

Environmental Management Stipulations on the First Import of Chemicals and the Import and Export of Toxic Chemicals

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Article 1: These Regulations are formulated with a view to protecting human health and ecological environment, strengthening the environmental management on the first import of chemicals and the import and export of toxic chemicals and implementing the London Guidelines for the Exchange of Information on Chemicals in International Trade (as amended in 1989, hereinafter referred to as the "London Guidelines").

Article 2: For any activities for the import and export of chemicals within the territory of the People's Republic of China, these Regulations must be observed.

Article 3: These Regulations shall apply to the environmental management on the first import of chemicals and on the import and export of chemicals included in the List of Toxic Chemicals Banned or Severely Restricted in People's Republic of China (hereafter referred to as the "List").

These Regulations shall not apply to food additives, medicines, veterinary medicines, cosmetics and radioactive substances.

Article 4: The terms used in these Regulations shall have the following meanings:

(a) "Chemical" refers to a chemical substance which is manually manufactured or obtained from the nature and includes the chemical substance proper, chemical compound or chemical preparation, and the substances used as industrial chemicals and pesticides.

(b) "Banned chemical" refers to a chemical which has, because it is detrimental to human health and environment, been prohibited for use.

(c) "Severely restricted chemical" refers to a chemical which is detrimental to human health or environmental, virtually has been prohibited for use, but still can be used under some special circumstances after authorization.

(d) "Toxic chemical" refers to a chemical which causes damage to human health or the environment by means of, for example, environmental accumulation, bioaccumulation, biotransformation or chemical reaction, after their entry into the environment, or which is of severe damage and potential danger to human bodies to whom they are exposed.

(e) “First import of chemical” refers that a foreign business entity or its agent exports to China a chemical which has not yet been registered by such foreign business entity or its agent, even if a similar chemical has been registered in China by other foreign business entities or their agents.

(f) “Prior informed consent” refers that the international transport of a chemical which is banned or severely restricted in order to protect human health or the environment must be carried out subject to the consent by the designated national competent authority in the importing country.

(g) “Export” and “import” refer to the activities of handling entry-exit formalities for the chemicals through the Customs of the People’s Republic of China, but excluding the transit transport.

Article 5: The State Environment Protection Administration (SEPA) shall implement the environmental supervisory management, on a uniform basis, on the first import of chemicals and the import and export of toxic chemicals; be responsible for execute the prior informed consent procedure completely as set forth by the London Guidelines; publish the List of Toxic Chemicals Banned or Severely Restricted in China; carry out the environmental management registration, examination and approval on the first import of chemicals and the import and export of toxic chemicals included in the List; sign and issue the Import (Export) Chemical Environmental Management Registration Certificate and the Import (Export) Toxic Chemical Environmental Management Release Advice; and issue the public notices regarding the registration of firstly-imported chemicals.

Article 6: The Customs of the People’s Republic of China shall carry out inspection and grant release for the import and export of toxic chemicals included in the List against the Import (Export) Toxic Chemical Environmental Management Release Advice issued by SEPA.

The Ministry of Foreign Trade and Economic Cooperation P.R.C. shall cooperate with the SEPA according to its duties, to examine relevant contents of the application documents for environmental management registration of the first import of chemicals and the import and export of toxic chemicals and publish the List.

Article 7: SEPA shall set up a National Toxic Chemical Review Committee (hereinafter referred to as the “Committee”) which is responsible for the overall review of chemicals applying for import and export environmental management registration and providing consultation to SEPA in respect of technical matters involved in the implementation of these Regulations.

The Committee shall consist of management personnel and technical experts in environment, hygiene, agriculture, chemical industry, foreign trade, commodity inspection, customs and other relevant fields, with a three-year session.

Article 8: The local environmental protection administration competent authorities at various levels shall, in accordance with these Regulations, carry out the environmental supervisory management on the first import of chemicals and the import and export of toxic chemicals within their respective jurisdictions.

Article 9: For any chemicals not registered in China (except pesticides) that a foreign business entity or its agent(s) exports to China, such an entity or agent must file an application to SEPA for the environmental management registration of the first import of such chemicals, complete an Application Form for Environmental Management Registration of the First Import of Chemical, and provide test samples (generally no less than 250g) free-of-charge.

The registration management on the pesticide that a foreign business entity sells to China for the first time shall still be conducted pursuant to the Regulations on the Registration of Pesticides. The Ministry of Agriculture and SEPA shall exchange registration information on a regular basis.

Article 10: In examining and approving the application for the environmental management registration for the first import of a chemical, SEPA shall, if the chemical complies with the relevant provisions, grant it the environmental management registration and issue an Import (Export) Chemical Environmental Management Registration Certificate; if the chemical is deemed through examination as inappropriate for import to China, shall not grant the registration and issue such a certificate, and inform the applicant.

For the first import of a chemical whose hazards can be determined only after further tests and undergone a longer period of observation, SEPA may grant the provisional registration and issue a provisional registration certificate.

Any chemicals for which a chemical import environmental management registration certificate or a provisional registration certificate has not been obtained may not be imported all and singular.

Article 11: The validity of the chemical environmental management registration that a foreign business entity or its agent(s) has obtained for the first chemical export to China is five years. To extend the registration prior to the expiry of this validity, the original applicant must file a certificate-exchange registration application six months prior to the date of expiry.

The validity of provisional registration is one year. The SEPA shall, before the expiry of the validity, confirm whether granting official registration. In the case of special circumstances, the validity may be extended subject to approval by the registration agency, but at most for a year.

Article 12: Each time before a foreign business entity or its agent(s) exports an industrial chemical or pesticide included in the List to China or before such a chemical or pesticide is imported from foreign countries, the applicant shall apply for the environmental management registration for the import of toxic chemical to SEPA which will, where import is permitted, issue an Import (Export) Chemical Environmental Management Registration Certificate and an Import (Export) Toxic Chemical Environmental Management Release Advice (hereinafter referred as the "Advice"). The Advice, each issued for a batch, can be used once for customs declaration within its validity.

Article 13: To export a chemical included in the List, the applicant must apply to SEPA for the environmental management registration for export of the toxic chemical.

After accepting the application, SEPA shall inform the competent authority in the importing country and, after receipt of a notice showing its agreement on import, issue to the applicant an Import (Export) Chemical Environmental Management Registration Certificate that permits the applicant to export the toxic chemical. For a chemical that the competent authority in the importing country disagrees to import, SEPA shall not grant the registration for export, and inform the applicant.

Article 14: The Import (Export) Chemical Environmental Management Registration Certificate issued by SEPA must be affixed with the seal of SEPA for examining and approving import and export chemical environmental management registration. The Import (Export) Chemical Environmental Management Registration Certificate that applied for importing or exporting the toxic chemicals included in the List by the entities both domestic and abroad shall be in green, the Import (Export) Chemical Environmental Management Registration Certificate applied by a foreign business entity or its agent(s) to export chemicals to China for the first time shall be in pink, and the provisional registration certificate shall be in white.

Article 15: The first copy of the Advice shall be kept by SEPA, the second copy of it (original) shall be given to the applicant for customs declaration, and the third copy shall be sent to China Import and Export Commodity Inspection Bureau.

Article 16: The time limit for examining the application for import and export chemical environmental management registration shall, from the day of receiving an application that complies with registration requirements, be no longer than 180 days if the application is filed for the registration for the first import of a chemical, or no longer than 30 days if it is filed for the registration for the import or export of a toxic chemical included in the List.

Article 17: In examining and approving an application for the environmental management registration for the import or export of a chemical, SEPA is entitled to make inquiries to and require the applicant to supplement relevant documents.

SEPA is obliged to keep the technical confidentiality of any documents and samples provided for the application purpose.

Article 18: The Application Form for Environmental Management Registration of the First Import of Chemical, the Application Form for Environmental Management Registration of the Import and Export of Toxic Chemical, the Import and Export Chemical Environmental Management Registration Certificate and Provisional Registration Certificate, and the Import and Export Toxic Chemical Environmental Management Release Advice shall be produced on a uniform basis under the supervision of SEPA.

Article 19: For the classification, packing, labeling and transport of import and export chemicals, the international or domestic rules regarding the transport of hazardous goods should be based upon.

Article 20: During the loading, unloading, storage and transport of chemicals, effective prevention and emergency measures should be taken in order to prevent environmental pollution.

Article 21: When port pollution is, or is likely to be caused due to package damage or noncompliance, the port competent authority shall immediately take measures to prevent and eliminate pollution, and inform in time the local environmental protection administration authority for investigation and disposal. Any expenses incurred to prevent and eliminate the pollution should be borne by the principals concerned.

Article 22: The party concerned which imports and exports chemicals without handling the environmental management registration of chemical, will be fined by the Customs pursuant to the implementation rules for administrative punishment and be obliged to handle the registration formalities; if the registration formalities have been handled but no registration granted, the Customs shall order the return of goods.

Article 23: Where an import or export chemical causes pollution to a Chinese port, the party(s) concerned will be penalized by local environmental protection administration competent authority.

Article 24: Where a chemical is imported or exported in violation of the national stipulations on the foreign trade control, the party(s) concerned will be penalized by the foreign trade administration competent authority pursuant to relevant provisions.

Article 25: A chemical (excluded in the List), which is imported for the first time for experimental purpose with an annual import less than 50 kg, is free from registration.

Article 26: Charging measures for the import and export chemical environmental management registration will be formulated separately.

Article 27: It shall be the responsibility of SEPA for the interpretation of these Regulations.

Article 28: These Regulations shall be effective as of May 1, 1994.

This statute has been revised by the Decision of the State Environmental Protection Administration concerning the Annulment and Revision of a Portion of Regulations and Normative Documents (issued and implemented on Oct. 8, 2007).