

CHAPTER SEVEN LEGAL LIABILITIES

Article 69 If the environmental protection authority or other departments that exercise supervision and administration rights in accordance herewith fail to issue administrative license or other relevant approval documents according to law, or fail to investigate and penalize any illegal behaviors after detecting or receiving reports on the same, or act otherwise in violation of the provisions hereof on the performance of their responsibilities, any personnel directly responsible and other personnel responsible therefore shall be given disciplinary sanctions.

Article 70 Where anyone refuses to be subject to supervision and inspection by the environmental protection authority or other departments that exercise supervision and inspection in accordance herewith, or practice fraud when being monitored and inspected, the environmental protection authority of the people's government at or above the county level or other departments that exercise supervision and administration rights in accordance herewith shall order it to make correction and impose a fine of higher than RMB10,000 and less than RMB100,000.

Article 71 Where the main part of any construction project is put into operation or used when the facilities for water pollution prevention and control have not been built, accepted or determined as unacceptable upon inspection, in violation of this Law, the environmental protection authority of the people's government at or above county level shall order to cease such production or use until the facilities are inspected and accepted, and impose a fine of higher than RMB50,000 and less than RMB500,000.

Article 72 In the event of any of the following acts in violation of this Law, the environmental protection authority of the people's governments at or above the county level shall order the same to be corrected within a specified period. If the correction fails to be made within the specified period, a fine of higher than RMB10,000 and less than RMB100,000 shall be imposed.

(1) Refusal to report or make fraudulent reports on the items with respect to water pollutant discharge required to be filed and registered by the environment protection authority of the State Council;

(2) Failure to install automatic monitoring equipment for water pollutant discharge as required or fail to be networked with the monitoring equipment of the environmental protection authority as required and ensure the normal operation of the monitoring equipment.

(3) Failure to monitor the discharged industrial wastewater and preserve the original monitoring records as required.

Article 73 Where facilities for water pollutants treatment fail to be used properly, or such facilities for water pollutant treatment are dismantled or idled, without approval from the environmental protection authority in violation of this Law, the environmental protection authority of the people's government at or above the county level shall order to make correction thereof, and impose a fine equal to 100% and 300% of the payable waste discharge fee.

Article 74 Where any discharged water pollutants exceed the water pollutant discharge standard specified by the State or local regulations, or exceed the total control standard for key water pollutant discharge, in violation of this Law, the environmental protection authority of the people's governments at or above the county level shall order the treatment thereof and impose a fine equal to 200% and 500% of the payable waste discharge fee.

During the period of treatment, the environmental protection authority shall order production and discharge to be restricted or production to be suspended for rectification. If the treatment fails to be completed within the specified period, an order shall be issued to close down the facilities with approval from the competent people's government.

Article 75 Where any discharge outlet is built within any drinking water source protection zone in violation of this Law, the local people's government at or above the county level shall order the same to be removed and impose a fine of more than RMB100,000 and less than RMB500,000. Where such outlet fails to be removed within the specified period, such removal shall be forcibly effected with any expenses arising therefrom to be borne by the offender, and a fine of more than RMB500,000 and less than RMB 1,000,000 shall be imposed, and an order may be issued to suspend the production for rectification.

In addition to the foregoing provisions, if any discharge outlet is built or any hidden pipes are installed without permission in violation of law, administrative regulations and the rules of the environment protection authority of the State Council, the local people's government at or above the county level shall order the same to be removed and impose a fine of more than RMB20,000 and less than RMB100,000. Where such outlet or pipes fail to be removed within the specified period, such removal shall be forcibly effected with any expenses arising therefrom to be borne by the offender, and a fine of more than RMB100,000 and less than RMB500,000 shall be imposed. If hidden pipes are installed without permission or in other serious circumstances, the environmental protection authority of the local people's government at or above the county level may petition the local people's government at or above the county level to order the production to be suspended for rectification.

If any discharge outlet is build, rebuilt or expanded on rivers or lakes, without approval from the water administration authority or valley administration authority, the water administration authority or valley administration authority of the people's government at or above the county level shall, to the extent of their authority, take measures and impose sanctions as specified above.

Article 76 In the event of any one of the following acts , the environmental protection authority of the people's government at or above the county level shall order such act to be stopped, remedial measures to be taken within a specified period, and pollution to be eliminated, and shall impose a fine. Where remedial measures fail to be taken within the specified period, the environmental protection authority may appoint a competent entity to make such remedies on behalf, with any expenses arising therefrom to be borne by the offender:

- (1) Discharging any oil, acid or alkaline solutions into any water body

- (2) Discharging or dumping into any water body or directly bury deadly toxic soluble slag, tailings, etc. containing such substances as mercury, cadmium, arsenic, chromium, lead, cyanide and yellow phosphorus.
- (3) Washing and cleaning in any water body any vehicles or containers which have been used for storing oil or toxic pollutant.
- (4) Discharging or dumping industrial waste residues, urban refuse or other wastes into any water body, or piling or depositing solid wastes and other pollutants on beaches and bank slopes below the highest water level of rivers, lakes, canals, irrigation channels and reservoirs.
- (5) Discharging or dumping radioactive solid wastes or waste water containing any high- or medium-level radioactive substances into any water body.
- (6) Discharging waste water containing low-level radioactive substances into any water body in violation of relevant State regulations or standards;
- (7) Discharging or dumping waste water containing toxic pollutants or pathogens or other wastes into seepage wells or pits, crevices or karat caves.
- (8) Using ditches, pits or ponds devoid of safeguards against seepage for conveyance or storage of waste water containing toxic pollutants or pathogens, or of other wastes.

In the event of any act set forth in Item (3) and (6) of the preceding paragraph, a fine of higher than RMB10,000 and less than RMB100,000 shall be imposed. In the event of any act set forth in Item (1), (4) and (8) of the preceding paragraph, a fine of higher than RMB20,000 and less than RMB200,000 shall imposed. In the event of any act set forth in Item (2) , (5) and (7) of the preceding paragraph, a fine of higher than RMB50,000 and less than RMB500,000 shall be imposed.

Article 77 In the event of any production, sales, import or use of the equipment included in the list of equipment that causes serious pollution to water environment and the production, sales , import and use of which are prohibited, or in the event of adoption of any technical process included in the list of technical processes that cause serious pollution to water environment and the adoption of which is prohibited, the macro-economic control department of the people's government at or above the county level shall order the correction thereof, and impose a fine of higher than RMB50,000 and less than RMB200,000. Where the circumstance is serious, the macro-economic control department of the people's government at or above the county level shall report to the people's government at the same level to order business cessation and closedown.

Article 78 In the event of any construction of small-scale papermaking, tanning, printing and dyeing, dye, coke, sulfur, arsenic, and mercury production, oil refinery, electroplating, pesticide, asbestos, cement, glass, steel, thermal power generation and other projects that cause serious pollution to the water environment, in violation of this Law, the local city or county people's government shall order the same to be close down.

Article 79 Where any ship is not equipped with appropriate anti-pollution equipment and devices, or does not hold legally valid certificates and documents for prevention of water environment pollution, in violation of this Law, the marine administration authority and fishery administration authority shall, according to their scope of authority, impose a fine of higher than RMB2,000 and less than RMB20,000. Where no remedy is made within the specified period, the ship shall be ordered to suspend its service .

Where any ship carries out activities involving pollutant discharge, fails to follow operational procedures or fails to make truthful record on appropriate record books, the marine administration authority and fishery administration authority shall, according to their scope of authority, impose a fine of higher than RMB2,000 and less than RMB20,000.

Article 80 In the event of any one of the following acts in violation of this Law, the marine administration authority and fishery administration authority shall, according to their scope of authority, order the operation to be stopped and impose a fine. Where water pollution has been caused, remedial measures shall be ordered to be taken and pollution to be eliminated within a specified period. Where such remedial measures fail to be taken within the specified period, the marine administration authority and fishery administration authority shall, according to their scope of authority, appoint a competent entity to make remedies on behalf, with any expenses arising therefrom to be borne by the ship owner:

- (1) Dump rubbish or residual or waste oil into the water body from ships;
- (2) Without approval from the marine administration authority of the place where the activity is conducted, any ship carries out such activities as receiving residual oil, waste water containing oil or hazardous goods residues, or cleaning the cabins loaded with oils or hazardous cargos, or conducts ship-to-ship transfer operation for hazardous goods containing bulk oil;
- (3) Without approval from the marine administration authority of the place where the activity is conducted, any ship is disassembled or rescued on water or conducts other operations of on-water or under-water ship construction
- (4) Without approval from the fishery administration authority of the place where the activity is conducted, any fishery ship is disassembled on-water at any fishing harbor.

In the event of the act set forth in Item (1) , (2) and (4) of the preceding paragraph, a fine of higher than RMB5,000 and less than RMB50,000 shall be imposed. In the event of the act set forth in Item (3) of the preceding paragraph, a fine of higher than RMB10,000 and less than RMB100,000 shall be imposed.

Article 81 In the event of any one of the following acts, the environmental protection authority of the local people's government at or above the county level shall order such illegal act to be stopped, impose a fine of higher than RMB100,000 and less than RMB500,000, and order dismantling or closedown with approval from the people's government with the power to grant such approval.

- (1) New construction, alteration or expansion of any construction project in no relation to water supply facilities and water source protection within grade-one protection zones for drinking water sources.

(2) New construction, alteration or expansion of any construction project that discharge pollutants within grade-two protection zones for drinking water sources.

(3) New construction or expansion of any construction project that causes serious pollution to water bodies within the quasi-protection zones for drinking water sources, or any project alteration that results in increase of discharge quantity.

In the event of any such activities as net-cage culture, traveling, swimming, fishing or other activities that may cause pollution to the water body within the first-grade drinking water protection area, in violation of this Law, the environmental protection authority of the people's government at or above the county level shall order such illegal act to be stopped, and impose a fine of higher than RMB10,000 and less than RMB100,000. If any individual conducts such activities as swimming, shipping or other acts that may cause pollution to the drinking water sources within the first-grade drinking water protection area, the environmental protection authority of the people's government at or above the county level shall order such illegal act to be stopped, and may impose a fine of less than RMB500.

Article 82 Where any enterprise or institution has any one of the following acts, the environmental protection authority of the people's government at or above the county level shall order the same to be corrected. Where the circumstance is serious, a fine of higher than RMB20,000 and less than RMB100,000 shall be imposed:

(1) Failure to prepare emergency plans for handling water pollution accidents as required;

(2) Failure to put the emergency plan for handling water pollution accident into action promptly after the occurrence of any water pollution accident, and take relevant emergency measures.

Article 83 In the event of any water pollution accident caused by enterprises or institutions in violation of this Law, the environmental protection authority of the people's government at or above the county level shall impose a fine as required in Paragraph 2 of this Article, and order remedial measures to be taken and pollution to be eliminated within a specified period. If any remedial measures fail to be taken as required or in the absence of any capabilities for treatment, the environmental protection authority may appoint a competent entity to make such remedies on behalf, with any expenses arising therefrom to be borne by the offender. In the event of any major or exceptionally major pollution accidents, an order may be issued for closedown thereof with approval from the competent people's government. The personnel directly responsible and other personnel responsible therefor may be imposed a fine equal to 50% of their incomes from their respective employers for the preceding year.

In the event of any insignificant or relatively large water pollution accident, a fine equal to 20% of the direct losses caused by such water pollution accident shall be imposed. In the event of any serious or exceptional serious pollution accident, a fine equal to 30% of the direct losses caused by such water pollution accident shall be imposed.

In the event any pollution has been caused to the fishery sector or any fishery ships have caused water pollution accidents, the competent fishery authority shall impose a sanction. In

the event of any water pollution accident caused by other ships, the marine administration authority shall impose a sanction.

Article 84 Where any party involved refuses to accept the decision on administrative sanction, such party may petition for administrative review, or bring an action to the people's court within 15 days from receipt of a notice thereof. Where such party fails to petition for administrative review or bring an action, or fails to perform the decision on administrative sanction, upon expiration of the specified period, the organ that has rendered the decision on administrative sanction shall petition to the people's court for enforcement.

Article 85 Any interested parties harmed by water pollution shall have the right to request removal of such harm by and claim damages from the discharging party.

If any water pollution harm is caused due to force majeure, the discharging party shall not be liable for damages, unless otherwise specified by law.

If any water pollution harm is caused by the aggrieved party intentionally, the discharging party shall not be liable for damages. If any water pollution harm is caused due to the gross negligence of the aggrieved party, the liability of the discharging party for damages may be reduced.

If any water pollution harm is caused by a third party, the discharging party shall have the right to recover any damages from the third party after paying the same.

Article 86 In the event of any dispute with respect to the liabilities for and the amount of compensation arising from water pollution, the environmental protection authority, marine administration authority, or fishery administration authority, shall handle the same according to their scope of power and responsibilities through mediation. Where such mediation fails, the party concerned may bring an action to the people's court. The party involved may also directly bring an action to the people's court.

Article 87 In any lawsuit for damages caused by water pollution, the discharging party shall bear the burden of proving the reasons for exemption of its liabilities as specified by law and the absence of any causal relationship between its acts and the damage.

Article 88 In the event of a large number of interested parties harmed by water pollution, the interested parties may select a representative to participate in the joint action.

The environmental protection authority and relevant social groups may, according to law, support the interested parties harmed by water pollution in bringing an action to the people's court.

The State encourages legal service institutions and lawyers to provide legal assistance for the aggrieved parties in litigations of water pollution damage.

Article 89 In any dispute of the liabilities for damages and the amount of damages caused by water pollution, the interested parties may appoint an environment monitoring agency to provide monitoring data. The environment monitoring agency shall accept such appointment and truthfully provide relevant monitoring data.

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Article 90 Any person or entity violates this Agreement and thus constitutes a violation of the public security administration rules, such person or entity shall be subject to penalty under the public security administration rules. If a crime is constituted, such person or entity shall be penalized for criminal liability.