

Measures on Open Environmental Information (for Trial Implementation)

(Adopted by the State Environmental Protection Administration of China
on February 8, 2007; Effective May 1, 2008)

Chapter I. General Principles

Article 1. In order to propel and regulate the disclosure of environmental information by administrative departments in charge of environmental protection (“environmental protection department(s)”) and by enterprises, maintain the rights and interests of citizens, legal persons and other organizations to obtain environmental information and promote the public’s involvement in environmental protection, these Measures are hereby formulated in accordance with the Regulations of the People’s Republic of China on Open Government Information, Law of the People’s Republic of China on the Promotion of Clean Production, Decision of the State Council on the Implementation of the Scientific Development Concept and the Strengthening of Environmental Protection and other relevant provisions.

Article 2. “Environmental information” referred to in these Measures means government environmental information and enterprise environmental information.

“Government environmental information” means information made or obtained by environmental protection departments in the course of exercising their environmental protection responsibilities and recorded and stored in a given form.

“Enterprise environmental information” means information recorded and stored by enterprises in a given form and relating to environmental impact arising from enterprise operational activities and enterprise environmental behavior.

Article 3. The State Environmental Protection Administration of China shall be responsible for promoting, guiding, coordinating and supervising open environmental information work throughout the whole country.

The environmental protection department of local people’s governments at the county level and above shall be responsible for organizing, coordinating and supervising open environmental information work within their respective administrative areas.

Article 4. Environmental protection departments shall observe the principles of justice, fairness, convenience to the people and objectivity and disclose government environmental information promptly and accurately.

Enterprises shall disclose enterprise environmental information promptly and accurately under the principle of combining voluntary disclosure with mandatory disclosure.

Article 5. Citizens, legal persons and other organizations may request environmental protection departments to obtain government environmental information.

Article 6. Environmental protection departments should establish and perfect open environmental information systems.

The General Office of the State Environmental Protection Administration of China shall act as the organizational office in charge of open government environmental information work and each business office shall, based on their respective responsibilities, properly handle open government environmental information work within their fields of business.

The environmental protection department of a local people's government at the county level and above shall determine by itself an organizational office in charge of open government environmental information work for that department after taking into consideration actual circumstances, which office shall be responsible for organizing the implementation of open government environmental information work for that department.

The specific functions of the organizational office of the environmental protection department in charge of open government environmental information work are:

- 1) To organize for that department the formulation of policies, rules and working guidelines in respect of open government environmental information;
- 2) To organize the coordination of open government environmental information work among different business offices of that department;
- 3) To organize the maintenance and updating of government environmental information disclosed by that department;
- 4) To supervise and examine the government environmental information work of each business office of that department;
- 5) To organize for that department the compilation of an open government environmental information guide, open government environmental information catalogue and annual reports on open government environmental information work;
- 6) To supervise and guide open government environmental information work of environmental protection department at the lower level;
- 7) To supervise open enterprise environmental information work in the area under its administration;
- 8) To be responsible for the secrecy examination before the disclosure of government environmental information; and
- 9) To carry out other responsibilities related to open environmental information of that department.

Article 7. Citizens, legal persons and other organizations shall use open environmental information without prejudice to the state interests, public interests and lawful rights and interests of others.

Article 8. The environmental protection department shall ensure its support to the open environmental information work of that department in terms of staffing and funding.

Article 9. If the government environmental information to be released by an environmental protection department needs to be approved in accordance with relevant state regulations, it may not be released without being approved.

Article 10. The government environmental information disclosed by environmental protection departments may not endanger state security, public security, economic security and social stability.

Chapter II. Open Government Environmental Information

Section 1 The Scope of Disclosure

Article 11. Environmental protection departments shall, within their scope of responsibilities and authorization, disclose on their own the following initiative government environmental information to the public:

- 1) Laws, regulations, rules, standards and other regulatory documents with respect to environmental protection;
- 2) Environmental protection plans;
- 3) Environmental quality status;
- 4) Environmental statistics and environmental investigation information;
- 5) Emergency plans for and forecast, occurrence and handling of sudden environmental events;
- 6) Information on allocation of total emission quotas of major pollutants and its implementation, information on issuance of pollutant emission permit and results of quantitative examination of comprehensive improvement of urban environment;
- 7) Information on type, volume and disposal of solid waste produced in medium to large cities;
- 8) Information on the acceptance of environmental impact assessment documents of construction projects, results of examination and approval of environmental impact assessment documents accepted and results of environmental protection inspection and approval upon completion of construction projects, items, basis, conditions, procedures and results of other environmental protection administrative licenses;
- 9) Items, basis, standards and procedures with respect to the collection of pollutant emission fees, amount of pollutant emission fees payable by and amount actually imposed on polluters and information on exemption, reduction and postponement of payment of pollutant emission fees;
- 10) Items, basis, standards and procedures of environmental protection administrative charges;
- 11) Letters, calls and complaints from the public about environmental issues or environment pollution caused by enterprises investigated to be true and their handling results;
- 12) Information on environmental administrative penalties, administrative reconsideration, administrative lawsuits and enforcement of administrative compulsory measures;
- 13) List of enterprises with severe pollution and whose emission of pollutants is greater than the national or local emission standard or whose total emission of pollutants is greater than the quota of total controlled emission determined by local people's government;
- 14) List of enterprises that have incurred serious or extraordinarily serious environmental pollution accidents or events, list of enterprises that refuse to enforce effective environmental administrative penalty decisions;
- 15) Results of examination and approval of environmental protection creation;
- 16) Information on the structure, responsibilities and method of contact of environmental protection department; and
- 17) Other environmental information that shall be disclosed according to laws, regulations and rules.

Environmental protection department shall prepare for that department an open government environmental information catalogue based on the scope referred to in the above paragraph.

Article 12. Environmental protection departments shall establish and perfect mechanisms to examine for secrecy of the government environmental information to be released, and clarify the examination procedures and responsibilities.

Prior to disclosing government environmental information, environmental protection departments shall conduct the examination in accordance with the provisions of the Law of the People's Republic of China on Safeguarding State Secrets and other laws, regulations and relevant state provisions.

Environmental protection departments may not disclose government environmental information that involves state secrets, trade secrets or individual privacy. However, government environmental information involving trade secrets or individual privacy may be disclosed by environmental protection departments with the consent of the rightholder(s) or if environmental protection departments believe that non-disclosure might give rise to a major impact on the public interest.

When an environmental protection department is unable to determine if certain government environmental information may be disclosed, it shall submit the matter for determination to relevant departments in charge or departments for safeguarding secrecy at the same level as the environmental protection department in accordance with laws, regulations and relevant state provisions.

Section 2 Methods of and Procedures for Disclosure

Article 13. Government environmental information to be disclosed on environmental protection departments' own initiative shall be disclosed by means of government websites, government gazettes, press conferences, as well as through newspapers and other publications, radio, television and other methods that make it convenient for the public to be informed.

Article 14. Government environmental information to be disclosed on environmental protection departments' own initiative shall be disclosed by the environmental protection departments within 20 business days from the date the information is formed or changed. If laws or regulations have different provisions on the time period for disclosing government environmental information, those provisions shall be followed.

Article 15. Environmental protection departments shall compile and publish open government environmental information guides and open government environmental information catalogues, and update them in a timely manner.

Open government environmental information guides shall include such contents as the types of information, the system of cataloguing, the methods for obtaining information, and the name, office address, office hours, contact telephone number, fax number and email address of the office for open government environmental information work.

Open government environmental information catalogues shall include such contents as an index, name of information, a summary of the information contents, the date of creation and

disclosure of the information.

Article 16. Citizens, legal persons or other organizations shall request environmental protection departments to obtain government environmental information in accordance with Article 5 of these Measures by means of letter, fax, email or other written form. In the event that it is truly difficult for a requester to submit a request in written form, the requester may do so orally and the office for open government environmental information work of the environmental protection department shall fill out the request for open government environmental information on the requester's behalf.

Requests for open government environmental information shall include the following contents:

- 1) Name of the individual or organization making the request and the method of contact;
- 2) A description of the government environmental information requested to be disclosed; and
- 3) Requirements as to the format in which the requested government environmental information is to be supplied.

Article 17. Environmental protection departments shall reply to requests for open government environmental information respectively in accordance with the following circumstances:

- 1) If the requested information falls within the scope of disclosure, the requester shall be informed of the methods and channels for obtaining that government environmental information;
- 2) If the requested information does not fall into the scope of disclosure, the requester shall be informed that such information cannot be disclosed, together with an explanation of the reasons;
- 3) If, in accordance with the law, the requested information shall not be disclosed by that department or the requested government environmental information does not exist, the requester shall be informed of the situation and, if the agency that has the obligation to disclose that government environmental information can be determined, the requester shall be informed of the name of that administrative agency and the method to contact it; and
- 4) If the content of the requested information is not clear, the requester shall be notified to amend and supplement the request.

Article 18. Environmental protection departments shall reply to the requests within 15 business days from receiving a request. If the environmental protection departments can not reply within 15 business days, the time limit for replying to a request may be extended upon the agreement of the responsible person in charge of the office for open government environmental information work and the requester shall be notified in writing. The maximum extension of the time limit for replying to a request may not exceed 15 business days.

Chapter III. Open Enterprise Environmental Information

Article 19. Enterprises are encouraged by the State to voluntarily disclose the following enterprise environmental information:

- 1) Their environmental protection guidelines, annual environmental protection objectives and achievements;
- 2) Their total annual resource consumption;
- 3) Information on their environmental protection investment and environmental technology development;
- 4) Type, volume and content of pollutants discharged by them and where the pollutants are discharged into;
- 5) Information on the construction and operation of their environmental protection facilities;
- 6) Information on the handling and disposal of waste generated from their production, information on recycling and comprehensive use of waste products;
- 7) Voluntary agreement entered into with environmental protection departments for environment improvement behavior;
- 8) Information on their performance of social responsibilities; and
- 9) Other environmental information voluntarily disclosed by them.

Article 20. Enterprises included in the list referred to in item 13 of the first paragraph of Article 11 of these Measures shall disclose to the public the following information:

- 1) Their name, address and legal representative;
- 2) Name of major pollutants, method, content and total volume of emission, information on emission that has surpassed the standards or total emission that has surpassed the prescribed limits;
- 3) Information on the construction and operation of their environmental protection facilities; and
- 4) Emergency plans for sudden environmental pollution accidents.

Enterprises shall not refuse to disclose environmental information referred to in the above paragraph under the excuse of confidentiality of trade secrets.

Article 21. Enterprises that disclose environmental information to the public in accordance with Article 20 of these Measures shall, within 30 days after the environmental protection department publicizes the name list, release their environmental information on the major media of the place where they are located and file for record the environmental information so disclosed with the environmental protection department of the place where they are located.

Environmental protection departments shall have the right to verify the environmental information released by enterprises.

Article 22. Enterprises that voluntarily disclose environmental information in accordance with Article 19 of these Measures may release to the public their environmental information on the media, internet or by other means or in the form of disclosure of their annual environmental reports.

Article 23. Environmental protection departments may grant the following awards to enterprises that voluntarily disclose information on their environmental behaviour and comply with environmental protection laws and regulations in an exemplary way:

- 1) To be publicly cited on major local media;
- 2) To be given priority in the arrangement of projects with specific environmental protection funds in accordance with relevant state regulations;
- 3) To be given priority in the recommendation of clean production exemplary projects or other exemplary projects with subsidy from the State in accordance with relevant state regulations; and/or
- 4) Other rewarding measures provided for by the State.

Chapter VI. Supervision and Responsibilities

Article 24. Environmental protection departments shall establish and perfect inspection, social appraisal and accountability systems for open government environmental information work to carry out periodic inspection and appraisal of open government environmental information work.

Article 25. Environmental protection departments shall publish their annual reports on open government environmental information work before March 31 each year.

The annual report on open government environmental information work shall include the following contents:

- 1) Information on disclosing government environmental information on the environmental protection department's own initiative;
- 2) Information on disclosing government environmental information upon request and of requests for government environmental information that are denied;
- 3) Information on requests for administrative reconsideration and filing of administrative lawsuits in respect of open government environmental information;
- 4) The main problems existing in open government environmental information work and the information on improvements thereof; and
- 5) Other items that need to be reported.

Article 26. If citizens, legal persons or other organizations believe an environmental protection department has failed to fulfill, in accordance with the law, its obligations in respect of open government environmental information, they may report it to the higher level environmental protection department. The environmental protection department that receives the report shall urge the environmental protection department at the lower level to perform its obligations in respect of open government environmental information in accordance with laws.

If citizens, legal persons or other organizations believe a specific administrative action of an environmental protection department in its open government environmental information work has infringed their lawful rights and interests, they may, in accordance with the law, apply for administrative reconsideration or file an administrative lawsuit.

Article 27. If an environmental protection department violates the provisions of these Measures and has engaged in any one of the following behaviors, the environmental protection department at the next higher level shall order it to correct the situation. If the circumstances are serious, administrative penalties shall be imposed in accordance with the law on the principal person(s) who are directly responsible for the violation, as well as other persons who are directly responsible for the violation.

- 1) Failure to fulfill, in accordance with the law, open government environmental information obligations;
- 2) Failure to timely update the contents of government environmental information, open government environmental information guide and open government environmental information catalogue;
- 3) Collecting fees in violation of provisions in the course of open government environmental information;
- 4) Providing government environmental information as a paid service through other organizations or individuals;
- 5) Disclosing government environmental information that shall not be disclosed; or
- 6) Other actions that violate the provisions of these Measures.

Article 28. If enterprises with serious pollution and whose emission of pollutants is greater than the national or local emission standards or whose total emission of pollutants is greater than the quota of total controlled emission determined by local people's government violate Article 20 of these Measures by failing to publish or failing to publish according to the prescribed requirements information on their emission of pollutants, the environmental protection departments of the local people's governments at the county level and above may impose a fine of not more than RMB 100,000 and publish such information in accordance with the Law of the People's Republic of China on the Promotion of Clean Production.

Chapter V. Supplementary Regulation

Article 29. These Measures shall come into effect as of May 1, 2008.