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# 中华人民共和国海岛保护法

# Island Protection Law of the People's Republic of China

中华人民共和国主席令第 二十二 号

Order of the President of the People's Republic of China No. 22

《中华人民共和国海岛保护法》已由中华人民共和国第十一届全国人民代表大会常务委员会第十二次会议于2009年12月26日通过，现予公布，自2010年3月1日起施行。

The Law of the People's Republic of China on the Protection of Sea Islands, which was adopted at the 12th session of the Standing Committee of the 11th National People's Congress of the People's Republic of China on December 26, 2009, is hereby promulgated and shall come into effect on March 1, 2010.

中华人民共和国主席 胡锦涛

President Hu Jintao

2009年12月26日

December 26, 2009

中华人民共和国海岛保护法

Island Protection Law of the People's Republic of China

（２００９年１２月２６日第十一届全国人民代表大会常务委员会第十二次会议通过）

(Adopted at the 12th Meeting of the Standing Committee of the 11th National People's Congress on 26 December 2009)

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第一章 总 则

Chapter 1 General Provisions

第一条   为了保护海岛及其周边海域生态系统，合理开发利用海岛自然资源，维护国家海洋权益，促进经济社会可持续发展，制定本法。

Article 1 The Law is formulated for the purpose of protecting the ecosystems of islands and their surrounding waters, rationally developing and utilizing natural resources of islands, safeguarding the maritime rights and interests of the State, and promoting the sustainable economic and social development.

第二条   从事中华人民共和国所属海岛的保护、开发利用及相关管理活动，适用本法。

Article 2 This Law shall be applicable to the protection, development, utilization and related administrative activities regarding sea islands that belong to the People's Republic of China.

本法所称海岛，是指四面环海水并在高潮时高于水面的自然形成的陆地区域，包括有居民海岛和无居民海岛。

For the purposes of this Law, the term "islands" shall refer to naturally formed land areas that are surrounded by sea water and are above the surface of the water at high tide, including inhabited islands and uninhabited islands.

本法所称海岛保护，是指海岛及其周边海域生态系统保护，无居民海岛自然资源保护和特殊用途海岛保护。

For the purpose of the Law, the term "the protection of sea islands" shall refer to the protection of the ecosystems of sea islands and their surrounding waters, protection of the natural resources of uninhabited sea islands, and protection of the sea islands designated for special purposes.

第三条   国家对海岛实行科学规划、保护优先、合理开发、永续利用的原则。

Article 3 The State shall apply the principles of scientific planning, protection as priority, reasonable development and sustainable utilisation towards islands.

国务院和沿海地方各级人民政府应当将海岛保护和合理开发利用纳入国民经济和社会发展规划，采取有效措施，加强对海岛的保护和管理，防止海岛及其周边海域生态系统遭受破坏。

The State Council and local people's governments at all levels of coastal regions shall incorporate the protection and reasonable opening up and utilisation of islands into their national economic and social development plans, adopt effective measures to strengthen the protection and administration of islands and prevent the ecosystems of islands and their surrounding waters from being damaged.

第四条   无居民海岛属于国家所有，国务院代表国家行使无居民海岛所有权。

Article 4 Uninhabited sea islands shall be owned by the State, and the State Council shall exercise the ownership of Uninhabited sea islands on behalf of the State.

第五条   国务院海洋主管部门和国务院其他有关部门依照法律和国务院规定的职责分工，负责全国有居民海岛及其周边海域生态保护工作。沿海县级以上地方人民政府海洋主管部门和其他有关部门按照各自的职责，负责本行政区域内有居民海岛及其周边海域生态保护工作。

Article 5 The competent marine department of the State Council and other relevant departments of the State Council shall, in accordance with the law and the division of duties prescribed by the State Council, be responsible for the nationwide ecological protection of inhabited islands and their surrounding waters. Competent marine departments of local people's governments at or above the county level along the coastal area and other relevant departments shall, according to their respective functions and duties, be responsible for the ecological protection of inhabited islands and their surrounding waters within their respective administrative areas.

国务院海洋主管部门负责全国无居民海岛保护和开发利用的管理工作。沿海县级以上地方人民政府海洋主管部门负责本行政区域内无居民海岛保护和开发利用管理的有关工作。

The competent marine department of the State Council shall be responsible for the administration over the protection, opening up and utilisation of uninhabited islands nationwide. Competent marine departments of local people's governments at or above the county level of coastal regions shall be responsible for the relevant work of administering the protection, opening up and utilisation of uninhabited islands within their respective administrative regions.

第六条   海岛的名称，由国家地名管理机构和国务院海洋主管部门按照国务院有关规定确定和发布。

Article 6 The names of islands shall be determined and announced by the State authority for place names and the competent marine department of the State Council according to the relevant provisions of the State Council.

沿海县级以上地方人民政府应当按照国家规定，在需要设置海岛名称标志的海岛设置海岛名称标志。

Local people's governments at or above the county level along the coastal area shall, pursuant to state regulations, set name markers in sea islands where name markers are needed.

禁止损毁或者擅自移动海岛名称标志。

Damaging or moving signs showing the names of islands without authorization shall be prohibited.

第七条   国务院和沿海地方各级人民政府应当加强对海岛保护的宣传教育工作，增强公民的海岛保护意识，并对在海岛保护以及有关科学研究工作中做出显著成绩的单位和个人予以奖励。

Article 7 The State Council and local people's governments at all levels of coastal regions shall strengthen publicity and education on the protection of sea islands, enhance the awareness of citizens on the protection of sea islands, and reward entities and individuals that have made remarkable achievements in the protection and relevant scientific research of sea islands.

任何单位和个人都有遵守海岛保护法律的义务，并有权向海洋主管部门或者其他有关部门举报违反海岛保护法律、破坏海岛生态的行为。

All entities and individuals shall comply with the legal obligations to protect sea islands, and shall have the right to report to the competent administrative departments of marine affairs or other relevant departments acts that are in violation of the laws on the protection of sea islands or that damage the ecology of sea islands.

第二章 海岛保护规划

Chapter 2 Planning for the Protection of Sea Islands

第八条   国家实行海岛保护规划制度。海岛保护规划是从事海岛保护、利用活动的依据。

Article 8 The State shall implement the system of island protection planning. The planning for the protection of sea islands is used as the basis for the protection and utilization activities of sea islands.

制定海岛保护规划应当遵循有利于保护和改善海岛及其周边海域生态系统，促进海岛经济社会可持续发展的原则。

The formulation of the planning for the protection of sea islands shall be conducive to the protection and improvement of the ecosystems of sea islands and their surrounding waters and promote the sustainable economic and social development of sea islands.

海岛保护规划报送审批前，应当征求有关专家和公众的意见，经批准后应当及时向社会公布。但是，涉及国家秘密的除外。

Prior to the submission for examination and approval of the planning for the protection of sea islands, the opinions of relevant experts and the public shall be solicited and the planning shall be promptly announced to the public upon approval. However, those involving state secrets shall be excluded.

第九条   国务院海洋主管部门会同本级人民政府有关部门、军事机关，依据国民经济和社会发展规划、全国海洋功能区划，组织编制全国海岛保护规划，报国务院审批。

Article 9 The competent administrative department of marine affairs of the State Council together with the relevant departments and military organs of the people's government at that level shall, according to the national economic and social development plan and the national marine functional zoning plan, organise the formulation of the national island protection plan which shall be submitted to the State Council for examination and approval.

全国海岛保护规划应当按照海岛的区位、自然资源、环境等自然属性及保护、利用状况，确定海岛分类保护的原则和可利用的无居民海岛，以及需要重点修复的海岛等。

The national planning for the protection of sea islands shall, in accordance with such natural attributes as the location, natural resources and environment of sea islands and the protection and utilization conditions thereof, determine the principle of classified protection of sea islands, uninhabited sea islands that are utilizable and sea islands whose restoration shall be focused upon, etc.

全国海岛保护规划应当与全国城镇体系规划和全国土地利用总体规划相衔接。

The national planning for the protection of sea islands shall be connected with the national planning of urban and town systems and the national overall planning of land use.

第十条   沿海省、自治区人民政府海洋主管部门会同本级人民政府有关部门、军事机关，依据全国海岛保护规划、省域城镇体系规划和省、自治区土地利用总体规划，组织编制省域海岛保护规划，报省、自治区人民政府审批，并报国务院备案。

Article 10 Competent marine departments of people's governments of provinces and autonomous regions along the coastal area shall, in conjunction with relevant departments of people's governments and military authorities at the same level, and in light of the national planning for the protection of sea islands, the provincial planning of urban and town systems and the overall planning of land use in provinces and autonomous regions, organize the preparation of the provincial planning for the protection of sea islands, submit the same to people's governments of provinces and autonomous regions for examination and approval, and report the same to the State Council for record-filing purposes.

沿海直辖市人民政府组织编制的城市总体规划，应当包括本行政区域内海岛保护专项规划。

The overall urban planning prepared under the organization of people's governments of municipalities directly under the Central Government along the coastal area shall include special planning for the protection of sea islands within their respective administrative regions.

省域海岛保护规划和直辖市海岛保护专项规划，应当规定海岛分类保护的具体措施。

The provincial planning for the protection of sea islands and the special planning for the protection of sea islands of municipalities directly under the Central Government shall provide for the specific measures for the classified protection of sea islands.

第十一条   省、自治区人民政府根据实际情况，可以要求本行政区域内的沿海城市、县、镇人民政府组织编制海岛保护专项规划，并纳入城市总体规划、镇总体规划；可以要求沿海县人民政府组织编制县域海岛保护规划。

Article 11 The people's government of a province or an autonomous region may, according to the actual situation, require the government of a coastal city, county, or town within that administrative region to organise the formulation of special plans of island protection and incorporate such special plans into the overall urban plans or overall town plans; and may require the government of a coastal county to organise the formulation of island protection plans for the county.

沿海城市、镇海岛保护专项规划和县域海岛保护规划，应当符合全国海岛保护规划和省域海岛保护规划。

The special planning for the protection of sea islands of coastal cities and towns as well as the planning for the protection of sea islands countywide shall conform to the national and provincial planning for the protection of sea islands.

编制沿海城市、镇海岛保护专项规划，应当征求上一级人民政府海洋主管部门的意见。

The opinions of the competent administrative department of marine affairs of the people's government at the next higher level shall be solicited for the formulation of the special plans of island protection of coastal cities and towns.

县域海岛保护规划报省、自治区人民政府审批，并报国务院海洋主管部门备案。

The planning for the protection of sea islands countywide shall be submitted to people's governments of provinces and autonomous regions for examination and approval and to the competent marine department of the State Council for record-filing purposes.

第十二条   沿海县级人民政府可以组织编制全国海岛保护规划确定的可利用无居民海岛的保护和利用规划。

Article 12 People's governments at the county level along the coastal area may organize the preparation of the planning for the protection and utilization of uninhabited sea islands that are determined as utilizable by the national planning for the protection of sea islands.

第十三条   修改海岛保护规划，应当依照本法第九条、第十条、第十一条规定的审批程序报经批准。

Article 13 The revision of the planning for the protection of sea islands shall be submitted for approval in accordance with the examination and approval procedures as specified in Article 9, Article 10 and Article 11 herein.

第十四条   国家建立完善海岛统计调查制度。国务院海洋主管部门会同有关部门拟定海岛综合统计调查计划，依法经批准后组织实施，并发布海岛统计调查公报。

Article 14 The State shall establish and improve the statistical survey system of sea islands. The competent marine department of the State Council shall, in conjunction with relevant departments, draft the comprehensive statistical survey plan of sea islands, organize the implementation thereof upon approval in accordance with the law and release the bulletin on the statistical survey of sea islands.

第十五条   国家建立海岛管理信息系统，开展海岛自然资源的调查评估，对海岛的保护与利用等状况实施监视、监测。

Article 15 The State shall establish a management information system of sea islands to carry out the investigation and assessment of natural resources of sea islands as well as the surveillance and monitoring of the protection and utilization of sea islands.

第三章 海岛的保护

Chapter 3 Protection of Islands

第一节 一般规定

Section 1 General Provisions

第十六条   国务院和沿海地方各级人民政府应当采取措施，保护海岛的自然资源、自然景观以及历史、人文遗迹。

Article 16 The State Council and local people's governments at all levels of coastal regions shall take measures to protect the natural resources, natural landscapes, and historical and cultural relics of islands.

禁止改变自然保护区内海岛的海岸线。禁止采挖、破坏珊瑚和珊瑚礁。禁止砍伐海岛周边海域的红树林。

It is prohibited to change the coastline of islands within nature reserves. The excavation and destruction of coral and coral reefs are prohibited. Cutting down mangrove forests in the waters surrounding islands shall be prohibited.

第十七条   国家保护海岛植被，促进海岛淡水资源的涵养；支持有居民海岛淡水储存、海水淡化和岛外淡水引入工程设施的建设。

Article 17 The State shall protect the vegetation cover on islands, promote the conservation of freshwater resources of islands; and shall support the construction of facilities for projects of freshwater storage, desalination and introduction of freshwater outside islands in inhabited islands.

第十八条   国家支持利用海岛开展科学研究活动。在海岛从事科学研究活动不得造成海岛及其周边海域生态系统破坏。

Article 18 The State shall support the utilisation of islands for conducting scientific research activities. Scientific research activities carried out on islands shall not cause damage to the ecosystems of islands and their surrounding waters.

第十九条   国家开展海岛物种登记，依法保护和管理海岛生物物种。

Article 19 The State shall carry out registration of island species, and protect and manage the island species in accordance with the law.

第二十条   国家支持在海岛建立可再生能源开发利用、生态建设等实验基地。

Article 20 The State shall support the establishment in sea islands of experimental bases for the development and utilization of renewable energy, ecological construction, etc.

第二十一条   国家安排海岛保护专项资金，用于海岛的保护、生态修复和科学研究活动。

Article 21 The State shall arrange special funds for the protection of sea islands for the purposes of the protection, ecological restoration and scientific research activities of sea islands.

第二十二条   国家保护设置在海岛的军事设施，禁止破坏、危害军事设施的行为。

Article 22 The State shall protect military facilities established in sea islands and prohibit behaviors of destroying and endangering military facilities.

国家保护依法设置在海岛的助航导航、测量、气象观测、海洋监测和地震监测等公益设施，禁止损毁或者擅自移动，妨碍其正常使用。

The State shall protect, in accordance with the law, such facilities for public benefits as facilities for navigation assistance, surveying, meteorological observation, marine monitoring and seismic monitoring that are established on islands, and prohibit the destruction or unauthorized removal that impedes the normal use thereof.

第二节 有居民海岛生态系统的保护

Section 2 Protection of the Ecosystem of Inhabited Islands

第二十三条   有居民海岛的开发、建设应当遵守有关城乡规划、环境保护、土地管理、海域使用管理、水资源和森林保护等法律、法规的规定，保护海岛及其周边海域生态系统。

Article 23 The opening up and development of inhabited islands shall comply with the provisions of the relevant laws and regulations on urban-rural planning, environmental protection, land administration, administration of the use of sea areas, protection of water resources and forests etc., so as to protect the ecosystems of islands and their surrounding waters.

第二十四条   有居民海岛的开发、建设应当对海岛土地资源、水资源及能源状况进行调查评估，依法进行环境影响评价。海岛的开发、建设不得超出海岛的环境容量。新建、改建、扩建建设项目，必须符合海岛主要污染物排放、建设用地和用水总量控制指标的要求。

Article 24 With regard to the development and construction of inhabited islands, investigation and assessment shall be conducted on the conditions of the land resources, water resources and energy of the islands and environmental impact assessment shall be carried out in accordance with the law. The opening up and development of an island shall not exceed its environmental capacity. New construction, reconstruction or expansion construction projects shall meet the requirements of the indicators as to the discharge of major pollutants, construction land and total water utilization in sea islands.

有居民海岛的开发、建设应当优先采用风能、海洋能、太阳能等可再生能源和雨水集蓄、海水淡化、污水再生利用等技术。

The development and construction of inhabited sea islands shall give priority to the use of renewable energy such as wind energy, ocean energy and solar energy and of technologies such as rainwater collection, desalination and sewage recycling.

有居民海岛及其周边海域应当划定禁止开发、限制开发区域，并采取措施保护海岛生物栖息地，防止海岛植被退化和生物多样性降低。

Zones in which development is prohibited and restricted shall be designated on inhabited islands and their surrounding waters; and measures shall be adopted to protect the habitats of island species to prevent degradation of island vegetation and decrease in biodiversity.

第二十五条   在有居民海岛进行工程建设，应当坚持先规划后建设、生态保护设施优先建设或者与工程项目同步建设的原则。

Article 25 Project construction carried out in inhabited islands shall adhere to the principles of construction after planning, giving priority to the construction of ecological protection facilities, or simultaneous construction thereof with construction projects.

进行工程建设造成生态破坏的，应当负责修复；无力修复的，由县级以上人民政府责令停止建设，并可以指定有关部门组织修复，修复费用由造成生态破坏的单位、个人承担。

Where ecological damage has been caused by project construction, restoration shall be carried out by the party subject to liability; where the party is unable to carry out the restoration, people's governments at or above the county level shall order the said party to cease construction, and may designate relevant departments to carry out the restoration whose costs shall be borne by the entity or individual causing the ecological damage.

第二十六条   严格限制在有居民海岛沙滩建造建筑物或者设施；确需建造的，应当依照有关城乡规划、土地管理、环境保护等法律、法规的规定执行。未经依法批准在有居民海岛沙滩建造的建筑物或者设施，对海岛及其周边海域生态系统造成严重破坏的，应当依法拆除。

Article 26 Construction of buildings or facilities in the beaches of inhabited islands shall be strictly restricted; where there is a real need for construction, it shall be carried out in accordance with the provisions of laws and regulations on urban and rural planning, land administration, environmental protection, etc. Buildings or facilities that are constructed on beaches of inhabited sea islands without approval in accordance with the law and cause serious damage to the ecosystem of sea islands and their surrounding waters shall be dismantled in accordance with the law.

严格限制在有居民海岛沙滩采挖海砂；确需采挖的，应当依照有关海域使用管理、矿产资源的法律、法规的规定执行。

The excavation of sea sand on beaches of inhabited islands shall be strictly restricted. Where the excavation is necessary, the provisions of the laws and regulations concerning the administration of the use of sea areas and mineral resources shall be observed.

第二十七条   严格限制填海、围海等改变有居民海岛海岸线的行为，严格限制填海连岛工程建设；确需填海、围海改变海岛海岸线，或者填海连岛的，项目申请人应当提交项目论证报告、经批准的环境影响评价报告等申请文件，依照《中华人民共和国海域使用管理法》的规定报经批准。

Article 27 Reclamation, enclosing the sea and other acts changing the coastline of inhabited islands shall be strictly restricted, and reclamation and linking up an island with another island or with the continent shall be strictly restricted. Where reclamation or enclosing the sea is necessary and thus the coastline of an island is changed, or where linking up an island with another island or with the continent with the continent is necessary, the applicant of such a project shall submit application documents such as the report on the deliberation of the project and the approved environmental impact assessment report to the higher authorities for approval in accordance with the provisions of the Law of the People's Republic of China on the Administration of the Use of Sea Areas.

本法施行前在有居民海岛建设的填海连岛工程，对海岛及其周边海域生态系统造成严重破坏的，由海岛所在省、自治区、直辖市人民政府海洋主管部门会同本级人民政府有关部门制定生态修复方案，报本级人民政府批准后组织实施。

For those reclamation works for linking up an island with another island or with the continent conducted on the inhabited islands before the implementation of this Law and cause serious damage to the ecosystems of the islands and their surrounding waters, the competent administrative department of marine affairs of the people's government of the province, autonomous region or municipality directly under the Central Government where the concerned island is located shall work with relevant departments of the people's government at that particular level to formulate a plan for restoring the ecology, and organise the implementation thereof upon the approval of the people's government at that particular level.

第三节 无居民海岛的保护

Section 3 Protection of Uninhabited Islands

第二十八条   未经批准利用的无居民海岛，应当维持现状；禁止采石、挖海砂、采伐林木以及进行生产、建设、旅游等活动。

Article 28 The status quo of uninhabited islands that are not approved to be utilized shall be maintained; quarrying, sea sand excavation, wood felling and activities such as production, construction and tourism shall be prohibited.

第二十九条   严格限制在无居民海岛采集生物和非生物样本；因教学、科学研究确需采集的，应当报经海岛所在县级以上地方人民政府海洋主管部门批准。

Article 29 Collection of samples of living things and non-living things from uninhabited islands shall be strictly restricted. The collection of samples necessary for teaching or scientific research shall be reported to the competent administrative department of marine affairs of the local people's government at or above the county level of the place where the island is located.

第三十条   从事全国海岛保护规划确定的可利用无居民海岛的开发利用活动，应当遵守可利用无居民海岛保护和利用规划，采取严格的生态保护措施，避免造成海岛及其周边海域生态系统破坏。

Article 30 Engaging in activities of opening up and utilising those utilisable uninhabited islands which are identified in the national island protection plan shall comply with the utilisable uninhabited island protection and utilisation plan, and strict ecological protection measures shall be adopted to avoid damage to the ecosystems of islands and their surrounding waters.

开发利用前款规定的可利用无居民海岛，应当向省、自治区、直辖市人民政府海洋主管部门提出申请，并提交项目论证报告、开发利用具体方案等申请文件，由海洋主管部门组织有关部门和专家审查，提出审查意见，报省、自治区、直辖市人民政府审批。

Where one is to open up and utilise the utilisable uninhabited islands prescribed in the preceding paragraph, he/she shall file an application with the competent administrative department of marine affairs of the people's government of the province, or the autonomous region or the municipality directly under the Central Government, and the application documents such as the report on the deliberation of the project and the specific plan for the opening up and utilisation of the island shall be submitted to the competent administrative department of marine affairs of the people's government of the province, or the autonomous region or the municipality directly under the Central Government, which shall organise relevant departments and experts to examine the application and put forward opinions on the examination.

无居民海岛的开发利用涉及利用特殊用途海岛，或者确需填海连岛以及其他严重改变海岛自然地形、地貌的，由国务院审批。

Where the opening up and utilisation of an uninhabited island involves the utilisation of an island with special functions, or where reclamation is necessary to link up an island with another island or with the continent or where the natural landform or topography of an island is significantly changed, that shall be subject to the examination and approval of the State Council.

无居民海岛开发利用审查批准的具体办法，由国务院规定。

The specific measures for the examination and approval of the development and utilization of uninhabited sea islands shall be prescribed by the State Council.

第三十一条   经批准开发利用无居民海岛的，应当依法缴纳使用金。但是，因国防、公务、教学、防灾减灾、非经营性公用基础设施建设和基础测绘、气象观测等公益事业使用无居民海岛的除外。

Article 31 Royalties shall be paid in accordance with the law for the approved opening up and utilisation of uninhabited islands. However, the utilisation of uninhabited islands for the purpose of national defence, public duties, teaching, disaster prevention and mitigation, construction of non-business public infrastructure and public welfare undertakings such as basic mapping and meteorological observation shall be excluded.

无居民海岛使用金征收使用管理办法，由国务院财政部门会同国务院海洋主管部门规定。

The administrative measures for the imposition of use funds for uninhabited sea islands shall be formulated by the finance department of the State Council in conjunction with the competent marine department of the State Council.

第三十二条   经批准在可利用无居民海岛建造建筑物或者设施，应当按照可利用无居民海岛保护和利用规划限制建筑物、设施的建设总量、高度以及与海岸线的距离，使其与周围植被和景观相协调。

Article 32 Construction of buildings or facilities on uninhabited sea islands that are utilizable upon approval shall be limited according to the planning for the protection and utilization of uninhabited sea islands that are utilizable in terms of construction gross capacity and height as well as the distance from the coastline, so as to make it in harmony with the surrounding vegetation and landscape.

第三十三条   无居民海岛利用过程中产生的废水，应当按照规定进行处理和排放。

Article 33 The wastewater generated from the utilisation of uninhabited islands shall be handled and discharged in accordance with provisions.

无居民海岛利用过程中产生的固体废物，应当按照规定进行无害化处理、处置，禁止在无居民海岛弃置或者向其周边海域倾倒。

Solid waste generated during the process of the utilization of uninhabited sea islands shall be subject to harmless treatment and disposal in accordance with the provisions; the disposal thereof to uninhabited sea islands or the dumping thereof to the surrounding waters shall be prohibited.

第三十四条   临时性利用无居民海岛的，不得在所利用的海岛建造永久性建筑物或者设施。

Article 34 No permanent buildings or facilities shall be built on an uninhabited island which is being utilised temporarily.

第三十五条   在依法确定为开展旅游活动的可利用无居民海岛及其周边海域，不得建造居民定居场所，不得从事生产性养殖活动；已经存在生产性养殖活动的，应当在编制可利用无居民海岛保护和利用规划中确定相应的污染防治措施。

Article 35 On those utilisable uninhabited islands lawfully identified for developing tourism and surrounding waters of these islands, no residential settlement shall be built and no culturing activities for the purpose of production shall be allowed. For those uninhabited islands where there are already culturing activities for the purpose of production, corresponding measures for pollution prevention and control shall be determined in the course of formulating the protection and utilisation plan for the utilisable uninhabited islands.

第四节 特殊用途海岛的保护

Section 4 Protection of Islands for Special Purposes

第三十六条   国家对领海基点所在海岛、国防用途海岛、海洋自然保护区内的海岛等具有特殊用途或者特殊保护价值的海岛，实行特别保护。

Article 36 The State shall implement special protection of sea islands where territorial sea base points are located, sea islands for national defense use, sea islands within marine nature reserves and other sea islands with special purposes or special protection value.

第三十七条   领海基点所在的海岛，应当由海岛所在省、自治区、直辖市人民政府划定保护范围，报国务院海洋主管部门备案。领海基点及其保护范围周边应当设置明显标志。

Article 37 For sea islands where territorial sea base points are located, the scope of protection shall be delimited by people's governments of provinces, autonomous regions and municipalities directly under the Central Government of the places of the sea islands and reported to the competent marine department of the State Council for record-filing purposes. Base points of territorial waters and the area surrounding the scope of protection shall be clearly marked.

禁止在领海基点保护范围内进行工程建设以及其他可能改变该区域地形、地貌的活动。确需进行以保护领海基点为目的的工程建设的，应当经过科学论证，报国务院海洋主管部门同意后依法办理审批手续。

It is prohibited to carry out project construction and other activities that may change the topography or landscape of the areas within the scope of protection of base points of territorial waters. Where there is a genuine need to carry out project construction for the protection of territorial sea base points, scientific demonstration shall be conducted, and examination and approval formalities shall be completed pursuant to the law upon consent by the marine administrative authorities of the State Council.

禁止损毁或者擅自移动领海基点标志。

Destruction or unauthorized removal of marks of base points of territorial waters shall be prohibited.

县级以上人民政府海洋主管部门应当按照国家规定，对领海基点所在海岛及其周边海域生态系统实施监视、监测。

Competent marine departments of people's governments at or above the county level shall, in accordance with the provisions of the State, carry out surveillance and monitoring of the ecosystems of islands where base points of territorial waters are located and their surrounding waters.

任何单位和个人都有保护海岛领海基点的义务。发现领海基点以及领海基点保护范围内的地形、地貌受到破坏的，应当及时向当地人民政府或者海洋主管部门报告。

Any entity or individual shall have the obligation to protect the base points of the territorial sea of islands. Where damage to the base points of territorial waters as well as to the topography and landform within the scope of protection of the base points of territorial waters are discovered, report shall be made promptly to local people's governments or competent marine departments.

第三十八条   禁止破坏国防用途无居民海岛的自然地形、地貌和有居民海岛国防用途区域及其周边的地形、地貌。

Article 38 Damage made to the natural landform or topography of uninhabited sea islands for national defense use, the areas used for national defense on inhabited sea islands and the topography or topography of their surrounding areas shall be prohibited.

禁止将国防用途无居民海岛用于与国防无关的目的。国防用途终止时，经军事机关批准后，应当将海岛及其有关生态保护的资料等一并移交该海岛所在省、自治区、直辖市人民政府。

The use of uninhabited islands for national defence for purposes other than national defence is prohibited. Upon the termination of the national defense use, sea islands, together with the materials on the protection of the ecology of such islands, shall be transferred to people's governments of provinces, autonomous regions and municipalities directly under the Central Government at the places of the sea islands upon the approval of military authorities.

第三十九条   国务院、国务院有关部门和沿海省、自治区、直辖市人民政府，根据海岛自然资源、自然景观以及历史、人文遗迹保护的需要，对具有特殊保护价值的海岛及其周边海域，依法批准设立海洋自然保护区或者海洋特别保护区。

Article 39 The State Council, the relevant departments of the State Council and the people's governments of the coastal provinces, autonomous regions and municipalities directly under the Central Government shall, according to the needs of the protection of the natural resources, natural landscapes, and historical and cultural relics of islands, approve according to law the establishment of marine nature reserves or special marine protection zones in respect of islands with special protection value and their surrounding waters.

第四章 监督检查

Chapter 4 Supervision and Inspection

第四十条   县级以上人民政府有关部门应当依法对有居民海岛保护和开发、建设进行监督检查。

Article 40 Relevant departments of people's governments at or above the county level shall supervise and inspect the protection, opening up and development of inhabited islands according to law.

第四十一条   海洋主管部门应当依法对无居民海岛保护和合理利用情况进行监督检查。

Article 41 Competent marine departments shall carry out supervision and inspection over the protection and reasonable utilization of uninhabited sea islands in accordance with the law.

海洋主管部门及其海监机构依法对海岛周边海域生态系统保护情况进行监督检查。

Competent marine departments and marine monitoring agencies thereof shall carry out supervision and inspection over the protection of the ecosystem of waters surrounding islands in accordance with the law.

第四十二条   海洋主管部门依法履行监督检查职责，有权要求被检查单位和个人就海岛利用的有关问题作出说明，提供海岛利用的有关文件和资料；有权进入被检查单位和个人所利用的海岛实施现场检查。

Article 42 Competent marine departments shall fulfill the duties of supervision and inspection in accordance with the law, and shall be entitled to require the entities and individuals under inspection to give explanations on the utilization of sea islands and provide the relevant documents and information on the utilization of sea islands; and shall be entitled to enter the sea islands being utilized by the entities or individuals under inspection to conduct on-site inspection.

检查人员在履行检查职责时，应当出示有效的执法证件。有关单位和个人对检查工作应当予以配合，如实反映情况，提供有关文件和资料等；不得拒绝或者阻碍检查工作。

When performing inspection duties, the inspectors shall show their valid law enforcement certificates. The relevant entities and individuals shall be cooperative in the inspection, truthfully report the situation, provide the relevant documents and information, etc.; and shall not refuse or obstruct the inspection.

第四十三条   检查人员必须忠于职守、秉公执法、清正廉洁、文明服务，并依法接受监督。在依法查处违反本法规定的行为时，发现国家机关工作人员有违法行为应当给予处分的，应当向其任免机关或者监察机关提出处分建议。

Article 43 Inspectors shall be devoted to their duties, enforce the law impartially, be honest and upright, provide services with civility, and accept supervision in accordance with the law. When investigating and dealing with any act in violation of this Law in accordance with the law, where it is found that a staff member of a state organ commits an illegal act that should be punished, the said staff member shall be proposed to the organ in charge of appointing or dismissing the staff member or the supervisory organ.

第五章 法律责任

Chapter 5 Legal Liabilities

第四十四条   海洋主管部门或者其他对海岛保护负有监督管理职责的部门，发现违法行为或者接到对违法行为的举报后不依法予以查处，或者有其他未依照本法规定履行职责的行为的，由本级人民政府或者上一级人民政府有关主管部门责令改正，对直接负责的主管人员和其他直接责任人员依法给予处分。

Article 44 Where the competent administrative departments of marine affairs or other departments that are responsible for the supervision and administration of the protection of sea islands fail to investigate and deal with illegal acts according to law after finding them or receiving reports of illegal acts, or fail to perform other duties in accordance with the provisions hereof, the relevant competent departments of the people's governments at the corresponding level or the next higher level shall order them to make corrections and impose punishment according to the law on the persons directly in charge and other directly responsible persons.

第四十五条   违反本法规定，改变自然保护区内海岛的海岸线，填海、围海改变海岛海岸线，或者进行填海连岛的，依照《中华人民共和国海域使用管理法》的规定处罚。

Article 45 Where, in violation of the provisions of this Law, the coastline of sea islands within nature reserves is changed, or the coastline of sea islands is changed due to land reclamation from seawaters, or land reclamation from seawaters to link islands is carried out, penalties shall be imposed in accordance with the Law of the People's Republic of China on the Administration of the Use of Sea Areas.

第四十六条   违反本法规定，采挖、破坏珊瑚、珊瑚礁，或者砍伐海岛周边海域红树林的，依照《中华人民共和国海洋环境保护法》的规定处罚。

Article 46 Where, in violation of the provisions of this Law, excavation, destruction of coral or coral reefs, or felling of mangroves in waters surrounding islands is carried out, penalties shall be imposed in accordance with the Marine Environment Protection Law of the People's Republic of China.

第四十七条   违反本法规定，在无居民海岛采石、挖海砂、采伐林木或者采集生物、非生物样本的，由县级以上人民政府海洋主管部门责令停止违法行为，没收违法所得，可以并处二万元以下的罚款。

Article 47 Where, in violation of the provisions of this Law, quarrying, sea sand excavation, wood felling or collection of biological or non-biological samples in uninhabited sea islands is carried out, competent marine departments of people's governments at or above the county level shall order cessation of illegal conducts, confiscate the illegal gains, and may concurrently impose a fine of not more than RMB 20,000.

违反本法规定，在无居民海岛进行生产、建设活动或者组织开展旅游活动的，由县级以上人民政府海洋主管部门责令停止违法行为，没收违法所得，并处二万元以上二十万元以下的罚款。

Where, in violation of this Law, production or construction activities are carried out or tourism activities are organized in uninhabited sea islands, competent marine departments of people's governments at or above the county level shall order cessation of illegal conducts, confiscate illegal gains, and impose a fine of not less than RMB 20,000 but not more than RMB 200,000.

第四十八条   违反本法规定，进行严重改变无居民海岛自然地形、地貌的活动的，由县级以上人民政府海洋主管部门责令停止违法行为，处以五万元以上五十万元以下的罚款。

Article 48 Where, in violation of the provisions of this Law, activities that substantially change the natural topography or landscape of uninhabited sea islands are carried out, competent marine departments of people's governments at or above the county level shall order cessation of illegal conducts and impose a fine of not less than RMB 50,000 but not more than RMB 500,000.

第四十九条   在海岛及其周边海域违法排放污染物的，依照有关环境保护法律的规定处罚。

Article 49 Whoever illegally discharges pollutants in sea islands and their surrounding waters shall be punished in accordance with the provisions of relevant environmental protection laws.

第五十条   违反本法规定，在领海基点保护范围内进行工程建设或者其他可能改变该区域地形、地貌活动，在临时性利用的无居民海岛建造永久性建筑物或者设施，或者在依法确定为开展旅游活动的可利用无居民海岛建造居民定居场所的，由县级以上人民政府海洋主管部门责令停止违法行为，处以二万元以上二十万元以下的罚款。

Article 50 Where, in violation of the provisions of this Law, engineering construction or other activities which may change the landform or topography of a region within the scope of protection of base points of territorial waters are carried out, or permanent buildings or facilities are constructed on an uninhabited island which is being utilised temporarily, or a residential settlement is constructed on a utilisable uninhabited island which is identified according to law for carrying out tourism, the competent administrative department of marine affairs of the people's government at or above the county level shall order the cessation of the illegal act and impose a fine of not less than 20,000 yuan but not more than 200,000 yuan.

第五十一条   损毁或者擅自移动领海基点标志的，依法给予治安管理处罚。

Article 51 Destroying or moving the signs for base points of the territorial sea without authorization shall be punished for violation of public security administration according to law.

第五十二条   破坏、危害设置在海岛的军事设施，或者损毁、擅自移动设置在海岛的助航导航、测量、气象观测、海洋监测和地震监测等公益设施的，依照有关法律、行政法规的规定处罚。

Article 52 Destruction or endangerment of military facilities established in islands, or destruction or unauthorized removal of such facilities for public benefits as facilities for navigation assistance, surveying, meteorological observation, marine monitoring and seismic monitoring shall be punished in accordance with the provisions of the relevant laws and administrative regulations.

第五十三条   无权批准开发利用无居民海岛而批准，超越批准权限批准开发利用无居民海岛，或者违反海岛保护规划批准开发利用无居民海岛的，批准文件无效；对直接负责的主管人员和其他直接责任人员依法给予处分。

Article 53 Where the development and utilization of uninhabited sea islands is approved without the approval authority, beyond the approval authority or approved in violation of the planning of the protection of sea islands, the approval documents shall be invalid; and the persons directly in charge and other directly liable persons shall be given sanctions in accordance with the law.

第五十四条   违反本法规定，拒绝海洋主管部门监督检查，在接受监督检查时弄虚作假，或者不提供有关文件和资料的，由县级以上人民政府海洋主管部门责令改正，可以处二万元以下的罚款。

Article 54 Where, in violation of the provisions of this Law, relevant entities or individuals refuse the supervision and inspection of competent marine departments, or make falsification when accepting supervision and inspection, or fail to provide relevant documents and information, competent marine departments of people's governments at or above the county level shall order correction, and may impose a fine of not more than RMB 20,000.

第五十五条   违反本法规定，构成犯罪的，依法追究刑事责任。

Article 55 Where a violation of the provisions of this Law constitutes a criminal offence, criminal liability shall be imposed according to the law.

造成海岛及其周边海域生态系统破坏的，依法承担民事责任。

Whoever causes damage to the ecosystems of islands and their surrounding waters shall bear civil liability in accordance with the law.

第六章 附则

Chapter 6 Supplementary Provisions

第五十六条   低潮高地的保护及相关管理活动，比照本法有关规定执行。

Article 56 The protection of low-tide elevations and relevant administrative activities shall be implemented with reference to the relevant provisions of this Law.

第五十七条   本法中下列用语的含义：

Article 57 For purposes of this Law, the definitions of the following terms are:

（一）海岛及其周边海域生态系统，是指由维持海岛存在的岛体、海岸线、沙滩、植被、淡水和周边海域等生物群落和非生物环境组成的有机复合体。

1. the ecosystem of sea islands and their surrounding waters shall refer to the organic complex that maintain the existence of sea islands, which is composed of biological communities such as the island body, coastline, beaches, vegetation, freshwater and the surrounding waters as well as the non-biological environment.

（二）无居民海岛，是指不属于居民户籍管理的住址登记地的海岛。

(II) "Uninhabited sea islands" refer to sea islands that are not registered addresses under household registration administration.

（三）低潮高地，是指在低潮时四面环海水并高于水面但在高潮时没入水中的自然形成的陆地区域。

(III) low-tide elevation shall refer to areas of naturally formed land that are surrounded by sea water at low tide and are higher than the surface of the water but are submerged into the water at high tide.

（四）填海连岛，是指通过填海造地等方式将海岛与陆地或者海岛与海岛连接起来的行为。

(IV) land reclamation from seawaters to link islands shall refer to the conduct of linking sea islands with the land or linking sea islands together by means of land reclamation.

（五）临时性利用无居民海岛，是指因公务、教学、科学调查、救灾、避险等需要而短期登临、停靠无居民海岛的行为。

(V) temporary utilization of uninhabited sea islands shall refer to the conduct of short-term boarding or berthing of uninhabited sea islands for the needs of official business, education, scientific research, disaster relief, and risk avoidance.

第五十八条   本法自２０１０年３月１日起施行。

Article 58 This Law shall come into effect as of March 1, 2010.