

C. SPECIAL SUPPLEMENT**CHINESE LAWS**

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CHINESE FLOOD CONTROL REGULATIONS

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Text, as received, of "Flood Control Regulations of the PRC"

CHAPTER I. GENERAL PRINCIPLES

Article 1. These regulations are formulated, in accordance with the Water Law of the PRC for the purpose of making preparations to control and combat floods to safeguard people's lives and property and to ensure the smooth progress of economic construction.

Article 2. These regulations will apply when activities to control and combat floods are taken within the territory of the PRC.

Article 3. In flood control work the policy of "giving first place to safety, constantly being on the alert, making prevention the primary purpose and going all out in rescue work" and the principle of maintaining unity and cooperation and of subordinating partial interests to the overall interest shall be carried out and followed.

Article 4. In flood control work the system of placing the responsibility under the administrative heads of governments at all levels shall be implemented so that responsibilities are shared by departments at different levels under a unified command. Various relevant departments shall institute the work post responsibility system for flood control work.

Article 5. All units and individuals are obliged to participate in controlling and combating floods. The Chinese PLA and the Armed Police are important forces in controlling and combating floods.

CHAPTER II. FLOOD CONTROL ORGANIZATION

Article 6. The State Flood Control Headquarters established by the State Council is responsible for organizing and guiding flood control and flood fighting work throughout the country. Work offices of the headquarters are established in departments in charge of water administration under the State Council.

In the Yangtze and Huang river basins, flood control command centres staffed by responsible persons from relevant provincial, autonomous regional and municipal governments and responsible persons of the administrative organs of the basins may be set up to direct flood control and flood fighting work in areas under their jurisdiction. The work offices of these agencies shall be established within the administrative organs of the basins. Major flood control and flood fighting projects involving the Yangtze and Huang rivers must obtain

the approval of the State Flood Control Headquarters before they are undertaken. Agencies in charge of the Huai, Hai, Zhu, Songhua, Liao and Taihu basins under the jurisdiction of the State Council's administration in charge of water shall establish flood control offices to coordinate routine flood control work in their respective basins.

Article 7. Local people's governments at and above the county level entrusted with flood control responsibility shall set up flood control headquarters to be composed of the responsible persons of relevant departments, local military units and people's armed forces and under the command of the heads of governments at various levels. The flood control headquarters of people's governments at all levels shall carry out flood control orders from higher levels, draw up flood control and flood combating measures and assume unified command over flood control and flood combating work in their respective areas under the leadership of a people's government flood control headquarters of a higher level and a people's government of the same level.

The work offices of the flood control headquarters of people's governments at all levels shall be established in departments in charge of water administration of the same level. The work offices of the flood control headquarters of urban areas may also be established in departments in charge of urban construction. The work offices shall be responsible for the day-to-day flood control work in areas under their jurisdiction.

Article 8. Petroleum, power, posts and telecommunications, railway, highway departments, factories, mines, commercial enterprises, materials supply departments and other departments and units entrusted with flood control duty shall set up flood control agencies during the high-water season. Under the unified leadership of the flood control headquarters of people's governments having jurisdiction over them, these agencies shall be responsible for taking care of the flood control work in their respective trades and units.

Article 9. Agencies in charge of river channels, units in charge of water conservation and hydroelectric power projects and units undertaking construction projects along river banks must strengthen management and maintenance of water projects and facilities under their jurisdiction, ensure their normal and safe operations and organize and participate in flood control work.

Article 10. Local people's governments responsible for flood control should organize flood control contingents with the participation of the masses and with the militia as their backbone, instruct relevant departments to compile a register for the names of flood control contingents and define their respective tasks and duties.

River administrative organs and other units in charge of administration of flood control projects may combine the tasks of administration in normal times to organize their respective flood control emergency squads as the backbone of task forces to be rushed to deal with an emergency.

CHAPTER III. PREPARATIONS FOR FLOOD CONTROL

Article 11. The people's governments at and above the county level responsible for flood control should draw up plans for flood control (including measures for dealing with especially disastrous floods) on the basis of the comprehensive programme for development of river valleys as well as the flood control criteria stipulated by the state and in the light of the actual conditions of the flood control projects.

The flood control plans for the Yangtze, Huang, Huai and Hai rivers will be drawn up by the State Flood Control Headquarters and implemented after approval by the State Council. The flood control plans for other rivers that flow through more than one province, autonomous region and municipality will be drawn up by the relevant provincial, autonomous regional and municipal people's governments and implemented after they have been examined and approved by organs that have jurisdiction over river valleys, submitted by the provincial, autonomous regional and municipal people's governments to the State Council or its authorized body and approved by it.

The city people's government responsible for controlling and fighting floods should draw up flood control plans for its own city on the basis of the comprehensive programme for development of river valleys and the flood control plans for rivers and implement them after having submitted them to the people's government of the higher level or its authorized body and obtained its approval.

Relevant local people's governments must carry out the flood control plans after they are approved.

Article 12. The enterprises responsible for controlling and fighting floods should provide their own measures for controlling and fighting floods on the basis of the flood control plans for the river valley or area in which they are located and submit them to the responsible department of the higher level for approval after they have obtained approval from the local administrative department.

Article 13. Administrative departments responsible for the projects of reservoirs, hydroelectric power stations, dykes and dams across rivers should draw up plans for management and control during the flood season on the basis of the project programme and design, flood control plans and the actual condition of the project and under the prerequisite of promoting what is beneficial to meet the needs of flood control and guaranteeing security; submit them to the responsible department of the higher level for examination and approval; and then submit them to the flood control headquarters of people's government that has jurisdiction for the record and accept its supervision. The plans for management and control of the flood control storage capacity of the hydroelectric power stations which are determined by the State Flood Control Headquarters to have an important

bearing on flood control during the flood season must be approved by the flood control headquarters of the people's government that has jurisdiction after they have been examined and approved by the responsible departments of the higher level. The administrative departments of reservoirs, hydroelectric power stations, dikes and dams across rivers shall be responsible for carrying out the plans for management and control during the flood season after they are approved. The amount of water discharged by reservoirs located in the upper reaches of the rivers responsible for reducing the threat of run-off from melting snow during the melting period must be approved and supervised by the flood control headquarters of people's government that has jurisdiction.

Article 14. Flood control headquarters at all levels should organize inspection of all flood prevention facilities before the flood season and, if they uncover any problems that might affect the security of flood prevention, instruct responsible units to deal with them within a prescribed time. By no means should the work of controlling and fighting floods be delayed.

After all the relevant departments and units have inspected the flood control projects and facilities under their jurisdiction in accordance with the unified plan drawn up by the flood control headquarters prior to the flood season, they must submit a report on the problems that may affect the security of flood control, together with measures for dealing with them, to the flood control headquarters with jurisdiction and the responsible departments of the higher level and then deal with such problems according to the requirements of the flood control headquarters.

Article 15. The work to dredge river courses and renovate or demolish bridges, diversion canals, wharves and other facilities built across rivers that seriously obstruct or block the flow of water must be carried out in accordance with the stipulations provided by the "PRC Regulations on Management and Control of River Courses".

Article 16. The provincial people's governments whose jurisdiction covers reservoirs and areas for storing flood waters should organize relevant departments and cities and counties to draw up plans for security and construction in the reservoirs and areas for storing flood waters under their jurisdiction in accordance with the relevant regulations of the State Council and implement them.

People's governments at all levels must inspect the shelter for flood victims, evacuation roads, communications, prediction, warning and other security facilities before the flood season and, if they find any problems that may affect security, deal with them promptly.

Article 17. Relevant departments of areas where landslides or mud-rock flows are liable to occur should designate monitors to conduct monitoring and prevent disasters promptly. Flood control headquarters of local people's governments should organize relevant units to conduct security checks and inspections before the rainy season sets in and evacuate the masses promptly from areas where signs of danger are ominous.

Local relevant departments of areas where storms and high tides tend to occur should strengthen security checks and inspection of houses, reservoirs, sea walls, dykes, embankments, dams, high tension wires, and other facilities and, if they find any problems that might affect security, deal with them promptly.

Article 18. When water-related disputes, arising from flood control and flood fighting, occur between regions, the superior people's government of the regions involved or the competent department entrusted by the superior people's government will handle the dispute.

When handling water-related disputes arising from flood control and flood-fighting, the superior people's government referred to above or the competent department has the right to adopt temporary emergency handling measures. Parties concerned should act accordingly and implement the measures.

Article 19. Local people's governments entrusted with flood control tasks should build and improve flood control facilities, for example dykes, dams, flood-storage areas and flood control communications and early warning systems in the zone.

Article 20. All levels of flood control headquarters should store a certain quantity of materials for flood control and for dealing with emergencies. An appropriate amount of storage charges should be paid to commerce, supply and marketing and materials departments if they are entrusted with storing those materials on behalf of the flood control headquarters. Units and the masses threatened by floods should retain a certain quantity of materials in reserve for flood control and for emergencies.

Competent planning departments should arrange for supply of major materials needed for flood control and emergencies in its annual plan.

Article 21. Flood control headquarters at all levels of people's government should brief relevant units and local army units on their flood control plans and organize briefings on flood control and on dealing with emergencies. During the flood season, relevant departments should prepare timely reports on the flood situation.

CHAPTER IV. FLOOD CONTROL AND DEALING WITH EMERGENCIES

Article 22. Headquarters of provincial-level people's governments may set, according to regular flooding patterns in their regions, dates for the beginning and end of the flood season. When water levels of rivers, lakes and dams reach the danger point, or when flood control projects are in great danger, or in emergencies, local people's governments at the county level or above may declare a state of emergency and report the situation to the flood control headquarters of their superior people's government.

Article 23. During the flood control period, it is necessary to have responsible persons preside over work at various levels in the flood control headquarters. Relevant responsible persons should stand fast at their posts, promptly grasp the flood situation and make adjustments according to the flood control plan and to the flood season adjustment and application plan.

Article 24. During the flood season, hydrological stations and rainfall stations under water conservation, electricity, weather, maritime, agriculture and forestry departments should provide prompt and accurate on-the-hour hydrological information to all levels of flood control headquarters; weather departments should provide prompt relevant weather forecasts and on-the-hour weather information to all levels of flood control headquarters; hydrological departments should provide prompt relevant hydrological forecasts to all levels of flood control headquarters; and maritime departments should report promptly to flood control headquarters in coastal areas on storm and tide forecasts.

Article 25. During the flood season and when implementing the flood season adjustment and application plan, river courses, dams, sluice gates, water transport facilities and other water-related project management units should subordinate themselves to the unified command or supervision of those flood control headquarters of people's governments which are entrusted with management power.

During the flood season, dams which are primarily designed for power generation should be placed under the unified command of flood control headquarters of people's governments which are entrusted with management power; they will control and regulate water levels of dams and flood water.

Article 26. During the flood season, river courses, dams, hydropower stations, sluice gates and other water project management units should check water projects according to regulations. If a dangerous situation is discovered, they must immediately make repairs, take remedial measures and promptly report the situation to flood control headquarters and superior competent departments. Units and individuals should immediately report to flood control headquarters and water project management units if they uncover any dangerous situations.

Article 27. During the flood season, highway, railways, water transport and civil aviation departments should promptly transport flood control materials and rush personnel to deal with emergencies. Electricity departments should ensure power supplies for use in flood control.

Article 28. During the flood season, electricity and communications facilities should serve flood control requirements. Posts and telecommunications departments should ensure the timely and accurate transmission of flood situation and flood control orders. Television, radio, highway, railways, water transport, civil aviation, public security, forestry and petroleum departments should give priority to serving flood fighting by utilizing their own communications equipment.

Television, radio and press units should promptly release flood control information in accordance with the information on the flood situation provided by the flood control headquarters of the people's government.

Article 29. During emergency periods of flood control, the flood control headquarters of local people's governments, directed by the responsible persons of people's governments,

shall organize and mobilize various local relevant units and individuals to fight floods and launch rescue operations. All units and individuals must follow the commands and undertake the tasks of fighting floods and launching rescue operations assigned by the flood control headquarters of people's governments.

Article 30. During emergency periods of flood control, public security departments shall strengthen the management of public order and security measures at the behest of the flood control headquarters of people's governments. If necessary, relevant departments must impose land and sea traffic controls in accordance with the law.

Article 31. To meet the needs of fighting floods and launching rescue operations during emergency periods of flood control, flood control headquarters have the right to transfer materials, equipment, transport vehicles and manpower under their jurisdiction, provided that these resources are returned or proper restitution is made without subsequent delay. No unit or individual may hinder efforts to expropriate land, fell trees or clear obstacles standing in the way of flood water as necessitated by rescue operations.

Relevant procedures shall be executed in accordance with the law afterwards with the departments concerned regarding the expropriation of land and felling of trees as referred to in the above paragraph.

Article 32. When the water levels or flows of rivers reach the levels or amounts set for flood diversion or discharge, the flood control headquarters of people's governments with jurisdiction have the right to adopt measures to divert or release flood water in accordance with approved plans for flood diversion and discharge. If adoption of the above-mentioned measures endangers adjacent areas, advance notice shall be served on relevant areas with approval from the flood control headquarters of higher competent authorities.

When extraordinary circumstances call for some sacrifices to be made to protect state-designated key areas and ensure overall safety, the flood control headquarters of local governments may adopt emergency measures after reporting to and obtaining approval from the flood control headquarters of higher competent people's governments.

No unit or individual may obstruct implementation of the above-mentioned measures. If obstruction or stalling occurs, competent people's governments have the right to enforce them compulsorily.

Article 33. When flood water threatens the people's safety, local people's governments shall promptly evacuate the people to safe areas and arrange for their livelihood.

Article 34. Areas located on the lower reaches of a river may not erect barriers or narrow the passage for flood water in the river when flood water is released in accordance with the natural flow of water, the designated standards of projects for preventing flood and draining waterlogged areas, or approved operational plans; areas located on the upper reaches may not increase the amount of discharge without authorization.

Without the approval of competent people's governments or the departments empowered by them, no unit or individual may alter the natural control points for river flows.

CHAPTER V. REHABILITATION

Article 35. The materials and equipment, commerce, supply and marketing, agriculture, highways, railways, navigation and civil aviation departments in areas afflicted by floods should do a good job in supplying and transporting emergency relief materials; the civil affairs, health and education departments should attend to relief work, for example taking care of the daily needs of disaster victims, providing medical treatment and preventing epidemic diseases, reopening schools and rehabilitating production. Moreover water conservation, electric power, posts and telecommunications and highway departments should repair damage done to construction works under the jurisdiction of each department.

Article 36. Flood control headquarters of local people's governments at different levels should follow the requirements for reporting flood damage statistics approved by the State Statistical Bureau in verifying and listing flood damage under their jurisdiction and reporting the damage to competent authorities at the next higher level and the statistical department at the corresponding level. Units and individuals concerned should not falsify, conceal or tamper with such information.

Article 37. In the aftermath of a disastrous flood, flood control headquarters of people's governments at various levels should actively organize and help the masses in disaster areas to rehabilitate and develop production. Expenses needed to repair damaged construction works should be given priority in the fiscal construction plan of the relevant departments.

CHAPTER VI. FLOOD CONTROL EXPENDITURES

Article 38. Expenditures for flood prevention appropriated by financial departments should be incorporated into central and local budgets at different levels.

During the flood season, units and individuals charged with flood prevention should be provided with a certain amount of labour service and other expenses for controlling flooding and dealing with emergencies. Detailed rules should be worked out by provincial, autonomous regional and municipal people's governments.

Article 39. Funds for preventing and controlling flooding on an extraordinary scale should be managed according to relevant regulations.

Article 40. An insurance system should be introduced incrementally in areas storing and retaining flood water. Details shall be worked out separately.

CHAPTER VII. REWARDS AND PENALTIES

Article 41. Units and individuals who have performed one of the following deeds should be commended or rewarded by people's governments at and above the county level:

(1) Those who have performed an exceptional job in resisting disaster and dealing with emergencies through well-organized work, competent leadership, effective fortification and outstanding courage.

(2) Those who have persisted in patrolling and checking dikes, promptly reporting hazardous sections and dealing with emergency situations valiantly.

(3) Those who have made prominent contributions in organizing the masses to protect the property of the state and people at critical moments.

(4) Those whose suggestions for flood control and management have yielded fruitful results.

(5) Those whose accurate and prompt forecast and measure of weather, precipitation and water levels, timely dissemination of such information and efforts to overcome difficulties and rush to measure flood water have helped minimize damage from flooding on an extraordinary scale.

(6) Those who have promptly delivered or taken good care of flood prevention materials and equipment, or used flood prevention funds sparingly in fulfilling the task with outstanding results.

(7) Those who have performed other distinguished services.

Article 42. In any of the following circumstances, the unit where a person is posted or its higher competent authority shall take disciplinary action according to the circumstances and harmful effects arising therefrom:

-where punitive action to maintain public order is merited, punishment shall be meted out in accordance with the "Regulations of the PRC on Punishment To Maintain Public Order";

-where the act in question constitutes a crime, criminal responsibility shall be determined pursuant to laws:

(1) Refusing to implement approved flood prevention plans, or the flood prevention programmes or directives for flood prevention and rescue operations issued by flood prevention headquarters having jurisdiction.

(2) Being negligent of duty or fleeing during critical moments while launching flood prevention and rescue operations.

(3) Illegally demolishing, breaching a dike or opening a sluice gate.

(4) Misappropriating, pilfering or embezzling funds or materials allocated for flood prevention or rescue operations.

(5) Preventing personnel from flood prevention headquarters from performing their duties in accordance with the law.

(6) Usurping, damaging or destroying water conservation projects, such as dykes, revetments and sluice embankments, flood prevention facilities, hydrological survey and monitoring installations, meteorological forecasting and reporting facilities, installations for geological surveys of river banks, communications and lighting facilities.

(7) Other acts jeopardizing flood prevention and rescue operations.

Article 43. Acts jeopardizing the safe management of rivers, reservoirs and large dams shall be handled in accordance with the relevant provisions in the "Regulations of the PRC on River Management" and "Regulations on the Safety Management of Reservoirs and Large Dams".

Article 44. Making false or fraudulent reports on flooding and waterlogging or falsifying or altering statistics on flooding and waterlogging shall be dealt with in accordance with relevant provisions in the "Law of the PRC on Statistics" and its detailed rules for implementation.

Article 45. If the party concerned is dissatisfied with a disciplinary action, he may apply for review by the higher authority of the body making the decision within 15 days of receiving the notice on disciplinary action. If he is dissatisfied with the decision taken by the review, he may file a lawsuit with a people's court within 15 days of receiving the notice thereon. The party concerned may also file a lawsuit directly with a people's court within 15 days of receiving the notice on disciplinary action.

If the party concerned does not apply for a review or file a lawsuit with a people's court within the prescribed time limit and fails to comply with the decision on disciplinary action, the body making the decision on disciplinary action shall apply to a people's court for compulsory enforcement; such a body may enforce the decision compulsorily during the flood season. Complaints against punishment meted out to maintain public order shall be handled in accordance with the provisions in the "Regulations of the PRC on Punishment To Maintain Public Order". When a review or litigation is under way, the party concerned shall not stop complying with the decision on disciplinary action.

CHAPTER VIII. SUPPLEMENTARY PROVISIONS

Article 46. Provincial, autonomous regional and municipal people's governments may formulate detailed rules for implementation in accordance with the provisions in these regulations and local practical conditions.

Article 47. Water administration departments under the State Council shall be responsible for interpreting these regulations.

Article 48. These regulations shall take effect on the date of their promulgation.