

# **Hazardous Industrial Waste Import, Export, Transit and Transshipment Management Measures**

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Environmental Protection Administration of the Republic of China on Taiwan

English Translation<sup>1</sup>

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## **Chapter 1: General Provisions**

### **Article 1**

These Measures are promulgated to regulate permits for import, export, transit, and transshipment of hazardous industrial wastes and to manage related storage, clearance<sup>2</sup> and disposal of hazardous industrial wastes as prescribed in Articles 18 and 15 of the Waste Disposal Act.

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<sup>1</sup> Translators' note: This translation is for information purposes only and does not represent the binding law of the Republic of China. The binding law appears only in the national language -- Chinese. Therefore, for purposes other than acquiring information, reference must be made to the original Chinese version of these Measures.

In translating these Measures, the translators did not depart from the original Chinese text. Accordingly, ambiguities present in the translation are also present in the original.

In the Chinese version of these Measures, each paragraph is referred to as a "section" (*hsiang*). Bracketed text indicates translator additions for the purpose of increasing clarity.

<sup>2</sup> Translators' note: The Chinese term *ching chu*, effectively translated as "clear away," may be literally translated to include "collection and transportation/remove" of waste.

## **Article 2**

Hazardous industrial waste import and export transit and transshipment conducted in accordance with other laws and regulations shall be commenced only after receipt of a permit applied for in accordance with these Measures.

"Hazardous industrial wastes" as mentioned in the previous Section shall be classified as Category 1 or Category 2 wastes based on the toxicity thereof. Wastes to be included in each category shall be specified via public announcement by the Responsible Agency at the central government level,<sup>3</sup> after consultation with other relevant agencies.

The import or export of hazardous industrial wastes by export processing zones or science industrial parks shall be conducted in accordance with these Measures; these Measures shall not apply to the import of hazardous industrial wastes into domestic taxable zones.

## **Chapter 2: Import**

### **Article 3**

Only a Class A publicly or privately owned waste management organization, or an enterprise with recycling capability recognized by the Responsible Agency for the Waste Disposal Act at the central government level in conjunction with the Responsible Agency for the Enterprise Associated with the Project,<sup>4</sup> holding a valid facility registration certificate, may apply for a hazardous industrial waste import permit.

### **Article 4**

The Responsible Agency shall not issue an import permit if one of the following situations applies to the permit applicant:

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<sup>3</sup> Translators' note: Otherwise known as the Environmental Protection Administration of the Republic of China on Taiwan, or "TEPA."

<sup>4</sup> Translators' note: For example, the Ministry of Economic Affairs in the case of an electric power plant, or the Ministry of Finance in the case of a financial institution.

1. [the permit applicant action is] inconsistent with the provisions of Article 2;
2. the permit applicant recently applied for import of the same category of hazardous industrial waste, the recycling, clearing away, or treatment of which resulted in serious threats to human health or the living environment;
3. the permit applicant is found to have attempted permitless import of hazardous industrial wastes at least two (2) times;
4. the permit applicant, within the twelve (12) months prior to submitting the permit application, is found to have violated laws and regulations regarding hazardous industrial waste management at least five (5) times, or has been ordered to suspend operations or to terminate business operations;
5. the permit applicant is found to have transferred imported hazardous industrial wastes to another person/entity without receiving advance approval from the Responsible Agency;
6. the permit applicant is found to have imported similar hazardous industrial wastes that should have been returned to the exporting country as a rejected shipment but were not returned as a rejected shipment; and
7. the permit applicant's situation satisfies other criteria stipulated by the Responsible Agency at the central government level.

#### **Article 5**

No Category 1 hazardous industrial wastes may be imported.

#### **Article 6**

A person applying to import Category 2 hazardous industrial wastes shall submit an application form, accompanied by the following documents, to the Responsible Agency at the county (or city) government level or the municipal government level;<sup>5</sup> the Agency will then refer the permit application to the Responsible

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<sup>5</sup> Translators' note: Under the jurisprudence of the Republic of China, there are three levels of

Agency at the central government level for action:

1. an operating permit for a Class A publicly or privately owned waste management organization, or a certificate of recycling capability recognized by the Responsible Agency of the Waste Disposal Act at the central government level in conjunction with the Responsible Agency for the Enterprise Associated with the Project, accompanied by a plant registration certificate;
2. a statement of the sources, contents and characteristics of the hazardous industrial wastes at issue;
3. a transport loading schedule and a description of the import dates and the amount of the hazardous industrial wastes at issue;
4. the contracts between the import applicant and the exporter/exporting country concerning the hazardous industrial wastes at issue; and
5. other documents specified by the Responsible Agency at the central government level.

The methods for certifying "recycling capability" as mentioned in Section 1 of this Article and in Article 3 shall be promulgated by the Responsible Agency at the central government level after consulting the Responsible Agency for the Enterprise Associated with the Project.

#### **Article 7**

An application for importing Category 2 hazardous industrial wastes shall be rejected if one of the following situations applies to the wastes at issue:

1. evidence exists that the wastes will severely endanger human health or the living environment;
2. proper treatment techniques or equipment for management of the waste are not domestically available;

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government: central, provincial/municipal and county/city. At the time of this translation (May 1998), only two municipalities exist: Taipei and Kaohsiung.

3. the waste has been directly solidified, landfilled, incinerated or ocean disposed;  
or
4. proper clearance of the waste is not domestically possible.

**Article 8**

An import permit granted in accordance with these Measures shall include:

1. the permit number;
2. the name of the hazardous industrial waste(s);
3. the name and address of the importer;
4. the name and address of the importer's representative;
5. the import sources and the [name of the] exporter;<sup>6</sup>
6. the quantity of the waste(s) imported;
7. the date of the issued permit and the duration of validity thereof;
8. a description of any provisions concerning remittance of shipment and permit cancellation; and
9. other subject-matter prescribed by the Responsible Agency at the central government level.

Whenever the address mentioned in Section 1, Item 3 or the name or address mentioned in Section 1, Item 4 change, a registration of the change(s) shall be made within fifteen (15) days counting from the date the change(s) occur. Changes in other information on the permit shall necessitate re-application for a new permit in accordance with these Measures.

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<sup>6</sup> Translators' note: The text of the law is unclear here as to what particular exporter information is required.

### **Article 9**

Three (3) days prior to the arrival of hazardous industrial wastes at a domestic port, the importer shall submit a written report recording the importing port, scheduled date of arrival, scheduled date of delivery, means of transport, waste type [(waste name)], quantity and storage site of the hazardous industrial wastes, etc., to both the Responsible Agency at the central government level and the county (or city) government or municipal government where the hazardous industrial wastes are to be stored or treated.

Whenever a change in the information prescribed in the previous Section occurs, the importer shall, before scheduled delivery of the waste, report to the Responsible Agency at the central government level or the county (or city) government or municipal government where the hazardous industrial wastes are to be stored or treated.

### **Article 10**

[To receive authorization for] domestic transportation of imported hazardous industrial wastes, the importer shall, within twenty four (24) hours after delivery, fill in a four-part-form delivery note,<sup>7</sup> and submit the first part of the note to the Responsible Agency of the county (or city) or municipality where the hazardous industrial wastes are to be stored or treated; the second part of the note shall be submitted to the Responsible Agency at the central government level; the third and fourth parts of the note shall be kept by the importer; should the importer contract-out a portion of the domestic transportation of the wastes, the fourth part of the note shall be kept by the waste management organization entrusted [under contract] with the domestic transportation.

The importer shall, after the imported wastes have been domestically disposed, inform the Responsible Agency at the central government level of the disposal, as well as the Responsible Agency of the export country in accordance with the laws and regulations of that country.

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<sup>7</sup> Translators' note: The "delivery note" is not specially identified by name, nor attached to the Chinese version of these Measures.

### **Article 11**

When hazardous industrial wastes exported under permit in accordance with the provisions of these Measures are returned [to Taiwan] as rejected shipments, importation may commence only after by immediately submitting the rejection order, a copy of the [original] export certificate from the Customs Bureau, a clearance plan for the returned wastes, and receiving approval from the Responsible Agency at the central government level.

When illegally exported hazardous industrial wastes are returned [to Taiwan] as a rejected shipment, the import of such wastes can be conducted only after receiving a permit from the Responsible Agency at the central government level.

## **Chapter 3: Export**

### **Article 12**

No application for export of the same category of hazardous waste by the same foreign [waste] management organization shall be granted if one of the following situations applies:

1. a receiving country has informed the government of Republic of China (ROC) of the fact that the exporter failed to duly dispose of the hazardous industrial wastes at issue;
2. the applicant has exported the hazardous industrial waste at issue and has been ordered to return the waste; or
3. another situation specified by the Responsible Agency at the central government level.

The applicant mentioned in Item 2 of the preceding Section may, after returning the originally granted export permit, export the same hazardous industrial wastes in accordance with these Measures if a [waste] management organization recognized by another receiving-country government agrees to dispose of the waste.

### **Article 13**

Applications for export permits may only be made by enterprises which produce hazardous industrial wastes or Class A publicly or privately owned waste management organizations.

#### **Article 14**

Category 1 hazardous industrial wastes can be loaded for export only after an applicant submits a permit application form accompanied by the documents listed below, to the Responsible Agency at the county (or city) government level or the municipal government level, for referral to the Responsible Agency at the central government level, and is thereafter granted a permit:

1. written consent to dispose of the wastes at issue by a waste management organization recognized by the receiving government and consent by the government of the receiving country to import the waste at issue;
2. a corporate license or registration certificate for for-profit enterprises, a plant registration certificate, a medical organization operating license, or an operating permit for a Class A publicly or privately owned waste management organization;
3. a test report issued by an environmental inspection and testing institution recognized by the Responsible Agency at the central government level concerning the major [non-toxic] and toxic constituents in the waste, or the hazardous constituents in the [leachate] from the industrial wastes to be exported;
4. a description of the process of transportation between the transporting/domestic country and the receiving country, and the disposal plan proposed by the receiver;
5. the contract addressing the shipment rejection and the shipment return plan ;
6. certificate(s) of financial guarantee, or liability insurance required for disposal and shipment when rejection of shipment occurs;
7. a description of emergency transportation procedures;

8. the contracts between the exporter/applicant and the importer in the receiving country concerning the disposal of the hazardous industrial wastes at issue; and
9. other documents specified by the Responsible Agency at the central government level.

#### **Article 15**

Any person applying for export of Category 2 hazardous industrial waste shall prepare and file an application accompanied by the following information with the Responsible Agency at the county (or city) government level or the municipal government level for approval and issuance of an export permit before such waste can be loaded on board a ship:

1. written consent to dispose of the wastes at issue from a waste management organization recognized by the government of the receiving country;
2. a corporate license or registration certificate for for-profit enterprises, a plant registration certificate, a medical organization operating license, or an operation permit for a Class A publicly or privately owned waste management organization;
3. the scheduled date for export, the scheduled date of arrival and the quantity of the hazardous industrial wastes;
4. a description of the receiver waste disposal plan;
5. the contracts between the exporter/applicant and the importer in the receiving country governing the disposal of hazardous industrial wastes at issue; and
6. other documents as designated by the Responsible Agency at the central government level.

#### **Article 16**

An export permit granted in accordance with these measures shall include:

1. the permit serial number;

2. the name of the hazardous industrial waste(s) to be exported;
3. the name and address of the exporter;
4. the name and address of the exporter's representative;
5. the [name of the] receiving country;
6. the quantity of wastes approved for export;
7. the date of issuance and term of validity of the permit;
8. a description of any provisions concerning permit revocation; and
9. other items as designated by the Responsible Agency at the central government level.

Whenever the address mentioned in Section 1, Item 3 or the name or address mentioned in Section 1, Item 4 change, a registration of the change(s) shall be made within fifteen (15) days counting from the date the change(s) occur. Changes in other information on the permit shall necessitate re-application for a new permit in accordance with these Measures.

#### **Article 17**

When an enterprise which requests that a Class A publicly or privately owned waste management organization export hazardous industrial wastes, the management organization shall provide an affidavit manifesting intent to reimport the wastes if such wastes are returned as a rejected shipment by the receiving country.

#### **Article 18**

When hazardous industrial wastes imported via a permit granted in accordance with the provisions of these Measures are ordered by the Responsible Agency at the central government level to be returned to the exporting country when rejection of shipment occurs, the importer shall submit the shipment rejection order issued by the Responsible Agency at the central government level and a copy of the original import

certificate from the Customs Bureau to the Responsible Agency at the central government level, so that an export permit may be granted and the export commenced.

**Article 19**

[To receive authorization for] domestic transportation of exported hazardous industrial wastes, the exporter shall, within twenty four (24) hours after delivery, fill out a four-part delivery note and submit the first part of the note to the Responsible Agency of the county (or city) or municipality where the hazardous industrial wastes were located; the second part of the note shall be submitted to the Responsible Agency at the central government level for reference; and the third and fourth parts of the note shall be retained by the importer; should the exporter contract-out a portion of the domestic transportation of the wastes, the fourth part of the note shall be retained by the waste management organization entrusted [under contract] with the domestic transportation.

An exporter of hazardous industrial wastes shall, within twenty four (24) hours after the loading for exportation, fill in a seven-part delivery note; the first part of the note shall be submitted to the Responsible Agency at the central government level for reference and the second part of the note shall be submitted to the Responsible Agency of the county (or city) or municipality where the hazardous industrial wastes were located; the third part of the note shall be retained by the exporter; the fourth part of the note shall, within twenty four (24) hours after delivery to the receiver, be mailed to the Responsible Agency at the central government level for reference; the fifth part of the note shall be mailed for reference to the Responsible Agency of the county (or city) or municipality where the hazardous industrial wastes were located; and the sixth part of the note shall be retained by the exporter. Upon completing disposal of the exported waste, the waste management organization shall fill-in and return the seventh part of the note to the exporter, and the exporter shall submit to the Responsible Agency at the central government level for reference, and deliver a copy for reference to the Responsible Agency of the county (or city) or municipality where the hazardous industrial wastes were located. For exporters of Category 1 hazardous industrial wastes, submissions of the fourth part of the note through the seventh part of the note shall be arranged in accordance with the “transportation process” mentioned in Item 4 of Article 14. For exporters of Category 2 hazardous industrial wastes, submissions of the fourth part of the note through the seventh part of the note shall be arranged according to the scheduled date for export and the scheduled date of arrival mentioned in Item 3 of Article 15.

The waste management organization entrusted [under contract with the domestic transportation] shall, after exporting, submit a copy of the third part of the delivery form for reference to the contracted exporter and the Responsible Agency of the county (or city) or municipality where the exporter is located.

## **Chapter 4: Transit and Transshipment**

### **Article 20**

The transit and transshipment of hazardous industrial wastes shall be conducted only when the Responsible Agency in the exporting country provides notice to the domestic Responsible Agency at the central government level sixty (60) days prior to the scheduled export, and the exporter applies for and acquires a permit in accordance with the provisions of this Chapter.

### **Article 21**

The terms “transit” or ” transshipment” mentioned in the previous Article refer to:

1. Transit: foreign hazardous industrial wastes will only be transported via the domestic port(s) of the country without unloading at the domestic port(s); and
2. Transshipment: foreign hazardous industrial wastes are transported via the domestic port(s) of the country and the wastes are unloaded for transport onto another transportation means at the same port.

During the transit or transshipment stated in the above article, the name and the quantity of the commodity should be declared in detail on the port receipt.<sup>8</sup> The temporary storage of cargo should be approved by the port administration, and should be reported to the port customs authorities.

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<sup>8</sup> Translators’ note: The “port receipt” referred to in this Article refers to the documentation required by and provided to the port customs authorities by the exporter with responsibility for transit or transshipment of the foreign hazardous industrial wastes.

## **Article 22**

To conduct transit or transshipment of hazardous industrial wastes, an exporter shall, sixty (60) days prior to the scheduled export, submit an application for a permit accompanied by the following documents to the Responsible Agency at the central government level:

1. the approval documents from the relevant responsible agencies of the importing country;
2. the planned shipping course, date of transit, port of transit or transshipment, date of transshipment and unloading, and date of departure;
3. the emergency response plan;
4. an affidavit manifesting intent to reimport for disposal, if a rejection of shipment or an accident occurs;
5. the contract(s) for transportation, [including transit or transshipment];
6. the shipment return plan for when shipment rejection occurs;
6. certificate(s) of financial guarantee or liability insurance required for disposal and shipment when rejection of shipment occurs; and
8. other documents or information designated by the Responsible Agency at the central government level.

An applicant for a transit permit does not have to submit the documents provided for in Items 5 to 7 of the previous Section.

## **Article 23**

The transit or transshipment of hazardous industrial wastes which fall under the jurisdiction of the “International Maritime Dangerous Goods Code” (IMDG Code) shall also comply with the provisions of the Code.

**Article 24**

The Responsible Agency at the central government level shall inform the Ministry of Transportation and Communications, as well as the pertinent port administration and port customs authorities, of transit or transshipment permits.

**Article 25**

A transit or transshipment permit may be revoked by the Responsible Agency at the central government level for “special domestic environmental concerns.”

**Chapter 5: Supplementary Provisions**

**Article 26**

Permit forms and other relevant documents mentioned in these Measures shall be prescribed by the Responsible Agency at the central government level.

**Article 27**

A person who holds a permit granted in accordance with the provisions of these Measures may, one (1) month prior to the expiration of the permit, submit an application [for permit extension] to the Responsible Agency at the county (or city) or municipal government level; the Agency(ies) will then refer the permit extension application to the Responsible Agency at the central government level [for approval].

An import or export permit granted by the Responsible Agency at the central government level before the promulgation of revisions to these Measures shall be valid until the expiration date thereof; after expiration, a new permit may only be applied for and approved in accordance with the provisions of these Measures.

**Article 28**

These Measures shall apply, as appropriate, to the import, export, transit and transshipment of hazardous industrial wastes transported between Taiwan and Mainland China.

**Article 29**

These Measures shall apply, as appropriate, to the import, export, transit and transshipment of hazardous industrial wastes via air cargo.

**Article 30**

These Measures shall come into force upon the date of promulgation.