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You are here: [AsianLII](#) >> [Databases](#) >> [Laws of the People's Republic of China](#) >> MEASURES FOR THE ADMINISTRATION OF OPERATING LICENSES FOR HAZARDOUS CHEMICALS

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MEASURES FOR THE ADMINISTRATION OF OPERATING LICENSES FOR HAZARDOUS CHEMICALS

The State Economic and Trade Commission

Order of the State Economic and Trade Commission of the People's Republic of China

No.36

The Measures for the Administration of Operating Licenses for Hazardous Chemicals, which were adopted at the directors' executive meeting of the State Economic and Trade Commission, and are hereby promulgated for implementation on November 15, 2002.

Director of the State Economic and Trade Commission Li Rongrong

October 8, 2002

Measures for the Administration of Operating Licenses for Hazardous Chemicals

Chapter I General Rules

Article 1

In order to strengthen the safety administration of hazardous chemicals, to regulate the operation and marketing of hazardous chemicals and to guarantee the safety of the lives and property of the people, the present Measures have been formulated in accordance with the Law of the People's Republic of China on Safe Production and the Regulations on the Safety Administration of Hazardous Chemicals.

Article 2

Those engaging in the operation and marketing of hazardous chemicals within the People's Republic of China shall be governed by the present Measures.

The present Measures shall not apply to the operation of explosives, radioactive materials, nuclear energy materials to be used for civil purpose and urban gas.

Article 3

The state shall apply a license system for the operation and marketing of hazardous chemicals. An entity operating and marketing hazardous chemicals shall obtain the operating license for hazardous chemicals (hereinafter referred to as the operating license) pursuant to the present Measures, and shall apply for registration with the department of industry and commerce administration on the basis of the operating license pursuant to law. Without the operating license or industry and commerce registration, no entity or individual may operate or market hazardous chemicals.

Article 4

Operating licenses are divided into type A and type B. An entity with the operating license of type A may operate and market highly toxic chemicals and other hazardous chemicals; an entity with operating license of type B may only operate and market the hazardous chemicals other than highly toxic chemicals.

Operating licenses of type A shall be subject to examination and approval, and issued by the departments in charge of economy and trade of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government or the departments of safe production supervision and administration entrusted thereby (hereinafter referred to as license-issuing bodies at the provincial level); operating licenses of type B shall be subject to examination and approval, and issued by the departments responsible for the comprehensive safety supervision and administration of hazardous chemicals of the people's governments at the level of city divided into districts (hereinafter referred to as license-issuing bodies at the city level). The operating license of product oil shall be subject to the administration of the operating license of type A.

Article 5

The State Bureau of Safe Production Supervision and Administration shall be responsible for the supervision and administration of the examination and approval, and issuance of the operating licenses of the whole country.

The license-issuing bodies at the provincial level and those at the city level shall be responsible for the supervision and administration of the operating licenses within their respective administrative areas.

Chapter II Application and Examination & Approval of Operating License

Article 6

An entity operating and marketing hazardous chemicals (hereinafter referred to as operating entity) shall meet the following conditions:

1)

The places, facilities and constructions for operation and storage shall meet the Criteria for Fire Control in Construction Design (GBJ16), the Provisions on the Safety of Explosion Hazardous Places and the Rules on Fire Control of Warehouses etc, and the constructions shall pass the examination conducted by the bodies of public security and fire control before being accepted;

2)

The conditions for operation and storage shall meet the Practice Conditions and Technical Requirements for Operating Enterprises of Hazardous Chemicals (GB18265), and the General Rules on Storage of

Common Hazardous Chemicals (GB15603);

3)

The major principals, executives, safe production management personnel and business staff of the entity shall receive professional training, pass the examination and obtain the qualifications for their respective positions;

4)

Having sound safety management systems and safety position-based operation rules;

5)

Having its own advance scheme on emergent accident rescue.

Article 7

An entity applying for operating license may choose the qualified safety evaluation agency by itself to make safety evaluation of its operation conditions.

Article 8

A safety evaluation agency shall evaluate whether the entity applying for operating license meets the all the conditions provided for in Article 6 of the present Measures, and produce safety evaluation reports.

Article 9

An entity applying for type A operating license shall file the application with the license-issuing body at the provincial level, an entity applying for type B operating license shall file the application with the license-issuing body at the city level, and submit the following materials:

1)

Application Form for Operating License for Hazardous Chemicals;

2)

Safety evaluation report;

3)

Copies of the documents of examination and acceptance of fire control conditions of the places and constructions for operation and storage;

4)

Copies of the certifications of title or lease of the places and facilities for operation and storage;

5)

Copies of the professional training certificates of the major principals, executives, safe production management personnel and business staff of the entity;

6)

Safety management systems and safe post operation rules.

Article 10

A license-issuing body shall, within 30 days after receiving the application, make examination and on-spot verification of the materials submitted by the applicant, and issue the operating license to the applicant that meets the conditions; and notify by written form the applicant that fails to meet the conditions, and explain the reasons.

Article 11

An operating license shall indicate the following information:

1)

Name of the operating entity;

2)

Domicile of the operating entity (address and operation place);

3)

Name of the legal representative or principal of the operating entity;

4)

Economic type of the operating entity;

5)

Approved business scope (names shall be indicated for highly toxic chemicals, and categories shall be indicated for other hazardous chemicals; oil names shall be indicated for product oil);

6)

Date of license issuance and valid term;

7)

Certificate number.

Article 12

If an operating entity alters, expands or removes its operation or storage place, or expands the approved business scope, it shall apply for a new operating license in advance.

If an operating entity alters its name, economic type or the legal representative or principal registered, it shall apply for going through alteration formalities and for replacing the operating license with the original license-issuing body within 20 workdays from the day of alteration.

Article 13

The valid term of an operating license is 3 years. If an operating entity continues the operation of hazardous chemicals after the expiration, it shall apply for replacing the license with the original license-issuing body within 3 months before the expiration of the valid term of the operating license, and draw the new license after passing the examination.

Article 14

A license-issuing body shall notify the departments of public security and environment protection at the corresponding level about the issuance of operating licenses in good time.

Article 15

An operating entity may not transfer, trade, lease, lend, forge or alter the operating license.

Chapter III Supervision and Administration of Operating Licenses

Article 16

A license-issuing body shall stick to the principles of openness, fairness and justice, and, in the examination and approval and issuance of operating licenses, strictly follow the conditions and procedures provided for in the laws, regulations, rules and standards.

Article 17

A license-issuing body shall strengthen the supervision and administration of operating licenses, and establish and perfect the systems of examination and approval, and issuance archive management of operating licenses.

Article 18

A license-issuing body at the city level shall report the examination and approval as well as the licenses issued each year to the license-issuing body at the provincial level for record, and issuance of operating licenses within its administrative area of the year. The license-issuing bodies at the provincial level shall report the examination and approval as well as the licenses issued within its administrative area of the year to the State Bureau of Safe Production Supervision and Administration for record.

Article 19

A license-issuing body shall supervise and inspect the entities that have obtained the operating licenses within its administrative area. An operating entity shall accept the supervision and inspection carried out by the license-issuing body pursuant to law, and may not refuse or frustrate without due causes.

Chapter IV Penalty Provisions

Article 20

Those engaging in the operation of hazardous chemicals without the operating license shall be punished by the license-issuing bodies at the provincial level or city level pursuant to Article 57 of the Regulations on the Safety Administration of Hazardous Chemicals.

Article 21

If an operating entity conducts any of the following acts in violation of the present Measures, the license-issuing body shall revoke its operating license:

1)

Obtaining the operating license by providing false certifications or other deceitful means;

2)

No longer meeting the basic conditions for operating and marketing hazardous chemicals;

3)

Transferring, trading, leasing, lending, forging or altering the operating license.

Article 22

If the functionary of the license-issuing bodies seek private benefit through wrongful means, abuse their powers, commits frauds, or neglect their duties, they shall be given administrative sanctions of demotion or removal pursuant to Article 55 of the Regulations on the Safety Administration of Hazardous Chemicals; if a crime is constituted, the offender shall be subject to criminal liabilities.

Article 23

If an agency undertaking the safety evaluation produces false evaluation reports, the department of safe production supervision and administration at or above the provincial level shall confiscate the illegal gains and impose on that agency a fine of no more than 30,000 yuan; if there is no illegal gains, a fine of no more than 20,000 yuan shall be imposed; and the department that granted qualification to that agency shall be suggested to revoke the qualification certificate; if a crime is constituted, the offender shall be subject to criminal liabilities.

Chapter V Supplementary Rules

Article 24

If a production entity of hazardous chemicals markets the hazardous chemicals produced thereby, it need not apply for the operating license any more, however, if it markets hazardous chemicals not produced by it or sets up marketing spots outside the factory, it shall still apply for the operating license.

Article 25

The entities that have obtained the operating license before the present Measures take effect shall apply for a new operating license within 6 months from the day on which the present Measures take effect. Those failing to do so may not continue the operation and marketing of hazardous chemicals any more.

Article 26

The operating licenses shall be uniformly printed by the State Bureau of Safe Production Supervision and Administration.

Article 27

The power to interpret the present Measures shall be authorized to the State Bureau of Safe Production Supervision and Administration.

Article 28

The present Measures shall enter into force on November 15, 2002.

The State Economic and Trade Commission 2002-10-08

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