

FUEL CONTROL ACT,
B.E. 2542 (1999)¹

BHUMIBOL ADULYADEJ, REX.

Given on the 19th Day of November B.E. 2542;

Being the 54th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on fuel storage;

This Act contains certain provisions in relation to the restriction of rights and liberties of a person, in respect of which section 29 in conjunction with section 35, section 48 and section 50 of the Constitution of the Kingdom of Thailand so permit by the virtue of law;

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

Section 1. This Act is called the “Fuel Control Act, B.E. 2542 (1999)”.

Section 2.² This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. The following shall be repealed:

¹ Translated by Ms. Arriya Phasee under contract for the Office of the Council of State of Thailand's Law for ASEAN project.- Initial version- pending review and approval.

² Published in the Government Gazette Vol. 116, Part 121a, Page 1, dated 2nd December B.E. 2542 (1999).

- (1) Fuel Storage Act, Buddhist Era 2474 (1931);
- (2) Fuel Storage Act (No. 2), B.E. 2496 (1953);
- (3) Fuel Storage Act (No. 3), B.E. 2508 (1965);

Remark: Reference to Thai legislation in any jurisdiction shall be made to the Thai version only. This translation has been made so as to establish correct understanding about this Act to foreigners.

- (4) Fuel Storage Act (No. 4), B.E. 2520 (1977);
- (5) Fuel Storage Act (No. 5), B.E. 2530 (1987).

Section 4. In this Act:

“fuel”³ means

(1) natural gas, liquefied petroleum gas, crude oil, gasoline, aviation fuel, kerosene, diesel fuel, fuel oil and lubricating oil;

(2) other materials used or may be used as raw materials in refinery or to produce the products used or may be used as fuel or lubricant, or other materials used or may be used as fuel or lubricant prescribed by the Minister by publishing in the Government Gazette;

“possession of fuel” means having in possession, either for personal interest or for others, whether for distribution, transportation, usage or any other purpose, and shall include discarding or appearing at the area in possession;

“fuel service station” means a place to keep fuel in stock for providing fuelling services to vehicles, and shall include the area stipulated in a license as a fuel service station area as well as any structures, tanks, pipes and equipment or tools in such area;

³ The definition of “fuel” in section 4 has been amended by the Fuel Control Act (No. 2), B.E. 2550 (2007).

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“transportation of fuel” means the moving of fuel from one location to another either by land, water, pipeline or other means;

“fuel depot”⁴ means a place to keep fuel in stock at the volume or in accordance with the business category as prescribed in Ministerial Regulations, and shall include the area stipulated in a license as a fuel depot area as well as any relevant structures, tanks, pipes and equipment or tools, including a place to maintain fuel to be used as a raw material in the production process in fuel refinery or production facility;

“Local Legislation” means Municipal Laws, Sub-District Regulations, Rules of Pattaya City, Rules of Provincial Administrative Organisation, Rules of Bangkok Metropolis and any other similar legislations issued by Local Administrative Organisations;

“Committee” means the Fuel Control Committee;

“competent official” means an engineer of the Department of Energy Business* or a person appointed by the Minister to have the power and duty to execute this Act;

“Grantor” means the Director-General of the Department of Energy Business* or a person assigned by the Director-General of the Department of Energy Business*;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 5. The Minister of Energy* shall have charge and control over the execution of this Act and shall have the power to appoint competent officials and to issue Ministerial Regulations prescribing fees not exceeding the rates provided in the Annex of this Act, exempting fees and prescribing other acts, as well as to issue Notifications for the execution of this Act.

Such Ministerial Regulations and Notifications shall come into force upon their publication in the Government Gazette.

⁴ The definition of “fuel depot” in section 4 has been amended by the Fuel Control Act (No. 2), B.E. 2550 (2007).

CHAPTER I
GENERAL PROVISIONS

Section 6. This Act shall not apply to fuel used specifically in military services, but the criteria and procedures stipulated in this Act shall be used as guidelines for their operations.

Section 7. For the purpose of the protection or prevention of nuisance, damage or danger which will have an impact on people, animals, plants, property or environment, or the determination of guidelines or characteristics of the operations of fuel control to be in accordance with economic and social conditions, the Minister shall have the power to issue Ministerial Regulations as follows:

- (1) to adopt the requirements on storage, transportation, use, distribution and sub-packaging of fuel, and any other control requirements related to fuel;
- (2) to determine the locations, diagrams, formats and characteristics of a storage location of fuel, fuel service station and fuel depot, and the maintenance of such places;
- (3) to determine the features of tank or container used for storage or transportation, and their maintenance;
- (4) to determine the qualifications and training for the operators related to fuel control;
- (5) to adopt the work procedures and procedures for procurement and maintenance of equipment or any other tools for the purpose of implementing activities under (1), (2), (3) or (4);

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(6) to adopt the requirements on listening to public opinion, that are appropriate to the business, regarding the business operation or the permission for operation under this Act, where the business has an impact on the public;

(7) to adopt any other requirements which are necessary for the achievement of the implementation of this Act.

If any Ministerial Regulation, Local Legislation or Notification issued under the law on building control is in conflict or inconsistent with the Ministerial Regulations issued under paragraph one, such Ministerial Regulation, Local Legislation or Notification shall be ineffective or cease to be effective, as the case may be, unless such Ministerial Regulation, Local Legislation or Notification has been issued with the consent of the Committee due to necessity or for a reason specific to that locality.

The Ministerial Regulations under paragraph one may require the matters of technical details or of rapid changes for the safety purpose to be in accordance with the criteria prescribed by the Minister by publishing in the Government Gazette.⁵

CHAPTER II FUEL CONTROL COMMITTEE

Section 8.⁶ There shall be a committee called the “Fuel Control Committee”, consisting of the Permanent Secretary of the Ministry of Energy as Chairperson, the Commissioner General, the Director-General of the Office of the Maritime Promotion Commission, the Director-General of the Department of Land Transport, the Director-General of the Pollution Control Department, the Director-General of the Department of Disaster

⁵ Section 7, paragraph three has been added by the Fuel Control Act (No. 2), B.E. 2550 (2007).

⁶ Section 8 has been amended by the Fuel Control Act (No. 2), B.E. 2550 (2007).

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Prevention and Mitigation, the Director-General of the Department of Public Works and Town & Country Planning, the Director-General of the Department of Industrial Works, the Director of the Office of Transport and Traffic Policy and Planning, the Director of the Energy Policy and Planning Office, representative of the Thai Chamber of Commerce, representative of the Federation of Thai Industries, and six qualified members appointed by the Council of Ministers as members.

The Director-General of the Department of Energy Business shall be member and secretary, and the Director-General of the Department of Energy Business shall appoint not more than two government officials of the Department of Energy Business as assistant secretaries.

Qualified members appointed by the Council of Ministers under paragraph one shall not be an advisor of a political party, a person holding political position or an official of a political party, and one each shall have the knowledge, expertise, past performance records and experiences related to the field of science, engineering, environment, law, fuel control and fuel business, and at least two members shall be appointed by a qualified person working in organisations for public interest for protecting health and sanitation, safety or environment.

Section 9. The Committee shall have the following powers:

(1) to recommend policies and measures concerning fuel control to the Council of Ministers for the purpose of the protection or prevention of nuisance, damage or danger which will have an impact on people, animals, plants, property or environment, or the determination of guidelines or characteristics of the operations of fuel control to be in accordance with economic and social conditions;

(2) to give recommendations to the Minister for the issuance of the Ministerial Regulations and Notifications under this Act;

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(3) to give opinions in support of the Council of Ministers' consideration to grant concessions under section 44;

(4) to oversee and coordinate the work of the officials and agencies who perform works in relation to fuel control for the purpose of the protection or prevention of nuisance, damage or danger which will have an impact on people, animals, plants, property or environment, or the determination of guidelines or characteristics of the operations of fuel control to be in accordance with economic and social conditions;

(5) to give recommendations and opinions to various agencies concerning storage, transportation, use, distribution, sub-packaging and other controls of fuel;

(6) to perform other acts as stipulated by law to be the powers and duties of the Committee.

Section 10. A qualified member shall hold office for a term of two years. A qualified member who vacates office may be reappointed, but may not hold office for two consecutive terms.

Section 11. In addition to vacating office on the expiration of term under section 10, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Council of Ministers due to dishonesty in the performance of duty or disgraceful behavior;
- (4) being bankrupt;
- (5) being an incompetent or quasi-incompetent person;
- (6) being imprisoned due to a final judgment to a term of imprisonment except for an offence committed through negligence or a petty offence.

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In the case where a qualified member is appointed to replace the position which has been vacant pursuant to paragraph one, the person appointed to replace the vacant position shall hold office for the unexpired term of office of the qualified member whom he or she replaces.

Section 12. In the case where a qualified member holds office until the expiration of the term, but a new qualified member has not yet been appointed, the qualified member who vacates office at the expiration of the term shall provisionally perform his or her duties until a new qualified member has been appointed.

Section 13. At a meeting of the Committee, the presence of not less than one-half of all members is required to constitute a quorum. If the Chairperson is not present at the meeting or is unable to perform the duties, the members present shall elect one among themselves to preside over the meeting.

A decision of the meeting shall be made by a majority of votes. In casting a vote, each member shall have one vote. In the case of an equality of votes, the presiding member shall have an additional vote as the casting vote. Any member who has personal interest in any matter during casting a vote shall not have the right to be present in the meeting room.

Section 14. The Committee shall have the power to appoint a sub-committee to consider any matter or carry out any act as assigned by the Committee, and the provision of section 13 shall apply, *mutatis mutandis*, to the meetings of the sub-committee.

The Committee and a sub-committee shall be an officer under the Criminal Code.

Section 15. In the execution of the duties under this Act, the Committee shall have the power to issue written orders to call any person to come to give statements or submit

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any documents or objects in support of consideration, and the Committee may authorise any sub-committee to exercise such power as well.

Section 16. The Department of Energy Business* shall carry out academic and administrative works for the Committee as well as coordinating and providing assistance to various agencies for the execution of works related to fuel control and any other works as assigned by the Committee.

CHAPTER III OPERATION OF CONTROLLED BUSINESSES

Section 17. To ensure the efficient control of business operation and to protect the public safety, the Minister shall have the power to issue Ministerial Regulations to prescribe categories of the controlled businesses with respect to possession of fuel, fuel service stations, fuel depots and transportation of fuel, for a certain type of fuel or for all types together, to be in compliance with the levels of hazards which may arise. The controlled businesses are classified into 3 categories as follows:

- (1) Category 1 includes businesses which may be engaged in immediately as required by business operators;
- (2) Category 2 includes businesses of which a competent official shall be notified before their operations;
- (3) Category 3 includes businesses which must obtain a license from the Grantor before their operations.

Paragraph two⁷ (repealed)

⁷ Section 17, paragraph two has been repealed by the Fuel Control Act (No. 2), B.E. 2550 (2007).

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Transportation of fuel by water shall be in accordance with the law on navigation in Thai waters.

Section 18. An operator of a controlled business under category 1 shall comply with the criteria stipulated in the Ministerial Regulations issued under section 7.

Section 19. An operator of a controlled business under category 2 shall comply with the criteria stipulated in the Ministerial Regulations issued under section 7, and must notify a competent official before commencing his or her business operation.

The form and particulars to be notified, the method of notification and the notification receipt form shall be as stipulated in Ministerial Regulations.

When a competent official has received the notification under paragraph one, the competent official shall issue a notification receipt as evidence of the notification to the notifying person on the date of receipt of such notification. In this regard, the notifying person may engage in the controlled business under category 2 from the date of notification.

In the case where the competent official has subsequently discovered that the notification under paragraph one is incorrect or incomplete, the competent official shall have the power to order the notifying person to rectify the notification letter to ensure correctness or completeness within seven days from the date of receipt of such order.

In the case of a cessation or transfer of a controlled business under category 2, the business operator shall notify a competent official in writing within thirty days from the date of such action.

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Section 20. When the Ministerial Regulation prescribing controlled businesses under category 3 has been issued, no person may engage in such businesses without obtaining a license from the Grantor.

In the case where the operation of a controlled business under category 3 requires construction, modification, demolition, removal, use or change of usage of building(s) relating to that purpose, if a request is made by the license applicant, the Grantor under this Act shall have the power to issue a license or a notification receipt or a certification on building usage to control the usage relating to that purpose, as the case may be, in accordance with the law on building control, and if such action has been completed, relevant documents and evidence shall be submitted to a person authorised under the law on building control to proceed with further action in this respect.

Section 21. The application for a license, the issuance of a license and the term of a license for operating a controlled business under category 3 shall be in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations.

Section 22. An operator of a controlled business under category 3 shall comply with the criteria stipulated in the Ministerial Regulations issued under section 7.

In granting the license to operate a controlled business under category 3, the Grantor may prescribe any conditions as appropriate to the case and may prescribe the maximum volume of fuel that may be possessed by the licensee.

With regard to the license which has been issued, if subsequently there are substantial grounds for the protection of safety or the law or circumstances have changed, the Grantor shall have the power to order an amendment of the conditions for permission, as necessary.

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In the case of the permission to operate a fuel pipeline transportation business, the Minister shall prescribe the boundaries of the fuel pipeline transportation system and boundary marks by publishing in the Government Gazette, and the licensee shall operate in accordance with section 34, *mutatis mutandis*, and section 37 and section 39 shall apply, *mutatis mutandis*.

Section 23. With regard to the application for a license renewal, the licensee shall file the application before his or her license has expired. When the application has been filed, it shall be deemed that the applicant has the status of a licensee until receiving an order of non-renewal of the license.

The filing of the application for a license renewal and the renewal of a license shall be in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations.

Section 24. The applicant for a license or the applicant for a license renewal shall have the right to appeal against the order of non-issuance or non-renewal of a license to the Minister within thirty days from the date of receipt of such order.

The Minister shall make a decision on the appeal under paragraph one within sixty days from the date of receipt of the appeal.

The decision of the Minister shall be final.

Section 25. A licensee may not transfer the business which has been licensed to other persons unless permission is granted by the Grantor.

The filing of the application for a license transfer and the issuance of a license shall be in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations.

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Section 26. In the case where a licensee dies or loses the status of a juristic person or becomes bankrupt, his or her heir(s) or liquidator(s) or receiver(s) shall file an application to the Grantor for the acceptance of the transfer of a license within ninety days from the date on which the licensee dies or loses the status of a juristic person or becomes bankrupt, as the case may be, or within a period as extended by the Grantor, as necessary. In the case of failure to file the application within the specified period of time, the license shall be deemed to expire, and if such person(s) wish to continue to engage in the business under such license, they shall undertake to reapply for a new license.

During the period under paragraph one, the heir(s) or liquidator(s) or receiver(s) resuming to engage in the business under such license shall be deemed as if they were a licensee.

In the case where a licensee is declared by the Court to be an incompetent person, the provisions of the two preceding paragraphs shall apply to the guardian, *mutatis mutandis*.

Section 27. A licensee must present the license at the open and noticeable place at the premises of operations specified in the license.

Section 28. If a license is lost or materially destroyed, the licensee shall notify the Grantor and apply for a replacement license within fifteen days from the date of acknowledgement of such loss or destruction.

The application for a replacement license and the issuance of a replacement license shall be in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations.

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Section 29. The Minister shall have the power to issue Ministerial Regulations to designate any locality to be a prohibited zone for the engagement of any or all controlled businesses under section 17.

Section 30. In the case where the Ministerial Regulation under section 29 has been issued, no controlled businesses stipulated in such Ministerial Regulation may be engaged in.

The provision of paragraph one shall not apply to a person who engages in a controlled business within the prohibited zone before the Ministerial Regulation under 29 has come into force, who will continue to engage in such controlled business after such Ministerial Regulation has come into existence. Nonetheless, if the Director-General of the Department of Energy Business* sees that the continuation of the engagement of such controlled business will be in conflict with the intention of the existence of such Ministerial Regulation or may have an impact on the prevention of nuisance, damage or danger which will have an impact on people, animals, plants, property or environment, or may cause the determination of guidelines or characteristics of the operations of fuel control not to be in accordance with economic and social conditions, the Director-General of the Department of Energy Business* shall have the power to order an adoption of the rules, procedures and conditions for the engagement of such controlled business and may order in writing to the operator of such controlled business to rectify, change or refrain from any action within a period of time deemed appropriate. However, if the compliance with such order will cause such business operator to unreasonably lose or lack benefits to which he or she is accustomed, such person shall be entitled to fair compensation.

In the case where the operator of a controlled business who has received the order from the Director-General of the Department of Energy Business* under paragraph two is not satisfied with such order, he or she may appeal to the Minister within thirty days from the date of receipt of such order.

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The Minister shall make a decision on the appeal under paragraph three within sixty days from the date of receipt of the appeal.

The decision of the Minister shall be final.

CHAPTER IV
THE STATE'S SERVICES WITH RESPECT TO FUEL

Section 31. The Council of Ministers may authorise any one of the State agencies to arrange to have a fuel depot or a fuel pipeline transportation system available to provide location for fuel storage or transportation of fuel.

The State agency undertaking such action shall comply with the criteria stipulated in the Ministerial Regulations issued under section 7.

Section 32. When it is necessary for the State agency to acquire immovable properties for constructing a fuel depot or a fuel pipeline transportation system, the State agency shall proceed with an expropriation in accordance with the law on expropriation of immovable property.

Section 33. For the purpose of the construction or maintenance of a fuel depot or a fuel pipeline transportation system, an official(s) of the State agency taking charge of the matter shall have the power to make entry to use or possess, on a temporary basis, immovable properties which are not residences of any person subject to the following conditions:

(1) Such use or possession is necessary for the survey, construction or maintenance of the fuel depot or the fuel pipeline transportation system or for the prevention from

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dangers or damages which will occur to the fuel depot or the fuel pipeline transportation system;

(2) The State agency has notified the owner or occupying person of such immovable property in writing within a reasonable time in advance, but not less than seven days, except in the case where it is unable to contact such owner or occupying person, in which case, a written notice must be posted to inform such owner or occupying person not less than thirty days in advance at the place where such immovable property is located and at the District Office, the Office of the Subdistrict Headman and the Office of the Village Headman of the locality where such immovable property is located. The notice shall contain the date, time and activity to be undertaken.

In the case where the action pursuant to this section has caused damage to the owner or occupying person of the immovable property or other right-holders, such person may demand compensation from the State agency.

Section 34. The State agency shall designate in the Notification published in the Government Gazette the boundaries of a fuel pipeline transportation system and boundary marks, and shall post such Notification at the District Office of the locality where such fuel pipeline transportation system is located and arrange to have the marks shown at the boundaries of the fuel pipeline transportation system in accordance with the criteria prescribed by the Department of Energy Business*.

Section 35. In preparing a fuel pipeline transportation system, the State agency shall have the power to carry out one of the following actions:

(1) to install the fuel pipeline transportation system under, above, along or across the land of any person;

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(2) to demolish buildings or houses which are not residences of any person, or to destroy other things that were constructed or made, or to destroy or cut trunks, branches or roots of trees or crops in the boundaries of the fuel pipeline transportation system.

Before carrying out the action under (1) or (2), the State agency shall notify the owner or occupying person of the relevant property in writing, and section 33, paragraph one (2) shall apply, *mutatis mutandis*.

The owner or occupying person under paragraph one may appeal against such action on the grounds of unjustifiable cause to the Minister within thirty days from the date of receipt of the notice.

The Minister shall make a decision on the appeal under paragraph three within sixty days from the date of receipt of the appeal.

The decision of the Minister shall be final.

Section 36. The State agency shall pay compensation to the owner or the right-holder of land, buildings, houses or structures in the following cases:

(1) Use of land designated in the Notification as the boundaries of a fuel pipeline transportation system pursuant to section 34;

(2) Use of land for the installation of a fuel pipeline transportation system pursuant to section 35 (1);

(3) Taking of action under section 35 (2).

Compensation under paragraph one shall be computed on the basis of actual damage, including the charge for loss of economic benefits that should have been gained from the use of the concerned property.

Section 37. No person may carry out any act which may cause danger to the fuel pipeline transportation system including its equipment.

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Section 38. Within the boundaries of a fuel pipeline transportation system, either on land, in or under water or under sea, no person may construct any building or house, grow any tree or any other things, install anything, drill or excavate land, pile up soil, discard things or carry out any act that may cause danger or may be an obstacle to the fuel pipeline transportation system, unless written permission is obtained from the Minister. In this case, the Minister may grant permission after listening to the comments of the State agency taking charge of the matter and it appears to the Minister that such acts will not affect people, animals, plants, property or environment, and in granting the permission, the Minister may or may not prescribe any conditions. In the case of violation, the Minister shall have the power to order the violator to carry out demolition, removal, cutting, destruction or any acts within a prescribed period of time. If such person fails to comply with the order or a violator cannot be found, after such order has been posted at the concerned area and at the District Office, the Office of the Subdistrict Headman and the Office of the Village Headman of such locality for not less than seven days and such order has still not been complied with, the Minister may order the State agency to carry out demolition, removal, cutting, destruction or any other acts as appropriate to the case, and in this case no person may claim for the damage, and the violator shall be responsible to pay expenses actually paid for such action together with a surcharge at the rate of thirty percent per year of such expenses, calculated from the date on which the State agency undertakes such action until the expenses and surcharge have been paid in full.

Section 39. In the case where the boundaries of a fuel pipeline transportation system have been designated in the Notification to be in any river, canal, sea or waterway, whether or not in the Kingdom, no person may drop or drag anchors, or drag fishnets, seine nets or any animal-catching tools in such boundaries.

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When a ship sails across the boundary of a fuel pipeline transportation system, if the anchor is not hoisted until it can be seen well above the water, such act shall be regarded as anchor dragging.

Section 40. For the purpose of safety, the State agency shall have the power to destroy or cut trunks, branches or roots of trees or any other things that are close to a fuel depot or a fuel pipeline transportation system, provided that written notice is given to the owners or occupying persons of the trees or those things in advance within a reasonable period of time. In the case where it is unable to contact the owners or occupying persons, the State agency shall have the power to take action as deemed appropriate.

In the case where the trees or other things exist before the construction of a fuel depot or a fuel pipeline transportation system, the State agency shall pay fair compensation to the owners or occupying persons of such trees or things, as appropriate to the case.

Section 41. In the case of necessity and urgency, the State agency shall have the power to enter the land or premises of any person at any time to inspect, repair or fix the fuel pipeline transportation system. However, if the owner or occupying person is present at such place, the owner or occupying person shall be notified beforehand.

Section 42. In taking actions under section 40 or section 41, the State agency shall attempt to avoid causing damage, but if any damage occurs, the State agency shall be liable for such damage.

Section 43. For the purpose of the operations, the Council of Ministers may authorise any private party as a concessionaire to arrange to have a fuel depot or a fuel pipeline transportation system in accordance with this chapter.

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The application for a concession shall be in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations.

A person filing the application shall have the qualifications as stipulated in Ministerial Regulations.

Section 44. The application for a concession must be filed with the Director-General of the Department of Energy Business* and the Director-General shall propose the matter to the Committee for consideration of the appropriateness of granting a concession and the conditions for granting a concession for supporting the Council of Ministers' further consideration.

Section 45. A concessionaire may transfer his or her concession when there are reasonable grounds to do so and the Council of Ministers has considered and reached the view that the transferee has the qualifications in accordance with section 43, paragraph three and permitted such transfer.

The transferee of a concession under paragraph one shall assume all rights, duties and liabilities of the former concessionaire.

Section 46. In the case where a concessionaire dies or loses the status of a juristic person or becomes bankrupt, his or her heir(s) or liquidator(s) or receiver(s), as the case may be, shall have the right to express the intention of a concession transfer under section 45.

An expression of the intention of a concession transfer under paragraph one shall be in accordance with the procedures stipulated in Ministerial Regulations.

Section 47. The transfer of a concession under section 45 and section 46 shall be in accordance with the criteria and procedures stipulated in Ministerial Regulations.

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Section 48. In the case where a concessionaire is not permitted to transfer the concession, the Minister shall issue a written notification to the concessionaire accordingly together with the reasons within thirty days from the date of the Minister's order.

Section 49. The business under a concession shall vest in the State at the time set out in the concession.

Section 50. In the case of necessity for the benefits of the public, the State shall have the power to capture and take possession of the business under a concession, provided that the State shall pay compensation to the concessionaire as stipulated in the concession. In the case where there is no provision for compensation stipulated in the concession, the compensation shall be determined by taking into account the fair benefit to which the concessionaire deserves.

The competent official shall issue a written notification to the concessionaire instructing him or her to come to collect payment of compensation within a specified time. If the concessionaire fails to come to collect the payment within such notified time, the competent official shall deposit such payment with the Government Savings Bank in the name of the concessionaire.

Section 51. In the case where a concessionaire finds it necessary to acquire immovable property for the construction of a fuel depot or a fuel pipeline transportation system as required by the concession and the concessionaire is unable to acquire such immovable property for that purpose by any other means, the Department of Energy Business* shall carry out an expropriation in accordance with the law on expropriation of

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immovable property and the concessionaire shall be responsible for paying the expenses and compensation.

Section 52. The provisions of this chapter applicable to the operations of the State agency shall apply to a concessionaire, *mutatis mutandis*.

CHAPTER V CONTROL AND INSPECTION

Section 53. For the execution of this Act, a competent official shall have the powers and duties as follows:

(1) to enter the building, place or vehicle which operates or is suspected of operating a controlled business under section 17 or a fuel depot or a fuel pipeline transportation system under Chapter 4, during the period from sunrise to sunset or during office hours of such places, to inspect the condition of the building, place, vehicle or any action which may violate the provisions of this Act or fail to conform with the requirements of a concession;

(2) to take the samples of fuel under suspicion at a reasonable volume for inspection together with relevant documents;

(3) to inspect, search, detain, confiscate or seize fuel, tanks or containers, fuel pipelines, equipment or any related objects in the case where there is a suspicion of violation or non-compliance with the provisions of this Act or non-conformity with the requirements of a concession, or which may cause damage or danger that will have an impact on people, animals, plants, property or environment;

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(4) to summon in writing any person to come to give statements or submit any documents or objects in support of consideration;

(5) to inspect and gather facts and then report to the Grantor or the Minister, as the case may be, in the case where an operator of a controlled business under section 17 or a concessionaire has committed an offence or caused damage due to non-compliance with this Act or the requirements of the concession.

Section 54. In the case where a competent official has found that any person violates or fails to comply with this Act or the conditions prescribed by the Grantor under section 22, or that any concessionaire violates or fails to comply with this Act or the requirements of the concession, or that the operation of business has any condition that may cause nuisance, damage or danger which will have an impact on people, animals, plants, property or environment, the competent official shall have the power to order such person to refrain from such violating act or carry out rectification or improvement or perform action correctly or appropriately within a specified period of time.

Section 55. In the case where the operator of a controlled business under section 17 fails to carry out rectification or improvement or perform action correctly in accordance with the order under section 54 within the specified time, the competent official shall have the power to order to suspend the business operation or to have the license revoked by the Grantor, as the case may be, and if the existing volume of fuel exceeds the volume to be kept in possession or permitted or the existing volume may cause danger, the competent official shall have the power to carry out one of the following actions:

(1) to order the business operator to remove all or certain portions of fuel to a safe place within a period of time prescribed by the competent official;

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(2) in the case of necessity, the competent official may carry out the removal of fuel or assign other person(s) to carry out such removal and keep the fuel at a safe place. In this case, the business operator shall pay removal and maintenance expenses actually paid together with a penalty at the rate of thirty percent per year of such amount.

Section 56. In the case where the concessionaire fails to carry out rectification or improvement or perform action correctly in accordance with the order under section 54 within the specified time, the Minister shall consider revocation of the concession without delay.

If the Minister revokes the concession, the business which has been granted such concession shall vest in the State. In this regard, the concessionaire whose concession has been revoked shall receive compensation, determined by taking into account the fair benefit to which the concessionaire deserves, and section 50, paragraph two shall apply, *mutatis mutandis*.

Section 57. In the case where the operator of a controlled business or the concessionaire who has received the order from the competent official under section 54 is not satisfied with such order, he or she may appeal to the Minister within thirty days from the date of receipt of such order.

The Minister shall make a decision on the appeal under paragraph one within sixty days from the date of receipt of the appeal.

The decision of the Minister shall be final.

Section 58. In the execution of the duties, the competent official shall produce his or her identification card upon request by concerned persons.

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The identification card of a competent official shall be in accordance with the form prescribed by the Minister by publishing in the Government Gazette.

Section 59. The Minister shall have the power to determine guidelines and conditions for the execution of works by a competent official pursuant to this Act, as appropriate.

Section 60. There shall be an appeal committee consisting of the Permanent Secretary of the Ministry of Energy* as Chairperson, the Director-General of the Department of Town & Country Planning, the Director-General of the Pollution Control Department, representative of the Office of the Council of State, representative of the Office of the Attorney General, and three qualified members appointed by the Minister as members.

The Director-General of the Department of Energy Business* shall be member and secretary, and the Director-General of the Department of Energy Business* shall appoint not more than two government officials of the Department of Energy Business* as assistant secretaries.

Qualified members appointed by the Council of Ministers under paragraph one shall have the knowledge, expertise and past performance records related to the field of science, engineering, environment and shall have the experiences on fuel control or fuel business.

The appeal committee shall have the duty to give opinion to the Minister for consideration of the appeals under this Act.

Section 10, section 11, section 12, section 13, section 14 and section 15 shall apply to the appeal committee, *mutatis mutandis*.

CHAPTER VI

PENALTY PROVISIONS

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Section 61. Any person who fails to come to give statements or submit any documents or objects as ordered by the Committee or a sub-committee under section 15 or as summoned in writing by a competent official under section 53 (4) shall be liable to imprisonment for a term of not exceeding one month or to a fine not exceeding two thousand baht or to both.

Section 62. Any person who engages in a controlled business under category 1 without complying with the criteria stipulated in the Ministerial Regulations issued under section 7 shall be liable to imprisonment for a term of not exceeding three months or to a fine not exceeding thirty thousand baht or to both.

Section 63. Any person who engages in a controlled business under category 2 without notifying a competent official in advance or without complying with the criteria stipulated in the Ministerial Regulations issued under section 7 shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding fifty thousand baht or to both.

Section 64. Any person engaging in a controlled business under category 2 who makes an incorrect or incomplete notification of the business operation as provided for in the Ministerial Regulations issued under section 19, paragraph two shall be liable to a fine not exceeding fifty thousand baht.

Any operator of a controlled business under category 2 who fails to provide correct and complete notification in accordance with the order of a competent official under

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section 19, paragraph four shall be liable to a fine not exceeding one hundred thousand baht, and the Court shall order to cease the business operation.

Section 65. Any person who engages in a controlled business under category 3 without permission shall be liable to imprisonment for a term of not exceeding two years or to a fine not exceeding two hundred thousand baht or to both.

Section 66. Any person who engages in a controlled business under category 3 without complying with the criteria stipulated in the Ministerial Regulations issued under section 7 shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding one hundred thousand baht or to both.

Section 67. Any concessionaire who fails to comply with the criteria stipulated in the Ministerial Regulations issued under section 7 shall be liable to the punishment as stipulated in section 62, section 63 or section 66, as the case may be.

Section 68. Any operator of a controlled business under category 3 who fails to comply with section 27 or section 28, paragraph one shall be liable to a fine not exceeding five thousand baht.

Section 69. Any person engaging in a controlled business who violates section 30 paragraph one

(1) in the case of a controlled business under category 1, shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding fifty thousand baht or to both;

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(2) in the case of a controlled business under category 2, shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding one hundred thousand baht or to both;

(3) in the case of a controlled business under category 3, shall be liable to imprisonment for a term of not exceeding four years or to a fine not exceeding four hundred thousand baht or to both.

Section 70. Any operator of a controlled business under section 17 who fails to comply with the order given by the Director-General of the Department of Energy Business* under section 30, paragraph two shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding fifty thousand baht or to both, and the Court shall order to cease the business operation.

Section 71. Any person who fails to comply with the order given by a competent official under section 54 without valid reason shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding fifty thousand baht or to both, and the Court shall order to cease the business operation.

Section 72. Any person who fails to provide convenience to the competent official who performs the duty under section 33, section 35 or section 40 or section 41 or section 53 (1), (2) or (3) or section 55 shall be liable to imprisonment for a term of not exceeding one month or to a fine not exceeding two thousand baht or to both.

Section 73. Any person who violates section 37 shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding twenty thousand baht or to both.

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If such violating act has caused the fuel pipeline transportation system or its equipment to be destroyed, damaged, depreciated or useless, the violator shall be liable to imprisonment for a term of not exceeding ten years or to a fine not exceeding two hundred thousand baht or to both.

Section 74. Any person who violates section 38 or fails to comply with the conditions of the permission under section 38 shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding ten thousand baht or to both.

Section 75. Any person who violates section 39 shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding ten thousand baht or to both.

If such violating act has caused the fuel pipeline transportation system or its equipment to be destroyed, damaged, depreciated or useless, the violator shall be liable to imprisonment for a term of not exceeding two years or to a fine not exceeding forty thousand baht or to both.

During the period of the trial of the offence under this section, the Court shall have the power to arrest a ship until the fine has been paid in accordance with the Court's judgment.

Section 76. Any person who causes the boundary marks of a fuel pipeline transportation system to be moved or damaged in any way shall be liable to imprisonment for a term of not exceeding three years or to a fine not exceeding sixty thousand baht or to both.

Section 77. If the offence under section 73, section 74, section 75 or section 76 has caused inconvenience to the public or is likely to cause danger to people, animals, plants,

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property or environment, the offender shall be liable to imprisonment for a term of not exceeding five years or to a fine not exceeding one hundred thousand baht or to both.

If causing serious injury to other persons, the offender shall be liable to imprisonment for a term of not exceeding ten years or to a fine not exceeding two hundred thousand baht or to both.

If causing death to other persons, the offender shall be liable to imprisonment for a term of not exceeding twenty years or to a fine not exceeding four hundred thousand baht or to both.

Section 78. In the case where the offender liable under this Act is a juristic person, the managing director, manager or any person responsible for the operation of such juristic person shall also be liable for the punishment prescribed for such offence, except where such person can prove that he or she was not involved in, or did not give consent to such offending act.

Section 79. All offences under this Act which are only punishable by a fine or by imprisonment for a term of not exceeding one year or a fine may be settled by the Committee. The Committee may authorise a sub-committee or a competent official to exercise such power.

In the case where an investigating officer has found any person committing the offence under paragraph one and such person has consented to the settlement, the investigating officer shall forward the matter to the Committee or the authorised person within seven days from the date on which such person consents to the settlement.

Upon payment of the settled amount of the fine within thirty days from the settlement date, the case shall be deemed settled under the Criminal Procedure Code.

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If the accused fails to consent to the settlement or, upon consent thereto, fails to pay the fine within the time specified, legal proceedings shall be continued.

Section 80. In the consideration and judgement of an offence under this Act or an offence under other laws involving several offences connecting with an offence under this Act, if the Court views that suspension of the determination of punishment or suspension of the execution of punishment attached with conditions to be complied with would be more beneficial in terms of guilty conscience or prevention of recurrence of a similar offence, the Court rendering judgement for such offence may suspend the determination of punishment or determine punishment but suspending the execution of such punishment with any condition to be observed by the offender or the person subject to the punishment as a principal or supporter within a specified period of time. Such condition may be to carry out or refrain from any act to remedy the damage that has already occurred or prevent such offence from happening again or provide any interest to the public. In this regard, the Court may appoint any person to oversee and give recommendation to ensure compliance with the judgement and may require the offender to pay a fee for that person's work.

If the Court decides to use or not to use the measures under paragraph one, the Court shall give the reasons for such decision in the judgment.

The Court may amend or revoke the conditions under paragraph one or add a new condition as the Court deems appropriate, regardless of whether or not there is a request from relevant parties.

When it appears to the Court or from the statements of concerned parties that the offender has failed to comply with the conditions prescribed by the Court, the Court may give a warning to the offender or determine the punishment for which the determination has been suspended or execute the suspended punishment.

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Section 81. In the case where the Court renders judgment to fine any person for an offence under this Act, the Court may stipulate in the judgment that such person may pay the fine in installment in accordance with the duration and amount payable in each installment as the Court deems appropriate.

Section 82. The provisions of section 80 and section 81 shall apply to the settlement of the Committee or the authorised person, *mutatis mutandis*.

CHAPTER VII TRANSITORY PROVISIONS

Section 83. Any application for permission and permission granted under the Fuel Storage Act, Buddhist Era 2474 (1931) shall be deemed as the application for permission and the permission under this Act, *mutatis mutandis*, and shall be subject to the provisions of this Act.

Section 84. Subject to section 83, all licenses issued to any person under the Fuel Storage Act, Buddhist Era 2474 (1931) before the effective date of this Act shall continue in force until expiration of its term.

Section 85. If the operator of the fuel pipeline transportation business classified as a controlled business under category 3 pursuant to section 17 of this Act, who has engaged in the business before the effective date of this Act, files the application for a license within one hundred and eighty days from the date on which the Ministerial Regulation issued under

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such section comes into force, the Grantor shall issue a license under this Act to such operator.

In granting the license under paragraph one, the Grantor shall have the power to prescribe any conditions to be observed by the licensee, as appropriate, taking into account the benefits of fire protection, strength and stability, safety, public health, town planning, traffic facilitation, protection or prevention of nuisance, damage or danger which will have an impact on people, animals, plants, property or environment, or any other matters which are necessary for the achievement of the objectives of this Act.

Section 86. All provisions of the Fuel Storage Act, Buddhist Era 2474 (1931) in relation to the criteria and procedures on fuel storage shall continue in force insofar as they are not in conflict or inconsistent with the provisions of this Act until they are replaced by the Ministerial Regulations, Notifications, Orders, Rules or Regulations issued under this Act, but not exceeding a period of one year from the effective date of this Act.

Section 87. All Ministerial Regulations, Notifications, Orders, Rules and Regulations issued under the Fuel Storage Act, Buddhist Era 2474 (1978) in effect prior to the effective date of this Act shall continue in force insofar as they are not in conflict or inconsistent with the provisions of this Act until they are replaced by the Ministerial Regulations, Notifications, Orders, Rules or Regulations issued under this Act.

Countersigned by:

Chuan Leekpai
Prime Minister

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