

REGULATION ON THE CASES THAT REQUIRE A PERMIT FOR IMPORT, EXPORT AND TRANSIT
TRANSPORTATION OF WASTE, AND ON THE CONDITIONS AND PROCEDURES FOR PERMIT ISSUANCE

(Adapted by the Council of Ministers Decree no. 166, .dated 4th August 2000, promulgated in State Gazette
X» 66 of 2000, amended X" 67 of 2000)

Chapter one

GENERAL CONDITIONS

Article 1

This Regulation shall define the cases that require a permit for import, export and transit transportation of waste through the territory of the Republic of Bulgaria, the conditions and the procedures for permit issuance, as well as the cases where presentation of bank guarantees or insurance is required in relation to these activities.

Article 2

The Regulation shall be applied to the wastes listed in Annexes 1, 2 and 3.

Article 3

The Regulation shall not be applied to:

1. the wastes resulting from the normal exploitation of the ships and platforms on the sea, that are unloaded at ports, including the waste waters and die remains provided that such wastes are subject of other international agreements.
2. transit transportation of wastes by the civil aviation;
3. transit of:
 - a) radio-active waste;
 - b) wastes resulting from geological research, extraction, treatment and storage of valuable resources, as well as from exploitation of mines;
 - c) animal carcasses and agricultural waste: animal faeces and other harmless substances occurring during the respective economic activities;
 - d) waste waters with the exception of liquid wastes;
 - e) military explosive waste.

Article 4

The import, export and transit transportation of wastes shall be also carried out in observation of the safety requirements and the respective international agreements to which the Republic of Bulgaria is a party:

1. on the wastes shown in Annex X" 1, unless provided otherwise in international agreements or there is a written notification from another state that these wastes are subject of control on its territory.
2. on the wastes shown in Annexes .N° 2 and 3 - with a permit by the Minister of Environment and Waters and in observation of the requirements of the Basel Convention on me Transboundary Movement of Hazardous Waste and Their Disposal (SG, issue 1 of 1996; amended, issue 133 of 1999):
 - a) for import and transit transportation - in all cases unless provided otherwise in international agreements;

b) for exports - if provided in international agreements, in observation of the obligations stated therein, and in compliance with the provisions under Article 53 of the Limitation of the Harmful Impact of Waste on the Environment Act (LHIWEA) and in other regulatory documents adopted for the implementation of the international contractual agreements.

Article 5

(1) The legal persons or sole proprietors, who wish to obtain a permit for import, export and transit transportation of wastes, referred to below as "applicants", shall submit to the Ministry of Environment and Water (MoEW) a filled out application form.

(2) When the persons under Article 1 are registered in the Republic of Bulgaria, attached to the application under Article 1 shall be:

1. The applicant's court registration and a certificate for the applicant's present state;
2. Permit for the performance of activities including collection, transportation, storage or disposal of waste, for the persons for whom it is required under Article 37 of the LHIWEA;
3. The applicant's court registration and certificate for the present state of the carrier where he is a person other than that under item 1, and a certified copy of the permit where it is different from the one provided for in item 2.
4. The document for paid fee as required under Article 56 of the LHIWEA, in the cases of import of wastes.

(3) The permit under Article 1 may be for single or for multiple import, export or transit transportation within 1 year.

(4) The permit for multiple import, export or transit transportation shall be issued only for wastes of one and the same physical and chemical composition that are regularly transported to one and the same person, pass through one and the same Bulgarian Customs Office and the states through which the wastes are transported express in written their agreement to issue a multiple permit to the applicant.

(5) No permit for import shall be required, if a permit for transit transportation through territory of the Republic of Bulgaria is issued.

Chapter Two

PERMIT ISSUANCE CONDITIONS

Section I

WASTE IMPORT AND TRANSIT TRANSPORTATION PERMIT ISSUANCE CONDITIONS

Article 6

The import of waste shall be allowed in observation of the following conditions:

1. a contract with an end-user and/or disposer stating the wastes shall be used for p
2. written confirmation by the Municipal Council on which territory the processing facility under item 1 is located;
3. a positive decision based on the assessment of the environmental impact;
4. ascertained 'physical-chemical composition of the waste;
5. the processing of imported Wastes should generate less waste quantities than the use of traditional raw materials, or valuable or limited natural resources should be replaced;
6. the wastes should be stored and processed within a period not longer than 6 months and in a manner which excludes human health risks;
7. the import of the waste should be in conform with the national and regional waste management programmes.

Article7

(1) To obtain a waste import permit, the applicant shall submit the documents under article 5, paragraph 2.

(2) To attest the completion of me conditions under art. 6, the applicant shall attach me following documents to the application:

1. a contract with the end-user and/or disposer that shall consist the elements, listed in Annex № 4;
2. a written confirmation by me mayor of the Municipality stating:
 - a) the applicant's name. The kind and quantities of waste. the import completion period, the name of die processing facility;
 - b) that the waste import conforms to the municipal waste management programme;
 - c) that tlie imported waste will be accepted on the territory of the Municipality;
3. certificates, specifications etc . certifying the physico-chemical composition of the waste;
4. a permit under Article 37 of the LHIWEA for the persons performing the recycling of the waste;
5. a declaration by the user and/or the disposer certify ing the completion of the conditions under Article 6, item 6.

(3) Attached to the documents shall be:

1. decision based on an assessment of the environmental impact of the facility or plant where the waste shall be processed in the cases that require this in confomiance with Chapter Four of the Environmental Protection Act;
2. a statement of the Regional Inspectorate of Environment and Water (RIEW) on which territory the processing facility is located;
3. a written confirmation by the competent audiority of the state of export in accordance with Annex № 5, including also a confirmation that no technical possibilities, capacity or suitable plants and facilities exist to dispose the waste in an efficient and environmentally protective manner;
4. a declaration by the end-user and/or disposer of his obligation to process wastes of Bulgarian origin during the current calendar year in quantities that are not less than the imported waste quantities; die import of quantities for which current permits exist shall not lead to non-confirmation with the above:

5. a plan for the measures that the applicant will take where the waste import can not be carried out in accordance with the agreements

6. the bank guarantee in the model of Article 6 or insurance covering damages in transit or the expenses for disposal thereof under the conditions of item 3.

(4) At least 3 working days before performing the actual waste import, the applicant shall present to the MoEW a notification stating the exact date of sending the waste.

Article 8

(1) The permits for transit transportation of waste shall be issued in observation of the following conditions:

1. a written notification by the competent authorities of the exporting state in compliance with Annex № 5;

2. a written agreement by the competent authorities of the states through which the transportation shall be conducted following the transition of the wastes through the Republic of Bulgaria, including such from the state of import, according to Annex 5.

3. a declaration by the competent authorities of the state through which the wastes shall be transported prior to the Bulgarian border, conforming the obligations for return passage and acceptance of the cargo in case the same is not admitted into the Republic of Bulgaria or in any of the subsequent states;

4. bank guarantees or insurance covering the resulting from transportation damages in transit including where the transboundary transportation is considered illegal;

(2) The applicant shall present documents attesting the completion of the conditions under para. 1.

(3) The procedure to prove the conditions under para. 1 shall be implemented by the MoEW.

(4) At least 3 working days before the implementation of the waste transit, the applicant shall present to the MoEW a notification stating the exact date of forwarding the waste.

Section II

ISSUANCE CONDITIONS FOR

WASTE EXPORT PERMIT

Article 9

(1) The waste export permit is issued when complying the conditions as follows:

1. written consent issued from the competent authority of the State of import, including:

a) declaration stating that the wastes, which are due to export, are demanded for treatment or recycling, or others waste related activities;

b) confirmation for existing contract between the applicant or a person, on behalf of which the applicant arranges the transboundary transport of waste, and the person who shall treat the waste in the State of import;

2. written confirmation from the competent authority of the States, through which territories the transport will be executed, that agree with the transport on their territory.

(2) The procedure for proving the conditions under paragraph 1 shall be performed by the MoEW.

Article 10

(1) To obtain a waste export permit, the applicant shall also submit to the documents under Art.5 the following:

1. certificates, specifications etc. attesting to the physicochemical composition of the waste;
2. a notification in two copies filled by die applicant according to Annex № 5;
3. an opinion by the Ministry of Industry or by another competent authority that no technical possibilities, capacity or suitable plants and facilities for disposal and environmaitally sound treatment of waste exist within the Republic of Bulgaria, owing to which the wastes must be exported from the country,
4. contracts for environmentally sound transit, recycling, reuse or disposal of waste, concluded by the applicant or for the applicant or on behalf thereof for all countries of waste movement in accordance with the laws of the respective states into or through which the movement of the waste is pending;
5. certified copies of the necessary registrations or licenses to the effect that all persons involved in the transboundary movement are qualified for such activities in conformity with laws of the location from which, to which or through which these will be performed.
6. a declaration by the applicant that, in case the waste is not accepted by the state of import or some of the states through which territories the transit will be performed, it shall be brought back to the state of export by him and at his expense in the same condition and quantity as has been described, within 90 days as of the moment the state of import has notified the state of export;
7. a plan for the measures which the applicant will take in case the transboundary movement can not be carried out in conformity with the agreements;
8. a bank guarantee on the model of Annex Ns 6 for covering the damages in transit or the expenses for the disposal there of according to the conditions of item 7;
9. movement document on the model of Annex Ns 7

Chapter Three

CONTENTS OF THE WASTE IMPORT, EXPORT AND TRANSIT

TRANSPORTATION PERMITS

Article 11

(1) The permit issued by the MoEW shall be a certified original of the form in Annex N& 5 signed by the Minister of the Environment and Waters sealed with the seal of the MoEW.

(2) The Minister of the Environment and Water shall issue the permit under certain conditions that shall be stated in the form in Annex N° 5 or can be in the form of an additional annex.

Chapter Four

ISSUANCE, REGISTRATION AND REPORTING

OF THE WASTE IMPORT, EXPORT AND

TRANSIT TRANSPORTATION PERMITS

Article 12

(1) The Waste Import, Export and Transit Transportation Permits shall be issued within 60 days from the day of submission of the documents and following the receipt of the notifications by the competent authorities of other states or from the day of submission of the additional information, where requested, or from the expiration of the term under Article 17, para. 1.

(2) The Ministry of the Environment and Water may also request other documents or information in addition, attesting to the completion of the permit issuance conditions, or documents referring to the requirements of an international agreement, to which the Republic of Bulgaria is a party.

(3) The permits under Article No 5, para. 3 shall be valid for:

1. a single import, export or transit transportation of waste - up to 6 months as of the issuance thereof.

2. the multiple import, export or transit transportation of waste - up to 12 months as of the issuance date thereof.

Article 13

A special register shall be established at the MoEW for registration of the applications for import, export and transit transportation permits and for the issued permits.

Article 14

(1) Within 15 days from the expiration of the issued permit, the applicant shall notify the MoEW with a letter for the waste quantities imported, transited or exported under that permit. Attached to the letter shall be a copy from the bill of entry.

Article 15

(1) Within 3 working days following the actual waste import or transit transportation, the applicant shall present to the MoEW a copy from the "Movement Document", filled in and sealed on the requested places according to the guidance in Annex No 7, to prove that the waste import or transit transportation has been carried out in accordance with the permit conditions.

(2) In the case of waste export, within 3 working days following the receipt of the waste from the disposer the applicant shall present to the MoEW and to the competent authority of the importing state a copy from the "Movement Document" filled in and sealed on the required places according to the guidance in Annex No 7, to confirm that the waste has been processed.

Article 16

Within 180 days following the actual waste import or export, the disposer presents to the MoEW a copy of the "Movement Document", filled in and sealed on the required places according to the guidance in Annex No 7, to confirm that the waste has been processed.

Article 17

(1) If there are irregularities and/or inaccuracies in the presented documents, the MoEW shall notify the applicant within 10 working days following the application submission date to the effect that they should be corrected.

(2) The permit issuance may be refused also:

1. on the basis of the opinion by the Ministry of Economy and other competent authority;
2. if the applicant or any other person who will be involved in transboundary transportation had formerly violated this regime;
3. upon refusal by the competent authorities of the state through which the transboundary transportation takes place, including the importing state;
4. in the permit conditions have not been observed;
5. if irregularities and/or inaccuracies have not been corrected within 10 working days as of the notification date under item 1.

(3) The refusal under Article 2 shall be justified in writing and sent to the applicant.

(4) The applicant may request a review of the decision under Article 2 in conformity with the Administrative Legal Procedure Law.

Article 18

(1) The Ministry of Environment and Water shall suspend the issued permit if:

1. wrong information has been supplied to serve as the basis for a permit issuance;
2. permit conditions are not observed.

(2) The cases under para. 1 shall be justified with a record of findings by an official, appointed by the Minister of Environment and Water.

(3) Within 3 days following the receipt of the permit suspension letter from the MoEW, the applicant shall return the original of the permit to the MoEW.

(4) The applicant may request a review of the decision under Art. 2 in conformity with the Administrative Legal Procedure Law.

Article 19

(1) All applications and supporting documents shall be represented in Bulgarian language and where the original documents are not in Bulgarian, an authorized translation in Bulgarian language shall be presented.

(2) When the applicant presents documents in foreign language, he shall submit a duly certified copy, conforming that the documents authentication rules are in accordance with the laws of the state where the original document has been created or the copy made.

Chapter Five

ESTABLISHMENT OF BANK

GUARANTEE OR INSURANCE

Article 20

(1) For obtaining a permit for import, transit transportation or export of waste in Annexes 2 and 3 presented shall be also a bank guarantee for the restoration of the expenses for elimination of the possible environmental pollution caused during the import, export or transit transportation of waste on the territory of the Republic of

Bulgaria.

2) The bank guarantee under Article 1 shall be absolute and irrevocable, and shall be issued by a Bulgarian bank or by a foreign bank in the Worldscope 100 biggest banks list for the preceding year, published in "The Wall Street Journal".

(3) With the bank guarantee, the bank assumes an obligation to transfer the bank guarantee amount irrevocably, unconditionally and at first request by the Ministry of Environment and Water in the event of environmental pollution or damage on the territory of the Republic of Bulgaria during the import, export or transit transportation of the wastes, established by the Ministry of Environment and Water.

(4) The insurance under item 1 shall be proved with an insurance policy issued by a company registered on the territory of the Republic of Bulgaria.

(5) The bank guarantees, in respect of waste import or the insurance in respect of waste import, export and transit transportation, shall be valid for 1 month following the permit validity date.

(6) The bank guarantee, in respect of waste export, shall be valid up to the date of receipt of the documents under Article 15, para. 2 in the MoEW, which is also a condition for the release from the bank guarantee.

Article 21

(1) The amount of the bank guarantee or of the insurance shall be determined by the MoEW according to Annex No 8.

(2) The indemnity corresponding to the insurance must cover the damages in the case of an insurance event.

Article 22

(1) The bank guarantee shall be issued in favor of the MoEW. Should the permit holder fail to observe his obligations, the MoEW shall realize the bank guarantee, and amount shall be deposited into the National Environment Protection Fund.

(2) Where the permit holder carries out multiple waste import or export within the territory of the country, the deposited bank guarantee for the first import may be used as a guarantee for the subsequent, provided that he should explicitly wish so. Should the subsequent transboundary transportation requires a higher guarantee or insurance amount, the applicant shall present to the MoEW an additional bank guarantee or insurance.

(3) The bank guarantee shall be released by MoEW before the expiration of the bank guarantee:

1. for import or transit transportation - following the presentation of the document under Article 15, para. 1;
2. for export - following the presentation of the document under Article 15, para. 2.
3. for invalidation of the issued permit - in the cases where the import or the export is not performed.

ADDITIONAL PROVISION

§ 1. Within the meaning of this Regulation:

1. "Competent authority" shall be a governmental authority appointed as "Competent authority" under the Basel Convention on The Transboundary Movement of Hazardous Waste and Their Disposal, or another governmental authority responsible for the transboundary waste movement in the state and who is authorized to conduct all the permit issuance procedures for transportation. A Competent authority for the Republic of

Bulgaria is the MoEW.

2. "Transboundary transportation" shall be any kind of waste transportation from a region under the national jurisdiction of one state to or through a region under the national jurisdiction of another state, or to or through a region that is not under the jurisdiction of any state, provided that this movement concerns at least two states.
3. "State of import" shall be any country, for which the wastes import is planned or conducted to the effect that they should be disposed therein, or to the effect that their loading is done before their treatment in the region, which is not under the national jurisdiction of any state.
4. "State of export" shall be any country from which the wastes export is planned or conducted.
5. "State through which territory the transportation is carried out" is any state, with the exception of the exporting or importing state, through which the waste export is planned or conducted.
6. "User" shall be a juridical person or a sole proprietor, whom the wastes shall be delivered under a contract aiming their further delivery to an authorized person for processing or other activities, connected with the wastes.
7. "Disposer" shall be an authorized person, accepting the wastes for recycling.
8. "Waste Import" shall be the waste transit via the Entry Customs Office on the territory of the Republic of Bulgaria.
9. "Transit transportation" shall be the transportation of wastes that are forwarded from and for a state, different from the Republic of Bulgaria.
10. "Export" shall be the Customs Departments of Export, Passive Improvement, Temporary Export or Re-export of Waste, with a destination of the waste for another state.

CONCLUDING PROVISIONS

§ 2. The Regulation shall be issued pursuant to Article 51, para. 2 in connection with Article M° 55 and 61 of the Limitation Of The Harmful Impact Of Waste Upon The Environment Act.

§ 3. Revoked shall be The Regulation JM° 5 on the permits for import, export and transit transportation of waste from 1998 (SG, issue 120 of 1998; amended issue 1 of 1999; amended issue 62 of 1999).

§ 4. The implementation of the Regulation shall be assigned to the Minister of Environment and Water.

§ 5. Should it be necessary, the executives of the institutions concerned, in coordination with the Minister of the Environment and Water, may give instructions with respect to the Regulation, whenever this is within the competence of those institutions.

ANNEX 1

to Article 4

LIST OF WASTES WITH RESPECT TO THE IMPORT, EXPORT AND TRANSIT TRANSPORT REGIME

GREEN LIST OF WASTES (•)

Independently of that, whether the wastes are included in this list or not, they cannot be considered as green wastes, if they are contaminated by other materials to a level, which (a) increases the risks, related to the waste

to an extent to be included in the Amber or the Red List, or (b) impedes the recovery of the waste by an environmentally sound method.

GA. Metal and metal-alloy wastes in metallic, non-dispersible form f")

The following waste and scrap of precious metals and their alloys:

GA 010 ex 711210 - Of gold

GA020 ex 711220 - Of platinum (the expression "platinum" includes platinum, iridium, osmium, palladium, rhodium and ruthenium)

GA 030 ex 711290 - Of other precious metal, e.g., silver

Note : Mercury is specifically excluded as a component of these metals and their alloys or amalgams.

The following ferrous waste and scrap; remelting scrap ingots of iron or steel:

GA 040 ex 720410 - Waste and scrap of cast iron

GA 050 ex 720421 Waste and scrap of stainless steel

* Where possible, the code number is written according to the harmonised goods and the codification system established by the Brussels convention on June 14, 1983 under the patronage of the Council for customs co-operation (harmonised system). This code can be applied either for waste or for goods. This regulation does not include positions, which are not waste. That is why the code, used for by the customs and other authorities for facilitating of their procedures is presented here for helping the waste identification, covered by the main groups. The indicative "ex" identifies a specific item contained within the harmonised customs code heading. The code in the first column is the OECD-one, consisting of two letters (the first one for the list - green, red or amber and the second one - A3.C,.. followed by a number).

** Non-dispersible' does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.