

Interim Provisions on the Administration of Dumping Sites

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Article 1 In order to strengthen the administration of dumping of wastes into the ocean, to protect the oceanic environment, and to utilize the ocean dumping sites in a scientific and reasonable way, the present Provisions are formulated in accordance with the relevant provisions of the Law of the People's Republic of China on the Protection of Oceanic Environment and the Regulation of the People's Republic of China on the Administration of Dumping of Wastes into the Ocean.

Article 2 Any entity or individual that engages in the relevant activities of selection and demarcation, use, monitoring, and management of dumping sites within the inner waters, territorial sea, contiguous zones, exclusive economic zones, continental shelves, and other sea areas under the jurisdiction of the People's Republic of China shall abide by the present Provisions.

Article 3 The term "dumping sites" as used herein includes ocean dumping sites and temporary ocean dumping sites.

Ocean dumping sites are the long-term dumping sites that are demarcated upon the approval of the State Council for a certain area to dump into the sea the wastes generated from daily living, production and construction.

Temporary ocean dumping sites are the dumping sites that are demarcated for the dumping of wastes within limited periods and of limited quantities for the needs of coastal and oceanic engineering construction projects, etc.

Article 4 The State Oceanic Administration (SOA) and its branches are the competent authorities of implementation of the present Provisions.

Article 5 The selection and demarcation of dumping sites shall comply with the requirements of the national ocean function zoning and the national environmental protection planning.

Article 6 SOA shall formulate the planning of dumping sites in accordance with the national ocean function zoning, the national environmental protection planning, and the needs of the development of coastal economies.

Article 7 The establishment of temporary ocean dumping sites shall be subject to the examination and approval of SOA.

SOA shall handle and organize the selection and demarcation of the following temporary ocean dumping sites:

- 1) temporary ocean dumping sites with a total dumping volume of more than 5 million steres (including 5 million steres) of dredged stuff and inertia inorganic geological wastes;
- 2) temporary ocean dumping sites for the wastes other than dredged stuff, inertia inorganic geological wastes, and human bone ashes;
- 3) temporary ocean dumping sites of which the dumping operation involves two sea zones;
- 4) temporary ocean dumping sites used for special projects, such as military and top-secret projects;
- 5) temporary ocean dumping sites under the jurisdiction of the mainland for the dumping into the

sea of the wastes of the Hong Kong Special Administrative Region and Macao Special Administrative Region; and

6) temporary ocean dumping sites that SOA deems may have relatively significant impact on the oceanic environment.

The branches of SOA shall handle and organize the selection and demarcation of the temporary ocean dumping sites other than those prescribed in the preceding paragraph.

Article 8 Ocean dumping sites shall be proposed by SOA in accordance with the planning on dumping sites, and SOA shall organize the selection and demarcation thereof, or the entities that need to dump wastes may file an application for the selection and demarcation, and carry out the selection and demarcation with the consent of SOA.

With respect to the temporary ocean dumping sites, the entities that need to dump wastes shall file a written application with the competent authority at the phase of feasibility study of the project, and carry out the selection and demarcation with the consent of the authority.

The main contents of the application report shall include: reasons for the application, name and quantity of the wastes to be dumped, characteristics of the wastes and other relevant materials.

Article 9 The competent authority shall, within 10 workdays after receiving the written application filed by an entity that needs to dump wastes, make the reply on whether to approve the selection and demarcation of the dumping site.

Article 10 The procedures for selection and demarcation of a dumping site are as follows:

1) The applicant entity shall entrust a selection and demarcation technology entity recognized by the competent authority to draw up an outline for the selection and demarcation of the dumping site.

2) The competent authority shall, within 15 workdays from receiving the outline for selection and demarcation of the dumping site (draft for examination) submitted by the applicant entity, organize the examination.

3) The competent authority shall, within 15 workdays from receiving the outline for selection and demarcation of the dumping site (draft for approval) submitted by the applicant entity, present the opinions of examination and make a reply to the applicant entity.

4) The applicant entity shall carry out the selection and demarcation of the dumping site in accordance with the examination opinions of the competent authority on the outline and draw up a report on the selection and demarcation.

5) The competent authority shall organize the examination within 15 workdays from receiving the report on selection and demarcation of the dumping site (draft for examination) submitted by the applicant entity.

6) The applicant entity shall submit the report on selection and demarcation of the dumping site (draft for approval) to the competent authority, and shall send a copy respectively to the administrative authorities of maritime affairs and fishery industry and the provincial ocean administrative authority in charge of the sea area where the dumping site is located. If the selection and demarcation is organized by SOA, the applicant entity shall at the same time send a copy of the report of selection and demarcation (draft for approval) to the branch of SOA.

7) The branch of SOA shall, within 10 workdays from receiving the report on selection and demarcation (draft for approval), present the opinions of preliminary examination and submit the report to SOA.

8) SOA shall, within 15 workdays from receiving the report on selection and demarcation of ocean dumping site (draft for approval), submit the report to the administrative authority of environmental protection under the State Council for examination. The administrative authority of environmental protection under the State Council shall present the examination opinions and make a reply to SOA within 15 workdays, and if no reply is made within the said period, consent shall be deemed as having been given. SOA shall submit the report on selection and demarcation of ocean dumping site to the State Council for examination and approval within 15 workdays from receiving the examination opinions of the administrative authority of environmental protection under the State

Council.

With respect to a report on the selection and demarcation of a temporary ocean dumping site (draft for approval), SOA shall make the examination within 30 workdays from receipt of it.

Article 11 When organizing the examination of the outline and report on the selection and demarcation of a dumping site, SOA shall seek opinions from the administrative authorities of maritime affairs and fishery industry.

When organizing the examination of the outline and report on the selection and demarcation of a dumping site, a branch of SOA shall seek opinions from the agencies directly affiliated to the administrative authorities of maritime affairs and fishery industry in charge of the sea zone where the dumping site is located.

The administrative authorities of maritime affairs and fishery industry or the agencies thereof shall submit written opinions to SOA or the branch thereof within 10 workdays from the examination of the outline and report on the selection and demarcation of the dumping site, and consent shall be deemed as having been given if no opinions are submitted within the said period.

When organizing the selection and demarcation of a dumping site, the competent authority shall seek opinions from the provincial ocean administrative authority in charge of the sea area where the dumping site is located.

Article 12 When drawing up the report on selection and demarcation of a dumping site, analysis shall be made in respect of the characteristics and contents of the wastes, the method, quantity, intensity and frequency of dumping, the way of spreading of the materials dumped, and the impacts of the materials dumped on the oceanic ecological environment, navigation safety, and ocean development and utilization activities, etc.. And the corresponding conclusions shall be drawn, and at the same time, the administrative measures, countermeasures and suggestions shall be made to prevent pollution caused by the dumping.

Article 13 As a general principle, no new dumping site should be set up in the sea areas near an existing dumping site. However, if the existing dumping site is not fit for use or can no longer meet the needs of dumping operations as a result of its volume, or environmental factors, or economic or social conditions, etc., a new dumping site may be selected and demarcated.

Article 14 Where two or more projects use a temporary ocean dumping site at the same time, the demonstration of selection and demarcation may be combined on the basis of the total dumping volume, and one report on selection and demarcation may be submitted.

Where a project uses the temporary ocean dumping site which has been selected and demarcated or is being used by another project, feasibility shall be demonstrated in respect of the additional dumping volume on the basis of the original selection and demarcation work, and a demonstration report shall be submitted to SOA for approval.

Article 15 Where a project of which the total dumping volume of dredged stuff is less than 500,000 steres needs to use a temporary ocean dumping site, the specific demonstration may be carried out by a selection and demarcation technology entity on the basis of collecting the existing natural environmental and social and economic materials of the dumping site and the sea areas around, and a report on selection and demarcation may be directly drawn up by that entity. The entity applying for dumping shall submit the report on selection and demarcation to the branch of SOA, which shall present the opinions of preliminary examination after organizing expert examination and seeking opinions from the relevant departments, and shall submit the report to SOA for examination and approval.

Where a project of which the total dumping volume of dredged stuff is less than 50,000 steres and which has little impact on the oceanic environment needs to use a temporary ocean dumping site, the branch of SOA shall determine the location and scope of the temporary ocean dumping site after seeking opinions from the relevant departments, and report to SOA for examination and approval. The dumping area of a dumping site needed for human bone ashes shall be designated by the branch

of SOA according to the needs.

Article 16 SOA shall be responsible for promulgating public announcements on ocean dumping. The contents of such announcements shall include the location of the ocean dumping site, the types and quantities of the wastes to be dumped, and the period of use of the site, etc.

The branches of SOA shall be responsible for promulgating public announcements on temporary ocean dumping sites. The contents of such announcements shall include the location of the temporary ocean dumping site, the dumping entity, the project name, the number of dumping, the time of operation, and the period of use of the dumping site, etc.

Article 17 Where an ocean dumping site is not fit for use or is not fit for use for the present time, SOA shall close that dumping site or suspend the use thereof, and make a public announcement. Where a temporary ocean dumping site is not fit for use or is not fit for use for the present time, the branch of SOA shall close that dumping site or suspend the use thereof, and make a public announcement.

With respect to a temporary ocean dumping site of which the use period has expired or the dumping operation thereof has ended, the branch of SOA shall immediately close that dumping site upon expiration of the period of use or upon the end of the dumping operation, and shall put it on record with SOA within 20 workdays from the close.

The dumping entity shall stop the dumping operation in that dumping site as of the day on which that site is suspended from use or is closed.

Article 18 The period of use of a temporary ocean dumping site shall not exceed 3 years as a general principle. If the dumping operation has not been finished upon expiration of the 3-year validity of the temporary ocean dumping site, the entity dumping wastes must file an application for an extension with the competent authority and submit an environmental monitoring report.

The competent authority shall make the decision on whether to grant the extension according to the conditions of the dumping operation and the conclusion of the environmental monitoring, and shall notify the extension to the administrative authorities of maritime affairs and fishery industry or the agencies directly affiliated thereto. The extension of validity of a temporary ocean dumping site may not exceed 1 year.

Article 19 A dumping entity shall subject itself to the supervision and inspection of the marine regulatory agencies of China in the course of dumping operation, and shall facilitate the enforcement personnel in the performance of their office duties.

Article 20 To carry out dumping operation in an area with intensive industrial activities or in a demarcated dumping site in which the dumping operation is likely to conflict with the activities of other industries, the dumping entity shall make a public announcement on the dumping operation.

Article 21 The branches of SOA shall organize the environmental monitoring in appropriate time according to the use of the dumping sites, and shall set forth the corresponding administration measures on the basis of the results of the monitoring, including closing or suspending the use of a dumping site, adjusting the method, quantity or intensity of dumping, or the period of use of a dumping site, etc.

The dumping entity shall entrust an institution recognized by the competent authority to assume the monitoring and evaluation of the dumping site, and the scheme of the monitoring and evaluation shall be submitted to the branch of SOA for ratification.

Article 22 The branches of SOA shall submit the results of the monitoring of ocean dumping sites to SOA for archivist purpose periodically.

Within 90 days from the end of the dumping operation in a temporary ocean dumping site, the dumping entity shall submit to the SOA branch a report on environmental monitoring and evaluation. The competent authority may require the dumping entity to submit phase results of

monitoring according to the use of the temporary ocean dumping site and the intensity of the dumping operation.

Article 23 The selection and demarcation and the monitoring of dumping sites shall be in conformity with the technical criteria for such operations.

Article 24 The entity assuming the selection and demarcation of dumping sites and the environmental monitoring shall be liable for the conclusions thereof, and shall charge for the selection and demarcation or environmental monitoring in accordance with the relevant provisions of the state.

Article 25 If any party, in violation hereof, carries out dumping operation without selecting and demarcating the dumping site, the competent authority shall punish that party in accordance with Article 73 of the Law of the People's Republic of China on Oceanic Environmental Protection.

Article 26 If any party, in violation hereof, dumps any wastes into the dumping site that has been closed, the competent authority shall punish that party in accordance with Article 86 of the Law of the People's Republic of China on Oceanic Environmental Protection.

Article 27 If any dumping entity, in violation hereof, practices frauds in the selection and demarcation of a dumping site, the competent authority shall give that entity a warning; if the circumstances are serious, the competent authority may order that entity to stop the dumping operation and revoke its license for dumping.

Article 28 If any entity engaging in the selection and demarcation and the monitoring of dumping sites practices frauds in the such operations, the competent authority shall give that entity a warning; if the circumstances are serious, that entity may not engage in the selection and demarcation and the monitoring of dumping sites within 5 years.

Article 29 If any dumping entity fails to comply with the provisions to supply the competent authority with the records of dumping operation, refuses to accept the on-spot inspection carried out by a China marine regulatory agency, or practices frauds in the inspection, the competent authority shall punish that entity in accordance with Item 3) of Article 74 and Article 75 of the Law of the People's Republic of China on Oceanic Environmental Protection.

Article 30 If any party, in violation hereof, causes oceanic environmental pollution, the competent authority shall deal with that party in accordance with the relevant provisions of the Law of the People's Republic of China on Oceanic Environmental Protection and the Regulation of the People's Republic of China on Dumping Wastes into the Ocean.

Article 31 The present Provisions shall come into force on January 1, 2004.