

The Measures for the Administration of Permit for Operation of Dangerous Wastes

Promulgation date: 05-30-2004
Effective date: 07-01-2004
Department: STATE COUNCIL OF CHINA
Subject: ADMINISTRATIVE LAW
ENVIRONMENTAL PROTECTION

Order of the State Council of the People's Republic of China
(No. 408)

The Measures for the Administration of Permit for Operation of Dangerous Wastes, which were adopted at the 50th executive meeting of the State Council on May 19, 2004, are hereby promulgated, and shall come into force as of July 1, 2004.

Premier Wen Jiabao
May 30, 2004

The Measures for the Administration of Permit for Operation of Dangerous Wastes

Chapter I General Provisions

Article 1 The present Measures are hereby formulated in accordance with the Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Wastes for the purpose of strengthening supervision over and administration on the business activities of collection, storage and disposal of dangerous wastes and preventing the dangerous wastes from polluting the environment.

Article 2 Any entity undertaking the business activities of collection, storage and disposal of dangerous wastes within the territory of the People's Republic of China shall obtain the permit for operation of dangerous wastes in accordance with the provisions of the present Measures.

Article 3 The permit for operation of dangerous wastes shall be divided into the permit for comprehensive operation of the collection, storage and disposal of dangerous wastes and the permit for operation of the collection of dangerous wastes in light of the ways of business operation.

Any entity that has obtained the permit for comprehensive operation of dangerous wastes may undertake the business activities of collection, storage and disposal of various dangerous wastes. Any entity that has obtained the permit for operation of the collection of dangerous wastes may only undertake the business activities of collection of such dangerous wastes as the waste mineral oil produced in the activity of motor vehicle maintenance, and the waste cadmium and nickel batteries produced from the daily life of residents.

Article 4 The competent department of environmental protection of the people's government at or above the county level shall be responsible for the work of examination and approval and issuance of as well as supervision over and administration on the permit for operation of dangerous wastes in accordance with the provisions of the present Measures.

Chapter II Requirements on the Application for Obtaining Permit for Operation of Dangerous Wastes

Article 5 The following requirements shall be met when applying for the permit for comprehensive operation of collection, storage and disposal of dangerous wastes:

1. Having more than 3 technicians, who have the intermediate title of a technical post or above in the major of environmental engineering or the relevant majors, and have experiences of solid waste pollution treatment for more than 3 years;
2. Having conveyances meeting the relevant safety requirements of the competent department of traffic control of the State Council for the dangerous goods transportation;
3. Having packing facilities, facilities and equipment for transfer and temporary keeping, and qualified storage facilities and equipment that have been checked and meet the national or local standards for environmental protection and safety requirements;
4. Having disposal facilities, equipment and matching facilities for pollution prevention and treatment, which conform to the plans of the state or the provinces, autonomous regions, and municipalities directly under the Central Government for the construction of facilities for disposal of dangerous wastes and the national or local standards for environmental protection and safety requirements. Among them, the facilities for centralized disposal of medical wastes shall also correspond with the relevant national health standards and requirements for disposal of medical wastes;
5. Having disposal technology and technics conforming to the class of dangerous wastes they manage;
6. Having regulations and systems that ensure the safety of management of dangerous wastes, pollution prevention and treatment measures and emergency rescue measures for accidents; and
7. In case of disposing dangerous wastes by way of filling and burying, the land use right of the place of filling and burying shall also be obtained according to law.

Article 6 The following requirements shall be met when applying for the permit for operation of dangerous wastes collection:

1. Having rain-proofing or seepage-proofing conveyances;

2. Having packing facilities, and facilities and equipment for transfer and temporary keeping, which conform to the national or local standards for environmental protection and safety requirements; and
3. Having regulations and systems that can ensure the safety of the business operation of dangerous wastes, pollution prevention and treatment measures and emergency rescue measures for accidents.

Chapter III Procedures of Application for Obtaining the Permit for Operation of Dangerous Wastes

Article 7 The state shall make examination and approval for and issuance of the permit for operation of dangerous wastes through classification.

The permit for operation of dangerous wastes of the following entities shall be examined and approved and issued by the competent department of environmental protection of the State Council:

1. Burning dangerous wastes for more than 10 thousand tons annually;
2. Disposing of such dangerous wastes containing polychlorinated biphenyl and mercury that are of great hazard to the environment and the body health; or
3. Disposing dangerous wastes by making use of the comprehensive centralized disposal facilities that have been listed in the state plan for the construction of dangerous waste disposal facilities.

The permit for operation of an entity undertaking the disposal of medical wastes in a centralized way shall be examined and approved and issued by the competent department of environmental protection of the people's government at the level of cities divided into districts where the facilities for disposal of medical wastes in a centralized way are located.

The permit for operation of dangerous wastes collection shall be examined and approved and issued by the competent department of environmental protection of the people's government at the county level.

The permit for operation of dangerous wastes other than those as prescribed in paragraphs 2, 3, and 4 of this Article shall be examined and approved and issued by the competent departments of environmental protection of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

Article 8 An entity applying for obtaining the permit for operation of dangerous wastes shall file an application to the permit issuing organ before undertaking the business activities of dangerous wastes, and shall attach the certificate documents meeting the requirements as prescribed in Article 5 or 6 of the present Measures.

Article 9 The permit issuing organ shall, within 20 working days from the date of accepting the application, make examination on the certificate documents submitted by an entity making the application, and make on-site verification on the business facilities of the entity. If the requirements are met, the permit for operation of dangerous wastes shall be issued and announced publicly. If the requirements are not met, the entity making the application shall be notified in writing and the reason shall be explained.

The permit issuing organ may, before issuing the permit for operation of dangerous wastes, solicit for the opinions of the relevant departments in charge of public health and urban and rural planning and experts upon the actual need. Any entity making an application shall go through registration formalities at the administrative department for industry and commerce upon the strength of the permit for operation of dangerous wastes.

Article 10 The following contents shall be included in the permit for operation of dangerous wastes:

1. Name of the legal person, legal representative, and residence;
2. Ways of management of dangerous wastes;
3. Class of dangerous wastes;
4. Annual business scale;
5. Period of validity; and
6. Date of issuance of the permit and the number of the permit.

The contents of the permit for comprehensive operation of dangerous wastes shall also include the addresses of the storage and disposal facilities.

Article 11 Where a dangerous waste management entity alters its name of legal person, legal representative or residence, it shall apply to the original permit issuing organ for going through the formalities for alteration of permit for operation of dangerous wastes within 15 working days as of the date of alteration of industry and commerce registration.

Article 12 Under any of the following circumstances, a dangerous waste management entity shall reapply for obtaining the permit for operation of dangerous wastes in light of the former application procedures:

1. Changing ways of management of dangerous wastes;
2. Adding new classes of dangerous wastes;
3. Newly establishing or rebuilding or expanding the construction of the former management facilities of dangerous wastes; or
4. Managing dangerous wastes exceeding 20% of the annual business scale originally approved.

Article 13 The period of validity of the permit for comprehensive operation of dangerous wastes shall be 5 years. The period of validity of the permit for operation of dangerous wastes collection shall be 3 years.

Where, at the expiry of the period of validity of the permit for operation of dangerous wastes, any dangerous waste management entity continues to undertake the business activities of dangerous wastes, it shall apply for changing the permit for operation of dangerous wastes to the former permit issuing organ 30 working days before the expiry of the period of validity of the permit. The former permit issuing organ shall make examination within 20 working days from the date of accepting the application for changing the permit. If the application corresponds with the requirements, it shall change the permit. If the application does not correspond with the requirements, it shall notify the application entity in writing and explain the reason.

Article 14 In case any dangerous waste management entity terminates the undertaking of such business activities of collection, storage and disposal of dangerous wastes, it shall take measures for pollution prevention and treatment on business facilities and places, and make proper handling on the dangerous wastes failing to be disposed.

Any dangerous waste management entity shall file an application for cancellation registration within 20 working days from the date of taking the measures as prescribed in the preceding paragraph to the former permit issuing organ. The former permit issuing organ shall make on-site verification and cancel the registration of the permit for operation of dangerous wastes if the entity passes the verification.

Article 15 No entity without permit for operation may undertake any business activity of collection, storage, and disposal of dangerous wastes or undertake such activities not in accordance with the provisions of the permit for operation.

No one may import electronic dangerous wastes from outside the territory of the People's Republic of China or transfer them by passing through the territory of the People's Republic of China.

No one may provide or entrust the dangerous wastes to the entity without permit for operation to undertake the business activities of collection, storage and disposal.

No one may forge, alter or transfer the permit for operation of dangerous wastes.

Chapter IV Supervision and Administration

Article 16 The competent department of environmental protection of the local people's government at or above the county level shall, before March 31 each year, report the situations of the issuance of permit for operation of dangerous wastes in the previous year to and put on records at the competent department of environmental protection of the next upper level people's government.

The competent department of environmental protection at the upper level shall strengthen supervision over and inspection on the situations of examination and approval and issuance of permit for operation of dangerous wastes by the competent department of environmental protection at the lower level, and correct the illegal acts of the competent department of environmental protection at the lower level in the process of examination and approval and issuance of permit for operation.

Article 17 The competent department of environmental protection of the people's government at or above the county level shall strengthen supervision over and inspection on the dangerous waste management entities by ways of written verification and on-site inspection, and record the situations of supervision and inspection and the handling results and put them on archives with the signature of the supervisors and inspectors.

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

In case the competent department of environmental protection of the people's government at or above the county level finds that any dangerous waste management entity has any circumstance not corresponding with the original requirements for permit issuing in the business activities, they shall order it to rectify and correct within a prescribed time limit.

Article 18 The competent department of environmental protection of the people's government at or above the county level shall have the right to require the dangerous waste management entities to report their business activities of dangerous wastes periodically. A dangerous waste management entity shall set up register for the management of dangerous wastes, which shall specify such matters according to the facts as the classes and sources of the dangerous wastes having been collected, stored or disposed, the direction the dangerous wastes have gone to, and whether there is any accident, etc..

A dangerous waste management entity shall keep the register for the management situations of the dangerous wastes for over 10 years, and shall keep the register for the management situations of dangerous wastes that have been disposed by way of filling and burying permanently. In case it terminates business activities, it shall transfer the register for the dangerous waste management to and put on records at the competent department of environmental protection of the people's government at or above the county level for management.

Article 19 The competent department of environmental protection of the people's government at or above the county level shall establish and improve the system of archival management of the permit for operation of dangerous wastes and publicize the situations for the examination and approval and issuance of the permit for operation of dangerous wastes to the society periodically.

Article 20 Any entity that has obtained the permit for operation of dangerous wastes shall sign acceptance contract with the disposal entity and provide to or entrust the disposal entity to dispose the collected waste mineral oil and waste cadmium and nickel batteries within 90 working days.

Article 21 Bio-safety disposal shall be made on business facilities of dangerous wastes before they are discarded or altered for other purpose.

After the expiry of the service term for filling and burying the business facilities of dangerous wastes, a dangerous waste management entity shall take measures to close down the land in which the dangerous wastes have been filled or buried according to the relevant provisions, and set up permanent marks at the designated closure areas.

Chapter V Legal Liabilities

Article 22 In case any person or entity violates the provisions of Article 11 of the present Measures, the competent department of environmental protection of the people's government at or above the county level shall order him/it to correct within a prescribed time limit and give him/it warnings. If he/it fails to correct within a prescribed time limit, the original permit issuing organ shall suspend the permit for operation of dangerous wastes.

Article 23 In case any person or entity violates the provisions of Article 12 and paragraph 2 of Article 13 of the present Measures, the competent department of environmental protection of the people's government at or above the county level shall order him/it to stop the illegal act, confiscate the illegal gains if any. In case the illegal gains exceed RMB 100 thousand Yuan, he/it shall be imposed upon a fine of one time up to 2 times of the illegal gains concurrently. If there are no illegal gains or the illegal gains are less than RMB 100 thousand Yuan, he/it shall be imposed upon a fine of 50 thousand Yuan up to 100 thousand Yuan.

Article 24 In case any person or entity violates the provisions of paragraph 1 of Article 14, and Article 21 of the present Measures, the competent department of environmental protection of the people's government at or above the county level shall order him/it to correct within a prescribed time limit. If he/it fails to correct within a prescribed time limit, he/it shall be imposed upon a fine of RMB 50 thousand Yuan up to RMB 100 thousand Yuan. If it results in a pollution accident, and constitutes a crime, he/it shall be prosecuted for criminal liabilities according to law.

Article 25 In case any person or entity violates the provisions of paragraphs 1, 2, and 3 of Article 15 of the present Measures, he/it shall be punished in accordance with the Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Wastes.

In case any person or entity violates the provisions of paragraph 4 of Article 15 of the present Measures, the competent department of environmental protection of the people's government at or above the county level shall take over the permit for operation of dangerous wastes, or the original permit issuing organ shall revoke the permit for operation of dangerous wastes, and he/it shall be imposed upon a fine of RMB 50 thousand Yuan up to RMB 100 thousand Yuan. If a crime is constituted, he/it shall be prosecuted for criminal liabilities according to law.

Article 26 In case any person or entity violates the provisions of Article 18 of the present Measures, the competent department of environmental protection of the

people's government at or above the county level shall order him/it to correct within a prescribed time limit, and give him/it warnings. If he/it fails to correct within the time limit, the original permit issuing organ shall suspend or revoke the permit for operation of dangerous wastes.

Article 27 In case any person or entity violates the provisions of Article 20 of the present Measures, the competent department of environmental protection of the people's government at or above the county level shall order him/it to correct within a prescribed time limit and give him/it warnings. If he/it fails to correct within the prescribed time limit, he/it shall be imposed upon a fine of RMB 10 thousand Yuan up to RMB 50 thousand Yuan. And the permit for operation of dangerous wastes shall be suspended or revoked.

Article 28 In case any dangerous waste management entity that is ordered to correct within a prescribed time limit fails to rectify and correct within the prescribed time limit or still does not correspond with the original permit issuing requirements after the rectification and correction, the original permit issuing organ shall suspend or revoke its permit for operation of dangerous wastes.

Article 29 The competent environmental protection department shall, when revoking or taking over the permit for operation of dangerous wastes according to the provisions of the present Measures, notify the administrative department for industry and commerce, who shall then revoke the business license according to law. The entity, whose permit for operation of dangerous wastes has been revoked or taken over according to law, may not reapply for obtaining the permit for operation of dangerous wastes within 5 years.

Article 30 In case any staff member of the competent department of environmental protection of the people's government at or above the county level has any of the following acts, he/she shall be given an administrative punishment according to law. If a crime is constituted, he/she shall be prosecuted for criminal liabilities according to law:

1. Issuing permit for operation of dangerous wastes to the entity not meeting the requirements of the present Measures;
2. Failing to make investigation and impose punishment on or after receiving the report, failing to handle the business activities of dangerous wastes undertaken by the entity or individual that fails to obtain the permit for operation of dangerous wastes according to law;
3. Failing to perform the duty of supervision over and administration on the entity that has obtained the permit for operation of dangerous wastes according to law or failing to make investigation into or impose punishment on acts in violation of the provisions of present Measures; or

4. Having other acts of dereliction of duty in the work for the administration of permit for operation of dangerous wastes.

Chapter VI Supplementary Provisions

Article 31 The following words in the present Measures shall have the following meanings:

1. The “Dangerous Wastes” shall refer to the wastes of fatalness that are listed into the state check-list of dangerous wastes or that are determined according to the identification standards and methods for dangerous wastes as prescribed by the state.
2. The “Collection” shall refer to the activities of centralizing the scattered dangerous wastes carried out by a dangerous wastes business entity.
3. The “Storage” shall refer to activities of any dangerous wastes business entity who, before disposing of the dangerous wastes, puts them to the places or facilities conforming to the standards for environmental protection, or who, for the purpose of centralizing the scattered dangerous wastes, place a batch of dangerous wastes exceeding the weight of 5,000 kilograms in the self-prepared temporary facilities or places or the time of placing exceeds 90 working days. And
4. The “Disposal” shall refer to the activities of any dangerous wastes business entity, who burns, calcines, melts, sinters, splits and dissolves, neutralizes, sterilizes, distils, extracts, deposits, filtrates or dismantles the dangerous wastes, or uses other methods to alter the physical, chemical or biological characters of dangerous wastes to reduce the amount of dangerous wastes, lessen the cubage of dangerous wastes and reduce or eliminate the dangerous ingredients thereof, or places the dangerous wastes finally in the places or facilities meeting the requirements for the protection of environmental protection and does not take them back any longer.

Article 32 Any entity that has obtained the permit for operation of dangerous wastes in accordance with the provisions of local laws and regulations, rules or other documents before the implementation of the present Measures shall, 30 days before the expiry of the period of validity of the original permit for operation of dangerous wastes, reapply for obtaining the permit for operation of dangerous wastes in accordance with the provisions of the present Measures. If it fails to handle it within the time limit, it will be prohibited from undertaking the business activities of dangerous wastes.

Article 33 The present Measures shall come into force as of July 1, 2004.