

Measures for the Supervision and Control of Sewage Outlets on Rivers

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The Measures for the Supervision and Control of Sewage Outlets on Rivers, which were adopted at the executive meeting of the Ministry of Water Resources on October 10, 2004, are hereby promulgated and shall come into force as of January 1, 2005.

Minister of Water Resources Wang Shucheng
November 30, 2004

Measures for the Supervision and Control of Sewage Outlets on Rivers

Article 1 These Measures are formulated in accordance with the Water Law of the People's Republic of China, Flood Control Law of the People's Republic of China, Regulations on the Management of River Courses and other relevant laws and regulations for the purposes of strengthening the supervision and control of the sewage outlets on rivers, protecting water resources, guaranteeing the flood control and the safety of the flood control facilities and promoting the sustainable uses of water resources.

Article 2 These Measures shall apply to the construction, reconstruction and extension of sewage outlets on rivers and lakes (including waters such as canals, irrigation ditches and reservoirs, the same below) and the supervision and control of the uses of sewage outlets.

The "sewage outlets" as mentioned in the preceding paragraph include outlets for sewage discharge into rivers or lakes directly or through a ditch, canal, pipe or other similar facilities, which shall hereinafter be collectively called sewage outlets on rivers. The "construction" means the initial construction or use of a sewage outlet on a river and the use of an outlet that had no capacity of sewage discharges or was abandoned. The "reconstruction" means any major change in the location of an existing outlet or in the manner in which sewage is discharged. The "extension" means an increase of the discharge capacity of an existing outlet. The construction, reconstruction and extension of sewage outlets on rivers shall hereinafter be collectively referred to as the setting-up of sewage outlets on rivers.

Article 3 The setting-up of all sewage outlets on rivers must conform to the requirements of the water function divisions, of the planning for water resources protection and the planning for flood control.

Article 4 The administrative department for water resources under the State Council shall be in charge of the organization of and guidance over the supervision over and control of sewage outlets on rivers throughout the whole country. The administrative departments for water resources and the river basin administrative organs of the local people's governments at and above the county level shall conduct supervision over and control of the setting-up and use of sewage outlets on rivers in accordance with their respective authority limits as provided for in these Measures.

The administrative departments for water resources and the river basin administrative organs of the local people's governments at and above the county level may delegate the administrative

department for water resources of the people's governments at a lower level or an entity subordinated thereto to conduct daily supervision over and control of the sewage outlets on rivers under their respective jurisdictions.

Article 5 In the case of a construction project that is subject to the examination formalities under the river course administration, the setting-up of a sewage outlet on a river shall be subject to the examination and approval of the administrative department for water resources and the river basin administrative organ of the local people's government at or above the county level pursuant to the authority divisions in the administration of construction projects under the river course administration. In the case of a construction project that is not subject to the examination formalities under the river course administration, the setting-up of a sewage outlet on a river shall be subject to the examination and approval of the administrative department for water resources of the people's government at the county level at the place where such outlet is to be located, provided that:

- (1) the setting-up of an outlet to be located in a river course (section of a river) or lake under the direct administration of a river basin administrative organ shall be subject to the examination and approval of this organ;
- (2) the setting-up of an outlet for which approval formalities for water taking are required shall be subject to the examination and approval of the administrative department for water resources and the river basin administrative organ of the local people's governments at or above the county level pursuant to the authority divisions in the administrative licensing for water taking; and
- (3) the setting-up of an outlet for which no approval formalities for water taking are required but an environmental impact report (form) is required shall be subject to the examination and approval of the administrative department for water resources at the same level of the environmental protection department that is responsible for the examination and approval of the environmental impact report (form). If the environmental impact report (form) shall be subject to the examination and approval of the administrative department for environmental protection under the State Council, the setting-up of the outlet shall be subject to the examination and approval of the administrative organ for the river basin where the outlet is to be located,.

Article 6 The entity that intends to set up a sewage outlet on a river (hereinafter referred to as the "discharging entity") shall apply for the setting-up of the outlet to the competent administrative department for water resources or the river basin administrative organ of the local people's government at or above the county level before submitting an environmental impact report (form) to the administrative department for environmental protection.

In the case of a construction project for which the examination formalities for a construction project under the river course administration or approval formalities for water taking are required, the discharging entity shall, in accordance with the relevant specific provisions, submit an application for the setting-up of a sewage outlet on a river at the same time when applying for approval for the construction project or for water taking under the river basin administration.

In the case of a construction project for which no environmental impact report (form) and no examination formalities for a construction project under the river course administration or no approval formalities for water taking are required, the discharging entity shall, before setting up a sewage outlet on a river, submit an application for the setting-up of the sewage outlet to the competent administrative department for water resources or the river basin administrative organ of the local people's government at or above the county level.

Article 7 To apply for the setting-up of a sewage outlet on a river, one must submit:

- (1) a written application;
- (2) documents supporting the construction project;
- (3) a report on the demonstration of the setting-up of the sewage outlet; and

(4) other documents as may be required.

Where the setting-up of a sewage outlet has only an apparently slight effect on the water function area, with the consent of the competent administrative department for water resources or the river basin administrative organ of the local people's government at or above the county level, the report on the demonstration of the setting-up of the sewage outlet may be omitted, with only a brief introduction to the effect of the sewage outlet on the water function area being submitted.

Article 8 Where the setting-up of a sewage outlet on a river is subject to the examination formalities for a construction project under the river course administration, the application submitted by the discharging entity for the construction project under the river course administration shall contain particulars about the setting-up of the sewage outlet, under this circumstance, no separate application for the setting-up of the sewage outlet shall be submitted.

Where the setting-up of a sewage outlet on a river is subject to both the approval formalities for water taking and the application formalities for such setting-up, the report on the demonstration of water resources for a construction project submitted by the discharging entity shall contain particulars about the demonstration of the setting-up of the sewage outlet, under this circumstance, no separate report on the demonstration of the setting-up of the sewage outlet shall be submitted.

Article 9 A report on the demonstration of the setting-up of a sewage outlet on a river shall contain:

- (1) the present states of the water quality, sewage acceptance and water taking in the water area where the sewage outlet is to be located;
- (2) the place where the sewage outlet is to be located and the manner in which the sewage is to be discharged;
- (3) the kinds of principal pollutants in the sewage to be discharged and the density and total volume of such pollutants to be discharged;
- (4) requirements for the water quality of the water area, and the effects of the sewage to be discharged on the water quality of the water area and on the water function area;
- (5) effects of the setting-up of the sewage outlet on any interested third party;
- (6) measures to be adopted for the protection of the water quality and analysis of the effects of such measures; and
- (7) the demonstration result.

If the setting-up of a sewage outlet is subject to the examination formalities for a construction project under the river course administration, a demonstration on the effects of the construction project on the flood control shall be required in addition.

Article 10 The report on the demonstration of the setting-up of a sewage outlet on a river must be prepared by an institution that has any of the following credentials:

- (1) water resources demonstration credential for construction projects;
- (2) hydrologic and water resources survey and appraisal; or
- (3) environmental impact assessment for construction projects (its scope of business includes surface water and groundwater).

Article 11 The competent administrative department for water resources or the river basin administrative organ of the local people's government at or above the county level shall accept an application for the setting-up of a sewage outlet, if the application has been submitted with a complete set of application documents and all such application documents have been prepared properly.

If the application documents are not submitted in a complete set or not prepared properly, the

discharging entity shall be notified once for all of those required to be added or corrected immediately or within five days. The application shall be accepted if the discharging entity has added the documents or made corrections as required. An application is accepted upon receipt thereof, if no notification as above mentioned has been given within the specified time limit.

A written certificate shall be issued with a stamp being affixed and the date being indicated on it for acceptance or non-acceptance of an application for the setting-up of a sewage outlet.

Article 12 The competent administrative department for water resources or the river basin administrative organ of the local people's government at or above the county level shall make a decision within 20 days from acceptance of an application for the setting-up of a sewage outlet on a river. In the case of a decision of approval, the decision shall be announced and the public shall be entitled to make enquiries. In the case of a decision of disapproval, reasons for such decision shall be given and the discharging entity shall be notified of its right to apply for an administrative review or to bring an administrative lawsuit. In the case of a construction project for which an environmental impact assessment report (form) is required, a copy of the decision shall be sent to the administrative department for environmental protection that is responsible for the examination and approval of such report (form).

The competent administrative department for water resources or the river basin administrative organ of the local people's government at or above the county level may, when necessary, organize specialists to examine and appraise the report on the demonstration of the setting-up of the sewage outlet on a river and notify the discharging entity of the time period as required for such examination and appraisal.

Where any person's interests will be directly affected by the setting-up of a sewage outlet on a river, such person shall be notified. Both the discharging entity and the interested person shall be entitled to make statements and defend themselves.

Hearings shall be held on the setting-up of a sewage outlet on a river whenever necessary or should be.

The competent administrative department for water resources or the river basin administrative organ of the local people's government at or above the county level shall, before making a decision, seek the opinions of the administrative department for water resources at the place where the sewage outlet is to be located.

The time period needed for the specialists' examination and appraisal under Paragraph 2 or for the hearings under Paragraph 4 of this Article shall not be counted into the time limit as specified in Paragraph 1 of this Article. The competent administrative department for water resources or the river basin administrative organ of the local people's government at or above the county level shall notify the discharging entity of the time period needed.

Article 13 Where the setting-up of a sewage outlet on a river is subject to the examination formalities for a construction project under the river course administration, when examining the application for the construction project and the assessment of the effects of the construction project on the flood control, the competent administrative department for water resources or the river basin administrative organ of the local people's government at or above the county level shall also examine the application for the setting-up of the sewage outlet and the demonstration thereon and shall give comments with regard to the effects of the setting-up of the sewage outlet on the flood control and water resources protection.

Where the setting-up of a sewage outlet on a river is subject to the approval formalities for both water taking and the setting-up of the sewage outlet, the competent administrative department for

water resources or the river basin administrative organ of the local people's government at or above the county level shall give comments with regard to the applications for both the water taking and the setting-up of the sewage outlet.

Article 14 An application for the setting-up of a sewage outlet on a river shall be rejected, if:

- (1) the sewage outlet is to be located in a drinking water source protection zone;
- (2) the sewage outlet is to be located in a water area into which the total volume of pollutant discharge shall be reduced as required by a people's government at or above the provincial level;
- (3) the setting-up of the sewage outlet would probably cause a failure of the water quality of the water area to meet the standard for the water function area;
- (4) the setting-up of the sewage outlet will directly affect the safety of the legal water takers in using the water;
- (5) the setting-up of the sewage outlet fails to conform to the requirements for flood control;
- (6) the setting-up of the sewage outlet fails to conform to any law, regulation or industrial policy of the State; or
- (7) the setting-up of the sewage outlet fails to conform to any other requirement as provided for by the administrative department for water resources under the State Council.

Article 15 A decision approving the setting-up of a sewage outlet on a river shall contain:

- (1) the place where the sewage outlet shall be located, the manner in which the sewage shall be discharged and the requirements for the door of the sewage outlet;
- (2) restrictions on the sewage discharge under special circumstances;
- (3) measures required to be adopted for the protection of water resources;
- (4) requirements for the test before the use of the sewage outlet; and
- (5) other matters that shall be paid attention to.

Article 16 In the case of a serious drought or serious deterioration of water quality or any other emergency, the competent administrative department for water resources or the river basin administrative organ of the local people's government at or above the county level shall promptly report that to the relevant people's government. And the relevant people's government shall require the discharging entity to restrict its sewage discharge.

Article 17 An entity that has set up its sewage outlet on a river before the implementation of the Water Law of the People's Republic of China shall, after the implementation of these Measures, have its sewage outlet registered with the agency under the administrative department for water resources or the river basin administrative organ of the people's government at the county level at the place where the sewage outlet is located, which shall submit an itemized report thereon level by level to the competent administrative department for water resources or the river basin administrative organ.

Article 18 The administrative departments for water resources of the local people's governments at and above the county level shall make investigations into the current states of the sewage outlets in the relevant drinking water source protection zones and work out and implement renovation plans after they have been approved by the people's government at the same level.

Article 19 The administrative departments for water resources and the river basin administrative organs of the local people's governments at and above the county level shall establish archive and statistical systems for supervising and controlling sewage outlets on rivers under their respective jurisdictions.

Article 20 The administrative departments for water resources and the river basin administrative organs of the local people's governments at and above the county level shall conduct supervision

over and inspection of the setting-up of sewage outlets on rivers. The entities involved shall provide the relevant documents, certificates, licenses and data as required.

The supervision and inspection organ is obliged to keep confidential the technical and commercial secrets of such entities involved.

Article 21 Anyone who sets up a sewage outlet on a river or lake without being approved by the competent administrative department for water resources or the river basin administrative organ of the local people's government at or above the county level shall be investigated for legal liabilities in accordance with Paragraph 2 of Article 67 of the Water Law of the People's Republic of China.

Anyone who sets up a sewage outlet on a river with an approval but without conforming to the relevant requirements shall be investigated for legal liabilities in accordance with Paragraph 3 of Article 65 of the Water Law of the People's Republic of China and Article 58 of the Flood Control Law of the People's Republic of China.

Anyone who sets up a sewage outlet in a drinking water source protection zone or fails to remove an existing sewage outlet within a specified time limit according to the relevant renovation plan shall be investigated for legal liabilities in accordance with Paragraph 1 of Article 67 of the Water Law of the People's Republic of China.

Article 22 The supervision and control of the setting-up and use of sewage outlets on rivers shall be conducted in accordance with these Measures, if there are relevant provisions herein, or if there are no relevant provisions herein and if the examination formalities for a construction project under the river course administration are required, be conducted in accordance with the relevant provisions concerning the administration of construction projects under the river course administration.

Article 23 The form of application for the setting-up of a sewage outlet on a river and the form of registration of a sewage outlet on a river shall be uniformly formulated by the administrative department for water resources under the State Council.

Article 24 The administrative departments for water resources and the river basin administrative organs of all provinces, autonomous regions and municipalities directly under the Central Government may formulate their respective implementation rules in accordance with these Measures.

Article 25 The power to interpret these Measures shall remain with the administrative department for water resources under the State Council.

Article 26 These Measures shall come into force as of January 1, 2005.