

# **Circular of the National Development and Reform Commission, the Ministry of Finance and the State Administration of Taxation concerning Printing and Distributing the Administrative Measures for the Determination of Resources Comprehensive Utilization Encouraged by the State**

Fa Gai Huan Zi [2006] No.1864

The development and reform commissions, economic commissions (economic and trade commissions), public finance offices (bureaus), state taxation bureaus and local taxation bureaus of each province, autonomous region, municipality directly under the Central Government, city under separate state planning as well as Xinjiang Production and Construction Corps, and the related departments of the State Council:

According to the spirit of the Circular of the General Office of the State Council on Preserving Some Non-administrative Licensing Examination and Approval Items (Guo Ban Fa [2004]No. 62), and in light of the principle of efficient and simple administration, the preserved work of determining the enterprises of resources comprehensive utilization encouraged by the state is consolidated with and the determination of electric power plants of resources comprehensive utilization are consolidated. According to the related spirits of the Administrative License Law and on the ground of the practices of resources comprehensive utilization, we revised the Administrative Measures for the Determination of Resources Comprehensive Utilization (Guo Jing Mao Zi Yuan [1998] No.716 ) and the Administrative Measures for the Determination of Electric Power Plants (Plant Units) of Resources Comprehensive Utilization (Guo Jing Mao Zi Yuan [1998] No.716)released by the former State Economic and Trade Commission and other departments. On the ground of the facts mentioned above, we hereby print and distribute the specially formulated Administrative Measures for the Determination of Resources Comprehensive Utilization Encouraged by the State for your earnest implementation. And the Administrative Measures for the Determination of Resources Comprehensive Utilization and the Administrative Measures for the Determination of Electric Power Plants (Plant Units) of Resources Comprehensive Utilization shall be abolished at the same time.

Comprehensive The comprehensive utilization of resources is a long-term strategic guideline in China's social and economic development, and a significant technical and economic policy, which is of great significance to improving resources utilization efficiency, developing recycling economy and building a resource-efficient and environment-friendly society. Each region shall strengthen the administration on the determination of resources comprehensive utilization and do a good job in fulfilling the encouraging and supporting policies of the state on resources comprehensive utilization so that the sound development of the project for the comprehensive utilization of resources can be promoted. Where there is any opinion or suggestion in implementation, please report to us in time.

Appendix: The Administrative Measures for the Determination of Resources Comprehensive Utilization Encouraged by the State

**The National Development and Reform Commission  
The Ministry of Finance  
The State Administration of Taxation  
September 7, 2006**

## Appendix:

# The Administrative Measures for the Determination of Resources Comprehensive Utilization Encouraged by the State

## Chapter I General Provisions

**Article 1** In order to implement the encouraging and supporting policies of the state concerning resources comprehensive utilization, strengthen the administration on resources comprehensive utilization, encourage enterprises to utilize resources in a comprehensive manner, and promote the sustainable development of economy and society, the present Measures are released in light of the Circular of the General Office of the State Council concerning Preserving Some Non-administrative Licensing Examination and Approval Items ([2004] No. 62 of the General Office of the State Council) and the spirit of the related policies and laws and regulations of the state.

**Article 2** The term "determination of resources comprehensive utilization encouraged by the state" as mentioned in the present Measures refers to the determination of the crafts, techniques or products of resources comprehensive utilization that conform to the encouraging and supporting policies of the state concerning resources comprehensive utilization (hereinafter referred to as "determination of resources comprehensive utilization").

**Article 3** The National Development and Reform Commission (hereinafter referred to as NDRC) shall take charge of the organization and coordination, and supervision and administration of determination of resources comprehensive utilization.

The administrative departments of resources comprehensive utilization of each province, autonomous region, municipality directly under the central government and the city under separate state planning (hereinafter referred to as the administrative department of resources comprehensive utilization at the provincial level) shall take charge of the determination, supervision and administration of resources comprehensive utilization within their respective jurisdictions; t. The finance administrative departments shall strengthen the supervision over and administration on the determined enterprises in terms of their financial issues; And the administrative departments of taxation shall strengthen the supervision and administration of taxation, and seriously fulfill the state preferential taxation policies concerning resources comprehensive utilization.

**Article 4** The determined products that make of comprehensive utilization of resources for production, or the determined enterprises that adopt crafts and techniques of resources comprehensive utilization, may file an application for enjoying the preferential policies concerning taxation and operation, etc. according to the related provisions of the state.

## Chapter II Conditions for Application and Content of Determination

**Article 5** An enterprise that declares for the determination of resources comprehensive utilization must meet the conditions as follows:

- (1) Its manufacturing techniques, technologies and products shall conform to the industrial policies and the related standards of the state;
- (2) The profit and loss of resources comprehensive utilization products may be computed independently;
- (3) The sources of its raw materials and fuels shall be stable and reliable, the quantity and quality shall satisfy

the related requirements, the complementary conditions concerning water and electric power shall be put into effect; and

(4) It shall meet the requirements of environmental protection and would not produce secondary pollution.

**Article 6** A power generation unit of comprehensive utilization that applies for the determination of resources comprehensive utilization shall, in addition to the conditions mentioned above, meet conditions as follows:

(1) The power station is established upon the authorization (examination and approval) by the administrative department according to the related provisions of the state concerning the power of examination and approval or authorization.

(2) Where the power derived from coal slack (stone-like coal, oil shale) or slime, the coal slack (stone-like coal, oil shale) or slime shall be used as main fuel, the use volume shall not be lower than 60% (weight ratio) of the fuel fed into furnaces; the applied lower calorific value of the fuel fed into furnaces shall not be more than 12,550 kJ/kg; such facilities as automatic feeding display and record of raw coal, coal slack and slime shall be equipped.

(3) Where the power is derived from urban domestic waste (including sewage sludge), it shall satisfy the conditions as follows: the construction and operation of waste incinerator shall accord with the national or industrial standards and criterions; the evidentiary materials for the quantity and quality of the waste used issued by the administrative department of environment and sanitation at the district (municipal) level shall produce are necessary ; the monthly actual use volume of waste shall not be lower than 90% of the designed rated value; where the power is derived from burning waste and co-combustion of raw coal in fluidized-bed combustion boiler, the use volume of waste shall not be lower than 80% (weight ratio) of the fuel fed into furnaces, and such facilities as automatic feeding display and record of waste and raw coal must be equipped.

(4) The enterprises (branch factories, plants) that use the utilizable heat and differential pressure generated in industrial production to generate power shall decide the installed capacity of the electric power plants of industrial waste heat or industrial residual pressure in accordance with the quality of the waste heat or residual pressure generated, the waste heat quantity or air consumption of manufacturing technique, and the utilizable working fluid parameters.

(5) Where the fuel used to generate power is the recycled coal bed gas (coalmine gas), marsh gas (urban domestic waste landfill gas), converter coal gas, top gas, or biomass energy, etc, the resources shall be sufficient and stable, and the installed capacity shall be rationally collocated in accordance with the resources quantity.

**Article 7** Content of Determination

(1) Examining and determining whether enterprises or units that declare for the determination of resources comprehensive utilization execute the process of examination and approval or authorization; whether the project construction accords with the requirements of examination and approval or authorization; whether the products and techniques of resources comprehensive utilization conform to the industrial policies, technical standards of the state and the conditions for determining the declaration ;

(2) Examining and determining whether the products applied for resources comprehensive utilization are within the range of Catalogue for Comprehensive Utilization of Resources; and examining and determining the sources and reliability of the comprehensive utilized resources ;

(3) Examining and determining whether it meets the conditions of preferential policies of the state concerning resources comprehensive utilization.

## Chapter III Procedure of Application and Determination

**Article 8** The determination of resources comprehensive utilization shall implement the system that enterprises declare, the administrative department of resources comprehensive utilization of the people's government of the municipality (district) (hereinafter referred to as the competent department of resources comprehensive utilization at the municipal level) where the enterprise is located primarily examines, and the competent department of resources comprehensive utilization at the provincial level examines and determines together with the related departments. The administrative department of resources comprehensive utilization at the provincial level shall promulgate the particular schedule of the determination of resources comprehensive utilization of each year one month ahead.

**Article 9** A written application shall be submitted to the administrative department of resources comprehensive utilization at the municipal level by an enterprise that applies for enjoying the preferential policies concerning resources comprehensive utilization and the relevant materials as prescribed shall be provided. The competent department of resources comprehensive utilization at the municipal level shall, after soliciting the opinions of the department of public finance or other departments at the same level, accomplish the preliminary examination within 30 days since the prescribed acceptance date, and submit the opinions concerning preliminary examination to the competent department of resources comprehensive utilization at the provincial level.

**Article 10** The administrative department of resources comprehensive utilization at the municipal level shall deal with an application for determination of resources comprehensive utilization submitted by an applicant according to the different circumstances as follows:

- (1) For those which fall into the scope of determination of resources comprehensive utilization, and the application materials of which are complete, the department shall accept and present opinions concerning preliminary examination.
- (2) For those beyond the scope of determination of resources comprehensive utilization, the department shall inform the applicant of the refuse rejection, and explain the reasons.
- (3) For those the application materials of which are incomplete or don't accord with the prescribed requirements, the department shall notify the applicant of unit about all the content that needs to be supplemented on the spot or within 5 days once and for all.

**Article 11** A The competent department of resources comprehensive utilization at the provincial level shall form a determination commission of resources comprehensive utilization (hereinafter referred to as determination commission) along with the department of public finance and other departments at the same level and the industry experts; and shall accomplish the examination for determination within 45 days in light of the conditions and content of determination as provided in Chapter II.

**Article 12** If it is under the circumstances as follows, a competent department of resources comprehensive utilization at the provincial level shall present the opinions concerning preliminary examination and report to the NDRC for examinational and approval.

- (1) The techniques of power supply unit of resources comprehensive utilization with single-machine capacity of above 25MW;
- (2) The techniques of power generation by comprehensive utilization of coal slack (slime, stone-like coal, oil shale); or
- (3) The techniques of power generation by waste (including sewage sludge).

The examination on the above-mentioned circumstances shall be accepted once every year, the time of acceptance shall be before the end of July of each year, and the examination and approval shall be accomplished within 60 days since the date of the deadline of acceptance.

**Article 13** A The competent department of resources comprehensive utilization at the provincial level shall, in light of the conclusions of the determination commission or the opinions on examination and approval of the NDRC, proclaim the enterprises of resources comprehensive utilization examined and determined as qualified ones, where there isn't any objection concerning the announcement against the conclusions and opinions within 10 days since the date of publication the announcement, the competent department of resources comprehensive utilization at the provincial level shall issue the Certificate for the Determination of Resources Comprehensive Utilization, report to the NDRC for record, and at the same time inform the department of public finance and the department of taxation at the same level. As for the enterprises that fail to pass the examination, the competent department of resources comprehensive utilization at the provincial level shall inform in written form and explain the reasons.

**Article 14** Where an enterprise has any a conclusion of the determination commission, it may put forward a reconsideration application to the original determination commission that made the conclusion, which and the commission shall accept it. Where an enterprise still has any demurrer against the reconsideration conclusion , it may directly put forward a complaint to the administrative department of resources comprehensive utilization at the next higher level, which may put forward opinions of argumentation in light of the facts investigated and verified, and is entitled the power to alter the conclusion of the administrative department determination at the next lower level

**Article 15** The NDRC shall formulate the unified format of the Certificate for the Determination of Resources Comprehensive Utilization (hereinafter referred to as "Certificate") printed by the competent departments of resources comprehensive utilization at the provincial level. The Certificate shall be valid for two years.

**Article 16** Where an unit that obtains the Certificate alters the enterprise name, products, techniques or other content for all reasons, it shall put forward an application to the competent department of resources comprehensive utilization at the municipal level and provide the related evidential materials. The competent department of resources comprehensive utilization at the municipal level shall put forward opinions, report to the competent department of resources comprehensive utilization at the provincial level for determination and examination, and then inform the department of public finance and the department of taxation at the same level of the related information in time.

## Chapter IV Supervision and Administration

**Article 17** The NDRC, the Ministry of Finance and the State Administration of Taxation shall strengthen the administration concerning determination of resources comprehensive utilization and the supervision and examination over the implementation of preferential policies, and revise the conditions for determination of resources comprehensive utilization at a proper time according to the development situation of resources comprehensive utilization, adjustments of the industrial policies of the state and the technological advances.

**Article 18** The competent departments of resources comprehensive utilization at all levels shall adopt practical measures to intensify the supervision and administration of the determined enterprises, particularly the dynamic supervision over the sources of large quantity resources of comprehensive utilization; wind up the enterprises without stable supply of resources of comprehensive utilization in time; and under the premise of not impeding the normal production and operation activities of enterprises, supervise, check and get

acquainted with the determined enterprises and the relevant units.

The competent departments of public finance and taxation at all levels shall strengthen information communication with the competent departments of resources comprehensive utilization at the same levels, particularly for the problems emerged in the process of supervision and examination, they should exchange views, coordinate with each other so that the problems can be solved.

**Article 19** A competent department of resources comprehensive utilization at the provincial level shall report the basic situation of the resources comprehensive utilization determination of the previous year to the NDRC, the Ministry of Finance and the State Administration of Taxation before the end of May of each year. M, which mainly includes:

- (1) Situation of determination work (including the quantities of determined enterprises (power stations) of resources comprehensive utilization, and the installation capacity of the determined power generation units, etc.).
- (2) The situation about the large quantity resources of comprehensive utilization and their sources of the determined enterprises (including the varieties of resources, volume of comprehensive utilization, and supply, etc.).
- (3) Supervision situation over the determined enterprises of resources comprehensive utilization (including annual inspection, random inspection, and punishment situation, etc.).
- (4) Situation on the implementation of the preferential policies about resources comprehensive utilization.

**Article 20** The enterprises (power stations) who has obtained the determinations for products or techniques of resources comprehensive utilization shall organize production, improve administrative systems, perfect statistical statements, and report the statistical information and audited financial statements on schedule strictly according to the requirements of the conditions for determination of resources comprehensive utilization.

**Article 21** Where an enterprise who has obtained the determinations for products or techniques of resources comprehensive utilization fails to satisfy the required conditions for determination of resources comprehensive utilization since the sources of the raw materials of comprehensive utilization resources or other reasons, it shall forwardly report to the competent department of resources comprehensive utilization at the municipal level. The administrative department of determination or examination and approval at the provincial level shall terminate its Certificate, and publish announcement.

**Article 22** The Certificate is a necessary condition of examining and approving deduction and exemption of taxes for the competent tax authorities at all levels. Any enterprise without the Certificate may not handle the formalities of deduction and exemption of taxes.

**Article 23** The personnel that take part in determination shall rigidly keep the business and technical secrets of the determined enterprises of resources comprehensive utilization.

**Article 24** any unit or individual have the right to accuse of and expose the behaviors of defrauding qualification of determination of resources comprehensive utilization and preferential policies by way of falsification.

## Chapter V Penalty Provisions

**Article 25** Once it is found that an enterprise that defrauded preferential policies concerning resources comprehensive utilization by way of falsification, or violated Article 21 of the present Measures by failing to declare for terminating its Certificate in time, it shall be deprived of the qualification for preferential policies,

shall hand in its Certificate to the administrative department of resources comprehensive utilization at the provincial level, and may not apply for determination again within 3 years. Where the enterprise has already enjoyed preferential policies concerning taxation, the tax payment shall be pursued and penalties shall be imposed by the administrative tax authorities in light of the Law of the People's Republic of China on the Administration of Tax Collection and the related provisions.

**Article 26** Where it is under any of the circumstances as follows, the qualification for determination of resources comprehensive utilization shall be cancelled by administrative department of resources comprehensive utilization at the provincial level, and copies shall be sent to the department of public finance and the department of taxation at the same level:

- (1) The working personnel of administrative organs abuse authority or neglect duties so as to make any disqualified determination of resources comprehensive utilization;
- (2) A determination of resources comprehensive utilization is made beyond the legitimate authority or by violating the legal process;
- (3) A determination of resources comprehensive utilization is granted to an applicant enterprise that is disqualified for application or is does not conform to the legal conditions;
- (4) Hiding the related situation, providing false materials, or refusing to provide faithful materials that reflect its activities situation; obtaining the determination of resources comprehensive utilization by such illicit means as fraud, and bribe, etc. or
- (5) Failing to satisfy the conditions for determination of resources comprehensive utilization through in annual inspection or random inspection, refusing to rectify within prescribed time limit, or still failing to satisfy the conditions for determination after rectification.

**Article 27** Where any of the working personnel of any administrative organ committed such behaviors as misuse of authority, neglect of duty, or falsification in handling determination of resources comprehensive utilization or in the process of conducting supervision and inspection, the department where he/she works shall impose administrative sanctions on him/her; where his/her behavior constitutes a crime, his/her criminal liabilities shall be investigated in light of law.

**Article 28** As for any person who forges a Certificate of resources comprehensive utilization, his/her responsibilities shall be investigated in light of the related laws and regulations of the state.

## Chapter VI Supplementary Provisions

**Article 29** The term "preferential policies concerning resources comprehensive utilization" refers to the preferential policies of the state concerning resources comprehensive utilization that may be enjoyed by the enterprises determined as with products or techniques of resources comprehensive utilization in light of the related provisions.

**Article 30** An enterprise (unit) that applies for enjoying the preferential policies concerning taxation of resources comprehensive utilization shall put forward an application to the administrative tax authorities upon the strength of the Certificate. The competent tax authorities shall handle the procedure of tax reduction and exemption according to the related policies and provisions concerning taxation.

An enterprise that applies for enjoying other preferential policies shall transact the formalities for the related preferential policies at the related departments upon the strength of the Certificate.

**Article 31** Where there is any revision on any provision or any preferential policy on resources comprehensive utilization involved in the present Measures, the revised one shall prevail.

**Article 32** Each region may formulate detailed rules for implementation based on these Measures and the actual situation of these regions, and shall report them to the NDRC, the Ministry of Finance and the State Administration of Taxation for record.

**Article 33** The power of interpreting the present Measures shall remain with the NDRC, the Ministry of Finance and the State Administration of Taxation.

**Article 34** The present Measures shall enter into force as of October 1, 2006. The Administrative Measures for the Determination of Resources Comprehensive Utilization ([1998] No.716 of the State Economic and Trade Commission) and the Administrative Measures for the Determination of Electric Power Plants (Plant Units) of Resources Comprehensive Utilization ([2000] No. 660 of the State Economic and Trade Commission) promulgated by the former State Economic and Trade Commission and the State Administration of Taxation shall be abolished at the same time.

