

Air Pollution Control Act

Originally Promulgated and Effective on May 23, 1975,

Latest Revision Effective on February 1, 1992

Environmental Protection Administration of the Republic of China on Taiwan

English Translation¹

by

Dennis Te-Chung Tang

Academia Sinica, Taipei, Taiwan

National Taiwan University, Taipei, Taiwan

and

Richard J. Ferris Jr.

Beveridge & Diamond, P.C., Washington, D.C.

Approved by

Hsung-Hsiung Tsai

Administrator, Environmental Protection Administration

Republic of China

Chapter 1: General Provisions

Article 1

The purpose of this Act is to prevent and control air pollution, safeguard public health and the living environment and improve the quality of life. For matters not provided for herein, other relevant laws and regulations shall apply.

¹ Translators' notes: This translation is for information purposes only and does not represent the binding law of the Republic of China. The binding law appears only in the national language--Chinese. Therefore, for purposes other than acquiring information, reference must be made to the original Chinese version of this Act.

In translating this Act, the translators did not depart from the original Chinese text. Accordingly, ambiguities present in the translation are also present in the original.

In the Chinese version of this Act, each paragraph is referred to as a "section" (*hsiang*). Bracketed text indicates translator additions for the purpose of increasing clarity.

Article 2

Particular terms used in this Act are defined as follows:

1. "Air pollutants" refers to any substances in the air, which may directly or indirectly harm human health or the living environment;
2. "Pollution sources" refers to any physical or chemical² operating units which emits air pollutants;
3. "Living environment" refers to property, animals, plants and their ecological environment closely related to peoples' livelihood;
4. "Emissions standards" refers to the allowable maximum concentration or total amount of air pollutants contained in the emissions;
5. "Air quality standards" refers to the allowable concentration of air pollutants in outdoor air; and
6. "Air pollution control regions" refer to various classes of regions delineated according to the air quality needed for their land use purposes, or the status quo of their air qualities.

Article 3

The term "Responsible Agency" as used in this Act refers to the Environmental Protection Administration of the Executive Yuan ("TEPA") at the central government level, the Provincial (or Municipal) Government at the provincial (or municipal) government level and the County (or City) Government at the county (or city) government level.³

² Translators' notes: "Physical" is a literal translation of the Chinese term "*wu li*;" "chemical" is a literal translation of the Chinese term "*hua hsue*." In drafting this Act, the legislators appear to have attempted to define pollution sources to include the smallest processes possible that can comprise an operating unit.

³ Translators' note: Under the jurisprudence of the Republic of China, there are three levels of government: central, provincial/municipal and county/city. At the time of this translation (May 1998), only two municipalities exist: Taipei and Kaohsiung.

Article 4

The Responsible Agency at the central or provincial (or municipal) or county (or city) government level may delegate responsibility to special organizations (via contract or otherwise) for air pollution control, research, training and related matters.

Chapter 2: Air Quality Protection

Article 5

The Responsible Agency at the provincial (or municipal) government level or county (or city) government level shall, after consultation with relevant agencies, designate and publicly announce in accordance with the air quality standards various classes of [air pollution] control regions based on the current air quality of each region. When a control region involves more than two (2) provinces (or municipalities) or when special needs exist, then the Responsible Agency at the central government level shall, after consultation with relevant agencies, designate and publicly announce the [air pollution] control regions. When a control region involves more than two (2) counties (or cities) or when special needs exist, then the Responsible Agency at the provincial government level shall, after consultation with relevant agencies, designate and publicly announce the [air pollution] control regions.

The air quality standards mentioned in Section 1 [above] shall be promulgated, after consultation with relevant agencies, by the Responsible Agency at the central government level. The Responsible Agencies at the local government levels, however, may propose air quality standards more stringent [than those promulgated by the central government] and publicly announce these standards after they are submitted to and approved by the Responsible Agency at the central government level.

Article 6

The Responsible Agency at the provincial (or municipal) government level and the Responsible Agency at the county (or city) government level shall, in accordance with air quality standards, develop plans for maintaining or improving air quality in each of the various classes of control regions.

Article 7

The Responsible Agencies at various levels of government shall select appropriate locations to install air quality monitoring stations and publicly and periodically announce the air quality monitoring results.

Article 8

Upon receipt of evidence that the air quality may have significantly deteriorated as the result of serious changes in meteorological conditions or other reasons, the Responsible Agencies at various government levels and public and private premises⁴ shall take emergency measures. If necessary, the Responsible Agencies at various government levels may issue air quality deterioration warnings and may prohibit or restrain the use of modes of transportation or the emissions of air pollutants by public and private premises.

The emergency measures for preventing significant deterioration of air quality, referred to in the preceding Section, shall be promulgated by the Responsible Agency at the central government level in conjunction with the Responsible Agency for the Enterprise Associated with the Industry at Issue⁵ [at the central government level].

Article 9

When a special industrial park is to be developed, the application for the development may not be filed with the Responsible Agency for the Enterprise Associated with the Industry at Issue unless the establishment of a buffer zone and air quality monitoring facilities, surrounding the proposed park or at appropriate locations [within the boundaries of the proposed park], have been provided for in the development plan.

⁴ Translators' notes: Although the literal translation of the original Chinese in this Article is somewhat vague, "public and private premises" apparently refers to publicly and privately owned facilities. Two subjects, ("public and private premises" and "stationary sources"), are used by the legislators in one sentence. This sometimes enhances confusion as to the target for regulation. In essence, although two subjects are used, the target of regulation is always the public and private premises.

⁵ Translators' note: For example, the Ministry of Economic Affairs in the case of an electric power plant, or the Ministry of Finance in the case of a financial institution.

The categories of special industrial parks and criteria for establishing buffer zones and air quality monitoring facilities mentioned in the preceding Section shall be promulgated by the Responsible Agency at the central government level.

Article 10

The Responsible Agencies at various government levels shall levy air pollution control fees based upon the types and amounts of air pollutants emitted by pollution sources.

The classification of pollution sources and air pollution control fee collection measures shall be promulgated by the Responsible Agency at the central government level in consultation with relevant agencies.

Chapter 3: Prevention and Control

Article 11

Stationary sources emitting air pollutants in public and private premises shall meet emissions standards.

The emissions standards mentioned in the preceding Section shall be promulgated by the Responsible Agency at the central government level in consultation with relevant agencies. The Responsible Agencies at the provincial (or municipal) and county (or city) government levels, however, may propose air quality standards more stringent [than those promulgated by the central government] for certain industries or geographic areas and submit these standards to the Responsible Agency at the central government level for approval, after consultation with relevant agencies.

Article 12

Public and private premises which contain stationary sources designated and publicly announced by the Responsible Agency at the central government level shall install automatic monitoring facilities to continuously monitor operations or emissions.

Responsible agencies may, when necessary, order pollution sources other than those mentioned in the preceding Section to conduct emissions inspections on their own or arrange for the inspection to be conducted by an inspection and testing institutions.

Results of the monitoring and the inspection and testing referred to in the preceding two (2) Sections shall be recorded and reported to the Responsible Agencies at the local government levels in accordance with applicable regulations.

The measures for management of the inspection and testing institutions mentioned in Section 2 of this Article shall be promulgated by the Responsible Agency at the central government level.

Article 13

Public or private premises shall maintain air pollution control and monitoring facilities in proper working order; the maximum air pollutants generated by stationary sources [on public and private premises] shall not exceed the maximum pollutant processing capacity of the air pollution control facilities installed therein.

The specification, installation, operation, inspection, maintenance and recordkeeping of air pollution control or monitoring facilities shall comply with the requirements stipulated by the Responsible Agency at the central government level.

Article 14

Prior to the installation or modification of stationary sources designated and publicly announced by the Responsible Agency at the central government level, the public or private premises shall submit an application for such installation or modification, together with an air pollution control plan, to the Responsible Agency at the provincial (or municipal) government level.

After completing installation or modification of the stationary sources mentioned in the preceding Section, the public or private premises shall submit evidentiary documents certifying that emissions [from the stationary sources] are in compliance with emissions standards to the Responsible Agency at the provincial (or municipal) government level for an operation permit.

The measures governing the granting of installation, modification and operation permits shall be promulgated by the Responsible Agency at the central government level.

Article 15

Public and private premises within the same air quality control region which have more than one stationary source emitting the same air pollutant may improve their total emissions of a particular air pollutant so that the total emissions are less than those specified in the applicable emissions standards and will make positive contributions to air quality. These premises may then request that the Responsible Agency at the provincial (or municipal) government level review and allow their individual sources to be free from the limitations prescribed by the emissions standards under Section 1 of Article 11 of this Act.

The procedures for granting the allowance mentioned in the previous Section, as well as the total amount of emissions and [emissions] densities, shall be in accordance with the provisions promulgated by the Responsible Agency at the central government level.

Article 16

The document required for filing applications for permits or allowances mentioned in the preceding two (2) Articles shall be certified by licensed environmental technicians or relevant professional engineers practicing in accordance with applicable laws.

When a government agency, a publicly owned enterprise, or any other public law juristic person⁶ submits the documents required above, it may have its own employees who hold the professional licenses mentioned in the previous Section certify the necessary documents.

Article 17

The seller or user of virgin coal or other substances prone to cause air

⁶ Translators' note: The laws of the Republic of China derive from the Continental legal system, which distinguishes between public and private juristic persons.

pollution shall submit relevant documents to the Responsible Agency at the county (city) government level for review [and approval]. [Upon approval], the Responsible Agency at the county (or city) government level shall remit the documents to the Responsible Agency at the provincial government level for issuance of a permit [to sell or use the virgin coal or other substances]; whereas those sellers or users located in municipalities shall submit relevant documents directly to the Responsible Agency at the municipal government level. Sellers or users shall record the sale and consumption of the virgin coal or other substances, and report the same to the Responsible Agency at the county (or city) or municipal government level in accordance with applicable regulations.

Substances prone to cause air pollution, referred to in the preceding Section, shall be publicly announced by the Responsible Agency at the central government level after consultation with relevant agencies.

Article 18

Permits issued in accordance with Sections 1 and 2 of Article 14 and Section 1 of Article 17 of this Act, shall be valid for five (5) years; applications shall be made with the Responsible Agency at the provincial (or municipal) government level or the Responsible Agency at the county (or city) government level for an extension six (6) months prior to the expiration date of the permit. Each extension is valid for up to five (5) years.

Article 19

The following activities are prohibited in all classes of air pollution control regions:

1. Engaging in burning, melting, refining, grinding, casting, transporting, or other operations which might disburse visible, particulate pollutants into the air or onto others property;
2. Engaging in burning [at locations] where the emissions of air pollutants [from the burning] cannot be observed from operation or monitoring site of a stationary source;
3. Engaging in construction of buildings and roads, or transportation of

construction materials or wastes, or performing other engineering activities without taking adequate [air pollution] preventative measures, thereby causing air pollution;

4. Dumping, mixing, stirring, heating, or baking any materials and thereby generating malodors or toxic gases;
5. Using or storing organic solvents or any other volatile materials and thereby generating malodors;
6. Engaging in cooking as a restaurant business and thereby emitting oily smoke and malodors; and
7. Other activities, contributing to air pollution, publicly announced by the Responsible Agencies.

Article 20

Where a stationary source located on a public or private premises emits a large quantity of air pollutants because of an unexpected accident, the person responsible [for the management of the stationary source] shall immediately take emergency measures and report the accident to the Responsible Agency at the local government level within one (1) hour [of the discovery] of the accident.

Under the circumstances described in the preceding Section, the Responsible Agency shall instruct the responsible person to take necessary [emergency] measures and may order the stationary source to suspend operations.

Article 21

The Responsible Agencies at various levels of government shall dispatch inspectors with proper identification to enter public and private premises to inspect or verify air pollutant emissions and order production of related documents.

In the event that the abovementioned inspection tasks involve military installations, such inspections shall be carried out in conjunction with military authorities.

Evasion, refusal or obstruction of the inspections, verifications and orders mentioned in the preceding two (2) Sections are prohibited.

All public and private premises shall provide equipment which facilitates the inspection and verification mentioned in the preceding Section; the specifications of the [facilitating] equipment shall be publicly announced by the Responsible Agency at the central government level.

Article 22

The public and private premises designated and publicly announced by the Responsible Agency at the central government level shall establish special units or [assign] personnel with exclusive responsibility for air pollution control; the measures for establishing such units or [assigning such] personnel shall be promulgated by the Responsible Agency at the central government level in consultation with relevant agencies.

Article 23

Emissions of air pollutants from various modes of transportation shall meet emissions standards.

The emissions standards mentioned in the preceding Section shall be promulgated by the Responsible Agency at the central government level in consultation with relevant agencies.

Article 24

Owners of [various] modes of transportation shall be responsible for the proper operation of the air pollution control devices fixed thereon and shall not remove or alter such devices.

The types, specifications and labeling of the air pollution control devices for [various] modes of transportation mentioned in the preceding Section shall meet the requirements stipulated by the Responsible Agency at the central government level.

Article 25

When the Responsible Agency at the central government level conducts spot checks of air pollutant emissions of a certain vehicle and determines that the vehicle fails to meet the emissions standards for modes of transportation because of the poor design [of the vehicle] or improper installation of [air pollution control devices], the Responsible Agency [at the central government level] shall order the manufacturer or importer of the vehicle in question to recall [that class of vehicle] within a given time period. Manufacturers or importers failing to comply with such an order shall be prohibited from manufacturing, importing and selling the [class of] vehicles in question.

Article 26

The measures for inspecting [modes of transportation and managing related violations] shall be promulgated by the Responsible Agency at the central government level in conjunction with the Ministry of Transportation and Communications.

Article 27

Motor vehicles in use shall be subject to periodic inspections for air pollutant emissions. Those motor vehicles which fail to meet the emissions standards referred to in Article 23 shall be repaired; application for reinspection shall be made within one (1) month [of the failed inspection]. Motor vehicles which are not periodically inspected or which fail reinspection shall have their licenses revoked.

Article 28

The improvement or enhancement of pollution control for various [pollution] sources shall be assisted and guided by the Responsible Agencies for the Enterprise Associated with the Industr(ies) at Issue.

Chapter 4: Penalties

Article 29

Those who violate Section 1 of Article 20 of this Act by failing to take emergency measures or failing to comply with orders issued by the Responsible

Agency in accordance with Section 2 of Article 20, and thus causing human fatality, shall be punished by imprisonment of up to seven (7) years, with the possible addition of a fine of up to three million (3,000,000) New Taiwan Dollars (“NTD”). Those causing serious physical harm to humans, shall be punished by imprisonment of up to five (5) years, with the possible addition of a fine of up to one million, five hundred thousand (1,500,000) NTD.

Article 30

Those obliged to file reports in accordance with the provisions of this Act who knowingly falsify information shall be punished by imprisonment of up to three (3) years, detention, and/or a fine of up to three hundred thousand (300,000) NTD.

Article 31

Any person who burns materials prone to generate substances detrimental to health without the use of air pollution control facilities shall be punished by imprisonment of up to one (1) year, detention, and/or a fine of up to one million (1,000,000) NTD.

Materials prone to generate substances detrimental to health and the air pollution control facilities mentioned in the preceding Section shall be publicly announced by the Responsible Agency at the central government level.

Article 32

Persons responsible for management of public and private premises that fail to comply with orders to suspend or terminate business operations issued by the Responsible Agency in accordance with this Act shall be punished by imprisonment of up to one (1) year, detention, and/or a fine of up to one million (1,000,000) NTD.

Persons responsible for management of public and private premises that fail to comply with orders to suspend business issued by the Responsible Agency in accordance with Section 2 of Article 20, or Section 2 of Article 39 shall be punished by imprisonment of up to one (1) year, or detention, and/or a fine of up to one million (1,000,000) NTD.

Article 33

Crimes prescribed in Articles 29, 30, Section 1 of Article 31, or Section 2 of Article 32, when committed by representatives⁷ of a juristic (legal) person, agents of a natural or legal person, or employees or other persons engaged in business activities, shall be punished in accordance with the relevant provisions of this Act. In addition, the fines prescribed therein shall be imposed upon the juristic (legal) or natural persons involved.

Article 34

Public and private premises in violation of Section 1 of Article 8, or the measures promulgated in accordance with Section 2 of Article 8 of this Act shall be punished by an administrative penalty of between one hundred thousand (100,000) and one million (1,000,000) NTD; in serious noncompliance situations, the Responsible Agency may order the source to suspend or terminate business operations.

Users or owners of a mode of transportation who violate Section 1 of Article 8, or the measures promulgated in accordance with Section 2 of Article 8, shall be punished by an administrative penalty of between one thousand five hundred (1,500) and thirty thousand (30,000) NTD.

Article 35

[Public and private premises] which do not comply with Article 10 to pay air pollution control fees shall be punished by an administrative penalty of double the fee amount due and be ordered to comply within a specified time period. If the violation continues after the specified time period, the operation permits shall be revoked.

Article 36

Public and private premises in violation of Section 1 of Article 11, Sections 1, 2 or 3 of Article 12, Articles 13, 14, 18, or the total amount of emissions and [emissions] densities promulgated in accordance with Section 2 of Article 15 of this Act, shall be punished by an administrative penalty of between twenty thousand (20,000) and two hundred thousand (200,000) NTD; where the violator is an industrial or commercial premises, the administrative penalties imposed shall be

⁷ Translators' note: "Representatives" are not necessarily "agents" under Taiwan law.

between one hundred thousand (100,000) and one million (1,000,000) NTD.

[Public and private premises] which have been penalized in accordance with the preceding Section shall be subject to orders to comply within a specified time period; if the violation continues after the specified time period, continuous daily administrative penalties shall be imposed; in serious noncompliance situations, the Responsible Agency may order the source to suspend or terminate business operations and, if necessary, revoke the operation permit and issue an order to wind up [(shut down)] business operations.

With respect to violations described in Section 1, several stationary sources located in the same public or private premises, or one stationary source emitting several different air pollutants, shall receive separate punishments.

Article 37

Those violating the management measures promulgated in accordance with Section 4 of Article 12 of this Act shall be punished by an administrative penalty of between two hundred thousand (200,000) and one million (1,000,000) NTD and ordered to comply within a specified time period and, if the violation continues after the end of the specified time period, continuous daily administrative penalties shall be imposed; if the violation is found to be serious, the source may be ordered to terminate business. If necessary, the Responsible Agency may revoke the installation permit and order the source to wind up [(shut down)] its business.

Article 38

[Public and private premises] violating Section 1 of Article 17 of this Act shall be punished by an administrative penalty of between five thousand (5,000) and one hundred thousand (100,000) NTD; where the violator is an industrial or commercial premises, the administrative penalties imposed shall be between one hundred thousand (100,000) and one million (1,000,000) NTD.

[Public and private premises] which have been fined in accordance with the preceding Section shall be subject to orders to comply or to report within a specified time period; if the violation continues after the specified time period, continuous daily administrative penalties shall be imposed; in serious noncompliance situations, the Responsible Agency may order the source to suspend or terminate business operations

and, if necessary, revoke the sales or use permit and order the source to wind up [(shut down)] its business.

Article 39

Those violating provisions of Article 19 of this Act shall be punished by an administrative penalty of between five thousand (5,000) and one hundred thousand (100,000) NTD; where the violator is an industrial or commercial premises, the administrative penalty imposed shall be between one hundred thousand (100,000) and one million (1,000,000) NTD.

[The public and private premises] fined in accordance with the preceding Section shall be ordered to comply within a specified time period and, if the violation continues after the specified time period, continuous daily administrative penalties shall be imposed; if the violation is found to be serious, the source may be ordered to suspend operation or to terminate business. If necessary, the Responsible Agency may revoke the operation permit or order the source to wind up [(shut down)] its business.

Article 40

[Public and private premises] violating Article 20 of the this Act shall be punished by an administrative penalty of between one hundred thousand (100,000) and one million (1,000,000) NTD; in serious noncompliance situations, the Responsible Agency may order the source to suspend or terminate business operations and, if necessary, revoke the operation permit or order the source to wind up [(shut down)] its business.

Article 41

Those evading, obstructing or refusing inspections, verifications or orders conducted in accordance with Section 1 of Article 21, or failing to provide necessary equipment in accordance with Section 4 of Article 21 of this Act shall be punished by an administrative penalty of between two hundred thousand (200,000) and one million (1,000,000) NTD and may be subject to additional administrative penalties and mandatory inspections and verifications.

Article 42

Those violating the management measures promulgated in accordance with Article 22 of this Act shall be punished by an administrative penalty of between two hundred thousand (200,000) and one million (1,000,000) NTD and ordered to comply within a specified time period and, if the violation continues after the end of the specified time period, continuous daily administrative penalties shall be imposed.

Article 43

Where [modes of transportation] are in violation of Section 1 of Article 23, or Article 24, the user or owner shall be punished by an administrative penalty of between one thousand five hundred (1,500) and sixty thousand (60,000) NTD and shall be ordered to comply within seven (7) days and, if the violation continues after the end of the specified time period, the license shall be detained until [the mode of transportation] passes reinspection.

Under the circumstances described in the preceding Section, where the violator belongs to a business enterprise and the violation is serious, the Responsible Agency may order the enterprise to terminate the business.

The criteria for imposing administrative penalties mentioned in Section 1 of this Article shall be promulgated by the Responsible Agency at the central government level in conjunction with the Ministry of Transportation and Communications.

Article 44

Where [vehicles] are in violation of Article 25, the manufacturer or importer shall be punished by an administrative penalty of two hundred thousand (200,000) NTD per vehicle.

Article 45

[Modes of transportation] violating the measures promulgated in accordance with Article 26 of this Act shall be punished by an administrative penalty of between five thousand (5,000) and two hundred thousand (200,000) NTD and ordered to comply within a specified time period and, if the violation continues after the end of the specified time period, additional fines shall be imposed.

Article 46

Public and private premises failing to submit proof of compliance with emissions standards or other necessary supporting documents within the specified time period to the Responsible Agency in accordance with Section 2 of Articles 36, Article 37, Section 2 of Article 39, or Article 42 of this Act shall be deemed to not have completed the required compliance measures.

Article 47

The time period specified in an order for compliance with the various revision, improvement or filing requirements under this Act shall not exceed ninety (90) days.

Article 48

The punishments prescribed under this Act, unless otherwise specified, shall be imposed by the Environmental Protection Administration of the Executive Yuan at the central government level, the Department of Environmental Protection at the Provincial Government level, the Bureau of Environmental Protection at Municipal Government level, or the County (or City) Government at the county (or city) government level.

Article 49

Those failing to pay administrative penalties imposed in accordance with this Act shall be subject to orders for compliance within a specified time period; if the failure to pay the administrative penalty is not remedied by the end of the specified time period, the violation of the order shall be referred to the court for enforcement.

If an owner or user of a mobile source refuses to pay administrative penalties imposed in accordance with this Act the violation shall be referred to the Motor Vehicle Administration for suspension of registration alteration.⁸

⁸ Translators' note: "Suspension of registration alteration" literally means prohibiting any changes to registration information, including transfer of ownership.

Chapter 5: Supplementary Provisions

Article 50

Public and private premises which contain stationary sources designated and publicly announced in accordance with Section 1 of Article 14, yet installed prior to the aforementioned public announcement, shall, within two years from the date of the promulgation of the public announcement, apply for operation permits in accordance with Section 2 of Article 14 of this Act.

Article 51

The Responsible Agencies at all government levels, when managing emissions permits, or changing of permit information, or any other documents in accordance with the provisions of the this Act, shall collect review, inspection or certification fees from applicants.

The standards for the aforesaid fees shall be promulgated by the Responsible Agency at the central government level in consultation with other relevant agencies.

Article 52

Victims of air pollution may request the Responsible Agency at the local government level to verify the cause of the air pollution damage; the local Responsible Agency shall, in conjunction with other relevant agencies, conduct investigations, order those emitting pollutants to make immediate improvements and request that appropriate compensation be awarded to the air pollution victims.

After conclusion of an agreement with respect to the compensation mentioned in the preceding Section, the victims may directly file a petition with a court for enforcement if the polluter refuses to honor the agreement.

Article 53

All pollution sources which affect schools shall be subject to severe punishment.

Article 54

The Implementation Rules for this Act shall be promulgated by the Responsible Agency at the central government level.

Article 55

This Act shall come into force upon the date of promulgation.