

Regulations on the Prevention and Control of Geological Disasters of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com
Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents	1
Chapter I — General Provisions	1
Chapter II — Geological Disaster Prevention Planning	2
Chapter III — Geological Disaster Prevention	3
Chapter IV — Geological Disaster Emergency Response	4
Chapter V — Geological Disaster Control	4
Chapter VI — Legal Liability	4
Chapter VII — Supplementary Provisions	5

Adopted at the 29th Executive Meeting of the State Council on November 19, 2003
Promulgated by Decree No. 394 of the State Council of the People's Republic of China on November 24, 2003
Effective: March 1, 2004

Table of Contents

- Chapter I — General Provisions
- Chapter II — Geological Disaster Prevention Planning
- Chapter III — Geological Disaster Prevention
- Chapter IV — Geological Disaster Emergency Response
- Chapter V — Geological Disaster Control
- Chapter VI — Legal Liability
- Chapter VII — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Regulations are formulated for the purposes of preventing and controlling geological disasters, avoiding and mitigating losses caused by geological disasters, safeguarding the safety of people's lives and property, and promoting sustainable economic and social development.

Article 2 — The term "geological disasters" as used in these Regulations shall include disasters such as landslides, mudslides, ground subsidence, ground fissures, and land subsidence caused by natural factors or human activities that endanger the safety of people's lives and property.

Article 3 — The prevention and control of geological disasters shall adhere to the principle of giving priority to prevention, combining prevention with control, and comprehensive management.

Article 4 — Geological disasters shall be classified into four grades according to the number of casualties and the amount of economic losses caused: (1) extremely serious: casualties of over 30 persons or direct economic losses of over RMB 10 million yuan; (2) serious: casualties of over 10 but under 30 persons or direct economic losses of over RMB 5 million but under RMB 10 million yuan; (3) relatively serious: casualties of over three but under 10 persons or direct economic losses of over RMB 1 million but under RMB 5 million yuan; and (4) ordinary: casualties of under three persons or direct economic losses of under RMB 1 million yuan.

Article 5 — The prevention and control of geological disasters shall be incorporated into the national economic and social development plans. People's governments at or above the county level shall strengthen leadership, organization, coordination, and supervision of geological disaster prevention and control work. The relevant departments of people's governments at or above the county level shall be responsible for geological disaster prevention and control work in accordance with their respective duties.

Article 6 — The competent department of land and resources under the State Council shall be responsible for the organization, coordination, guidance, and supervision of geological disaster prevention and control work nationwide. Other relevant departments of the State Council shall be responsible for geological disaster prevention and control work in accordance with their respective duties. The competent departments of land and resources of local people's governments at or above the county level shall be responsible for the organization, coordination, guidance, and supervision of geological disaster prevention and control work within their respective administrative areas. Other relevant departments of local people's governments at or above the county level shall be responsible for geological disaster prevention and control work in accordance with their respective duties.

Article 7 — The expenses for geological disaster prevention and control shall be incorporated into the fiscal budgets of the people's governments at the corresponding levels in accordance with the State regulations on financial administration.

Article 8 — The State encourages and supports scientific and technological research on geological disaster prevention and control, promotes advanced technologies for geological disaster prevention and control, popularizes scientific knowledge on geological disaster prevention and control, and enhances the public's awareness of disaster prevention and mitigation and their self-rescue and mutual-rescue capabilities.

Article 9 — All units and individuals shall have the obligation to protect geological environment monitoring facilities and geological disaster control engineering facilities, and shall have the right to report and file complaints against illegal acts in geological disaster prevention and control work.

Chapter II — Geological Disaster Prevention Planning

Article 10 — The State shall implement a geological disaster survey system. The competent department of land and resources under the State Council shall, in conjunction with the relevant departments, organize geological disaster surveys. Local people's governments at or above the county level shall organize and carry out geological disaster surveys within their respective administrative areas.

Article 11 — The competent department of land and resources under the State Council shall, in conjunction with the departments of construction, water conservancy, railways, and transportation, and in accordance with the results of national geological disaster surveys, prepare the national geological disaster prevention and control plan, which shall be implemented upon approval by experts and submission to the State Council for promulgation. The competent departments of land and resources of local people's governments at or above the county level shall, in conjunction with the departments of construction, water conservancy, and transportation at the corresponding level, and in accordance with the geological disaster survey results and

the geological disaster prevention and control plan of the people's government at the next higher level, prepare the geological disaster prevention and control plan for their respective administrative areas, which shall be implemented upon approval by experts and submission to the people's government at the corresponding level for promulgation and be filed with the competent department of land and resources of the people's government at the next higher level.

Article 12 — Geological disaster prevention and control plans shall include: an overview of the current status and development trend of geological disasters; the guiding ideology, basic principles, and objectives of geological disaster prevention and control; areas and periods prone to geological disasters, and key geological disaster prevention and control points; geological disaster prevention and control projects; and measures for the implementation of geological disaster prevention and control plans.

Chapter III — Geological Disaster Prevention

Article 13 — Local people's governments at or above the county level shall organize relevant departments to prepare emergency response plans for sudden geological disasters within their respective administrative areas. Emergency response plans for sudden geological disasters shall include: the emergency response organization and division of responsibilities; emergency response personnel, equipment, and material reserves; the emergency response level and response procedures for geological disasters of different grades; monitoring, early warning, and forecasting of geological disasters; and post-disaster emergency investigation, assessment, and reconstruction.

Article 14 — The State establishes a geological disaster monitoring network and an early warning information system. People's governments at or above the county level shall strengthen the construction of geological disaster monitoring networks and carry out dynamic monitoring of geological disasters. The competent departments of land and resources of the people's governments at or above the county level shall, in conjunction with the departments of construction, water conservancy, and transportation, strengthen the management of geological disaster dangerous situations and provide timely warnings of geological disasters.

Article 15 — Where a geological disaster-prone area is involved in the preparation of an urban master plan, village or market town plan, or a land use master plan, a geological disaster risk assessment shall be conducted. Where a geological disaster-prone area is to be used for construction purposes, a geological disaster risk assessment shall be conducted in the feasibility study stage. The construction entity shall be responsible for the geological disaster risk assessment.

Article 16 — Geological disaster risk assessments shall be carried out by units holding Grade A or Grade B qualification certificates for geological disaster risk assessment. Geological disaster risk assessment units shall be responsible for the assessment reports prepared by them and shall bear corresponding legal liability.

Article 17 — The competent department of land and resources shall, in conjunction with the relevant departments, based on the geological environment conditions of the geological disaster-prone area and the results of the geological disaster risk assessment, determine the geological disaster risk level of the construction project site. The construction entity shall, based on the geological disaster risk level, implement appropriate geological disaster prevention and control measures or give up the project site.

Article 18 — Supporting geological disaster prevention and control works shall be designed, constructed, and accepted simultaneously with the principal part of the project. Where no supporting geological disaster prevention and control works have been accepted or the acceptance has failed, the principal part of the project shall not be put into production or use.

Article 19 — People's governments at or above the county level shall organize relevant departments and grassroots people's governments to strengthen inspection and patrol of geological disaster dangerous

situations. Where a geological disaster dangerous situation or disaster occurs, the relevant unit or individual shall immediately report it to the local people's government or the competent department of land and resources.

Chapter IV — Geological Disaster Emergency Response

Article 20 — Where a geological disaster dangerous situation or disaster occurs, the local people's government shall, in accordance with the geological disaster emergency response plan, immediately take emergency response measures, organize personnel to evacuate and relocate, adopt traffic control measures, and carry out emergency rescue and relief work.

Article 21 — When carrying out emergency response to geological disasters, local people's governments may, in accordance with the actual situation, mobilize emergency rescue personnel, requisition materials, equipment, and means of transportation, and when necessary, may request assistance from the people's government at a higher level and neighboring people's governments.

Article 22 — Where emergency response measures cause damage to the property of units or individuals, the local people's government that took the measures shall provide appropriate compensation in accordance with the relevant provisions of the State.

Article 23 — After a geological disaster occurs, the competent department of land and resources of the local people's government at or above the county level shall, in conjunction with the relevant departments, promptly organize investigation and assessment of the scale, cause, impact, and development trend of the geological disaster, and put forward suggestions for subsequent handling.

Chapter V — Geological Disaster Control

Article 24 — Geological disaster control shall be combined with post-disaster reconstruction, giving priority to the relocation of residents in dangerous areas and adopting comprehensive control measures for geological disaster types such as landslides, mudslides, and ground subsidence.

Article 25 — Where a geological disaster is caused by natural factors, the expenses for control shall be expended by the people's governments at all levels in accordance with their respective fiscal administrative powers when the responsibility for control is clearly attributable, or be expended from the central and local fiscal resources in accordance with their respective proportions when the responsibility for control is unclear.

Article 26 — Where a geological disaster is caused by human activities such as engineering construction, the responsible party shall bear the expenses for control. Where the responsible party is unclear, the expenses for control shall be borne by the local people's government at or above the county level. Where an engineering construction project triggers a geological disaster, the construction entity shall be responsible for the expenses for geological disaster control.

Article 27 — Geological disaster control projects shall be surveyed, designed, constructed, and accepted by units holding the appropriate qualification grade certificates. The design, construction, and acceptance of geological disaster control projects shall comply with the relevant State technical standards and specifications.

Article 28 — Where a geological disaster that endangers the safety of highways, railways, water conservancy, electric power, communications, and other facilities occurs, the relevant competent departments shall, in accordance with their respective duties, prepare special geological disaster prevention and control plans or emergency response plans and organize the implementation thereof.

Chapter VI — Legal Liability

Article 29 — Where any functionary of a local people's government at or above the county level or of a relevant department commits any of the following acts, he or she shall be subject to administrative sanctions in accordance with the law; where the case constitutes a crime, criminal liability shall be pursued in accordance with the law: (1) failing to prepare a geological disaster prevention and control plan or emergency response plan in accordance with the provisions; (2) failing to take timely measures in response to a geological disaster dangerous situation or disaster; (3) misappropriating, intercepting, or embezzling funds for geological disaster prevention and control; or (4) other acts of dereliction of duty or abuse of power.

Article 30 — Where a construction entity, in violation of these Regulations, commits any of the following acts, the competent department of land and resources of the local people's government at or above the county level shall order it to make rectification within a prescribed time limit and impose a fine of not less than RMB 50,000 yuan but not more than RMB 200,000 yuan; where losses are caused, it shall bear liability for compensation in accordance with the law: (1) failing to conduct a geological disaster risk assessment for a construction project in a geological disaster-prone area; (2) failing to design, construct, and accept supporting geological disaster prevention and control works simultaneously with the principal part of the project; or (3) putting the principal part of the project into production or use without the acceptance of supporting geological disaster prevention and control works or upon failed acceptance.

Article 31 — Where any unit, in violation of these Regulations, commits any of the following acts, the competent department of land and resources of the local people's government at or above the county level shall order it to make rectification within a prescribed time limit and impose a fine of not less than RMB 50,000 yuan but not more than RMB 200,000 yuan; where the case constitutes a crime, criminal liability shall be pursued in accordance with the law: (1) mining mineral resources or excavating earth and rocks in a geological disaster-prone area, which may trigger a geological disaster; or (2) conducting blasting, slope cutting, or other engineering construction activities in a geological disaster-prone area, which may trigger a geological disaster.

Article 32 — Where any unit, in violation of these Regulations, commits any of the following acts, the competent department of land and resources of the local people's government at or above the county level shall order it to make rectification within a prescribed time limit and impose a fine of not less than RMB 20,000 yuan but not more than RMB 100,000 yuan: (1) failing to promptly report a geological disaster dangerous situation or disaster; or (2) refusing to accept supervision and inspection by the competent department of land and resources, or resorting to deception during supervision and inspection.

Article 33 — Where any unit, without qualification certificates or by exceeding the scope of its qualification grade, undertakes geological disaster risk assessment or geological disaster control project survey, design, construction, or supervision, the competent department of land and resources of the local people's government at or above the county level shall order it to stop the illegal act and impose a fine of not less than one time but not more than two times the agreed contract price; and may also order it to suspend business for rectification and lower its qualification grade; where the circumstances are serious, its qualification certificate shall be revoked; where the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 34 — Where any unit forges, alters, assigns, leases, or lends qualification certificates for geological disaster control projects, the competent department of land and resources shall confiscate the illegal earnings and impose a fine of not less than RMB 50,000 yuan but not more than RMB 100,000 yuan; where the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 35 — Where the tortious act of any unit or individual causes a geological disaster, it shall bear civil liability in accordance with the law.

Chapter VII — Supplementary Provisions

Article 36 — The prevention and control of geological disasters in the course of earthquake monitoring and prevention, prevention and control of floods, and prevention of secondary disasters caused by earthquakes shall be governed by the relevant laws and administrative regulations.

Article 37 — The terms "geological disaster-prone area" and "geological disaster dangerous area" as used in these Regulations shall refer to areas that are prone to geological disasters and areas where geological disasters have occurred or may occur and where the danger is relatively great, as designated by the competent departments of land and resources of the people's governments at or above the county level in conjunction with the relevant departments at the corresponding level.

Article 38 — These Regulations shall be effective as of March 1, 2004.

Disclaimer: This English translation is provided for informational and reference purposes only. It is not an official translation and has been prepared for the convenience of foreign investors and businesses operating in or considering entering the Chinese market. While every effort has been made to ensure accuracy, this translation may contain errors or omissions. For legal purposes, the original Chinese text shall prevail. Readers should consult qualified legal professionals for advice on specific legal matters. This translation reflects the Regulations as promulgated on November 24, 2003, effective March 1, 2004.