

Measures for the Prevention and Control of Environment Pollution by Discarded Dangerous Chemicals

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The Measures for the Prevention and Control of Environmental Pollution by Discarded Dangerous Chemicals, which were adopted at the 14th executive meeting of the year 2005 of the State Environmental Protection Administration on August 18th, 2005, are hereby promulgated, and shall come into force as of October 1st, 2005.

Director General of the State Environmental Protection Administration Xie Zhenhua
August 30, 2005

Measures for the Prevention and Control of Environment Pollution by Discarded Dangerous Chemicals

Article 1 The present Measures are formulated in accordance with the Law on the Prevention and Control of Environmental Pollution by Solid Wastes, Regulation on the Safety Administration of Dangerous Chemicals and other relevant laws and regulations for the purpose of preventing and controlling environmental pollution by discarded dangerous chemicals.

Article 2 The discarded dangerous chemicals as mentioned in the present Measures shall refer to the dangerous chemicals that are not used but discarded or abandoned by the owners, dangerous chemicals that are washed out, of inferior quality, overdue or lose efficacy, and dangerous chemicals that are confiscated according to law by such competent departments as public security, customs, quality inspection, industry and commerce, agriculture, safety supervision and environmental protection, and etc. in the administration activities, as well as the received dangerous chemicals handed over by the general public.

The discarded dangerous chemicals belong to the dangerous wastes, and shall be listed into the State Directory of Dangerous Wastes.

Article 3 The present Measures are applicable to the prevention and control of environmental pollution from such activities as the production, collection, transportation, storage, utilization and disposal of discarded dangerous chemicals within the territory of the People's Republic of China. The present Measures shall also be applicable to the prevention and control of environmental pollution by discarded reagents or drugs arising from laboratories.

The containers containing discarded dangerous chemicals and the packages polluted by the discarded dangerous chemicals shall be managed as dangerous wastes.

Where there is no corresponding provision in the present Measures, the provisions of the relevant laws and administrative regulations shall be applicable.

Article 4 The principle of reducing the production of discarded dangerous chemicals, utilizing the discarded dangerous chemicals in a safe and rational way and making them harmless through treatment shall be followed for the prevention and control of environmental pollution by discarded dangerous chemicals.

Article 5 The state shall encourage and support the adoption of economic and technical policies and measures that are conducive to the recycling and utilization of discarded dangerous chemicals to

fully recycle and utilize the discarded dangerous chemicals in a safe and rational way. The state shall encourage and support the centralized disposal of discarded dangerous chemicals to promote the industrial development of prevention and control of pollution by discarded dangerous chemicals.

Article 6 The environmental protection department of the State Council shall make unified supervision and administration on the work for the prevention and control of environmental pollution by discarded dangerous chemicals nationwide.

The local environmental protection departments at or above the county level shall make supervision and administration on the work for the prevention and control of environmental pollution by discarded dangerous chemicals within their own administrative regions.

Article 7 No entity or individual may throw away any discarded dangerous chemical at will.

Article 8 The producers, importers, sellers and users of dangerous chemicals shall be responsible for the prevention and control of pollution by discarded dangerous chemicals.

The producers of dangerous chemicals shall rationally arrange production projects and scale, observe the relevant state industrial policies and environmental policies, and try their best to reduce the production of discarded dangerous chemicals.

The producers of dangerous chemicals shall make recycling, utilization and disposal discarded dangerous chemicals by themselves or entrust any entity that has the corresponding class of business and business scale and holds the permit for operation of dangerous waste to do so.

The importers, sellers and users of dangerous chemicals shall be responsible for entrusting any entity that has the corresponding class of business and business scale and holds the permit for operation of dangerous wastes to make recycling, utilization and disposal of discarded dangerous chemicals.

The producers, importers and sellers of dangerous chemicals shall be responsible for providing information on the entities undertaking the recycling, utilization and disposal of discarded dangerous chemicals and the method of recycling, utilization and disposal to the users and the general public.

Article 9 Any entity that brings about discarded dangerous chemicals shall establish the system of management on discarding dangerous chemicals, formulate plans for the management of discarded dangerous chemicals and report them to the environmental protection department for archival filing according to law, and establish archives for the registration of information on discarded dangerous chemicals.

Any entity that brings about discarded dangerous chemicals shall report such information as the kinds of discarded dangerous chemicals, their names, components or composition, character, volume of production, flow direction, storage, utilization, disposal, and safety data sheet for chemicals, and etc. to the local environmental protection department at or above the county level at its locality.

In case there is any great change in the aforesaid matters, the enterprise shall make alteration report in a timely manner.

Article 10 The provincial environmental protection departments shall establish a platform for inform exchange on discarded dangerous chemicals to promote the recycling of the discarded dangerous chemicals and the utilization thereof in a safe and rational way.

Article 11 Any entity that undertakes the collection, storage, utilization and disposal of discarded dangerous chemicals shall apply for obtaining the permit for operation of dangerous wastes to the environmental protection department at or above the level of the province at its locality in accordance with the relevant state provisions.

In case any production entity of dangerous chemicals recycles and utilizes or disposes discarded dangerous chemicals that are of the same kind as its products, it shall apply for obtaining the permit for operation of dangerous wastes to the environmental protection department at or above the level of the province at its locality and provide the certificate documents that comply with the following

conditions:

1. having corresponding production capacity and perfect management system;
2. having the facilities, technologies and techniques for the recycling and disposal of this kind of dangerous chemicals; and
3. having the facilities for prevention and control of pollution and the measures for emergency rescue of accidents, which match the national or local environmental protection standards and safety requirements.

No entity may undertake the collection, storage, utilization or disposal of discarded dangerous chemicals without the permit for operation of dangerous wastes or without observing the provisions of the operation permit.

Article 12 Any entity that recycles and utilizes discarded dangerous chemicals shall ensure that the facilities, equipment and places for recycling and utilizing the discarded dangerous chemicals comply with the requirements of the relevant state laws and regulations and standards for environmental protection, so as to prevent secondary pollution; for the discarded dangerous chemicals that cannot be used, the entity shall make harmless treatment on them or undertake the disposal fees according to the relevant state provisions.

Article 13 In case any entity that brings about discarded dangerous chemicals entrusts any entity that holds the permit for operation of dangerous wastes to collect, store, use or dispose discarded dangerous chemicals, it shall provide to it such technical materials as the name, quantity, components or formation, character of the discarded dangerous chemicals, and the safety data sheet for chemicals.

The receiving entity shall make verification on the discarded dangerous chemicals it receives; no discarded dangerous chemical may be disposed without being verified; if the discarded dangerous chemicals do not comply with the facts, they shall be disposed after their types, components and characters have been determined.

No one may provide or entrust the discarded dangerous chemicals to any entity that has no permit for operation of dangerous wastes to undertake the collection, storage, utilization, disposal and other business activities.

Article 14 In case any entity that undertakes the production, storage or use of dangerous chemicals changes its line of production, stops production, stops business operation or dissolves, it shall properly dispose the equipment for the production and storage of dangerous chemicals, the inventories and the production materials in accordance with the relevant provisions of the Regulation on the Safety Administration of Dangerous Chemicals, and shall, in light of the relevant state standards and criterions on environmental protection, test the soil and underground water around the factory, compile environmental risk assessment report, and report it to the environmental protection department at or above the county level for archival filing.

In case it causes pollution to the field, it shall, after reporting the environmental recovery plan to the environmental protection department at or above the county level for approval, recover the environment on the site that has been polluted within the time limit as prescribed by the environmental protection department. After completing the environmental recovery on the polluted site, an environmental protection testing institution shall be entrusted to make testing on the site recovered, and the testing report shall be reported to the environmental protection at or above the county level for archival filing.

Article 15 A distinguishing mark of dangerous wastes shall be put on the containers and packages of discarded dangerous chemicals as well as on the facilities and sites for collection, storage, transportation and treatment of discarded dangerous chemicals.

Article 16 Whoever transfers discarded dangerous chemicals shall fill in duplicate forms for transferring dangerous wastes according to the relevant state provisions; in case the discarded dangerous chemicals are transferred by crossing any administrative region at or above the level of

municipality divided into districts, the transfer may not be carried out until after being reported to and approved by the environmental protection department at or above the level of the municipality divided into districts at the locality where the discarded dangerous chemicals are to be transferred out according to law.

Article 17 The discarded dangerous chemicals confiscated or received by such competent departments as public security, customs, quality inspection, industry and commerce, agriculture, safety supervision and environmental protection and etc. in the administration activities shall be recycled, utilized or disposed by the entities entrusted by the said departments that have the corresponding class of business and business scale and hold the permit for operation of dangerous wastes.

In case there is clear responsible person for the confiscated discarded dangerous chemicals, the disposal fees shall be borne by the responsible person, and the administrative department that confiscates the discarded dangerous chemicals shall be responsible for demanding the payment. If there is no clear responsible person for the confiscated discarded dangerous chemicals or the responsible person is unable to undertake the disposal fees, or if they are the received discarded dangerous chemicals turned over by the general public, the administrative department that confiscates the discarded dangerous chemicals shall be responsible for applying for disposal fees to the finance department at the corresponding level.

Article 18 The person-in-charge of the entity that brings about, collects, stores, transports, utilizes and disposes discarded dangerous chemicals shall ensure that the management of its entity on discarded dangerous chemicals comply with the requirements of relevant laws, regulations and rules and the national standard, and shall be responsible for the environmental safety of the discarded dangerous chemicals of its own entity.

Any person who undertakes the collection, storage, transportation, utilization and disposal of discarded dangerous chemicals shall not undertake such work until after having been trained on the relevant laws and regulations on environmental protection, professional technology and emergency rescue, and etc..

Article 19 Any entity that brings about, collects, stores, transports, utilizes or disposes the discarded dangerous chemicals shall formulate the emergency preparedness plan for environmental emergencies on discarded dangerous chemicals and report it to the environmental protection department at or above the county level for archival filing, and shall build or equip with necessary emergency environmental facilities and equipment and make regular drill.

In case of occurring any accident of discarded dangerous chemicals, the responsible entity of the accident shall take measures at once to eliminate or alleviate the harm of pollution to the environment, and circulate a report to the entities and residents that may suffer from the pollution. It shall also report the accident to the environmental protection department at or above the level of the county at its locality and the relevant departments in light of the relevant state provisions on the procedures for accident report, and accept investigation and punishment.

Article 20 The environmental protection departments at or above the county level shall have the power to make supervision and inspection on the entities that bring about, collect, store, transport, utilize and dispose discarded dangerous chemicals within their administrative regions, and order them to rectify within a prescribed time limit when discovering any act in violation of the present Measures. The inspection conditions and the disposal results shall be recorded, and put on archives after being signed by the inspectors.

The entity under inspection shall accept the supervision and inspection conducted by the inspection organ according to law, reflect conditions according to the facts, and provide necessary materials, no entity may refuse or obstruct the supervision and inspection.

Article 21 In case any environmental protection department at or above the county level violates the provisions of the present Measures, and does not perform the function of supervision and

administration, the people's government at the corresponding level or the upper level environmental protection department shall, in accordance with the provisions of Article 67 of the Law on the Prevention and Control of Environmental Pollution by Solid Wastes, order it to correct, and impose an administrative punishment on the person-in-charge who is responsible and other personnel directly liable; if a crime is constituted, he/she shall be subject to criminal liabilities according to law.

Article 22 In case any entity has any of the following acts in violation of the present Measures, the environmental protection department at or above the county level shall give it punishment in accordance with the provisions of Article 75 of the Law on the Prevention and Control of Environmental Pollution by Solid Wastes:

1. Throwing away discarded dangerous chemicals at will;
2. Failing to apply for the registration of discarded dangerous chemicals as required, or falsifying during applying for registration;
3. Providing to or entrusting the entity that has no permit for operation of dangerous wastes the discarded dangerous chemicals to undertake the collection, storage, utilization and disposal thereof;
4. Failing to fill in the duplicate forms for transferring dangerous wastes in light of the relevant state provisions or transferring the discarded dangerous chemicals without approval;
5. Failing to put any distinguishing mark of dangerous wastes; or
6. Failing to formulate emergency preparedness plan for environmental emergencies of discarded dangerous chemicals.

Article 23 In case any entity does not dispose the discarded dangerous chemicals brought about by it or does not bear the disposal fees in violation of the provisions of the present Measures, the environmental protection department at or above the county level shall give it punishment in accordance with the provisions of Article 76 of the Law on the Prevention and Control of Environment Pollution by Solid Wastes.

Article 24 In case any entity violates the provisions of the present Measures, and undertakes the collection, storage, utilization and disposal of discarded dangerous wastes without the permit for operation of dangerous wastes or without abiding by the permit for operation of dangerous wastes, it shall be punished by the environmental protection department at or above the county level in accordance with the provisions of Article 77 of the Law on the Prevention and Control of Environmental Pollution by Solid Wastes.

Article 25 In case any entity that produces, stores or uses the dangerous chemicals violates the provisions of the present Measures when it changes its lines of production, stops production, stops business operation or dissolves, and has any of the following acts, the environmental protection department at or above the county level shall order it to correct, and impose upon it a fine ranging from RMB 10,000 to 30,000 Yuan:

1. Failing to make testing on the soil and underground water around the factory in light of the relevant state standards and criteria for environmental protection;
2. Failing to compile environmental risk assessment report and report it to the environmental protection department at or above the county level for archival filing;
3. Failing to report the environmental recovery plan to the environmental protection department at or above the county level for approval and make environment recovery; or
4. Failing to report the testing report to the environmental protection department at or above the county level for archival filing after the environment is recovered.

Article 26 In case any entity violates the provisions of the present Measures and results in serious environmental pollution by discarded dangerous chemicals, the environmental protection department at or above the county level shall, in accordance with the provisions of Article 81 of the Law on the Prevention and Control of Environmental Pollution by Solid Wastes, order it to control pollution within a prescribed time limit. If the entity fails to complete the control task within the time limit,

the people's government at the corresponding level shall order it to stop its production or shut it down.

If it results in any accident of environmental pollution, it shall be subject to the punishment as prescribed in Article 82 of the Law on the Prevention and Control of Environmental Pollution by Solid Wastes; if a crime is constituted, it shall be subject to criminal liabilities according to law.

Article 27 In case any entity violates the provisions of the present Measures, and refuses or obstructs the on-site inspection of any environmental protection department, the department of on-site inspection shall order it to correct within a prescribed time limit; if it refuses to correct or falsifies in the inspection, the environmental protection department at or above the county level shall give it punishment in accordance with the provisions of Article 70 of the Law on the Prevention and Control of Environmental Pollution by Solid Wastes.

Article 28 In case any party fails to perform the decision on administrative punishments within the time limit, the environmental protection department that makes the decision on administrative punishment may take the following measures:

1. If it fails to pay the fines due, it shall be imposed upon an additional fine of 3% of the amount of the fine per day; or
2. It may apply for mandatory enforcement of the people's court.

Article 29 The present Measures shall come into force as of October 1st, 2005.