

**THE MINISTRY OF INDUSTRY AND TRADE - THE MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT**

**JOINT CIRCULAR No. 002/2007/TTLT-BCT-BTNMT OF AUGUST 30, 2007, GUIDING THE IMPLEMENTATION OF ARTICLE 43 OF THE ENVIRONMENTAL PROTECTION LAW REGARDING CRITERIA FOR AND CONDITIONS ON THE IMPORT OF SCRAPS**

Pursuant to the November 29, 2005 Environmental Protection Law; Pursuant to the June 14, 2005 Commercial Law;

Pursuant to Resolution No. 01/2007/QH12 of July 31, 2007, of the XII<sup>th</sup> National Assembly of the Socialist Republic of Vietnam, the first session, on the organizational structure of the Government and the number of Deputy Prime Ministers during the XII<sup>th</sup> Legislature's term;

Pursuant to the Government's Decree No. 86/2002/ND-CP of November 5, 2002, defining the functions, tasks, powers and organizational structures of ministries and ministerial-level agencies;

Pursuant to the Government's Decree No. 91/2002/ND-CP of November 11, 2002, defining the functions, tasks, powers and organizational structure of the Ministry of Natural Resources and Environment;

Pursuant to the Government's Decree No. 12/2006/ND-CP of January 23, 2006, detailing the implementation of the Commercial Law regarding international goods trading and goods trading agency, processing and transit with foreign countries; The Ministry of Industry and Trade and the Ministry of Natural Resources and Environment guide the implementation of Article 43 of the Environmental Protection Law regarding criteria for and conditions on the import of scraps by organizations and individuals that are traders (below collectively referred to as traders) as follows:

**I. IMPORTERS AND CONDITIONS ON THE IMPORT OF SCRAPS:**

**1. Importers of scraps:**

a/ Traders that have production establishments directly using imported scraps as raw materials for production or recycling.

b/ Traders that conduct entrusted import of scraps for traders directly using scraps as raw materials for production or recycling.

c/ Traders that import scraps for distribution to traders directly using scraps as raw materials for production or recycling.

## 2. Conditions on the import of scraps:

a/ Traders that have production establishments directly using scraps as raw materials for production or recycling must fully meet the conditions specified in Clause 2, Article 43 of the Environmental Protection Law.

b/ Traders that conduct entrusted import of scraps for traders directly using scraps must have entrusted import contracts signed with traders directly using scraps as raw materials for production or recycling that fully meet the conditions specified at Point a of this Clause.

c/ Traders that import scraps for distribution to traders directly using scraps as raw materials for production or recycling must own or hire for at least 1 year storehouses or yards exclusively reserved for storing scraps which satisfy environmental conditions specified at Points a and b, Clause 2, Article 43 of the Environmental Protection Law. They must sell out all the imported scraps within 3 months after those scraps arrive at a Vietnamese border gate.

3. The Ministry of Natural Resources and Environment shall promulgate a list of scraps permitted to be imported for use as raw materials for production.

4. This Circular does not govern goods which are banned from import or subject to conditional import under the Government's Decree No. 12/2006/ND-CP of January 23, 2006, detailing the implementation of the Commercial Law regarding international goods trading and goods trading agency, processing and transit with foreign countries. II. PROCEDURES FOR GRANT OF CERTIFICATES OF ELIGIBILITY FOR THE IMPORT OF SCRAPS:

1. A trader that fully meets the conditions specified in Clause 2, Section I of this Circular shall send to the Natural Resources and Environment Service of the locality where the production establishment or the imported-scrap storehouse or yard is located a dossier of application for a certificate of eligibility for the import of scraps. Such a dossier comprises:

a/ An application for a certificate of eligibility for the import of scraps, made according to a set form.

b/ A copy of the decision approving the environmental impact assessment report, or the written certification of environmental protection commitment or environmental standard satisfaction registration made by the direct producer that uses scraps, with regard to the scrap storehouse or yard.

c/ A copy of the latest environmental supervision report, which has been made within 6 months before the date of application (for producers), or copies of scrap sale contracts in the previous import period (for importers of scraps for distribution). 2. Within 15 (fifteen) working days after receiving a complete and valid dossier, the provincial-level Natural Resources and Environment Service shall examine the dossier and grant a certificate of eligibility for the import of scraps, made according to a set

form, which is valid for 12 months from the date of its grant, or notify in writing the reason for its refusal to grant that certificate.

3. A trader that has production establishments and scrap storehouses and yards in different provinces and centrally run cities shall make a dossier of application for a certificate of eligibility for the import of scraps for each establishment, storehouse and yard in each province and city.

### III. PROCEDURES FOR THE IMPORT OF SCRAPS:

Scrap import procedures shall be carried out at border-gate customs offices. Apart from the documents prescribed by the customs law, scrap-importing traders shall also produce to customs offices the following documents:

1. For traders that have production establishments directly importing scraps for use as raw materials for production or recycling:

a/ A copy of the certificate of eligibility for the import of scraps, granted by the Natural Resources and Environment Service of the locality where the production establishment is located (the trader shall sign and certify such copy and take responsibility therefor). b/ A copy of the notice of import of scraps for use as raw materials for production, made according to a set form, which has been sent to the provincial-level Natural Resources and Environment Service under the provisions of Point b, Clause 3, Article 43 of the Environmental Protection Law.

2. For traders that conduct entrusted import:

a/ An entrusted import contract signed with the trader directly using scraps as raw materials for production or recycling.

b/ A copy of the certificate of eligibility for the import of scraps, granted by the Natural Resources and Environment Service of the locality where the trader's production establishment is located (the trader shall sign and certify such copy and take responsibility therefor).

c/ A copy of the notice of import of scraps for use as raw materials for production, made

according to a set form, which has been sent to the provincial-level Natural Resources and Environment Service under the provisions of Point b, Clause 3, Article 43 of the Environmental Protection Law.

3. For traders that import scraps for distribution:

a/ A copy of the certificate of eligibility for the import of scraps, granted by the Natural Resources and Environment Service of the locality where the scrap storehouse or yard is located (the trader shall sign and certify such copy and take responsibility therefor). b/ If the imported-scrap storehouse or yard does not belong to the scrap-importing trader, the trader shall, apart from a copy of the certificate of eligibility for the import of scraps, granted by the Natural Resources and Environment Service of the locality

where the scrap storehouse or yard is located, produce a copy of the storehouse- or yard-hiring contract.

c/ A copy of the notice of import of scraps for use as raw materials for production, made according to a set form, which has been sent to the provincial-level Natural Resources and Environment Service under the provisions of Point b, Clause 3, Article 43 of the Environmental Protection Law.

IV. IMPLEMENTATION PROVISIONS: 1. For traders:

a/ To send written notices on the import of scraps for use as raw materials for production, made according to a set form, to provincial-level Natural Resources and Environment Services under the provisions of Point b, Clause 3, Article 43 of the Environmental Protection Law.

b/ By January 31 of the subsequent year, to send the previous year's reports on the import of scraps and the use of imported scraps (made according to a set form) to Natural Resources and Environment Services of localities where production establishments or imported-scrap storehouses or yards are located. Particularly, traders that import scraps for distribution shall make those reports once every 6 months. c/ Scrap-importing traders shall strictly observe the provisions of this Circular and Clause 3, Article 43 of the Environmental Protection Law; all acts of violation shall be handled in accordance with Article 127 of the Environmental Protection Law. 2. For provincial/municipal People's Committees:

Provincial/municipal People's Committees shall coordinate in and direct the inspection, detection, prevention and handling of acts of violation of the law in the import of scraps and violation of other provisions of Clause 4, Article 43 of the Environmental Protection Law.

3. For provincial/municipal Services of Natural Resources and Environment: a/ Natural Resources and Environment Services of localities where production establishments or scrap storehouses or yards are located shall inspect scrap import conditions and grant certificates of eligibility for the import of scraps to applying organizations and individuals. Such a certificate is valid for 12 months. b/ To conduct regular and extraordinary inspection of the performance of environmental protection tasks by organizations and individuals that import scraps and use imported scraps as raw materials for production or recycling (including inspection of the satisfaction of conditions on the import of scraps). Provincial/municipal Natural Resources and Environment Services may revoke certificates of eligibility for the import of scraps if detecting violations of the prescribed conditions. c/ Annually, to review and send reports on the import of scraps and environmental issues related to imported scraps in their localities, made according to a set form, to the Ministry of Natural Resources and Environment.

4. This Circular takes effect 15 days after its publication in “CONG BAO.” Agencies and organizations should promptly report problems or difficulties arising in the course of implementation to the Ministry of Industry and Trade and the Ministry of Natural Resources and Environment for timely solution.

For the Minister of Industry and Trade

Vice Minister

NGUYEN THANH BIEN For the Minister of

Natural Resources and Environment Vice Minister

NGUYEN CONG THANH



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LAW FIRM