

**3Ordinance on
Transport Licences
(*Transportgenehmigungsverordnung - TgV*)*)
of 10 September 1996**

Pursuant to Article 49 (3) and Article 50 (2) No. 1 of the Closed Substance Cycle and Waste Management Act of 27 September 1994 (Federal Law Gazette I p. 2705), also in conjunction with Section 2 of the Administrative Expenses Act (*Verwaltungskostengesetz*) of 23 June 1970 (Federal Law Gazette I p. 821), the Federal Government, after hearing the parties concerned, hereby decrees as follows:

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^{*)} The purpose of this Ordinance is to transpose Council Directive 75/442/EEC of 15 July 1975 on waste (OJ EC No. L 194 p. 47), as amended by Council Directive 91/156/EEC of 18 March 1991 (OJ EC No. L 78 p. 32).

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Section One General Provisions

Article 1 Licensing Obligations, Scope of Application

(1) In addition to being subject to the licensing requirements laid down in Article 49 (1) of the Closed Substance Cycle and Waste Management Act, the waste defined by the Ordinance on Codification of Waste Requiring Special Supervision as being waste for recovery that requires special supervision may be commercially collected or transported only with a transport licence from the competent authority. This shall not apply in the cases referred to in Article 49 (1) second sentence of the Closed Substance Cycle and Waste Management Act.

(2) The provisions of this Ordinance shall not apply to the collection and transport of waste for recovery requiring special supervision where such waste has been accepted back by the responsible manufacturer or distributor, either voluntarily or on the basis of an ordinance. Article 25 (2) of the Closed Substance Cycle and Waste Management Act shall not be affected with regard to voluntary acceptance of waste for disposal.

(3) The provisions of this Ordinance shall also apply to transboundary movements of waste.

(4) For foreign transporters, the competent authority may permit exemptions from individual provisions of this Ordinance or from requirements for certain documents, if the technical competence, the relevant skills and the reliability required by Article 49 (2) of the Closed Substance Cycle and Waste Management Act are proved by some other means. In particular, such proof may consist of equivalent diplomas, examination certificates and other proof of qualification, as well as of any equivalent licences or certifications from other Member States of the European Community or from another party to the Agreement on the European Economic Area.

Article 2 Definition of Terms

(1) The owners of the company within the meaning of this Ordinance shall mean the natural or legal persons, or the unincorporated associations, that operate the collection or transport company.

(2) The persons responsible for managing and supervising operations within the meaning of this Ordinance shall mean those natural persons who have been appointed by the owner of the company to carry out technical management, supervision and control tasks with regard to the company's collection or transport activities - with a special emphasis on monitoring compliance with the applicable provisions and directives.

(3) Other personnel within the meaning of this Ordinance shall mean those employees, and other persons working for the company, who are involved in carrying out the company's collection and transport activities.

Section Two
Technical Competence and Relevant Skills
of the Collector and Transporter

Article 3
Requirements Pertaining to the Technical Competence of the Persons Responsible for
Managing and Supervising Operations

(1) The persons responsible for managing and supervising a company for the collection and transport of waste for disposal or waste for recovery requiring special supervision shall possess the technical competence required for their tasks. Such competence shall

1. include knowledge, acquired in two years of practical experience, about the collection and transport of waste;
2. be obtained by participating in one or more training courses which have been recognised by the competent authority and which impart knowledge in keeping with the Annex to this Ordinance.

(2) The following shall also be recognised as sufficient proof of the technical competence pursuant to paragraph (1) No. 1:

1. completion of studies in the areas of engineering, chemistry, biology or physics at a university, or a qualification from a technical college, or a master-craftsman qualification, or completion of commercial vocational training in a field in which the company can be classified due to the nature of its operations; and
2. knowledge, acquired through one year of practical experience, about the collection and transport of waste.

Paragraph (1) No. 2 shall remain unaffected.

(3) Training in subject areas other than those referred to in paragraph (2) No. 1 may be recognised if such training can be considered to be of equivalent value with regard to a specific task in an individual case. Vocational experience in areas other than those referred to in paragraph (1) No. 1 and paragraph (2) No. 2 may be recognised if the knowledge obtained through practical experience can be considered to be of equivalent value with respect to a specific task in an individual case.

(4) The requirements for technical competence referred to in paragraphs (1) through (3) may be waived if the person responsible for managing and supervising operations

1. had at least three years of experience, as of 7 October 1996, in performing tasks within the company that are comparable to those of a person responsible for managing and supervising operations; and if
2. the proper fulfilment of these tasks is assured.

The requirements pertaining to further training pursuant to Article 6 shall remain unaffected; the person responsible for managing and supervising operations shall participate in training courses within the meaning of Article 3 (1) No. 2 no later than 6 October 1998.

Article 4

Requirements Pertaining to the Company's Other Personnel

The company's other personnel shall possess the relevant skills required for their specific collection and transport tasks. Such skills shall be obtained through in-company training on the basis of an on-the-job training plan.

Article 5

Requirements Pertaining to Commissioned Third Parties

The collector and transporter may commission a third party to carry out collection and transport activities only if such third party has the necessary technical competence and relevant skills with respect to the collection and transport activity for which it is commissioned; such third party shall not itself require a transport licence for this purpose. The collector and transporter shall provide the information and issue the directions necessary to ensure that the commissioned activity is carried out in a proper and competent manner.

Article 6

Requirements Pertaining to Further Training

The persons responsible for managing and supervising the collection and transport operations, and all other company personnel, shall undergo suitable further training to ensure that they possess the up-to-date knowledge required for their tasks. At regular intervals of no greater than three years, the persons responsible for managing and supervising operations shall take part in training courses within the meaning of Article 3 (1) No. 2. Such further training shall cover the subject areas referred to in the Annex to this Ordinance. The owner of the company shall determine the further training requirements for the company's other personnel.

Section Three

Application and Documents, Transport Licence

Article 7

Application and Documents

- (1) Applications for issuance of a transport licence shall be submitted to the competent authority in writing, using a form pursuant to Annex 1.
- (2) Such applications shall include any documentation necessary to determine compliance with the prerequisites for licensing. In particular, such documentation shall include
1. for the applicant (company owner):
 - a) the trade or business registration,
 - b) a relevant excerpt from the commercial register,
 - c) a police certificate of good conduct,
 - d) any relevant information from the central commercial register (*Gewerbezentralregister*),
 - e) proof of a motor-vehicle liability insurance policy that includes environmental liability protection oriented to the relevant collection and transport activity,
 - f) if interim storage or another activity is to be carried out that does not involve use of a motor vehicle, proof of a relevant industrial liability insurance policy, as well as an environmental liability insurance policy covering such activity;
 2. for the legal representative of the owner of the company or, in the case of legal persons or unincorporated associations, for the persons empowered by law, statutes or partnership agreement to represent or manage the company:
 - a) a police certificate of good conduct,
 - b) any relevant information from the central commercial register (*Gewerbezentralregister*),
 3. for persons responsible for managing and supervising operations:
 - a) a police certificate of good conduct,
 - b) any relevant information from the central commercial register (*Gewerbezentralregister*),
 - c) proof of relevant technical competence and the relevant skills.
- (3) The application shall be submitted in triplicate.

Article 8

Transport Licence

- (1) A transport licence shall entitle the collector and transporter to collect and transport waste within the territory of the Federal Republic of Germany. It shall not be transferable.
- (2) Restrictions may be imposed on the transport licence, where this is required to protect the public interest, and, especially, to ensure that the prerequisites for its issuance are fulfilled. The collector and transporter shall comply with the imposed restrictions. In particular, the competent authority shall

require the applicant to inform it of any changes in circumstances that are significant with respect to fulfilment of the prerequisites for the licence.

(3) Transport licences shall be issued using the form pursuant to Appendix 2.

Article 9

Legibility and Genuineness of Documents

All entries in the forms listed in Appendices 1 and 2 shall be clearly legible and in the German language; they shall be printed, typewritten or written with a ball-point pen or other writing instrument that makes indelible marks. Where an original entry is rendered illegible, a note shall be added that indicates whether such change occurred when the entry was made or at a later time.

Section Four

Final Provisions

Article 10

Transitional Provision

(1) Any licence issued pursuant to Article 12 of the Waste Avoidance and Waste Management Act (*Abfallgesetz*) before the entry into force of this Ordinance shall remain valid as a transport licence pursuant to Article 49 (1) of the Closed Substance Cycle and Waste Management Act until its expiry date.

(2) Any commenced application procedures for issuance of a transport licence pursuant to Article 12 of the Waste Avoidance and Waste Management Act shall be completed in accordance with the provisions of the Closed Substance Cycle and Waste Management Act and of this Ordinance. Such procedures may be completed without use of the forms contained in Appendices 1 and 2. The competent authority may require such procedures to be carried out with the use of the correct forms for issuance of a transport licence pursuant to Article 12 of the Waste Avoidance and Waste Management Act.

(3) The competent authority shall not reject any applications for issuance of a transport licence on the grounds that the persons responsible for managing and supervising operations have not taken part in training courses required pursuant to Article 3 (1) No. 2. In such cases, the authority shall impose as a condition that such persons have to take part in such courses by 6 October 1998.

(4) Paragraphs (2) and (3) shall apply *mutatis mutandis* to any procedure for issuance of a transport licence for which the application was submitted after the entry into force of this Ordinance and by 6 October 1997.

Article 11
Fees and Expenses

(1) Fees and expenses shall be charged, pursuant to the provisions of the Administrative Expenses Act, for any official acts by the authorities responsible for the execution of this Ordinance. The following range of rates shall apply to fees:

1. Decision regarding the issuance of a transport licence (Article 8):

- a) exemption from the transport licence requirement pursuant to Article 49 (1) second sentence No. 3 of the Closed Substance Cycle and Waste Management Act: DM 100 to 500;
- b) initial decision pursuant to this Ordinance: DM 500 to 10,000;
- c) decision following a significant change in circumstances relevant to fulfilment of the prerequisites for a licence: DM 100 to 10,000;
- d) decision regarding a transport licence that is restricted in scope or issued for a fixed term upon application (in particular applicable to certain transboundary movements): DM 100 to 10,000;

2. Decision regarding recognition of a training course (Article 3 (1) No. 2):

- a) approval upon application by the course provider: DM 100 to 1,000;
- b) subsequent recognition of one or more training courses for a single participant: DM 20 to 200.

(2) Fees pursuant to the provisions of Article 15 of the Administrative Expenses Act shall be levied for the revocation or rescission of an official act, if the party concerned has given cause for such revocation or rescission, as well as for withdrawal of an application for execution of an official act.

(3) A fee shall be levied for complete or partial rejection of an objection which is not solely directed against a decision on cost; the amount of this fee shall not exceed the amount of the fee prescribed for the official act against which the objection was raised. This shall not apply in cases in which the objection is unsuccessful solely because a violation of a procedural provision or formal requirement was insignificant in accordance with regulations governing administrative procedures. If an objection is withdrawn following the commencement of the official processing, but prior to the completion of such processing, the fee shall not exceed 75% of the fee for the objection.

(4) Collection of reimbursement for expenses shall be subject to Article 10 of the Administrative Expenses Act.

Article 12
Administrative Offences

Anyone who, intentionally or through negligence,

1. commercially collects or transports waste requiring special supervision without a licence pursuant to Article 1 (1) first sentence or
 2. contravenes Article 8 (2) second sentence by not fulfilling an enforceable condition
- shall be deemed to have committed an administrative offence within the meaning of Article 61 (1) No. 5 of the Closed Substance Cycle and Waste Management Act.

Article 13
Entry into Force

Article 1 (1) shall enter into force on 1 January 1999; the remainder of the Ordinance shall enter into force on 7 October 1996.

The *Bundesrat* has given its consent.

Bonn, 10 September 1996

The Federal Chancellor

Dr Helmut Kohl

The Federal Minister for the Environment, Nature Conservation and Nuclear Safety Angela Merkel

Annex to the Ordinance on Transport Licences

Technical Competence of Persons Responsible for Managing and Supervising a Collection and Transport Company

Such competence shall include the following:

1. technically proper and competent collection and transport of waste, with a special emphasis on proper waste transport techniques and proper labelling of vehicles and containers;
2. the harmful environmental impacts, other hazards, significant impairments and nuisances that may be caused by waste, and measures to prevent or remedy such problems;
3. the type and nature of waste requiring special supervision;
4. provisions of waste-management laws and of other environmental legislation applicable to the specific collection and transport activities;
5. references to legislation on goods transport and the transport of hazardous goods;
6. provisions pertaining to company liability.

Appendix 1 to the Ordinance on Transport Licences

This Annex contains the form^{*)} for an application for issuance of a transport licence (Article 7 (1)).

Appendix 2 to the Ordinance on Transport Licences

This Annex contains the form^{*)} for an application for issuance of a transport licence (Article 8 (3)).

[Formblatt Transportgenehmigung (TG)]

Alignment mark for computer systems

Form sheet for transport licences (TG)

Transport Licence

Please fill in all applicable spaces.

Competent licensing authority:

Reference number

Transporter number

General remarks

On the basis of your application of __ __ __, you are hereby issued a transport licence pursuant to Article 49 (1), Article 50 (2) No. 1 Closed Substance Cycle and Waste Management Act, in conjunction

^{*)} Remarks on the layout of this form:

1. The form has been reduced in size; at its current size, it is not machine-readable and entries cannot be made with a typewriter or computer printer. For proper use, the form must be enlarged to the DIN A4 format (enlargement ratio of 84:100).
2. All space boundaries and shaded areas should be printed in the colour HKS 6 N, if possible. The shaded areas must not exceed 60% of the full-tone value. All fonts and numbers, and the alignment mark for computer systems, should be printed in black.

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1. The form has been reduced in size; at its current size, it is not machine-readable and entries cannot be made with a typewriter or computer printer. For proper use, the form must be enlarged to the DIN A4 format (enlargement ratio of 84:100).
2. All space boundaries and shaded areas should be printed in the colour HKS 6 N, if possible. The shaded areas must not exceed 60% of the full-tone value. All fonts and numbers, and the alignment mark for computer systems, should be printed in black.

with the Ordinance on Transport Licences. The information provided in this application is part of the transport licence. Where restrictions are imposed below that diverge from such information, such restrictions take precedence over the information provided in the application. This licence is valid as of the date of issuance and is not transferable. The transport licence entitles the holder to collect and transport waste within the territory of the Federal Republic of Germany.

Restrictions

The transport licence is issued subject to the following restrictions:

Where transport is not effected with rail vehicles, the following shall be kept in the vehicles used for collection and transport and shall be presented and handed over to supervisory and control authorities on request:

- a copy of the transport licence and the relevant application,
- a copy of the proof of proper disposal (*Entsorgungsnachweis*), of the simplified proof of proper disposal (*vereinfachter Entsorgungsnachweis*) or of declarations of proof (*Nachweiseklärungen*),
- copies numbers 2 through 6 of the accompanying documents, or copy number 2 of the handover documents for collected or transported waste.

Any changes in circumstances relevant to the decision regarding the licence (for example, changes in information pertaining to the collector and transporter or to the submitted application documents) shall be communicated to the licensing authority without delay.

The licence is issued subject to the following additional restrictions:

Remarks

Collection and transport of waste shall conform to all relevant provisions, and to all secondary obligations resulting therefrom, of the Closed Substance Cycle and Waste Management Act and pertinent ordinances, in their applicable versions. Persons charged with collection and transport of waste shall possess the necessary technical competence for their tasks. In particular, such persons shall be aware of potential hazards of handling waste and shall be able to take appropriate measures in case of accidents with the waste. Such measures especially include informing the responsible agencies (police, fire department, water-resources authorities, environmental protection authority). Such competence shall be obtained through in-company on-the-job training on the basis of an on-the-job training plan (Article 4 Ordinance on Transport Licences).

Changes of persons responsible for managing and supervising operations are subject to the approval of the competent authority. Such approval does not extend to the licences, permits or certifications that are required pursuant to other provisions (especially pursuant to provisions on goods transports and on transport of hazardous goods). Such approval also shall not affect requirements imposed by provisions on transport of hazardous goods - especially with regard to transported substances, transport equipment, transport personnel and carrying of relevant accompanying documents.

This notice is subject to a fee. A separate fee notice shall be sent.

Instructions about available legal remedies

The attached instructions about available legal remedies are part of this notice.

City

Date

Day, month, year

Signature/stamp of the licensing authority

[im Seitenrand]

Bar-code space: 75cm x15cm

Please write letters and numbers in the following form: