Regulations on the Protection of Underwater Cultural Relics of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Promulgated by Decree No. 42 of the State Council of the People's Republic of China on October 20, 1989; first revised on January 8, 2011 in accordance with the Decision of the State Council on Repealing and Amending Certain Administrative Regulations; second revised by Decree No. 751 of the State Council of the People's Republic of China on January 23, 2022
Effective: April 1, 2022

Article 1 — These Regulations are formulated, in accordance with the relevant provisions of the Law of the People's Republic of China on the Protection of Cultural Relics, for the purpose of strengthening the management of the protection of underwater cultural relics.

Article 2 — "Underwater cultural relics" as used in these Regulations means the human cultural heritage of historical, artistic, and scientific value remaining in the following waters: (1) all cultural relics originating from China, of unidentified origin, or originating from foreign countries that remain in the internal waters and territorial sea of China; (2) cultural relics originating from China or of unidentified origin that remain in other sea areas under the jurisdiction of China in accordance with Chinese law beyond China's territorial sea; (3) cultural relics originating from China that remain in other jurisdictional sea areas beyond the territorial sea of foreign countries, as well as in the high seas. The content specified in the preceding paragraph shall not include underwater remains formed after 1911 that are unrelated to major historical events, revolutionary movements, or famous figures.

Article 3 — The underwater cultural relics specified in Items 1 and 2 of Paragraph 1 of Article 2 of these Regulations shall belong to the State, and the State shall exercise jurisdiction over them. With respect to the underwater cultural relics specified in Item 3 of Paragraph 1 of Article 2 of these Regulations — the cultural relics of unidentified origin remaining in other jurisdictional sea areas beyond the territorial sea of foreign countries and in the high seas — the State shall enjoy the right to identify the owners of the objects.

Article 4 — The competent cultural relics department of the State Council shall be responsible for the protection of underwater cultural relics nationwide. The competent cultural relics departments of local people's governments at or above the county level shall be responsible for the protection of underwater cultural relics within their respective administrative areas. Other relevant departments of people's governments at or above the county level shall, within the scope of their respective duties, be responsible for the relevant work on the protection of underwater cultural relics. The protection of underwater cultural relics in other sea areas under the jurisdiction of China in accordance with Chinese law beyond China's territorial sea shall be the responsibility of the competent cultural relics department of the State Council.

Article 5 — All entities and individuals shall have the duty to protect underwater cultural relics in accordance with the law. People's governments at all levels shall attach importance to the protection of underwater cultural relics, correctly handle the relationship between economic and social development and the protection of underwater cultural relics, and ensure the safety of underwater cultural relics.

Article 6 — Based on the value of the underwater cultural relics, people's governments at or above the county level shall, in accordance with the relevant provisions of the Law of the People's Republic of China on the Protection of Cultural Relics, verify and publish the sites protected for their cultural relics, and register and publish the immovable cultural relics that have not been verified and published as such sites. The competent cultural relics departments of local people's governments at or above the county level shall,

Source: https://www.danyoungcpa.com/regulations-on-the-protection-of-underwater-cultural-relics/

according to the protection needs of different cultural relics, formulate specific protection measures for the protected sites and for the immovable cultural relics not verified and published as protected sites, and announce them for implementation.

Article 7 — The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government may delimit and publish as underwater cultural relics protection zones the waters where underwater cultural relics are relatively concentrated and require integrated protection, and adjust them according to actual circumstances. Where an underwater cultural relics protection zone involves two or more provinces, autonomous regions, or municipalities directly under the Central Government, or involves other sea areas under the jurisdiction of China in accordance with Chinese law beyond China's territorial sea, it shall be delimited and adjusted by the competent cultural relics department of the State Council and submitted to the State Council for verification and publication. In delimiting and adjusting underwater cultural relics protection zones, opinions shall be solicited from the relevant departments and from the holders of the right to use the waters, and the views of experts and the public shall be heard; where military administration zones or military uses of the sea are involved, the opinions of the relevant military organs shall also be solicited. The entities delimiting and adjusting underwater cultural relics protection zones shall formulate protection plans. The competent cultural relics department of the State Council or the competent cultural relics department of the people's government of the province, autonomous region, or municipality directly under the Central Government shall, in accordance with the protection plans, clearly mark the scope and boundaries of the underwater cultural relics protection zones, formulate specific protection measures, and announce them for implementation. Within underwater cultural relics protection zones, fishing, blasting, and other activities that endanger the safety of underwater cultural relics shall be prohibited.

Article 8 — The destruction, illicit salvage, forcible seizure, private division, concealment, resale, and smuggling of underwater cultural relics, and other such acts, shall be strictly prohibited. Activities such as scientific surveys, exploration and development of resources, tourism, diving, fishing, aquaculture, sand mining, sewage discharge, and waste dumping carried out in the waters under China's jurisdiction shall comply with the provisions of the relevant laws and regulations and shall not endanger the safety of underwater cultural relics.

Article 9 — Where any entity or individual discovers by any means cultural relics suspected of being underwater cultural relics specified in Items 1 and 2 of Paragraph 1 of Article 2 of these Regulations, it or he shall promptly report to the competent cultural relics department of the local people's government at the place of discovery or at the nearest place, and turn over the cultural relics already salvaged from the water. Upon receiving the report, the competent cultural relics department shall, in the absence of special circumstances, proceed to the scene within 24 hours, take immediate measures for protection, and put forward its handling opinions within 7 days; where it is found that the underwater cultural relics have been moved from their positions or have suffered actual damage, it shall carry out rescue protection and make detailed records; the cultural relics already salvaged from the water shall be promptly registered and properly kept. The competent cultural relics department shall protect the site where the underwater cultural relics are discovered and may, where necessary, carry out the protection work jointly with the public security organs or the maritime law enforcement organs, and shall report the protection work to the people's government at the same level and to the competent cultural relics department of the people's government at the next higher level; where important cultural relics are discovered, the matter shall be reported level by level to the competent cultural relics department of the State Council, which shall put forward its handling opinions within 15 days after receiving the report.

Article 10 — Where any entity or individual discovers by any means cultural relics suspected of being underwater cultural relics specified in Item 3 of Paragraph 1 of Article 2 of these Regulations, it or he shall promptly report to the competent cultural relics department of the nearest local people's government or directly to the competent cultural relics department of the State Council. The competent cultural relics

Source: https://www.danyoungcpa.com/regulations-on-the-protection-of-underwater-cultural-relics/

department of the local people's government receiving the report shall report the matter level by level to the competent cultural relics department of the State Council. The competent cultural relics department of the State Council shall promptly put forward its handling opinions and report them to the State Council.

Article 11 — Archaeological surveys, explorations, and excavations of underwater cultural relics conducted in the waters under China's jurisdiction shall be applied for to the competent cultural relics department of the State Council by entities possessing the qualification for archaeological excavation. The application materials shall include a work plan and the archaeological excavation qualification certificate. Where the proposed archaeological survey, exploration, or excavation is to be conducted in China's internal waters or territorial sea, opinions issued by the competent cultural relics department of the people's government of the province, autonomous region, or municipality directly under the Central Government where the activity is located shall also be provided. The competent cultural relics department of the State Council shall, within 30 days from the date of receiving the application materials, make a decision to grant or not to grant the permit. Where the permit is granted, an approval document shall be issued; where the permit is not granted, the applicant shall be notified in writing and the reasons shall be stated. Before making its decision, the competent cultural relics department of the State Council shall solicit the opinions of relevant scientific research institutions and experts; where military administration zones or military uses of the sea are involved, it shall also solicit the opinions of the relevant military organs; where archaeological surveys, explorations, and excavations of underwater cultural relics are to be conducted in other sea areas under the jurisdiction of China in accordance with Chinese law beyond China's territorial sea, it shall also report to the State Council for approval.

Article 12 — Any foreign organization or international organization conducting archaeological surveys, explorations, and excavations of underwater cultural relics in the waters under China's jurisdiction shall do so by means of cooperation with a Chinese entity and shall obtain a permit. The Chinese entity shall possess the qualification for archaeological excavation; the foreign entity shall be a professional archaeological research institution with experts engaged in research in the subject direction or a similar direction and with a certain amount of practical archaeological work experience. Where Chinese and foreign parties cooperate in conducting archaeological surveys, explorations, and excavations of underwater cultural relics, the Chinese entity shall apply to the competent cultural relics department of the State Council. The application materials shall include the letter of intent for cooperation between the Chinese and foreign cooperating entities, the work plan, and the relevant materials proving that both parties meet the requirements of the preceding paragraph. Where the proposed archaeological survey, exploration, or excavation is to be conducted in China's internal waters or territorial sea, opinions issued by the competent cultural relics department of the people's government of the province, autonomous region, or municipality directly under the Central Government where the activity is located shall also be provided. After receiving the application materials, the competent cultural relics department of the State Council shall solicit the opinions of relevant scientific research institutions and experts; where military administration zones or military uses of the sea are involved, it shall also solicit the opinions of the relevant military organs; and it shall, in accordance with the relevant state provisions, submit the application to the relevant department for examination. Where the examination is passed, the matter shall be reported to the State Council for special permission; where the examination is not passed, the applicant shall be notified in writing and the reasons shall be stated. The underwater cultural relics, natural specimens, and original materials of archaeological records obtained through Chinese-foreign cooperative archaeological surveys, explorations, and excavations shall all belong to China.

Article 13 — For large-scale basic construction projects conducted in the waters under China's jurisdiction, the construction entity shall report in advance to the competent cultural relics department of the State Council or to the competent cultural relics department of the people's government of the province, autonomous region, or municipality directly under the Central Government to arrange for archaeological surveys and explorations to be carried out in places within the project scope where cultural relics may be

Source: https://www.danyoungcpa.com/regulations-on-the-protection-of-underwater-cultural-relics/

buried; where archaeological excavation is required, the approval procedures shall be performed in accordance with the relevant provisions of the Law of the People's Republic of China on the Protection of Cultural Relics.

Article 14 — Archaeological surveys, explorations, and excavations of underwater cultural relics conducted in the waters under China's jurisdiction shall be carried out for the purpose of protecting cultural relics and for scientific research, shall comply with the relevant laws and regulations, and shall be subject to the administration of the relevant competent departments. After the archaeological survey, exploration, and excavation activities are completed, the entities engaging in such activities shall submit to the competent cultural relics department of the State Council and to the competent cultural relics department of the people's government of the province, autonomous region, or municipality directly under the Central Government the project completion report, the archaeological excavation report, and the photographs of the objects obtained, copies of the relevant materials, and so on. All underwater cultural relics obtained in the course of the archaeological survey, exploration, and excavation activities shall be promptly registered and properly kept, and shall, in accordance with the relevant state provisions, be transferred to the state-owned museums, libraries, or other state-owned cultural-relic-collecting entities designated by the competent cultural relics department of the State Council or by the competent cultural relics department of the people's government of the province, autonomous region, or municipality directly under the Central Government for collection. Where Chinese and foreign parties cooperate in conducting archaeological survey, exploration, and excavation activities, the Chinese entity shall submit the objects and materials specified in the preceding two paragraphs.

Article 15 — It is strictly prohibited to conduct archaeological surveys, explorations, excavations, and other such activities of underwater cultural relics without approval. It is strictly prohibited for any individual to conduct archaeological surveys, explorations, excavations, and other such activities of underwater cultural relics in any form.

Article 16 — The competent cultural relics departments, cultural relics collection entities, and so on shall, by holding exhibitions, opening for visits, conducting scientific research, and other means, give full play to the role of underwater cultural relics, strengthen the publicity and education of the fine traditional Chinese culture and the legal system for the protection of underwater cultural relics, and enhance the awareness of the whole society of protecting underwater cultural relics and the enthusiasm for participating in the protection of underwater cultural relics.

Article 17 — The competent cultural relics departments, the public security organs, and the maritime law enforcement organs shall, according to the division of duties, carry out the law enforcement work on the protection of underwater cultural relics and strengthen law enforcement cooperation. The competent cultural relics departments of people's governments at or above the county level shall, in the work of protecting underwater cultural relics, strengthen communication and coordination with the relevant departments and share law enforcement information on underwater cultural relics.

Article 18 — All entities and individuals shall have the right to report to the competent cultural relics departments any act that violates these Regulations or endangers the safety of underwater cultural relics. The competent cultural relics departments shall establish reporting channels and make them public, and shall handle the relevant reports in a timely manner in accordance with the law.

Article 19 — Those who make outstanding contributions to the protection of underwater cultural relics shall be given spiritual encouragement or material rewards in accordance with the relevant state provisions.

Article 20 — Where staff members of the competent cultural relics departments and other relevant departments abuse their powers, neglect their duties, or engage in malpractices for personal gain in the work of protecting underwater cultural relics, the directly responsible persons in charge and other directly responsible persons shall be given sanctions in accordance with the law; where a crime is constituted,

Source: https://www.danyoungcpa.com/regulations-on-the-protection-of-underwater-cultural-relics/

criminal liability shall be pursued in accordance with the law.

Article 21 — Where a person carries out construction projects, or blasting, drilling, excavation, and other operations within the protection scope of a site protected for its cultural relics without authorization, legal liability shall be pursued in accordance with the Law of the People's Republic of China on the Protection of Cultural Relics.

Article 22 — Where, in violation of these Regulations, a person commits any of the following acts, the competent cultural relics department of the people's government at or above the county level or the maritime law enforcement organ shall, according to the division of duties, order correction, recover the relevant cultural relics, and give a warning; where there are illegal gains, the illegal gains shall be confiscated, and where the illegal business revenue is 100,000 yuan or more, a fine of not less than five times but not more than fifteen times the illegal business revenue shall be imposed concurrently, and where the illegal business revenue is less than 100,000 yuan, a fine of not less than 100,000 yuan but not more than 1,000,000 yuan shall be imposed concurrently; where the circumstances are serious, the qualification certificate shall be revoked by the original certificate-issuing organ, and the corresponding application shall not be accepted within ten years: (1) conducting archaeological surveys, explorations, or excavations of underwater cultural relics without approval; (2) failing to transfer the relevant objects or submit the relevant materials as required after the archaeological survey, exploration, or excavation activities are completed; (3) conducting large-scale basic construction projects in the waters under China's jurisdiction without first reporting to the relevant competent department to arrange for archaeological surveys and explorations; (4) failing to report in a timely manner after discovering underwater cultural relics.

Article 23 — These Regulations shall take effect on April 1, 2022.

Disclaimer: This translation is provided for reference and informational purposes only. It is an unofficial English rendering of the original Chinese text, which remains the sole authoritative version. While care has been taken to ensure accuracy, no warranty is given as to completeness or precision, and it should not be relied upon as legal advice. For official purposes, please consult the original Chinese text or seek professional legal counsel.