Environmental Impact Assessment Law of the People's Republic of China (Chinese and English Text)

The Environment

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Law of the People's Republic of China on Evaluation of Environmental Effects (Order of the President No.77)

Order of the President of the People's Republic of China
No. 77

The Law of the People's Republic of China on Evaluation of Environmental Effects, adopted at the 30th Meeting of the Standing Committee of the Ninth National People's Congress of the People's Republic of China on October 28, 2002, is hereby promulgated and shall go into effect as of September 1, 2003.

Jiang Zemin
President of the People's Republic of China
October 28, 2002

Law of the People's Republic of China on Evaluation of Environmental Effects

(Adopted at the 30th Meeting of the Standing Committee of the Ninth National People's Congress on October 28, 2002)

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Chapter I
General Provisions

Article 1 This Law is enacted in order to implement the sustainable development strategy, to take precautions against adverse effects on the environment after implementation of plans and completion of construction projects, and to promote the coordinated development of the economy, society and environment.

Article 2 Evaluation of environmental effects mentioned in this Law consists of the analysis, prediction and assessment made of the possible environmental effects after implementation of plans and completion of construction projects, ways put forth and measures for preventing or mitigating the adverse effects on the environment, and the methods and systems applied for follow-up monitoring.

Article 3 When plans within the scope specified in Article 9 of this Law are formulated, the environmental effects produced by the projects to be constructed within the territory of the People's Republic of China or within the sea areas under the jurisdiction of the People's Republic of China shall be evaluated in accordance with this Law.

Article 4 The environmental effects shall be evaluated in an objective, open and impartial manner, with an all-round consideration given to the possible effects on the various environmental factors and on the ecological system, which is composed of the factors, after a plan is implemented or a project is constructed, providing a scientific basis for decision-making.

Article 5 The State encourages relevant units, specialists and the public to participate in the evaluation of environmental effects in an appropriate manner.

Article 6 The State strengthens the establishment of a basic data base and evaluation index system for evaluation of environmental effects, encourages and supports scientific research in the approaches and technical standards for evaluation of environmental effects, establishes the necessary system for jointly sharing of information on the evaluation of environmental effects and sees to it that such evaluation is highly scientific.

The competent administrative department for environment protection under the State Council shall, in conjunction with the relevant departments under the State Council, take charge of establishing a sound basic data base and evaluation index system for evaluation of environmental effects.

Chapter II
Evaluation of Environmental Effects of Plans

Article 7 When making arrangements for formulating plans for the utilization of land for construction in or development and utilization of certain areas, river basins and sea areas, the relevant departments under the State Council, local people's governments at or above the level of the city divided into districts and the relevant departments under them shall see to it that environmental effects are evaluated in the process of formulation and that in the plan is devoted to such effects a chapter or an explanation on the effects is given.

The chapter or explanation on environmental effects in a plan shall include an analysis, prediction and assessment of the possible environmental effects produced after implementation of the plan and the ways and measures put forth for preventing or mitigating the adverse effects on the environment, which, as a component part of a draft plan, shall be submitted together with the plan to the authority for examination and approval of plans.

The examination and approval authority shall examine and approve no draft plan without a chapter devoted to or an explanation made on environmental effects.

Article 8 Before submitting for examination and approval their special draft plans, which the relevant departments under the State Council, local people's governments at or above the level of the city divided into districts and the relevant departments under them make arrangements for drawing up and which are related to the development of industry, agriculture, animal husbandry, forestry, energy, water conservancy, transportation, urban construction, tourism and natural resources (hereafter referred to as special plans, in short), they shall have the environmental effects evaluated and submit written reports on environmental effects to the authorities that examine such special plans before giving approval.

As for the guidance plans for the special plans mentioned in the preceding paragraph, environmental effects shall be evaluated in accordance with the provisions in Article 7 of this Law.

Article 9 The specific scope of the environmental effects to be evaluated, as is required for the plans specified by the provisions of Articles 7 and 8 of this Law shall be prescribed by the competent administrative department for environment protection under the State Council in conjunction with the relevant departments under the State Council and be submitted to the State Council for approval.

Article 10 The written report on the environmental effects of a special plan shall include the following:

(1) an analysis, prediction and assessment of the possible effects on the environment produced after implementation of the plan;

(2) ways and measures for preventing or mitigating adverse environmental effects; and

(3) conclusion on the evaluation of environmental effects.

Article 11 As for a special plan, which may cause adverse effects on the environment and may have a direct bearing on the rights and interests of the public in respect of the environment, the authority that draw up the plan shall, before submitting the draft of the plan for examination and approval, hold demonstration meetings or hearings, or solicit in other forms the comments and suggestions from the relevant units, specialists and the public on the draft report on environmental effects, except where secrets need to be guarded as required by State regulations.

The authority that draws up the plan shall seriously consider the comments and suggestions put forward by the relevant units, specialists and the public on the draft of the written report on environmental effects and attach to the written report on environmental effects to be submitted for examination its explanations on why it adopts or rejects those comments and suggestions.

Article 12 When submitting a draft plan to the examination and approval authority for examination, the authority that draws up the special plan shall attach to it the written report on environmental effects; and if it fails to do so, the examination and approval authority shall refuse to examine the draft plan.

Article 13 Before the people's government at or above the level of the city divided into districts examines a draft special plan and makes a decision on it, the competent administrative department for environment protection or other departments designated by the government shall call together the representatives and specialists of the departments concerned for forming an examination group to examine the written report on environmental effects. The examination group shall put forth its opinions in writing after examination.

The specialists of the examination group specified in the preceding paragraph shall be determined through random selection from the name list of the relevant professional specialists in the specialists base established in accordance with the regulations of the competent administrative department for environment protection under the State Council.

Measures for examination of the written reports on environmental effects attached to the special plans which are subject to examination and approval by the relevant department under the people's governments at or above the provincial level shall be formulated by the competent administrative department for environment protection under the State Council in conjunction with the relevant departments under the State Council.

Article 14 When examining a draft special plan, the people's government at or above the level of the city divided into districts or the relevant department under the people's government at or above the provincial level shall make the conclusion on the report on environmental effects and the opinions after examination the important basis for decision-making.

Where the conclusion on the report on environmental effects and the opinions after examination are not adopted in the course of examination, an explanation shall be made and filed for the record.

Article 15 After the plan which exerts considerable effects on the environment is carried out, the authority that draws up the plan shall, without delay, make arrangements for follow-up evaluation of the effects, and report the result of the evaluation to the examination and approval authority; and once it discovers obvious adverse effects on the environment, it shall put forth measures for improvement.

Chapter III
Evaluation of Environmental Effects of Construction Projects

Article 16 On the basis of the extent of the effects exerted on the environment by construction projects, the State exercises, in a classified manner, control over the evaluation of the effects of construction projects on the environment.

A construction unit shall, in accordance with the following provisions, make arrangements for preparing a written report on the environmental effects or a statement on such effects or filling out a registration form of environmental effects (hereinafter referred to as the document for evaluation of environmental effects, in general):

(1) where considerable effects may be exerted on the environment, preparing a written report on environmental effects, in which a comprehensive evaluation of the effects on the environment shall be made;

(2) where mild effects may be exerted on the environment, preparing a statement on the effects, in which an analysis or special evaluation of the effects shall be made; or

(3) where the effects on the environment are very little and therefore it is not necessary to make an evaluation of them, filling out a registration form of environmental effects.

A classified catalogue for control over the evaluation of the environmental effects of construction projects shall be worked out and published by the competent administrative department for environment protection under the State Council.

Article 17 The written report on the evaluation of the environmental effects of a construction project shall include the following:

(1) a brief introduction to the construct project;

(2) the existing environment of the construction project;

(3) an analysis, prediction and assessment of effects that the construction project may exert on the environment;

(4) protective measures for the environment of the construction project and technical and economic demonstrations of the measures;

(5) an analysis of the economic losses and benefits by the construction project to the environmental effects;

(6) a proposal for monitoring the environment of the construction project; and

(7) a conclusion on the evaluation of environmental effects.

With respect to a construction project that has a bearing on soil and water conservation, an additional plan for soil and water conservation that has been examined and approved by the competent administrative department for water is essential.

The contents and forms of the statement on and registration form of environmental effects shall be worked out by the competent administrative department for environment protection under the State Council.

Article 18 Attention shall be paid to avoiding repetition of the evaluation of the environmental effects of a construction project in the evaluation of the environmental effects of a plan.

With respect to a plan which is part of an integrated construction project, for which an evaluation of the environmental effects exerted by the construction project shall be made, no evaluation of such effects of the plan is required.

The construction unit may simplify the evaluation of the environmental effects exerted by the specific construction projects contained in the plan, the environmental effects of which have already been evaluated.

Article 19 The institutions to be entrusted with the provision of technical services for evaluation of the environmental effects of construction projects shall be the ones which are considered qualified after appraisal and examination by the competent administrative department for environment protection under the State Council, to which the said department has issued qualification certificates, which provide services for evaluation of environmental effects in conformity with their grade and within the scope of evaluation as specified in their qualification certificates, and which are responsible for the conclusion they made on the evaluation. The qualifications and administration measures regarding the institutions that provide technical services for evaluation of environmental effects of construction projects shall be worked out by the competent administrative department for environment protection under the State Council.

The competent administrative department for environment protection under the State Council shall publish the name list of the institutions providing technical services for evaluation of the environmental effects of construction projects that have obtained qualification certificates.

No institutions providing technical services for evaluation of the environmental effects of construction projects may have any relations of interest with the competent administrative department for environment protection that is in charge of examination and approval of the document for evaluation of environmental effects or the relevant examination and approval departments.

Article 20 Among the documents for evaluation of environmental effects, the forms of written reports or statements on environmental effects shall be designed by the institutions with the appropriate qualifications for evaluation of environmental effects.

No units or individuals may designate any institution to evaluate for a construction unit the environmental effects of construction projects.

Article 21 Except where secrets need to be guarded, as required by State regulations, the unit of the construction project which may cause considerable effects on the environment and for which a written report on environmental effects is required to be prepared shall, before submitting for examination and approval, the report on the environmental effects of the construction project, hold demonstration meetings or hearings, or solicit in other forms the comments and suggestions from relevant units, specialists and the public on the written report.

The construction unit shall attach its explanations on why it adopts or rejects the comments and suggestions put forward by the relevant units, specialists and the public to the written report submitted for approval.

Article 22 The document for evaluation of the environmental effects of a construction project shall, in accordance with the regulations of the State Council, be submitted by the construction unit for examination and approval to the competent administrative department for environment protection that has the power of examination and approval; where the construction project is subordinated to the competent department of its trade, the written report or the statement on its environmental effects shall, after preliminary examination by the said department, be submitted for examination and approval to the competent administrative department for environment protection that has the power of examination and approval.

The written report on marine environmental effects of a marine engineering project shall be examined and approved in accordance with the provisions of the Marine Environment Protection Law of the People's Republic of China.

The examination and approval department shall, within 60 days from the date it receives a written report on environmental effects, or within 30 days from the date it receives a statement on environmental effects, or within 15 days from the date it receives a registration form of environmental effects, respectively make a decision after examination, and inform the construction unit of its decision in writing.

No fees whatever may be collected for preliminary examination, examination and verification, or examination and approval of the document for evaluation of the environmental effects of a construction project.

Article 23 The competent administrative department for environment protection under the State Council shall be in charge of examination and approval of the following documents for evaluation of the environmental effects of construction projects:

(1) construction projects of a special nature, such as nuclear institutions and most confidential projects;

(2) construction projects spanning administrative regions of provinces, autonomous regions or municipalities directly under the Central Government; and

(3) construction projects subject to examination and approved by the State Council or by the relevant department authorized by the State Council.

The limits of power for examination and approval of the documents for evaluation of the environmental effects of construction projects, other than the ones specified in the preceding paragraph, shall be defined by the people's governments of provinces, autonomous regions or municipalities directly under the Central Government.

Where the relevant competent administrative departments for environment protection disagree with each other over the conclusion on evaluation of the environmental effects of the construction project that may cause adverse environmental effects over administrative regions, the document for evaluation of the environmental effects shall be submitted for examination and approval to their common competent administrative department for environment protection at the next higher level.

Article 24 Where, after the document for evaluation of the environmental effects of a construction project is approved, major changes are made in the nature, scale and location of the construction project, in the production techniques adopted, or in the measures taken for prevention and control of pollution and for prevention of damage of the ecology, the construction unit shall submit a new document for evaluation of the environmental effects of the construction project for examination and approval.

Where decision is made for starting construction of a project more than five years following the date the document for evaluation of the environmental effects is approved, the said document shall be submitted to the original examination and approval department for examination and verification anew; the said department shall, within 10 days from the date it receives the document for evaluation of the environmental effects of the construction project, inform the construction unit of the result of the examination and verification in writing.

Article 25 Where the document for evaluation of the environmental effects of a construction project is not examined, or is examined but not approved, by the examination and approval department specified by law, the department for examination and approval of the said project shall not be allowed to approve construction of the project and the construction unit shall not be allowed to start construction.

Article 26 In the process of construction of a project, the construction unit shall simultaneously implement the measures for protection of the environment contained in the comments and suggestions put forth by the examination and approval department when examining and approving the written report or statement on the environmental effects and the document for evaluation of the environmental effects.

Article 27 Where, in the process of construction and operation of a project, things inconsistent with what is stated in the examined and approved document for evaluation of environmental effects occur, the construction unit shall make arrangements for post-evaluation of the environmental effects and take measures for improvements, and submit a report to the department for original examination and approval of the document for evaluation of environmental effects and to the original department for examination and approval of the construction project for the record; and the original department for examination and approval of the document for evaluation of environmental effects may also instruct the construction unit to make post-evaluation of the environmental effects and to take measures for improvements.

Article 28 The competent administrative department for environment protection shall conduct follow-up inspection of the environmental effects caused after a construction project is put into production or use. Where serious pollution is caused to the environment or damage is caused to the ecology, the causes shall be ascertained and the responsibility shall be investigated. Where it is because the document for evaluation of the environmental effects drawn up by the institution providing technical services for evaluation of the environmental effects of construction projects is untrue, its legal responsibility shall be investigated in accordance with the provisions of Article 33 of this Law; and where it is because the staff member of the examination and approval department approves the said document due to his negligence or dereliction of duty, which according to law he should not have approved, his legal responsibility shall be investigated in accordance with the provisions of Article 35 of this Law.

Chapter IV
Legal Responsibility

Article 29 Where the department in charge of drawing up plans, in violation of the provisions of this Law, practices fraud or negligence of duty when making arrangements for evaluation of environmental effects, so that the evaluation of the environmental effects is seriously inconsistent with the facts, the persons directly in charge and the other persons directly responsible shall, according to law, be given administrative sanctions by the authority at a higher level or by the supervisory authority.

Article 30 Where the authority for examination and approval of plans, in violation of law, approves a draft plan, in which a chapter or an explanation on environmental effects required by law is not contained, or a special draft plan, to which a written report on environmental effects should be attached, as required by law, but is not attached, the persons directly in charge and the other persons directly responsible shall, according to law, be given administrative sanctions by the authority at a higher level or the supervisory authority.

Article 31 Where a construction unit starts construction before submitting the document for evaluation of the environmental effects of a construction project for approval, as is required by law, or before submitting a new document for approval or submitting the document for examination and verification anew, as is required by the provisions of Article 24 of this Law, the competent administrative department for environment protection that has the power to examine and approve the document for evaluation of the environmental effects of the said project shall instruct the construction unit to stop constructing and to go through formalities within a time limit; if it fails to do so at the expiration of the time limit, it may be fined not less than RMB 50,000 yuan but not more than 200,000 yuan, and the persons directly in charge of the construction unit and the other persons directly responsible shall, according to law, be given administrative sanctions.

Where a construction unit starts construction when the document for evaluation of the environmental effects of a construction project is not approved or is not examined, verified and approved anew by the original examination and approval department, the competent administrative department for environment protection that has the power to examine and approve the document for evaluation of the environmental effects of the said project shall instruct the construction unit to stop constructing; it may be fined not less than 50,000 yuan but not more than 200,000 yuan; and the persons directly in charge of the construction unit and the other persons directly responsible shall, according to law, be given administrative sanctions.

Where a construction unit of a marine engineering project commits the illegal acts mentioned in the preceding two paragraphs, it shall be punished in accordance with the provisions in the Marine Environment Protection Law of the People's Republic of China.

Article 32 Where the examination and approval department approves construction of a project, the environmental effects of which are not evaluated as required by law, or the document for evaluation of the environmental effects of which is not approved according to law, the persons directly in charge and the other persons directly responsible shall, according to law, be given administrative sanctions by the authority at a higher level or by the supervisory authority; and if a crime is constituted, criminal responsibility shall be investigated according to law.

Article 33 Where the institution entrusted with the provision of technical services for evaluation of the environmental effects of a construction project is not responsible for or practises fraud, in the evaluation of the environmental effects, so that the document for such evaluation is inconsistent with the facts, the competent administrative department for environment protection which confers on it the qualification for evaluation of environmental effects, shall lower its grade of qualification or revoke its qualification certificate, and impose a fine of not less than the amount, but not more than three times the amount, of the fees it collects for the services; if a crime is constituted, criminal responsibility shall be investigated according to law.

Article 34 Where the department in charge of preliminary examination, examination and verification, or examination and approval of the documents for evaluation of the environmental effects of construction projects collects fees for examination and approval, the authority at the next higher level or the supervisory authority shall instruct it to return the fees; and if the circumstances are serious, the persons directly in charge and the other persons directly responsible shall, according to law, be given administrative sanctions.

Article 35 Where staff members of the competent administrative department for environment protection and other departments, engaging in malpractices for personal gains, abusing their powers, or neglecting their duties, approve the documents for evaluation of the environmental effects of construction projects in violation of law, they shall, according to law, be given administrative sanctions; and if a crime is constituted, criminal responsibility shall be investigated according to law.

Chapter V
Supplementary Provisions

Article 36 People's governments of provinces, autonomous regions or municipalities directly under the Central Government, in the light of local conditions, may require that environmental effects be evaluated in respect of the plans drawn up by people's governments at the county level under their respective jurisdiction. Specific measures in this regard shall be worked out by the provinces, autonomous regions and municipalities directly under the Central Government in reference to the provisions in Chapter II of this Law.

Article 37 Measures for evaluation of the environmental effects of construction projects of military installations shall be worked out by the Central Military Commission of the People's Republic of China in accordance with the principles of this Law.

Article 38 This Law shall go into effect as of September 1, 2003.

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中华人民共和国环境影响评价法

中华人民共和国环境影响评价法

《中华人民共和国环境影响评价法》已由中华人民共和国第九届全国人民代表大会常务委员会第三十次会议于2002年10月28日通过，现予公布，自2003年9月1日起施行。

中华人民共和国主席江泽民

2002年10月28日

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第一章总则

*第一条*为了实施可持续发展战略，预防因规划和建设项目实施后对环境造成不良影响，促进经济、社会和环境的协调发展，制定本法。

*第二条*本法所称环境影响评价，是指对规划和建设项目实施后可能造成的环境影响进行分析、预测和评估，提出预防或者减轻不良环境影响的对策和措施，进行跟踪监测的方法与制度。

*第三条*编制本法第九条所规定的范围内的规划，在中华人民共和国领域和中华人民共和国管辖的其他海域内建设对环境有影响的项目，应当依照本法进行环境影响评价。

*第四条*环境影响评价必须客观、公开、公正，综合考虑规划或者建设项目实施后对各种环境因素及其所构成的生态系统可能造成的影响，为决策提供科学依据。

*第五条*国家鼓励有关单位、专家和公众以适当方式参与环境影响评价。

*第六条*国家加强环境影响评价的基础数据库和评价指标体系建设，鼓励和支持对环境影响评价的方法、技术规范进行科学研究，建立必要的环境影响评价信息共享制度，提高环境影响评价的科学性。

国务院环境保护行政主管部门应当会同国务院有关部门，组织建立和完善环境影响评价的基础数据库和评价指标体系。

第二章规划的环境影响评价

*第七条*国务院有关部门、设区的市级以上地方人民政府及其有关部门，对其组织编制的土地利用的有关规划，区域、流域、海域的建设、开发利用规划，应当在规划编制过程中组织进行环境影响评价，编写该规划有关环境影响的篇章或者说明。

规划有关环境影响的篇章或者说明，应当对规划实施后可能造成的环境影响作出分析、预测和评估，提出预防或者减轻不良环境影响的对策和措施，作为规划草案的组成部分一并报送规划审批机关。

未编写有关环境影响的篇章或者说明的规划草案，审批机关不予审批。

*第八条*国务院有关部门、设区的市级以上地方人民政府及其有关部门，对其组织编制的工业、农业、畜牧业、林业、能源、水利、交通、城市建设、旅游、自然资源开发的有关专项规划（以下简称专项规划），应当在该专项规划草案上报审批前，组织进行环境影响评价，并向审批该专项规划的机关提出环境影响报告书。

前款所列专项规划中的指导性规划，按照本法第七条的规定进行环境影响评价。

*第九条*依照本法第七条、第八条的规定进行环境影响评价的规划的具体范围，由国务院环境保护行政主管部门会同国务院有关部门规定，报国务院批准。

*第十条*专项规划的环境影响报告书应当包括下列内容：

（一）实施该规划对环境可能造成影响的分析、预测和评估；

（二）预防或者减轻不良环境影响的对策和措施；

（三）环境影响评价的结论。

*第十一条*专项规划的编制机关对可能造成不良环境影响并直接涉及公众环境权益的规划，应当在该规划草案报送审批前，举行论证会、听证会，或者采取其他形式，征求有关单位、专家和公众对环境影响报告书草案的意见。但是，国家规定需要保密的情形除外。

编制机关应当认真考虑有关单位、专家和公众对环境影响报告书草案的意见，并应当在报送审查的环境影响报告书中附具对意见采纳或者不采纳的说明。

*第十二条*专项规划的编制机关在报批规划草案时，应当将环境影响报告书一并附送审批机关审查；未附送环境影响报告书的，审批机关不予审批。

*第十三条*设区的市级以上人民政府在审批专项规划草案，作出决策前，应当先由人民政府指定的环境保护行政主管部门或者其他部门召集有关部门代表和专家组成审查小组，对环境影响报告书进行审查。审查小组应当提出书面审查意见。

参加前款规定的审查小组的专家，应当从按照国务院环境保护行政主管部门的规定设立的专家库内的相关专业的专家名单中，以随机抽取的方式确定。

由省级以上人民政府有关部门负责审批的专项规划，其环境影响报告书的审查办法，由国务院环境保护行政主管部门会同国务院有关部门制定。

*第十四条*设区的市级以上人民政府或者省级以上人民政府有关部门在审批专项规划草案时，应当将环境影响报告书结论以及审查意见作为决策的重要依据。

在审批中未采纳环境影响报告书结论以及审查意见的，应当作出说明，并存档备查。

*第十五条*对环境有重大影响的规划实施后，编制机关应当及时组织环境影响的跟踪评价，并将评价结果报告审批机关；发现有明显不良环境影响的，应当及时提出改进措施。

第三章建设项目的环境影响评价

*第十六条*国家根据建设项目对环境的影响程度，对建设项目的环境影响评价实行分类管理。

建设单位应当按照下列规定组织编制环境影响报告书、环境影响报告表或者填报环境影响登记表（以下统称环境影响评价文件）：

（一）可能造成重大环境影响的，应当编制环境影响报告书，对产生的环境影响进行全面评价；

（二）可能造成轻度环境影响的，应当编制环境影响报告表，对产生的环境影响进行分析或者专项评价；

（三）对环境影响很小、不需要进行环境影响评价的，应当填报环境影响登记表。

建设项目的环境影响评价分类管理名录，由国务院环境保护行政主管部门制定并公布。

*第十七条*建设项目的环境影响报告书应当包括下列内容：

（一）建设项目概况；

（二）建设项目周围环境现状；

（三）建设项目对环境可能造成影响的分析、预测和评估；

（四）建设项目环境保护措施及其技术、经济论证；

（五）建设项目对环境影响的经济损益分析；

（六）对建设项目实施环境监测的建议；

（七）环境影响评价的结论。

涉及水土保持的建设项目，还必须有经水行政主管部门审查同意的水土保持方案。

环境影响报告表和环境影响登记表的内容和格式，由国务院环境保护行政主管部门制定。

*第十八条*建设项目的环境影响评价，应当避免与规划的环境影响评价相重复。

作为一项整体建设项目的规划，按照建设项目进行环境影响评价，不进行规划的环境影响评价。

已经进行了环境影响评价的规划所包含的具体建设项目，其环境影响评价内容建设单位可以简化。

*第十九条*接受委托为建设项目环境影响评价提供技术服务的机构，应当经国务院环境保护行政主管部门考核审查合格后，颁发资质证书，按照资质证书规定的等级和评价范围，从事环境影响评价服务，并对评价结论负责。为建设项目环境影响评价提供技术服务的机构的资质条件和管理办法，由国务院环境保护行政主管部门制定。

国务院环境保护行政主管部门对已取得资质证书的为建设项目环境影响评价提供技术服务的机构的名单，应当予以公布。

为建设项目环境影响评价提供技术服务的机构，不得与负责审批建设项目环境影响评价文件的环境保护行政主管部门或者其他有关审批部门存在任何利益关系。

*第二十条*环境影响评价文件中的环境影响报告书或者环境影响报告表，应当由具有相应环境影响评价资质的机构编制。

任何单位和个人不得为建设单位指定对其建设项目进行环境影响评价的机构。

*第二十一条*除国家规定需要保密的情形外，对环境可能造成重大影响、应当编制环境影响报告书的建设项目，建设单位应当在报批建设项目环境影响报告书前，举行论证会、听证会，或者采取其他形式，征求有关单位、专家和公众的意见。

建设单位报批的环境影响报告书应当附具对有关单位、专家和公众的意见采纳或者不采纳的说明。

*第二十二条*建设项目的环境影响评价文件，由建设单位按照国务院的规定报有审批权的环境保护行政主管部门审批；建设项目有行业主管部门的，其环境影响报告书或者环境影响报告表应当经行业主管部门预审后，报有审批权的环境保护行政主管部门审批。

海洋工程建设项目的海洋环境影响报告书的审批，依照《中华人民共和国海洋环境保护法》的规定办理。

审批部门应当自收到环境影响报告书之日起六十日内，收到环境影响报告表之日起三十日内，收到环境影响登记表之日起十五日内，分别作出审批决定并书面通知建设单位。

预审、审核、审批建设项目环境影响评价文件，不得收取任何费用。

*第二十三条*国务院环境保护行政主管部门负责审批下列建设项目的环境影响评价文件：

（一）核设施、绝密工程等特殊性质的建设项目；

（二）跨省、自治区、直辖市行政区域的建设项目；

（三）由国务院审批的或者由国务院授权有关部门审批的建设项目。

前款规定以外的建设项目的环境影响评价文件的审批权限，由省、自治区、直辖市人民政府规定。

建设项目可能造成跨行政区域的不良环境影响，有关环境保护行政主管部门对该项目的环境影响评价结论有争议的，其环境影响评价文件由共同的上一级环境保护行政主管部门审批。

*第二十四条*建设项目的环境影响评价文件经批准后，建设项目的性质、规模、地点、采用的生产工艺或者防治污染、防止生态破坏的措施发生重大变动的，建设单位应当重新报批建设项目的环境影响评价文件。

建设项目的环境影响评价文件自批准之日起超过五年，方决定该项目开工建设的，其环境影响评价文件应当报原审批部门重新审核；原审批部门应当自收到建设项目环境影响评价文件之日起十日内，将审核意见书面通知建设单位。

*第二十五条*建设项目的环境影响评价文件未经法律规定的审批部门审查或者审查后未予批准的，该项目审批部门不得批准其建设，建设单位不得开工建设。

*第二十六条*建设项目建设过程中，建设单位应当同时实施环境影响报告书、环境影响报告表以及环境影响评价文件审批部门审批意见中提出的环境保护对策措施。

*第二十七条*在项目建设、运行过程中产生不符合经审批的环境影响评价文件的情形的，建设单位应当组织环境影响的后评价，采取改进措施，并报原环境影响评价文件审批部门和建设项目审批部门备案；原环境影响评价文件审批部门也可以责成建设单位进行环境影响的后评价，采取改进措施。

*第二十八条*环境保护行政主管部门应当对建设项目投入生产或者使用后所产生的环境影响进行跟踪检查，对造成严重环境污染或者生态破坏的，应当查清原因、查明责任。对属于为建设项目环境影响评价提供技术服务的机构编制不实的环境影响评价文件的，依照本法第三十三条的规定追究其法律责任；属于审批部门工作人员失职、渎职，对依法不应批准的建设项目环境影响评价文件予以批准的，依照本法第三十五条的规定追究其法律责任。

第四章法律责任

*第二十九条*规划编制机关违反本法规定，组织环境影响评价时弄虚作假或者有失职行为，造成环境影响评价严重失实的，对直接负责的主管人员和其他直接责任人员，由上级机关或者监察机关依法给予行政处分。

*第三十条*规划审批机关对依法应当编写有关环境影响的篇章或者说明而未编写的规划草案，依法应当附送环境影响报告书而未附送的专项规划草案，违法予以批准的，对直接负责的主管人员和其他直接责任人员，由上级机关或者监察机关依法给予行政处分。

*第三十一条*建设单位未依法报批建设项目环境影响评价文件，或者未依照本法第二十四条的规定重新报批或者报请重新审核环境影响评价文件，擅自开工建设的，由有权审批该项目环境影响评价文件的环境保护行政主管部门责令停止建设，限期补办手续；逾期不补办手续的，可以处五万元以上二十万元以下的罚款，对建设单位直接负责的主管人员和其他直接责任人员，依法给予行政处分。

建设项目环境影响评价文件未经批准或者未经原审批部门重新审核同意，建设单位擅自开工建设的，由有权审批该项目环境影响评价文件的环境保护行政主管部门责令停止建设，可以处五万元以上二十万元以下的罚款，对建设单位直接负责的主管人员和其他直接责任人员，依法给予行政处分。

海洋工程建设项目的建设单位有前两款所列违法行为的，依照《中华人民共和国海洋环境保护法》的规定处罚。

*第三十二条*建设项目依法应当进行环境影响评价而未评价，或者环境影响评价文件未经依法批准，审批部门擅自批准该项目建设的，对直接负责的主管人员和其他直接责任人员，由上级机关或者监察机关依法给予行政处分；构成犯罪的，依法追究刑事责任。

*第三十三条*接受委托为建设项目环境影响评价提供技术服务的机构在环境影响评价工作中不负责任或者弄虚作假，致使环境影响评价文件失实的，由授予环境影响评价资质的环境保护行政主管部门降低其资质等级或者吊销其资质证书，并处所收费用一倍以上三倍以下的罚款；构成犯罪的，依法追究刑事责任。

*第三十四条*负责预审、审核、审批建设项目环境影响评价文件的部门在审批中收取费用的，由其上级机关或者监察机关责令退还；情节严重的，对直接负责的主管人员和其他直接责任人员依法给予行政处分。

*第三十五条*环境保护行政主管部门或者其他部门的工作人员徇私舞弊，滥用职权，玩忽职守，违法批准建设项目环境影响评价文件的，依法给予行政处分；构成犯罪的，依法追究刑事责任。

第五章附则

*第三十六条*省、自治区、直辖市人民政府可以根据本地的实际情况，要求对本辖区的县级人民政府编制的规划进行环境影响评价。具体办法由省、自治区、直辖市参照本法第二章的规定制定。

*第三十七条*军事设施建设项目的环境影响评价办法，由中央军事委员会依照本法的原则制定。

*第三十八条*本法自2003年9月1日起施行。