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## **Measures for the License Administration of Qualification for Operation of Environmental Pollution Control Facilities**

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Department: STATE ENVIRONMENTAL PROTECTION ADMINISTRATION  
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Order of the State Environmental Protection Administration  
(No.23)

According to the Decision of the State Council on Establishing Administrative License on Administrative Items Subject to Examination and Approval that Really Need to Be Preserved, we hereby publicize the Measures for the License Administration of Qualification for Operation of Environmental Pollution Control Facilities, which shall come into force as of December 10, 2004.

Director General of the State Environmental Protection Administration

Xie Zhenhua  
November 8, 2004

Measures for the License Administration of Qualification for Operation of Environmental Pollution Control Facilities

### Chapter I General Provisions

Article 1 The present Measures are formulated in accordance with the provisions of the Decision of the State Council on Establishing Administrative License on Items Subject to Administrative Examination and Approval that Really Need to Be Preserved for the purpose of improving the level of management on the operation of environmental pollution control facilities, and regulating the order of the market of the operation of environmental pollution control facilities.

Article 2 The present Measures shall be applicable to the undertaking of activities for the operation of environmental pollution control facilities within the domain of the People's Republic of China. The "operation of environmental pollution control facilities" as mentioned in the present Measures, shall refer to the undertaking of onerous services of socialization for disposal and treatment of pollutants, or the undertaking of for-profit activities for the management of operation of environmental pollution control facilities of the other party on the basis of the contract signed between the two parties.

Article 3 The state shall implement the license system for operation qualification on the operation of environmental pollution control facilities.

Article 4 Any entity that undertakes the operation of environmental pollution control facilities shall apply for obtaining the certificate of qualification for operation of environmental pollution control facilities (hereinafter referred to as the qualification certificate) in accordance with the provisions of the present Measures, and shall undertake activities of operation of environmental pollution control facilities according to the provisions of the qualification certificate.

Any entity that fails to obtain the qualification certificate may not undertake activities of operation of environmental pollution control facilities.

Article 5 The qualification certificate shall, in light of the scope of operation business and the scale of pollutant disposal and treatment, be divided into Certificate of Level A of Qualification for

Operation of Environmental Pollution Control Facilities (hereinafter referred to as Level A Qualification Certificate) and Certificate of Level B of Qualification for Operation of Environmental Pollution Control Facilities (hereinafter referred to as Level B Qualification Certificate), both shall include such two types as formal certificate and temporary certificate.

The period of validity of Level A Qualification Certificate and Level B Qualification Certificate shall be three years, and the period of validity of Level A Temporary Qualification Certificate and Level B Temporary Qualification Certificate shall be one year.

The various levels of qualification for operation of environmental pollution control facilities shall be divided into such professional types as life sewage, industry waste water, dust-removal and desulfurization, industrial exhaust gas, industrial solid waste (excluding hazardous waste), life rubbish, automatic continuous monitoring and etc..

The qualification certificates shall be compiled with serial numbers and printed circuit uniformly by the State Environmental Protection Administration according to the standards for determining levels and types for operation of environmental pollution control facilities.

The standards for determining levels and types of qualifications for operation of environmental pollution control facilities shall be formulated by the State Environmental Protection Administration.

Article 6 The certificate of qualification for operation of environmental pollution control facilities shall include the following contents:

1. Name of the legal person, legal representative and residence;
2. Level and type of operation;
3. Period of validity; and
4. Date of certificate issuance and serial number of the certificate.

Article 7 The competent administrative departments of environmental protection at or above the county level shall conduct management on the qualification certificates within their own administrative regions according to the provisions of the present Measures.

## Chapter II Application

Article 8 Any entity that applies for Level A Qualification Certificate or Level B Qualification Certificate shall comply with the following conditions:

1. Having the qualification of an independent enterprise legal person or the qualification of an institution legal person under enterprise management;
2. Having full-time operators to maintain the normal operation of the facilities. The entities applying for Level A Qualification shall have no less than 10 technicians who have the title of a technical post, of whom there are no less than 5 persons who shall have senior title of a technical post. The entities applying for Level B Qualification shall have no less than 6 technicians who have the title of a technical post, of whom there are no less than 3 persons who shall have senior titles of a technical post. The management personnel and operators on the scene of facilities operation shall obtain the certificate of training for the post of operation of pollution control facilities;
3. Having undertaken the operation of environmental pollution control facilities for more than one year consecutively, and the pollutant discharged in the operating pollution control facilities is stable and reaches the national and local environmental standards; and
4. Having other conditions complying with the provisions on determining the levels and types of qualification certificates for operation of environmental pollution control facilities meeting its operating activities.

Article 9 Any entity that has the conditions as listed in Article 8 of the present Measures, but has not undertaken or has undertaken the operation of environmental pollution control facilities for less than one year consecutively, may apply for a temporary qualification certificate.

Article 10 Any entity that applies for a qualification certificate shall file an application to the competent administrative department of environmental protection at the level of the province of the locality of the entity according to the provisions of the present Measures, fill in and submit the application form for qualification certificates, and submit the following materials:

1. The duplicate of the business license of an enterprise legal person or the photocopy of the certificate of institution entity legal person;
2. The financial statements of the last year or other credit certificates;
3. The photocopies of professional qualification certificates of the technicians, of certificates of training for the posts of operators for operation of environmental pollution control facilities and of the engagement contract;
4. The proof of experiment or inspection place;
5. The plans for preventing and handling pollution accidents;
6. The relevant management systems of standard operation quality guaranty system;
7. The examples of operation of environmental pollution control facilities, including brief introduction to operating items, operation contract, opinions of users, facility operation monitoring report issued by environmental protection monitoring institutions, but this item shall not apply to those who apply for a temporary quality certificate; and
8. The certificate documents on other conditions as required by the standards for determining the levels and types for certificate of qualification for operation of environmental pollution control facilities.

Article 11 It is unnecessary to obtain qualification certificate for treating or disposing the pollutants produced by an entity itself or for operating environmental pollution control facilities of an entity itself, but the following technical conditions that maintain the ordinary operation of facilities shall be met:

1. Staffing proper full-time operators (of environmental protection techniques, environmental protection machinery, management and testing, etc.), having complete auxiliary types of work. And the management personnel and operators on the scene of facilities operation shall obtain certificate of training on the post for operation of environmental pollution control facilities;
2. Having the fixed laboratory, and equipping with testing facilities for monitoring that meet the routine monitoring requirements; and
3. Establishing standard operation quality guaranty system, having perfect operation management system and plans for preventing and handling pollution accidents.

### Chapter III Examination and Approval

Article 12 The department of environmental protection at the provincial level shall make examination within 20 workdays from the date when the application documents are accepted, put forward pre-examination opinions, and report to the State Environmental Protection Administration those meeting the requirements.

The department of environmental protection at the provincial level shall, during the process of pre-examination, organize experts or entrust the department of environmental protection at or above the county level to make on-site checking on the application entities and their operation facilities.

Article 13 The State Environmental Protection Administration shall make examination within 20 workdays from the date of receiving the pre-examination opinions, and make the examination and approval decision. For those meeting the conditions, it shall grant approval and issue qualification certificates and make an announcement; for those not meeting the conditions, it shall not grant approval and shall explain the reasons.

The State Environmental Protection Administration shall notify the department of environmental protection at the provincial level the examination and approval decision simultaneously.

The State Environmental Protection Administration may make on-site checking on the application entities and their operation facilities upon the need during the process of examination.

Article 14 Under any of the following circumstances, a certificate holding entity shall reapply for obtaining a qualification certificate in accordance with the conditions and procedures as prescribed in the present Measures:

1. Where there is necessity to increase new professional types of operation;
2. Where there is necessity to have a temporary qualification certificate replaced by a formal qualification certificate;
3. Where there is necessity to have a Level B Qualification Certificate upgraded to a Level A Qualification Certificate; or
4. Where after the period of validity of a Level A Qualification Certificate or a Level B Qualification Certificate expires, there is necessity to continue undertaking activities of operation of environmental pollution control facilities.

When applying for the issue as listed in item (2) of the preceding paragraph, a certificate holding entity only needs to provide the certificate materials proving that it has undertaken the operation of environmental pollution control facilities for 30 days consecutively and the pollutant discharged by the pollution control facilities has reached standard.

In case the period of validity of a temporary qualification certificate expires, no temporary qualification certificate may be reapplied for.

Article 15 In case a certificate holding entity is under any of the following circumstances, it shall apply for handling alteration formalities to the State Environmental Protection Administration within 30 days:

1. The entity occurs a division or merger; or
2. There is alteration on the name, legal representative or the residence of the entity.

Article 16 A certificate holding entity shall submit the following materials when handling alteration formalities:

1. The application for alteration of the certificate holding entity;
2. The photocopies of the professional qualification certificates of technicians, of the certificates of training for the posts of operators of pollution control facilities and of the engagement contract;
3. The photocopy of the business license issued by the department for industry and commerce after the alteration of the entity;
4. The original of the qualification certificate issued by the State Environmental Protection Administration; and
5. The opinions of examination of the department of environmental protection at the level of the province at the locality of the certificate holding entity.

Article 17 Where a certificate holding entity revokes or no longer undertakes the operation of environmental pollution control facilities, it shall go through write-off formalities within one month to the original certificate issuing organ.

#### Chapter IV Supervision and Management

Article 18 A certificate holding entity may undertake operation business across the country in light of the types and levels as prescribed by the qualification certificate.

A certificate holding entity shall abide by the relevant state provisions on environmental protection in its operation activities, and the pollutants it discharges shall reach the standard and requirements for pollutant discharge as prescribed by the state and the local region.

Article 19 The department of environmental protection at or above the county level shall strengthen supervision over and inspection on the certificate holding entities through such ways as checking in written forms and inspection on the spot, and record the conditions of supervision and inspection and the handling result, and put the record on archives after it is signed by the supervisors and inspectors.

The general public shall have the right to consult the supervision and inspection records of the department of environmental protection at or above the county level.

In case any department of environmental protection at or above the county level discovers any circumstance of a certificate holding entity in its operation activities that does not meet the former conditions for issuing certificate, it shall order it to rectify and correct within a prescribed time limit.

Article 20 In case any certificate holding entity undertakes any project outside the administrative regions at the level of the province at its locality, its operation activities shall be subject to the supervision and inspection of the department of environmental protection at or above the level of the county at the locality of the project.

The department of environmental protection at the locality of a project shall not require any certificate holding entity to repeatedly apply for qualification certificate or other similar license qualification for operation.

Article 21 A certificate holding entity shall, within 30 days after signing contract of operation by entrustment with an entrusting entity, fill out the Form for Archival Filing of Entrusted Projects of Operation of Environmental Pollution Control Facilities to the department of environmental protection at the level of the county at the locality of project facilities.

Article 22 A certificate holding entity shall, before the end of January each year, submit the Annual Report Form on the Conditions of Operation of Environmental Pollution Control Facilities of the last year to the department of environmental protection at the level of the province at the locality of its own entity. A certificate holding entity which takes charge of a project not within its own province shall, send a copy of the Annual Report Form on the Conditions of Operation of Environmental Pollution Control Facilities of a project to the department of environmental protection at the level of province where the project locates at the same time.

The department of environmental protection at the provincial level shall put forward examination opinions on the certificate holding entities according to the Annual Report Form on the Conditions of Operation of Environmental Pollution Control Facilities and on the conditions of routine inspection, and report to the State Environmental Protection Administration the conditions of operation of environmental pollution control facilities and the examination conditions of the certificate holding entities within their own administrative regions in the previous year before the end of March each year, and make an announcement.

Article 23 No qualification certificate may be forged, altered or transferred.

#### Chapter V Legal Liabilities

Article 24 In case any staff member of the department of environmental protection at or above the county level has any of the following acts, he shall be subject to an administrative punishment according to law. If a crime is constituted, he shall be subject to criminal liabilities:

1. Issuing certificate of qualification for operation of pollution control facilities to any entity that does not comply with the conditions as prescribed in the present Measures;
2. Failing to make investigation into or punish any entity or individual that fails to lawfully obtain the qualification for operation of pollution control facilities but undertakes operation activities without permission or failing to make handling according to law after receiving a report on an offense;
3. Failing to perform duties of supervision and management on the entities that have obtained the certificate of qualification for operation of pollution control facilities or failing to make investigation into or punish acts in violation of the provisions of the present Measures it discovers; or
4. Having other act of dereliction of duty in the work for the management of operation of pollution control facilities.

Article 25 In case any entity undertakes activities of operation of environmental pollution control facilities without obtaining the qualification certificate in violation of the provisions of the present Measures, the department of environmental protection at or above the county level shall order it to stop the illegal acts, and impose a fine of RMB 20, 000 Yuan up to RMB 30,000 Yuan.

Article 26 In case any entity falsifies during the process of application for a qualification certificate in violation of the provisions of the present Measures, the State Environmental Protection Administration shall order it to correct and revoke the qualification certificate it has obtained.

Article 27 In case any entity violates the provisions of the present Measures and fails to undertake activities of operation of environmental pollution control facilities in light of the provisions of the qualification certificate, the department of environmental protection at or above the county level shall order it to correct and may impose on it a fine of RMB 10,000 Yuan up to RMB 30,000 Yuan. If the circumstance is serious, the State Environmental Protection Administration shall revoke its qualification certificate.

Article 28 In case any certificate holding entity discharges pollutants exceeding the standard in the operation of environmental pollution control facilities in violation of the provisions of the present Measures, the department of environmental protection at or above the county level shall give it a punishment according to the provisions of the relevant laws and regulations. If it is discovered to have discharged pollutants exceeding the standards for more than two times within one year, the State Environmental Protection Administration shall revoke its qualification certificate.

Article 29 In case any certificate holding entity makes falsification when submitting the Annual Report Form on the Conditions of Operation of Environmental Pollution Control Facilities in violation of the provisions of the present Measures, the department of environmental protection at the province level shall order it to correct and impose on it a fine of less than RMB 20,000 Yuan. If the circumstance is serious, the State Environmental Protection Administration shall revoke its qualification certificate.

Article 30 In case any entity forges, alters or transfers the qualification certificate in violation of the provisions of the present Measures, the department of environmental protection at or above the county level shall order it to correct and may impose on it a fine of RMB 10,000 Yuan up to RMB 30,000 Yuan concurrently, and the State Environmental Protection Administration may revoke its qualification certificate.

Article 31 Any entity that has been subject to the punishment of being revoked of qualification certificate in accordance with the provisions of the present Measures shall not reapply for the qualification certificate within three years.

#### Chapter VI Supplementary Provisions

Article 32 The foreign-funded enterprises undertaking the operation of environmental pollution control facilities within the territory of the People's Republic of China shall comply with the relevant legal provisions and requirements of industrial policies of the state on foreign investment, and shall apply for obtaining the operation qualification certificate in accordance with the provisions of the present Measures, and shall not undertake activities of operation of pollution control facilities until they have obtained the operation qualification certificates.

Article 33 The format and contents of the following documents shall be prescribed by the State Administration of Environmental Protection uniformly:

1. Application Form of Certificate of Qualification for Operation of Environmental Pollution Control Facilities;
2. Certificate of Qualification for Operation of Environmental Pollution Control Facilities;
3. Annual Report Form on the Conditions of Operation of Environmental Pollution Control Facilities; and
4. Form for Archival Filing of Entrusted Projects of Operation of Environmental Pollution Control Facilities.

Article 34 The present Measures shall come into force as of December 10, 2004. The Measures for License Administration of Qualification for Operation of Environmental Pollution Control Facilities

(for Trial Implementation), which were promulgated by the State Environmental Protection Administration on March 26, 1999, shall be repealed simultaneously.