Administrative Measures for the Prevention and Control of Environmental Pollution by Electronic Waste

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The Administrative Measures for the Prevention and Control of Environmental Pollution by Electronic Waste, which were adopted at the third executive meeting of 2007 of the State Environmental Protection Administration on September 7, 2007, are hereby promulgated and shall come into force as of February 1, 2008.

Director of the State Environmental Protection Administration: Zhou Shengxian
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Administrative Measures for the Prevention and Control of Environmental Pollution by Electronic Waste

Chapter I General Provisions

Article 1 These Measures are enacted according to the Law on the Prevention and Control of Environmental Pollution by Solid Waste for the purpose of preventing and controlling the environmental pollution by electronic waste and strengthening the environmental administration of electronic waste.

Article 2 These Measures shall be applicable to the prevention and control of environmental pollution by the dismantling, utilization and disposal of electronic waste within the territory of the People's Republic of China.

The prevention and control of environmental pollution by the production and storage of electronic waste shall also be governed by these Measures, unless it is otherwise prescribed by any law or administrative regulation.

The prevention and control of environmental pollution by the activities in connection with electronic dangerous waste shall be governed by the provisions on the administration of dangerous waster as prescribed in the Law on the Prevention and Control of Environmental Pollution by Solid Waste.

Article 3 The State Environmental Protection Administration shall supervise and administer the prevention and control of environmental pollution by electronic waste across the country.

The environmental protection administrative department under the local people's government at or above the county level shall supervise and administer the prevention and control of environmental pollution by electronic waste within its own administrative area.

Article 4 Any entity or individual shall be obliged to environmental protection, and also have the right to accuse and complain those entities and individuals that cause the environmental pollution by electronic waste.

Chapter II Supervision and Administration of Dismantling, Utilization and Disposal

Article 5 To newly build, rebuild or expand a project for dismantling, utilization and disposal of electronic waste, the construction entity (including the individual industrial and commercial household) shall, according to the relevant provisions of the state, submit an environmental impact report or an environmental impact report form (hereinafter referred to as the "environmental impact assessment document") to the environmental protection administrative department under the local people's government at or above the municipal level for approval.

The "environmental impact assessment document" prescribed in the preceding paragraph shall contain:
1. An introduction of the construction project;
2. Whether the contraction project has been incorporated into the local construction planning on the facilities for dismantling, utilization and disposal of electronic waste;
3. Whether the selected technology and technical route conform to the industrial policy of the state and the environmental protection technical criteria and management requirements for dismantling, utilization and disposal of electronic waste, and whether they are suitable for the type of electronic waste that is dismantled, utilized and disposed of;
4. An analysis and prediction of the environmental impact that may be caused by the construction project;
5. The measures for environmental protection, as well as a technical and economical demonstration;
6. The program for carrying out the environmental monitoring over the construction project;
7. The program for properly utilizing or disposing of the electronic waste and other solid waste or liquid waste that can not be completely dismantled, utilized or disposed of by the present project; and
8. The assessment conclusion about the environmental impact.

Article 6 After a construction project is completed, the construction entity (including the individual industrial and commercial household) shall apply to the environmental protection administrative department that has examined and approved the environmental impact assessment document on the construction project for check and acceptance of the environmental protection measures that shall be adopted for the construction project.

The check and acceptance of the environmental protection measures prescribed in the preceding paragraph shall include:
1. Whether the supporting environmental protection facilities have been completed;
2. Whether there is a technical staff with relevant professional qualifications, as well as the training systems and plans for the management staff and the operating staff;
3. Whether the bookkeeping system for business operations concerning electronic waste has been established;
4. Whether the daily environmental monitoring system has been established;
5. Whether the program for properly utilizing or disposing of the electronic waste and other solid waste or liquid waste that can not be completely dismantled, utilized or disposed of has been implemented;
6. Whether there are the category, package, vehicle and other collection equipment suitable for the electronic waste that is disposed of; and
7. Whether there is a contingency mechanism for preventing abrupt environmental pollution accidents caused by fire, blasting or chemical leak.

Article 7 The environmental protection administrative department under the people's government at or above the county level that is responsible for examining and approving the environmental impact assessment documents shall timely incorporate those entities (including individual industrial and commercial households) that meet the following conditions into the provisional list of entities (including individual industrial and commercial households) for dismantling, utilization and disposal of electronic waste, and make public the aforesaid list:
1. Having gone through the formalities for industrial and commercial registration, and having obtained the business license; and
2. The environmental protection measures for the construction project have been checked and accepted by the environmental protection administrative department.

The environmental protection administrative department under the people's government at or above the county level that is responsible for examining and approving the environmental impact assessment documents shall incorporate those entities (including individual industrial and commercial households), which have not committed the following illegal acts in violation of any law or regulation on environmental protection or these Measures two or more times within the latest three years and have been incorporated into the provisional list, into the list of entities (including individual industrial and commercial households) for dismantling, utilization and disposal of electronic waste, and publicize and regularly adjust the aforesaid list:
1. Discharging pollutants by exceeding national or local standards for discharging pollutants;
2. Randomly dumping and piling up the generated solid waste or liquid waste;
3. Providing or entrusting the electronic waste that has not been completely dismantled, utilized and disposed of to the entities or individuals other than those entities (including individual industrial and commercial households) for dismantling, utilization and disposal of electronic waste that have been incorporated into the list and have the corresponding business scope for carrying out the dismantling, utilization and disposal; or
4. Making falsehood in the environmental monitoring data or the records on business operation.

Where an entity (including the individual industrial and commercial household) has committed any of the illegal acts mentioned in Paragraph 2 of this Article in violation of any law or regulation on environmental protection or these Measures for two or more times within the latest three years, any enterprise or any individual industrial and commercial household for dismantling, utilization and disposal of electronic waste that has been newly established by its legal representative or individual industrial and commercial operator shall not be incorporated into the list.

The list (including provisional list) shall state the name, legal representative or individual industrial and commercial operator, domicile and business scope of each entity (including the individual industrial and commercial household).

No entity (including the individual industrial and commercial household) that has not been incorporated into the list (including provisional list) may engage in the dismantling, utilization and disposal of electronic waste.

Article 8 Where a centralized zone for dismantling, utilization and disposal of electronic waste is built, such zone shall be rigidly planned and conform to the relevant technical criteria as set down by the State Environmental Protection Administration.

Article 9 The entities (including individual industrial and commercial households) that engage in the dismantling, utilization and disposal of electronic waste shall carry out the daily and regular monitoring over the discharge of pollutants according to the requirements for check and acceptance of environmental protection measures.

The entities (including individual industrial and commercial households) that engage in the dismantling, utilization and disposal of electronic waste shall, according to the provisions on the bookkeeping system for business operations concerning electronic waste, faithfully record down the source, type, weight or quantity, time of collection (pick-up), dismantling, utilization, storage and disposal of each batch of electronic waste; the name and address of the transporter; as well as the type, weight or quantity and whereabouts, etc. of the electronic waste and solid waste or liquid waste that has not been completely dismantled, utilized or disposed of.

The monitoring reports and the record books for business operations shall be kept for three years.

Article 10 The entities (including individual industrial and commercial households) that engage in the dismantling, utilization and disposal of electronic waste shall carry out the trainings according to the training systems and plans that are found to be qualified upon check and acceptance.

Article 11 The dismantling, utilization and disposal of electronic waste shall conform to the requirements in the relevant standards, technical criteria and technical policies of State Environmental Protection Administration for the prevention and control of pollution by electronic waste.

It is prohibited to use backward technologies, techniques and equipment to dismantle, utilize and dispose of electronic waste.

It is prohibited to burn the electronic waste in the open air.

It is prohibited to use cupolas, simple reverberatory furnaces or other equipment and simple acid leaching techniques to utilize or dispose of electronic waste.

It is prohibited to dispose of electronic waste by way of direct landfill.

The dismantling, utilization and disposal of electronic waste shall be carried out at specialized workplaces. Such workplaces shall be taken with rain-proof and anti-ground-leakage measures, and be equipped with the liquid collection facilities. To dismantle the electronic waste, it is necessary to firstly remove the lead-acid batteries, nickel-cadmium batteries, mercury switches, cathode ray tubes, PCB capacitors and refrigeration agents, and then to collect, store, utilize and dispose of electronic waste by category.

Article 12 The environmental protection administrative department under the people's government at or above the county level shall have the power to require the entities for the dismantling, utilization and disposal of electronic waste to regularly report their business operations concerning electronic waste.

The environmental protection administrative department under the people's government at or above the county level shall carry out the supervision and inspection by way of written verification and on-site inspection, etc., and record down the conditions about supervision and inspection as well as the handling results, and such records shall be put on files upon signature of the persons for supervision and inspection. The supervision, spot-check and monitoring shall be carried out at least once every year.

Where the environmental protection administrative department under the people's government at or above the county level finds that any condition for check and acceptance of environmental protection measures is not met, and the circumstance is minor, it may order the rectification within a

time limit; and where the rectification has been made timely and no harmful consequence has not been caused, the environmental protection administrative department may not impose any punishment.

Article 13 Where the entities (including individual industrial and commercial households) that have engaged in the dismantling, utilization and disposal of electronic waste before the implementation of these Measures meet the following conditions, they may, within 120 days after the implementation of these Measures, apply to the environmental protection administrative department under the local people's government at or above the level of prefecture for approval of their incorporation into the provisional list, and simultaneously provide the following certification documents:
1. Having gone through the formalities for industrial and commercial registration, and having obtained the business license;
2. The environmental protection measures have been checked and accepted by the environmental protection administrative department;
3. Having met or met upon rectification the conditions for check and acceptance of environmental protection measures as prescribed by these Measures, and being able to reach the environmental protection technical criteria and management requirements for dismantling, utilization and disposal of electronic waste; and
4. The discharge of pollutants, the utilization or disposal of the generated solid waste or liquid waste conform to the requirements for completion-based check and acceptance of environmental protection facilities.

The environmental protection administrative department under the local people's government at or above the level of prefecture shall, within 20 working days upon acceptance of an application, examine the certification documents submitted by the application entity, carry out the on-site check of operating facilities of the application entity, and incorporate the qualified application entity into the list and make an announcement; or notify the unqualified application entity in writing and explain the reasons.

An entity that has been incorporated into the provisional list for three years and conforms to the conditions mentioned in Paragraph 2 of Article 7 of these Measures shall be incorporated into the list.

Chapter III Responsibilities of Relevant Parties

Article 14 The producers of electronic & electrical products or electronic & electrical equipment shall restrict or eliminate the use of toxic and harmful substances in the products or equipment according to the relevant laws, administrative regulations and rules of the state.

The producers, importers and sellers of electronic & electrical products or electronic & electrical equipment shall, according to the relevant provisions of the state, publicize the lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB), polybrominated diphenyl ether (PBDE) and other toxic and harmful substances in the products or equipment, the information about the impact of improper utilization or disposal of toxic and harmful substances on the environment and human health, as well as the hints about the methods for utilizing or disposing of the discarded products or equipment in the environmentally friendly manner.

The producers, importers and sellers of electronic & electrical products or electronic & electrical equipment shall, according to the relevant provisions of the state, establish a recovery system, recover the discarded products or equipment, and store, utilize or dispose of them in the environmentally friendly manner.

Article 15 Under any of the following circumstances, the electronic waste shall be provided or entrusted to those entities (including individual industrial and commercial households) for dismantling, utilization and disposal of electronic waste that have been incorporated into the list and have the corresponding business scope for carrying out the dismantling, utilization and disposal:
1. The entities that generate the industrial electronic waste do not dismantle, utilize or dispose of electronic waste in the environmentally friendly manner.;
2. The producers, sellers, importers, users, renovator or repairer or reproducer of electronic & electrical products or electronic & electrical equipment discard the electronic & electrical products or electronic & electrical equipment;
3. The entities (including individual industrial and commercial households) for dismantling, utilization and disposal of electronic waste can not completely dismantle, utilize or dispose of electronic waste; or
4. The illegally produced or imported electronic & electrical products or electronic & electrical equipment as confiscated by the relevant administrative department in its administrative activities need to be dismantled, utilized or disposed of.

Article 16 The entities that generate the industrial electronic waste shall record down the type, weight or quantity of the generated industrial electronic waste, as well as the conditions about voluntarily or entrusting the third party to store, dismantle, utilize and dispose of electronic waste; and submit the relevant materials about the type, output, whereabouts, dismantling, utilization, storage and disposal of electronic waste to the environmental protection administrative department under the local people's government at or above the county level.

The aforesaid records and materials shall be kept for three years.

Article 17 The transfer of the discarded electronic & electrical products or electronic & electrical equipment or other dangerous electronic waste with lead-acid batteries, nickel-cadmium batteries, mercury switches, cathode ray tubes and PCB capacitors in the complete sets shall be governed by Article 23 of the Law on the Prevention and Control of Environmental Pollution by Solid Waste.

The measure for preventing the discarded electronic & electrical products or electronic & electrical equipment from breaking shall be adopted during the process of transfer.

Chapter IV Penalty Provisions

Article 18 Where the environmental protection administrative department under the people's government at or above the county level violates these Measures by failing to perform the supervisory and administrative functions, the people's government at the same level or the environmental protection administrative department at the higher level shall order it to make correction; and impose administrative sanctions on the liable persons in charge and other directly liable persons; and if a crime is constituted, the violator shall be subject to criminal liabilities.

Article 19 Where any entity violates these Measures by refusing the on-site inspection, the environmental protection administrative department under the people's government at or above the county level shall order it to make correction within a time limit according to the Law on the Prevention and Control of Environmental Pollution by Solid Waste; where the violator refuses to make correction or makes falsehood in the inspection, it shall be fined with 2,000 yuan up to 20,000 yuan; where the circumstances are serious but no crime is constituted, the violator shall also be subject to the detention for five up to ten days by the public security organ according to the Law on Public Security Management Penalties; and where a crime is constituted, the violator shall be subject to criminal liabilities.

Article 20 Where any individual or any entity (including the individual industrial and commercial household) that has not been incorporated into the list (including the provisional list) violates these Measures by engaging in the dismantling, utilization and disposal of electronic waste, he or it shall be punished according to the following provisions:
1. In the case of failure to pass the check and acceptance of environmental protection measures, the environmental protection administrative department under the people's government that has examined and approved the environmental impact assessment document on the construction project shall order the suspension of the dismantling, utilization and disposal of electronic waste according to the Regulation for the Administration of Environmental Protection of Construction Projects, and may impose a fine of no more than 100,000 yuan; or
2. In the case of failure to obtain a business license, the administrative department for industry and commerce shall give a ban according to the Measures for Investigation and Ban of Unlicensed Operations, confiscate the tools, equipment, raw materials, products and other properties special for unlicensed operations, and also impose a fine of 50,000 yuan up to 500,000 yuan.

Article 21 Where any entity violates these Measures by committing any of the following acts, the environmental protection administrative department under the people's government at or above the county level shall order it to make rectification within a time limit, and impose a fine of no more than 30,000 yuan:
1. Providing or entrusting the electronic waste that has not been completely dismantled, utilized and disposed of to the entities or individuals other than those entities (including individual industrial and commercial households) for dismantling, utilization and disposal of electronic waste that have been incorporated into the list and have the corresponding business scope for carrying out the dismantling, utilization and disposal;
2. The dismantling, utilization and disposal of electronic waste do not conform to the requirements in the relevant standards, technical criteria and technical policies for the prevention and control of pollution by electronic waste, or violate the prohibitive requirements for technologies, techniques and equipment as prescribed by these Measures;
3. The workplace for the storage, dismantling, utilization and disposal of electronic waste does not conform to the requirements;
4. Failing to record down the business operations, the daily environmental monitoring data or the relevant conditions about the generated industrial electronic waste according to the provisions; or making falsehood in the environmental monitoring data or the records about business operations;
5. Failing to carry out the trainings according to the training system and plan; or
6. Storing the electronic waste for more than one year.

Article 22 Where any entity (including the individual industrial and commercial household) that has been incorporated into the list (including the provisional list) violates the Law on the Prevention and Control of Environmental Pollution by Solid Waste, any other relevant law or administrative regulation by committing any of the following acts, it shall be punished according to the relevant law or administrative regulation:
1. Illegally closing down, leaving idle or removing the facilities or places for prevention and control of pollution;
2. Failing to adopt the measure of harmless treatment, randomly dumping or piling up the generated solid waste or liquid waste;
3. Causing the scattering, loss or leak of solid waste or liquid waste, or causing any other environmental pollution or committing any other illegal environmental act; or
4. Failing to normally use the facilities for prevention and control of pollution.

Where any entity (including the individual industrial and commercial household) commits the act prescribed in Item 1, 2 or 3 of the preceding paragraph, it shall be fined with 10,000 yuan up to 100,000 yuan respectively according to Article 68 of the Law on the Prevention and Control of

Environmental Pollution by Solid Waste; and where it commits the act prescribed in Item 4 of the preceding paragraph, it shall be punished according to the relevant provisions in the Law on the Prevention and Control of Water Pollution and the Law on the Prevention and Control of Atmospheric Pollution.

Article 23 Where any entity (including the individual industrial and commercial household) that has been incorporated into the list (including the provisional list) violates the Law on the Prevention and Control of Environmental Pollution by Solid Waste, any other relevant law or administrative regulation by causing any of the following serious environmental pollution by solid waste or liquid waste, the environmental protection administrative department under the people's government at or above the county level shall, according to the Law on the Prevention and Control of Environmental Pollution by Solid Waste and the Decision of the State Council on Implementing the Scientific Viewpoint of Development and Strengthening the Environmental Protection, order it to make the prevention and control within three months, restrict its production and discharge, and not to construct any project that will increase the discharge of pollutants; and where the entity fails to complete the task of prevention and control within the time limit, it shall be ordered to stop the production for rectification within three months; and where the entity still fails to complete the task of prevention and control within the time limit, it shall be shut down upon approval of the people's government at the same level:
1. Endangering the sources of drinking water;
2. Causing the environmental pollution by groundwater or heavy metals in the soil;
3. Causing the environmental pollution by the scattering, loss and leak of dangerous waste;
4. Causing the loss of environmental functions and being unable to restore the environment to its original conditions; or
5. Causing any other serious environmental pollution by solid waste or liquid waste.

Article 24 Where the environmental protection administrative department under the people's government at or above the county level finds any violation of these Measures for which the administrative department for industry and commerce or the public security organ shall exercise the administrative punishment power according to a relevant law or regulation or these Measures, it shall transfer the case to the competent department for disposal.

Chapter V Supplementary Provisions

Article 25 The meanings of the following terms used in these Measures:

1. The "electronic waste" refers to the discarded electronic & electrical products or electronic & electrical equipment (hereinafter referred to as "products or equipment"), the discarded parts and components thereof, as well as the articles and substances that are subject to the management of electronic waste as prescribed by the State Environmental Protection Administration together with other relevant departments; and includes the obsolete products or equipment generated in the industrial production, the obsolete semi-finished products and residues, the obsolete products generated in the repair, renovation and reproduction of products or equipment, the products or equipment discarded in the daily life or in the activities of providing services for daily life, as well as the products or equipment that is prohibited to be produced or imported by any law or regulation.

2. The "industrial electronic waste" refers to the electronic waste generated in the industrial production activities, and includes the electronic waste generated by the entities (including individual industrial and commercial households) for repair, renovation and reproduction or for dismantling, utilization and disposal of electronic waste in the production activities and relevant activities.

3. The “dangerous electronic waste” refers to the dangerous electronic waste that has been incorporated into the national inventory of dangerous waste or that is identified according to the identification standards and methods for dangerous waste as prescribed by the state; and includes the lead-acid batteries, nickel-cadmium batteries, mercury switches, cathode ray tubes, PCB capacitors and other products or equipment.

4. The “dismantling” refers to the activity of demolishing and disintegrating the electronic waste through artificial or mechanical means for the purpose of utilizing, storing or disposing of the electronic waste; and excludes the demolition and disintegration in the repair, renovation and reproduction of products or equipment.

5. The “utilization” refers to the activity of extracting substances from electronic waste as raw materials or fuels, and excludes the repair, renovation and reproduction of products or equipment.

Article 26 These Measures shall come into force as of February 1, 2008.