

## **Administrative Measures for Examination and Approval of the Export of Hazardous Wastes**

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The Administrative Measures for Examination and Approval of the Export of Hazardous Wastes, which were deliberated and adopted at the fourth executive meeting of the State Environmental Protection Administration on December 25, 2007, are hereby promulgated and shall come into force as of March 1, 2008.

Director-general: Zhou Shengxian  
January 25, 2008

Administrative Measures for Examination and Approval of the Export of Hazardous Wastes

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Chapter I General Provisions

Article 1 These Measures are enacted according to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (hereinafter referred to as the Basel Convention) and relevant laws and administrative regulations for the purpose of regulating the export administration of hazardous wastes and preventing environmental pollution.

Article 2 The hazardous wastes generated within the territory of the People's Republic of China shall be subject to environmentally sound disposal within the territory to the best of abilities, so as to reduce export volume thereof and reduce environmental risk in transboundary movements of hazardous wastes.

It is prohibited to export hazardous wastes to any non-contracting parties to the Basel Convention.

Article 3 If an entity that generates, collects, stores, disposes of or utilizes hazardous goods intends to export hazardous wastes to any contracting parties to the Basel Convention outside the People's Republic of China, it shall be subject to export examination and approval of hazardous wastes.

The term "hazardous wastes" as mentioned in these Measures refers to the solid wastes that have been included in the national hazardous waste inventory or are determined as hazardous according to the standards or measures for identification of hazardous wastes as set down by our country.

These Measures shall be also applicable to the export examination, approval and administration of the

“hazardous wastes” and “other wastes” mentioned in the Basel Convention as well as the “hazardous wastes” determined through national legislation by the contracting parties of import or transit.

Article 4 The administrative department of environmental protection under the State Council shall be responsible for examination and approval of applications for export of hazardous wastes, and conduct the relevant supervision and administration.

The administrative department of environmental protection under the local people’s government at or above the county level shall, according to these Measures, supervise and administer the export of hazardous wastes within their respective administrative regions.

## Chapter II Export Application, Examination and Approval

Article 5 To apply for export of hazardous goods, an applicant shall submit the following documents to the administrative department of environmental protection under the State Council:

1. Written application;
2. Notice on transboundary movement (in Chinese and in English);
3. Written agreement concluded between the exporter and the disposer or user in the State (region) of import;
4. Table of basic data on hazardous wastes, material safety data sheet (MSDS) or chemical safety data sheet (CSDS);
5. Explanatory document on generation of hazardous wastes, mainly including the hazardous waste generation process, place, technique and equipment;
6. Explanatory document on disposal or utilization of hazardous wastes in the State (region) of import, mainly including the place, type and capability for disposal or utilization equipment of hazardous wastes, as well as the methods for disposal of waste water, waste gas and industrial residue generated from disposal or utilization of hazardous wastes;
7. Valid voucher on authorizing or licensing the disposal or utilization of relevant hazardous wastes as obtained by the disposer or user from the State (region) of import;
8. Advance contingency scheme for an environmental pollution incident breaking out in the transport of hazardous wastes;
9. Explanatory document on transport route for hazardous wastes, mainly including domestic transport route (including the provinces, cities and counties of transit), place of departure, place of transit in the State (region) of transit, place of entry in the State (region) of import, as well as the contact information and address, etc. of the competent authority of the State (region) of import and the State (region) of transit;
10. Written commitment or valid insurance document of the importer. In the case of a written commitment, the exporter shall undertake to assume relevant expenses for return, disposal, pollution elimination or damages for hazardous wastes when the hazardous wastes can not be exported or environmental pollution occurs due to an accident;
11. Business license of the exporter. If the exporter is an entity collecting, storing, disposing of or utilizing hazardous wastes, it also needs to submit a business license for hazardous wastes; and
12. Qualification certification for transport of hazardous wastes of the domestic transporter and the contract of transport.

Photocopies of application documents mentioned in the preceding paragraph shall bear the seal of the applicant.

Article 6 The administrative department of environmental protection under the State Council shall dispose of an application separately based on the following circumstances:

1. Accepting the application if the application documents are complete and consistent with requirements; and
2. Notifying, on the spot or within five workdays, the applicant of all the items that need to be

supplemented and corrected at one time if the application documents are incomplete or inconsistent with requirements.

Article 7 Under either of the following circumstances, the administrative department of environmental protection under the State Council shall make a decision on preliminary approval within 15 workdays after acceptance of an application:

1. The user in the State (region) of import requires the hazardous wastes in question as a raw material for recycling or recovery industries, has the corresponding technical capacity, necessary facilities, equipment and sites, and can dispose of these hazardous wastes in an environmentally sound manner; or
2. There are no complete technical capacity or necessary facilities, equipment or suitable disposal sites for environmentally sound disposal of hazardous wastes within the People's Republic of China, and the disposer in the State (region) of import has the corresponding technical capacity, necessary facilities, equipment and sites, and can dispose of these hazardous wastes in an environmentally sound manner.

If the conditions prescribed in the preceding paragraph are not met, the administrative department of environmental protection under the State Council shall, within 15 workdays after acceptance of an application, make a decision on disapproval, and notify the applicant of the decision in written form.

The administrative department of environmental protection under the State Council shall make written examination of an application as accepted; and shall assign two or more functionaries for check where the on-site check is necessary.

Article 8 After making the preliminary decision on approving an application for export of hazardous goods, the administrative department of environmental protection under the State Council shall send written letters to the competent authorities of the State (region) of import and the State (region) of transit for opinions, and shall make a decision on approval of export within five workdays after receipt of the written opinions on consent of import and transit.

If the competent authority of the State (region) of import or the State (region) of transit does not consent to the import or transit of hazardous wastes, the administrative department of environmental protection under the State Council shall not approve the export application and notify the applicant of the disapproval in written form.

Article 9 The administrative department of environmental protection under the State Council shall issue a notice on approval of the export of hazardous wastes to the applicant within ten workdays after the decision on approval is made.

The administrative department of environmental protection under the State Council shall, according to the explanatory document on domestic transport route provided by the exporter of hazardous wastes, notify the approval decision to the administrative departments of environmental protection under the people's governments of the province where the hazardous wastes are placed and the provinces of transit.

The administrative department of environmental protection under the provincial people's government shall notify the approval decision to the administrative departments of environmental protection under the people's governments of districted cities and counties concerned within its administrative region.

Article 10 Under any of the following circumstances, the exporter shall file a new application:

1. Changing or adding the type or quantity of export hazardous wastes;
2. Changing the exporter, the disposer or user in the State (region) of import;
3. Changing the State (region) of import or the State (region) of transit;

4. Changing the purpose of export; or
5. Changing the time limit of export.

Article 11 The valid term of a notice on approval of the export of hazardous wastes shall not exceed one year.

### Chapter III Supervision and Administration

Article 12 For each batch of export hazardous wastes, the exporter shall fill in a Movement Document—Transboundary Movement of Hazardous Wastes in duplicate.

The Movement Document shall be taken with the export hazardous wastes from the site of departure to the site of disposal or utilization, and the relevant information shall be filled in by the exporter, the carrier, the importer, the disposer or user in the State (region) of import, as well as the customs houses in the countries (regions) concerned.

The exporter of hazardous wastes shall submit one copy of the Movement Document with complete information to the administrative department of environmental protection under the State Council, and place another copy on its own archives.

The exporter of hazardous wastes shall properly keep the Movement Document on its own archives, and not destroy it. The Movement Document shall be kept at least for five years. If the administrative department of environmental protection under the State Council requires to extend the preservation term of the Movement Document, the entity concerned shall do so.

Article 13 The administrative department of environmental protection under the State Council has the power to inspect the situation of Movement Document or may entrust the administrative department of environmental protection under the local people's government at or above the county level to inspect the situation of Movement Document. The entity subject to inspection shall accept the inspection and faithfully report the situation.

Article 14 Ten workdays before start of the transport of hazardous wastes, the exporter of hazardous wastes shall fill in a Pre-transport Information Report Form, and submit it to the administrative department of environmental protection under the State Council together with the photocopy of the filled Movement Document, and send a copy to the administrative departments of environmental protection under the people's governments of domestic provinces, districted cities and counties where the hazardous wastes are moved out or where the hazardous wastes pass by.

Article 15 Within ten workdays after exit of hazardous wastes, the exporter of hazardous wastes shall fill in an Exit Information Report Form, and submit it to the administrative department of environmental protection under the State Council together with the photocopy of the Movement Document filled in by the exporter of hazardous wastes and the relevant carrier as well as the photocopy of the export declaration form of hazardous wastes.

Article 16 Within ten workdays after an importer of hazardous wastes has received hazardous wastes, the exporter of hazardous wastes shall fill in an Information Report Form on Arrival in the State (Region) of Import, and submit it to the administrative department of environmental protection under the State Council together with the photocopy of the Movement Document filled in by the exporter of hazardous wastes, the relevant carrier, the importer of hazardous wastes, the customs house of the State (region) of transit and the customs house of the State (region) of import.

Article 17 Within 40 workdays after the hazardous wastes have been completely disposed of or utilized, the exporter of hazardous wastes shall fill in an Information Report Form on Completion of

Disposal or Utilization, and submit it to the administrative department of environmental protection under the State Council together with the original Movement Document filled in by the exporter of hazardous wastes, the relevant carrier, the importer of hazardous wastes, the disposer or user of hazardous wastes in the State (region) of import, the customs house of the State (region) of transit and the customs house of the State (region) of import.

Article 18 Within 20 workdays after the valid term of a notice on approval of the export of hazardous wastes, the exporter of hazardous wastes shall fill in a Summary Information Report Form on Export of Hazardous Wastes, and submit it to the administrative department of environmental protection under the State Council.

Article 19 An exporter of hazardous wastes shall submit relevant documents to the administrative department of environmental protection under the State Council according to Articles 15 up to 18, and send a copy of these documents to the administrative departments of environmental protection under the people's governments of province, districted city and county where the hazardous wastes are moved out.

Article 20 It is prohibited to forge, alter, buy or sell any notices on approval of the export of hazardous wastes.

#### Chapter IV Penalty Provisions

Article 21 If any entity violates these Measures by exporting hazardous wastes without a notice on approval of the export of hazardous wastes or not according to the notice on approval of the export of hazardous wastes, the administrative department of environmental protection under the people's government at or above the county level shall order it to make correction and impose a fine of less than 30,000 yuan on it.

If an entity exports hazardous wastes not according to the notice on approval of the export of hazardous wastes, and the circumstances are serious, the notice on approval of the export of hazardous wastes may be cancelled by the administrative department of environmental protection under the State Council.

Article 22 If an applicant for export approval of hazardous wastes violates these Measures by hiding relevant information or providing false documents, the administrative department of environmental protection under the State Council shall not accept the application or disapprove the application, give a warning, and put its bad performance on archives.

Article 23 If an entity violates these Measures by committing any of the following acts, the administrative department of environmental protection under the people's government at or above the county level shall order it to make correction and impose a fine on it:

1. Failing to fill in the Movement Document according to legal provisions;
2. Failing to handle the Movement Document according to legal provisions;
3. Failing to keep or transfer the Movement Document within the prescribed filing term; or
4. Refusing to accept the inspection on the situation of the Movement Document as made by the administrative department of environmental protection.

If an entity commits the act prescribed in Item (1), (2) or (3) of the preceding paragraph, it shall be fined with less than 30,000 yuan; and if an entity commits the act prescribed in Item (4) of the preceding paragraph, it shall be punished according to Article 70 of the Law on Prevention and Control of Environmental Pollution by Solid Wastes.

If an entity commits the act prescribed in Item (1), (2) or (4) of the preceding paragraph, and the

circumstances are serious, the administrative department of environmental protection under the State Council shall cancel the notice on approval of the export of hazardous wastes.

Article 24 If an exporter of hazardous wastes violates these Measures by failing to report relevant information to the administrative department of environmental protection under the State Council or failing to send a copy of relevant information to the administrative department of environmental protection under the local people's government, the administrative department of environmental protection under the local people's government at or above the county level shall order it to make correction within a time limit; if it fails to make correction within the prescribed time limit, the administrative department of environmental protection under the local people's government at or above the county level shall impose a fine of less than 30,000 yuan on it and record down the bad performance of the exporter of hazardous wastes on archives.

Article 25 If an entity violates these Measures by forging, altering, buying or selling a notice on approval of the export of hazardous wastes, the public security organ shall punish it according to the Law of the People's Republic of China on Administrative Penalties for Public Security.

Article 26 If an entity obtains a notice on approval of the export of hazardous wastes by fraud, bribery or other unjustifiable means, according to the Administrative License Law of the People's Republic of China, the administrative department of environmental protection under the State Council shall cancel the notice on approval of the export of hazardous wastes, and impose a fine of less than 30,000 yuan on it.

Article 27 When the export of hazardous wastes has not been completed according to the terms of the contract, if alternative arrangements cannot be made for their disposal in an environmentally sound manner within 90 days from the time that the State of import informed the administrative department of environmental protection under the State Council and the Secretariat of the Basel Convention or within such other period of time as the States concerned agree, the exporter shall transport the wastes back to our country, and assume relevant expenses for transport, disposal or utilization of these wastes.

Article 28 If any functionary in charge of examination, approval and administration of the export of hazardous wastes neglects his duties, practices favoritism or misuses authorities, he shall be given an administrative sanction; and if a crime is constituted, he shall be subject to criminal liabilities.

#### Chapter V Supplementary Provisions

Article 29 The examination and approval of the export of hazardous wastes from Taiwan Area of the People's Republic of China to any other contracting parties to the Basel Convention shall be made by referring to these Measures.

Article 30 These Measures shall come into force as of March 1, 2008.

#### Appendix:

Article 52 of the Law of the People's Republic of China on Administrative Penalties for Public Security:

Anyone who commits any of the following acts shall be detained for not less than 10 days but not more than 15 days, and may be concurrently fined with less than 1, 000 yuan. If the circumstances are lighter, he (she) shall be detained for not less than five days but not more than ten days, and may be concurrently fined with less than 500 yuan:

(1) Forging, altering, buying or selling any document, certificate, certification document or seal of any state organ, mass organization, enterprise, public institution or any other organization; .....

Appendix: JL No.47

