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Jiang Zeming, President of the people's Republic of China
October 27, 2001

Law of the people's Republic of China on the Administration of Sea Areas
(Adopted at the 24th meeting of the Standing Committee of the Ninth National people's Congress on October 27, 2001)

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中华人民共和国主席令
(第六十一号)

(相关资料: [法律 4 篇](#) [行政法规 6 篇](#) [部门规章 54 篇](#) [地方法规 182 篇](#) [裁判文书 13 篇](#) [条文释义](#) [相关论文 18 篇](#))

《中华人民共和国海域使用管理法》已由中华人民共和国第九届全国人民代表大会常务委员会第二十四次会议于 2001 年 10 月 27 日通过, 现予公布, 自 2002 年 1 月 1 日起施行。

中华人民共和国主席 江泽民
2001 年 10 月 27 日

中华人民共和国海域使用管理法
(2001 年 10 月 27 日第九届全国人民代表大会常务委员会第二十四次会议通过)
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Chapter I General Principles

第一章 总则

Article 1 This law has been enacted for the purpose of strengthening the administration of using sea areas, safeguarding the ownership of the state to the sea areas and the lawful rights and interests of the holders of the right to use sea areas and promoting the reasonable development and

第一条 为了加强海域使用管理, 维护国家海域所有权和海域使用权人的合法权益, 促进海域的合理开发和可持续利用, 制定本法。

sustainable utilization of the sea areas.

Article 2 The term “sea area” as mentioned in this law shall refer to the interior waters, the surface, body, seabed and bottom soil of the territorial seas.

The term “interior waters” as mentioned in this law shall refer to the sea area of the people's Republic of China stretching from the base line on side of the land of the territorial seas to the coastline.

This law shall be applicable to any exclusive continuous use of the seas within specific sea areas of the interior waters or territorial seas for three months or longer.

Article 3 The sea areas shall belong to the state, and the State Council shall exercise ownership over the sea areas on behalf of the state. No entity or individual may usurp on, buy or sell or by any other means transfer sea areas.

The right to use sea areas shall be lawfully obtained for the use of sea areas by any entity or individual.

Article 4 The state practices the system of functional division of the sea. The use of sea areas shall be in conformity with the functional divisions of the sea.

The state shall rigidly administer the use of seas that changes the natural quality of sea areas such as filling up the sea or encircling the sea.

Article 5 The state shall establish a system of information for administering the use of sea areas and shall watch out and monitor the use of sea areas.

Article 6 The state shall establish a system of registering the right to use sea areas. The lawfully registered rights to use sea areas shall be protected by law.

The state shall establish a statistical system for the use of sea areas, and shall disseminate statistical materials concerning the use of sea areas.

Article 7 The maritime administrative department of the State Council shall be responsible for the supervision and administration of the use of sea areas within the whole country. The maritime administrative departments of the local people's government on the county level and above within the coastal regions shall, on the basis of authorization, be responsible for the supervision and administration of the use of adjacent sea areas within their respective administrative divisions.

The fishery administrative departments shall, in accordance with the [Fishery Law of the people's Republic of China](#), exercise supervision and

(相关资料: [裁判文书 1 篇 条文释义](#))

第二条 本法所称海域,是指中华人民共和国内水、领海的水面、水体、海床和底土。

本法所称内水,是指中华人民共和国领海基线向陆地一侧至海岸线的海域。

在中华人民共和国内水、领海持续使用特定海域三个月以上的排他性用海活动,适用本法。

(相关资料: [部门规章 1 篇 条文释义](#))

第三条 海域属于国家所有,国务院代表国家行使海域所有权。任何单位或者个人不得侵占、买卖或者以其他形式非法转让海域。

单位和个人使用海域,必须依法取得海域使用权。

(相关资料: [部门规章 2 篇 地方法规 2 篇 裁判文书 3 篇 条文释义](#))

第四条 国家实行海洋功能区划制度。海域使用必须符合海洋功能区划。

国家严格管理填海、围海等改变海域自然属性的用海活动。

(相关资料: [条文释义](#))

第五条 国家建立海域使用管理信息系统,对海域使用状况实施监视、监测。

(相关资料: [部门规章 1 篇 条文释义](#))

第六条 国家建立海域使用权登记制度,依法登记的海域使用权受法律保护。

国家建立海域使用统计制度,定期发布海域使用统计资料。

(相关资料: [地方法规 1 篇 条文释义](#))

第七条 国务院海洋行政主管部门负责全国海域使用的监督管理。沿海县级以上地方人民政府海洋行政主管部门根据授权,负责本行政区毗邻海域使用的监督管理。

渔业行政主管部门依照《[中华人民共和国渔业法](#)》,对海洋渔业实施监督管理。

海事管理机构依照《[中华人民共和国海](#)

administration over the fishing activities on the sea.

The maritime affairs administrations shall, according to the [Law of the people's Republic of China on the Security of Maritime Traffic](#), be responsible for exercising supervision and administration of the security of the maritime traffic.

Article 8 All entities and individual persons shall bear the obligation of observing the laws and regulations regarding the use of sea areas, and shall be entitled to report and prosecute violations of the laws or regulations regarding the use of sea areas.

Article 9 Any entity or individual that have made remarkable achievements in the protection or rational use of sea areas or in relevant scientific research shall be granted awards by the people's governments.

Chapter II Functional Divisions of the Sea

Article 10 The maritime administrative department of the State Council shall, jointly with other relevant departments of the State Council and the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government, work out the functional divisions of the seas of the whole country.

The maritime administrative department of the local people's governments on the county level and above within the coastal regions shall, jointly with other relevant departments of the people's governments on the same level, work out the local functional divisions of the seas on the basis of the functional divisions of the seas worked out by the next high authorities.

Article 11 The functional divisions of the sea shall be worked out under the following principles:

1. Scientifically defining the functions of sea areas according to the natural qualities including the location, natural resources and natural environment, etc;
2. Planning the use of the seas by various trades as whole in accordance with the demand of economic and social development;
3. Protecting and improving the ecological environment, ensuring the sustained utilization of sea areas and promoting the development of the maritime economy;
4. safeguarding the security of maritime traffic;
5. safeguarding the security of national defense, ensuring the use of sea for military purposes.

Article 12 The functional divisions of the sea shall be subject to the hierarchical examination and approval.

[上交通安全法](#)》，对海上交通安全实施监督管理。

（相关资料: [地方法规 1 篇 条文释义 相关论文 1 篇](#)）

第八条 任何单位和个人都有遵守海域使用管理法律、法规的义务，并有权对违反海域使用管理法律、法规的行为提出检举和控告。

（相关资料: [条文释义](#)）

第九条 在保护和合理利用海域以及进行有关的科学研究等方面成绩显著的单位和个人，由人民政府给予奖励。

（相关资料: [条文释义](#)）

第二章 海洋功能区划

第十条 国务院海洋行政主管部门会同国务院有关部门和沿海省、自治区、直辖市人民政府，编制全国海洋功能区划。沿海县级以上地方人民政府海洋行政主管部门会同本级人民政府有关部门，依据上一级海洋功能区划，编制地方海洋功能区划。

（相关资料: [条文释义](#)）

第十一条 海洋功能区划按照下列原则编制：

（一）按照海域的区位、自然资源和自然环境等自然属性，科学确定海域功能；

（二）根据经济和社会发展的需要，统筹安排各有关行业用海；

（三）保护和改善生态环境，保障海域可持续利用，促进海洋经济的发展；

（四）保障海上交通安全；

（五）保障国防安全，保证军事用海需要。

（相关资料: [地方法规 1 篇 条文释义](#)）

第十二条 海洋功能区划实行分级审批。全国海洋功能区划，报国务院批准。

The functional divisions of the seas within the whole country shall be subject to the approval of the State Council.

The functional divisions of the seas under the jurisdictions of the provinces, autonomous regions and municipalities directly under the Central Government within the coastal regions shall be subject to the approval of the State Council after obtaining the consent of the people's government of the respective province, autonomous region or municipality directly under the Central Government.

The functional divisions of the seas of the counties and cities within the coastal regions shall be subject to the approval of the people's government of their respective province, autonomous region or municipality directly under the Central Government after obtaining the consent of the people's government of the county or city and be submitted to the maritime administrative department of the State Council for archival purposes.

Article 13 In terms of the revision of the functional divisions of the sea, the original organ that worked out functional divisions shall, jointly with other relevant departments, propose suggestions of revision and submit to the original approving authority for approval. If the revisions are not approved, the functions of the sea areas defined by the functional divisions of the seas shall not be changed.

Where it is necessary to change the functional divisions of the seas for public interests, national defense or large-scale infrastructure construction including energy, traffic, etc., the functional divisions of the seas may be revised upon the approval of the State Council and in accordance with the approving documents of the State Council.

Article 14 The functional divisions of the seas shall, after being approved, be publicized to the general public, with the exception of those that relate to the secrets of the state.

Article 15 The use of sea areas by the trades like aquatics breeding, salt, traffic and tourism based on their industrial plans shall be in conformity with the functional divisions of the seas.

The overall plans, municipal plans and port plans for utilizing coastal land but including the use of sea areas shall be in conformity with the functional divisions of the seas.

Chapter III Application and Approval for the Use of Sea Areas

Article 16 The entities and individuals may apply to the maritime administrative department of the people's government on the county level or above for using the sea areas.

沿海省、自治区、直辖市海洋功能区划，经该省、自治区、直辖市人民政府审核同意后，报国务院批准。

沿海市、县海洋功能区划，经该市、县人民政府审核同意后，报所在的省、自治区、直辖市人民政府批准，报国务院海洋行政主管部门备案。

（相关资料: [条文释义](#)）

第十三条 海洋功能区划的修改，由原编制机关会同同级有关部门提出修改方案，报原批准机关批准；未经批准，不得改变海洋功能区划确定的海域功能。经国务院批准，因公共利益、国防安全或者进行大型能源、交通等基础设施建设，需要改变海洋功能区划的，根据国务院的批准文件修改海洋功能区划。

（相关资料: [条文释义](#)）

第十四条 海洋功能区划经批准后，应当向社会公布；但是，涉及国家秘密的部分除外。

（相关资料: [条文释义](#)）

第十五条 养殖、盐业、交通、旅游等行业规划涉及海域使用的，应当符合海洋功能区划。

沿海土地利用总体规划、城市规划、港口规划涉及海域使用的，应当与海洋功能区划相衔接。

（相关资料: [条文释义](#)）

第三章 海域使用的申请与审批

第十六条 单位和个人可以向县级以上人民政府海洋行政主管部门申请使用海域。

When applying for using the sea areas, the applicant shall submit the following written materials:

1. an application for using sea areas;
2. materials justifying the use of sea areas;
3. relevant certification materials of credit standing;
4. other written materials as provided by law or regulations.

Article 17 The maritime administrative department of the people's governments on the county level and above shall, according to the functional divisions of the seas, be responsible for the examination of applications for using sea areas and shall, pursuant to this Law and the provisions of the people's government of the provinces, autonomous regions and municipalities directly under the Central Government, submit the application to the competent people's government for approval. In the examination of the applications for using sea areas, the maritime administrative departments shall solicit the advice of other relevant departments on the same level.

Article 18 The use of sea for the purposes as mentioned below shall be subject to the approval of the State Council:

1. the use of sea for projects of filling up the sea up to 50 hectares or more;
 2. the use of sea for projects of encircling the sea up to 100 hectares or more;
 3. the use of sea for projects of using the sea up to 700 hectares or more without changing the natural qualities of the sea areas;
 4. the use of the sea for key state construction projects;
 5. the use of the sea for other projects as provided by the State Council.
- The power to examine and approve the use of the sea for purposes not mentioned in the preceding paragraph shall be provided by the people's government of the provinces, autonomous regions and municipalities directly under the Central Government under the authorization of the State Council.

Chapter IV The Right to Use Sea Areas

Article 19 After an application for using sea areas is lawfully approved and if the State Council approves the use of the sea, the maritime administrative department of the State Council shall register it in detail lists, and issue a certificate to the applicant indicating the right to use sea areas. If the application for using sea areas is approved by the local people's government, the local people's government shall register it in detailed lists, and issue a certificate to the applicant indicating the right to

申请使用海域的，申请人应当提交下列书面材料：

- (一) 海域使用申请书；
- (二) 海域使用论证材料；
- (三) 相关的资信证明材料；
- (四) 法律、法规规定的其他书面材料。

(相关资料: [地方法规 3 篇 条文释义 相关论文 1 篇](#))

第十七条 县级以上人民政府海洋行政主管部门依据海洋功能区划，对海域使用申请进行审核，并依照本法和省、自治区、直辖市人民政府的规定，报有批准权的人民政府批准。

海洋行政主管部门审核海域使用申请，应当征求同级有关部门的意见。

(相关资料: [地方法规 5 篇 条文释义](#))

第十八条 下列项目用海，应当报国务院审批：

- (一) 填海五十公顷以上的项目用海；
- (二) 围海一百公顷以上的项目用海；
- (三) 不改变海域自然属性的用海七百公顷以上的项目用海；
- (四) 国家重大建设项目用海；
- (五) 国务院规定的其他项目用海。

前款规定以外的项目用海的审批权限，由国务院授权省、自治区、直辖市人民政府规定。

(相关资料: [行政法规 2 篇 部门规章 2 篇 地方法规 3 篇 条文释义](#))

第四章 海域使用权

第十九条 海域使用申请经依法批准后，国务院批准用海的，由国务院海洋行政主管部门登记造册，向海域使用申请人颁发海域使用权证书；地方人民政府批准用海的，由地方人民政府登记造册，向海域使用申请人颁发海域使用权证书。海域使用申请人自领取海域使用权

use sea areas. The applicant for using sea areas shall obtain the right to use sea areas on the day when he obtains the certificate of using sea areas.

Article 20 The right to use sea areas may not only be obtained in the way as mentioned in Article 19 of this Law, it may also be obtained by way of tenders or auctions. The plans of tenders and auctions shall be formulated by the maritime administrative departments and shall be submitted to the competent people's government for approval and implementation. The maritime administrative departments shall, when working out plans for tenders or auctions, solicit the advice of other relevant departments on the same level.

When the tender or auction finishes, the bid-winner or auction winner shall be issued a certificate of right to use sea areas. The bid winner or auction winner shall obtain the right to use sea areas on the day when he obtains the certificate.

Article 21 Any certificate of rights to use sea areas granted shall be publicized to the general public.

No fees other than the royalty for using sea areas may be lawfully charged for the granting of certificates of right to use sea areas.

The measures for the issuance and administration of certificates of right to use sea areas shall be formulated by the State Council.

Article 22 If any sea area has already used for aquatic breeding under the management and administration of rural collective economic organizations or villagers' committee prior to the implementation of this Law, and if it is in conformity with the functional divisions of the sea and approval of the local people's government on the county level has been obtained, the right to use sea areas may remain with the rural collective economic organization or villagers' committee so that the sea areas may be contracted by the members of the collective economic organizations for aquatic breeding.

Article 23 The right of holder of the right to lawfully use sea areas and obtain proceeds shall be protected by law, and may not be infringed upon by any entity or individual.

The holder of the right to use sea areas shall bear the obligation of protecting and rationally using sea areas; the holder of the right to use sea areas may not hinder the non-exclusive use of the sea so that it does not hamper its use of the sea areas.

Article 24 The holder of the right to use sea areas may not, during the term of using the sea areas, engage in the basic mapping of the sea

证书之日起, 取得海域使用权。

(相关资料: [地方法规 1 篇](#) [条文释义 相关论文 2 篇](#))

第二十条 海域使用权除依照本法第十九条规定的方式取得外, 也可以通过招标或者拍卖的方式取得。招标或者拍卖方案由海洋行政主管部门制订, 报有审批权的人民政府批准后组织实施。海洋行政主管部门制订招标或者拍卖方案, 应当征求同级有关部门的意见。

招标或者拍卖工作完成后, 依法向中标人或者买受人颁发海域使用权证书。中标人或者买受人自领取海域使用权证书之日起, 取得海域使用权。

(相关资料: [条文释义](#))

第二十一条 颁发海域使用权证书, 应当向社会公告。

颁发海域使用权证书, 除依法收取海域使用金外, 不得收取其他费用。

海域使用权证书的发放和管理办法, 由国务院规定。

(相关资料: [部门规章 1 篇](#) [条文释义](#))

第二十二条 本法施行前, 已经由农村集体经济组织或者村民委员会经营、管理的养殖用海, 符合海洋功能区划的, 经当地县级人民政府核准, 可以将海域使用权确定给该农村集体经济组织或者村民委员会, 由本集体经济组织的成员承包, 用于养殖生产。

(相关资料: [地方法规 3 篇](#) [条文释义 相关论文 1 篇](#))

第二十三条 海域使用权人依法使用海域并获得收益的权利受法律保护, 任何单位和个人不得侵犯。

海域使用权人有依法保护和合理使用海域的义务; 海域使用权人对不妨害其依法使用海域的非排他性用海活动, 不得阻挠。

(相关资料: [裁判文书 1 篇](#) [条文释义](#))

第二十四条 海域使用权人在使用海域期间, 未经依法批准, 不得从事海洋基础

without being approved by law.

If the holder of the right to use the natural resources or the natural conditions of the sea areas under his use are undergoing remarkable changes, he shall report to the maritime administrative department in a timely way.

Article 25 The maximum term for using sea areas shall be defined according to the following purposes:

1. 15 years for aquatic breeding;
2. 20 years for shipbreaking;
3. 25 years for tourism and entertainment;
4. 30 years for salt production and mineral exploitation;
5. 40 years for public interests;
6. 50 years for construction projects including ports, shipbuilding factories, etc.

Article 26 When the term for using the sea area expires, the right holder may, if he needs to continue the use of the sea area, apply to the people's government that approved the use of the sea for renewal no later than 2 months prior to the expiration. Unless for public interest or the security of the state which necessitates the withdrawal of the right to use the sea areas, the people's government that made the approval shall approve the renewal. Where renewal is approved, the holder of the right to use the sea areas shall pay, as pursuant to the provisions of law, corresponding royalties for the renewed use of the sea areas.

Article 27 If it is necessary to alter the holder of the right to use sea areas due to corporate merger, separation or setting up equity joint ventures or cooperative enterprises, approval of the people's government that made the approval shall be obtained.

The right to use sea areas may be lawfully transferred. The specific measures for the transfer of the right to use sea areas shall be formulated by the State Council.

The right to use the sea areas may be inherited.

Article 28 The holder of the right to use the sea areas shall not change the approved uses of the sea areas without authorization. Where it is necessary to change, the change shall be in conformity with the functional divisions of the sea and approval of the people's government that made the approval shall be obtained.

Article 29 Where the right to use sea areas expires and no application for renewal is made or the application for renew is not approved, the right to

测绘。

海域使用权人发现所使用海域的自然资源和自然条件发生重大变化时，应当及时报告海洋行政主管部门。

（相关资料: [裁判文书 2 篇](#) [条文释义](#)）

第二十五条 海域使用权最高期限，按照下列用途确定：

- （一）养殖用海十五年；
- （二）拆船用海二十年；
- （三）旅游、娱乐用海二十五年；
- （四）盐业、矿业用海三十年；
- （五）公益事业用海四十年；
- （六）港口、修造船厂等建设工程用海五十年。

（相关资料: [地方法规 2 篇](#) [条文释义](#) [相关论文 1 篇](#)）

第二十六条 海域使用权期限届满，海域使用权人需要继续使用海域的，应当至迟于期限届满前二个月向原批准用海的人民政府申请续期。除根据公共利益或者国家安全需要收回海域使用权的外，原批准用海的人民政府应当批准续期。准予续期的，海域使用权人应当依法缴纳续期的海域使用金。

（相关资料: [地方法规 1 篇](#) [条文释义](#)）

第二十七条 因企业合并、分立或者与他人合资、合作经营，变更海域使用权人的，需经原批准用海的人民政府批准。海域使用权可以依法转让。海域使用权转让的具体办法，由国务院规定。

海域使用权可以依法继承。

（相关资料: [地方法规 1 篇](#) [条文释义](#)）

第二十八条 海域使用权人不得擅自改变经批准的海域用途；确需改变的，应当在符合海洋功能区划的前提下，报原批准用海的人民政府批准。

（相关资料: [部门规章 1 篇](#) [地方法规 2 篇](#) [条文释义](#)）

第二十九条 海域使用权期满，未申请续期或者申请续期未获批准的，海域使用

use sea areas shall be terminated.

After the termination of the right to use sea areas, the original right holder shall dismantle all facilities and buildings for the use of the sea that may cause environmental pollution or affect the use of the sea in other projects.

Article 30 For the purpose of public interest or the security of the state, the people's government shall made the approval may lawfully take back the right to use sea areas.

If the right to use sea areas is withdrawn pursuant to the provisions of the preceding paragraph prior to the expiration of the term of use, appropriate compensations shall be made to the right holder.

Article 31 Any dispute arising from the use of sea areas that could not be settled through negotiations shall be settled through mediation by the maritime administrative department of the people's government on the county level or above. The parties to the dispute may also institute directly a suit at the people's court.

Before the dispute over the use of sea areas is settled, no party may change the status quo of using the sea areas.

Article 32 The land emerged after the project of filling up the sea finishes shall belong to the state.

The holder of the right to use sea areas shall, within three months after the completion of the project of filling up the sea, apply, by presenting the certificate of the right to use the sea areas, to the land administrative department of the people's government on the county level or above for registration. The people's government on the county level or above shall register the land in detailed lists, reissue a certificate of the right to use state-owned land and confirm the right to use the land.

Chapter V Royalties for Using Sea Areas

Article 33 The state practices the system of using sea areas on the paid basis.

Any entity or individual that uses a sea area shall pay royalties for the use according to the rates as provided by the State Council. The royalties for using sea areas shall, pursuant to the provisions of the State Council, be turned over to the state treasury.

The concrete steps and measures for charging royalties for the use of sea areas by fishermen for breeding aquatics shall be separately formulated by the State Council.

Article 34 The royalties for using sea areas may, according to the nature or circumstance of using the sea, be paid once for all or be paid on the

权终止。

海域使用权终止后，原海域使用权人应当拆除可能造成海洋环境污染或者影响其他用海项目的用海设施和构筑物。

（相关资料: [条文释义](#)）

第三十条 因公共利益或者国家安全的需要，原批准用海的人民政府可以依法收回海域使用权。

依照前款规定在海域使用权期满前提前收回海域使用权的，对海域使用权人应当给予相应的补偿。

（相关资料: [条文释义](#) [相关论文 2 篇](#)）

第三十一条 因海域使用权发生争议，当事人协商解决不成的，由县级以上人民政府海洋行政主管部门调解；当事人也可以直接向人民法院提起诉讼。

在海域使用权争议解决前，任何一方不得改变海域使用现状。

（相关资料: [条文释义](#)）

第三十二条 填海项目竣工后形成的土地，属于国家所有。

海域使用权人应当自填海项目竣工之日起三个月内，凭海域使用权证书，向县级以上人民政府土地行政主管部门提出土地登记申请，由县级以上人民政府登记造册，换发国有土地使用权证书，确认土地使用权。

（相关资料: [条文释义](#)）

第五章 海域使用金

第三十三条 国家实行海域有偿使用制度。

单位和个人使用海域，应当按照国务院的规定缴纳海域使用金。海域使用金应当按照国务院的规定上缴财政。

对渔民使用海域从事养殖活动收取海域使用金的具体实施步骤和办法，由国务院另行规定。

（相关资料: [地方法规 6 篇](#) [条文释义](#)）

第三十四条 根据不同的用海性质或者情形，海域使用金可以按照规定一次缴纳

yearly basis as pursuant to relevant provisions.

Article 35 The use of the sea for the following purposes shall be exempted from paying royalties:

1. military purposes;
2. quays specifically used by official vessels;
3. traffic infrastructure facilities such as non-commercial sea routes and anchorage ground;
4. non-business use of the sea for public interests including teaching, research, prevention and relief of disasters, search and salvage of shipwreck, etc.

Article 36 The royalties for the use of the sea for the following purposes may, pursuant to the provisions of the public fiscal department of the State Council and the maritime administrative department of the State Council, and upon the approval of the public fiscal department and the maritime administrative department of competent people's governments, be paid at reduced rates or be exempted:

1. for public facilities;
2. for key construction projects of the state;
3. for aquatic breeding.

Chapter VI Supervision and Inspection

Article 37 The maritime administrative department of the people's government on the county level and above shall strengthen the supervision and inspection of the use of sea areas.

The public fiscal department of the people's government on the county level and above shall strengthen the supervision and inspection of the payment of royalties for using sea areas.

Article 38 The maritime administrative department shall lay emphasis on building a good team and raise the political and professional qualities of the people responsible for supervising and inspecting the use of sea areas. The people responsible for supervising and inspecting the use of sea areas shall be impartial, devoted, upright and clean in the enforcement of laws, show good manners in providing services, and shall accept the lawful supervision of other people.

The maritime administrative department and the staff members thereof shall not engage in the production or management relating to the use of sea areas.

Article 39 The maritime administrative department of the people's government on the county level and above shall be entitled to take the

或者按年度逐年缴纳。

(相关资料: [条文释义](#))

第三十五条 下列用海, 免缴海域使用金:

- (一) 军事用海;
- (二) 公务船舶专用码头用海;
- (三) 非经营性的航道、锚地等交通基础设施用海;
- (四) 教学、科研、防灾减灾、海难搜救打捞等非经营性公益事业用海。

(相关资料: [部门规章 1 篇](#) [地方法规 2 篇](#) [条文释义](#))

第三十六条 下列用海, 按照国务院财政部门 and 国务院海洋行政主管部门的规定, 经有批准权的人民政府财政部门 and 海洋行政主管部门审查批准, 可以减缴或者免缴海域使用金:

- (一) 公用设施用海;
- (二) 国家重大建设项目用海;
- (三) 养殖用海。

(相关资料: [地方法规 1 篇](#) [条文释义](#))

第六章 监督检查

第三十七条 县级以上人民政府海洋行政主管部门应当加强对海域使用的监督检查。

县级以上人民政府财政部门应当加强对海域使用金缴纳情况的监督检查。

(相关资料: [条文释义](#))

第三十八条 海洋行政主管部门应当加强队伍建设, 提高海域使用管理监督检查人员的政治、业务素质。海域使用管理监督检查人员必须秉公执法, 忠于职守, 清正廉洁, 文明服务, 并依法接受监督。

海洋行政主管部门及其工作人员不得参与和从事与海域使用有关的生产经营活动。

(相关资料: [条文释义](#))

第三十九条 县级以上人民政府海洋行政主管部门履行监督检查职责时, 有权采

following measures when discharging their duties of supervision and inspection:

1. requesting the entity or individual subject to inspection to submit relevant documents and materials to justify the use of sea areas;
2. requesting the entity or individual subject to inspection to make statements about relevant issues with regard to the use of sea areas;
3. entering the sea area under the use of an entity or individual subject to inspection for perambulation;
4. ordering the parties concerned to stop the lawbreaking acts in process.

Article 40 The persons responsible for supervising and inspecting the use of sea areas shall, in discharging their supervision and inspection duties, show valid certificates of law enforcement.

The relevant entities and individuals shall facilitate the supervision and inspection of the maritime administrative departments, and shall not refuse or hinder the law enforcement of the supervising and inspecting people.

Article 41 The competent departments that exercises the power of supervision and inspection as pursuant to the provisions of law shall, in their enforcement on the sea, cooperate closely with each other and give mutual support so as to jointly safeguard the ownership of the state and lawful rights and interests of the right holders.

Chapter VII Legal Liabilities

Article 42 Any one who illegally occupies any sea areas without approval or with fraudulently obtained approval shall be ordered to return the illegally occupied sea areas, recover them to their original state with the illegal gains be confiscated and shall be imposed upon a fine of not less than 5 times but not more than 15 times the amount of royalties that should have been paid according to the size of the sea areas during the illegal occupation. Any one who encircles or fills up any part of the sea without approval or with fraudulently obtained approval shall be imposed upon a fine of not less than 10 times but not more than 20 times the amount of royalties that should have been paid according to the size of the sea areas during the illegal use.

Article 43 If any entity that is not entitled to approve the use of sea areas illegally approves the use of sea areas or approves the use of sea areas beyond its power or fails to approve the use of sea areas according to the functional divisions of the sea, the approving documents shall be invalid, and the sea areas under illegal use shall be taken back. The person-in-charge who is directly responsible for the approval and other persons who are held to be directly responsible shall be given an administrative

取下列措施:

- (一) 要求被检查单位或者个人提供海域使用的有关文件和资料;
- (二) 要求被检查单位或者个人就海域使用的有关问题作出说明;
- (三) 进入被检查单位或者个人占用的海域现场进行勘查;
- (四) 责令当事人停止正在进行的违法行为。

(相关资料: [条文释义](#))

第四十条 海域使用管理监督检查人员履行监督检查职责时, 应当出示有效执法证件。

有关单位和个人对海洋行政主管部门的监督检查应当予以配合, 不得拒绝、妨碍监督检查人员依法执行公务。

(相关资料: [条文释义](#))

第四十一条 依照法律规定行使海洋监督管理权的有关部门在海上执法时应当密切配合, 互相支持, 共同维护国家海域所有权和海域使用权人的合法权益。

(相关资料: [条文释义](#))

第七章 法律责任

第四十二条 未经批准或者骗取批准, 非法占用海域的, 责令退还非法占用的海域, 恢复海域原状, 没收违法所得, 并处非法占用海域期间内该海域面积应缴纳的海域使用金五倍以上十五倍以下的罚款; 对未经批准或者骗取批准, 进行围海、填海活动的, 并处非法占用海域期间内该海域面积应缴纳的海域使用金十倍以上二十倍以下的罚款。

(相关资料: [部门规章 3 篇](#) [地方法规 1 篇](#) [裁判文书 4 篇](#) [条文释义](#))

第四十三条 无权批准使用海域的单位非法批准使用海域的, 超越批准权限非法批准使用海域的, 或者不按海洋功能区划批准使用海域的, 批准文件无效, 收回非法使用的海域; 对非法批准使用海域的直接负责的主管人员和其他直接责任人员, 依法给予行政处分。

punishment.

Article 44 If any one violates the provisions of Article 23 of this Law by hampering or disturbing the right holder to use sea areas, the right holder may plead the maritime administrative department to remove the hindrance, or institute a suit at the people's court. If any losses have resulted, he may also plead for damages.

Article 45 Any one who violates the provisions of Article 26 of this Law by continuing the use of sea areas after the expiration of his right without going through relevant procedures shall be ordered to go through the procedures within a stipulated time limit and be fined not less than 10,000 yuan. If he refuses to go through the procedures, he shall be held to be illegally using the sea areas.

Article 46 Any one who violates the provisions of Article 28 of this Law by changing the uses of the sea areas shall be ordered to make corrections within a stipulated time limit with the illegal gains be confiscated and shall be imposed upon a fine of not less than 5 times but more than 15 times the amount of the royalties that should have been paid according to the size of sea areas for the illegal change of the uses of the sea areas. If he refuses to make corrections, the people's government that granted the certificate of right to use sea areas shall write off the certificate and rescind right to use the sea areas.

Article 47 If the original right holder violates the provisions of Article 29 of this Law by failing to dismantle the facilities or buildings within the stipulated time limit after the termination of the right to use sea areas, he shall be ordered to dismantle within a stipulated time limit. If he refuses to dismantle after the expiration of the time limit, he shall be fined an amount of not more than 50,000 yuan and the maritime administrative department of the people's government on the county level or above may entrust relevant entity to dismantle with the expenses therefor be borne by the original right holder.

Article 48 Any one who should, pursuant to the provisions of this Law, pay the royalties on the yearly basis but fails to make the payment in good time shall be ordered to make the payment within a time limit. If he still refuses to make the payment within the time limit, the people's government that granted the certificate of right to use sea areas shall write off the certificate and rescind the right to use the sea areas.

(相关资料: [部门规章 2 篇](#) [地方法规 1 篇](#) [条文释义](#))

第四十四条 违反本法第二十三条规定,阻挠、妨害海域使用权人依法使用海域的,海域使用权人可以请求海洋行政主管部门排除妨害,也可以依法向人民法院提起诉讼;造成损失的,可以依法请求损害赔偿。

(相关资料: [条文释义](#) [相关论文 1 篇](#))

第四十五条 违反本法第二十六条规定,海域使用权期满,未办理有关手续仍继续使用海域的,责令限期办理,可以并处一万元以下的罚款;拒不办理的,以非法占用海域论处。

(相关资料: [部门规章 1 篇](#) [条文释义](#))

第四十六条 违反本法第二十八条规定,擅自改变海域用途的,责令限期改正,没收违法所得,并处非法改变海域用途的期间内该海域面积应缴纳的海域使用金五倍以上十五倍以下的罚款;对拒不改正的,由颁发海域使用权证书的人民政府注销海域使用权证书,收回海域使用权。

(相关资料: [部门规章 5 篇](#) [地方法规 2 篇](#) [条文释义](#))

第四十七条 违反本法第二十九条第二款规定,海域使用权终止,原海域使用权人不按规定拆除用海设施和构筑物的,责令限期拆除;逾期拒不拆除的,处五万元以下的罚款,并由县级以上人民政府海洋行政主管部门委托有关单位代为拆除,所需费用由原海域使用权人承担。

(相关资料: [部门规章 1 篇](#) [条文释义](#))

第四十八条 违反本法规定,按年度逐年缴纳海域使用金的海域使用权人不按期缴纳海域使用金的,限期缴纳;在限期内仍拒不缴纳的,由颁发海域使用权证书的人民政府注销海域使用权证书,收回海域使用权。

(相关资料: [条文释义](#))

Article 49 Any one who refuses to accept the supervision or inspection or fails to provide truthful information or other relevant materials as against the provisions of this Law shall be ordered to make corrections within a stipulated time limit, be given a warning and be fined an amount of not more than 20,000 yuan.

Article 50 The administrative punishments as mentioned in this Law shall be decided by the maritime administrative department of the people's government on the county level or above within their respective functions with the exception of those for which this Law has provided the organ to give punishments.

Article 51 If the maritime administrative department of the State Council and that of the people's government on the county level or above grants any certificate of right to use sea areas as against the provisions of this Law or fails to discharge its duty of supervision or administration after granting the certificate or fails to make investigations of and punishes illegal acts, the person-in-charge who is directly responsible and other persons who are held to be directly responsible shall be given an administrative punishment; any staff member who is guilty of malpractice for private gains, misuses power or neglects his duties and a criminal offence has been constituted, criminal liabilities shall be investigated.

Chapter VIII Supplementary Provisions

Article 52 If any exclusive use of any specific part of the sea within the interior waters or territorial seas for not more than three months may have great effect on the national defense, maritime traffic or other use of the sea, a provisional certificate of right to use sea areas shall be obtained as pursuant to the provisions of this Law.

Article 53 The measures for the use of the sea for military purposes shall be formulated by the State council and the Central Military Committee in accordance with this Law.

Article 54 This Law shall become effective as of January 1, 2002.

第四十九条 违反本法规定，拒不接受海洋行政主管部门监督检查、不如实反映情况或者不提供有关资料的，责令限期改正，给予警告，可以并处二万元以下的罚款。

（相关资料: [条文释义](#)）

第五十条 本法规定的行政处罚，由县级以上人民政府海洋行政主管部门依据职权决定。但是，本法已对处罚机关作出规定的除外。

（相关资料: [条文释义](#)）

第五十一条 国务院海洋行政主管部门和县级以上地方人民政府违反本法规定颁发海域使用权证书，或者颁发海域使用权证书后不进行监督管理，或者发现违法行为不予查处的，对直接负责的主管人员和其他直接责任人员，依法给予行政处分；徇私舞弊、滥用职权或者玩忽职守构成犯罪的，依法追究刑事责任。

（相关资料: [部门规章 1 篇](#) [条文释义](#)）

第八章 附则

第五十二条 在中华人民共和国内水、领海使用特定海域不足三个月，可能对国防安全、海上交通安全和其他用海活动造成重大影响的排他性用海活动，参照本法有关规定办理临时海域使用证。

（相关资料: [条文释义](#)）

第五十三条 军事用海的管理办法，由国务院、中央军事委员会依据本法制定。

（相关资料: [条文释义](#)）

第五十四条 本法自 2 0 0 2 年 1 月 1 日起施行。

（相关资料: [条文释义](#)）