

附件 1

Annex 1

环境污染强制责任保险管理办法

Measures for the administration of Compulsory Liability Insurance for environmental pollution

(征求意见稿)

(draft for comments)

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第一章 总 则

General Provisions

第一条 （立法目标）

Legislative Objectives

为完善环境污染损害赔偿机制，在环境高风险领域建立环境污染强制责任保险制度，根据《中华人民共和国环境保护法》《中华人民共和国保险法》《中华人民共和国侵权责任法》，党中央、国务院印发的《生态文明体制改革总体方案》以及《关于构建绿色金融体系的指导意见》（银发〔2016〕228号）有关规定，制定本办法。

In order to improve the compensation mechanism for environmental pollution damage, a compulsory liability insurance system for environmental pollution shall be established in the field of high environmental risk. According to the Environment in the People's Republic of China Law, the Insurance Law of the People's Republic of China and the Tort Liability Law of the People's Republic of China, these measures are formulated in accordance with the relevant provisions of the overall plan for the reform of the system of ecological civilization and the guiding opinions on the establishment of a green financial system (no. 228[2016]) issued by the CPC Central Committee and the State Council.

第二条 (定义)

(definition)

本办法所称环境污染强制责任保险,是指以从事环境高风险生产经营活动的企业事业单位或其他生产经营者因其污染环境导致损害应当承担的赔偿责任为标的的强制性保险。

Compulsory liability insurance for environmental pollution as mentioned in these measures, the compulsory insurance is defined as the liability for compensation for damage caused by environmental pollution of enterprises, institutions or other production and business operators engaged in high-risk environmental production and business activities.

第三条 (适用范围)

(scope of application)

在中华人民共和国境内从事环境高风险生产经营活动的企业事业单位或其他生产经营者(以下简称环境高风险企业),应当投保环境污染强制责任保险。

Enterprises and institutions or other production and business operators engaged in high-risk environmental production and business activities within the territory of the People's Republic of China (hereinafter referred to as high-risk Environmental Enterprises) shall take out compulsory liability insurance for environmental pollution.

承保环境污染强制责任保险的商业性保险机构(以下简称保险公司)和互助性保险机构应当遵守本办法。

Commercial Insurance Institutions (hereinafter referred to as insurance companies) and mutual insurance institutions undertaking compulsory liability insurance for environmental pollution shall abide by these measures.

第四条 （监督管理机构）

(Supervisory Authority)

国务院保险监督管理机构依法对保险公司的环境污染强制责任保险业务实施监督管理。

The Insurance Regulatory Authority under the State Council shall, in accordance with law, supervise and administer the compulsory liability insurance business of insurance companies for environmental pollution.

国务院环境保护主管部门依法对环境高风险企业参加环境污染强制责任保险的情况实施监督检查。

The Competent Environmental Protection Department under the State Council shall, in accordance with law, supervise and inspect the participation of high-risk Environmental Enterprises in compulsory liability insurance for environmental pollution.

地方各级环境保护主管部门应当依法监督检查本行政区域内环境高风险企业参加环境污染强制责任保险的情况。

The competent local departments for environmental protection at various levels shall, in accordance with the law, supervise and inspect the participation of enterprises with high environmental risks in their respective administrative areas in compulsory liability insurance for environmental pollution.

第二章 投保与承保

Insurance and underwriting

第五条 （强制投保范围）

(compulsory coverage)

具有以下情形之一的，属于本办法第二条所称环境高风险生产经营活动。

Under any of the following circumstances, the enterprise belongs to the production and operation activities with high environmental risk as mentioned in article 2 of these measures.

（一）从事石油和天然气开采，基础化学原料制造、合成材料制造，化学药品原料药制造，Ⅲ类及以上高风险放射源的移动探伤、测井；

(1) engaged in oil and gas exploration, basic chemical raw material manufacturing, synthetic material manufacturing, pharmaceutical raw material manufacturing, mobile flaw detection and logging of high-risk Radioactive Sources of category III and above;

（二）收集、贮存、利用、处置危险废物；

(II) collection, storage, utilization and disposal of hazardous waste;

（三）建设或者使用尾矿库；

(3) construction or use of tailings ponds

（四）经营液体化工码头、油气码头；

(4) operating liquid chemical terminals and oil and gas terminals;

（五）生产、储存、使用、经营、运输《突发环境事件风险物质及临界量清单》（环境保护部印发的《企业突发环境事件风险评估指南（试行）》（环办〔2014〕34号）附录B）所列物质并且达到或者超过临界量；

(V) production, storage, use, operation and transport of substances listed in the list of substances and critical quantities in case of environmental emergencies (Appendix B of the guidelines for risk assessment of environmental emergencies for enterprises (trial implementation) issued by the Ministry of Environmental Protection (No. 34[2014] of the Environmental Affairs Office)) and reaching or exceeding the critical mass;

（六）生产《环境保护综合名录（2015年版）》（环境保护部印发的《关于提供环境保护综合名录（2015年版）的函》（环

办函〔2015〕2139号)附件)所列具有高环境风险特性的产品;

(VI) production of products with high environmental risk characteristics listed in the comprehensive list of environmental protection (2015 edition)(annex to the letter on provision of the comprehensive list of environmental protection (2015 edition) issued by the Ministry of Environmental Protection (Ejo letter no. 2139[2015]);

(七) 从事铜、铅锌、镍钴、锡、锑冶炼, 铅蓄电池极板制造、组装, 皮革鞣制加工, 电镀, 或生产经营活动中使用含汞催化剂生产氯乙烯、氯碱、乙醛、聚氨酯等。

(7) smelting of copper, lead and zinc, nickel and cobalt, tin and antimony, manufacture and assembly of lead-acid battery plates, tanning and processing of leather, electroplating, or production and operation of vinyl chloride, chlor-alkali, Acetaldehyde, polyurethane, etc. Using mercury-containing catalysts.

(八) 国务院规定或者国务院授权环境保护部会同保监会规定应当投保环境污染强制责任保险的其他情形。

(8) other circumstances under which the State Council or the State Council authorizes the Ministry of Environmental Protection, in conjunction with the CIRC, to provide compulsory liability insurance for environmental pollution.

2005 年以来发生过特别重大、重大或者较大突发环境事件的企业也应当投保环境污染强制责任保险。

Enterprises that have had especially major, major or major environmental emergencies since 2005 shall also take out compulsory liability insurance for environmental pollution.

第六条 (保险责任范围)

(Insurance Coverage)

环境污染强制责任保险的保险责任, 包括:

The Insurance Liabilities of the compulsory liability insurance for environmental pollution include:

(一) 第三者人身损害。环境高风险企业因突发环境事件或

者生产经营过程中污染环境，导致第三者生命、健康、身体遭受侵害，造成人体疾病、伤残、死亡等，应当承担的赔偿责任。

(1) personal injury to a third party. Environmental High-risk enterprises shall be liable for compensation for environmental pollution caused by sudden environmental incidents or in the course of production and operation, resulting in the infringement of the life, health and body of the third party, as well as human disease, injury, disability and death.

(二) 第三者财产损害。环境高风险企业因突发环境事件或者在生产经营过程中污染环境，直接造成第三者财产损毁或价值减少而应当承担的赔偿责任。

(2) third party property damage. Environmental High-risk enterprises due to environmental emergencies or in the process of production and operation of environmental pollution, directly caused the third party property damage or value reduction and should bear the liability for compensation.

(三) 生态环境损害。环境高风险企业发生较大、重大或者特别重大突发环境事件，导致生态环境损害而应当承担的赔偿责任，包括生态环境修复费用，生态环境修复期间服务功能的损失和生态环境功能永久性损害造成的损失，以及其他必要合理费用。

(3) ecological and environmental damage. The liability for compensation for damage to the ecological environment due to major, major or especially major environmental emergencies that occur in enterprises with high environmental risks, including the costs of ecological environment restoration, the loss of service functions during the restoration of the ecological environment and the loss caused by permanent damage to the ecological environment functions, as well as other necessary and reasonable costs.

(四) 应急处置与清污费用。环境高风险企业、第三者或者政府有关部门、公益组织等机构, 为避免或者减少第三者人身损害、财产损失或者生态环境损害而支出的必要、合理的应急处置费用、污染物清理费用。

(4) expenses for emergency disposal and decontamination. Enterprises with high environmental risks, third parties or relevant government departments, public welfare organizations, etc. The necessary and reasonable expenses for emergency disposal and the expenses for cleaning up pollutants incurred in order to avoid or reduce the third party's personal injury, property loss or damage to the ecological environment.

第七条 (统一条款与费率监管)

(uniform terms and rates regulation)

环境污染强制责任保险实行统一的保险条款、基础保险费率及其调节系数。

The compulsory liability insurance for environmental pollution shall have uniform insurance clauses, basic insurance premium rates and their adjustment factors.

环境污染强制责任保险条款与费率的审批根据《中华人民共和国保险法》以及其他相关法律法规的规定实施。

The examination and approval of the terms and rates of compulsory liability insurance for environmental pollution shall be conducted in accordance with the provisions of the Insurance Law of the People's Republic of China and other relevant laws and regulations.

第八条 (费率浮动)

(rate fluctuations)

环境污染强制责任保险根据被保险人的环境风险变化情况

实行浮动费率。

The compulsory liability insurance for environmental pollution shall be subject to a floating rate in accordance with the change of the insured's environmental risk.

第九条 （责任限额）

(limitation of liability)

环境污染强制责任保险根据环境高风险企业的不同类型实行不同的责任限额，环境高风险企业应当按照责任限额投保环境污染强制责任保险。

Compulsory liability insurance for environmental pollution shall be subject to different liability limits according to different types of high-risk environmental enterprises, which shall apply for compulsory liability insurance for environmental pollution.

第十条 （保险合同）

(insurance contract)

环境高风险企业投保环境污染强制责任保险，应当与保险公司依法订立环境污染强制责任保险合同（以下简称保险合同）。

An enterprise with high environmental risk shall conclude a contract of compulsory liability insurance for environmental pollution with the Insurance Company according to Law (hereinafter referred to as the insurance contract) .

环境高风险企业与保险公司订立保险合同时，双方应当依照《中华人民共和国保险法》的有关规定履行告知和说明义务。

When an environmental high-risk enterprise enters into an insurance contract with an insurance company, both parties shall fulfill the obligation of notification and explanation in accordance with the

relevant provisions of the Insurance Law of the People's Republic of China.

保险合同订立后，保险公司应当书面通知投保的环境高风险企业所在地的环境保护主管部门。

After the conclusion of the insurance contract, the Insurance Company shall notify in writing the competent department of Environmental Protection in the locality of the environment-high-risk enterprise under insurance.

第十一条 （承保）

(underwriting)

环境高风险企业向保险公司投保环境污染强制责任保险，保险公司无正当理由不得拒绝或者拖延承保。

An environmental high-risk enterprise shall apply to an Insurance Company for compulsory liability insurance for environmental pollution, and the Insurance Company shall not refuse or delay the insurance without justifiable reasons.

第十二条 （通知义务）

(notification obligation)

环境高风险企业投保时，应当向保险公司如实告知其影响环境风险情况的重要事项。环境高风险企业的环境风险显著增加时，应当及时通知保险公司，保险公司可以按照保险合同约定增加保险费。

When an environmental high-risk enterprise applies for insurance, it shall truthfully inform the insurance company of the important matters affecting the environmental risk. When the environmental risk of an enterprise with high environmental risk increases significantly, the

insurance company shall be notified in time, and the insurance company may increase the premium as agreed in the insurance contract.

环境高风险企业未履行前款规定的通知义务的，因其环境风险显著增加而发生的保险事故，保险人不承担赔偿保险金的责任。

If an enterprise with high environmental risk fails to fulfill the notification obligation stipulated in the preceding paragraph, the insurer shall not be liable for the compensation of the insurance money in case of an insured accident arising from a significant increase in its environmental risk.

第十三条 （合同解除）

(contract terminated)

除符合《中华人民共和国保险法》规定的情形外，保险合同成立后，保险公司不得解除。

An insurance company may not terminate an insurance contract after it has been established, except in cases that conform to the provisions of the Insurance Law of the People's Republic of China.

环境高风险企业对重要事项未履行如实告知义务，保险公司解除合同前，应当书面通知环境高风险企业，环境高风险企业应当自收到通知之日起5日内履行如实告知义务；环境高风险企业在上述期限内履行如实告知义务的，保险公司不得解除保险合同。

If an environmental high-risk enterprise fails to fulfill the obligation of telling the truth about important matters, the Insurance Company shall notify the environmental high-risk enterprise in writing before terminating the contract. An environmental high-risk enterprise shall fulfill the obligation of telling the truth within 5 days from the

date of receipt of the notification; If an environmental high-risk enterprise fulfils the obligation of telling the truth within the above-mentioned period, the Insurance Company shall not terminate the insurance contract.

第十四条 （合同解除通知环保部门）

Notify the Environmental Protection Department of the termination of the contract

保险合同解除的，保险公司应当收回保险单，并书面通知投保的环境高风险企业所在地环境保护主管部门。

If the insurance contract is terminated, the Insurance Company shall withdraw the Insurance Policy and notify in writing the competent department of Environmental Protection in the locality of the insured enterprise with high environmental risk.

第十五条 （保险期间与续保）

(insurance period and renewal)

环境污染强制责任保险的保险期间为 1 年。

The period of compulsory liability insurance for environmental pollution is one year.

环境高风险企业应当在保险合同期满前及时续保。

An enterprise with high environmental risk shall renew its insurance before the expiration of the insurance contract.

第十六条 （投保方式）

(mode of Insurance)

环境高风险企业投保环境污染强制责任保险，可以依法自主投保，也可以有组织统一投保。

ENVIRONMENTAL HIGH-RISK ENTERPRISES MAY TAKE OUT compulsory liability insurance for environmental pollution, either independently or in an organized and unified manner.

第三章 风险评估与排查

Risk Assessment and screening

第十七条 （风险评估）

(Risk Assessment)

保险公司承保环境污染强制责任保险，应当在承保前开展环境风险评估，并出具环境风险评估报告。环境风险评估报告是保险合同的组成部分。

Before undertaking compulsory liability insurance for environmental pollution, an insurance company shall conduct an environmental risk assessment and issue an environmental risk assessment report. The Environmental Risk Assessment report is an integral part of the insurance contract.

保险公司开展环境风险评估的，环境高风险企业应当积极配合。

Where an insurance company conducts an environmental risk assessment, the environmental high-risk enterprise shall actively cooperate.

第十八条 （投保后风险排查）

Post-insurance risk screening

保险合同应当约定在合同有效期内开展环境安全隐患排查的相关事项。

The insurance contract shall stipulate the relevant matters

concerning the investigation of potential environmental safety hazards during the term of the contract.

保险公司和环境高风险企业可以共同委托环境风险评估机构或者共同组建专家团队，定期或者不定期地对环境高风险企业的环境安全隐患进行排查，环境高风险企业应当积极配合。发现环境安全隐患后，环境高风险企业应当采取有效措施，积极整改。

An Insurance Company and an environmental high-risk enterprise may jointly entrust an environmental risk assessment agency or jointly set up an expert team to regularly or irregularly check the potential environmental safety hazards of an environmental high-risk enterprise. Enterprises with high environmental risks should actively cooperate. After discovering the hidden danger of environmental safety, the environmental high-risk enterprises should take effective measures to rectify it.

第四章 赔 偿

Indemnify

第十九条 （保险责任触发）

(insurance triggered)

环境高风险企业在保险合同有效期内因污染环境造成损害，受害者在保险合同有效期届满后三年内向环境高风险企业提起环境损害赔偿请求，由环境高风险企业依法承担赔偿责任的，保险公司依法在环境污染强制责任保险责任限额内予以赔偿。

Where an environmental high-risk enterprise causes damage due to pollution of the environment within the validity period of the insurance contract, the victim shall, within three years after the expiration of

the limited period of the insurance contract, file a claim for compensation for environmental damage with the environmental high-risk enterprise, where an enterprise with high environmental risk is liable for compensation according to law, the Insurance Company shall pay compensation within the limit of compulsory liability insurance for environmental pollution according to law.

第二十条 （除外责任）

(excluding liability)

有下列情形之一的，保险公司不予赔偿：

The Insurance Company shall not make compensation under any of the following circumstances:

（一）不可抗拒的自然灾害导致的损害。完全属于不可抗拒的自然灾害，环境高风险企业经过及时采取合理措施，仍然不能避免污染环境致使第三者遭受的损害。

(1) damage caused by an irresistible natural disaster. It is an irresistible natural disaster. After taking reasonable measures in time, enterprises with high environmental risk can not avoid the damage to the third party caused by environmental pollution.

（二）环境污染犯罪直接导致的损害。环境高风险企业构成污染环境犯罪被追究刑事责任的，其犯罪行为直接引发环境污染致使第三者遭受的损害。

(2) damage directly caused by the crime of environmental pollution. If a high-risk environmental enterprise constitutes a crime of environmental pollution and is held criminally responsible, its criminal act directly causes environmental pollution to cause damage to the third party.

（三）故意采取通过暗管、渗井、渗坑、灌注等逃避监管的

方式违法排放污染物直接导致的损害。

(3) damage directly caused by the illegal discharge of pollutants by means of intentionally evading regulation by means of hidden pipes, seepage wells, seepage pits, irrigation, etc. .

(四) 环境安全隐患未整改直接导致的损害。

(4) damage directly caused by failure to rectify potential environmental safety hazards.

(五) 环境保护部和保监会确定的可以除外的其他损害。

(5) other damages other than those determined by the Ministry of Environmental Protection and the CIRC.

第二十一条 (保险事故勘查)

(Insurance Accident Investigation)

环境高风险企业在保险合同有效期内因污染环境造成损害，保险公司接到环境高风险企业或者受害者通知后，应当及时组织环境损害鉴定评估机构或者专家团队开展事故勘查、定损和责任认定，环境高风险企业应当积极予以配合。

If an environmental high-risk enterprise causes damage to the environment due to pollution during the term of the insurance contract, the Insurance Company shall, after receiving notification from the environmental high-risk enterprise or the victim, an environmental damage assessment institution or a team of experts shall be promptly organized to carry out accident investigation, damage assessment and liability determination, and an environmental high-risk enterprise shall actively cooperate.

第二十二条 (保险金给付请求)

(insurance payment request)

环境高风险企业按照保险合同请求保险公司赔偿保险金时，

应当向保险公司提供其所能提供的与确认伤害或者损失的原因、损失程度等有关的证明和资料。

When an enterprise with high environmental risk requests the insurance company to compensate for the insurance premium according to the insurance contract, it shall provide the insurance company with the relevant certificates and materials that it can provide to confirm the cause of the injury or loss, the degree of the loss, etc. .

保险公司按照保险合同的约定,认为有关的证明和资料不完整的,应当及时一次性通知环境高风险企业补充提供。

In accordance with the stipulations of the insurance contract, if the insurance company considers that the relevant certificates and materials are incomplete, it shall promptly give a one-time notice to the environmental high-risk enterprise to supplement and provide it.

环境高风险企业怠于向保险公司请求赔偿保险金的,受害者也可以就其应获赔偿部分直接向保险公司请求赔偿保险金。

If an environmental high-risk enterprise fails to claim compensation from the Insurance Company, the victim may also claim compensation directly from the Insurance Company for the portion of the compensation due to him.

第二十三条 (保险金给付)

(insurance paid)

环境高风险企业依法支付赔偿款后,保险公司可以向环境高风险企业赔偿保险金。

After the environmental high-risk enterprise pays the compensation according to law, the Insurance Company may compensate the insurance money to the environmental high-risk enterprise.

保险公司也可以直接向受害人赔偿保险金。

The insurance company can also compensate the victim directly for

the insurance money.

第二十四条 （事故核定）

(accident verified)

保险公司收到赔偿保险金的请求和相关证明、资料后，应当及时做出核定；情形复杂的，应当在 30 日内作出核定，但保险合同另有约定的除外。保险公司应当将核定结果通知环境高风险企业以及受害者；对属于保险责任的，在与环境高风险企业达成赔偿保险金的协议后 10 日内，履行赔偿保险金义务。

An Insurance Company shall, upon receipt of the claim for compensation insurance money and relevant certificates and materials, make an examination and approval in a timely manner; if the circumstances are complicated, the examination and approval shall be made within 30 days, unless otherwise agreed upon in the insurance contract. The Insurance Company shall notify the environmental high-risk enterprise and the victim of the result of the Verification and verification; for those who are covered by the insurance, within 10 days after the agreement on the compensation insurance money is reached with the Environmental High-risk Enterprise, the Insurance Company shall fulfill the obligation of compensation insurance money.

对损害责任认定较为清晰的第三方人身伤亡或者财产损失，保险公司应当积极预付赔款，加快理赔进度。

For the third party's personal injury or death or property loss, the Insurance Company shall pay the compensation in advance actively to speed up the progress of the claim.

第二十五条 （事故鉴定）

Accident Identification

保险公司、环境高风险企业或者受害者可以委托环境损害鉴

定评估机构或者专家团队，出具损害鉴定评估意见，作为保险理赔的重要参考依据。

An Insurance Company, an environmental high-risk enterprise or a victim may entrust an environmental damage appraisal and assessment institution or a team of experts to issue an appraisal and assessment opinion on the damage, which shall serve as an important reference basis for insurance claims.

已被环境民事公益诉讼、环境侵权民事诉讼生效判决认定的事实，可以直接作为理赔依据，不需要另行进行鉴定评估。

The fact that has been confirmed by the effective judgment of Environmental Civil Public Interest Litigation and Environmental Tort Civil Litigation can be used as the basis of compensation directly.

保险公司不得要求环境高风险企业或者受害者提供环境保护主管部门出具的环境污染事故、损害等文件或者资料，不得以此作为保险事故核定或者理赔的前提条件。

An insurance company may not require a high-risk environmental enterprise or a victim to provide such documents or materials as environmental pollution accidents or damages issued by the Competent Department of Environmental Protection This shall not be taken as a prerequisite for the verification of insurance accidents or the settlement of claims.

第二十六条 （纠纷处理）

(Dispute Resolution)

环境高风险企业与保险公司对赔偿有争议的，可以依法申请仲裁或者向人民法院提起诉讼。

If an environmental high-risk enterprise disputes compensation with an insurance company, it may apply for arbitration or file a lawsuit with the People's Court in accordance with the law.

第五章 罚 则

Penalty

第二十七条 （对应保未保的惩处措施）

(punishment for failure to insure)

对于应当投保，未按照规定投保或者续保的环境高风险企业，由环境高风险企业所在地的环境保护主管部门责令限期投保或者续保，并处3万元以下罚款。

For high-risk environmental enterprises that should be insured but fail to take out insurance or renew insurance in accordance with the relevant provisions, the competent department of Environmental Protection in the locality of the high-risk environmental enterprise shall order them to take out insurance or renew insurance within a time limit and impose a fine of not more than 30,000 yuan.

第六章 附 则

By-laws

第二十八条 （解释机构）

(Interpretive Agency)

本办法由环境保护部与保监会负责解释。

These measures shall be interpreted by the Ministry of Environmental Protection and the CIRC.

第二十九条 （实施时间）

(implementation time)

本办法自 年 月 日起施行。

These measures shall come into force as of January, .