004.

Du Qinglin, Minister
February 12, 2004

Provisions on the Conservation of Biological Resources in Bohai Sea

Chapter I General Provisions

Article 1 These Provisions are formulated in accordance with the "Fishery Law of the People's Republic of China", the "Marine Environmental Protection Law of the People's Republic of China" and other laws and regulations for the purpose of protecting, increasing and rationally utilizing the biological resources in Bohai Sea, protecting the ecological environment of the Bohai Sea area, safeguarding the lawful rights and interests of fishery workers, and promoting the sustainable development of the fishery industry in Bohai Sea.

Article 2 Bohai Sea as mentioned in these Provisions shall mean the sea area to the west of the line connecting Laotieshan Lighthouse (North Latitude 38°43'41", East Longitude 121°07'43") and Penglai Lighthouse (North Latitude 37°49'54", East Longitude 120°44'13").

Article 3 The entities and individuals who engage in aquaculture and fishing of aquatic animals, fishery production of aquatic plants or other relevant activities in Bohai Sea shall abide by these Provisions. The entities and individuals who engage in the activities related to aquatic wild animals and wild plants emphatically protected by the State shall abide by the relevant provisions in the "Law on the Protection of Wild Animals", the "Regulation on the Protection of Aquatic Wild Animals", and the "Regulation on the Protection of Wild Plants".

Article 4 The Ministry of Agriculture shall take charge of the conservation of biological resources in Bohai Sea. The Supervisory and Administrative Bureau of Fishery and Fishing Harbors in the Yellow Sea and Bohai Sea Areas under the Ministry of Agriculture shall take charge of organizing, coordinating, supervising and administering the conservation of biological resources in Bohai Sea. The coastal fishery administrative departments of the local people's governments alongside Bohai Sea at the county level or above shall take charge of the conservation of biological resources within their own jurisdictions.

Article 5 The coastal fishery administrative departments of the local people's governments alongside Bohai Sea at the county level or above shall, according to the State's planning on utilization of water areas, the approved division of marine functions and division of riparian sea area environment functions, compile a plan on utilization of fishery water areas within their jurisdictions, and organize the implementation thereof upon approval of the people's government at the same level. Except for the fishing harbors and fishery facility base construction areas, fishery water areas may be divided

into aquaculture areas, reproducing areas, fishing areas and important fishery varieties preservation areas. It is prohibited to include the important spawning grounds, feeding grounds, overwintering grounds and migration routes of biological resources in Bohai Sea into aquaculture areas. No one may delimit an aquaculture area within a national marine natural preservation area, precious and rare endangered marine life preservation area, or any other similar riparian marine environment function area of Class 1.

Article 6 The coastal fishery administrative departments of the local people's governments at the county level or above shall take measures to improve and reinstate the ecological conditions of Bohai Sea, control the fishing intensity, increase and conserve the biological resources in Bohai Sea, develop ecological fishery, and promote the fishery sustainable development in Bohai Sea.

Article 7 The coastal fishery administrative departments of the local people's governments at the county level or above shall, according to the situation of biological resources in Bohai Sea, propose measures for controlling and minifying the fishing intensity, adjust the production structure of the fishing industry, and guide and support fishermen to transfer to other industries.

Chapter II Aquaculture and Fishing

Article 8 The Bohai Sea coastal fishery administrative departments of the local people's governments at the county level or above shall make uniform planning on and scientific evaluation of aquaculture areas, determine the aquaculture development layout and the capacity of aquaculture water areas, develop and popularize ecological aquaculture.

Article 9 Whoever uses a water area or beach owned by the whole people in Bohai Sea to engage in aquaculture production shall file an application to the coastal fishery administrative department of the local people's government at the county level or above, and the people's government at the present level shall ratify and issue the aquaculture certificate. The local fishermen who transfer to other industries due to structural adjustment shall have the priority to obtain an aquaculture certificate.

Article 10 The coastal fishery administrative department of a local people's government at the county level or above shall, when accepting an application for an aquaculture certificate, clarify its scope, valid term, purpose of use, etc. of the water area or beach under the aquaculture certificate according to the aquaculture development layout and the capacity of aquaculture water areas. If an aquaculture ground is to be newly built, enlarged or rebuilt, an environmental impact assessment shall be carried out.

Article 11 An entity or individual who has obtained a aquaculture certificate shall engage in aquaculture production according to the scope of water area or beach determined in the aquaculture certificate and the prescribed purposes of use, and abide by the relevant aquaculture technical criteria. The discharge of waste water from aquaculture shall meet the relevant national standards for discharge, and the silt cleaned from a pond shall be treated in a rational way, so as to prevent pollution to the water area.

Article 12 It is prohibited to breed in Bohai Sea any of the crossbred varieties, genetically modified varieties and other varieties not originally existing in Bohai Sea before it is appraised by the National Appraisal Committee of Aquatic Protospecies and Improved Varieties and approved by the Ministry of Agriculture for popularization. Whoever breeds any of the abovementioned varieties which fails to be appraised by the National Appraisal Committee of Aquatic Protospecies and Improved Varieties and approved by the Ministry of Agriculture for popularization shall strictly take such precautionary measures as fleeing-prevention so to prevent them from entering into the natural water areas.

Article 13 Whoever engages in fishing activities in Bohai Sea shall legally apply for a fishing permit, carry out fishing activities according to the work site, time limit, type of work, and other contents as determined in the fishing permit, and abide by the relevant provisions of the State on the protection of resources.

Article 14 The coastal fishery administrative department of the local people's government at the county level or above shall issue fishing permits according to the prescribed scope of power and jurisdiction, and shall not exceed the quotas as allotted by the people's government at the higher level on the control of boats, nets and tackles. It is prohibited to issue Bohai Sea fishing permits to non-fishery workers or inland fishing vessels navigating on rivers, lakes or reservoirs, etc.

Article 15 An auxiliary fishery vessel owner who engages in the transport, sale or refrigerated processing of marine fishery captures or in the supply of fishing materials and fuel, etc. so as to provide services for fishery production must obtain an auxiliary fishing vessel permit in accordance with the law. It is prohibited to directly engage in fishing production in auxiliary fishing vessels.

Article 16 The State encourages and develops entertainment fishery. The coastal fishery administrative department of the local people's government at the county level or above shall strengthen its supervision and administration of entertainment fishery activities. Whoever intends to fish natural fishery resources in entertainment fishery activities shall obtain a special (chartered) fishing permit. The specific administrative measures shall be prescribed by the fishery administrative department of the province or municipality directly under the Central Government.

Chapter III Reproducing of Biological Resources

Article 17 The State encourages entities and individuals to invest to reproduce biological resources in Bohai Sea in various forms such as artificial release for the purpose of reproducing, building artificial reefs, etc.

Article 18 The Supervisory and Administrative Bureau of Fishery and Fishing Harbors in the Yellow Sea and Bohai Sea Areas under the Ministry of Agriculture and the coastal fishery administrative departments of the people's governments of the province or municipality directly under the Central Government shall take active measures, make overall planning, make plans on the reproduction of biological resources in the very region, and legally organize artificial releases for the purpose of reproducing and the construction of artificial reefs.

Article 19 The artificial release for the purpose of reproducing migration varieties within a large scope shall be subject to the uniform planning made by and uniform implementation organized by the Supervisory and Administrative Bureau of Fishery and Fishing Harbors in the Yellow Sea and Bohai Sea Areas under the Ministry of Agriculture. The artificial release for the purpose of reproducing regional or inhabiting varieties may be organized by the coastal fishery administrative department of the local people's government at the county level or above for implementation in non-aquaculture areas of the fishery water areas within its jurisdiction.

Article 20 The fries artificially released for the purpose of reproduction shall be provided by a thoroughbred ground, reproducing station, or aquatic wild animal domesticating or breeding base designated by the fishery administrative department at the provincial level or above. It is prohibited to release in Bohai Sea any of the crossbred varieties, genetically modified varieties, or any other varieties not originally existing in Bohai Sea, unless the release of the abovementioned varieties which are qualified from ecological safety assessment organized by the fishery administrative department at the provincial level or above have been appraised by the National Appraisal Committee of Aquatic Protospecies and Improved Varieties, and has been approved by the Ministry of Agriculture for popularization.

Article 21 It is prohibited to release fries in germplasm resource preservation areas, spawning grounds of important economic fish, shrimps or crabs, or in other similar sensitive water areas.

Article 22 The establishment of artificial reefs shall be subject to an environmental impact and reproducing effect assessment, and the implementation shall be uniformly organized by the Ministry of Agriculture or the coastal fishery administrative department of the people's government of the province or municipality directly under the Central Government. If anyone is to building up artificial reef is built outside the "lines marking the closed areas of motor-driven fishing vessels with a bottom trawl", the party concerned shall, in accordance with the "Detailed Rules for Implementation of the Fishery Law of the People's Republic of China", file an application to the Ministry of Agriculture for approval; while if anyone is to build up artificial reefs inside the "lines marking the closed areas of motor-driven fishing vessels with a bottom trawl", the party concerned shall file an application to the fishery administrative department of the people's government of the province or municipality directly under the Central Government or the authorized entity for approval.

Article 23 The established artificial reefs shall not impede the navigation of vessels, or impact such facilities as seabed pipelines or cables, etc. and such establishment shall be announced in advance.

Chapter IV Protection of Biological Resources

Article 24 A system of emphatic protection of fishery resources in Bohai Sea shall apply. The emphatically protected varieties of fishery resources in Bohai Sea and their fishing standards shall be governed by Appendix 1. The fishing standards for the emphatically protected varieties not covered by Appendix 1, the emphatically protected local varieties and their fishing standards, shall be prescribed by the coastal fishery administrative department of the people's government of the province or municipality directly under the Central Government, and be reported to the Ministry of Agriculture and the Supervisory and Administrative Bureau of Fishery and Fishing Harbors in the Yellow Sea and Bohai Sea Areas under the Ministry of Agriculture for archival filing. Among the quantity of fishery captures of each net or voyage, the proportion of the emphatically protected varieties failing to meet the fishing standards shall not exceed 25% of the quantity of fishery captures of the same variety, unless the work is carried out with a fixed net.

Article 25 A system of special (chartered) fishing permits shall be applied to the production of fall flood prawns in Bohai Sea. To fish fall flood prawns in Bohai Sea, a party concerned shall not carry out the work until it has legally obtained the special (chartered) fishing permit and hung the uniformly prescribed mark.

Article 26 It is prohibited to fish spring prawns and the natural fries of the emphatically protected varieties listed in Appendix 1 of these Provisions. If, due to any particular circumstance, it is necessary to fish the natural fries of the emphatically protected varieties whose fishing standards are determined in Appendix 1 of these Provisions, it shall be subject to the approval of the Supervisory and Administrative Bureau of Fishery and Fishing Harbors in the Yellow Sea and Bohai Sea Areas under the Ministry of Agriculture; while if it is necessary to fish the natural fries of the emphatically protected varieties whose fishing standards are not determined in Appendix 1 of these Provisions or of the locally determined emphatically protected varieties, it shall be subject to the approval of the fishery administrative department of the people's government of the province or municipality directly under the Central Government. Where it is approved, a special (chartered) fishing permit shall be issued. The party concerned shall, after obtaining a special (chartered) fishing permit, go fishing according to the designated area, time limit and quota.

Article 27 It is prohibited to catch clams in the water areas outside the damp belt. To catch clams, clamworms or stewed worms in the damp belt or on the side of the damp belt facing the land, the party concerned shall report to the fishery administrative department of the province or municipality directly under the Central Government for approval and issuance of a special (chartered) fishing

permit. Whoever has obtained a special (chartered) fishing permit may, according to the designated area and time limit, be allowed to catch clams, clamworms or stewed worms within the limited quantity and upon the strength of the permit.

Article 28 It is prohibited to use net tackles smaller than the prescribed minimum net size for fishing. The minimum net size of the fishing net tackles used in Bohai Sea shall be governed by Appendix 2. The fishery administrative department of the people's government of a coastal province or municipality directly under the Central Government may prescribe the minimum net size of other net tackles not listed in Appendix 2, and shall report to the Ministry of Agriculture and the Supervisory and Administrative Bureau of Fishery and Fishing Harbors in the Yellow Sea and Bohai Sea Areas under the Ministry of Agriculture for archival filing.

Article 29 It is prohibited to use a fishing tackle to damage biological resources under the pretext of changing the name of a fishing tackle or under the pretext of renovation.

Article 30 It is prohibited to use the following fishing tackles or fishing means that seriously damage biological resources:

- (1) Bombing fish, poisoning fish and electrifying fish; catching biological resources of inhabiting varieties with fishing vessel propellers or with pumps;
- (2) Working with tri-flow nets, bottom trawls, floating trawls and water-change-layer trawls, with the exception of those whose drawn perimeter of the net mouth or net is shorter than 30 meters and the fishing tackles of the frame trawl type;
- (3) The net tackles whose specifications do not meet the standards prescribed in Appendix 2 of these Provisions. A coastal fishery administrative department of the people's government of the province or municipality directly under the Central Government may prescribe other prohibited fishing tackles or fishing means which are applicable to its own jurisdiction, and shall report to the Ministry of Agriculture and the Supervisory and Administrative Bureau of Fishery and Fishing Harbors in the Yellow Sea and Bohai Sea Areas under the Ministry of Agriculture for archival filing.

Article 31 A system of prohibited fishing period such as seasonal fishing ban shall be practiced in Bohai Sea, and the provisions in Appendix 3 shall be implemented for this purpose. A coastal fishery administrative department of the people's government of the province or municipality directly under the Central Government may prescribe the prohibited fishing periods applicable to its own jurisdiction regarding shrimps and jellyfish, and shall report to the Ministry of Agriculture and the Supervisory and Administrative Bureau of Fishery and Fishing Harbors in the Yellow Sea and Bohai Sea Areas under the Ministry of Agriculture for archival filing.

Article 32 It is prohibited to purchase, process or sell illegally caught fishery captures within the prohibited fishing area or prohibited fishing period. If anyone purchases, processes or sells illegally fished fishery captures within a prohibited fishing area or prohibited fishing period, the coastal fishery administrative department of the local people's government at the county level or above and its fishery administration and fishing harbor supervision institution shall make timely investigation into the matter and impose punishments.

Article 33 A coastal salt field, power plant, aquaculture ground or any other entity or individual utilizing seawater shall, when receiving the water, take precautionary or effective avoidance measures to protect fish and shrimp seedling resources. It/he shall also, when channeling or using water during the period of seasonal fishing ban, set a "V"-shaped protection net with an outward convexity and whose mesh diameter is not more than 7 mm. Whoever fails to take precautionary measures and thus causes damage to the natural biological resources shall be ordered by the coastal fishery administrative department of the local people's government at the county level or above to eliminate the danger within a time limit.

Article 34 Whoever fishes or uses prohibited fishing tackles or fishing means at a prohibited fishing

area within a prohibited fishing period or fishes any prohibited object due to a particular need in scientific research shall, after examination and ratification of the Supervisory and Administrative Bureau of Fishery and Fishing Harbors in the Yellow Sea and Bohai Sea Areas under the Ministry of Agriculture, report to the Ministry of Agriculture for approval. A uniformly prescribed mark shall be hung at the time of fishing.

Chapter V Environmental Protection of Fishery Water Areas

Article 35 The coastal fishery administrative department of the local people's government at the county level or above shall legally take part in the environmental impact assessment and other similar work in the projects of coastal engineering, marine engineering, or projects of waste dumping or of marine sewage discharging outlets, etc., study the impacts upon the biological resources and the environment of fishery water areas, and propose specific requirements and measures on the protection of biological resources and the environment of fishery water areas.

Article 36 The coastal fishery ecological environment monitoring institutions at all levels shall legally strengthen its monitoring on fishery water areas, and make timely reports on the monitoring information to the fishery administrative department at the same level and the monitoring institution at the higher level.

Article 37 The coastal fishery ecological environment monitoring institutions at all levels shall establish and improve its mechanisms, strengthening red tide monitoring and precaution, and timely report the monitoring information to the fishery administrative department at the same level and the monitoring institution at the next higher level. The coastal fishery administrative department of the local people's government at the county level or above shall, jointly with or in cooperation with the relevant department on its initiative, strengthen the prevention of red tides, organize producers to prevent and reduce disasters, and mitigate production losses.

Article 38 A working entity located inside the "lines marking the closed areas of motor-driven fishing vessels with a bottom trawl" shall, when carrying out underwater explosion, survey or construction work, which has serious impacts on the biological resources, negotiate with the coastal fishery administrative department of the people's government of the province or municipality directly under the Central Government in advance. If the working entity is located outside of the "lines marking the closed areas of motor-driven fishing vessels with a bottom trawl", it shall negotiate with the Supervisory and Administrative Bureau of Fishery and Fishing Harbors in the Yellow Sea and Bohai Sea Areas under the Ministry of Agriculture in advance, and may not carry out the work before taking relevant precautionary measures. If the work causes any destruction or loss to the biological resources, the Supervisory and Administrative Bureau of Fishery and Fishing Harbors in the Yellow Sea and Bohai Sea Areas under the Ministry of Agriculture and the coastal fishery administrative department of the people's government of the province or municipality directly under the Central Government shall, according to the scope of its own jurisdiction, order the working entity to eliminate the danger within a time limit, and propose to the relevant people's government the suggestion on ordering the working entity to make compensations.

Article 39 Where the pollution caused by the leakage of oil, discharge of sewage or dumping of wastes, etc. results in a fishery pollution accident, the coastal fishery administrative department of the local people's government at the county level or above or its affiliate fishery supervision and administration institution shall organize a survey or evaluation, and impose punishments in accordance with the relevant provisions of the "Marine Environment Protection Law of the People's Republic of China". If the pollution accident harms the natural biological resources in Bohai Sea, the coastal fishery administrative department of the local people's government at the county level or above shall punish the person or entity that is held to be liable, and may claim for compensation against him/it on behalf of the State.

Chapter VI Supplementary Provisions

Article 40 Whoever violates these Provisions shall be legally punished by the fishery administrative department of the people's government at the county level or above or by the fishery supervision and administration institution to which he is subordinate. If there are otherwise provisions in any law or regulation, such provisions shall apply.

Article 41 The power and responsibility to interpret these Provisions shall remain with the Ministry of Agriculture.

Article 42 These Provisions shall come into force on May 1, 2004. The "Provisions on Reproduction and Protection of Fishery Resources in Bohai Sea Area" promulgated by the Ministry of Agriculture on April 13, 1991 shall be repealed simultaneously.

*Note:

The present regulation has been revised by the "Decision of the Ministry of Agriculture on Revising Agricultural Administrative License Regulations and Regulatory Documents" (Date of Promulgation: July 1, 2004; Date of Entry into Force: July 1, 2004)