



Obligations to Manage the Hazardous Waste of Enterprises through Practical Application in Binh Duong Province

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Abstract: The topic focuses on analyzing the current legal provisions in the regulation of hazardous waste management of enterprises as well as the role of legal adjustments towards hazardous waste management of enterprises. industry and sanctions for fine acts at both administrative, civil and criminal levels; At the same time, it points out the factors that directly affect the legal regulations on hazardous waste management of enterprises. The basis of the collected data, clearly reflects the practice of implementing the provisions of Vietnam's law on hazardous waste management, the shortcomings and problems in legal regulations, and limiting the hazardous waste management activities of enterprises in Binh Duong Province. From the study of those limitations, the topic has come up with a system of solutions to legal and policy issues, thereby improving the efficiency of waste management activities of enterprises in Vietnam in general and Binh Duong province in particular.

Keywords: Obligations, manage the hazardous waste, enterprises, practical application, Binh Duong province.

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INTRODUCTION

Nowadays, environmental protection and improvement have become an important issue in the development process of the World in general and each country in particular. Protecting and improving the human environment is a major issue affecting the well-being of all people and economic development throughout the world: it is the urgent desire of people around the world and It is the duty of every government. Former United Nations Secretary-General, Mr. Kofi Anna, in a report to the United Nations Economic and Social Council in early 1996 commented: "For the first time in There has been an international crisis in the history of mankind involving all developed and developing countries- the human environment crisis. the future of life on earth may be threatened" (GSO, 2009).

In Vietnam, in the market economy, enterprises are the most important component of

the economy. Contributions to the State budget by enterprises top the budget revenues. Currently, our country has 205,723 operating businesses, creating jobs and generating incomes for millions of workers. Together with the state, enterprises contribute to the stability of the country's economy, politics, and society. However, besides those advantages, many enterprises have violated the law on waste management during their operation, production, and business.

The situation of enterprises discharging untreated wastes such as wastewater, exhaust gases, solid wastes, hazardous wastes, etc. has been causing serious environmental pollution, causing many pressing problems. touch to the people. The status of urban planning is not associated with the problem of waste treatment, wastewater treatment, etc., so there is still a backlog in big cities, industrial parks, urban areas, etc. Environmental pollution is at

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an alarming rate. It is estimated that out of a total of 183 industrial parks in the country, over 60% of industrial parks do not have a centralized wastewater treatment system. In urban areas, only about 60% - 70% of solid waste is collected, and the drainage and wastewater, and waste treatment infrastructure cannot meet the requirements for environmental protection. Most of the wastewater contaminated with grease, cleaning chemicals, dyes, etc. has not been treated and is dumped directly into natural rivers and lakes.

Regarding local characteristics, Binh Duong was separated from Song Be province in 1997 (including 01 town and 6 districts), has an area of 269,443 ha with four adjacent quarters as follows: The North borders Binh Phuoc province; The South borders the Ho Chi Minh City; The East borders Dong Nai province; The West borders Tay Ninh province and Ho Chi Minh City. Currently, the province is divided into 1 city, 4 towns, and 4 districts, with a total population of 1,873,558 people. With appropriate guidelines and policies for each stage of development of the province, Binh Duong has achieved many important and quite comprehensive achievements in socio-economic development, and the province's economic structure has changed. translating in the right direction from agriculture mainly to industry and services; GDP per capita has increased 10.6 times compared to 1997 (Ministry of Natural Resources and Environment, 2015). Up to now, the province has 18,828 enterprises registered for production and business activities, with over 5000 enterprises engaged in production activities, of which nearly 2,000 enterprises have invested in 27 industrial parks and 6 industrial clusters. The rapid development of industry has led to an increase in urbanization in the province. Up to now, the province's urbanization rate has reached 76.9% (Ministry of Natural Resources and Environment, 2015).

However, with a high rate of industrialization and urbanization, Binh Duong is facing many environmental problems arising from the development process such as an increase in the amount of hazardous waste; deterioration of water, soil, and gas quality. Statistical results show that, compared to 2010, up to now, the amount of wastewater generated has increased by 1.4 times, the load of pollutants in the generated exhaust gas has increased by 1.2 times and the amount of wastewater has increased by 1.2 times. solid waste has increased 2.5 times. The process of industrialization and modernization is a driving force, an opportunity, and a challenge for the sustainable development of the province, and at the same time increases pressure on the management of environmental protection, environmental

responsibility, and environmental protection. The responsibility of enterprises in Binh Duong province is also heavier accordingly.

Faced with this fact, it is really necessary to carry out in-depth scientific research on hazardous waste management activities safely for businesses. existing legislation on waste management, energy recovery on waste. Since then, it has brought valuable experiences in effectively operating this model, minimizing costs and failures during operation, successfully carrying out the task of dealing with waste, which is always a "burden" in Vietnam and contributing to solving difficult problems in Binh Duong province.

RESEARCH RESULTS AND DISCUSSION

Law on hazardous waste management obligations of enterprises

Legal concepts on hazardous waste management of enterprises

The legal system on waste management of enterprises in general and hazardous waste management, in particular, can be mentioned as the Law on Environmental Protection 2014, Decree No. 38/2015/ND-CP of the Government on waste and scrap management, issued on April 24, 2015, Decree No. 40/2019/ND-CP of the Government dated May 13, 2019, on amending and supplementing a number of articles of the decrees detailing, guiding the implementation of the Law on Environmental Protection, Circular No. 36/2015/TT-BTNMT of the Ministry of Natural Resources and Environment dated June 30, 2015, on Hazardous Waste Management, etc.

At the level of international cooperation, international conventions and treaties act as tools with a strong legal basis, affecting and forcing states that are party to the convention to comply once they have signed the agreement ratify and confirm membership. A number of international treaties of which Vietnam is a member play a supporting role in waste management, such as the 1989 Basel Convention on control of the cross-border transport of hazardous wastes and their destruction, the Vienna Convention of 1985 on the protection of the ozone layer, the 2002 Johannesburg Political Declaration on Sustainable Development, etc.

Although there are specific and separate impacts, in general, the legal regulations recorded in these basic documents are directed towards a single goal, which is the effective implementation of management activities. waste management in general, waste management of enterprises in particular, towards a goal of sustainable

development and effective protection of the environment.

From the above approaches, the concept of the enterprise's waste management law can be proposed as follows: The enterprise's hazardous waste management law is a system of legal norms and legal principles. adjust social relations arising in the process of classification, collection, transportation, reduction, reuse, recycling, treatment, and destruction of hazardous waste in order to prevent and minimize harmful effects. for the environment and human health promulgated or recognized by the s The regulatory role of the law on waste management obligations of enterprises:

It can be seen that the law on waste management plays a very important role, especially in hazardous waste management, affecting many aspects of social life, specifically as follows:

First, the law on waste management creates a specific and clear mechanism for the waste management model, ensuring the effectiveness of the management and protection of the ecological environment.

Second, making a significant contribution to cleaning up the environment, preventing and overcoming pollution as well as environmental incidents. Substance management legislation is a tool to prevent and overcome environmental pollution and environmental incidents, contributing to ensuring people's right to live in a healthy environment.

Third, contribute to raising the awareness of people, especially businesses, in the process of waste management and treatment to ensure the right to live in a pollution-free environment.

Fourth, contribute to the process of effective use of waste resources, promoting the economic development of the country.

Fifth, the Law on Waste Management contributes to promoting the development of research and application of advanced science and technology to protect the environment and minimize the adverse effects of waste tate and is guaranteed to be enforced by coercive force.

Basic contents of the law on hazardous waste management obligations of enterprises

Based on the provisions of the law on environmental protection, related to hazardous waste management, business owners and owners of production and business establishments must

simultaneously perform the following responsibilities:

Regulations on principles of waste management: Hazardous waste is a specific type of waste, so the general principles of waste management are also the principles used for hazardous waste management. The law stipulates these principles in Article 4 of Decree 38/2015/ND-CP on waste and scrap management (effective from June 15, 2015), whereby organizations and individuals have the responsibility to strengthen the application of measures to save resources and energy; using resources, renewable energy and products, raw materials, and environmentally friendly clean energy; cleaner production; environmental audit for waste and other measures to prevent and minimize waste generation.

Regulations on waste management obligations of enterprises: The regulations on waste management responsibilities of enterprises are mainly mentioned in the Government's Decree No. 38/2015/ND-CP on waste management and scrap issued on April 24, 2015, Decree No. 40/2019/ND-CP of the Government dated May 13, 2019, on amending and supplementing a number of articles of the decrees detailing and guiding the implementation of the Law on Environmental Protection, Circular No. 36/2015/TT-BTNMT of the Ministry of Natural Resources and Environment dated June 30, 2015, on Hazardous Waste Management, etc. Accordingly, hazardous waste management activities of enterprises have been regulated quite fully, in detail, and clearly, focusing on three important obligations including the obligation to prevent, and register for hazardous waste management; the obligation to collect and transport waste; hazardous waste recycling, and disposal obligations.

Regulations on penalties when violations of hazardous waste management occur: The Civil Code 2015 and the Law on Environmental Protection 2014 have relatively specific regulations on civil handling. for acts of violating environmental laws in general and waste management in particular, causing damage to the legitimate rights and interests of organizations and individuals in society.

The practice of law enforcement on waste management obligations of enterprises in Binh Duong province

As one of the leading provinces in industrial development, Binh Duong is currently a key unit of the southern economic region. Currently, the province has 8 industrial parks and more than 20 industrial clusters. However, along with the huge amount of FDI investment, GDP growth, and

economic development, the amount of waste generated in the country also increases exponentially. To review and evaluate the practice of law enforcement on waste management obligations of enterprises in Binh Duong, it is necessary to focus on many different angles, specifically as follows:

Regarding the obligation to register waste source owners, specifically: According to statistics from the register of hazardous waste generators issued by the end of 2019, the total volume of registered hazardous waste generated in the province Duong is over 188,107 tons/year, equivalent to 522 tons/day. Due to the specificity of the manufacturing industry, hazardous waste components are not diverse, of which over 50% are recyclable and recoverable.

According to the provisions of Article 12 of Circular 36/2015/TT-BTNMT, it is the responsibility of individuals and units that are the owners of hazardous waste discharges generated with a volume greater than 600 kg/year to register in the Owner's Book. hazardous waste sources. For the temporary storage of hazardous waste, individuals and units must ensure to meet technical requirements for environmental protection, in which a number of points should be noted: Covered storage area, waterproof foundation, anti-spill edge, liquid waste collection pit; subdivision, affix warning signs and label hazardous waste. In case individuals and units violate, they will be fined up to 100 million VND. Along with that, the waste source owner must be responsible for transferring the waste to a licensed hazardous waste transport and treatment unit. For hazardous waste, the waste source owner must sign a contract with a treatment unit licensed by the Ministry of Natural Resources and Environment. When transferring waste, the waste source owner must make transfer documents according to regulations, keep the documents and periodically report before January 31 every year to the Department of Natural Resources and Environment according to regulations (report form Appendix 4 to this Circular). Circular 36/2015/TT-BTNMT). In case organizations and individuals violate, they will be fined up to 500 million VND.

Regarding the obligation to classify and store waste: In the content of Decree No. 38/2015/ND-CP on "Waste and scrap management", the content on responsibility for waste classification at source received the following information: specific adjustments. According to the Decree, hazardous waste source owners must take measures to minimize hazardous waste generation; be solely responsible for the identification, classification, and determination of the amount of hazardous waste to be reported and managed.

Obligations to collect, transport, recycle, reuse and treat hazardous waste (transfer to service providers): According to the provisions of Clause 4, Article 7 of Decree No. 38/2015/ND-CP: "In case of not self-reusing, recycling, co-processing, treating and recovering energy from hazardous waste at the facility, the hazardous waste generator must sign a contract to transfer the waste. dangerous to organizations and individuals with appropriate licenses". Thus, when hazardous waste generators want to transfer responsibility for hazardous waste management to hazardous waste management service providers, they must establish a waste management service contract. This contract is made in writing and signed between the hazardous waste source owner and the hazardous waste management service provider.

Causes of limitations and obstacles in the process of performing hazardous waste management obligations of enterprises in Binh Duong province

Limitations in regulations of law on hazardous waste management: Pursuant to point, clause 1, Appendix 5.B.1 issued together with Circular No. 36/2015/TT-BTNMT stipulating one of the types The documents required in the legal file to apply for a license are the Copy of the Certificate of Business Registration, the Certificate of Investment Registration or equivalent papers. Thus, this regulation shows that in order to carry out hazardous waste management activities, entities must establish economic organizations. The formation of a legal entity is essential to ensure effective hazardous waste management, protect the rights and interests of stakeholders, and create favorable conditions for monitoring activities. supervision of state management agencies on hazardous waste management activities.

Limitations in the law on the obligation to classify and store wastes of enterprises: In Clause 2, Article 4 of Decree 38/2015/ND-CP, it is clearly stated that "Organizations and individuals are responsible for classifying wastes. waste at source for the purpose of increasing reuse, recycling, co-processing, treatment, and energy recovery". Obviously, this regulation requires businesses to take measures to classify and reduce waste at the source, but it does not prescribe specific measures. For the reduction of waste at the source, it is very suitable, as a progressive solution, it should specify clear and specific measures because if the entities conduct the classification and storage of waste from the source without Improper application of measures can cause severe consequences for the environment, so it is necessary to specify specific measures.

Limitations in legal regulations on the obligations of enterprises to collect, transport, treat and reuse waste: Currently, the law still lacks detailed guidance on transfer contracts.

When hazardous waste generators want to transfer the responsibility of hazardous waste management to hazardous waste management service providers, it is mandatory to establish a contract for hazardous waste management services. This contract is made in writing and signed between the hazardous waste source owner and the hazardous waste management service provider. However, at present, there are no regulations detailing the form and content of hazardous waste management service contracts, which is a shortcoming that needs to be overcome. Therefore, entities must rely on the Civil Code of 2015, and the Commercial Law of 2005 to establish contracts for hazardous waste management services.

Solutions to complete the law on hazardous waste management obligations of enterprises

First, perfecting the regulations on hazardous waste management: To overcome the scarcity of hazardous waste management service providers as well as the problem of hazardous waste accumulation at the facilities. Small-scale production and business establishments that cannot transfer hazardous wastes are required by law to recognize the diversity of service providers on the basis of a clear division according to the volume of hazardous waste to be treated. physical. It is possible to consider adjusting the Appendix 5.B.1 issued together with Circular No. 36/2015/TT-BTNMT, legal economic organizations need to acknowledge the registration papers for licensing of the subject is a business household, so that this subject is also allowed to participate in providing hazardous waste management services for small production and business establishments, with a small volume of hazardous waste generated. Just like economic organizations, in order to provide hazardous waste management services, business households need to meet the conditions on facilities, and personnel and must have a license issued by a competent authority. grant rights.

Second, improve the regulations on classification and storage of hazardous wastes of enterprises: Currently, the Law on Environmental Protection 2020 has been officially passed with progress records focusing on the management mechanism. waste in general, where waste separation at source is the main content. Existing difficulties in waste classification responsibility, limiting the impact of waste in general, and hazardous waste in particular on the ecological and social environment are still issues of concern in this

area. The period when the new Law document officially comes into effect as well as the process of evaluating and checking the effectiveness of the implementation of the law in practice serves as a basis to ensure that the mechanisms in waste management are applied for the right purposes. , is effective in practice, making waste separation at source a habit in the behavior of individuals and organizations in the process of performing daily life activities.

Third, improve regulations on hazardous waste collection, transportation, treatment, and reuse of enterprises: To overcome the above-analyzed shortcomings, it is necessary to issue legal documents providing guidance on service contract forms specifically for hazardous waste management activities. Hazardous waste management service contracts can be divided into three types of contracts for daily-life solid waste collection, transportation, and treatment services, including Service contracts for the collection, transportation, and treatment of solid wastes. hazardous waste management; contract for hazardous waste collection and transportation services; hazardous waste treatment service contract. Corresponding to each type of contract, there will be a specific guiding form that is consistent in terms of content and form.

CONCLUSION

The topic is aimed at analyzing, understanding, and clarifying basic terms about the obligations of hazardous waste management of enterprises, as a premise for practical approaches to the implementation of these legal provisions in the Binh Duong province. Although the Vietnamese law on hazardous waste management obligations of enterprises has been focused on promulgating, creates a solid legal framework for effective management of wastes in general and hazardous wastes in particular. However, there are still some limitations, the regulations are not really appropriate, causing certain difficulties in practical implementation.

Understanding and evaluating the effectiveness of law enforcement activities on hazardous waste management obligations in Binh Duong province provides a solid practical basis for recognizing achievements as well as limitations. also acquired. From there, a system of synchronous solutions is proposed, including changes from a legal perspective and solutions to directly change the consciousness and actions of businesses.

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