

**Provisions on Code of Conduct for Environmental Impact
Assessment and Honest and Clean Administration concerning
Construction Projects**

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The “Provisions on Code of Conduct for Environmental Impact Assessment and Honest and Clean Administration concerning Construction Projects”, which were adopted at the 21st executive meeting of the State Environmental Protection Administration on November 2, 2005, are hereby promulgated, and shall come into force on January 1, 2006.

Director General of the State Environmental Protection Administration Xie Zhenhua
November 23, 2005

Provisions on Code of Conduct for Environmental Impact Assessment and Honest and Clean
Administration concerning Construction Projects

Chapter I General Provisions

Article 1 The present Provisions are formulated for the purpose of regulating the environmental impact assessment of construction projects, strengthening the administration of environmental impact assessment of construction projects and the construction of honest and clean administration, and guaranteeing that the administration of environmental protection of construction projects be carried out legally, honestly and cleanly at a high efficiency.

Article 2 The present Provisions shall apply to the environmental impact assessment of, technical appraisal of, and monitoring or investigation work for completion-based environmental protection check and acceptance of construction projects (hereinafter referred to as “monitoring or investigation for check and acceptance”), as well as the examination and approval of documents on environmental impact assessment of construction projects, and completion-based environmental protection check and acceptance of construction projects.

Article 3 The entities and individuals undertaking environmental impact assessment, technical appraisal, monitoring or investigation work for check and acceptance of construction projects, the environmental protection administrative departments, and staff members thereof shall abide by the relevant laws, regulations, rules and policies of the state as well as the requirements in the present Provisions, adhere to the principles of being honest, clean, independent, objective and impartial, and consciously accept the supervision of relevant sectors.

Chapter II Code of Conduct

Article 4 An institution undertaking environmental impact assessment of a construction project (hereinafter referred to as “assessment institution”) and its environmental impact assessment technicians shall abide by the following provisions:

(1) The assessment institution and the person in charge of the assessed project shall be responsible

for the environmental impact assessment conclusion;

- (2) They shall establish strict quality examination rules and quality guaranty system for the documents on environmental impact assessment, clarify the duties, ensure the implementation of the environmental impact assessment quality guaranty measures, and accept the daily supervision and inspections of the environmental protection administrative department;
- (3) They shall not make environmental impact assessment on any construction project which violates the industrial policies of the state or which is explicitly prohibited by the state;
- (4) They must work out the documents on environmental impact assessment pursuant to the relevant technical norms and requirements;
- (5) They shall strictly implement the fee charge rates prescribed by the state or by the local government, and shall not force the assessment fees up or down at will or take other means of unfair competition;
- (6) The assessment institution shall undertake the environmental impact assessment work pursuant to the corresponding eligibility grade and scope of environmental impact assessment, and shall not refuse to undertake the environmental impact assessment work without any justifiable reason;
- (7) They shall not subcontract the environmental impact assessment business directly or in a disguised form, nor shall they assign the eligibility certificate for environmental impact assessment;
- (8) They shall keep technical secrets and business secrets for the construction project owner;
- (9) They shall not, in the process of environmental impact assessment work, conceal the true facts, provide false materials, forge data or practice other frauds;
- (10) They shall, pursuant to the requirements of the environmental protection administrative department, attend the completion-based environmental protection check and acceptance of the construction project for which they undertake the environmental impact assessment work, and shall truthfully answer the questions raised by the check and acceptance committee (team); and
- (11) They shall not carry out any other activity that hampers the honesty, cleanness, independence, objectiveness and impartiality of environmental impact assessment work.

Article 5 An institution undertaking the technical appraisal work of environmental impact assessment (hereinafter referred to as “technical appraisal institution”) and its technical appraisers and reviewing experts, etc. shall abide by the following provisions:

- (1) The technical appraisal institution and its principal person-in-charge shall be responsible for the technical appraisal conclusion to the documents on environmental impact assessment;
- (2) They shall, in scientific attitudes and by methods, strictly comply with the relevant provisions and procedures for technical appraisal work, seek truth from facts, independently, objectively and impartially make technical appraisal or render opinions for the project, and accept the daily supervision and inspections of the environmental protection administrative department;
- (3) They are prohibited from asking for or taking properties presented by the construction project owner, the assessment institution or any other individual, or other unjust benefits offered thereby, and shall not ask for reimbursement of the expenditures, which ought to be borne by the appraisal institution or its individual technical appraisers or reviewing experts, from the construction project owner, the assessment institution or any other individual (except for the consulting fee charged in accordance with the relevant provisions, etc.);
- (4) They are prohibited from proposing any requirement or hint irrelevant to the technical appraisal work from the construction project owner, the assessment institution or any individual, and shall not accept the invitation to attend any tourism trip, any activity in a business entertainment place, or any activity of the gambling nature;
- (5) No technical appraiser or reviewing expert shall attend the working-out of the environmental impact report or provide consulting on the environmental impact assessment outlines or the environmental impact report in his own name; if, when undertaking the technical appraisal work, anyone has a direct interest relationship with the construction project owner, the assessment institution or a relevant individual, he shall withdraw;
- (6) No technical appraiser or reviewing expert may divulge any technical secret, business secret of the construction project owner, the assessment institution or any individual, or any inside information of the assessment work, nor shall he unlawfully make commitments relevant to the

appraisal work to the construction project owner, the assessment institution or any individual;

- (7) No technical appraiser shall, in the technical appraisal work, accept the consulting fee, reviewing fee, expert fee or other relevant similar fees; and
- (8) They shall not carry out any other activity that hampers the honesty, cleanness, independence, objectiveness and impartiality of technical appraisal work.

Article 6 An entity undertaking the monitoring or investigation work for the check and acceptance as well as its check and acceptance monitoring staff or investigators shall abide by the following provisions:

- (1) The entity undertaking the monitoring or investigation for the check and acceptance and its principal person-in-charge shall be responsible for the conclusion of monitoring or investigation report for the completion-based environmental protection check and acceptance regarding the construction project;
- (2) They shall establish strict quality examination rules and quality guaranty system, and shall monitor or investigate the check and acceptance and work out the check and acceptance monitoring or investigation report in strict accordance with the relevant laws, regulations and rules of the state, and the relevant technical norms and requirements, as well, and accept the daily supervision and inspections of the environmental protection administrative department;
- (3) The check and acceptance monitoring or investigation report they worked out shall truthfully reflect the implementation of the documents on environmental impact assessment of the construction project as well as the effect thereof;
- (4) They are prohibited from divulging any technical secret or business secret concerning the construction project;
- (5) They shall not conceal the true facts, provide false materials, forge data or practice other frauds in the process of monitoring or investigation for the check and acceptance;
- (6) The fees for monitoring or investigating the check and acceptance shall be charged in strict accordance with the relevant provisions of the state and those of the local government;
- (7) They shall not seek personal benefits in the monitoring or investigation work for the check and acceptance; and
- (8) They shall not commit any other conduct that hampers the honesty, cleanness, independence, objectiveness and impartiality of the monitoring or investigation work for the check and acceptance.

Article 7 A construction project owner shall carry out environmental impact assessment in accordance with the law, go through the procedures for examination and approval of the documents on environmental impact assessment of the construction project, accept and be cooperative in the appraisal of the technical appraisal institution and the monitoring or investigation of the entity monitoring or investigating the check and acceptance, and shall, pursuant to the requirements, provide all documents and information relevant to the project.

A construction project owner shall abide by the following provisions:

- (1) It shall not conceal the true facts, provide false materials, forge data or practice other frauds in the process of the environmental impact assessment, technical appraisal, monitoring or investigation for the check and acceptance, examination and approval of the documents on environmental impact assessment, or environmental protection check and acceptance of the construction project;
- (2) It shall not present properties or promise to present properties to the entity or individuals organizing or undertaking the environmental impact assessment, technical appraisal, monitoring or investigation for the check and acceptance, examination and approval of the documents on environmental impact assessment, or environmental protection check and acceptance of the construction project, or offer other unjust benefits to them; and
- (3) It shall not carry out any other activity that hampers the honesty, cleanness, independence, objectiveness and impartiality of the environmental impact assessment, technical appraisal, monitoring or investigation for the check and acceptance, examination and approval of the documents on environmental impact assessment, or environmental protection check and acceptance of the construction project.

Chapter III Provisions on Honest and Clean Administration

Article 8 An environmental protection administrative department shall adhere to the guidelines of seeking temporary and permanent solutions, adopting comprehensive measures, applying punishment and prevention by focusing on prevention, and shall establish and improve the system of punishing and preventing corruption by simultaneously stressing education, rules and supervision.

The staff members of an environmental protection administrative department shall, in the examination and approval of the documents on environmental impact assessment and the environmental protection check and acceptance, comply with the principles of taking a solemn political attitude, being highly disciplined, keeping a prudential style, adopting strict management and showing a neat image. They shall be in agreement with the Party Central Committee in respect of ideology, political position, speech, and actions. They shall be aware that the Party is built for the public and it exercises state power for the people, firmly implement the provisions on honest and clean administration, carry out activities of fighting against corruption and building a clean government, strictly exercise administrative powers according to law, strictly obey the organizational disciplines, keep close ties with the masses, and consciously maintain the image of civil servants.

Article 9 An environmental protection administrative department or any of its staff members shall, in the examination and approval of the documents on environmental impact assessment or in the environmental protection check and acceptance of construction projects, abide by the following provisions:

- (1) It/he shall not take advantage of the work to designate an assessment institution to any entity, to market environmental protection products, to recommend any environmental protection design entity or environmental protection equipment operation entity, or to attend any non-gratuitous intermediary activity;
- (2) It/he shall not accept consulting fee, reviewing fee, expert fee or any other relevant fees;
- (3) It/he shall not attend any banquet relevant to the examination and approval of the documents on environmental impact assessment or the environmental protection check and acceptance of the construction project, or any banquet paid with public funds;
- (4) It/he shall not take advantage of the work to entertain food, ask for or extort properties or bribes, take physical or cash gifts, securities or articles, or barter by abusing powers for personal gains;
- (5) It/he shall not participate in any entertainment activity paid with public funds, and shall be strictly prohibited from attending any unhealthy entertainment activity;
- (6) It/he shall not show an indifferent, rigid, rude or shirking attitude when receiving visits or telephone inquiries;
- (7) It/he shall not go beyond the scope of powers, derelict its/his duties, practice favoritism for his relative or himself, or have any other conduct in violation of the requirements on fairness, impartiality and publicity; and
- (8) It/he shall not carry out any other activity that hampers the honesty, cleanness, independence, objectiveness and impartiality of the examination and approval of the documents on environmental impact assessment or the environmental protection check and acceptance of a construction project.

Chapter IV Supervision, Inspections, and Investigation of Liabilities

Article 10 An environmental protection administrative department shall, within the scope of power for examination and approval of documents on environmental impact assessment of a construction project, supervise and inspect the environmental impact assessment, technical appraisal, monitoring or investigation for the check and acceptance of the construction project.

The disciplinary inspection and supervision department dispatched in an environmental protection administrative department shall supervise and inspect the examination and approval of the documents on environmental impact assessment as well as the environmental protection check and acceptance of the construction project.

The environmental protection administrative department at the higher level shall supervise and inspect the examination and approval of the documents on environmental impact assessment of and the environmental protection check and acceptance of construction projects, which are conducted by the environmental protection administrative department at its next lower level.

Article 11 Either frequent supervision and inspections or special supervision and inspections may be adopted to environmental impact assessment, technical appraisal, monitoring or investigation for the check and acceptance of construction projects, examination and approval of the documents on environmental impact assessment of and the environmental protection check and acceptance of construction projects.

Frequent supervision and inspections shall refer to the whole-process supervision and inspections on the environmental impact assessment, technical appraisal, monitoring or investigation for the check and acceptance of construction projects, examination and approval of the documents on environmental impact assessment of and the environmental protection check and acceptance of construction projects.

Special supervision and inspections shall refer to the supervision and inspections on the environmental impact assessment, technical appraisal, monitoring or investigation for check and acceptance of the certain link of a construction project or certain kind of construction projects, as well as the examination and approval of the documents on environmental impact assessment of and environmental protection check and acceptance of the certain link of a construction project or certain kind of construction projects.

With regard to the major construction projects, special supervision and inspections shall be adopted to the environmental impact assessment, technical appraisal, monitoring or investigation for check and acceptance, examination and approval of the documents on environmental impact assessment, and the environmental protection check and acceptance.

Article 12 Where any entity or individual finds that any problem is existing in the environmental impact assessment, technical appraisal, monitoring or investigation for the check and acceptance of a construction project, or in the examination and approval of the documents on environmental impact assessment of or the environmental protection check and acceptance of a construction project, it/he may tip off the problem or make a complaint to the environmental protection administrative department or the disciplinary inspection and supervision department.

The tip-offs or complaints shall be handled in accordance with the following provisions:

- (1) For a tip-off bearing a signature, the name of the person who tips off against the offender shall be kept confidential. After investigating and verifying the reported problem and legally imposing the punishment, the environmental protection administrative department or the disciplinary inspection and supervision department shall inform the person who tips off against the offender of the result of verification and punishment, and shall listen to his opinions. Whoever makes up stories to maliciously accuse others shall be punished in accordance with the relevant legal provisions.
- (2) For the materials of an anonymous tip-off, if there are specific facts, such materials shall be primarily verified, and the way of resolving the matter shall be determined; the resolving result of an important problem shall be circularized within a proper scope; if, however, there are no specific facts, such materials may be registered and kept. And
- (3) The environmental protection administrative department or the disciplinary inspection and supervision department shall timely handle the complainants' complaints in strict accordance with

the relevant provisions on complaint letters and visits.

Article 13 An environmental protection administrative department may, by the following means, supervise and inspect the environmental impact assessment, technical appraisal, monitoring or investigation for the check and acceptance of construction projects, and the examination and approval of the documents on environmental impact assessment of and environmental protection check and acceptance of construction projects:

- (1) Listening to the reports and opinions of each party concerned;
- (2) Consulting the documents, contracts and other materials relevant to the activity;
- (3) Making investigations and verifications on the relevant entities and individuals; and
- (4) Other proper means.

Article 14 Where an assessment institution violates the present Provisions, it shall be penalized as follows in accordance with the “Law on Environmental Impact Assessment”, the “Regulation on the Environmental Protection Administration of Construction Projects”, the “Measures for the Administration of the Eligibilities for Environmental Impact Assessment of Construction Projects” as well as other relevant laws and regulations as the case may be; being admonished, being given a circularized criticism, being ordered to make a rectification within a time limit or shrink its assessment scope, being imposed upon a degradation or cancellation of its assessment eligibility. In addition, the penalty shall be announced to the general public in a proper way.

Article 15 Where a technical appraisal institution violates the present Provisions, it shall be ordered by the environmental protection administrative department to make a correction, and as the case may be, it shall be admonished, given a circularized criticism, or its assessment opinions shall be announced as ineffective, or its qualification to undertake the assessment tasks shall be cancelled.

Article 16 Where any entity monitoring or investigating the check and acceptance violates the present Provisions, it shall be penalized in accordance with the relevant provisions in the “Measures for the Administration of Completion-based Environmental Protection Check and Acceptance of Construction Projects”.

Article 17 Where any person engaging in environmental impact assessment, technical appraisal, or monitoring or investigation for check and acceptance violates the present Provisions, he shall be given administrative or disciplinary sanctions in accordance with the laws, regulations, rules or other relevant legal provisions of the state. If he illegally accepts properties, such properties shall be confiscated, recovered or returned in accordance with the relevant legal provisions of the state. If any crime is constituted, the case shall be legally transferred to the judicial organ for investigation of his criminal liabilities.

Among the persons prescribed in the preceding paragraph, a person who has obtained the occupational qualification certificate to be an environmental impact assessment engineer may, in accordance with the relevant provisions on the administration of environmental impact assessment engineers' occupational qualifications, be given a circularized criticism, be ordered to suspend his business or to have his registration nullified; for any of the assessors or appraisal experts in a technical appraisal institution, his qualification to undertake or participate in the technical appraisal work may be cancelled.

Article 18 Where a construction project owner violates the present Provisions, the environmental protection administrative department shall order it to make a correction, and shall, as the case may be, record its ill credit, admonish it, or give it a circularized criticism. In addition, the environmental protection administrative department shall announce the penalty to the general public in a proper way.

Article 19 Where an environmental protection administrative department violates the present

Provisions, it shall be punished in accordance with the “Law on Environmental Impact Assessment”, the “Regulation on the Environmental Protection Administration of Construction Projects”, the relevant sanction measures against illegal conducts or disciplinary breaches in respect of environmental protection, and other relevant laws, regulations and rules.

Where any staff member of an environmental protection administrative department violates the present Provisions, he shall be given administrative sanctions in accordance with the “Law on Environmental Impact Assessment”, the “Regulation on the Environmental Protection Administration of Construction Projects”, the relevant sanction measures against illegal conducts or disciplinary breaches in respect of environmental protection, and other relevant laws, regulations and rules. If any crime is constituted, the case shall be legally transferred to the judicial organ for investigation of his criminal liabilities.

Chapter V Supplementary Provisions

Article 20 The code of conduct for environmental impact assessment of planning and the provisions on honest and clean administration thereof may be implemented with reference to the present Provisions.

Article 21 The present Provisions shall come into force on January 1, 2006.