

Provisions Concerning the Management of Dangerous Goods at Port

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The Provisions Concerning the Management of Dangerous Goods at Port, which were adopted on August 7, 2003 at the 10th executive meeting of the Ministry of Communications, are hereby promulgated and shall come into force as of January 1, 2004.

Zhang Chunxian, Minister of the Ministry of Communications
August 29, 2003

Provisions Concerning the Management of Dangerous Goods at Port

Article 1 The present Provisions are formulated in accordance with the Harbor Law of the People's Republic of China (hereinafter referred to as "Harbor Law"), Law of the People's Republic of China on Safety in Production (hereinafter referred to as "Law on Safety in Production"), Regulations for Safety Management of Dangerous Chemicals and other relevant laws and regulations, with a view to strengthening the management of dangerous goods at port and safeguarding the people's lives and property.

Article 2 The present Provisions shall apply to such operations as loading and unloading, lightering, storing and packing, and vanning and devanning containers of, dangerous goods at port (hereinafter referred to as "port operation of dangerous goods").

The construction and operation of any port facilities used for port operation of dangerous goods shall meet the relevant requirements provided in the present Provisions.

Article 3 For the purpose of the present Provisions, the term "dangerous goods" refers to those listed in the National Standards GB12268 List of Dangerous Goods and in the IMO International Rules for Transport of Dangerous Goods, being explosive, flammable, poisonous, corrosive and radioactive and being likely to cause personal injury or death or property damage or other losses and therefore requiring special protective measures in transport by water way, port handling and storage thereof.

Article 4 The Ministry of Communications shall be in charge of the administration of dangerous goods at port throughout the country.

The administrative department in charge of communications (port) of various local people's governments at the levels of province and city divided into districts shall, according to their functions and powers specified by the local people's government, be in charge of the administration of dangerous goods at port in their respective administrative region.

The administrative department for harbor as established by the people's government at the place where a port(s) is located shall be in charge of the administration of dangerous goods at such port(s).

Article 5 It shall be prohibited to load, unload or store at port any dangerous goods whose transport by water is prohibited by the state.

Article 6 Any construction, reconstruction and extension of port facilities such as dock, store-place,

store-tank and anchorage for operation of dangerous goods shall comply with the overall planning for the port and the relevant state rules and standards, and shall be subject to approval by the local administrative department for harbor and examination and approval procedure provided by the state for capital construction.

Before approving any construction, reconstruction or extension of any dock or anchorage for dangerous goods, the administrative department for harbor must have consent of the maritime administrative authorities.

Article 7 Any dock, store-place, store-tank or anchorage for port operation of dangerous goods shall be subject to inspection and acceptance procedure according to the relevant provisions of the state. None of them may be put into operation unless and until it has been thus inspected and accepted.

Article 8 Any port operator wishing to go in for port operation of dangerous goods shall satisfy the requirements provided in Article 9 of the present Provisions and shall apply to the local administrative department for harbor for credential recognition. No one without credentials for port operation of dangerous goods may go in for such operations.

Article 9 Any port operator wishing to go in for port operation of dangerous goods shall:

- (1) meet the requirements for port operation as provided in the Harbor Law;
- (2) have necessary emergency equipment and facilities up to the relevant national standards;
- (3) have sound safety regulations and operating rules;
- (4) have at least one senior executive person who possesses necessary knowledge of safety in production and administrative ability relating to the port operation of dangerous goods to be done by the port operator;
- (5) have adequate administrative and operating personnel who have a post qualification certificate;
- (6) have an emergency plan for accident; and
- (7) have obtained approvals of fire and environment authorities.

The emergency plan for accident under the preceding paragraph shall contain: a brief account of the port facilities such as dock, store-place, store-tank and anchorage for operation of dangerous goods, key positions, constitution and functions of the emergency team, emergency measures, flow chart for emergency rescue, direction table, communication methods and list of contacts of emergency personnel.

Article 10 The administrative department for harbor shall, within 30 days from receipt of the application for credential recognition for port operation of dangerous goods, and in accordance with the provisions of Article 9, make examination and a decision as whether or not to give such recognition and, in the case of recognition, specify the port operator's operation scope according to his ability to operate dangerous goods and issue to the operator an appropriate recognition certificate for port operation of dangerous goods and, in the case of non-recognition, give the applicant a written notice to that effect with reasons for such non-recognition.

Article 11 The recognition certificate for port operation of dangerous goods shall be printed, in accordance with the uniform format specified by the administrative department in charge of communications of the State Council, and issued and managed by the local administrative department for harbor.

Article 12 Any enterprise engaged in port operations of dangerous goods shall conduct the operation within the scope as specified in the recognition certificate for port operation of dangerous goods.

Article 13 Any enterprise conducting port operations of dangerous goods shall provide training to all its personnel engaged in the port operation of dangerous goods regarding the safety in operation.

Personnel engaged in port operations of dangerous goods and those engaged in the management thereof must receive training in relevant laws, regulations, rules and knowledge of safety, professional skill, occupational health and protection, and emergency rescue knowledge, and

pass the examination held by the Ministry of Communications or its authorized agency. No one may take up the job unless and until he has passed the examination and has been given a post qualification certificate.

Article 14 The institution for the training of port operators of dangerous goods shall have appropriate teaching facilities and teachers, conduct the training according to the courses, examination program and training program provided by the Ministry of Communications, and procure that the trainees meet the requirements provided in the present Provisions.

Article 15 In the case of any ship with dangerous goods entering or leaving a port, the name, physical and chemical characters, package, and the time of entering or clearing the port shall be reported to the maritime administrative authorities 24 hours prior to the estimated time of arrival or departure, provided that in the case of fixed vessel, fixed voyage or fixed category of goods, such report may be made regularly to the maritime administrative authorities according to the relevant provisions. After receipt of the said report, the maritime administrative authorities shall immediately notify the local administrative department for harbor of the above-mentioned information.

Article 16 Any person who entrusts the operation shall notify the enterprise conducting port operations of dangerous goods of the name, national or UN code and the danger of, package suitable to, and emergency measures for, the dangerous goods, and procure that such information shall be correct and complete. No person may smuggle any dangerous goods among the ordinary goods that he entrusts to be operated, or omit the declaration of any dangerous goods, or falsely declare any dangerous goods for ordinary ones.

Article 17 Any enterprise conducting port operations of dangerous goods shall, 24 hours prior to the commencement of operation, such as port handling, lightering, storing and packing of, and vaning or devanning containers of, dangerous goods, report to the local administrative department for harbor about the person entrusting the operation, and the name, quantity, physical and chemical characters, place and time of operation of, and safety and protective measure for, the dangerous goods. The administrative department for harbor shall, within 24 hours from receipt of the report, make a decision as whether to approve the operation or not, give notice to the reporter of such decision, and notify the maritime administrative authorities without delay of the relevant information. No one may conduct any port operation of dangerous goods without approval of the administrative department for harbor.

Article 18 Any enterprise doing port operation of dangerous goods shall organize the operation in accordance with its safety regulations and operating rules.

Article 19 Any person conducting port operations of dangerous goods shall do so in accordance with the safety regulations and operating rules of the enterprise.

Article 20 Any enterprise conducting port operations of dangerous goods shall check the packaging of the dangerous goods, and shall refuse to do the operation and notify the person entrusting the operation, if any packaging is found to be not in compliance with the relevant provisions of the state.

The administrative department for harbor shall, according to the relevant provisions of the state, spotcheck the packaging of dangerous goods and may, in the case of non-compliance, order the person entrusting the operation to make corrections.

Article 21 In the case of port operation of any explosive, compressed gas and liquefied gas, flammable liquid, flammable solid, pyrophoric articles or articles flammable in wet conditions, the enterprise shall designate an area for operation, clarify the person in charge and conduct closed management. There shall be an eye-catching sign in the areas of operation, where no irrelevant person or vessel may enter or berth. Smoking and fire are strictly forbidden during the operation.

Article 22 Any enterprise doing port operation of dangerous goods shall adopt appropriate measures and report to the local administrative department for harbor, if:

- (1) it has found any dangerous goods not declared or falsely or wrongly declared; or
- (2) it has found any dangerous goods of conflicting natures among any ordinary goods or in any container.

Article 23 Any enterprise conducting port operations of dangerous goods shall conduct drills regularly according to its emergency plan for accident, keep a record of such drills and revise the emergency plan for accident in the light of actual conditions.

Article 24 If any accident occurs during any port operation of dangerous goods, the enterprise doing the port operation of dangerous goods shall promptly start the emergency plan for accident, adopt emergency actions, eliminate harm of the accident, prevent the accident from going worse and, according to the relevant provisions of the state, report the accident to the administrative department for harbor and other relevant departments without delay.

Article 25 The administrative department for harbor shall formulate an emergency plan for accident, and promptly organize rescue activities if any accident occurs during any port operation of dangerous goods.

In the case of any major accident, the administrative department for harbor and the relevant entity and enterprise shall obey the direction of the local people's government, conscientiously coordinate in rescue, and make a report to the relevant departments according to the relevant provisions.

Article 26 The administrative department for harbor shall conduct regular examinations on the credentials of enterprises conducting port operations of dangerous goods and, in the case of finding any such enterprise ceasing to satisfy the relevant requirements, order the enterprise to make reorganization within a time limit or revoke its credential certificate according to the provisions of Article 54 of the Law on Safety in Production.

Article 27 The administrative department for harbor and its administrative personnel shall conduct supervision and inspection on the enterprises conducting port operations of dangerous goods. Their functions and powers include:

- (1) to enter and inspect the area for port operation of dangerous goods, look up, quote and make a copy of relevant documents or data, and give opinions for corrections;
- (2) to order an immediate suspension of the use of any emergency facilities or equipment, if any port operation of dangerous goods or any of such facilities or equipment is found to be not in compliance with the provisions of relevant laws, regulations or rules or relevant standards;
- (3) in the case of finding any hidden danger, to order an immediate removal or removal within a time limit; and
- (4) in the case of finding any illegal act, to make corrections on the spot or order corrections within a time limit.

Article 28 Anyone who conduct port operations of dangerous goods without obtaining a credential certificate for such operation shall be punished by the local administrative department for harbor in accordance with the provisions of Article 65 of the Regulations for Safety Management of Dangerous Chemicals; anyone who conducts any other operation of dangerous goods in his operation of port shall be punished with a fine not exceeding 30,000 Yuan by the local administrative department for harbor. Anyone who conducts any operation without a license for operation of port shall be punished according to the provisions of Article 48 of the Harbor Law.

Article 29 Anyone who violates the present Provisions and commits any of the following acts in violation of Regulations for Safety Management of Dangerous Chemicals shall be punished by the administrative department for harbor according to the provisions of Article 66 of the Regulations for

Safety Management of Dangerous Chemicals; anyone who commits any of the following acts during his business activities without violating the Regulations for Safety Management of Dangerous Chemicals shall be punished with a fine not exceeding 30,000 Yuan and ordered to make corrections by the administrative department for harbor:

- (1) to have any person who has not passed the relevant examination or not obtained a post qualification certificate do any port operation of dangerous goods;
- (2) to handle or store at port any dangerous goods prohibited by the state to be transported by waterway;
- (3) the person entrusting the operation fails to provide information about the name, national or UN code or danger of, package suitable to, or emergency measures for, the dangerous goods, or fails to provide true information about those matters;
- (4) there are dangerous goods of conflicting natures among the ordinary goods, or in containers, which the person entrusts to operate; and
- (5) to fail to examine the packing of any dangerous goods according to the relevant provisions.

Article 30 Anyone who violates the present Provisions and does port operation of any explosive, compressed gas and liquefied gas, flammable liquid, flammable solid, pyrophoric articles or articles flammable in wet conditions without designating an area for operation, clarifying the person in charge or conducting closed management shall be punished by the administrative department for harbor according to the provisions of Article 85(1) of the Law on Safety in Production.

Article 31 Anyone who violates the present Provisions and fails to be equipped with emergency materials, necessary protective facilities and equipment in accordance with relevant provisions, standards or rules shall be punished by the administrative department for harbor according to the provisions of Article 83(5) of the Law on Safety in Production.

Article 32 Anyone who violates the present Provisions and commits any of the following acts shall be punished by the administrative department for harbor according to the provisions of Article 85 of the Law on Safety in Production:

- (1) to fail to have sound safety regulations and operating rules; or
- (2) to fail to regularly conduct drills according to the emergency plan for accident.

Article 33 Any enterprise that violates the present Provisions by failing to train his personnel doing port operations of dangerous goods for safety in operation shall be punished by the administrative department for harbor according to the provisions of Article 82(3) of the Law on Safety in Production.

Article 34 Any port operator who commits any of the illegal acts under Articles 29, 30, 31, 32 and 33 of the present Provisions with serious circumstances shall have his license for operation of port revoked by the administrative department for harbor according to the provisions of Article 51 of the Harbor Law.

Article 35 Anyone who violates the provisions of Article 6 of the present Provisions and construct, reconstruct or extend any dock, store-place, store-tank or anchorage for operation of dangerous goods without approval of the relevant authorities shall be punished by the administrative department for harbor according to the provisions of Article 46, Harbor Law.

Article 36 Any enterprise who violates the present Provisions and fails to report to and obtain approval from the administrative department for harbor before doing any port operation of dangerous goods shall be punished by the administrative department for harbor according to the provisions of Article 53 of the Harbor Law.

Article 37 In case Any person conducting port operations of dangerous goods violates the present Provisions and fails to operate in accordance with the safety regulations and operating rules, he shall

be criticized and educated and given a sanction by the operating entity or, if such violation has caused any major accident and any crime is constituted, be subject to criminal liabilities.

Article 38 Anyone who violates the present Provisions by failing to report without delay any accident occurring in any port operation of dangerous goods shall be punished respectively according to the provisions of Articles 91 and 92 of the Law on Safety in Production.

Article 39 Anyone who conducts any port operation of dangerous goods without meeting the requirements provided in Article 9 of the present Provisions shall be ordered to suspend business and conduct reorganization or, if he still fails to meet said requirements after such suspension and reorganization, have his credential certificate for port operation of dangerous goods revoked by the administrative department for harbor, or if any crime is constituted, be subject to criminal liabilities.

Article 40 Any personnel of the administrative department in charge of communications (port) or administrative department for harbor who abuses his powers, neglects his duties or commits any embezzlement and malpractice shall be given a disciplinary sanction or, if any crime is constituted, be subject to criminal liabilities.

Article 41 The present Provisions shall come into force as of January 1, 2004, on which the Interim Provisions for Management of Dangerous Goods at Port [No.1181 (84) of the Ministry of Communications] as promulgated by the Ministry of Communications in 1984 shall be repealed simultaneously. In the case of any discrepancy between any other provisions issued before by the Ministry of Communications and the present Provisions, the latter shall prevail.