(Unofficial translation)

HAZARDOUS SUBSTANCE ACT
B.E. 2535

HIS MAJESTY KING BHUMIBHOL ADULYADEJ, REX.
Given on the 29th day of March B.E. 2535;
Being the 47th year of the Present Reign,

His Majesty King Bhumibhol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to revise the law on hazardous substance;

Be it therefore enacted by the King, by and with the advice and consent of the National Legislative Assembly acting as the Parliament, as follows:

Section 1 This Act shall be called the "Hazardous Substance Act, B.E. 2535."

Section 2 This Act shall enter into force from the day following the date of its proclamation in the Government Gazette.

Section 3 The following Acts shall be repealed:

(1) The Toxic Substance Act, B.E. 2510

(2) The Toxic Substance Act (No.2), B.E. 2516

Section 4 In this Act,

"Hazardous Substance" means the following substance

(1) Explosives

(2) Flammable substance

(3) Oxidizing agents and peroxides

(4) Toxic substance

(5) Pathogenic substance

(6) Radioactive substance

(7) Mutagenic substance

(8) Corrosive substance

(9) Irritating substance

(10) Other substance either chemical products or otherwise which may cause hazard to human, animals, plants, properties or environments.

"Produce" means to make, culture, blend, mix, transmute, formulate, or repack by dividing or adding.

"Import" means to bring or order into the Kingdom or to transit.

"Export" means to send or undertake sending out of the Kingdom.

"Sale" means to distribute, dispense or give for free for commercial purposes and also includes having in possession for sale.

"Having in possession" means having in possession whether for oneself or for others and regardless of whether having in possession for sale, transport, use or other purposes and also includes leaving or existing in the area under possession.

"Label" means picture, logo or any statement shown on the hazardous substance or container or package or inserted or included in the hazardous substance or container or package; and also includes document or manual for use of hazardous substance.

"Convention for Chemical Weapon Prohibition" means the convention on prohibition to develop, produce, collect, use and dispose of chemical weapons; which was made on 13 January B.E. 2536 (1993).

"Committee" means the Hazardous Substance Committee.

“Authority” means a person appointed by the responsible Minister for the execution of this Act.

“Responsible Minister” means the Minister of any agency assigned to take charge of the control of hazardous substance under Section 19.

Section 5 The Minister of Defense, the Minister of Agriculture and Cooperatives, the Minister of Transportation, the Minister of Natural Resource and Environment, the Minister of Energy, the Minister of Interior, the Minister of Science and Technology, the Minister of Public Health, and the Minister of Industry shall control, promote and oversee the work of the Secretary and the Assistant Secretaries of the Hazardous Substance Committee for the execution of this Act

The Minister of Industry shall have power to promulgate ministerial rules to fix the fees not higher than the rates annexed to this Act; as well as to exempt fees, to stipulate other works and to promulgate notifications for execution of this Act.

The responsible Ministers shall have the power to appoint the authorities and to promulgate notifications for execution of this Act.

The Ministerial rules or notifications, upon published in the Government Gazette, shall enter into force.

Chapter I
Hazardous Substance Committee

Section 6 There shall be a Hazardous Substance Committee consisting of the Permanent Secretary of the Ministry of Industry as the chairman, the Commander-in-Chief of the Royal Thai Police, the Director-General of the Department of Land Transport, the Director-General of the Department of Internal Trade, the Director-General of the Department of Medical Services, the Director-General of the Pollution Control Department, the Director-General of the Department of Energy Business, the Director-General of the Department of Fisheries, the Director-General of the Department of Livestock Development, the Director-General of the Department of Agriculture, the Director-General of the Department of Medical Sciences, , the Director-General of the Department of Agricultural Extension, the Secretary-General of the Food and Drug Administration, the Secretary-General of Thai Industrial Standards Institute, representative of Ministry of Defense, representative of Ministry of Transport, representative of National Bureau of Agricultural Commodity and Food Standards, and not more than ten scholars appointed by the Cabinet as members, and the Director-General of the Department of Industrial Works as a member and secretary, and representative of the Department of Energy Business, representative of the Department of Industrial Works, representative of the Department of Agriculture, representative of the Food and Drug Administration and representative of the Atoms for Peace as assistant secretaries.

The member scholars appointed by the Cabinet referred in paragraph one must be the persons who have expertise and work experiences relating to Chemistry, Sciences, Engineering, Agricultural Sciences or Laws and at least five of them shall be appointed from the scholars representing public interest organizations and have experiences relating to health protection, consumer protection, sustainable agriculture, local hazardous substance problem management or environment.

Section 7 The Committee shall have the following mandates:

(1) To set policies, measures and plans for overseeing hazardous substance to be implemented by concerned agencies after Cabinet approval.

(1/1) To provide opinions to the Minister of Industry regarding the notification promulgated pursuant to Section 18 paragraph two and Section 36 paragraph one.

(2) To provide opinions to the Responsible Ministers regarding the notification promulgated pursuant to Section 20, Section 20/1, Section 36 paragraph three, Section 37 paragraph two, Section 43, Section 44 and Section 47(5).

(3) To give advice to the authorities regarding the registration or revocation of the registered hazardous substance.

(4) To give advice or opinions to the Responsible Ministers, Minister of Industry, responsible agencies and the authorities regarding any matters relating to hazardous substance.

(5) To peruse the grievances from persons sustaining troubles or injuries from hazardous substance.

(6) To inform or advertise information relating to hazardous substance to the public. In this respect, the name of hazardous substance or relevant persons engaging in the business may be specified.

(7) To oversee, give advice and expedite the authorities or government agencies taking charge of hazardous substance to perform their works in accordance with powers and duties provided by the law.

(8) To propose opinions to the Minister of Industry for recommendation to the cabinet regarding the control of hazardous substance and the protection of and remedy for damage caused by hazardous substance as the operation guidelines for various Government agencies.

(9) To perform other works provided by the law as the mandate of the Committee.

Section 8 The member scholars shall serve in their office for a term of three years. The retiring member scholars may be subject to reappointed but cannot serve more than two consecutive terms.

Section 9 Besides retiring by expiry of term of service as referred to in Section 8, the member scholars may vacate the service upon:

(1) Death;

(2) Resignation;

(3) Removal by the cabinet on account of deficiency, dishonesty to the duties, disgraceful behavior or inferior capability;

(4) Being a bankruptcy;

(5) Being an incompetent or quasi-incompetent person; or

(6) Being punished by final sentenced to imprison, except the punishment for an offence committed recklessly or a petty offence.

Section 10 In case where the appointment of a member scholar is made during the period that the appointed member scholar is still in term of service, either as additional appointment or filling the vacancy, the person so appointed shall serve in this position for a term equal to the remaining term of the member scholar already appointed.

Section 11 In case where the member scholars have completed their terms of service but no new member scholars have been appointed, the retiring member scholars shall perform their duties until new member scholars have been appointed.

Section 12 In the meeting of the Committee, the participating members shall not less than one half of the total number in order to form a quorum. If the chairman is not present at the meeting, the members present shall elect one the members to be the chairman of the meeting.

Decisions of the meeting shall be made by a majority of votes. Each member shall have one vote. In case of an equality of votes, the chairman of the meeting shall take a casting vote. Any member having personal interest in any matter shall have no right to vote on that matter.

Section 13 The Committee shall have the power to appoint Sub-committee(s) to peruse or perform any tasks as assigned by the Committee.

The Committee shall determine the quorum and implementation procedure for the Sub-committee(s) as it is deemed appropriate.

Section 14 In performing their duties, the Committee or assigned Sub-committee(s) shall have the power to issue a written order summoning any persons to testify or to submit any document or substance to complement its consideration as it is deemed necessary.

Chapter 2
The Control of the Hazardous Substance

Section 15 In case where there is a law on any subject that has specific provisions, such provisions of that law shall apply. But in case it is reasonable, the Committee, upon the approval of the Minister taking charge of the law on such subject, may resolve by applying the provisions of this Act in addition to or substitution of the law on such subject provided that any period or condition may be fixed by that resolution.

The resolution referred to in paragraph one, upon publicized by the Minister taking charge of the law in the Government Gazette, shall enter into force.

Section 15/1 For the resolution or approval of the Committee, the approval of the Minister taking charge of other law and the issuance of Notification of Minister of Industry or any responsible Ministers in order to implement this Act, it shall take in to account the Convention on Prohibition of Chemical Weapons and international treaties and agreements.

Section 16 In case of necessity for prevention of hazard to be inflicted upon human, animal, plant, or environment, a decree may be promulgated to define the area for prohibition of possession, sale or use of any hazardous substance.

Section 17 The Information Center for Hazardous Substance shall be established in the Ministry of Industry as the coordinating center on hazardous substance with various government agencies including private sector for the collection and providing services on all kinds of information relating to hazardous substance ranging from their existence in foreign countries, import or domestic production, transportation, use, disposal and any other relevant matters.

Section 18 The hazardous substance is classified according to the needs for control as follows:

(1) Type 1 hazardous substance is that of which the production, import, export, or having in possession must comply with the specific criteria and procedures.

(2) Type 2 hazardous substance is that of which the production, import, export, or having in possession must be notified to the authority and must also comply with the specific criteria and procedures.

(3) Type 3 hazardous substance is that of which the production, import, export, or having in possession must obtain a permit.

(4) Type 4 hazardous substance is that of which the production, import, export, or having in possession is prohibited.

For the purpose of prevention and suppressed hazard that may be inflicted upon human, animal, plant, property or environment, the Minister of Industry, with the opinions of the Committee, shall have the power to publish in the Government Gazette designating the names or properties of hazardous substance, type of hazardous substance, period of enforcement and responsible agencies for the control of such hazardous substance.

Section 19 When any agency of the Ministries or Bureaus of the Central Administration has requested to be the responsible agency for the control of any hazardous substance as to execute this Act, the Committee shall consider and submit its

opinion to the Ministry of Industry for issuance of Notification referred to in Section 18 paragraph two to designate such agency as the competent authority responsible for execution of all or part of such hazardous substance provided that specialized expertise, number of personnel, relationship with the principal tasks and work load under its responsibilities shall be taken into account.

In case where the Committee has viewed otherwise, the Minister of the requesting agency shall be responsible for the confirmation to the Committee within thirty days. In this case, it shall be proposed to the Minister of Industry for submission to the Cabinet for consideration.

Section 20 The responsible Minister, with the opinions of the Committee shall have the power to publish in the Government Gazette,

(1) Define quantity, composition, property and impurity, container, method of examining and testing the container, label, production, import, export, sale, transport, storage, disposal, handling the container, notification of facts, submission of specimen or any other matters relating to hazardous substance for the control, prevention, mitigation, or suppress hazard to be inflicted upon human, animal, plant, property, or environment by taking international treaties and agreements into account.

(1/1) Required transfer of knowledge on hazardous substance and also requiring insurance for damage which may inflict upon the environment, health, life, or assets caused by doing business.

(2) Required expert or specialized personnel to be responsible for implementation of tasks referred to in (1) and (1/1).

(3) Define deviation from the registration standard of active ingredient in the hazardous substance.

(4) Prescribed registration procedure for the hazardous substance.

(5) Specify names and properties of the hazardous substance and in case of exemptions under Section 36.

Section 20/1 The expert or specialized personnel responsible for handling of hazardous substance must comply with the criteria, procedures and conditions prescribed by responsible Minister with the opinion of the Committee and published in the Government Gazette.

Section 21 The producer, importer, exporter or a person having in possession of the type 1 hazardous substance must comply with the notification promulgated by the responsible Minister in accordance with Section 20(1), (1/1), (2) and (3).

Section 22 Subject to the provisions referred to in Section 36, nobody shall be allowed to produce, import, export, or having in possession of type 2 hazardous substance unless having been notified the authority prior to perform such activity.

Upon promulgating notification on designating any hazardous substance as type 2, the producer, importer, exporter or person having in possession of such a hazardous substance shall notify the authority within the time frame specified by the said notification.

Upon receiving the notification referred to in paragraph one or paragraph two, the authority shall issue the Notification Certificate as an evidence for the notifying person. The Notification Certificate shall be valid until the date specified therein but shall not exceed three years from the date of issuance of the certificate.

The notification, issuance of notification certificate, application for and renewal of notification certificate shall be in compliance with the criteria and procedures stipulated by the responsible agency and published in the Government Gazette.

The producer, importer, exporter or a person having in possession of the type 2 hazardous substance must comply with the notification promulgated by the responsible Minister issued under Section 20(1), (1/1), (2) and (3) as well.

Section 23 Subject to the provisions of Section 36, nobody shall produce, import, export or having in possession of the type 3 hazardous substance unless licensed by the authority.

The application for license and licensing shall be in accordance with the criteria and procedures provided in the Ministerial Rules. Such Rules shall provide as clear as possible the case where license is allowable or not allowable except in case of unforeseen necessity. The time frame for consideration on issuance of license shall also be clearly specified.

The producer, importer, exporter or a person having in possession of the type 3 hazardous substance must comply with the notification promulgated by the responsible Minister issued under Section 20(1), (1/1), (2) and (3) as well.

Section 24 Upon promulgating notification on designating any hazardous substance as type 3, the producer, importer, exporter or person having in possession of such a hazardous substance shall apply for a license as referred to in Section 23 within the time frame specified in the said Notification and during the time frame for consideration, the applicant shall engage in the business for the time being until the authority does not grant license for that application.

Section 25 The issued license, if subsequently the law or the circumstance has changed or there are essential reasons on safety protection, the competent authority shall order to amend the conditions of licensing as it deems necessary.

Section 26 The license issued under this Act shall be valid for the period specified therein but shall not exceed three years from the date of issuance of that license.

Section 27 If the recipient of license wishes to apply for extension, he or she shall do so before the expiry date of license. Upon submission, of the applicant is regarded as the recipient of license and shall engage in the business for the time being until the authority does not grant license for that application.

The application for extension and the extension of license shall be in accordance with the criteria and procedures provided in the Ministerial Rules.

Section 28 In case where the authority denies the issuance or extension of a license, the applicant has right to appeal to the responsible Minister within thirty days from the date receiving from the authority of the notice denying issuance or extension of such license. The decision of the responsible Minister shall be regarded as the final decision.

Section 29 If the authority denies the extension of license or the responsible Minister decides to acquit the appeal for extension of license, the applicant for extension may sell the possessed hazardous substances within three months from the date receiving the notice denying extension of such license or the date receiving the order of the responsible Minister acquitting the appeal as the case may be. Upon expiration of the said period, Section 52 paragraph three and paragraph four shall apply *mutatis mutandis*.

Section 30 If the license or registration certificate of hazardous substance is lost, faded or defect, the recipient shall apply for a substitution of such license or registration certificate within fifteen days from the date knowing such loss, fading or defect.

Section 31 The recipient of a license certificate of which validity is more that three months must present it or its substitution at the open and noticeable place at the business site specified therein.

Section 32 When it appears to the authority that any recipient of a license certificate violates of fails to comply with this Act, the authority shall have the power to consider and order a suspension of that license certificate for a period that the

authority deems appropriate but shall not exceed one year and, if the case is serious, the authority may order a revocation of such license certificate.

Section 33 The person whose license certificate has been suspended or revoked due to Section 32 has right to appeal to the responsible Minister within thirty days from the date receiving the order. The decision of the responsible Minister shall be regarded as the final decision. The appeal as mentioned in paragraph one shall not subside the enforcement of the order to suspend or revoke the license certificate.

Section 34 The person whose license certificate has been suspended or revoked due to Section 32 may sell the possessed hazardous substances within three months from the date receiving the order revoking the license certificate or the order acquitting appeal as the case may be. Upon expiration of the said period, Section 52 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

Section 35 The person whose license certificate has been revoked will not be allowed to apply for the new one up to five years from the date of revocation of the license certificate.

Section 36 The Ministry of Industry, with the opinion of the Committee, shall promulgate the Notification in the government Gazette specifying the list of hazardous substance of which its production process and properties are likely to cause hazard in order to clearly inform the public.

The production or import of type 2 or type 3 hazardous substance excluding out of the list in the Notification referred to in paragraph one must be applied for registration with the authority and upon receiving the registration certificate, production or import shall be done due to Section 22 or issue license certificate for production or import due to Section 23 unless there is a Notification of responsible Minister exempting registration in case where the same hazardous substance has already been registered or in other case where it is reasonable for exemption. The registration certificate for hazardous substance shall be valid for a period not exceeding six years from the date of issuance of such a certificate.

The application for registration of hazardous substance and the issuance of certificate of registration shall conform to the criteria and procedures stipulated by the responsible Minister with the opinions of the Committee and published in the Government Gazette.

Section 37 In case where the registration of hazardous substance requires the production or import of the specimens or requires other substance for the production of the hazardous substance applied for registration and such hazardous substance are required by the other law to be licensed or registered prior to production or import. The applicant may apply for license to the authority for production or import of such hazardous substance under this Act with the exemption of complying with the sequences and procedures stipulated by such law.

The production or import under paragraph one must conform to the criteria and procedures stipulated by the responsible Minister with the opinion of the Committee and published in the Government Gazette.

Section 38 No authority shall register the hazardous substance when the Committee judged that

(1) The hazardous substance applied for registration is not reliable regarding conforming of its benefits to what it is applied for or its use may cause hazard to human, animal, plant assets or the environment without an appropriate means of prevention.

(2) The hazardous substance applied for registration with the trade name of boasted manner, impolite or likely to create misunderstanding, or

(3) The hazardous substance applied for registration is faked or registration has already been revoked by the authority.

The order of the authority denying registration shall be regarded as the final decision.

Section 39 For the purpose of protection of human, animal, plant, property or the environment, the authority with the recommendation of the Committee shall have the power to amend the particulars in the registration of hazardous substance as it is deemed necessary.

Section 40 The registered hazardous substance which later found not so beneficial as it is registered or its use is likely to cause hazard to human, animal, plant, property or the environment without a common mean for prevention, the authority with the recommendation of the Committee shall have the power to revoke register of such a hazardous substance.

The order of the authority revoking register shall be regarded as the final decision.

Upon revocation of register of any hazardous substance, the rights for production, import, export or having in possession of such a hazardous substance shall be terminated.

Section 41 The owner of hazardous substance of which its register has been revoked must dispose or take actions as ordered by the authority within the period specified by the authority and Section 52 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

Section 42 (Repealed)

Section 43 No person shall be allowed to produce, import or having in possession of type 4 hazardous substance unless being received the written permission from the responsible agency only for use as standard reference in laboratory analysis. The application for permission and permission shall be in accordance with the criteria, procedures and conditions stipulated by the responsible Minister with the opinions of the Committee and published in the Government Gazette.

Upon the notification promulgated by the Minister of Industry on designating any substance as the type 4 hazardous substance, the producer, importer or a person having in possession of such a substance shall comply with the authority's order and the provisions referred to in Section 41 shall apply *mutatis mutandis*.

Section 44 The responsible Minister with the opinions of the Committee shall have the power to announce that the following hazardous substance are exempted from complying with this Act wholly or partly as it is deemed necessary. (1) The hazardous substance by which its nature or quantity may cause slightly hazard or the enforcement of various measures under this Act will incur unreasonable burden.

(2) The hazardous substance belongs to ministries, bureaus, departments, local administrations, state enterprise, government organizations, Thai Red Cross Society or other agencies as it is deemed appropriate.

Section 45 Nobody shall be allowed to produce, import, export or having in possession of type1, type 2 or type 3 hazardous substances as follows:

(1) Fake hazardous substance;

(2) Sub-standard hazardous substance;

(3) Obsolete hazardous substance;

(4) Hazardous substance that must be registered but has not been registered.

(5) Hazardous substance of which its register is revoked.

Having in possession as referred to in paragraph one does not include possession for disposal or submission to the authority or possession for other purposes as a duty stipulated by law.

Section 46 Anybody knowing that the hazardous substance under possession is the hazardous substance referred to in Section 45 must dispose, notify the authority or submit it to authority due to the criteria and procedures stipulated in the Notification issued under Section 20(1).

Section 47 The following hazardous substance or article shall be regarded as the fake hazardous substance:

(1) The article artificially produced to be the hazardous substance either wholly or partly;

(2) Hazardous substance which declared its name as other hazardous substance or shows exaggerated expiry date.

(3) Hazardous substance which illustrates counterfeit name or logo of producer or production location.

(4) Hazardous substance which illustrates its register but it is not true.

(5) Hazardous substance which was produced with active ingredient less or more than the deviation criteria referred to in Section 20(3) at the level stipulated by the responsible Minister with the opinion of the Committee upon published in the government Gazette.

Section 48 The following hazardous substance shall be regarded as the sub-standard hazardous substance:

(1) Hazardous substance produced with less or more active ingredient than the deviation criteria referred to in Section 20(3) but not meet the level stipulated in Section 47(5).

(2) Hazardous substance produced with purity, contaminant or other characteristics affecting the property of that hazardous substance differ from the specified criteria or registered.

Section 49 The following hazardous substance is regarded as the obsolete hazardous substance:

(1) Hazardous substance that expiry date on the label is over.

(2) Hazardous substance so altered to have the same characteristics as fake hazardous substance referred to in Section 47(5) or sub-standard hazardous substance.

Section 50 When the Committee regards any label as non-compliance to Section 20(1), the Committee shall have the power to order the producer or importer to cancel use or correct such label.

Section 51 The control of hazardous substance advertising shall comply with the law for consumer protection and for the benefit on control of advertising, the hazardous substance which label has been prescribed in Section 20(1) is regarded as the merchandise of which its label is control by the Committee for controlling label of the said law *mutatis mutandis*.

Section 52 When there is an evidence showing to the authority of violation or non-compliance with this Act by the producer, importer, exporter or person having in possession of hazardous substance, the official shall have the power to order such person to cease the violating actions, or to correct or modify or rectify from such violation. In this respect, in certain case where it is reasonable, the authority shall order such person to re-export the hazardous substance in question to its manufacturer or sender or any other person where it is deemed appropriate, by following the criteria, procedures and conditions provided by the official.

Upon the case referred to in paragraph one, if it appears that the producer, importer, exporter or person having in possession of the said hazardous substance cannot rectify whether due to lack of capacity or any other reasons, the authority shall have the power to order such a person to submit that hazardous substance to the authority at the specified place in order to dispose or manage it as it is deemed appropriate taking into account the hazard caused by that hazardous substance.

In case where such hazardous substance can be sold, the authority shall sell by auction or sell to government agency with in three months from the date of submission. The money obtained from such sale, after deducted by cost for storage, sale, and relevant duties shall be kept for returning to the owner. If the period of three month is over and the hazardous substance has not been sold, the authority deems that further extension of such period may cause hazard or create unreasonable burden, the authority shall have the power to order the owner to dispose or manage as the case may be.

In case where the hazardous substance must be disposed or managed as the case may be and the expenses are incurred, the owner of that hazardous substance shall be responsible for such expenses or reimburse to the government.

Section 52/1 When there is an evidence shown to the authority that the producer, importer, exporter or person having in possession of hazardous substance doing business which may cause hazard, damage or suffer to human or assets in the premise or surroundings, the authority shall have the power to order such person to rectify it by complying with the criteria, method and conditions stipulated by the authority.

Section 53 (Repealed)

Section 54 In performing duties, the authority shall have the following powers:

(1) To enter the place engaging in a business relating to the hazardous substance, the production site, the storage site or the suspected place during the period from sunrise to sunset or during working hours of the said business or to enter the vehicle carrying hazardous substance or the suspected vehicle to inspect hazardous substance, container, book accounts, document or other articles relating hazardous substance.

(2) To take hazardous substance sample or suspected material in a reasonable quantity as specimen for inspection.

(3) To inspection, search, impound, seize or garnish hazardous substance, container of hazardous substance, book account, document or relevant article in case where it is reasonable to suspect that there is an offence under this Act.

(4) To summon any person, in written language, to testify or submit any document or any substance appurtenant for consideration.

Section 55 Hazardous substance, container of hazardous substance, book account, document and substance seized or impounded as referred to in Section 54(3), if the seized or impounded article is perishable or keeping may be risky of damage or hazard caused by such article or the expense for keeping may exceed the price of that article, the authority shall have the power to dispose or manage as the case may be, taking into account the hazard that may be caused by the said hazardous substance and Section 52 paragraph three and paragraph four shall apply *mutatis mutandis.*

If the authority considers that the seized or impounded article is not a property to be confiscated due to Section 88 or the Public Attorney orders not to prosecute, the authority shall withdraw impound or return such hazardous substance, container of

hazardous substance, book account, document and substance to the person deserved for such return immediately.

In case there is returning of the seized or impounded article or the proceeds of auction, such return shall be notified to domicile of the deserved person by registered reply mail. In case where the deserved person is not known or his/her domicile is not known, if announced in a well known local newspaper where the article is seized or impounded or such publicity in the newspaper doesn't worthwhile in comparison with the price of the article to be returned, if being announced at the District Office not less than fifteen days, it is regarded that notifying has been done upon expiry date of seven days from the date announced in the newspaper or the due date announced at the District Office as the case may be.

A person applying for the returned article shall be liable to pay the charge incurred to the government by such newspaper announcement together with an additional of twenty percent of the said payment.

In case where the article cannot be returned due to a person deserved of such returned article is not found, the seized article or the proceeds of auction shall be kept. If within one year from notifying the person deserved of such returned article and nobody applies for it, it shall be devolved on the country.

Section 56 Upon performing duties, the authority must show the identity card to the person involved.

The identity card of the authority shall be in accordance with the form provided by the responsible Minister.

Chapter 3
The Duties and Civil Liabilities

Section 57 The provision in this Chapter shall not overrule or limit duties and civil liabilities of a person under the provision in other Chapter or provision of other laws.

Section 58 For the purpose of assigning duties and responsibilities under this Chapter, the Ministry of Industry shall have the power to publish in the Government Gazette designating the substance to be regarded as the hazardous substance under the provision in this Chapter.

Section 59 The producer of hazardous substance must be careful for procuring substance for production, adopting procedure and reliable steps for production, having strong container and safe for use, moving and shipping, having label which clearly illuminate hazard of such article, suitability of storage and checking suitability of a person receiving hazardous substance from the producer or a person who is expected to receive the said hazardous substance.

Section 60 The importer of hazardous substance must be careful for selecting producer, checking quality of hazardous substance, checking suitability of container and correctness of label, selecting means of shipment and shipper, suitability of storage and checking suitability of a person receiving hazardous substance from the importer or a person who is expected to receive the said hazardous substance.

Section 61 The shipper must be careful in checking the article used for shipping or vehicles or equipment, suitability of container and correctness of label, suitability of means of shipment, correctness of loading on the vehicles and reliability of the employees or the person work for or work with such shipper.

Section 62 The person having in possession of hazardous substance must be careful for checking reliability of producer or importer or supplier of such hazardous

substance, suitability of container and correctness of label, suitability of storage and reliability of the person receiving or expected to receive such hazardous substance.

Section 63 The producer, importer, shipper or the person having in possession of hazardous substance must be liable for any damage caused by hazardous substance under his/her possession unless it is proved that such damage is caused by force majeure or by the mistake of the victim.

Section 64 The seller or sender of hazardous substance to any person must be liable for any damage caused by such hazardous substance unless it is proved that such damage is caused by force majeure or by the mistake of the victim.

Section 65 The employer, principal, hirer or owner of the business must be jointly liable for result of infringement which the person referred to in Section 63 or Section 64 had done in course of their employment but he/she shall get reimbursement from the said person unless jointly commit such mistake by giving an order, selecting personnel, controlling or other task directly caused such infringement.

Section 66 The producer, importer, wholesaler, retailer, middle-man and the person taking part in distribution at every step from the producer to the liable person at the period of infringement referred to in Section 63 or Section 64 must be jointly liable for such infringement.

Section 67 The right for claim of damage caused by the hazardous substance under this Act shall be lapsed by prescription when passed the expiry date of three years from the date the victim knew about damage of being hazardous substance and the person liable for compensation.

If negotiation on compensation took place between the person understood to be liable for such compensation and the person having right for receiving compensation, the prescription shall be interrupted until it appears that such negotiation cannot be settled.

Section 68 The person to be liable under Section 63, Section 64, Section 65 or Section 66 who have already paid the compensation to the victim shall have the right for recourse against the sender of hazardous substance or to a person working for him/her and from person(s) taking part in every steps of sending hazardous substance up to the producer provided that the right for such recourse shall be exercised within three years from the date of payment for the compensation. However, if the person who has right to recourse is the person intentionally or negligently committing the infringement, such person shall have the right for recourse for a part beyond his/her liability only.

Section 69 In case where the hazardous substance causes damage to human, animal, plant or the environment, if the State got any disadvantage because it has to pay the expenses in order to rescue, ship, treat, mitigate or remedy such damage to be restored to the original or nearly original conditions, or if it is the damage to the *res nullius* or natural resources, or it is the damage to the state property, upon request from the agency assigned to be responsible for the said hazardous substance, the Public Attorney shall have the power to charge for compensation of the said damage.

Chapter 4
The Penalties

Section 70 Any person failing to testify or to submit any document or object as ordered by the Committee or Sub-Committee under Section 14 or as summoned by the authority in written language referred to in Section 54(4) shall be subject to a term of imprisonment not exceeding one month or a fine not exceeding ten thousand Baht or both.

Section 70/1 Any person failing to comply with the provisions referred to in Section 20/1 shall be subject to a term of imprisonment not exceeding six months, or a fine not exceeding fifty thousand Baht or both.

Section 71 Any person failing to comply with the provisions referred to in Section 21, Section 22 paragraph five, Section 41 or Section 43 paragraph two shall be subject to a term of imprisonment not exceeding six months, or a fine not exceeding fifty thousand Baht or both.

Section 72 Any person violating the provisions referred to in Section 22 paragraph one or failing to comply with Section 22 paragraph two or Section 23 paragraph three shall be subject to a term of imprisonment not exceeding one year, or a fine not exceeding one hundred thousand Baht or both.

Section 73 Any person violating the provisions referred to in Section 23 paragraph one shall be subject to a term of imprisonment not exceeding two years, or a fine not exceeding two hundred thousand Baht or both.

Section 74 Any person violating the provisions referred to in Section 43 paragraph one shall be subject to a term of imprisonment not exceeding ten years, or a fine not exceeding one million Baht or both.

If the offence referred to in paragraph one committed recklessly by the importer, exporter, or the person having in possession of the said hazardous substance, the offender shall be subject to a fine not exceeding eight hundred thousand Baht.

Section 74/1 User or supporter to perform the offence which shall be punished under Section 73 or Section 74 in the part relating to type 3 or type 4 hazardous substance that is a toxic chemical or a substance used for production of a toxic chemical as indicated in the Convention for Prohibition of Chemical Weapons according to Section 18 of the notification of Ministry of Industry, shall be subject to the same penalty as the person who commits such offence.

Section 74/2 Committing an offence referred to in Section 73 or Section 74 in the part relating to type 3 or type 4 hazardous substance that is a toxic chemical or a substance used for production of a toxic chemical as indicated in the Convention for Prohibition of Chemical Weapons according to Section 18 of the notification of Ministry of Industry, if the nationality of the offender is Thai, he/she shall be punished in the Kingdom although the offence is committed outside the Kingdom.

No further punishment shall be done in the Kingdom due to such offence, if

(1) There is a judgment of court in foreign country to liberate that person, or

(2) The court in foreign country had judged to punish and that person had passed over such punishment.

If a sentenced person has been punished for such offence due to the sentence of foreign court but has not complete the term of punishment, the court can possibly punish him/her less than what is provided by the law for that offence to any extent or possibly not punish, taking into account the punishment that person has been taken.

Section 75 Any person violating Section 45(1) or Section 45(5) for the case of revoking registration due to the likelihood to cause hazard without any normal means for prevention, if the offence is committed relating to type 3 hazardous substance, the offender shall be subject to an imprisonment not exceeding seven years or a fine not exceeding seven hundred thousand Baht or both.

If the offence referred to in paragraph one is committed recklessly by the importer, exporter or a person having in possession of the said hazardous substance, such offender shall be subject to a fine not exceeding five hundred thousand Baht.

Section 76 Any person violating Section 45(2) or Section 45(5) in the case of revoking registration due to inferior use than registered use, if the offence is committed relating to type 3 hazardous substance, the offender shall be subject to an imprisonment not exceeding five years or a fine not exceeding five hundred thousand Baht or both.

If the offence referred to in paragraph one is committed recklessly by the importer, exporter or a person having in possession of the said hazardous substance, such offender shall be subject to a fine not exceeding four hundred thousand Baht.

Section 77 Any person violating Section 45(3), if the offence is committed relating to type 3 hazardous substance, the offender shall be subject to an imprisonment not exceeding one year or a fine not exceeding one hundred thousand Baht or both.

If the offence referred to in paragraph one is committed recklessly, such offender shall be subject to a fine not exceeding eighty thousand Baht.

Section 78 Any person violating Section 45(4), if the offence is committed relating to type 3 hazardous substance, the offender shall be subject to an imprisonment not exceeding three years or a fine not exceeding three hundred thousand Baht or both.

Section 79 If the offence referred to in Section 75, Section 76, Section 77 or Section 78 is committed relating to type 2 hazardous substance, the offender shall be subject to two-thirds of the penalty provided in the said Section.

Section 80 If the offence referred to in Section 75, Section 76, Section 77 or Section 78 is committed relating to type 1 hazardous substance, the offender shall be subject to a half of the penalty provided in the said Section.

Section 81 Any recipient of license certificate failing to comply with Section 30 or Section 31, shall be subject to a fine not exceeding ten thousand Baht.

Section 82 Any person intentionally creating a misunderstanding with respect to the origin, nature, quality, quantity or other essences relating to the hazardous substance belonging to either to such person or other persons, produce or use label with incorrect wordings or wordings known to cause misunderstanding, shall be subject to an imprisonment not exceeding one year or a fine not exceeding one hundred thousand Baht or both.

If the offender referred to in paragraph one repeat committing the same offence with in six months from the date of committing the previous offence, such offender shall be subject to an imprisonment not exceeding two years or a fine not exceeding two hundred thousand Baht or both.

Section 83 Any person selling the hazardous substance without a label or with label but incorrect or shows incorrect label or selling the hazardous substance which the label has been revoked or rectified by the order of the Committee referred to in Section 50, shall be subject to an imprisonment not exceeding six months or a fine not exceeding fifty thousand Baht or both.

If the offence referred to in paragraph one is committed recklessly, such offender shall be subject to a fine not exceeding forty thousand Baht.

If the offence referred to in paragraph one is committed by producer or importer, such offender shall be subject to an imprisonment not exceeding one year or a fine not exceeding one hundred thousand Baht or both.

Section 84 Any person intentionally or recklessly make a living by producing illegal label or mounting illegal label or destroying the essential part of legal label for any hazardous substance referred to in the provision under Chapter 2 shall be subject to an imprisonment not exceeding six months or a fine not exceeding fifty thousand Baht or both.

Section 85 Any person failing to comply with Section 52 paragraph one shall be subject to an imprisonment not exceeding three months or a fine not exceeding thirty thousand Baht or both.

Section 85/1 Any person failing to comply with order of the authority referred to in Section 52/1 shall be subject to an imprisonment not exceeding three months or a fine not exceeding thirty thousand Baht or both.

Section 86 Any person failing to reasonably facilitate the authority undertaking the execution of Section 54 shall be subject to an imprisonment not exceeding one month or a fine not exceeding ten thousand Baht.

Section 87 In case where the court judged to punish any person for the offence referred to in Section 71 or Section 72 and which is the case where the license certificate is exempted, if his/her behavior showed that such a person may repeat committing such an offence, the court may order in the judgment prohibiting engagement with respect to the hazardous substance for a period not exceeding five years from the date of passing over of the punishment.

Section 87/1 Any person punished because of committing an offence under this Act, if committing the same offence as had been punished, the court shall order an additional one-half of the punishment for such penalty to that offender.

Section 87/2 In case the legal person commits an offence under this Act, board member, manager or expert, specialized personnel or any person responsible for committing such offence shall be liable according to the provision for such an offence unless that person had proved of innocence from the involvement or consent to such offence.

Section 88 The hazardous substance produced, imported, exported or had in possession illegally under this Act, the container of the said hazardous substance, tools and relevant equipment or any property forfeited by a judgment of the court shall be submitted to the agency responsible for control of such hazardous substance in order to dispose or manage as it deems appropriate.

In case it must be disposed, the court shall order in the judgment that the owner has to pay for the expenses incurred to Government.

Section 89 All offences under this Act which is punished in term of imprisonment not exceeding one year or by a fine only, the Committee has the power to impose the fine to the offender and after the alleged offender has paid the adjust punishment within thirty days from the date of receiving order, the case shall be closed in accordance with the Criminal Procedure Code.

In case where the Committee deemed appropriate to appoint a Sub-committee or assigns the authority to have the power for imposition of the fine, such imposition of the fine shall be in accordance with the criteria, procedures and conditions stipulated by the Committee.

In case of the confiscation or seizure of the exhibit related to committing of an offense under this Act, the authorized persons who has been as referred to in paragraph one or paragraph two shall impose a fine only in the following cases:

(1) In case where the exhibit can be rectified, the offender has agreed and already rectified the confiscated or seized exhibit.

(2) In case where the exhibit cannot be rectified, the offender allows the confiscated or seized exhibit to devolve on the agency responsible for the control of the said hazardous substance.

In case where the offender agreed to the imposition of a fine and has rectified the exhibit, the authority shall withdraw confiscation of such exhibit.

All articles devolved on the agency responsible for the control of the said hazardous substance shall be handled in accordance with rules promulgated by the responsible Minister.

Provisional Chapter

Section 90 Any application for license submitted under the Toxic Substance Act and pending for consideration shall be regarded as the application under this Act *mutatis mutandis.* In case where such application has different items from the application under this Act, the person authorized to grant license shall order to amend as it deems necessary for the compliance with this Act.

Section 91 The license certificate and the registration certificate issued to any person under the Toxic Substance Act prior to the date entering into force of this Act shall remain valid until expiration of the specified period.

Section 92 The substance or any other articles designated by the notification as ordinary toxic substance and severely toxic substance under the Toxic Substance law shall be reviewed and shall complete designating by the notification as type 1, type 2, type 3 or type 4 hazardous substance under this Act with in six months from the date entering into force of this Act.

During the period of execution under paragraph one has not finished, the provisions of the Toxic Substance law shall remain in force except the provisions relating to the Toxic Substance Committee shall be replaced by the provisions relating to the Hazardous substance Committee and the provisions under this Act shall enter into force immediately insofar as they do not conflict or contradict with the Toxic Substance law.

Section 93 All the Ministerial rules and Notifications promulgated under Toxic Substance law shall remain in force insofar as they do not conflict or contradict with the provisions of this Act.

Counter signed by
Anand Panyarachun
Prime Minister

Rates of Fees

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(1) Registration Certificate of hazardous substance, each copy	15,000 Baht
(2) License Certificate for production of hazardous substance, each copy	20,000 Baht
(3) License Certificate for import of hazardous substance, each copy	20,000 Baht
(4) License Certificate for export of hazardous substance, each copy	20,000 Baht
(5) License Certificate for having in possession of hazardous substance, each copy	20,000 Baht
(6) License for production of sample of hazardous substance, each copy	20,000 Baht
(7) License Certificate for import sample of hazardous substance, each copy	20,000 Baht
(8) Substitution of a registration certificate, each copy	1,000 Baht
(9) Substitution of a license certificate, each copy	1,000 Baht

(10) Renewal of a registration certificate of hazardous substance is the same fee as the registration certificate of hazardous substance

(11) Renewal of a license certificate of hazardous substance is the same fee as each type of the license certificate of hazardous substance

Note :- The rationale for the promulgation of this Act is there were evidences that large quantity of hazardous substance had been imported for use in various type of business and some kind of hazardous substance may cause severe hazard to human, animal, plant, property and the environment. Even though there are some laws to control the articles causing hazard but these laws are execute by many Ministries, Bureaus and Departments which were promulgated at different time resulting in different provisions and not sufficient coverage. It is appropriate to amend the law on toxic substance by extending its scope to cover all hazardous substances and stipulate criteria and procedures for more appropriate control of hazardous substance as well as systemized administration in order to coordinate between agencies relating to the control of the said hazardous substance. Therefore it is deemed essential to promulgate this Act.

The Hazardous Substance Act (No. 2) B.E. 2544

Note :- The rationale for the promulgation of this Act is Thailand will become a party of the Convention for Prohibition on Development, Production, Collection and Use of Chemical Weapons and Their Disposal which has been done on 13 January B.E. 2536. The said Convention stipulated measures for control of production, acquisition, storage, use and transport of toxic chemicals and substances for producing toxic chemicals indicated in the Convention for Chemical Weapons Prohibition inside and outside territory of the parties as well as stipulated that party shall promulgate the law which is subject to criminal punishment to be enforced to natural person and juristic person in the territory or jurisdiction of the party that act in violating the said measure and extended the scope of enforcement of law to cover the prohibited act according to the Convention for Chemical Weapons Prohibition of the natural person which has nationality of the party who act outside territory of the party. It is appropriate to amend the Hazardous Substance Act B.E. 2535 on measures for control any action relating to hazardous substance which is a toxic substance or a substance used for production of

a toxic substance as indicated in the Convention for Chemical Weapons Prohibition and the provisions for punishment to be in accordance with the commitment under the Convention for Chemical Weapons Prohibition. Therefore it is deemed essential to promulgate this Act.

***The Decree for amending provisions to be consistent to the transferring of mandate of government agencies in accordance with the Act for Amendment of Ministries, Bureaus, Department B.E. 2544, B.E. 2545**

Section 98 of the Hazardous Substance Act B.E. 2535

(1) To amend the words “Director-General of the Department of Public Works” to be “Director-General of the Department of Energy Business” and the words “Representative of the Department of Public Works” to be “Representative of the Department of Energy Business”

(2) To add “Minister of Energy” to act only in the part relating to substances under mandate of Ministry of Energy

Note :- The rationale for the promulgation of this Act is there is an Act for Amendment of Ministries, Bureaus, Department B.E. 2545 which has provisions for establishment of new government agencies with new duties which the new Decree was promulgated to transfer administration and mandate of government agencies to be consistent to the Act for Amendment of Ministries, Bureaus, Department. Since the said Act has provisions for transferring mandate of government agencies and the Ministers or the persons working in the former agencies to the new agencies by amending various provisions to be in accordance with the transferred mandate. Therefore, in order to comply with the principles appeared in the said Act and Decree, it is appropriate to amend the provisions of law to be in consistent with transferring of government agencies in order that the concerned persons implementing the law do not need to search in the law on transferring mandate to find what law had transferred duties of government agencies or responsible persons under such law to belong to what government agencies or to belong to whom by amending the provisions of the law to change the name of government agencies, Ministers, the persons who occupy the post or the persons who work in the government agencies to be in accordance with transferring of the mandate and add representatives of government agencies in the Committee to be consistent to the duties resulting from transferring from the former government agencies to the new government agencies as well as to delete the dissolved government agencies which amendment is made to be consistent to the said Act and Decree. Therefore it is deemed essential to promulgate this Decree.

The Hazardous Substance Act (No. 3) B.E. 2551

Section 23 The member experts in accordance with the Hazardous Substance Act B.E. 2535 who served their term of office prior to the enforcement of this Act shall continue to perform their function until appointment of the new Committee in accordance with the Hazardous Substance Act B.E. 2535 amended by the Hazardous Substance Act (No. 3) B. E. 2551 but not exceeding one hundred and eighty days from the date of enforcement of this Act.

Section 24 Any application submitted prior to the enforcement of this Act shall be deemed to be the application under the Hazardous Substance Act B.E. 2535 amended by the Hazardous Substance Act (No. 3) B. E. 2551.

Section 25 The license certificate of production, import, export or having in possession of the type 3 hazardous substance issued in accordance with the Hazardous Substance Act B.E. 2535 prior to the enforcement of this Act shall be valid until its expiration on the specified date.

Section 26 The registration certificate of the type 2 and type 3 hazardous substance or the notification certificate for production, import, export or having in possession of the type 2 hazardous substance issued in accordance with the Hazardous Substance Act B.E. 2535 prior to the enforcement of this Act shall be valid for the period of three years from the date of enforcement of this Act.

Note: The rationale for the promulgation of this Act is in consequence of the long standing enforcement of the Hazardous Substance Act B.E. 2535 some provisions referred to this Act are not suitable to the present situations, to a greater extent, the problems on hazardous substance have increasingly caused serious injury to human health, safety of the people and environment. Therefore, it is essential to amend the provisions relating to the Hazardous Substance Committee, in particular the component, powers and duties of the Committee, the serving term in office for the member experts, the powers and duties of the responsible Minister on the stipulation of criteria, procedures and conditions for the user safety and protection, the stipulation of criteria, procedures and conditions to be abided by the experts or specialized personnel and stipulated by the Minister, the stipulation of validation and renewal of the type 2 hazardous substance notification certificate and registration certification of the type 2 or type 3 hazardous substance, the license for production, import or having in possession of the type 4 hazardous substance, including the cancellation of an arresting power by the authority and the revision of rates of fee to be suitable for the present situations, therefore, it is deemed necessary to promulgate this Act.

*** In case of any differences in the meaning between the Thai text and the English translation, the Thai text shall apply.