

Provisions on the Protection of the Geologic Environment of Mines

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Provisions on the Protection of the Geologic Environment of Mines, which were deliberated and adopted at the 4th executive meeting of the Ministry of Land and Resources on February 2, 2009, are hereby promulgated, and shall come into force as of May 1, 2009.

Minister: Xu Shaoshi

March 2, 2009

Provisions on the Protection of the Geologic Environment of Mines

Chapter I General Provisions

Article 1 To protect the geologic environment of mines, reduce the damages to the geologic environment caused by the survey and exploitation of mineral resources, protect the life and property safety of the people and promote the reasonable development and utilization of mineral resources and the harmonious development of the economy, society, resources and environment, these Provisions are formulated in accordance with the Mineral Resource Law of the People's Republic of China and the Regulation on the Prevention and Control of Geologic Disasters.

Article 2 These Provisions shall apply to the prevention, control and restoration of ground caving-in, ground cracks, landslip, landslide, damages to water-bearing stratum, damages to topographic and physiognomic landscapes, etc. in the mining areas, as a result of the survey and exploitation of mineral resources.

The exploitation of mineral resources involving land reclamation shall be governed by the laws and regulations of the state on land reclamation.

Article 3 The protection of the geologic environment of mines shall follow the principle of focusing on prevention and combining prevention with control and the principle that whoever develops it shall protect it, whoever causes damage to it shall control it and whoever invests in it will benefit from it.

Article 4 The Ministry of Land and Resources shall be responsible for the national protection of the geologic environment of mines.

The local land and resources administrative departments at and above the county level shall be responsible for the protection of the geologic environment of mines within their respective administrative areas.

Article 5 The state shall encourage the scientific and technological research on the protection of the geologic environment of mines, popularize the relevant scientific and technological knowledge, promote the advanced technologies and methods, formulate the relevant technical standards and enhance the scientific and technological level of the protection of the geologic environment of mines.

Article 6 The state shall encourage enterprises, social groups or individual to make investment in the control and restoration of the geologic environment of mines which have been closed down or abandoned.

Article 7 Any entity or individual shall have the right to report and allege the illegal acts which cause damages to the geologic environment of mines.

Chapter II Planning

Article 8 The Ministry of Land and Resources shall be responsible for the national investigation and evaluation of the geologic environment of mines.

The land and resources administrative department of a province, autonomous region or municipality directly under the Central Government shall be responsible for the investigation and evaluation of the geologic environment of mines within its own administrative area.

The land and resources administrative department of a city or county shall, in light of the local actualities, carry out the investigation and evaluation of the geologic environment of mines within its own administrative area.

Article 9 The Ministry of land and resources shall, on the basis of the results of the national investigation and evaluation of the geologic environment of mines, make the planning on the national protection of the geologic environment of mines.

The land and resources administrative department of a province, autonomous region or municipality directly under the Central Government shall, by taking into account the results of the investigation and evaluation of the geologic environment of mines within its own administrative area, make the planning on the protection of the geologic environment of mines of the province, autonomous region or municipality directly under the Central Government, which, after being consented to by the

Ministry of Land and Resources, shall be reported to the people's government of the province, autonomous region or municipality directly under the Central Government for approval and implementation.

The making and examination and approval of the planning on the protection of the geologic environment of mines at the city or county level shall be provided for by the land and resources administrative department of a province, autonomous region or municipality directly under the Central Government.

Article 10 The planning on the protection of the geologic environment of mines shall include:

1. the status quo and development trend of the geologic environment of mines;
2. the guiding ideas, principles and goals for the protection of the geologic environment of mines;
3. the main tasks for the protection of the geologic environment of mines;
4. the major projects for the protection of the geologic environment of mines; and
5. the safeguards for the implementation of the planning.

Article 11 The planning on the protection of the geologic environment of mines shall conform to the planning on mineral resources, and be coordinated with the overall planning on land utilization, the planning on the prevention and control of geologic disasters, etc.

Chapter III Control and Restoration

Article 12 To apply for a mining license, a mining right applicant shall make a plan on the protection, control and restoration of the geologic environment of a mine, and report it to the land and resources administrative department with the approval power.

The plan on the protection, control and restoration of the geologic environment of a mine shall include:

1. the basic information about the mine;
2. the status quo of the geologic environment of the mine;
3. the analysis and evaluation of the impact on the geologic environment as a result of the exploitation of the mine (including an evaluation of the geologic disaster risks);
4. the measures for the protection, control and restoration of the geologic environment of the mine;

5. a plan on the surveillance of the geologic environment of the mine;
6. a budgetary estimate of the operating funds for projects on the protection, control and restoration of the geologic environment of the mine; and
7. a commitment to depositing a security for the protection, control and restoration of geologic environment of the mine.

If the applicant has made a plan on the protection, control and restoration of the geologic environment of the mine according to the preceding paragraph, it is not required to conduct a separate evaluation of the geologic disaster risks.

Article 13 An entity which makes a plan on the protection, control and restoration of the geologic environment of a mine shall meet the following requirements:

1. Holding a qualification for the evaluation of the geologic disaster risks or a qualification for the survey and design of geologic disaster control projects and having made relevant achievements; and
2. Having professional technicians who have attended the business training on the making of plans on the protection, control and restoration of the geologic environment of mines organized by the Ministry of Land and Resources and who have passed the relevant tests of the business training.

Article 14 If a mining right applicant fails to make a plan on the protection, control and restoration of the geologic environment of a mine, or its plan on the protection, control and restoration of the geologic environment of a mine does not satisfy the relevant requirements, the land and resources administrative department which has the approval power shall inform the applicant to make supplements and corrections; if the applicant fails to make supplements and corrections within the prescribed time limit, the land and resources administrative department shall reject its mining right application.

Article 15 Where a mining right holder intends to expand the exploitation scale or change the scope of mining area or exploitation manner, it shall make a new plan on the protection, control and restoration of the geologic environment of a mine, and submit it to the original approval organ for approval.

Article 16 A mining right holder shall strictly execute the approved plan on the protection, control and restoration of the geologic environment of a mine.

A project on the protection, control and restoration of the geologic environment of a mine shall be designed and constructed synchronously with the exploitation of mineral resources.

Article 17 In the case of any damage to the geologic environment of a mine as a result of the exploitation of mineral resources, the mining right holder shall be responsible for the control and restoration, and the control and restoration expenses shall be included in its production costs.

In the case of extinguishment of the person responsible for the control and restoration of the geologic environment of a mine, the land and resources administrative department of the city or county where the mine is located shall control and restore the geologic environment of the mine by using the special-purpose government fund established upon the approval of the people's government of the city or county.

The Ministry of Land and Resources and the land and resources administrative departments of all provinces, autonomous regions and municipalities directly under the Central Government shall, under the planning on the protection of the geologic environment of mines and according to the requirements of the management rules for projects on the control of the geologic environment of mines, give fund subsidies to the land and resources administrative departments of the cities and counties.

Article 18 A mining right holder shall, under the relevant provisions of the state, pay a deposit for the control and restoration of the geologic environment of a mine.

The rates and measures for paying the deposit for the control and restoration of the geologic environment of mines shall be governed by the provisions of a province, autonomous region or municipality directly under the Central Government. The amount of the deposit to be paid for the control and restoration of the geologic environment of a mine shall not be lower than the expenses necessary for the control and restoration of the geologic environment of the mine.

The deposit for the control and restoration of the geologic environment of a mine shall follow the principle of being owned by the enterprise, supervised by the government, kept in a special account and used exclusively.

Article 19 Where a mining right holder has performed the obligation to control and restore the geologic environment of a mine according to the requirements of the plan on the protection, control and restoration of the geologic environment of the mine, and thus passed the acceptance check organized by the relevant land and resources administrative department, the corresponding amount of the deposit for the control and restoration of the geologic environment of the mine and the interest thereof shall be refunded to it on the basis of its performance of the obligation.

Where a mining right holder has failed to perform the obligation to control and restore the geologic environment of a mine or meet the requirements of the plan on the protection, control and restoration of the geologic environment of a mine, and thus failed the acceptance check, the relevant land and resources administrative department shall order it to perform the obligation to control and restore the geologic environment of the mine within a time limit.

Article 20 In the case of any change of the range of the mining area, the type of the mine or the manner of exploitation, the mining right holder shall pay the deposit for the control and restoration of the geologic environment of a mine on the basis of the rate after the change.

Article 21 After the control and restoration of the geologic environment of a mine, if the mining relic is of a sightseeing value or scientific research value, the state shall encourage the development of it into a mine park.

An application for a national mine park shall be filed by the land and resources administrative department of a province, autonomous region or municipality directly under the Central Government, and be subject to the examination and approval of and be announced by the Ministry of Land and Resources.

Article 22 A national mine park shall meet the following requirements:

1. The mining relic has an ore deposit with a unique cause of formation within China and is typical, rare and of a scientific value;
2. It is an abandoned mine or some segments of the mine which has undergone the control and restoration of the geologic environment of the mine;
3. It has a beautiful natural environment and a long history of the mining culture;
4. It enjoys geographical advantages, has sound facilities for the popularization of science and has a tourism potential; and
5. The land ownership is clear and the overall planning on the mine park is scientific and reasonable.

Article 23 Before a mine is closed down, the mining right holder shall finish the obligation to control and restore the geologic environment of the mine. Before it applies for going through the formalities for closure of the pit, it shall pass the acceptance check of the land and resource administrative department and submit the documents on passing the acceptance check. The deposit for the control and restoration of the geologic environment of the mine shall be refunded to it upon examination and approval.

If the mining right holder has failed to perform the control and restoration obligation within the time limit or the control and restoration has failed to meet the relevant requirements, the land and resources administrative department shall organize the control of the geologic environment of the mine by using the deposit paid by the mining right holder for the control and restoration of the geologic environment of the mine. The shortfall of the control fund shall be paid by the mining right holder.

Article 24 In the case of transfer of a mining right, the obligation to protect, control and restore the geologic environment of the mine shall be transferred at the same time. The transferee of the mining right shall perform the obligation to protect, control and restore the geologic environment of the mine according to these Provisions.

Article 25 In the case of survey of mineral resources in the manner of trough or pit exploration, if a prospecting right holder fails to apply for a mining right after finishing the survey of mineral resources, it shall take corresponding control and restoration measures to refill and close the drill holes, exploration wells, exploration troughs and tunnels left from the survey and control and restore the resulting crags and dangerous slopes to eradicate the hidden dangers.

Chapter IV Supervision and Administration

Article 26 The land and resources administrative department at or above the county level shall supervise and inspect the mining right holders' performance of the obligation to protect, control and restore the geologic environment of mines.

The relevant responsible persons shall cooperate with the land and resources administrative department at or above the county level in the supervision and inspection, provide the necessary materials and faithfully reflect the relevant information.

Article 27 The land and resources administrative department at or above the county level shall establish a system for monitoring the geologic environment of mines within its own administrative area, improve the monitoring network, perform dynamic monitoring of the geologic environment of mines, and guide and supervise the mining right holders in carrying out the monitoring of the geologic environment of mines.

A mining right holder shall regularly report on the geologic environment of a mine and faithfully submit the monitoring materials to the land and resources administrative department at the country level at the place where the mine is located.

The land and resources administrative department at the county level shall regularly submit the gathered materials on the monitoring of the geologic environment of mines to the land and resources administrative department at the next higher level.

Article 28 When exercising the function of supervising and inspecting the protection of the geologic environment of mines, the land and resources administrative department at or above the county level shall have the authority to conduct an on-site inspection of the implementation of the control and restoration measures stated in a plan on the protection, control and restoration of the geologic environment of a mine and the monitoring of the geologic environment of a mine, and has the authority to stop, investigate and punish any violation of these Provisions.

Article 29 In the case of any emergency on the geologic environment of a mine as a result of the exploitation of the mineral resources or any other activity, the relevant liable persons shall take emergency response measures, and immediately report it to the local people's government.

Chapter V Legal Liability

Article 30 Where, in violation of these Provisions, anyone fails to make a plan on the protection, control and restoration of the geologic environment of a mine as required or expands the exploitation scale, modifies the range of mining area or the exploitation manner or fails to make a new plan on the protection, control and restoration of the geologic environment of a mine and obtain an approval from the original examination and approval organ, the land and resources administrative department at or above the county level shall order it to make a correction within a time limit; and if it fails to make a correction with the time limit, impose a fine of not more than 30, 000 yuan on it, and the land and resources administrative department issuing the exploitation license shall not let it pass the annual inspection of the exploitation license.

Article 31 Where, in violation of Article 16 or 23 of these Provisions, anyone fails to make control according to the approved plan on the protection, control and restoration of the geologic environment of a mine or fails to finish the control and restoration before it is approved to close down the mine or close the pit, the land and resources administrative department at or above the county level shall order it to make a correction within a time limit; and if it refuses to make a correction within the time limit, impose a fine of not more than 30, 000 yuan on it and reject its new mining right application within 5 years.

Article 32 Where, in violation of Article 18 of these Provisions, anyone fails to pay on schedule a deposit for the control and restoration of the geologic environment of a mine, the land and resources administrative department at or above the county level shall order it to pay the deposit within a time limit; and if it fails to do so within the time limit, impose a fine of not more than 30, 000 yuan on it. The land and resources administrative department issuing the mining license shall not approve its annual report on mining activities, nor accept its application for renewal or modification of its mining right.

Article 33 Where, in violation of Article 25 of these Provisions, a prospecting right holder fails to take the control and restoration measures, the land and resources administrative department at or above the county level shall order it to make a correction within a time limit; and if it fails to make a correction within the time limit, impose a fine of not more than 30, 000 yuan on it and reject its new application for prospecting right or mining right within 5 years.

Article 34 Where, in violation of these Provisions, anyone disrupts or obstructs the protection, control and restoration of the geologic environment of a mine or encroaches upon, causes any damage to or destroys any facility for the monitoring of the geologic environment of a mine or for

the protection, control and restoration of the geologic environment of a mine, the land and resources department at or above the county level shall order it to stop the violation and restore the original state or take remedial measure within a time limit, and impose a fine of not more than 30, 000 yuan on it; and if a crime is constituted, the violator shall be subject to the criminal liability.

Article 35 Where, in violation of these Provisions, any functionary of a land and resources administrative department at or above the county level neglects his duties, abuses his power or practices favoritism during the supervision and administration of the protection, control and restoration of the geologic environment of mines, the relevant liable persons shall be subject to administrative sanctions according to law; and if a crime is constituted, they shall be subject to the criminal liability.

Chapter VI Supplementary Provisions

Article 36 For a mine built or being built before these Provisions come into force, the mining right holder shall make a plan on the protection, control and restoration of the geologic environment of the mine according to these Provisions, submit it to the original mining license examination and approval organ for approval, and pay a deposit for the control and restoration of the geologic environment of the mine.

Article 37 These Provisions shall come into force on May 1, 2009.