

## Regulation on Environmental Impact Assessment of Planning[Effective]

<b>Issuing authority:</b>	State Council	<b>Document Number:</b>	Order No. 559 of the State Council
<b>Date issued:</b>	08-17-2009	<b>Effective date:</b>	10-01-2009
<b>Level of Authority:</b>	Administrative Regulations	<b>Area of Law:</b>	Environmental Protection

Order of the State Council

(No. 559)

The Regulation on Environmental Impact Assessment of Planning, which was adopted at the 76th executive meeting of the State Council on August 12, 2009, is hereby promulgated and shall come into force as of October 1, 2009.

Premier Wen Jiabao

August 17, 2009

Regulation on Environmental Impact Assessment of Planning

### Chapter I General Provisions

Article 1 For purposes of strengthening the environmental impact assessment of planning, improving the scientificness of planning, preventing environmental pollution and ecological damage from the source and promoting the overall, harmonious and sustainable development of the economy, society and environment, this Regulation is formulated in accordance with the Law of the People's Republic of China on Environmental Impact Assessment.

Article 2 The relevant departments of the State Council, and local people's governments at and above the districted city level and the relevant departments thereof shall make an environmental impact assessment when it organizes the planning of land use, and construction, development and utilization of regions, basins and sea areas (hereinafter referred to comprehensive planning) and relevant special planning of industry, agriculture, stockbreeding, forestry, energy, water resources, transport, urban construction, tourism and development of natural resources (hereinafter referred to as the special planning).

The concrete scope of planning subject to environmental impact assessment under paragraph 1 of this Article shall be formulated by the environmental protection administrative department jointly with the relevant departments of the State Council, and be executed upon approval of the State Council.

Article 3 The principle of objectiveness, openness and impartiality shall be followed in the environmental impact assessment of planning.

Article 4 The state shall establish an information sharing system for the environmental impact assessment of planning. The people's governments at and above the county level and the relevant departments thereof shall share the information about the environmental impact assessment of planning.

Article 5 The expenses necessary for the environmental impact assessment of planning shall be integrated into the fiscal budget under the provisions on budget administration, be subject to strict management and accept audit and supervision.

Article 6 Any entity or individual has the right to report to the examination and approval organ of planning, planning preparation organ or environmental protection administrative department any violation of this Regulation or bad impact arising during the execution of planning. The relevant department shall investigate and deal with the case after receipt of the tip-off.

## Chapter II Assessment

Article 7 The planning preparation organ shall organize an environmental impact assessment of the planning during the process of formulating the planning.

Article 8 An environmental impact assessment of planning shall include the analysis, forecast and assessment of the following items:

1. the possible overall impact on the ecological system of the relevant regions, basins and sea areas as a result of the execution of planning;
2. the possible long-term impact on the environment and human health as a result of the execution of planning; and
3. the relationship between the economic & social benefits and the environmental benefits, and the relationship between the present interests and the long-term interests from the execution of planning.

Article 9 The relevant criteria on environmental protection and the technical guide and norms on environmental impact assessment shall be observed in the environmental impact assessment of planning.

The technical guide on environmental impact assessment of planning shall be formulated by the environmental protection administrative department of the State Council together with other relevant departments of the State Council. The technical norms on the environmental impact assessment of planning shall be formulated by the relevant department of the State Council according to the technical guide on environmental impact assessment of planning and a copy thereof shall be sent to the environmental protection administrative department of the State Council for archival purposes.

Article 10 When comprehensive planning is made, a chapter or introduction about the environmental impact shall be prepared according to the possible environmental impact as a result of the execution of planning.

When special planning is made, an environmental impact report shall be prepared before the draft of planning is submitted for examination and approval. A chapter or introduction about the environmental impact shall, in accordance with the provision of paragraph 1 of this Article, be prepared for the directive planning in the special planning.

The term directive planning as mentioned in paragraph 2 of this Article refers to a special planning focusing on the strategy of development.

Article 11 A chapter or introduction about the environmental impact shall include:

1. an analysis, forecast and assessment of possible impacts on the environment as a result of the execution of planning, mainly including an analysis of the bearing capacity of resources and environment, analysis and forecast of the bad environmental impact as well as analysis of the environmental coordination with relevant planning;
2. the countermeasures and measures for preventing or mitigating the bad environmental impact, mainly including the policies, administrative or technical measures for preventing or mitigating the bad environmental impact.

In addition to the aforesaid contents, an environmental impact report shall contain conclusions to the environmental

impact assessment, mainly including the environmental reasonableness and feasibility of the draft of planning, reasonableness and feasibility of the countermeasures and measures for preventing or mitigating bad environmental impact, and advice on adjustments to the draft of planning.

Article 12 The planning preparation organ shall prepare the chapter or introduction about the environmental impact and the environmental impact report (hereinafter referred to as the environmental impact documents) or organize the technical institution for environmental impact assessment of planning to do so. The planning preparation organ shall be responsible for the quality of the environmental impact documents.

Article 13 As to the special planning which may have bad environmental impact and directly involve the environmental interests of the general public, the planning preparation organ shall, prior to submitting the draft of planning for examination and approval, openly solicit the opinions of the relevant entities, experts and the general public on the environmental impact report through questionnaire, symposia, discussion meetings, hearings, etc., unless it is required to keep it confidential according to law.

If there is any significant difference between the opinions of the relevant entities, experts and the general public and the conclusion to the environmental impact assessment, the planning preparation organ shall make further discussions through discussion meetings, hearings, etc.

The planning preparation organ shall attach to the environmental impact report, which it submits for examination, a statement about the adoption and rejection of public opinions as well as the reasons therefor.

Article 14 To make significant adjustments or revisions to the execution scope, applicable time limit, scale, structure and layout of the planning already approved, the planning preparation organ shall make a new or supplemental environmental impact assessment under this Regulation.

### Chapter III Examination

Article 15 When the planning preparation organ submits a draft of comprehensive planning or a draft of directive planning in the special planning for examination and approval, it shall submit to the examination and approval organ of planning a chapter or introduction about the environmental impact as an integral part of the draft of planning. If it fails to prepare a chapter or introduction about the environmental impact, the examination and approval organ of planning shall require it to prepare the chapter or introduction. If it fails to do so, the examination and approval organ of planning shall disapprove the said draft of comprehensive planning or draft of directive planning.

Article 16 At the time of submitting a draft of special planning for examination and approval, the planning preparation organ shall also submit the environmental impact report to the examination and approval organ of planning for examination. If it fails to prepare the environmental impact report, the examination and approval organ of planning shall require it to prepare it. If it fails to do so, the examination and approval organ of planning shall disapprove the said draft of special planning.

Article 17 As to a special planning subject to the examination and approval of the people's government at or above the districted city level, the environmental protection administrative department thereof shall, prior to the examination and approval, form a review team, which consists of representatives of relevant departments and experts, to examine the environmental impact report. The examination team shall submit written examination opinions.

The measures for the examination of the environmental impact report for a special planning subject to the examination and approval of the relevant department of the people's government at or above the provincial level shall be formulated

by environmental protection administrative department of the State Council jointly with the relevant department of the State Council.

Article 18 The experts as members of the review team shall be randomly selected from the name list of experts of corresponding specialties in the database of experts. However, no expert who participates in preparing an environmental impact report shall be a member of the review team of the environmental impact report.

The number of members of experts in the review team shall not be less than 1/2 of the total number of members of the review team. If it is less than 1/2 of the total number of members of the review team, the examination opinions of the review team shall be invalid.

Article 19 The members of the review team shall put forward written examination opinions on the environmental impact report objectively, impartially and independently. The examination and approval organ of planning, the planning preparation organ or the department which formed the review team shall not interfere with their work.

The examination opinions shall include the following:

1. the genuineness of the fundamental materials and data;
2. the appropriateness of the assessment approach;
3. the reliability of the analysis, forecast and assessment of the environmental impact;
4. the reasonableness and effectiveness of the countermeasures and measures for preventing or mitigating the bad environmental impact;
5. the reasonableness of the statement about the adoption and rejection of the public opinions and the reasons therefor;  
and
6. the scientificity of the conclusion to the environmental impact assessment.

The examination opinions shall be signed and consented to by 3/4 or more of the members of the review team. If any member of the review team has different opinions, his opinions shall be faithfully recorded and reflected.

Article 20 Under any of the following circumstances, the review team shall put forward opinions on revising and re-examining the environmental impact report:

1. The fundamental materials and data are untrue;
2. The assessment approach selected is improper;
3. The analysis, forecast and assessment of the bad environmental impact is inaccurate and superficial and it is necessary to make further demonstrations;
4. There are severe defects in the countermeasures and measures for preventing or mitigating the bad environmental impact;
5. The conclusion to the environmental impact is ambiguous, unreasonable or wrong;
6. No statement about the adoption and rejection of public opinions and the reasons therefor are attached, or it is obviously unreasonable not to adopt the public opinions; or

7. There are other severe defects or omissions.

Article 21 Under either of the following circumstances, the review team shall put forward an opinion on disapproving the environmental impact report:

1. On the basis of the existing knowledge and technical conditions, it is unable to make a scientific judgment about the extent or range of the bad environmental impact as a result of the execution of planning; or
2. The execution of planning may bring any major environment impact and it is impossible to put forward practical and feasible countermeasures and measures for preventing or mitigating it.

Article 22 The examination and approval organ of planning shall, at the time of examining a draft of special planning, take the conclusion to the environmental impact report and the examination opinions as an important basis for making a decision.

If the examination and approval organ of planning rejects the conclusion to the environmental impact report and the examination opinions, it shall make a written explanation about the rejection to each item and archive the relevant materials for reference. The relevant entities and experts and the general public may apply for consulting them, excluding those which shall be kept confidential according to law.

Article 23 If a planning which has already been subject to an environmental impact assessment contains a concrete construction project, the conclusion to the environmental impact assessment shall be regarded as an important basis for the environmental impact assessment of the construction project. The contents of the environmental impact assessment of the construction project may be simplified according to the analysis of and discussions about the environmental impact assessment of the planning.

#### Chapter IV Follow-up Assessment

Article 24 After the execution of the planning with severe environmental impact, the planning preparation organ shall timely organize a follow-up assessment of the environmental impact of planning and report the assessment result to the examination and approval organ of planning and notify the environmental protection administrative department and other relevant departments.

Article 25 The follow-up assessment of the environmental impact of planning shall include:

1. comparative analysis and assessment of the actual environmental impact after the execution of planning and the possible environmental impact forecasted in the documents on environmental impact assessment;
2. analysis and evaluation of the effectiveness of the countermeasures and measures for preventing or mitigating the bad environmental impact which are taken during the execution of planning;
3. public opinions on the environmental impact as a result of the execution of planning; and
4. conclusion to the follow-up assessment.

Article 26 When the planning preparation organ makes a follow-up assessment of the environmental impact of planning, it shall solicit the opinions of the relevant entities, experts and the public through questionnaire, on-site visits, symposia, etc.

Article 27 If major bad environmental impact arises during the execution of planning, the planning preparation organ shall timely put forward improvement measures, report them to the examination and approval organ of planning and notify the environmental protection administrative department and other relevant departments.

Article 28 If the environmental protection administrative department finds that any severe environmental impact arises during the execution of planning, it shall timely make a verification. If the case is verified as true, it shall put forward suggestions to the examination and approval organ of planning on improving the measures or revising the planning.

Article 29 After the examination and approval organ of planning receives a report from the planning preparation organ or suggestions from the environmental protection administrative department, it shall timely organize discussions and take improvement measures or revise the planning according to the discussion result.

Article 30 If the total discharge volume of major pollutants in the area for the execution of planning exceeds the state or local indicator for the control of total discharge volume, the planning preparation organ shall suspend examining and approving any environmental impact assessment document on a new construction project which will increase the total discharge volume of major pollutants in the aforesaid area for the execution of planning.

#### Chapter V Legal Liabilities

Article 31 If the planning preparation organ makes falsification or neglects its duties when organizing an environmental impact assessment and causes severe distortion thereof, the directly responsible person-in-charge and other directly liable persons shall be given a sanction according to law.

Article 32 Where an examination and approval organ of planning commits either of the following conducts, the directly responsible person-in-charge and other directly liable persons shall be given a sanction according to law:

1. It approves a draft of comprehensive planning or a draft of directive planning in the special planning without the chapter or introduction about the environmental impact thereof as required by law; or
2. It approves a draft of special planning without an attachment of environmental impact report as required by law, or a draft of special planning about which the environment impact report has not been examined by the review team.

Article 33 If the department, which formed a review team, makes falsification or abuses the powers when organizing the examination of the environmental impact report and causes severe distortion of the environmental impact assessment, the directly responsible person-in-charge and other directly liable persons shall be given a sanction according to law. If any expert who is a member of the review team makes falsification or neglects his duties during the examination of an environmental impact report and causes severe distortion of the environmental impact assessment, the environmental protection administrative department, which established the database of experts, shall disqualify him from the database of experts and make an announcement. If any of the departments' representatives who act as members of the review team commits either of the aforesaid conducts, he shall be given a sanction according to law.

Article 34 If a technical institution for environmental impact assessment of planning makes falsification or neglects duties and causes severe distortion of the environmental impact assessment documents, the environmental protection administrative department of the State Council shall circulate a notice on criticism and give it a fine of 1 time up to 3 times the amount of fees charged. If any crime is constituted, it shall be subject to criminal liabilities.

## Chapter VI Supplementary Provisions

Article 35 The people's government of a province, autonomous region or municipality directly under the Central Government may, in light of the local actualities, require the people's governments at the county level within its administrative area to make an environmental impact assessment of their planning. The concrete measures shall be formulated by the province, autonomous region or municipality directly under the Central Government by reference to the Law of the People's Republic of China on Environmental Impact Assessment and this Regulation.

Article 36 This Regulation shall come into force as of October 1, 2009.

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