Environmental Impact Assessment Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of implementing the sustainable development strategy, preventing the adverse impacts of plans and construction projects on the environment, and promoting the coordinated development of the economy, society and the environment.

Article 2 — "Environmental impact assessment" as used in this Law means the method and system for analyzing, predicting and assessing the possible environmental impacts that may arise from the implementation of plans and construction projects, proposing countermeasures and measures for preventing or mitigating adverse environmental impacts, and carrying out follow-up monitoring.

Article 3 — This Law shall apply to the environmental impact assessment of plans formulated by the relevant departments of the State Council, local people's governments at or above the level of a city divided into districts and the relevant departments thereof, and to the environmental impact assessment of construction projects undertaken within the territory of the People's Republic of China and within other sea areas under the jurisdiction of the People's Republic of China.

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Article 4 — Environmental impact assessment must be carried out in an objective, open and fair manner, and the possible impacts of the implementation of plans and construction projects on various environmental factors and the ecosystem as a whole shall be comprehensively taken into account, in order to provide a scientific basis for decision-making.

Article 5 — The State shall encourage relevant entities, experts and the public to participate in the environmental impact assessment in appropriate ways.

Article 6 — The State shall strengthen the establishment of a basic database for environmental impact assessment and an assessment index system, encourage and support scientific research into the methods and technical norms for environmental impact assessment, establish necessary information-sharing systems for environmental impact assessment, and improve the scientific nature of environmental impact assessment. The competent department of ecology and environment under the State Council shall, in conjunction with the relevant departments under the State Council, organize the establishment and management of a basic database for environmental impact assessment and an assessment index system, and encourage and support the scientific research into the methods and technical norms for environmental impact assessment, and when necessary, organize the establishment of information-sharing systems for environmental impact assessment.

Chapter II — Environmental Impact Assessment of Plans

Article 7 — The relevant departments of the State Council, local people's governments at or above the level of a city divided into districts and the relevant departments thereof shall, when formulating the relevant plans for land use and for the development of regions, river basins and sea areas, organize environmental impact assessments and prepare chapters or explanations on environmental impacts in relation to such plans. The chapters or explanations on environmental impacts in relation to plans shall include the following: (1) an analysis, prediction and assessment of the possible environmental impacts that may arise from the implementation of the plans; (2) countermeasures and measures for preventing or mitigating adverse environmental impacts; and (3) conclusions of the environmental impact assessment.

Article 8 — The relevant departments of the State Council, local people's governments at or above the level of a city divided into districts and the relevant departments thereof shall, when formulating special plans for industry, agriculture, animal husbandry, forestry, energy, water conservancy, transportation, urban construction, tourism, natural resource development and other relevant special plans, organize environmental impact assessments before submitting the draft plans for examination and approval, and submit environmental impact reports to the authority that examines and approves such special plans. The guiding plans among the special plans listed in the preceding paragraph shall be subject to environmental impact assessment in accordance with the provisions of Article 7 of this Law.

Article 9 — The specific scope of the plans for which environmental impact assessments shall be carried out in accordance with the provisions of Articles 7 and 8 of this Law shall be prescribed by the competent department of ecology and environment under the State Council in conjunction with the relevant departments under the State Council and submitted to the State Council for approval.

Article 10 — An environmental impact report on a special plan shall include the following: (1) an analysis, prediction and assessment of the possible environmental impacts that may arise from the implementation of the plan; (2) countermeasures and measures for preventing or mitigating adverse environmental impacts; and (3) conclusions of the environmental impact assessment.

Article 11 — For a special plan that may cause adverse environmental impacts and that directly affects the environmental rights and interests of the public, the authority formulating the plan shall, before submitting the draft plan for examination and approval, seek the opinions of relevant entities, experts and the public on the draft environmental impact report by holding demonstration meetings or public hearings or through other

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means, unless otherwise provided by the State that confidentiality shall be maintained. The authority formulating the plan shall give serious consideration to the opinions of relevant entities, experts and the public on the draft environmental impact report, and shall attach a statement on whether the opinions are adopted or not to the environmental impact report submitted for examination and approval.

Article 12 — When examining and approving the draft of a special plan, the authority examining and approving the plan shall take the conclusions of the environmental impact report and the examination opinions as an important basis for decision-making. Where the conclusions of the environmental impact report and the examination opinions are not adopted in the examination and approval, an explanation shall be given and filed for the record.

Article 13 — The people's government at or above the level of a city divided into districts shall, when examining and approving a special plan, first organize an examination of the environmental impact report submitted together with the draft plan by the environmental protection administrative department of the people's government at the same level or by other departments before making a decision on examination and approval. The relevant departments of the people's government at or above the level of a city divided into districts shall, before examining and approving a special plan, examine the environmental impact report submitted together with the draft plan by the environmental protection administrative department of the people's government at the same level. The examination opinions shall be submitted in writing.

Article 14 — The authority formulating a plan shall, during the implementation of a special plan that has had an environmental impact assessment, organize follow-up assessment of the environmental impacts; and shall, if discovering any obvious adverse environmental impacts in the course of follow-up assessment, promptly propose improvement measures and report to the authority that originally examined and approved the plan and the competent department of ecology and environment.

Article 15 — For a plan that has already been implemented but that causes material adverse environmental impacts, the authority formulating the plan shall promptly organize follow-up assessment of the environmental impacts; and the authority examining and approving the plan or the authority formulating the plan shall, upon discovering such circumstances, promptly organize follow-up assessment of the environmental impacts. Based on the results of the follow-up assessment, where the plan needs to be amended, the authority formulating the plan shall handle the matter in accordance with the relevant provisions on the procedures for formulating and amending plans.

Chapter III — Environmental Impact Assessment of Construction Projects

Article 16 — The State shall, based on the degree of environmental impact of construction projects, implement classified management of environmental impact assessment of construction projects in the following manner: (1) where a construction project may cause a significant environmental impact, an environmental impact report shall be prepared to include a comprehensive assessment of the environmental impacts caused by the construction project; (2) where a construction project may cause a mild environmental impact, an environmental impact report form shall be prepared to include an analysis or special assessment of the environmental impacts caused by the construction project; and (3) where a construction project causes very little environmental impact and the environmental impact assessment is not required, a registration form for environmental impact shall be filled out. The classified management catalog for environmental impact assessment of construction projects shall be formulated and published by the competent department of ecology and environment under the State Council and timely amended.

Article 17 — An environmental impact report on a construction project shall include the following: (1) an overview of the construction project; (2) the current status of the environment surrounding the construction project; (3) an analysis, prediction and assessment of the possible environmental impacts of the construction project; (4) environmental protection measures for the construction project and the technical and economic demonstration thereof; (5) an economic cost-benefit analysis of the environmental impacts of the

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construction project; (6) proposals for implementing environmental monitoring of the construction project; and (7) conclusions of the environmental impact assessment. Where the construction project involves soil and water conservation, a plan for soil and water conservation that has been examined and approved by the competent administrative department for water resources must also be in place. The contents and formats of environmental impact report forms and environmental impact registration forms shall be formulated by the competent department of ecology and environment under the State Council.

Article 18 — The environmental impact assessment of a construction project shall avoid overlap with the environmental impact assessment of the plan. Where a plan as a whole project includes specific construction projects, the environmental impact assessment of the construction projects shall, in accordance with the principles of the environmental impact assessment of the plan as a whole project, simplify the contents of the assessment. With respect to the environmental impact assessment of construction projects that have already carried out environmental impact assessment of the relevant plan, project category-specific development zone or region, the specific contents of the environmental impact assessment of the construction projects may be simplified in accordance with the specific circumstances.

Article 19 — The construction entity may, as needed for the construction project, entrust a technical service provider to prepare an environmental impact report or an environmental impact report form for the construction project. The construction entity shall be responsible for the contents and conclusions of the environmental impact report or the environmental impact report form. Where a technical service provider is retained to prepare an environmental impact report or an environmental impact report form, the technical service provider shall comply with the relevant national provisions on technical specifications for environmental impact assessment, fulfill its obligations under the contract entered into with the construction entity, and be responsible for the contents and conclusions of the environmental impact report or the environmental impact report form prepared by it. No entity or individual may impose or designate a technical service provider for a construction entity. The examination and approval departments for environmental impact assessment documents for construction projects, the technical assessment institutions for environmental impact assessment documents, and other departments and institutions responsible for examination and approval thereof must not charge any fees from the construction entity or the technical service provider for environmental impact assessment.

Article 20 — The State shall implement a qualification management system for environmental impact assessment, and relevant qualification administrative measures shall be formulated by the State Council. No entity or individual may provide technical services for environmental impact assessment unless it has obtained the corresponding qualification certificate for environmental impact assessment. The State shall, in accordance with the needs of environmental impact assessment work, strengthen the capacity building of environmental impact assessment technical service teams and promote the optimization, standardization and professional development of environmental impact assessment technical service providers.

Article 21 — Where a construction project has a significant environmental impact and an environmental impact report is required to be prepared, or where a construction project may have a significant impact on the environmental protection-related rights and interests of the public, the construction entity shall, before submitting the environmental impact report or the environmental impact report form to the examination and approval authority, seek the opinions of relevant entities, experts and the public by holding demonstration meetings or public hearings or through other means, unless otherwise provided by the State that confidentiality shall be maintained. The construction entity shall give serious consideration to the opinions of relevant entities, experts and the public on the draft environmental impact report, and shall attach a statement on whether the opinions are adopted or not to the environmental impact report submitted for examination and approval.

Article 22 — The environmental impact report or environmental impact report form of a construction project shall be submitted by the construction entity to the competent department of ecology and environment with

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the authority to examine and approve it for examination and approval in accordance with the provisions of the State Council. Where a construction project involves an industry subject to the administration of the relevant competent department, the environmental impact report or environmental impact report form shall, upon preliminary examination and comments by the relevant competent department, be submitted to the competent department of ecology and environment with the authority to examine and approve it for examination and approval. The competent department of ecology and environment that examines and approves the environmental impact report or environmental impact report form shall, within 60 days from the date of receipt of the environmental impact report or within 30 days from the date of receipt of the environmental impact report form, make a decision on examination and approval and notify the construction entity in writing. No fees shall be charged for the preliminary examination and examination and approval of the environmental impact report or the environmental impact report form of a construction project.

Article 23 — The competent department of ecology and environment under the State Council shall be responsible for examining and approving the environmental impact assessment documents for the following construction projects: (1) special construction projects such as nuclear facilities and top-secret projects; (2) construction projects that straddle the administrative regions of provinces, autonomous regions and municipalities directly under the Central Government; and (3) construction projects that are subject to examination and approval by the State Council or by the relevant departments authorized by the State Council. The examination and approval authority for the environmental impact assessment documents of construction projects other than those as provided in the preceding paragraph shall be prescribed by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government. Where a construction project may cause adverse environmental impacts that straddle administrative regions, and the relevant competent departments of ecology and environment have disputes over the conclusions of the environmental impact assessment of the construction project, the environmental impact assessment shall be examined and approved by the competent department of ecology and environment at the next higher level over the parties concerned.

Article 24 — Where, after the environmental impact assessment document for a construction project has been approved, the nature, scale, location or production techniques employed or the pollution prevention or ecological damage prevention and control measures of the construction project undergo a material change, the construction entity shall resubmit the environmental impact assessment document for the construction project for examination and approval. Where five years have elapsed from the date on which the environmental impact assessment document for a construction project was approved to the date on which the construction of the project is commenced, the environmental impact assessment document shall be submitted to the original examination and approval authority for reexamination. The original examination and approval authority shall, within 10 days from the date of receipt of the environmental impact assessment document for the construction project, notify the construction entity of its reexamination opinions in writing.

Article 25 — Where the environmental impact assessment document of a construction project has not been examined in accordance with law, or has failed to pass the examination after being examined, the construction entity must not commence construction of the project.

Article 26 — In the course of constructing a project, the construction entity shall simultaneously implement the countermeasures and measures for environmental protection as set out in the environmental impact report or the environmental impact report form and in the examination and approval opinions of the examination and approval authority.

Article 27 — After a construction project has been put into production or use, the construction entity shall, within an appropriate period of time, organize post-construction environmental impact assessment of the construction project and take improvement measures. The original examination and approval authority for the environmental impact assessment document of the construction project may instruct the construction entity to organize post-construction environmental impact assessment of the project and take improvement

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measures.

Article 28 — The competent department of ecology and environment shall conduct follow-up inspections of the environmental impacts caused after a construction project has been put into production or use, and shall investigate and deal with any act that causes serious environmental pollution or ecological damage.

Chapter IV — Legal Liability

Article 29 — Where an authority formulating a plan violates the provisions of this Law by failing to organize an environmental impact assessment when formulating a plan that is required to have an environmental impact assessment, or by practicing fraud or neglecting its duties in the environmental impact assessment, resulting in a serious inaccuracy of the environmental impact assessment, the directly responsible person in charge and other directly responsible personnel shall be subject to disciplinary action in accordance with law by the superior authority or the supervisory authority.

Article 30 — Where an authority examining and approving a plan fails to examine the environmental impact report that should be examined in accordance with law, or fails to give an explanation in accordance with the provisions where the conclusions of the environmental impact report and the examination opinions are not adopted, or engages in other such conduct, the directly responsible person in charge and other directly responsible personnel shall be subject to disciplinary action in accordance with law by the superior authority or the supervisory authority.

Article 31 — Where a construction entity fails to submit an environmental impact report or environmental impact report form for a construction project in accordance with law, or fails to resubmit or submit for reexamination an environmental impact report or environmental impact report form for a construction project in accordance with law, and commences construction without authorization, the competent department of ecology and environment of the people's government at or above the county level shall order it to cease construction, and impose a fine of not less than one percent and not more than five percent of the total investment in the construction project, based on the seriousness of the illegal gains and the consequences of the violation, and may also order it to restore to the original state; the directly responsible person in charge and other directly responsible personnel of the construction entity shall be subject to administrative penalties in accordance with law. Where a construction entity fails to fill in a registration form for environmental impact in accordance with law and commences construction without authorization, the competent department of ecology and environment of the people's government at or above the county level shall order it to go through the filing procedures and impose a fine of not more than RMB 50,000 yuan.

Article 32 — Where a technical service provider for environmental impact assessment of a construction project, in violation of the relevant national provisions on technical specifications for environmental impact assessment, causes serious inaccuracy or omission of the contents of the environmental impact report or the environmental impact report form, resulting in inaccurate or missing conclusions of the environmental impact assessment, the competent department of ecology and environment that granted the qualification certificate shall impose a fine of not less than three times and not more than five times the fees charged, and where the circumstances are serious, shall prohibit the provider from engaging in the technical services for environmental impact assessment of construction projects and revoke the qualification certificate; if a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 33 — Where a department responsible for the examination and approval of environmental impact assessment documents for construction projects, the department responsible for the preliminary examination of environmental impact assessment documents for construction projects, the technical assessment institution for environmental impact assessment documents, and other departments or institutions responsible for examination and approval thereof charge fees, the authority at the next higher level or the supervisory authority shall order the refund of the fees; where the circumstances are serious, disciplinary action shall be taken against the directly responsible person in charge and other directly responsible

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personnel in accordance with law.

Article 34 — Where the competent department of ecology and environment or any other department, in violation of the provisions of this Law, approves an environmental impact report or environmental impact report form for a construction project that should not be approved, or fails to investigate and deal with an act of commencing construction without authorization, or engages in other conduct, the directly responsible person in charge and other directly responsible personnel shall be subject to disciplinary action in accordance with law by the superior authority or the supervisory authority; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Chapter V — Supplementary Provisions

Article 35 — People's governments of provinces, autonomous regions and municipalities directly under the Central Government may, based on the actual local conditions, require environmental impact assessments to be carried out for the plans formulated by the people's governments of counties and the relevant departments thereof. Specific measures shall be formulated by provinces, autonomous regions and municipalities directly under the Central Government with reference to the provisions of Chapter II of this Law.

Article 36 — The specific measures for the environmental impact assessment of construction projects conducted by military installations shall be formulated by the Central Military Commission in accordance with this Law.

Article 37 — The relevant provisions of this Law shall apply to the preparation of environmental impact reports or environmental impact report forms by organizations or individuals other than construction entities for specific construction projects.

Article 38 — This Law shall take effect as of September 1, 2003.

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