

Interim Measures on Clean Production Checks

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In order to press ahead with clean production in an all-round way, regulate clean production checks, the National Development and Reform Commission and the State Environmental Protection Administration have, in accordance with the “Law of the People’s Republic of China on Promoting Clean Production” and the division of duties of the relevant institutions under the State Council, formulated, deliberated and adopted the “Interim Measures on Clean Production Checks”, which are hereby promulgated, and shall come into force on October 1, 2004.

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Interim Measures on Clean Production Checks

Chapter I General Provisions

Article 1 These Measures are formulated in accordance with the “Law of the People’s Republic of China on Promoting Clean Production” so as to promote clean production and regulate clean production checks.

Article 2 “Clean production check” as mentioned in these Measures shall mean the process of following certain procedures to investigate into and diagnose the production and service process so as to find out the causes of high energy consumption, high material consumption and heavy pollution and to render solutions for reducing the use and production of toxic or harmful materials and decreasing energy consumption, material consumption and wastes, and therefore to select the technically, economically and environmentally feasible clean production plans.

Article 3 These Measures shall apply to all the entities engaging in production and service activities and other departments engaging in relevant administrative activities inside the territory of the People’s Republic of China.

Article 4 The National Development and Reform Commission shall, jointly with the State Environmental Protection Administration, take charge of the clean production checks throughout China. The development and reform (or economic and trade) administrative department of each province, autonomous region, municipality directly under the Central Government, or municipality separately under State planning or that of Sinkiang Production and Construction Army Corps shall, jointly with the local environmental protection administrative department at the same level, organize the clean production checks in light of the actual situation of its own area.

Article 5 Clean production checks shall focus on enterprises, and the principles of combining the enterprise's voluntary check with the State's compulsory check and combining the enterprise's independent check with the externally assisted check shall be followed. In addition, clean production checks shall be conducted in an orderly manner in light of local conditions, and actual effects shall be stressed.

Chapter II Scope of Clean Production Checks

Article 6 Clean production checks may be divided into voluntary checks and compulsory checks.

Article 7 The State encourages enterprises to conduct clean production checks voluntarily. An enterprise whose emission of pollutants reaches the national or local emission standards may voluntarily organize the implementation of clean production checks, and set targets on further saving resources and reducing emission of pollutants.

Article 8 In case any of the following circumstances arises, a compulsory clean production check shall be conducted:

- (1) The enterprise is a heavily polluting enterprise whose emission of pollutants exceeds the national and local standards for emission, or whose total emission of pollutants exceeds the total emission control index as ratified by the local people's government;
- (2) The enterprise uses toxic or harmful materials for production or emits toxic or harmful substances in its production.

Toxic or harmful materials and substances mainly refers to the virulent, intensively corrosive, intensively pungent, radioactive (excluding nuclear power facilities and military industrial nuclear facilities), carcinogenic substances, substances leading to monstrosity, etc., which are listed in the "Table of the Names of Hazardous Goods" (GB12268), the "Catalogue of Hazardous Chemicals", the "National Catalogue of Hazardous Wastes" and the "Catalogue of Virulent Chemicals".

Article 9 The name list of the enterprises prescribed in Item (1) of Article 8 to conduct compulsory clean production checks shall be determined upon ratification of the environmental protection administrative department of the province, autonomous region, municipality directly under the Central Government, or municipality separately under State planning, or that of Sinkiang Production and Construction Army Corps after the local environmental protection administrative department proposes the name list of the preliminarily selected enterprises according to its scope of administrative powers and submits to the abovementioned ratifying environmental protection administrative department level by level. A group of enterprises shall be promulgated each year, of which the enterprises shall be notified in writing, and a copy shall be made to the development and reform (economic and trade) administrative department; meanwhile, the name list shall be published on a major local media.

The name list of enterprises prescribed in Item (2) of Article 8 to implement compulsory clean production checks shall be determined by batches and in groups by the environmental protection administrative department of each province, autonomous region, municipality directly under the Central Government, or municipality separately under State planning, or that of Sinkiang Production and Construction Army Corps jointly with the local development and reform (economic and trade) administrative department at the same level in light of the local actual situation on conducting clean production checks, and on the basis of analyzing the amount of consumed toxic or harmful materials of the enterprise or the emission of toxic or harmful substance, and the severity of influences to the environment, as well. The said administrative departments shall notify the enterprises of the name list in writing, and publish it on a major local media.

Chapter III Carryout of Clean Production Checks

Article 10 An enterprise prescribed in Item (1) of Article 8 to carry out compulsory clean production checks shall, within one month as of the promulgation of the name list, publish the information on the emission of its main pollutants on a major local media. The main contents to be published shall include: the name of the enterprise, the legal representative, the address of the enterprise, the names of the emitted pollutants, the methods of emission, the density of emission, the total amount, the circumstances on exceeding the standard and the total amount. The environmental protection administrative departments below the provincial level shall, upon the scope of their respective administrative powers, inspect the emission of main pollutants as promulgated by the enterprises.

Article 11 The enterprises listed into the name list for compulsory clean production checks shall carry out a clean production check within two months after the name list is published.

For the enterprises prescribed in Item 2 of Article 8 to carry out compulsory clean production checks, the time between every two checks shall not exceed five years.

Article 12 An enterprise that makes clean production checks voluntarily may provide the competent development and reform (or economic and trade) administrative department and the environmental protection administrative department with a plan on clean production checks, and shall organize clean production checks according to the contents and procedures as set forth in the plan on clean production checks.

Article 13 The procedures for a clean production check shall generally include the preparations for check, the pre-check, the check, the production and selection, the determination of the implementation program, and the compilation of the clean production check report.

(1) Preparation for check, which means holding trainings and propaganda, forming a clean production check team composed of the enterprise's management staff and technicians, and formulating a work plan;

(2) Pre-check, which means determining the focus of clean production check and the objective of clean production on the basis of making a comprehensive investigation on the enterprise's basic information and by making qualitative and quantitative analyses;

(3) Check, which means creating the balance of materials, balance of water, balance of resources and balance of pollution factors, and finding out the links where materials are lost and resources are wasted as well as the how the pollutants have been produced by analyzing the input and output in the production and service process;

(4) The production and selection of the implementation program, which means making analysis of the loss of materials, the waste of resources, and the production and emission of pollutants, making clean production implementation program, and making preliminary selection of the program;

(5) Determination of the implementation program, means making technical, economic and environmental feasibility analysis on the preliminarily selected clean production program, and determining the clean production program which the enterprise plans to implement;

(6) Compilation of the clean production check report, which shall include the enterprise's basic information, the process and result of the clean production check, the summary of clean production program and the analysis on the forecast economic effects, the plan on implementing the clean production program, and so on.

Chapter IV Organization and Management of Clean Production Checks

Article 14 Clean production checks shall be conducted mainly by the free will of the enterprise. An enterprise incapable of independently conducting clean production checks may entrust an industrial association, clean production center, engineering consulting entity or other consulting service institution to assist it in conducting the clean production checks.

Article 15 An consulting service institution that assists an enterprise in organizing and conducting

clean production checks shall meet the following conditions:

- (1) It has the independent status as a legal person;
- (2) It has technicians who are familiar with the production process, technologies, and pollution prevention and control management of the relevant industry, have the required knowledge on clean production, and have grasped the clean production check procedures;
- (3) It has the rules and measures for providing the enterprise's clean production checks with fair, impartial and high-efficiency services.

Article 16 An enterprise included in the name list for compulsory clean production checks shall, within one year as of the publishing of the name list, submit a clean production check report to the local environmental protection administrative department and the local development and reform (or economic and trade) administrative department. A central enterprise shall submit a clean production check report to the local environmental protection administrative department and the local development and reform (or economic and trade) administrative department, and meanwhile send a copy to the State Environmental Protection Administration and the National Development and Reform Commission.

Article 17 An enterprise that voluntarily conducts a clean production check may submit a clean production check report with reference to Article 16 of these Measures.

Article 18 The development and reform (or economic and trade) administrative departments and the environmental protection administrative departments at each level shall actively guide and urge enterprises to organize and implement the clean production program according to the implementation plans proposed in the clean production check reports.

Article 19 The development and reform (or economic and trade) administrative departments at each level, the environmental protection administrative departments at each level and the consulting service institutions shall keep technical and commercial secrets for the enterprises that make clean production checks.

Article 20 The National Development and Reform Commission shall, jointly with the State Environmental Protection Administration, build up a database of national clean production experts, publish a catalogue on guiding the clean production of the key industries and the industrial guidelines for clean production checks, organize clean production trainings, and provide information and technical support to the enterprises in their clean production checks.

The local development and reform (or economic and trade) administrative departments at each level may, jointly with the local environmental protection administrative departments at the same level, organize trainings on clean production checks in light of the local actual situation, and build up a database of local clean production experts.

Chapter V Encouragements and Penalties

Article 21 The enterprises that voluntarily make clean production checks and have attained prominent effect shall be commended by the development and reform (or economic and trade) and environmental protection administrative department at the provincial level or above, which shall be published on a major local media.

Article 22 The development and reform (or economic and trade) administrative department at each level shall, when making and implementing a national key investment plan or a local investment plan, regard the energy saving, water saving and comprehensive utilization in the enterprise's clean production implementation program, the improvement of resource utilization rate, the prevention of pollution, and other similar clean production projects as the key fields, in which investment support shall be intensified.

Article 23 The collected pollutant discharge fees may be used to support enterprises to carry out clean production. With respect to the clean production projects conforming to the “Regulation on the Administration of Collection and Use of Pollutant Discharge Fees”, the public finance departments and environmental protection departments at all levels shall make arrangements in priority on the use of the pollutant discharge fees.

Article 24 The small and medium-sized enterprise development fund shall, if necessary, arrange a proper amount of funds to help small and medium-sized enterprises to carry out clean production.

Article 25 The expenses for an enterprise to conduct clean production checks are allowed to be listed into the account item of the enterprise’s operational costs and or other relevant expenses.

Article 26 An enterprise may establish an intra-enterprise clean production commendation and encouragement system in light of the actual situation, and offer certain encouragements to those who have made prominent achievements in clean production checks.

Article 27 An enterprise that violates Article 10 shall be penalized in accordance with Article 41 of the “Law of the People’s Republic of China on Promoting Clean Production”, while an enterprise as prescribed in Item (2) of Article 8 that violates Article 16 shall be penalized in accordance with Article 40 of the “Law of the People’s Republic of China on Promoting Clean Production”.

Article 28 Where an consulting service institution entrusted by an enterprise does not follow the prescribed contents and procedures to conduct clean production checks, or employs trickery, or provides any false check report, it shall be ordered by the development and reform (or economic and trade) administrative department of the province, autonomous region, municipality directly under the Central Government, or municipality separately under State planning, or that of Sinkiang Production and Construction Army Corps jointly with the environmental protection administrative department to make a correction, and its name shall be published by the said administrative departments. If any severe consequences are caused, the consulting service institution shall be subject to legal liabilities.

Article 29 Where any of the personnel of the relevant development and reform (or economic and trade) administrative department or the environmental protection administrative department neglects his duties, divulges an enterprise’s technical and commercial secrets, thus causing economic losses to the enterprise, he shall be penalized in accordance with the relevant laws and regulations of the State.

Chapter VI Supplementary Provisions

Article 30 The responsibility to interpret these Measures shall remain with the National Development and Reform Commission and the State Environmental Protection Administration.

Article 31 Each province, autonomous region, municipality directly under the Central Government, or municipality separately under State planning, and Sinkiang Production and Construction Army Corps may formulate detailed implementing rules in accordance with these Measures.

Article 32 The clean production checks of military industrial enterprises may be conducted with reference to these Measures.

Article 33 These Measures shall come into force on October 1, 2004.