



THE SUPREME PEOPLE ' S COURT OF THE PEOPLE ' S REPUBLIC OF CHINA

Laws and Regulations

Posted: 2003-11-12 17:09:18

- ▼ Judicial News
- ▼ Grand Justices
- ▼ Judicial System
- ▼ Laws&Regulations
- ▼ PRC Laws
- ▼ Focus News
- ▼ Home

Regulations on Labor Protection in Workplaces Where Toxic Substances Are Used

□ □ □ □ □

(Adopted at the 57th Executive Meeting of the State Council on April 30, 2002, promulgated by Decree No.352 of the State Council of the People's Republic of China on May 12, 2002, and effective as of the date of promulgation)

Chapter I General Provisions

Article 1 These Regulations are formulated in accordance with the provisions of the Law on the Prevention and Control of Occupational Diseases and other relevant laws and administrative regulations for the purposes of ensuring the safe use of toxic substances in workplaces, preventing against, controlling, and eliminating occupational poisoning hazards, and protecting workers' life safety, body health and their relevant rights and interests.

Article 2 These Regulations shall be applicable to labor protection against possible occupational poisoning hazards due to the use of toxic substances in workplaces.

Article 3 Toxic substances are classified into general toxic substances and high toxic substances in light of the extent of occupational poisoning hazards caused by toxic substances. The State exercises special control over the use of high toxic substances in workplaces.

The catalogues of general toxic substances and high toxic substances shall, on the basis of the national standards, be formulated, adjusted and published by the administrative department for public health under the State Council jointly with the departments concerned.

Article 4 An employing unit that engages in the operations in which toxic substances are used (hereinafter referred to as the employing unit) shall use toxic substances that meet the national standards, and shall not use in workplaces the toxic substances that are explicitly prohibited by the State, or that fail to meet the national standards.

An employing unit shall, as possible as it can, use nontoxic substances; where it is required to use toxic substances, low toxic substances shall be selected for use with priority.

Article 5 An employing unit shall, in accordance with the provisions of these Regulations and other relevant laws and administrative regulations, take effective protective measures to prevent the occurrence of occupational poisoning accidents, and buy work injury insurance according to law so as to safeguard workers' life safety and body health.

Article 6 The State encourages the research, development, popularization and application of the new technologies, new techniques and new materials that are beneficial to the prevention, control and elimination of occupational poisoning hazards and to the protection of workers' health, restricts the use of, or obsoletes, the technologies, techniques and materials that may cause serious occupational poisoning hazards, and strengthens the basic research on the mechanism and regular rules for occupational diseases so as to improve the level of science and technology in the prevention and control of occupational diseases.

Article 7 Child laborers shall be prohibited from being employed.

An employing unit shall not assign minors and female employees in pregnancy or lactation to engage in the operations in which toxic substances are used.

Article 8 Trade unions shall urge and assist employing units in the publicity, education and training of occupational health, make proposals and suggestions concerning employing units' occupational health work, and coordinate with and urge the employing units to solve the problems in relation to the prevention and control of occupational diseases that are reported by workers.

Trade unions shall have the right to demand corrections by employing units committing acts of infringing upon workers' legal rights and interests in violation of laws and regulations; in case of serious occupational poisoning hazards, they shall have the right to require the employing units to take protective measures or suggest that the relevant departments of the people's governments take compulsory

measures; in case of occupational poisoning accidents, they shall have the right to participate in the investigation and handling of the accidents; under circumstances in which workers' lives and health are jeopardized, they shall have the right to suggest that the employing units should organize the evacuation of the workers from the premises in danger, and the employing units shall immediately take such measures.

Article 9 The administrative departments for public health and other relevant departments of the people's governments at or above the county level shall, in light of their respective functions and responsibilities, supervise employing units' strict compliance of the provisions of these Regulations and other relevant laws and regulations, strengthen the labor protection against the use of toxic substances in workplaces, prevent the occurrence of occupational poisoning accidents, and ensure the rights enjoyed by the workers according to law.

Article 10 The people's governments at all levels shall strengthen the leadership over the occupational health and safety as well as the relevant labor protection in the workplaces where toxic substances are used, urge and support the administrative departments for public health and other relevant administrative departments to fulfill their functions and responsibilities of supervision and inspection according to law, and coordinate the work of solving relevant major problems in time; in case of occupational poisoning accidents, they shall take effective measures to control the spreading of the accidental hazards and eliminate the accidental hazards, and deal with problems arising from the accidents.

Chapter II Preventive Measures in Workplaces

Article 11 The establishment of an employing unit shall meet the conditions provided for in the relevant laws and administrative regulations, the relevant formalities shall be gone through according to law, and the business license shall be obtained.

The employing unit's workplaces where toxic substances are used shall, in addition to the occupational health requirements provided for in the Law on the Prevention and Control of Occupational Diseases, also meet the following conditions:

- (1) the workplaces must be separated from the living areas, and no person shall reside in the workplaces;
- (2) the harmful operations must be separated from the harmless operations, and the workplaces where high toxic substances are used shall be isolated from other workplaces;
- (3) effective ventilation facilities shall be installed, and automatic alarm facilities and ventilation facilities for accidents shall be installed in the workplaces in case a large quantity of toxic substances may suddenly leak out or acute poisoning may be easily caused; and
- (4) emergency exits for evacuation and necessary hazard-eliminating areas shall be set up in the workplaces where high toxic substances are used.

The employing unit and its workplaces that meet the conditions provided for in the preceding two paragraphs shall not engage in the operations in which toxic substances are used unless the administrative department for public health has issued the occupational health and safety license to it.

Article 12 The yellow area-warning lines, warning marks, and warning specifications in Chinese shall be displayed in the workplaces where toxic substances are used. Warning specifications shall indicate varieties and consequences of occupational poisoning hazards and the corresponding preventive measures and emergency measures.

The red area-warning lines, warning marks, and warning specifications in Chinese shall be displayed, and communication and alarm equipment shall be installed in the workplaces where high toxic substances are used.

Article 13 Building projects, rebuilding projects, extension projects, technological transformation projects, and technology-introduction projects (hereinafter collectively referred to as the construction projects) likely to cause occupational poisoning hazards shall be subject to a pre-evaluation of the occupational poisoning hazards in accordance with the provisions of the Law on the Prevention and Control of Occupational Diseases, and shall pass the examination and obtain the approval of the administrative departments for public health. The safeguards against occupational poisoning hazards for a construction project that is likely to cause occupational poisoning hazards shall be designed, constructed and put into production and utilization simultaneously with the project's principal part. After a construction project is completed, the effect of control over occupational poisoning hazards shall be evaluated, and the project shall be subject to the inspection for acceptance by the administrative department for public health.

The design of safeguards against occupational poisoning hazards for a construction project involving the operations with high toxic substances shall be subject to the hygienic examination by the administrative department for public health. The design shall not be put into construction unless it has met the national occupational health standards and hygienic requirements upon examination.

Article 14 The employing units shall, in accordance with the provisions of the administrative department for public health under the State Council, promptly and truthfully declare the operation items which involve the occupational poisoning hazards to the administrative departments for public health.

An employing unit that engages in the operations in which high toxic substances are used shall, when declaring operation items with the use of high toxic substances, submit the following materials to the

administrative department for public health:

- (1) the evaluation report on the effect of control over occupational poisoning hazards;
- (2) materials of the occupational health administrative system and operating rules; and
- (3) emergency and first-aid pre-scheme against occupational poisoning accidents.

An employing unit that engages in the operations in which high toxic substances are used shall, when it changes varieties of the high toxic substances used, make anew declarations to the administrative department for public health that originally accepted its declarations in accordance with the provisions of the preceding paragraph.

Article 15 An employing unit which changes its name, legal representative, or person in charge shall make a report thereon for the record to the administrative department for public health that originally accepted its declarations.

Article 16 An employing unit that engages in the operations in which high toxic substances are used shall assign emergency and first-aid personnel and equip itself with necessary emergency and first-aid devices and equipment, formulate emergency and first-aid pre-schemes, revise such pre-schemes in good time according to the practical situations, and organize rehearsals at regular intervals. The emergency and first-aid pre-schemes and rehearsal records shall be reported for the record to the local administrative department for public health, the department in charge of supervision on production safety, and the department of public security.

Chapter III Protection in Working Process

Article 17 An employing unit shall, in accordance with the relevant provisions of the Law on the Prevention and Control of Occupational Diseases, take effective occupational health protection and management measures to strengthen the protection and management for working process.

The employing units that engage in the operations in which high toxic substances are used shall assign the full-time or part-time occupational health doctors and nurses. Where they have no conditions to assign such doctors and nurses, they shall sign contracts with the occupational health and technical service agencies that have obtained qualification certification according to law for the provision of occupational health services.

Article 18 The employing units shall sign labor contracts with their workers, truthfully inform the workers of the possible occupational poisoning hazards in the working process and the corresponding consequences, the safeguards against occupational poisoning hazards and the welfares, and clearly state such information in the labor contracts without any concealment or cheating.

Where the workers change their operating posts or work contents during the term of the labor contracts concluded and engage in the operations involving occupational poisoning hazards that are not specified in the labor contracts, the employing units shall, in accordance with the provisions of the preceding paragraph, truthfully inform the workers, and modify the relevant terms and conditions in the original labor contracts through consultation.

Where the employing units violate the provisions of the preceding two paragraphs, their workers shall have the right to refuse to engage in the operations involving occupational poisoning hazards, and consequently the employing units shall not unilaterally dissolve or terminate the labor contracts concluded with the workers.

Article 19 The relevant managing personnel of the employing units shall be familiar with the relevant laws and regulations on prevention and control of occupational diseases, and with the knowledge of ensuring the safe use of toxic substances by the workers in their operations.

The employing units shall provide occupational health training before the workers take up their jobs, and conduct regular occupational health training when the workers are at posts, popularize the relevant occupational health knowledge, supervise and urge the workers to abide by the relevant laws, regulations and operating rules, and guide the workers to correctly use safeguards against occupational health hazards and individual protective appliances against occupational health hazards.

The workers shall not take up their jobs unless they have received the training and passed the examination.

Article 20 The employing units shall guarantee the normal service conditions of the safeguards against occupational health hazards, emergency and first-aid facilities, and communication and alarm facilities, and shall not dismantle them or stop the use of them without authorization.

The employing units shall frequently maintain and overhaul safeguards and facilities as specified in the preceding paragraph, test their performances and effects at regular intervals, and ensure they are in good conditions.

In case that safeguards against occupational health hazards, emergency and first-aid facilities, and communication and alarm facilities are in abnormal conditions, the employing units shall immediately stop the operations in which toxic substances are used. The operations shall not restart unless all the aforesaid equipment and facilities are recovered to work normally.

Article 21 The employing units shall provide protective appliances that meet the national occupational health standards to their workers engaging in the operations in which toxic substances are used, and ensure their workers' correct use of such appliances.

Article 22 Toxic substances shall be attached with the specifications to indicate the true information such as product property, essential ingredients, existing factors of occupational poisoning hazards, possible dangerous consequences, precaution items for safe use, measures to prevent occupational poisoning hazards and the corresponding emergency and first-aid measures. Toxic substances without the specifications or with unqualified specifications shall not be sold to the employing units.

The employing units shall have the right to demand the specifications from units that manufacture or trade in toxic substances.

Article 23 Packages for toxic substances shall meet the national standards, and the safety labels for poisoning articles shall be stuck or fastened thereto in a way easily comprehensible to the workers. Packages for toxic substances shall have conspicuous warning marks and warning specifications in Chinese.

Units that trade in or use toxic substances shall not trade in nor use toxic substances without safety labels, warning marks and warning specifications in Chinese.

Article 24 The employing units shall, when maintaining or overhauling production installations involving the use of high toxic substances, work out maintenance or overhaul scheme in advance to specify protective measures against occupational poisoning hazards, so as to safeguard the maintenance or overhaul staff's life safety and body health.

Maintenance or overhaul of production installations involving the use of high toxic substances shall be in strict accordance with the maintenance or overhaul scheme and the operating rules. There shall be the specialized personnel to supervise the maintenance or overhaul sites, and the corresponding warning marks shall be displayed.

Article 25 Where it is required to enter and conduct operations in equipment, containers, or narrow or closed workplaces with high toxic substances, the employing units shall take the following measures in advance:

(1) to keep the workplaces in good ventilation conditions, and ensure that the concentration of factors of occupational poisoning hazards in the workplaces meet the national occupational health standards;

(2) to provide their workers with protective appliances that meet the national occupational health standards; and

(3) to assign the supervisory personnel and install the first-aid equipment on the spot.

In case that the measures specified in the preceding paragraph are not taken or the measures taken fail to satisfy the requirements, the employing units shall not assign their workers to enter and conduct operations in equipment, containers, or narrow or closed workplaces with high toxic substances.

Article 26 The employing units shall, in accordance with the provisions of the administrative department for public health under the State Council, regularly test and evaluate the factors of occupational poisoning hazards in the workplaces where toxic substances are used. The test and evaluation results shall be kept in the employing units' occupational health archives, and shall be reported at regular intervals to the local administrative departments for public health and announced to the workers.

The employing units that engage in the operations in which high toxic substances are used shall, at least once a month, detect factors of occupational poisoning hazards in the workplaces where high toxic substances are used, and shall evaluate the effect of control over occupational poisoning hazards at least once every six months.

When factors of occupational poisoning hazards in the workplaces where high toxic substances are used fail to meet the national occupational health standards and hygienic requirements, the employing units shall immediately stop operations involving high toxic substances, and take the corresponding control measures. The operations shall not restart unless the aforesaid factors have met the national occupational health standards and hygienic requirements after control measures are taken.

Article 27 The employing units that engage in the operations in which high toxic substances are used shall set up shower compartments and changing cabins as well as specialized compartments to wash, store, or dispose of working clothes, shoes, caps, etc. of the workers engaging in the operations in which high toxic substances are used.

After the workers complete their operations, working clothes, shoes, caps, etc. used by them shall be stored in the workplaces where high toxic substances are used, and shall not be worn in the workplaces where high toxic substances are not used.

Article 28 The employing units shall, according to the provisions, shift posts for the workers engaging in the operations in which high toxic substances are used.

The employing units shall provide allowances to the workers engaging in the operations in which high toxic substances are used.

Article 29 Where the employing units halt production, change the line of production, or are shut down or dissolved, or go into bankruptcy, they shall take effective measures to dispose of equipment, packages, and containers with the residues of toxic substances.

Article 30 The employing units shall frequently supervise and inspect their implementation of the provisions of these Regulations, and shall promptly solve the discovered problems in accordance with the requirements as provided for in these Regulations.

Chapter IV Occupational Health Surveillance

Article 31 The employing units shall organize their workers engaging in the operations in which toxic substances are used to receive occupational health examinations before taking up their jobs.

The employing units shall neither assign the workers who have not received occupational health examinations before taking up their jobs to engage in the operations in which toxic substances are used, nor assign taboo-bound workers to engage in taboo operations.

Article 32 The employing units shall organize their workers engaging in the operations in which toxic substances are used to receive occupational health examinations at regular intervals.

When finding that the workers with occupational taboos or health injuries relating to their jobs, the employing units shall remove them from their original posts in time, and make appropriate arrangements for them.

With respect to the workers for whom the reexaminations and medical observations are required, the employing units shall arrange reexaminations and medical observations for them in accordance with the requirements of the physical examination institutions.

Article 33 The employing units shall organize their workers engaging in the operations in which toxic substances are used to receive post-leaving occupational health examinations, and shall not rescind or terminate the labor contracts concluded with the workers who have not received the post-leaving occupational health examinations.

In case that the employing units are divided, merged, dissolved, or go into bankruptcy, they shall arrange health examinations for the workers engaging in the operations in which toxic substances are used and make appropriate arrangements for the patients suffering from occupational diseases in accordance with the relevant provisions of the State.

Article 34 The employing units shall duly arrange health examinations and medical observations for their workers who have suffered or are likely to suffer acute occupational poisoning hazards.

Article 35 The employing units shall bear expenses for the occupational health examinations and medical observations for their workers.

Article 36 The employing units shall establish occupational health surveillance archives.

The occupational health surveillance archives shall cover the following items:

- (1) workers' occupational history, and the history of exposure to occupational poisoning hazards;
- (2) monitoring results of factors of occupational poisoning hazards in corresponding workplaces;
- (3) occupational health examination results and the disposition; and
- (4) materials relating to workers' health, including diagnosis and treatment of occupational diseases.

Chapter V Workers' Rights and Obligations

Article 37 In case of threat to life safety or hazard to physical health of the workers engaging in the operations in which toxic substances are used, the workers shall have the right to notify the employing units and to evacuate from the premises in danger caused by using toxic substances.

The employing units shall not cancel or reduce wages and benefits enjoyed by the workers in normal working hours if the workers exercise the rights specified in the preceding paragraph.

Article 38 The workers shall enjoy the following occupational health protection rights:

- (1) to receive occupational health education and training;
- (2) to receive occupational diseases prevention and control services, including occupational health examination, diagnosis, treatment and rehabilitation of occupational diseases;
- (3) to learn factors of occupational poisoning hazards that have been caused or are likely to be caused in workplaces, the consequences, and preventive measures against such hazards to be taken;

(4) to require the employing units to provide safeguards against occupational poisoning hazards that satisfy the requirements for the prevention and control of occupational diseases and individual preventive appliances against occupational poisoning hazards, and to improve the working conditions;

(5) to criticize, make exposures of or charges against any act of jeopardizing the life and health in violation of laws and regulations on the prevention and control of occupational diseases;

(6) to refuse any command in violation of regulations or any order to conduct operations without safeguards against occupational poisoning hazards; and

(7) to participate in the employing units' democratic management in the work involving occupational health, and make comments and suggestions for the prevention and control of occupational diseases.

The employing units shall guarantee the exercise of the rights by the workers as specified in the preceding paragraph. It shall be prohibited from reducing workers' wages, welfares or other benefits, or rescinding or terminating the labor contracts concluded with the workers because the workers exercise their legitimate rights according to law.

Article 39 The workers shall have the right to obtain the following materials from the employing units before they take up their jobs:

(1) properties and harmful ingredients of toxic substances used in workplaces, preventive measures, education and training materials;

(2) labels, marks, and the relevant materials of toxic substances;

(3) the specifications for the safe use of toxic substances; and

(4) other relevant materials which are likely to affect the safe use of toxic substances.

Article 40 The workers shall have the right to consult or copy their own archives of occupational health surveillance.

The workers shall have the right to demand duplicate copies of their health surveillance archives when leaving the employing units, and the employing units shall truthfully provide such duplicate copies at no charge and affix their seals on the duplicate copies they provide.

Article 41 Where an employing unit has bought work injury insurance for its workers in accordance with the provisions of the State, the workers who suffer from occupational diseases shall have the right to enjoy the following benefits of the work injury insurance in accordance with the provisions of the State on work injury insurance:

(1) medical expenses: expenses required for diagnosis and treatment of occupational diseases shall be paid from the work injury insurance fund according to the prescribed standards;

(2) in-hospital food allowances: these shall be paid by the employing unit in certain proportion of the local standards of food allowances for business trips;

(3) rehabilitation expenses: these expenses shall be paid from the work injury insurance fund according to the prescribed standards;

(4) expenses of appliances for the disabled: the expenses for supporting appliances out of the need of the disabled conditions shall be paid from the work injury insurance fund according to the standards for the popular-type appliances;

(5) benefits enjoyed during the period of stopping of work but remaining on the payroll: their original wages and welfare benefits shall not be changed, and shall be paid by the employing unit;

(6) nursing allowances: these allowances for the confirmed disability and necessary nursing services shall be paid from the work injury insurance fund according to the prescribed standards;

(7) lump-sum disability subsidies: where the workers are determined as Grade 10 to Grade 1 disability through assessment, they shall enjoy such subsidies equivalent to their six-month to 24-month wages based on the degree of disability, and such allowances shall be paid from the work injury insurance fund;

(8) disability allowances: where the workers are determined as Grade 4 to Grade 1 disability through assessment, they shall enjoy such allowances equivalent to 75% to 90% of their wages according to the provisions, and such allowances shall be paid from the work injury insurance fund;

(9) death subsidies: where the workers are deceased due to occupational poisoning, such subsidies shall be paid in one lump sum from the work injury insurance fund according to the standard of not less than 48-month wages based on the workers' average monthly wages in the previous year of the same overall planning areas;

(10) funeral subsidies: where the workers are deceased due to occupational poisoning, such subsidies shall be paid in one lump sum from the work injury insurance fund according to the standard of 6-month

wages based on the workers' average monthly wages in the previous year of the same overall planning areas;

(11) pensions for supporting the family members: where the workers are deceased due to occupational poisoning, pensions shall be paid from the work injury insurance fund for the family members of the deceased for whom the deceased before their death provided main sources of livelihood. The spouses of the deceased shall enjoy a monthly pension equivalent to 40% of the workers' average monthly wages in the previous year of the same overall planning area. The lineal relatives supported by the deceased before their death shall enjoy per capita a monthly pension equivalent to 30% of the workers' average monthly wages in the previous year of the same overall planning area;

(12) other welfare benefits of the work injury insurance provided by the State.

Where the State adjusts the items and standards of the welfare benefits of the work injury insurance after the implementation of these Regulations, the adjusted provisions of the State shall prevail.

Article 42 Where an employing unit has not bought work injury insurance, it shall, when its workers engaging in the operations in which toxic substances are used suffer from occupational diseases, guarantee that such workers enjoy the welfare benefits for work injury in accordance with the items and standards of the work injury insurance prescribed by the State.

Article 43 Where an employing unit has no business license or its business license has been revoked according to law, it shall, when its workers engaging in the operations in which toxic substances are used suffer from occupational diseases, make compensation in one lump sum for these workers in accordance with the items and standards of the work injury insurance prescribed by the State.

Article 44 Where an employing unit is divided or merged, the successors shall bear the former employing unit's liabilities of compensation for the workers who suffer from occupational diseases.

Where an employing unit is dissolved or goes into bankruptcy, it shall make compensation for the workers who suffer from occupational diseases with priority from assets in liquidation according to law.

Article 45 In addition to the work injury insurance, the workers shall also have the right to claim for compensation from the employing unit if they are entitled to obtain compensation in accordance with the provisions of relevant civil laws.

Article 46 The workers shall learn and master the knowledge of occupational health, abide by the relevant laws and regulations on labor protection as well as the operating rules, and correctly use and maintain safeguards and protective appliances against occupational poisoning hazards. When finding potential occupational poisoning accidents, they shall make reports in time.

In case of hazards in workplaces due to the use of toxic substances, the workers shall take necessary measures, correctly use the safeguards in accordance with the provisions, and eliminate such hazards or reduce them to the minimum.

Chapter VI Supervision and Administration

Article 47 The administrative departments for public health of the people's governments at or above the county level shall, in accordance with the provisions of these Regulations and the relevant requirements of the State for occupational health, supervise and inspect ex officio the use of toxic substances in workplaces and the test and evaluation of occupational poisoning hazards.

The administrative departments for public health shall conduct the supervision and inspection at no charge, and shall not accept property or other benefits from the employing units.

Article 48 The administrative departments for public health shall establish and improve the supervisory system, check the materials relating to the employing units' labor protection, and fulfill the supervisory responsibilities.

The employing units shall provide truthful and specific materials relating to labor protection to the administrative departments for public health. When necessary, the administrative departments for public health may consult, or require the employing units to submit, the relevant materials.

Article 49 The administrative departments for public health shall supervise employing units' strict implementation of the relevant occupational health standards.

The administrative departments for public health shall, in accordance with the provisions of these Regulations, periodically inspect and selectively check at irregular intervals the performances of safeguards for the occupational health in the workplaces where toxic substances are used. When finding any potential accident involved in such safeguards, they shall order the employing units to eliminate such potential accident forthwith, and shall order them to stop such operation during the period of eliminating the potential accident.

Article 50 The administrative departments for public health shall take measures to encourage the reports, complaints, exposures or charges against any law-breaking act of employing units.

The administrative departments for public health shall promptly verify the reports, complaints, exposures

or charges, handle them according to law and publish the results.

The administrative departments for public health shall be obliged to keep confidentiality for the reporters, complainants, informants and chargers.

Article 51 The law enforcement officials of the administrative departments for public health shall show their certificates for law enforcement when fulfilling their duties according to law.

The law enforcement officials of the administrative departments for public health shall be devoted to their duties, enforce the law impartially, and shall keep confidentiality for the employing units in case that their secrets are involved.

Article 52 With regard to the administrative penalty of fine imposed by the administrative departments for public health according to law, the organ that makes the decision on the fine shall, in accordance with the provisions of relevant laws and administrative regulations, be separated from the organ that collects the fine. The fine collected and illegal gains confiscated according to law must be turned over to the State Treasury in full.

Article 53 The administrative departments for public health shall, when fulfilling their duties of supervision and inspection, have the rights to take the following measures:

(1) to enter the employing units and their workplaces where toxic substances are used to collect relevant information, make investigations and collect evidence, carry out sampling inspection, test, and check, and make spot investigations;

(2) to consult or reproduce materials related to the acts in violation of these Regulations, and collect samples; and

(3) to order the units and individuals in violation of these Regulations to stop their unlawful acts.

Article 54 In case an occupational poisoning accident occurs, or the evidence proves that the situation of occupational poisoning hazards is likely to cause an accident, the administrative departments for public health shall have the rights to take the following provisional controlling measures:

(1) to order suspension of operations causing occupational poisoning accidents;

(2) to seal up and keep substances that have caused or are likely to cause occupational poisoning accidents; and

(3) to organize the control over the occupational poisoning accident sites.

Upon the effective control over occupational poisoning accidents or hazards, the administrative departments for public health shall remove such measures in time.

Article 55 When the law enforcement officials of the administrative departments for public health fulfill their duties according to law, the inspected units shall be subject to the inspection, give necessary support and cooperation, and shall not refuse or hinder the inspection.

Article 56 The administrative departments for public health shall strengthen the team building, improve the law enforcement officials' political and professional qualifications, establish and improve the internal supervisory system in accordance with the provisions of these Regulations, and supervise and inspect the execution of laws and regulations by law enforcement officials as well as their observation of disciplines.

Chapter VII Penalty Provisions

Article 57 The functionaries of the administrative departments for public health who commit any of the following acts, thus causing any occupational poisoning accident, shall be investigated for criminal liability according to the provisions of the criminal law on the crime of abuse of power, the crime of neglect of duty or other crimes; where they cause occupational poisoning hazards but do not cause any occupational poisoning accident, and criminal punishments are too severe to apply to them, they shall be imposed such administrative sanctions as degrading, dismissal from their posts, or discharge from public employment in light of different circumstances:

(1) approving operations involving the use of toxic substances that fail to meet the conditions specified in these Regulations;

(2) failing to lay a ban on the employing units' operations in which toxic substances are used without authorization upon discovery thereof;

(3) failing to fulfill the duties of supervision and inspection over the employing units that are approved according to law, or failing to withdraw the original approval granted to the employing units that no longer satisfy the conditions specified in these Regulations or failing to investigate into and handle other acts in violation of these Regulations upon discovery of such non-satisfaction or violation; or

(4) failing to take prompt controlling measures according to law against occupational poisoning hazards

existing in the employing units which are likely to cause occupational poisoning accidents upon discovery of such hazards.

Article 58 An employing unit that, in violation of the provisions of these Regulations, comes under one of the following circumstances shall be given a warning and ordered to make corrections within a specified time limit, and shall be imposed a fine of not less than 100,000 yuan but not more than 500,000 yuan by the administrative department for public health; if it fails to make corrections within the specified time limit, a request shall be made to the relevant people's government to order it to stop the construction or shut it down within the limits of authority vested by the State Council; where it causes any serious occupational poisoning hazard or causes any occupational poisoning accident, the person in charge who is responsible therefor and other directly responsible persons shall be investigated for criminal liability according to the provisions of the criminal law on the crime of causing a serious labor security accident or other crimes:

(1) without authorization, starting the operation of a construction project that is likely to cause any occupational poisoning hazard in case that no pre-assessment of occupational poisoning hazards has been carried out in accordance with the provisions of the Law on the Prevention and Control of Occupational Diseases, or such pre-assessment fails to pass the examination and obtain approval of the administrative department for public health;

(2) failing to design, construct, and put into production and utilization the safeguards for the occupational health simultaneously with the principal part of the project;

(3) without authorization, putting into use a completed construction project in case that no assessment of effect in the control over occupational poisoning hazards has been carried out, or the project fails to participate in or pass the inspection for acceptance by the administrative department for public health; or

(4) commencing construction without authorization before the design of safeguards for a construction project involving the operations in which high toxic substances are used is examined and approved by the administrative department for public health.

Article 59 An employing unit that, in violation of the provisions of these Regulations, comes under one of the following circumstances shall be given a warning and ordered to make corrections within a specified time limit, and shall be imposed a fine of not less than 50,000 yuan but not more than 200,000 yuan by the administrative department for public health; if it fails to make corrections within the specified time limit, a request shall be made to the relevant people's government to shut it down within the limits of authority vested by the State Council; where it causes any serious occupational poisoning hazard or causes any occupational poisoning accident, the person in charge who is responsible therefor and other directly responsible persons shall be investigated for criminal liability according to the provisions of the criminal law on the crime of causing a serious labor security accident or other crimes:

(1) failing to display warning marks or warning specifications in Chinese in the workplaces where toxic substances are used;

(2) failing to maintain, overhaul, or periodically detect safeguards for occupational health, emergency and first-aid facilities, and communication and alarm facilities, thus causing the aforesaid facilities to be in abnormal conditions;

(3) failing to detect factors of occupational poisoning hazards and assess effect of the control over occupational poisoning hazards in accordance with the provisions of these Regulations;

(4) failing to set up emergency passes for evacuation and necessary hazard-eliminating areas according to law in the workplaces where high toxic substances are used;

(5) failing to display warning lines according to the provisions in the workplaces where high toxic substances are used; or

(6) failing to provide protective appliances that meet the national occupational health standards to the workers engaging in the operations in which toxic substances are used, or failing to ensure its workers to use them correctly.

Article 60 An employing unit that, in violation of the provisions of these Regulations, comes under any of the following circumstances shall be given a warning and ordered to make corrections within a specified time limit, and shall be imposed a fine of not less than 50,000 yuan but not more than 300,000 yuan by the administrative department for public health; if it fails to make corrections within the specified time limit, a request shall be made to the relevant people's government to shut it down within the limits of authority vested by the State Council; where it causes any serious occupational poisoning hazard or causes any occupational poisoning accident, the person in charge who is responsible therefor and other directly responsible persons shall be investigated for criminal liability according to the provisions of the criminal law on the crime of negligently causing a serious accident, the crime of causing a serious labor safety accident or other crimes:

(1) failing to install effective ventilation installations in the workplaces where toxic substances are used, or failing to install automatic alarm facilities or ventilation facilities for accidents in the workplaces where a large quantity of toxic substances are likely to leak out suddenly or acute poisoning may be caused easily; or

(2) failing to stop the operations in case the safeguards against occupational health hazards, emergency and first-aid facilities, and communication and alarm facilities are in abnormal conditions, or dismantling

or stopping the operation of such facilities without authorization.

Article 61 An employing unit engaging in the operations in which high toxic substances are used that, in violation of the provisions of these Regulations, comes under one of the following circumstances shall be given a warning and ordered to make corrections within a specified time limit, and shall be imposed a fine of not less 50,000 yuan but not more than 200,000 yuan by the administrative department for public health; if it fails to make corrections within the specified time limit, a request shall be made to the relevant people's government to shut it down within the limits of authority vested by the State Council; where it causes any serious occupational poisoning hazard or causes any occupational poisoning accident, the person in charge who is responsible therefor and other directly responsible persons shall be investigated for criminal liability according to the provisions of the criminal law on the crime of negligently causing a serious accident or other crimes:

(1) failing to stop the operations in which high toxic substances are used and take appropriate controlling measures forthwith in case factors of occupational poisoning hazards in workplaces fail to meet the national occupational health standards and hygienic requirements, or restarting the operations in case the aforesaid factors have not met the national occupational health standards and hygienic requirements in spite of the controlling measures taken;

(2) failing to maintain or overhaul production installations involving the use of high toxic substances according to the provisions of these Regulations; or

(3) without taking the measures specified in these Regulations, assigning its workers to enter and conduct operations in equipment, containers, or narrow closed workplaces with high toxic substances.

Article 62 Whoever uses in any workplaces toxic substances that are explicitly prohibited by the State or that fail to meet the national standards shall be ordered to stop the use of such substances forthwith, and shall be imposed a fine of not less than 50,000 yuan but not more than 300,000 yuan by the administrative department for public health; if the circumstances are serious, the offender shall be ordered to stop the operations in which toxic substances are used, or a request shall be made to the relevant people's government to shut it down within the limits of authority vested by the State Council; where the offender causes any serious occupational poisoning hazard or causes any occupational poisoning accident, the person in charge who is responsible therefor and other directly responsible persons shall be investigated for criminal liability according to the provisions of the criminal law on the crime of causing an accident in the control over dangerous articles, the crime of negligently causing serious accidents or other crimes.

Article 63 An employing unit that, in violation of the provisions of these Regulations, commits any of the following acts shall be given a warning and ordered to make corrections within a specified time limit by the administrative department for public health; if it fails to make corrections within the specified time limit, a fine of not less than 50,000 yuan but not more than 300,000 yuan shall be imposed upon it; where it causes any serious occupational poisoning hazard or causes any occupational poisoning accident, the person in charge who is responsible therefor and other directly responsible persons shall be investigated for criminal liability according to the provisions of the criminal law on the crime of negligently causing a serious accident or other crimes:

(1) employing the workers who have not received the training and passed the examination to engage in the operations in which high toxic substances are used;

(2) assigning taboo-bound workers to engage in taboo operations;

(3) failing to transfer in time the workers with occupational taboo or health injuries related to their jobs from their original posts and make appropriate arrangement for them;

(4) assigning minors or women employees in pregnancy or lactation to engage in the operations in which toxic substances are used; or

(5) employing child laborers.

Article 64 Whoever, in violation of the provisions of these Regulations, engages in the operations in which toxic substances are used without authorization shall be banned by the administrative department for industry and commerce and the administrative department for public health ex officio; if any occupational poisoning accident has been caused, the offender shall be investigated for criminal liability according to the provisions of the criminal law on the crime of causing an accident in the control over dangerous articles or other crimes; if the case is not severe enough for criminal punishment, the administrative department for public health shall confiscate the income derived from business operations, and impose a fine of not less than three times but not more than five times the amount of such income; if causing any personal injury to any worker, the offender shall bear the liability for compensation according to law.

Article 65 An employing unit engaging in the operations in which toxic substances are used that, in violation of the provisions of these Regulations, fails to take effective measures to dispose of equipment, packages, and containers with residue of high toxic substances in case of changing the line of production, stopping business, or dissolution or bankruptcy shall be ordered to make corrections, and shall be imposed a fine of not less than 20,000 yuan but not more than 100,000 yuan by the administrative department for public health; where it violates the criminal provisions, the person in charge who is responsible therefor and other directly responsible persons shall be investigated for criminal liability according to the provisions of the criminal law on the crime of major environmental pollution accident, the crime of causing an accident in the control over dangerous articles, or other crimes.

Article 66 An employing unit that, in violation of the provisions of these Regulations, comes under one of the following circumstances shall be given a warning and ordered to make corrections within a specified time limit, and shall be imposed a fine of not less than 5,000 yuan but not more than 20,000 yuan by the administrative department for public health; if it fails to make corrections within the specified time limit, it shall be ordered to stop the operations in which toxic substances are used, or a request shall be made to the relevant people's government to shut it down within the limits of authority vested by the State Council; where it causes any serious occupational poisoning hazard or causes any occupational poisoning accident, the person in charge who is responsible therefor and other directly responsible persons shall be investigated for criminal liability according to the provisions of the criminal law on the crime of causing a serious labor security accident, the crime of causing an accident in the control over dangerous articles, or other crimes:

(1) failing to separate the workplaces where toxic substances are used from the living areas, or allowing persons to reside in the workplaces;

(2) failing to separate harmful operations from harmless operations;

(3) failing to effectively isolate the workplaces where high toxic substances are used from other workplaces; or

(4) failing to equip with emergency and first-aid facilities or formulate emergency and first-aid pre-schemes for the operations in which high toxic substances are used according to the provisions.

Article 67 An employing unit that, in violation of the provisions of these Regulations, comes under one of the following circumstances shall be given a warning and ordered to make corrections within a specified time limit, and shall be imposed a fine of not less than 20,000 yuan but not more than 50,000 yuan by the administrative department for public health; if it fails to make corrections within the specified time limit, a request shall be made to the relevant people's government to shut it down within the limits of authority vested by the State Council:

(1) failing to declare the operations in which high toxic substances are used to the administrative department for public health according to the provisions; or

(2) failing to make a new declaration, or failing to make a declaration in time, or making false declaration to the administrative department for public health that originally dealt with declarations in case of change of varieties of toxic substances.

Article 68 An employing unit that, in violation of the provisions of these Regulations, commits any of the following acts shall be given a warning and ordered to make corrections within a specified time limit, and shall be imposed a fine of not less than 20,000 yuan but not more than 50,000 yuan by the administrative department for public health; if it fails to make corrections within the specified time limit, it shall be ordered to stop the operations in which toxic substances are used, or a request shall be made to the relevant people's government to shut it down within the limits of authority vested by the State Council:

(1) failing to organize the workers engaging in the operations in which toxic substances are used to receive occupational health examination before taking up their jobs, or assigning the workers who have not received occupational health examination before taking their jobs to engage in the operations in which toxic substances are used;

(2) failing to organize the workers engaging in the operations in which toxic substances are used to receive occupational health examination at regular intervals;

(3) failing to organize the workers engaging in the operations in which toxic substances are used to receive post-leaving occupational health examination;

(4) rescinding or terminating labor contracts with the workers who did not receive post-leaving occupational health examination;

(5) failing to conduct health examination for the workers engaging in the operations in which toxic substances are used and to make appropriate arrangements for occupational disease sufferers in accordance with the relevant provisions of the State in case of division, merger, dissolution, or bankruptcy;

(6) failing to arrange duly health examination and medical observation for the workers who have suffered or are likely to suffer acute occupational poisoning hazards;

(7) failing to establish occupational health supervision records;

(8) failing to provide true occupational health surveillance archives at no charge when the workers leave the employing unit;

(9) failing to truly inform the workers of possible occupational poisoning hazards and the consequences therefrom, safeguards against occupational poisoning hazards and the welfares, and failing to state these items clearly in the labor contracts according to the provisions of the Law on the Prevention and Control of Diseases and these Regulations; or

(10) canceling or reducing benefits that should be enjoyed by the workers who evacuated from the sites of hazards in the circumstance under which there exists the danger threatening their life safety or body

health.

Article 69 An employing unit that, in violation of the provisions of these Regulations, commits any of the following acts shall be given a warning and ordered to make corrections within a specified time limit, and shall be imposed a fine of not less than 5,000 yuan but not more than 20,000 yuan by the administrative department for public health; if it fails to make corrections within the specified time limit, it shall be ordered to stop the operations in which toxic substances are used, or a request shall be made to the relevant people's government to shut it down within the limits of authority vested by the State Council:

(1) failing to assign or engage occupational health doctors and nurses in accordance with the provisions;

(2) failing to set up shower compartments and changing cabins, or specialized compartments to wash, store or dispose of such articles as working clothes, shoes and caps for the workers engaging in the operations in which high toxic substances are used, or providing such facilities in abnormal conditions; or

(3) failing to arrange post-shift for the workers who have engaged in the operations in which high toxic substances are used for certain years.

Chapter VIII Supplementary Provisions

Article 70 Where these Regulations contain no provisions on relevant issues concerning labor protection against possible occupational poisoning hazards due to the use of toxic substances in workplaces, the relevant provisions of the Law on the Prevention and Control of Occupational Diseases, other relevant laws and administrative regulations shall be applicable.

The safety management in the manufacture, marketing, storage, transportation and use of toxic substances, and in the disposal of wasted toxic substances as well, shall be subject to the Regulations on Safety Administration of Hazardous Chemicals.

Article 71 These Regulations shall become effective as of the date of promulgation.



COPYRIGHT 2002-2009, ALL RIGHTS RESERVED.