

# Toxic Chemical Substances Control Act

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Environmental Protection Administration of the Republic of China on Taiwan

English Translation<sup>1</sup>

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## Chapter 1: General Provisions

### Article 1

The Toxic Chemical Substances Control Act (hereinafter “this Act”) is enacted for the purpose of preventing toxic chemical substances from polluting the environment or harming human health; for matters not provided for herein, other relevant laws and regulations shall apply.

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<sup>1</sup> Translators’ note: This translation is for informational 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. “Toxic chemical substances” means any toxic chemical substance produced or derived from a production process publicly announced by the Responsible Agency at the central government level; the toxic chemical substances are classified as follows:
  - (1) Class I toxic chemical substances: Those chemical substances that are not readily degraded, or that are likely to bioaccumulate, bioconcentrate, or biotransform and pollute the environment or endanger human health;
  - (2) Class II toxic chemical substances: Those chemical substances that have the following effects: carcinogenesis, infertility, teratogenesis, mutagenesis, or other chronic effects;
  - (3) Class III toxic chemical substances: Those chemical substances that when exposed will immediately endanger human or other life; and
  - (4) Class IV toxic chemical substances: Those chemical substances that may pollute the environment or endanger human health;
2. “Handling” means manufacturing, importing, exporting, selling, transporting, using, storing, or disposing of chemical substances;
3. “Environmental pollution” means changes in the quality of the air, water, or soil resulting from handling of chemical substances affecting the normal usage of these media and damaging the ecological environment or [personal] property; and
4. “Discharge dose” means the total dose dispersed in the air, water, or soil resulting from the handling of chemical substances.

## 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 Environmental Protection Department at the provincial government level, the Bureau of Environmental Protection at municipal government level, and the County (or City) Government at the county (or city) government level.<sup>2</sup>

**Article 4**

The Responsible Agencies at various government levels may delegate responsibility to special organizations (via contract or otherwise) for toxic chemical substance management, research, personnel training, risk assessment and [risk] prevention-related matters.

**Chapter 2: Risk Assessment and Prevention**

**Article 5**

The Responsible Agency at the central government level may classify chemical substances according to their toxicity as Class I, II, III, or IV substances by public announcement.

The Responsible Agency at the central government level may restrain or prohibit the handling of Class I, II, or III substances.

The handling of Class IV substances shall only be subject to provisions concerning handling records, discharge dose records, relevant information concerning substance toxicity and the provisions of Articles 23, 29, 33 and 34.

**Article 6**

Persons handling toxic chemical substances shall, in accordance with the provisions prescribed by the Responsible Agency at the central government level, record and safekeep for inspection the handling and the discharge dose of such substances; Responsible Agencies may order such persons to periodically submit such

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<sup>2</sup> 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.

records.

#### **Article 7**

The Responsible Agency at the central government level may, in consultation with the Responsible Agency for the Enterprise Associated with the Industry at Issue,<sup>3</sup> regulate the total discharge dose resulting from the handling of Class I or II substances.

#### **Article 8**

Persons handling Class III substances shall, in accordance with relevant provisions prescribed by the Responsible Agency at the central government level, submit relevant documents concerning toxicity, risk prevention and emergency planning measures associated with the substances to the Responsible Agency at the local government level for reference and public inspection.

### **Chapter 3: Management**

#### **Article 9**

Except as provided for in other laws, handling of toxic substances shall be conducted in accordance with public announcements and methods authorized by the Responsible Agency at the central government level.

The aforementioned public announcements shall be made by the Responsible Agency at the central government level in consultation with relevant agencies.

#### **Article 10**

Regulations imposed on toxic substances that, after scientific or [empirical] research, are shown to be unnecessary, shall be revised or revoked by the Responsible Agency at the central government level.

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<sup>3</sup> 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.

**Article 11**

The Responsible Agency at the central government level may designate the toxic chemical substance handling activities requiring permits or registration.

For those handling activities requiring permits as mentioned in the preceding Section, persons handling the substances shall submit information on the composition, characteristics, management methods and other relevant information regarding the substances to the Responsible Agency for review. Only after a permit is issued can handling [of the substances] commence.

For those handling activities requiring registration as mentioned in the preceding Section, the persons handling the substances shall submit relevant information to the Responsible Agency at the central government level; only after the Responsible Agency approves the registration can the handling commence.

**Article 12**

The Responsible Agency at the central government level shall require, by public announcement, persons handling toxic chemical substances to arrange for third-party liability insurance to cover handling risks; the (items and) contents of the insurance contract shall be decided by the Responsible Agency at the central government level in consultation with relevant agencies.

**Article 13**

Permits are valid for a period of five (5) years. Within six (6) months of the expiration date of a permit, the permit holder may apply to the agency that issued the permit for an extension. Each extension shall be valid for only five (5) years.

Prior to the permit expiration date, Responsible Agencies may revoke the permit or change permit contents for the purpose of preventing toxic chemical substances from polluting the environment or endangering human health.

**Article 14**

A person handling toxic chemical substances shall not apply for a permit or registration to handle the same toxic chemical substances for which a permit was

previously revoked, registration was previously cancelled, or if the particular business of the person handling the substances was shut down.

#### **Article 15**

Toxicity and pollution-control measures of toxic chemical substances shall be conspicuously labeled or displayed on [toxic chemical substance] containers, packaging, or handling facilities, or handling sites, and material safety data shall be made available, pursuant to the provisions prescribed by the Responsible Agency at the central government level.

#### **Article 16**

Professional technicians shall be employed to engage in pollution control, risk prevention and emergency measures related to the manufacturing, use and storage of toxic chemical substances.

The qualifications of the professional technicians, acquisition and revocation of professional licenses, training [of technicians], number of technicians [to be employed] and the measures for managing the activities of the technicians shall be promulgated by the Responsible Agency at the central government level.

#### **Article 17**

Facilities shall be installed to prevent discharging or leaching of toxic chemical substances during the handling process; [discharge and leachate] monitoring equipment and alarms shall be installed and operated in accordance with the provisions prescribed by the Responsible Agency at the central government level

#### **Article 18**

Legal representatives [intending] to suspend handling operations for more than one (1) month shall report [information regarding] unused toxic chemical substances to the Responsible Agency within thirty (30) days of the commencement of the suspension [of handling operations] for approval of one (1) of the following actions [with regard to the unused substances]:

1. Return to the manufacturer or seller;

2. Sale or transfer;
3. Remittance to exporter;
4. Disposal in accordance with the Waste Disposal Act; or
5. Handling in a manner publicly announced or authorized by the Responsible Agency at the central government level.

**Article 19**

The handling of toxic chemical substances falling into one of the following categories shall be deemed “suspension of handling [operations]:”

1. Suspension of handling for more than one (1) without authorization from the Responsible Agency;
2. Suspension of handling for more than six (6) months under circumstances in which the suspension is deemed likely to pollute the environment or endanger human health by the Responsible Agency; or
3. Revocation of permits, cancellation of registrations or winding up [(shutting down)] of business operations in accordance with this Act.

**Article 20**

The measures governing the transportation safety equipment, reporting, permitting, testing and inspecting of toxic chemical substances shall be promulgated by the Responsible Agency at the central governmental level in conjunction with relevant agencies.

**Article 21**

Persons handling the toxic chemical substances designated in accordance with Section 1 of Article 11 shall not sell or transfer to parties that have not obtained permits in accordance with Sections 2 of Article 11, completed registration in accordance with Section 3 of Article 11, or obtained approval in accordance with

Section 2 of Article 27, unless the sale or transfer has been approved in advance by the Responsible Agency.

### **Article 22**

Persons handling toxic chemical substances shall immediately take emergency measures and submit reports to the Responsible Agencies at the local government level within one (1) hour of the occurrence of one (1) of the following incidents:

1. pollution of the environment surrounding the handling site as the result of chemical leaching, reactions, or other incidents; or
2. potential pollution of the environment or endangerment of human health as the result of accidents occurring during toxic chemical substance transportation.

The Responsible Agency shall order [persons handling toxic chemical substances] to take necessary measures [addressing the aforementioned incidents], and may order [such persons] to terminate handling of the substances upon the occurrence of the incidents mentioned in the preceding Section.

Persons handling toxic chemical substances shall, after the incidents [mentioned in Section 1], be responsible for remedial measures and shall submit a written report describing the incidents and the remedial measures taken to the Responsible Agency at the local government level for reference.

### **Article 23**

The Responsible Agency may dispatch inspectors with proper identification to enter public and private premises to inspect handling of toxic chemical substances, relevant materials, [handling] sites, or order production of related documents. When necessary, [the inspectors] may seize samples of toxic chemical substances or related materials for testing purposes, or may order(temporary) sealing [of the toxic chemical substances in question] and order the legal representative [of the handling operations] to safeguard [the sealed substances].

The samples seized in accordance with the preceding Section shall be tested as quickly as possible; the testing may be delegated to an inspection and testing institution certified by the Responsible Agency at the central government level; [the

testing period] may not exceed one (1) month unless otherwise authorized by the Responsible Agency at the central government level.

**Article 24**

The inspection conducted in accordance with the preceding Section shall result in one (1) of the following:

(If violations of this Act are discovered), penalties shall be imposed in accordance with this Act; toxic chemical substances or related materials may be confiscated for treatment, or the person handling the substances may be ordered to manage the substances in accordance with the Waste Disposal Act;

Persons handling toxic chemical substances that have been sealed, or related materials that have been classified as waste may be ordered by the Responsible Agency to manage the substances in accordance with the Waste Disposal Act within a specified time period; if the toxic chemical substances are treatable, or susceptible to chemical transformation, then Responsible Agency shall unseal and return the substances [to the handler] for treatment or transformation within a specified time period; if the treatment or transformation is not completed within the specified time period, the Responsible Agency may confiscate the substances for treatment, or order the handler to manage the substances in accordance with the Waste Disposal Act within a specified time period; or

(If no violation of this Act is discovered), the substances [in question] shall be unsealed and returned.

**Article 25**

The Responsible Agency for Enterprise Associated with the Industry at Issue shall assist with and guide remediation of pollution caused by toxic chemical substances.

**Article 26**

A government agency or an academic institution shall conduct handling of toxic chemical substances in one of the following manners:

1. In accordance with the measures promulgated by the ministry with jurisdiction over the government agency or academic institution at issue, in conjunction with the Responsible Agency at the central government level; or
2. In accordance with the management methods proposed by the ministry with jurisdiction over the government agency or academic institution at issue and approved by the Responsible Agency at the central government level.

#### **Article 27**

The Responsible Agency at the central government level may, in accordance with the need for regulation, publicly announce threshold regulatable quantities related to the handling of toxic chemical substances.

The handling of toxic chemical substances falling below threshold regulatable quantities mentioned in the preceding Section shall not be subject to the limitations prescribed in Articles 8, 11, 16 and 17 of this Act upon approval by the Responsible Agency at the local government level.

### **Chapter 4: Penalties**

#### **Article 28**

Those who cause human fatality by violating the restrictions or prohibitions of Section 2 of Article 5 of this Act, commencing handling [of toxic chemical substances] without first acquiring a permit in accordance with Section 2 of Article 11, commencing handling of such substances without first completing registration in accordance of Section 3 of Article 11, or failing to comply with orders issued by the Responsible Agency in accordance with Section 2 of Article 22, shall be punished by imprisonment of up to seven (7) years with the possible addition of a fine of up to ten million (10,000,000) New Taiwan Dollars (NTD). Those persons causing serious physical harm to humans shall be punished by imprisonment of between three (3) and ten (10) years, with the possible addition of a fine of up to five million (5,000,000) NTD. Those persons endangering human health and causing disease shall be punished by imprisonment of up to three (3) years, with the possible addition of a fine of up to four million (4,000,000) NTD.

**Article 29**

Those persons falling into one of the following categories shall be punished by imprisonment of up to three (3) years, detention, and/or a fine of up to five million (5,000,000) NTD:

1. Persons violating the restrictions or prohibitions of Section 2 of Article 5 and thus causing serious environmental pollution;
2. Persons commencing handling of toxic chemical substances without first acquiring a permit in accordance with Section 2 of Article 11, or failing to handle such substances in accordance with permit provisions, thus causing serious environmental pollution;
3. Persons commencing handling of toxic chemical substances without first completing registration in accordance with Section 3 of Article 11, thus causing serious environmental pollution;
4. Persons failing to comply with orders issued by the Responsible Agency in accordance with Section 2 of Article 22; or
5. Persons knowingly falsifying information on reports [required to be submitted under this Act]; or making false statements on business-related documents [required to be submitted under this Act].

**Article 30**

[Persons responsible for the management of toxic chemical substances] who fail to comply with orders to suspend operations, terminate business, or wind up [(shut down)] business 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 five million (5,000,000) NTD.

**Article 31**

Crimes prescribed in Articles 28 and 29, when committed by legal representatives 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; nonetheless, when the legal representatives of the juristic (legal) persons, or the natural persons, have tried their best to prevent the occurrence of violations [resulting in the crimes], the representatives of the juristic (legal) persons and the natural persons may be exempted from the imposition of the fines.

### **Article 32**

Those persons falling into one (1) of the following categories shall be punished by an administrative penalty of between one million (1,000,000) NTD and five million (5,000,000) NTD, ordered to comply within a specified time period and, if the violation continues after the end of the specified time period, may be ordered to suspend operations or terminate business; and if necessary, [the Responsible Agency] may order such persons to wind up [(shut down)] their business, or may cancel registration or revoke permits [for toxic chemical substances]:

1. Persons violating the restrictions or prohibitions of Section 2 of Article 5;
2. Persons commencing handling of toxic chemical substances without first acquiring a permit in accordance with Section 2 of Article 11, or failing to handle such substances in accordance with permit provisions;
3. Persons failing to arrange for third-party liability insurance to cover handling risks in accordance with Article 12;
4. Persons violating the provisions of Article 17 and thus polluting the environment;
5. Persons violating the provisions of Article 18;
6. Persons violating the provisions of Sections 1 and 2 of Article 22, or failing to be responsible for remedial measures in accordance with Section 3 of Article 22; or
7. Persons failing to manage toxic chemical substances in accordance with Items 1 or 2 of Article 24 by the specified time period.

**Article 33**

Those evading, obstructing, or refusing inspections, orders, sampling, sealing, or sealed-substance safeguarding conducted in accordance with Section 1 of Article 23 of this Act shall be punished by an administrative penalty of between three hundred thousand (300,000) and one million five hundred thousand (1,500,000) NTD and may be subject to additional administrative penalties.

**Article 34**

Those persons falling into one (1) of the following categories shall be punished by an administrative penalty of between one hundred thousand (100,000) NTD and five hundred thousand (500,000) NTD and ordered to comply within a specified time period and, if the violation continues after the end of the specified time period, may be ordered to suspend operations or terminate business; if necessary, [the Responsible Agency] may order such persons to wind up [(shut down)] their business, or may cancel registration or revoke permits [for toxic chemical substances]:

1. Persons failing to file reports and records in accordance with Section 3 of Article 5, Article 6, or Section 3 of Article 22;
2. Persons commencing handling of toxic chemical substances without first completing registration in accordance with Section 3 of Article 11;
3. Persons violating the provisions of Article 17;
4. Persons violating the measures promulgated in accordance with Article 20; or
5. Persons violating the provisions of Article 21.

**Article 35**

Those persons falling into one of the following categories shall be punished by an administrative penalty of between sixty thousand (60,000) NTD and three hundred thousand (300,000) NTD and ordered to comply within a specified time period and, if the violation continues after the end of the specified time period, may be ordered to suspend operations or terminate business; if necessary, [the Responsible Agency] may

order such persons to wind up [(shut down)] their business, or may cancel registration or revoke permits [for toxic chemical substances]:

1. Persons handling toxic chemical substances in violation of total discharge dose mentioned in Article 7;
2. Persons failing to provide information, or falsifying information, required under Article 8;
3. Persons violating the provisions of Section 1 of Article 9;
4. Persons failing to handle toxic chemical substances in accordance with a permit issued under Section 2 of Article 11;
5. Persons violating the provisions of Article 15;
6. Persons violating the measures promulgated in accordance with Section 2 of Article 16; or
7. Persons violating the provisions of Section 2 of Article 27 by commencing handling of toxic chemical substances without first acquiring a permit.

### **Article 36**

The punishments prescribed under this Act 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 the municipal government level, or the County (or City) Government at the county (or city) government level.

### **Article 37**

The time period specified in an order for compliance with the various revisions, improvement or filing requirements under this Act shall not exceed thirty (30) days unless otherwise approved by the Responsible Agency at the central government level based upon actual need.

**Article 38**

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.

**Chapter 5: Supplementary Provisions**

**Article 39**

For those chemical substances that have been handled prior to designation as toxic chemical substances via public announcement by the Responsible Agency at the central government level, persons handling such substances shall, within a publicly announced time period, complete registration of the substances in question in accordance with this Act (before continuation of handling).

**Article 40**

The Responsible Agencies, when reviewing and issuing permits for handling toxic chemical substances, conducting inspection and testing, reviewing or issuing licenses, or reviewing qualifications of professional technicians and issuing related licenses, may collect review, inspection or license fees from applicants.

The standards for the aforesaid fees shall be proposed by the Responsible Agency at the central government level and submitted to the Executive Yuan for approval.

**Article 41**

Military or commercial confidentiality shall be maintained with regard to inspections, verifications and sampling and testing conducted in accordance with this Act; [certain] physical, chemical, toxicity, and safety information related to the toxic chemical substances is exempted from this provision.

**Article 42**

The Responsible Agency at the central government level shall promulgate measures to grant awards to the following persons or legal representatives handling toxic chemical substances:

1. Those engaged in handling operations for more than ten (1) years without any record of violations of this Act during the same consecutive ten- (10-) year period;
2. Those demonstrating outstanding accomplishments prevention and remediation of toxic chemical substances; or
3. Those inventing pollution [prevention] or remediation [methods] associated with the manufacturing, transportation, storage, or usage of toxic chemical substances that are worthy of promotion.

**Article 43**

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

**Article 44**

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