Administrative Measures for the Operation Licenses of Hazardous Waste of China (the PRC)

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Conditions for Applying for a Hazardous Waste Operation License 2

Chapter III — Procedures for Applying for a Hazardous Waste Operation License 2

Chapter IV — Supervision and Administration 4

Chapter V — Legal Liability 4

Chapter VI — Supplementary Provisions 6

Adopted at the 50th Executive Meeting of the State Council on May 19, 2004; promulgated by Decree No. 408 of the State Council of the People's Republic of China on May 30, 2004; amended on February 6, 2016

Table of Contents

- Chapter I — General Provisions
- Chapter II — Conditions for Applying for a Hazardous Waste Operation License
- Chapter III — Procedures for Applying for a Hazardous Waste Operation License
- Chapter IV — Supervision and Administration
- Chapter V — Legal Liability
- Chapter VI — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Measures are formulated in accordance with the Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Waste for the purpose of strengthening the supervision and administration of business activities involving the collection, storage and disposal of hazardous waste, and preventing and controlling environmental pollution by hazardous waste.

Article 2 — Units engaged in business activities of collecting, storing and disposing of hazardous waste within the territory of the People's Republic of China shall obtain a hazardous waste operation license in accordance with these Measures.

Article 3 — Hazardous waste operation licenses shall, according to the mode of operation, be classified into comprehensive operation licenses for the collection, storage and disposal of hazardous waste and collection operation licenses for hazardous waste. Units that have obtained a comprehensive operation license for hazardous waste may engage in business activities of collecting, storing and disposing of hazardous waste

Source: https://www.danyoungcpa.com/measures-hazardous-waste-operation-licenses-china/

of all categories; units that have obtained a collection operation license for hazardous waste may only engage in business activities of collecting hazardous waste consisting of waste mineral oil generated in motor vehicle repair activities and waste cadmium-nickel batteries generated in the daily lives of residents.

Article 4 — The competent environmental protection departments of the people's governments at or above the county level shall, in accordance with these Measures, be responsible for the examination, approval, issuance, supervision and administration of hazardous waste operation licenses.

Chapter II — Conditions for Applying for a Hazardous Waste Operation License

Article 5 — To apply for a comprehensive operation license for the collection, storage and disposal of hazardous waste, the following conditions shall be satisfied: (1) having at least three technical personnel with an intermediate or higher professional title in environmental engineering or related specialties and with at least three years of experience in solid waste pollution treatment; (2) having means of transport that meet the safety requirements of the competent transport department of the State Council for the transport of dangerous goods; (3) having packaging tools, transfer and temporary storage facilities and equipment, and storage facilities and equipment that have passed inspection and acceptance, that meet the national or local environmental protection standards and safety requirements; (4) having disposal facilities, equipment and supporting pollution prevention and control facilities that conform to the national or provincial, autonomous region or municipality directly under the Central Government hazardous waste disposal facility construction plans and that meet the national or local environmental protection standards and safety requirements; among these, centralized medical waste disposal facilities shall also meet the national health standards and requirements for medical waste disposal; (5) having disposal technology and processes compatible with the categories of hazardous waste operated; (6) having rules and regulations, pollution prevention and control measures, and accident emergency rescue measures that ensure the safety of hazardous waste operations; and (7) where hazardous waste is disposed of by landfill, having lawfully obtained the land use right to the landfill site.

Article 6 — To apply for a collection operation license for hazardous waste, the following conditions shall be satisfied: (1) having rainproof and seepage-proof means of transport; (2) having packaging tools, transfer and temporary storage facilities and equipment that meet the national or local environmental protection standards and safety requirements; and (3) having rules and regulations, pollution prevention and control measures, and accident emergency rescue measures that ensure the safety of hazardous waste operations.

Chapter III — Procedures for Applying for a Hazardous Waste Operation License

Article 7 — The State implements a system of examination, approval and issuance of hazardous waste operation licenses at different levels. The hazardous waste operation licenses of the following units shall be examined, approved and issued by the competent environmental protection department under the State Council: (1) units incinerating 10,000 tons or more of hazardous waste per year; (2) units disposing of hazardous waste containing polychlorinated biphenyls, mercury or other substances posing a serious threat to the environment and human health; and (3) units using comprehensive centralized disposal facilities listed in the national hazardous waste disposal facility construction plan to dispose of hazardous waste. The hazardous waste operation license of a centralized medical waste disposal unit shall be examined, approved and issued by the competent environmental protection department of the people's government of a city divided into districts at the place where the centralized medical waste disposal facility is located. Collection operation licenses for hazardous waste shall be examined, approved and issued by the competent environmental protection department of the people's government at the county level. Hazardous waste operation licenses other than those prescribed in paragraphs 2, 3 and 4 of this Article shall be examined, approved and issued by the competent environmental protection departments of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

Source: https://www.danyoungcpa.com/measures-hazardous-waste-operation-licenses-china/

Article 8 — A unit applying for a hazardous waste operation license shall, before engaging in hazardous waste business activities, file an application with the license-issuing organ, together with the evidentiary materials of the conditions prescribed in Article 5 or Article 6 of these Measures.

Article 9 — The license-issuing organ shall, within 20 working days from the date of acceptance of the application, examine the evidentiary materials submitted by the applying unit and conduct on-site verification of the operating facilities of the applying unit. Where the conditions are met, a hazardous waste operation license shall be issued and publicly announced; where the conditions are not met, the applying unit shall be notified in writing with an explanation of the reasons. Before issuing a hazardous waste operation license, the license-issuing organ may, as actually needed, solicit the opinions of the health, urban and rural planning and other relevant competent departments and experts. The applying unit shall, on the strength of the hazardous waste operation license, complete the registration formalities with the administration for industry and commerce.

Article 10 — A hazardous waste operation license shall include the following main contents: (1) the name, legal representative and domicile of the legal person; (2) the mode of hazardous waste operation; (3) the category of hazardous waste; (4) the annual scale of operation; (5) the term of validity; and (6) the date of issuance and the certificate number. The content of a comprehensive operation license for hazardous waste shall also include the addresses of the storage and disposal facilities.

Article 11 — Where a hazardous waste operating unit changes its legal person name, legal representative or domicile, it shall, within 15 working days from the date of the industrial and commercial change registration, apply to the original license-issuing organ for the formalities of changing the hazardous waste operation license.

Article 12 — Under any of the following circumstances, a hazardous waste operating unit shall, in accordance with the original application procedures, re-apply for a hazardous waste operation license: (1) changing the mode of hazardous waste operation; (2) increasing the category of hazardous waste; (3) newly building, reconstructing or expanding the original hazardous waste operating facilities; or (4) operating hazardous waste in excess of the originally approved annual operating scale by more than 20 percent.

Article 13 — The term of validity of a comprehensive operation license for hazardous waste is five years; the term of validity of a collection operation license for hazardous waste is three years. Where a hazardous waste operating unit continues to engage in hazardous waste business activities upon expiry of the term of validity of the hazardous waste operation license, it shall file an application for renewal with the original license-issuing organ 30 working days before the expiry of the term of validity of the hazardous waste operation license. The original license-issuing organ shall conduct an examination within 20 working days from the date of acceptance of the renewal application; where the conditions are met, the license shall be renewed; where the conditions are not met, the applying unit shall be notified in writing with an explanation of the reasons.

Article 14 — Where a hazardous waste operating unit terminates its business activities of collecting, storing and disposing of hazardous waste, it shall adopt pollution prevention and control measures for the operating facilities and premises, and properly handle the undisposed hazardous waste. The hazardous waste operating unit shall, within 20 working days from the date of adopting the measures prescribed in the preceding paragraph, file a cancellation application with the original license-issuing organ, and the original license-issuing organ shall cancel the hazardous waste operation license after passing on-site verification.

Article 15 — Engaging in business activities of collecting, storing and disposing of hazardous waste without an operation license or not in accordance with the provisions of the operation license is prohibited. Importing electronic hazardous waste from outside the territory of the People's Republic of China or transferring such waste through the territory of the People's Republic of China in transit is prohibited. Providing or entrusting hazardous waste to units without an operation license for collection, storage and disposal business activities

Source: https://www.danyoungcpa.com/measures-hazardous-waste-operation-licenses-china/

is prohibited. Forging, altering or transferring a hazardous waste operation license is prohibited.

Chapter IV — Supervision and Administration

Article 16 — The competent environmental protection departments of the local people's governments at or above the county level shall, before March 31 of each year, report the issuance of hazardous waste operation licenses in the previous year to the competent environmental protection department of the people's government at the next higher level for filing. The competent environmental protection department at a higher level shall strengthen the supervision and inspection of the examination, approval and issuance of hazardous waste operation licenses by the competent environmental protection department at a lower level, and promptly correct the illegal acts of the competent environmental protection department at a lower level in the examination, approval and issuance of hazardous waste operation licenses.

Article 17 — The competent environmental protection departments of the people's governments at or above the county level shall, through written verification and on-site inspection, strengthen the supervision and inspection of hazardous waste operating units, and record the supervision and inspection results and the handling results, which shall be signed by the supervisory and inspection personnel and filed. The public has the right to consult the supervision and inspection records of the competent environmental protection departments of the people's governments at or above the county level. Where the competent environmental protection department of the people's government at or above the county level discovers that a hazardous waste operating unit no longer meets the original license-issuing conditions in its business activities, it shall order it to make rectification within a prescribed time limit.

Article 18 — The competent environmental protection departments of the people's governments at or above the county level have the power to require hazardous waste operating units to periodically report the circumstances of their hazardous waste business activities. Hazardous waste operating units shall establish record books of hazardous waste business activities, truthfully recording matters such as the categories, sources, destinations and occurrence of accidents of the hazardous waste collected, stored and disposed of. Hazardous waste operating units shall keep the record books of hazardous waste business activities for more than 10 years; record books of business activities involving landfill disposal of hazardous waste shall be kept permanently. Upon termination of business activities, the record books of hazardous waste business activities shall be transferred to the competent environmental protection department of the local people's government at or above the county level at the place for archival administration.

Article 19 — The competent environmental protection departments of the people's governments at or above the county level shall establish and improve the archive management system for hazardous waste operation licenses, and periodically publish to the public the circumstances of the examination, approval and issuance of hazardous waste operation licenses.

Article 20 — A unit that has obtained a collection operation license for hazardous waste shall sign a receiving contract with a disposal unit, and shall provide or entrust the collected waste mineral oil and waste cadmium-nickel batteries to the disposal unit for disposal within 90 working days.

Article 21 — Operating facilities for hazardous waste shall undergo harmless treatment before being abandoned or converted to other uses. After the service period of an operating facility for landfill disposal of hazardous waste expires, the hazardous waste operating unit shall, in accordance with the relevant provisions, adopt sealing measures for the land on which hazardous waste has been landfilled, and set up permanent markers in the delineated sealed area.

Chapter V — Legal Liability

Article 22 — Whoever violates Article 11 of these Measures shall be ordered by the competent environmental protection department of the local people's government at or above the county level to make

corrections within a prescribed time limit and shall be given a warning; where corrections are not made within the time limit, the hazardous waste operation license shall be temporarily withheld by the original license-issuing organ.

Article 23 — Whoever violates Article 12 or paragraph 2 of Article 13 of these Measures shall be ordered by the competent environmental protection department of the local people's government at or above the county level to stop the illegal act; where there are illegal gains, the illegal gains shall be confiscated; where the illegal gains exceed RMB 100,000, a fine of not less than one time but not more than two times the illegal gains shall be imposed in addition; where there are no illegal gains or the illegal gains are less than RMB 100,000, a fine of not less than RMB 50,000 but not more than RMB 100,000 shall be imposed.

Article 24 — Whoever violates paragraph 1 of Article 14 or Article 21 of these Measures shall be ordered by the competent environmental protection department of the local people's government at or above the county level to make corrections within a prescribed time limit; where corrections are not made within the time limit, a fine of not less than RMB 50,000 but not more than RMB 100,000 shall be imposed; where a pollution accident is caused and a crime is constituted, criminal responsibility shall be investigated in accordance with law.

Article 25 — Whoever violates paragraphs 1, 2 or 3 of Article 15 of these Measures shall be punished in accordance with the provisions of the Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Waste. Whoever violates paragraph 4 of Article 15 of these Measures shall have the hazardous waste operation license collected by the competent environmental protection department of the local people's government at or above the county level, or the hazardous waste operation license revoked by the original license-issuing organ, and a fine of not less than RMB 50,000 but not more than RMB 100,000 shall be imposed in addition; where a crime is constituted, criminal responsibility shall be investigated in accordance with law.

Article 26 — Whoever violates Article 18 of these Measures shall be ordered by the competent environmental protection department of the local people's government at or above the county level to make corrections within a prescribed time limit and shall be given a warning; where corrections are not made within the time limit, the hazardous waste operation license shall be temporarily withheld or revoked by the original license-issuing organ.

Article 27 — Whoever violates Article 20 of these Measures shall be ordered by the competent environmental protection department of the local people's government at or above the county level to make corrections within a prescribed time limit and shall be given a warning; where corrections are not made within the time limit, a fine of not less than RMB 10,000 but not more than RMB 50,000 shall be imposed, and the hazardous waste operation license may also be temporarily withheld or revoked by the original license-issuing organ.

Article 28 — Where a hazardous waste operating unit is ordered to make rectification within a prescribed time limit and fails to make rectification within the time limit or still does not meet the original license-issuing conditions after rectification, the hazardous waste operation license shall be temporarily withheld or revoked by the original license-issuing organ.

Article 29 — When the competent environmental protection department, in accordance with these Measures, revokes or collects a hazardous waste operation license, it shall simultaneously notify the administration for industry and commerce, and the administration for industry and commerce shall revoke the business license in accordance with law. A unit whose hazardous waste operation license has been revoked or collected in accordance with law shall not apply again for a hazardous waste operation license within five years.

Article 30 — Where a staff member of the competent environmental protection department of the people's government at or above the county level commits any of the following acts, an administrative sanction shall be imposed in accordance with law; where a crime is constituted, criminal responsibility shall be investigated

Source: https://www.danyoungcpa.com/measures-hazardous-waste-operation-licenses-china/

in accordance with law: (1) issuing a hazardous waste operation license to a unit that does not meet the conditions prescribed in these Measures; (2) failing to investigate and handle units or individuals discovered to be engaging in hazardous waste business activities without lawfully obtaining a hazardous waste operation license, or failing to handle the matter in accordance with law after receiving a report; (3) failing to perform supervision and administration duties with respect to units that have lawfully obtained hazardous waste operation licenses, or failing to investigate and handle acts discovered to violate these Measures; or (4) committing other acts of dereliction of duty in the administration of hazardous waste operation licenses.

Chapter VI — Supplementary Provisions

Article 31 — The meanings of the following terms as used in these Measures: (1) "hazardous waste" means waste that is listed in the national hazardous waste catalogue or that is determined to be hazardous in accordance with the national hazardous waste identification standards and identification methods; (2) "collection" means the activity by which a hazardous waste operating unit gathers scattered hazardous waste; (3) "storage" means the activity by which a hazardous waste operating unit places hazardous waste in premises or facilities conforming to environmental protection standards before disposal, as well as the activity of placing, in self-provided temporary facilities or premises, hazardous waste in batches of more than 5,000 kilograms each or for a period of more than 90 working days for the purpose of gathering scattered hazardous waste; and (4) "disposal" means the activity by which a hazardous waste operating unit incinerates, calcines, melts, sinters, pyrolyzes, neutralizes, disinfects, distills, extracts, precipitates, filters or dismantles hazardous waste, or uses other methods that change the physical, chemical or biological characteristics of hazardous waste, so as to reduce the quantity or volume of hazardous waste or reduce or eliminate its hazardous components, or the activity of finally placing hazardous waste in premises or facilities conforming to environmental protection requirements and not retrieving it again.

Article 32 — Units that, before the implementation of these Measures, have obtained a hazardous waste operation license in accordance with local regulations, rules or other documents shall, in accordance with these Measures, re-apply for a hazardous waste operation license 30 working days before the expiry of the term of validity of the original hazardous waste operation license. Where the formalities are not completed within the time limit, such units shall not continue to engage in hazardous waste business activities.

Article 33 — These Measures shall be implemented as of July 1, 2004.

Disclaimer: This document is an unofficial English translation of a Chinese administrative regulation, prepared for general informational and reference purposes only. It is not an official translation and has no legal effect. While every effort has been made to ensure accuracy, the official Chinese text is the sole authoritative version. Readers should consult qualified legal counsel before relying on this translation for any legal matter.