

# Suggestions for Acceptance of Sea Area Use after Project Completion -- Taking the Revision of the "Sea Area Use Management Law" as an Opportunity

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**Abstract.** The acceptance of the use of sea areas after project completion is an important closed-loop for sea area use management, It is also an important guarantee for implementing the maritime law , It has played an important role in guiding the supervision, management, and acceptance work of reclamation projects. After more than 20 years of practice, some areas that need improvement have been identified. The Ministry of Natural Resources has initiated the revision of the Law on the Management of the Use of Sea Areas, this article takes the revision of the "Sea Area Use Management Law" as an opportunity to summarize the problems existing in the acceptance of sea area use after project completion, propose improvement measures and solutions, and provide reference for national sea area use management and sea area law revision.

**Keywords:** Acceptance of sea area use after project completion; "Sea Area Use Management Law" revision; existing problems; improvement measures.

## 1. Introduction

Completion acceptance is the supervision and inspection of the implementation status, and the acceptance of the purpose, ownership, and construction content of the completed engineering construction project. It is an important closed-loop of land and space use control management.

The laws and regulations regarding the completion and acceptance of sea area use mainly include the "Sea Area Use Management Law" and the "Regulations on the Management of Sea Area Use Rights"; The corresponding normative documents mainly include the "Management Measures for the Acceptance of the Completed Sea Area Use of Reclamation Projects" (hereinafter referred to as the "Management Measures") and the "Specifications for the Acceptance and Measurement of the Completed Sea Area Use of Reclamation Projects". The above laws, regulations and normative documents clearly define the competent department, acceptance object, time limit, acceptance procedure, acceptance standard, report preparation, etc. for the completion acceptance of sea area use, and comprehensively improve the legalization and standardization of the use acceptance of sea areas completed by reclamation projects. However, in more than 20 years of work practice, some areas that need improvement have also been identified. With the new round of sea area law revision work, this article summarizes the problems in the acceptance of sea area use after project completion, and puts forward relevant suggestions and ideas in the revision of laws and regulations.

## 2. Problems

Based on the practice of sea area use management, the main problems in the acceptance of sea area use after project completion are summarized as follows.

## 2.1 Lack of clear standards for acceptance

Article 11 of the Management Measures stipulates: "Those who unreasonably change the approved scope or implement reclamation beyond the area shall be deemed as unqualified for acceptance. There is currently no clear standard for how much deviation is allowed<sup>[1]</sup>. Offshore construction is susceptible to environmental impacts such as waves and tidal currents, resulting in construction deviations. For example, an analysis of 40 reclamation projects in Guangdong Province found that there were 11 cases of overfilling, accounting for 27.5%, See Table 1 for details. However, if a small area of overfilling is forcibly removed, it may cause damage to the safe use of the entire project.

In addition, the "Management Measures" do not specify specific requirements for the elevation of reclamation, and the elevation of reclamation has not been taken as the main factor for whether the acceptance is qualified. In order to shorten the construction cycle and reduce construction costs, enterprises did not fill the sea according to the design elevation, resulting in a decrease in the flood control and moisture-proof capacity of the filling project, posing safety hazards to production and daily life.

Table 1. Statistical Table for Overfill of Some Reclamation Projects

Overfill ratio	Overfill quantity for different approved areas			Total Overfill Quantity	Proportion
	Approved area 0-10 hectares	Approved area 10-30 hectares	Approved area 30-50 hectares		
> 1.5%	3	1	0	4	10.00%
1%-1.5%	2	2	0	4	10.00%
0.5%-1%	1	1	0	2	5.00%
0-0.5%	0	1	0	1	2.50%
0	12	9	8	29	72.50%

## 2.2 Unclear rules for phased completion acceptance

Some projects have a large reclamation area. In order to maximize the economic benefits of the project as soon as possible, phased reclamation and acceptance can improve the efficiency of the project's sea use and production. But if the control is not good, excessive phased acceptance can also bring negative effects. For example, sea use units only conduct phased acceptance and operation in areas where there are no sea use problems, while long-term idle areas where there are sea use problems are not dealt with, resulting in idle sea use and difficulties in timely resolution of illegal and irregular sea use. In summary, it is urgent to clarify the requirements for phased completion acceptance at the national level.

## 2.3 Connection issues of sea and land registration

The laws and regulations specify the replacement of state-owned land use rights certificates after the completion of reclamation projects, but there are no clear rules, and there are many problems in the actual operation process.

### (1) Inconsistent scope of registration units

For ease of management, the coastline is often defined at the outer edge of the embankment top; When registering land formed by reclamation, the outer boundary is often selected at the outer edge of the embankment top<sup>[2]</sup>. According to the "Specifications for Marine Survey", the shore of land reclamation is bounded by the coastline before the reclamation, and the outer edge of the water is bounded by the outer edge of the cofferdam, embankment bed, or backfill buried underwater. The inconsistent registration scope between the two has led to awkward attribution of bank and slope protection.

### (2) Usage period and usage fee issues

The land created by reclamation must be registered and managed as ordinary land. But how can the service life of the land created by reclamation be determined? Is it the remaining term of the sea area use right, or is it to reapply according to the land use term? In addition, the sea area use fee has been paid in one lump sum for land reclamation, and the cost of reclamation is also borne by the sea using unit. Do the resulting land need to be re paid with the land use fee to the state? For this, there are no clear provisions in current laws and regulations, and the practices in different regions are also different. For example, Shenzhen City has specified that after the completion and acceptance of land reclamation, it is necessary to apply to the real estate registration agency for the registration of state-owned construction land use rights. Before the land is developed and constructed, the land user should pay the land price in accordance with the relevant regulations of state-owned land management and sign a contract for the transfer of state-owned construction land use rights with the planning and resource department.

### (3) Digging land into sea

There are fundamental differences in the natural attributes of sea and land areas. Although both belong to the same natural resources department in terms of management, their management requirements are vastly different. The registration and conversion of the use right of land reclamation is clearly stipulated in the Sea Area Law, but for activities that also change the natural attributes of land reclamation, neither the Sea Area Law nor the Land law has specified the conversion and disposal requirements.

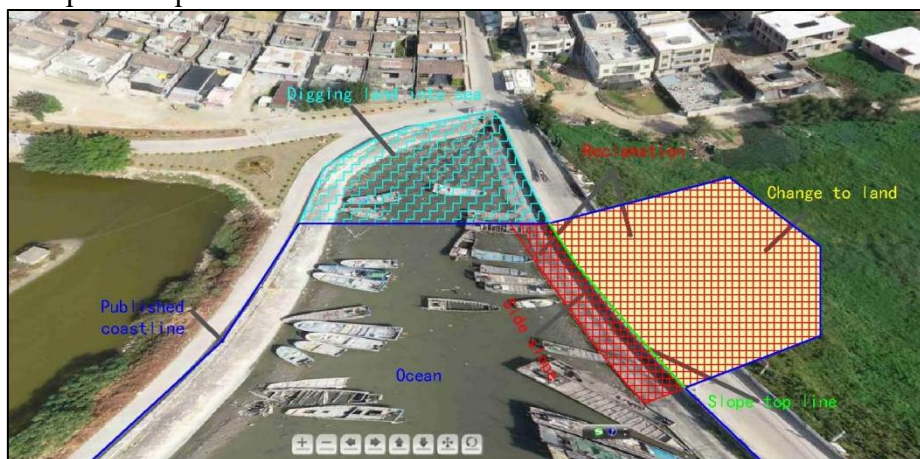


Fig. 1 Schematic diagram of the scope of change registration for completion acceptance of land excavation into sea and reclamation

## 2.4 There is a gap in the acceptance of non reclamation projects

The completion acceptance is the last task in the implementation stage of the engineering project, and it is an important node in the closed-loop supervision of the project's sea use. It plays a crucial role in protecting marine space resources, improving the efficiency of marine resource utilization, and maintaining a healthy cycle of marine ecological environment. However, currently only completion acceptance management requirements have been put forward for reclamation projects, and sea use for structures<sup>[3]</sup>, sea reclamation, sea use for submarine pipelines, sea use for submarine tunnels, etc. have not been included in the acceptance scope. The lack of management links such as acceptance and registration has led to hidden dangers in the quality and safety of offshore structure construction; The failure to timely clean up abandoned structures affects the utilization rate of the sea area. According to the pilot work of verifying the ownership of sea area use rights in 2015, there are many problems in the use of sea structures, such as exceeding the scope of property rights confirmation, deviation of engineering location, and changes in sea use methods<sup>[4]</sup>.

### 3. Improvement Measures and Solutions

Corresponding to the existing problems, provide improvement suggestions from the following aspects, The structural diagram is shown in Figure 2.



Fig.2 Structure diagram of improvement suggestions

#### 3.1 Refine normative standards and scientifically guide acceptance

As a highly professional, technical, and innovative reform work, the specific technical standards and operational requirements for completion acceptance and registration cancellation of sea use projects still need to be continuously deepened, refined, and implemented in practice.

##### (1) Clarify the acceptance standards for sea use boundary, area, and elevation

Currently, multiple provinces have attempted to establish clear acceptance standards in practice. If Zhejiang Province stipulates that the boundary displacement of the reclamation boundary site is greater than 5m or the area exceeds the tolerance by 1%, it shall be deemed as unqualified for acceptance. If the actual boundary displacement of the reclamation boundary site is within 5m or the area exceeds the approved reclamation area by 1%, the sea area use fee shall be paid according to the regulations in case of exceeding the area<sup>[5]</sup>; Hainan Province believes that the actual reclamation scope and area exceed the approved scope and area. As long as it is considered a reasonable deviation in engineering construction, it is sufficient to pay the sea area use fee for the part exceeding the approved reclamation area. When determining the acceptance conclusion, it is first based on whether the reclamation is subjective and malicious, and then the control limit is within 5% of the original sea area for the part exceeding the area.

It is recommended to further organize specialized research based on existing practical experience, revise and improve laws and regulations, stipulate the prerequisites for completion acceptance of reclamation, and clarify the criteria for determining the qualified acceptance of reclamation boundary, area, and elevation.

##### (2) Study the conditions and requirements for batch completion acceptance

At present, multiple industries have implemented batch acceptance for completion acceptance work. For example, Article 21 of the "Regulations on the Administration of Environmental Protection of Construction Projects" stipulates that "for construction projects that are constructed, put into production or used in stages, their corresponding environmental protection facilities should

be inspected in stages. Some provinces and cities have gradually standardized the phased acceptance of sea use, such as the Regulations of the Shenzhen Special Economic Zone on the Administration of the Use of Sea Areas, which specifies that the phased acceptance of marine engineering can be carried out according to the actual situation of the project, and also specifies that the municipal planning and resources department should formulate specific acceptance standards for marine engineering.

Clarifying the relevant requirements for batch completion acceptance is a prerequisite for standardizing the implementation of phased acceptance work. It is recommended to refer to the idea of phased acceptance in other industries, summarize the experience of coastal provinces and regions in conducting phased acceptance of sea area use, and make relevant provisions for phased completion acceptance from the legal and regulatory level.

### (3) Connect the scope of registration of usage rights

Taking into account the technical standards and conventional practices of ocean management and land management, it is necessary to clarify the connection between the registration scope of land use rights. The seaward side of the slope crest line is defined as a non permeable structure, while the landward side of the slope crest line is defined as a reclamation; Integrating multiple surveying and mapping businesses, unifying and standardizing standards, strengthening the sharing of surveying and mapping results, fundamentally solving the problem of inconsistent registration scope of use rights.

## **3.2 Expand the scope of acceptance and reduce regulatory blind spots**

### (1) Extension of completion acceptance to all sea use projects involving engineering construction

In order to effectively connect the approval of sea area use with in-process and post supervision, it is recommended to expand the scope of completion acceptance to all sea use projects involving engineering construction. Referring to the management of completion acceptance of reclamation projects, exploration of sea area use acceptance for completed marine structures should be carried out, and the actual boundary and area of project sea use should be timely and accurately grasped to form a regulatory loop.

### (2) Digging Land into Sea Project

Article 31 of the Regulations on the Administration of the Use of Sea Areas in Hebei Province stipulates that after the completion of the land excavation project, the land use right holder shall, within three months from the date of completion, apply to the marine administrative department of the people's government that originally approved the use of land for the replacement of the sea use right certificate with the land use right certificate. The term of the sea area use right is the remaining term of the land use right. If the original land use right is obtained through paid means, no sea area use fee will be charged; If the original land use right is obtained through allocation, a sea area use fee will be charged.

It is recommended to refer to the completion acceptance of the reclamation project and start from the actual needs of the natural properties and scientific management of the sea area, to study and clarify the completion acceptance and subsequent management requirements for the excavation of land into sea, ensuring a close connection between the sea area and land management.

## **3.3 Promote business integration and deeply streamline processes**

In order to implement the requirements of the Central Committee of the Communist Party of China and the State Council to promote the transformation of government functions and deepen the reform of "decentralization, management and service", it is recommended to cancel the administrative license for the completion and acceptance of sea area use, optimize the procedures for the completion and acceptance of sea area use, synchronize the completion and acceptance of sea area use, the first registration of land use rights, and the cancellation of sea area use rights, and achieve "integration of inspection and registration". Clarify and refine the division of responsibilities related to corresponding business matters, standardize the boundaries of

corresponding responsibilities, form a reform synergy for the coordination and cooperation of the entire natural resource system, promote business integration, and use the completion acceptance of sea area use as the early stage of registration and cancellation of use rights. The completion acceptance of sea area use shall be organized by the sea using unit or commissioned by the technical unit to prepare the acceptance measurement report, and the natural resources department shall organize expert review. The approved acceptance measurement report serves as the scientific basis for land use right registration, real estate registration, and sea area use right cancellation.

### 3.4 Improve legal regulations and refine supporting systems

#### (1) Add legal provisions

Legally address the issues of ocean and land conversion, clarify legal responsibilities, provide legal basis for ocean regulation and law enforcement, reduce illegal and irregular behaviors in the completion and acceptance process, and cause waste of marine resources. In response to the relevant issues identified earlier, it is recommended to add the following clauses in the revision of the Maritime Law:

① Integration of completion acceptance and real estate registration business: Clearly cancel the administrative license for completion acceptance of sea area use, synchronize the completion acceptance of sea area use, initial registration of land use rights, and cancellation of sea area use rights, and achieve "integration of inspection and registration".

② Acceptance scope: Clearly expand the acceptance scope to all sea use projects involving engineering construction.

③ Scope of registration unit: The seaward side of the reclamation slope crest line is defined as a non permeable structure, and the landward side of the slope crest line is defined as reclamation; Integrate multiple surveying and mapping businesses, unify and standardize standards, and strengthen the sharing of surveying and mapping results.

④ Stage acceptance: Sea use projects can apply for stage acceptance according to the actual situation, and the specific requirements and standards for stage acceptance will be stipulated separately.

#### (2) Accelerate the construction of supporting regulations and systems

Adhere to the principles of statutory rights and responsibilities and lawful administration, and take the revision of the Sea Area Law as an opportunity to accelerate the revision of supporting regulations and systems such as specific acceptance methods, management requirements, and technical standards for sea use projects.

## 4. Summary

In summary, This article suggests taking the revision of the "Sea Area Use Management Law" as an opportunity to improve from the following aspects: refining normative standards, scientifically guiding acceptance; Expand the scope of acceptance and reduce regulatory blind spots; Promote business integration and deeply streamline processes; Improve legal regulations and refine supporting systems.

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