Content

Title：	Regulations Governing Determination of Reasonable Due Care Obligations of Enterprises Commissioning Waste Clearance Ch
Date：	2021.02.23
Legislative：	1. Original 9 articles promulgated by Environmental Protection Administration order on November 24, 2017 2. Article 2,4 and 9 revised and promulgated by Environmental Protection Administration order on February 23,2021
Content：	Article 1 The Regulations are instituted in accordance with Paragraph 2 of Article 30 of the Waste Disposal Act (hereafter referred to as the Act). Article 2 For the enterprises defined in Subparagraph 2 of Article 28 of the Act and required to have waste disposal technicians as specified and announced by the central competent authorities, if they have adopted the following subsections management measures in entrusting waste clearance, they shall be considered to have exercised their reasonable due care: 1. The enterprises defined in Article 31 of the Act and specified as well as announced by the central the central competent authority attach an industrial waste clearance plan and go online to declare the waste clearance destination and honestly report actual waste clearance status. 2. The waste is classified and stored in accordance with the Method and Facilities Standards for Storage, Clearance and Disposal of Industrial Waste prior to being entrusted for clearance. 3. When signing a written contract for entrusting waste clearance in accordance with Article 28 or 39 of the Act, the following items are checked and confirmed: (1) The qualification acquired by the entrusted enterprise by law for clearance of the waste - for the waste which shall be re-used as stipulated by the central competent authority or central industry competent authority, the approval of an industrial waste disposal plan of the re-use registration inspection information for the re-used waste category is recorded. (2) After completing the waste clearance, the entrusted enterprise stated in the contract submits a written document for the record of proper clearance (the form is as per attachment 1) (3) When entrusting clearance of the waste covered in attachment 2, the entrusted enterprise stated in the contract is in cooperation with entrusting enterprise’ s check of the waste clearance status. 4. The entitites that self-clear waste and dispose of it or reuse organizations or facilities have cleared the waste with their own vehicles or employees, or rented the business vehicles from legally registered transportation firms, in which the enterprise’ s personnel escorting the waste in the vehicle shall bring the certificate documents with them. 5. Having established the enterprise internal self-check and audit waste system; (1) Quarterly routine check and audit. (2) Making out the check and audit record. (3) Tracking the defect improvement status, and including it in the main points of the self-check and audit. 6. Having checked the entrusted enterprises receiving the waste listed in attachment 2 at least once a year to understand their operation management regarding waste storage, clearance, disposal and reuse, and having recorded the details. But not including publicly-owned and operated, publicly-owned and privately operated general waste incinerators. 7. Having reported to the competent authority of the municipality or county (city) where the entrusted enterprise is located in case the entrust enterprise has any of the following circumstances.

(1) Failure in submitting the written document for the record of proper clearance in accordance with item (2) of Subparagraph 3.
(2) Failure in cooperation with the entrusting enterprise to check the waste clearance status in accordance with Item (3) of Subparagraph 3.
(3) Inconsistence of the vehicles clearing industrial waste with the contract.
(4) Failure in complying with the Act to store, clear, dispose of and reuse waste, and likely to dump the waste or pollute the environment.
8. The check and audit records specified in item (2) of Subparagraph 5 and the check records specified in Subparagraph 6 shall be reported to the person in charge of the enterprise or its authorized person, and the responsible person or his authorized person shall confirm the report on the date of signature and annotation or by electronic signature. Records and reports shall be properly retained for five years.

Article 3 For the enterprises not covered by the preceding Article, if they have adopted the following management measures in entrusting waste clearance, they shall be considered to have exercised their reasonable due care:
1. Have assigned dedicated personnel to process waste clearance related businesses.
2. Have taken the measures referred to in Subparagraphs 1 to 3 and 7 of the preceding Article.

Article 4 An enterprise shall entrust the relevant association, society, professional technicians, dedicated engineering personnel or incorporation to assist in taking management measures required by Subparagraph 1 to 3 and 6 of Article 2.
The person in charge of the enterprise in Subparagraph 8 of Article 2 refers to the person in charge published in the industrial waste disposal plan; "authorized person" means the person in charge of the workplace authorized by the person in charge of the enterprise to manage, direct or supervise the enterprise; the way the person in charge of the enterprise authorizes others should be done in writing, and the authorized person can no longer authorize others.

Article 5 Any member enterprise of an association may request the association to jointly check the waste disposal conducted by the entrusted enterprise or the reuse organization, and the check results shall be provided as a reference for member enterprises.

Article 6 To process enterprises' reasonable due care determination matters, the municipality or county (city) competent authority may request the concerned enterprise or related organization to provide relevant data. For the cross-municipality or county (city) incident of the waste not properly cleared, the determination of the reasonable due care shall be processed by the competent authority of the municipality or county (city) where the waste is cleared.

Article 7 To process the determination of the reasonable due care, the municipality or county (city) competent authority may call a discussion meeting and invite the representatives of relevant agencies or associations to attend as guests.

Article 8 To investigate distribution and quantity of the waste not properly cleared, the municipality or county (city) competent authority may request involving enterprises to submit explanation in writing along with related certificate documents.
In the case that the enterprise does not submit the explanation in writing or related certificate documents or the distribution and quantity of the waste not properly cleared, which obviously leads to the difficulty in determination, the municipality or county (city) competent authority may determine according to the estimates.

Article 9 The Regulations shall be enforces as of the promulgation day. The amended provisions of the Regulations shall come into force six months

	after the date of promulgation.
Attachments：	attachment1.pdf attachment2.pdf

Data Source：Ministry of Environment Laws and Regulations Retrieving System