

AGRICULTURAL STANDARDS ACT

B.E. 2551 (2008)

(UNOFFICIAL TRANSLATION)

BHUMIBOL ADULYADEJ, REX;

Given on the 13th Day of February B.E. 2551;

Being the 63rd Year of the Present Reign.

By the Royal Command of His Majesty King Bhumibol Adulyadej it is hereby proclaimed that:

Whereas it is expedient to have the law on agricultural standards;

Whereas it is aware that this Act contains certain provisions in relation to the restriction of rights and liberties of persons in respect of which section 29, in conjunction with section 33, section 41 and section 43 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

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

Section 1. This Act shall be called the “Agricultural Standards Act, B.E.2551 (2008)”.

Section 2.^{*} This Act shall come into force after one hundred and eighty days as from the date of its publication in the Royal Gazette.

Section 3. In this Act:

“standard” means mandatory or voluntary standards wherever the case may be;

“agricultural commodity” means produce or a product derived from agriculture, fishery, livestock or forestry and by-product of such produce or product;

^{*} Published in the Royal Gazette, Vol.125, Part 37a, dated 22nd February 2008.

“mandatory standard” means a standard as determined by the Ministerial Regulation with which agricultural commodity shall comply;

“voluntary standard” means a standard as determined by the Notification for the promotion of agricultural standards ;

“conformity assessment service provider” means anyone who has a license to inspect and certify relevant standards under this Act, and include a government agency having authority and duties to inspect and certify the standards under the law;

“producer” means:

(1) anyone who carries out agriculture, fishery, livestock or forestry works for commercial purposes;

(2) any entrepreneur in agricultural commodity transportation, agricultural commodity warehouse, fish landing, cold storage facility, slaughterhouse, or subsequent businesses relating to agricultural commodity as prescribed by the Committee;

“company” means a limited company under the Civil and Commercial Code or a public limited company under the law on public limited companies;

“Committee” means the Agricultural Standards Committee;

“Bureau” means the National Bureau of Agricultural Commodity and Food Standards.

“Secretary-General” means Secretary-General of the National Bureau of Agricultural Commodity and Food Standards;

“Officer” means a person appointed by the Minister for the execution of this Act;

“Minister” means the Minister assigned to take charge of the execution of this Act.

Section 4. This Act shall not enforce:

(1) a government agency having authority and duties to inspect and certify standards under the law;

(2) standards of commodity, products or any other articles specifically stipulated by other laws.

Section 5. The Minister of Agriculture and Cooperatives shall take charge of the execution of this Act and shall have the authority to appoint Officer and to promulgate Ministerial Regulations on determination of fee schedule which shall not exceed the rates hereto attached, to determine fee exemptions, and to provide other business activities and to issue Ministerial Notifications for the execution of this Act.

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

Chapter I

Agricultural Standards Committee

Section 6. There shall be an Agricultural Standards Committee consisting of Minister of Agriculture and Cooperatives or Deputy Minister of Agriculture and Cooperatives entrusted by Minister of Agriculture and Cooperatives as Chairperson, Permanent Secretary of the Ministry of Agriculture and Cooperatives as Vice Chairperson, Secretary-General of the Office of Consumer Protection Board, Secretary-General of the Food and Drug Administration, Secretary-General of the Office of Agricultural Economics, Director-General of the Rice Department, Director-General of the Department of Fisheries, Director-General of the Department of Livestock Development, Director-General of the Department of Agriculture, Director-General of the Department of Customs, a representative of the Ministry of Natural Resources and Environment, a representative of the Ministry of Commerce, a representative of the Ministry of Industry, President of the Thai Chamber of Commerce or his representative, President of the Federation of Thai Industries or his representative, and not more than three experts appointed by the Minister as members; and the Secretary-General as member and secretary.

The Secretary-General shall appoint not more than two government officials of the Bureau as assistant secretaries.

The experts shall acquire knowledge, expertise and experiences in the fields of science, agricultural science, economics, or law.

Section 7. The Committee shall have authority and duties as follows:

(1) to lay down policies, plans, and measures pertaining to the promotion and implementation of agricultural standards;

(2) to provide recommendation to the Minister regarding the establishment, amendment and revocation of standards under this act;

(3) to provide recommendation to the Minister regarding the issuance of Ministerial Regulations and Notifications under this Act;

(4) to lay down rules and procedures in connection with public hearing under section 18;

(5) to consider appeals against the orders of the Bureau under section 57;

(6) to issue Notifications and any other orders for the execution of this Act;

(7) to consider academic information on science or technology, or any other information in relation to standards;

(8) to carry out other functions prescribed by this Act or other laws to be within the authority and duties of the Committee.

Section 8. An expert committee shall have the qualifications and shall not be under any prohibited conditions as follows:

(1) being of Thai nationality;

(2) being of not less than thirty five years of age;

(3) not being a bankrupt;

(4) not being an incompetent or quasi-incompetent person;

(5) never having been sentenced by a final judgment to imprisonment except for negligence or a petty offence;

(6) not being a holder of political position, an executive board, an advisor or an officer of the political party.

Section 9. An expert committee shall hold office for a term of three years. Not less than sixty days preceding the expiration of term, there shall be an appointment of a new expert to replace the outgoing expert.

An expert committee who ends its term may be reappointed, but not more than two consecutive terms.

In the case where an expert committee is appointed during the term of duty, notwithstanding that it is an additional or replacing one, the appointee shall hold office for the remaining period of the predecessor.

Section 10. Other than the termination term, an expert shall be vacated office upon:

(1) death;

(2) resignation;

(3) being removed by Minister due to misconduct, malfeasance, or dishonesty in the performing of duties or incapability;

(4) being disqualified or being under any of the prohibited conditions under section 8.

In the case where an expert committee vacates office before the expiration term and a new expert has not yet been appointed, the remaining experts shall continue to perform their duties.

Section 11. In the case where expert committee vacates office at the expiration of term but any new expert has not yet been appointed, such expert shall further perform duties up until new expert has been appointed.

Section 12. At a meeting of the Committee, the presence of not less than one-half of the total number of the members is required to constitute a quorum.

The Chairperson shall preside over the meeting. In case where the Chairperson is not present at the meeting or is unable to perform the duty, the Vice Chairperson shall preside over the meeting.

In the case where both Chairperson and Vice Chairperson are not present at the meeting or are unable to perform the duty, the members present shall elect one among themselves to preside over the meeting.

A decision of a meeting shall be a majority votes and each member shall have one vote. In the case of an equality of votes, the person presiding over the meeting shall have an additional vote as a casting vote.

Section 13. The Committee shall appoint a sub-committee for considering or performing any particular responsibility as entrusted thereby.

Section 12 shall apply to a meeting of the sub-committee mutatis mutandis.

Section 14. The Bureau shall perform as the secretariat office of the Committee and be in charge of general administrative and meeting procedural works, studies and researches, and other functions regarding the tasks of Committee, Technical Committees, and Sub-committees.

Chapter II

Establishment of Standards

Section 15. In case where it is expedient to establish standards for any agricultural commodity, the Committee shall appoint a Technical Committee to prepare draft standards for such agricultural commodity and submit it to the Committee for consideration.

Upon submission of the draft standards for certain agricultural commodity under paragraph one by the Technical Committee for consideration, if the Committee so agrees to the details thereof and is of the opinion that the draft standards should be established as mandatory or voluntary standards according to the recommendation of the

Technical Committee, the Committee shall further submit it to the Minister for consideration and issuing of the Ministerial Regulation on the determination of mandatory standards or the Ministerial Notification on the determination of voluntary standards for such agricultural commodity, wherever the case may be.

The Ministerial Regulation issued under paragraph two may be stipulated that any agricultural commodity shall comply with mandatory standards in whole or in part.

Section 16. To determine mandatory or voluntary standards for any agricultural commodities, any of the following matters either one or more elements may be stipulated:

(1) method, treatment or managerial procedure for production, or characteristics of agricultural commodity regarding quality and chemical, biological and physical safety, sanitary or phytosanitary issues, or any other relevant characteristics;

(2) packages, packaging, marking or labeling;

(3) inspection, assessment, test, experiment, analysis or research regarding item(1) or (2);

(4) other requirements relating to agricultural commodity as notified by the Minister in the Royal Gazette.

Section 17. The Committee may appoint one or more Technical Committees under section 15 as appropriate, provided that each Technical Committee shall consist of not more than fifteen members.

The Technical Committee shall have functions to prepare draft standards for agricultural commodity, or to give recommendation to the Committee on the amendment or nullification of agricultural commodity standards, as well as to perform other technical tasks relating to standards as entrusted by the Committee.

The Technical Committee shall contain qualified persons or experts on standards of the kinds or groups of agricultural commodity for which they are appointed.

Qualifications and prohibited conditions, the terms of office, the vacation of office, the meeting, and other operations of the Technical Committee shall be prescribed by the Committee in the Notification.

Section 18. Prior to issuing of the Ministerial Regulation on the establishment of mandatory standards, the Bureau shall organize to have public hearing to be represented by groups of stakeholders or relevant beneficiaries in accordance with the rules and procedures prescribed by the Committee.

After the public hearing under paragraph one has already been held, the Bureau shall submit the results thereof to the Committee for further consideration and recommendation to the Minister for issuing of the Ministerial Regulation.

The Ministerial Regulation under paragraph two shall come into force not less than ninety days onwards as from the date of its publication in the Royal Gazette.

Section 19. In case of urgent necessity for the sake of public welfare, national security, or economic benefit, the Committee may propose to the Minister to issue the Ministerial Regulation for specifying any agricultural commodity to be subject to mandatory standards without abiding by the provision under section 18.

Chapter III

Producers, Exporters or Importers of Agricultural Commodity under Mandatory Standards

Section 20. In case where there is the Ministerial Regulation on the determination of mandatory standards for any agricultural commodity, no person shall be a producer, exporter or importer of such agricultural commodity, unless he is licensed by the Bureau to be the producer, exporter or importer for such agricultural commodity wherever the case may be.

The application for and issuance of license thereof shall be in accordance with the rules, procedures and conditions as prescribed by the Ministerial Regulation.

The Ministerial Regulation under paragraph two may be stipulated that certain size or characteristic of the producer's business shall be exempted from the license requirement under paragraph one.

Section 21. The producer, exporter or importer who applies for license shall have the qualifications and shall not be under any prohibited conditions as follows:

- (1) being not less than twenty years of age;
- (2) not being a bankrupt;
- (3) not being an incompetent or quasi-incompetent person;
- (4) not being a person whose license is being suspended;
- (5) not being a person whose license has been revoked, or otherwise it shall not be less than two years.

In the case where the applicant is a juristic person, a representative, a managing director, or other person acting for that juristic person shall have the qualifications and shall not be under any prohibited conditions under paragraph one, and shall have never been a juristic representative, managing director, or any other person acting on behalf of the juristic person whose license was revoked under (5).

Section 22. The license shall apply solely to the producer, exporter or importer whose name is specified therein and shall be expired after three years as from the date of its issuing.

The application for renewal and permission thereof shall be in accordance with the rules, procedures and conditions as prescribed by the Committee in the Notification.

Section 23. The licensee whoever to be the producer, exporter or importer shall display the license at the conspicuous place and easily visible location in their business premises as specified therein.

Section 24. In the case where the license is lost or substantially damaged, the producer, exporter or importer, wherever the case may be, shall apply for a substitute license to the Bureau within thirty days as from the date of acknowledgement thereof.

The application for and the issuance of the substitute license shall be in accordance with the rules, procedures and conditions as prescribed by the Committee in the Notification.

Section 25. The relocation of business premises of the producer, exporter or importer as specified in the license shall be permitted by the Bureau.

The application for and the permission thereof shall be in accordance with the rules, procedures and conditions as prescribed by the Committee in the Notification.

Section 26. The licensee whoever to be the producer, exporter or importer intending to wind up his business shall notify the Bureau in writing prior to the close-down not less than sixty days, and the license shall be returned to the Bureau within thirty days as from the date of such close-down.

Chapter IV

Inspection and Certification of Standards

Section 27. In case where the Ministerial Regulation on the determination of mandatory standards for any agricultural commodity is in place, a producer, exporter, or importer of such agricultural commodity, wherever the case may be, shall apply for inspection, and the certificate shall be granted by the conformity assessment service provider.

The inspection and certification, and its service charges under paragraph one shall be in accordance with the rules, procedures and conditions as prescribed by the Ministerial Regulation.

Section 28. The conformity assessment service provider shall officially report its inspection in writing to the applicant. In case where the inspected agricultural commodity complies with the mandatory standards, the conformity assessment service provider shall issue the certificate for such agricultural commodity according to the rules, procedures and conditions as prescribed by the Committee in the Notification.

Section 29. The Minister with the recommendations of the Committee may notify that the importation of agricultural commodity from foreign country having standards equivalent to the mandatory standards shall not be required the certificate under section 27, if there is the evidence that such agricultural commodity is inspected and certified by

the country having agreement or international cooperation on mutual recognition of standard inspection and certification.

The provision of evidences of inspection and certification and the display of standard certification mark upon the agricultural commodity imported under paragraph one shall be in accordance with the rules, procedures and conditions as prescribed by the Committee in the Notification.

Section 30. In case where the agricultural commodity is imported from the country having standard different from mandatory standards, an importer may apply for standard inspection and certification in accordance with the mandatory standards from the conformity assessment service provider of the foreign country having an agreement or international cooperation on mutual recognition of standard inspection and certification provided that the conformity assessment service provider of that country shall be approved by the Bureau in accordance with the rules, procedures and conditions as prescribed by the Committee.

Section 31. In the case where the Notification on the determination of voluntary standard for any agricultural commodity is issued, a producer, exporter or importer, wherever the case may be, may apply for inspection and certification from the conformity assessment service provider.

The inspection and certification, and its service charges under paragraph one shall be in accordance with the rules, procedures and conditions as prescribed by the Ministerial Regulation.

The provisions of section 29 and section 30 shall be applied *mutatis mutandis* to the importation of agricultural commodity under the voluntary standards.

Section 32. In the case where the agricultural commodity having been inspected and certified, has been found by the Officer thereafter that such agricultural commodity is not in compliance with the standard, the Bureau shall have the authority to instruct the producer, exporter or importer, wherever the case may be, to correct or improve the agricultural commodity so as to be complied with such standards within a prescribed period. If such correction or improvement could not be done or if the delay action may be harmful to human, plant or animal health, the Bureau shall have authority to order destruction or recall of the agricultural commodity within the prescribed period,

whereby the producer, exporter or importer, wherever the case may be, shall be liable for any incurred expenses in relation to destruction and recall of such agricultural commodity.

The orders to correct or recondition as well as to destroy or recall of such agricultural commodity under paragraph one shall be in accordance with the rules, procedures and conditions as prescribed by the Committee in the Notification.

Chapter V

Conformity Assessment Services

Section 33. No one shall be a conformity assessment service provider, unless it receives a license for such service issued by the Bureau.

The application for license and permission thereof shall be in accordance with the rules, procedures and conditions as prescribed by the Ministerial Regulation.

Section 34. The applicant for the license shall have the qualifications and shall not be under any prohibited conditions as follows:

(1) being a company which has already paid for the authorized capital in an amount as prescribed by the Committee in the Notification;

(2) having a laboratory with capacity and specifications as prescribed by the Committee in the Notification;

(3) not being a person whose license is being suspended;

(4) not being a person whose license has been revoked, or otherwise it shall not be less than two years;

(5) being under any other qualifications and prohibition as prescribed by the Committee in the Notification.

A representative, managing director, or any person acting for the company applying for the license shall have never been the representative, managing director, or any other person acting for the company whose license was revoked under (4).

Section 35. The license shall be valid solely to the conformity assessment service provider whose name is specified therein and shall be expired after three years as from the date of its issuance.

The application for renewal license and the approval thereof shall be in accordance with the rules, procedures and conditions as prescribed by the Committee in the Notification.

Section 36. The conformity assessment service provider shall display the license at the conspicuous and easily visible location in its business premise as specified therein.

Section 37. In case where the license is lost or substantially damaged, the conformity assessment service provider shall apply for a substitute license from the Bureau within thirty days as from the date of acknowledgment thereof.

The application for and issuance of the substitute license shall be in accordance with the rules, procedures and conditions as prescribed by the Committee in the Notification.

Section 38. The relocation of business premise of the conformity assessment service provider as specified in the license shall be approved by the Bureau.

The application and permission shall be in accordance with the rules, procedures and conditions as prescribed by the Committee in the Notification.

Section 39. The conformity assessment service provider intending to wind up its business shall notify in writing to the Bureau prior to the close-down not less than sixty days. The license shall be returned within thirty days as from the date of such close-down.

Section 40. The conformity assessment service provider shall;

(1) not disclose any fact acquired or informed of its operation on standard inspection in the manner which may be injurious to the interests of the applicant's business, unless such disclosure is done under the performance of official and legal duties, or for the purpose of case investigation or trial.

(2) not have any conflict of interest with the applicant for standard inspection;

(3) immediately inform the applicant of any deficiency or error found in the results of standard inspection and certification;

(4) inform the Bureau within three days after the date of the deficiency or error found as the results from the standard inspection and certification under (3).

Chapter VI

Control

Section 41. The conformity assessment service provider shall quarterly report the performance of standard inspection and certification to the Bureau according to the rules, procedures and conditions as prescribed by the Bureau in the Notification.

Section 42. The conformity assessment service provider shall keep the records of the inspection and certification and relevant documents for a period of up to three years and be made available for inspection by the Officer.

The record of inspection and certification and relevant documents under paragraph one may be kept in the electronic form according to the rules prescribed by the Law on Electronic Transactions.

Section 43. In the performance of his duties, an Officer shall have the authority as follows:

(1) to enter any premises or laboratory of a conformity assessment service provider, or any premises, warehouse, or vehicle of producer, exporter or importer of agricultural commodity between sunrise and sunset or during the office hours for inspection on the business operation in accordance with this Act, including the Ministerial Regulations and the Notifications issued under this Act;

(2) to enter any premises or laboratory of a conformity assessment service provider at any time whenever there is a reasonable ground to suspect of any violation or non-compliance under this Act, or the Ministerial Regulations or Notifications issued under

this Act for inspection on the business operation, equipment, tools or documents relevant to standard inspection.

(3) to enter any premises, warehouse, or vehicle of producer, exporter, importer, seller or holder of agricultural commodity having a standard certificate for sale at any time whenever there is a reasonable ground to suspect of any violation or non-compliance under this Act, or the Ministerial Regulations or the Notifications issued under this Act; or to inspect whether or not the agricultural commodity is complied with the standards, or consistent with the standard inspection report or certificate, or the other relevant documents.

(4) to sample agricultural commodity in the possession of a conformity assessment service provider or order producer, exporter or importer to provide adequate sample of certified agricultural commodity for further inspection;

(5) to summon a conformity assessment service provider, producer, exporter, importer, or any involved person for testimony, or submission of evidences or relevant information, or correction on deficiency or error found in the inspection;

(6) to seize or attach agricultural commodity, documents, materials, equipment, or tools related to the cause of infringement, or whenever there is a reasonable ground to suspect of infringement under this Act; or any articles under suspicious ground of applying false standard mark, or of using deficient and errant report under section 40(3), or the inspection and certification report is not complied with the standards under (4).

To perform the duty under (1), the Officer shall not act in such a manner of searching under the Criminal Procedural Code. In case under (2) or (3), if the Officer acts in a manner of searching under the Criminal Procedural Code, there shall be a search warrant. In the case where there is any reasonable ground to believe that such documents or evidences may be removed, hidden, destroyed or modified if the acquisition of the search warrant is delayed, the search, seizure or attachment of documents or evidences relevant to the cause of infringement shall be carried out without any search warrant, but the search shall be complied with the provisions in the Criminal Procedural Code. In any case, no search shall be commenced at night unless it is during the office hours of that premise.

Section 44. As for the agricultural commodity seized or attached by the Officer under section 43 (6), the Committee shall have the following authority:

(1) In the case where producer, exporter or importer has not been granted a voluntary standard certificate and uses or displays of a voluntary standard certification mark in violation under section 56, the Committee may order to correct or recondition the agricultural commodity so as to be complied with the voluntary standard, or to destroy the certification mark or to remove it from the agricultural commodity. In the case where the mark cannot be destroyed or removed from the agricultural commodity, the Committee may order such commodity to be destroyed;

(2) In the case where the producer, exporter or importer has not been granted a mandatory standard certificate for such agricultural commodity stipulated by the Ministerial Regulation, the Committee may order to destroy that agricultural commodity, or in the case of import, the Committee may order to return or await for the mandatory standard certificate application of the producer, exporter or importer, wherever the case may be.

The producer, exporter or importer, wherever the case may be, shall be liable for any incurred expenses in relation to the correction, reconditioning, destruction, returning or awaiting for the mandatory standard certificate application, or the destruction or removal of voluntary standard certification mark from the agricultural commodity.

Section 45. As to the agricultural commodity or articles seized or attached by the Officer under section 43 (6), in case where the owner or possessor thereof does not claim within ninety days as from the date of the seizure or attachment, or where the public prosecutor issues the final order not to file a lawsuit, or where the court decides not to confiscate those articles, and the owner or holder thereof has not requested for their return within ninety days as from the date of acknowledgement of the final order not to file the lawsuit or from the date of rendering the final judgment by the court or the date of being notified that no lawsuit has been filed, wherever the case may be, the ownership thereof shall be vested in the State. In this respect, the Bureau by the approval of the Committee shall have the authority to administer, as appropriate.

In case where the agricultural commodity or articles seized or attached are perishable, or the holding of which may cause a risk of damage or incur expenses more than their value, the Bureau may arrange public auction either before the case is closed or they

are vested in the State. The net proceeds from the sale thereof after deduction of expenses and any other encumbered charges shall be held in lieu of such agricultural commodity or articles.

Section 46. An Officer shall have an identification card in the form as prescribed in the Notification by the Minister.

In performing duty, the Officer shall present his identification card to the persons involved.

Section 47. In performing duty of an Officer under section 43, an involved person shall provide reasonable cooperation and facilitation to the Officer.

Section 48. In performing duty under this Act, the members of the Agricultural Standards Committee, of the Technical Committee or of the Sub-committee, and the Officer shall be regarded as officer under the Criminal Code.

Section 49. In case where the results of inspection under section 43 (1) (2) (3) or (4) are deemed by the Officer that any agricultural commodity under mandatory standards is unsafe or may be harmful to human, plant or animal health, the Bureau by the approval of the Committee shall have the authority as follows:

(1) to notify the public via newspapers or other means of communication as prescribed by the Committee the inspection results, which shall specifically state the following information:

(a) the name of such producer, exporter or importer in case where the producer, exporter or importer of agricultural commodity can be clearly identified; types and characteristics of the agricultural commodity or their containers; trade name and lot numbers in case where the agricultural commodity or their packaging has a trade name or lot numbers of production, export or import, wherever the case may be;

(b) the name of seller or holder in case where the producer, exporter or importer of agricultural commodity cannot be clearly identified but there is a seller or holder for sale of such agricultural commodity; premises for sale or holding for sale, as well as the types and characteristics of that agricultural commodity or their packaging.

(2) to recall such agricultural commodity or order the producer, exporter or importer thereof to collect and hold it within a specific time period as determined by the

Bureau. The Bureau shall have the authority to destroy such agricultural commodity or to take other action in accordance with the rules and procedures as prescribed by the Committee in the Notification.

The producer, exporter, importer, seller or holder for sale of agricultural commodity, wherever the case may be, shall be responsible for any incurred expenses in relation to the notification, recall, destruction or action under paragraph one.

Section 50. In case where any licensee as producer, exporter, importer or a conformity assessment service provider violates or fails to comply with this Act, or with the Ministerial Regulation or Notification issued under this Act, the Bureau shall have the authority to suspend the license for a period not exceeding three months each.

The suspended licensee under paragraph one shall not operate the business during the suspension period.

Section 51. The Bureau shall have the authority to revoke a license when it is evident that:

(1) any licensee as producer, exporter or importer and any conformity assessment service provider are lack of qualification or shall not be under any prohibited conditions provided in section 21 and section 34 respectively;

(2) any licensee as producer, exporter, importer, or any conformity assessment service provider whose license was suspended, commits any offence again within five years thereof;

(3) any licensee as producer, exporter or importer, or any conformity assessment service provider commits any offence under this Act causing severe injury to the economy or public interests;

(4) any licensee as producer, exporter or importer commits any offence under section 60, section 67, section 68, section 69, section 71 paragraph one, section 72 paragraph one, section 73, section 74 or section 75, or conformity assessment service provider commits any offence under section 64, section 70, section 71 paragraph two, section 72 paragraph two or section 74.

Any revoked licensee under paragraph one shall not apply for any new license within two years period as from the date of acknowledgement of the order.

Section 52. The issuance of license suspension under section 50 and license revocation under section 51 shall be in accordance with the rules, procedures and conditions as prescribed by the Committee in the Notification.

Section 53. The Bureau shall notify the name lists of producer, exporter, importer or conformity assessment service provider whose license has been suspended or revoked under section 50 or section 51 to public for the benefits of consumer or public protection according to the rules, procedures and conditions as prescribed by the Committee in the Notification.

Chapter VII

Standard Certification Marks

Section 54. Standard certification marks for displaying upon agricultural commodity consist of two types as follows:

(1) a mandatory standard certification mark for displaying upon agricultural commodity certified in accordance with the mandatory standards;

(2) a voluntary standard certification mark for displaying upon agricultural commodity certified in accordance with the voluntary standards.

The characteristics, usage and display of the mark shall be in accordance with the rules, procedures and conditions as prescribed by the Ministerial Regulation.

Section 55. The producer, exporter or importer of agricultural commodity under mandatory standards shall display the certified standard mark under section 54 (1) prior to taking out of production place or customs formalities clearance. For the latter case, the display of the mark as otherwise shall be permitted by the Minister under prescribed conditions.

Section 56. No one shall be allowed to use the certified standard mark under section 54, unless producer, exporter or importer who receives the certificate of mandatory or voluntary standards, wherever the case may be.

Chapter VIII

Appeal

Section 57. The producer, exporter, importer, an applicant for the license, or conformity assessment service provider shall have the right to petition against the order of the Bureau issued under this Act to the Committee.

The said petition under paragraph one shall be submitted in writing to the Bureau within thirty days from the date of receiving the Bureau's order.

The Bureau then, shall submit the said petition to the Committee within seven days from the date of its receiving.

The Committee shall make decision on the said appeal within sixty days from the date of its receiving from the Bureau. The decision of the Committee shall be final.

The said petition under paragraph one shall not be asked for leniency under the Bureau's order, unless it is lenient by the order of the Committee.

Chapter IX

Penalties

Section 58. Any producer, exporter, or importer who violates section 20 paragraph one or section 50 paragraph two shall be liable to a fine not exceeding three hundred thousand baht.

Section 59. Any licensee as producer, exporter, or importer who fails to comply with section 23, section 24 paragraph one, section 25 paragraph one, section 26, or section 55 shall be liable to a fine not exceeding one hundred thousand baht.

Section 60. Any producer, exporter, or importer who fails to comply with section 27 paragraph one shall be liable to a fine not exceeding five hundred thousand Baht.

Section 61. Any producer, exporter, or importer who fails to comply with the Bureau's order within the prescribed period under section 32 shall be liable to a fine not exceeding one hundred thousand baht, in addition a daily fine not exceeding ten thousand baht per day shall be imposed during such failure.

Section 62. Any person who violates section 33 paragraph one shall be liable to imprisonment for a term not exceeding three years, or a fine not exceeding three hundred thousand baht or both.

Section 63. Any conformity assessment service provider who fails to comply with section 36, section 37 paragraph one, section 38 paragraph one, section 39, or section 41 shall be liable to a fine not exceeding one hundred thousand baht.

Section 64. Any conformity assessment service provider who violates or fails to comply with section 40 or section 50 paragraph two shall be liable to imprisonment for a term not exceeding three years, or a fine not exceeding three hundred thousand baht or both.

Section 65. Any conformity assessment service provider who fails to comply with section 42 shall be liable to a fine not exceeding three hundred thousand baht.

Section 66. Any person who fails to comply with the order of an Officer issued under section 43(5) or fails to provide cooperation and facilitation to the Officer under section 47 shall be liable to a fine not exceeding ten thousand baht.

Section 67. Any producer, exporter, or importer who fails to recall agricultural commodity pursuant to the order of the Bureau under section 49(2) shall be liable to imprisonment for a term not exceeding three years, or a fine not exceeding three hundred thousand baht or both.

Section 68. Any person who imitates a certified standard mark to be displayed upon an agricultural commodity under section 54 so as to mislead others shall be liable to imprisonment for a term not exceeding three years, or a fine not exceeding three hundred thousand baht or both.

Section 69. Any person who violates section 56 shall be liable to imprisonment for a term not exceeding three years, or a fine not exceeding three hundred thousand baht or both.

Section 70. Any conformity assessment service provider who makes a false report on standard inspection and certification or conceals the facts that should be clarified in a manner likely to cause damage to other persons shall be liable to imprisonment for a term not exceeding three years or a fine not exceeding three hundred thousand baht or both.

Section 71. Any person who gives, offers or agrees to give money, asset or any other benefits to conformity assessment service provider for issuing of the unlawful result of standard inspection and certification shall be liable to imprisonment for a term not exceeding five years, or a fine not exceeding five hundred thousand baht or both.

Any person who demands, accepts or agrees to accept money, asset or any other benefits for his own sake or other person for the act under paragraph one shall be liable to the same punishment as provided in paragraph one.

Section 72. Any person who makes counterfeit standard certificate or the report on standard inspection wholly or partly, addition, erasure or alteration of the content of such certificate or report in order to make any person to believe that is a genuine certificate or report, shall be liable to imprisonment for a term not exceeding three years, or a fine not exceeding three hundred thousand baht or both.

If the offender under paragraph one is the conformity assessment service provider, it shall be liable to imprisonment for a term not exceeding five years, or a fine not exceeding five hundred thousand baht or both.

Section 73. Any producer, exporter, importer, seller, or holder of agricultural commodity for sale who makes use of either counterfeit standard certificate or the report on standard inspection even though it is known of its false pretence shall be liable to imprisonment for a term not exceeding three years, or a fine not exceeding three hundred thousand baht or both.

Section 74. Any person who takes out, causes damage, destroys or renders to no avail of seal or mark stamped or signed upon any article by an Officer in the performance of his duties with the aims of using it as evidence of seizure, attachment or holding of such article, shall be liable to imprisonment for a term not exceeding two years, or a fine not exceeding two hundred thousand baht or both.

Section 75. Any person who advertises, sells or holds of agricultural commodity for sale being subject to comply with mandatory standards prescribed by the Ministerial Regulation, or to display a certified standard mark by knowing or reasonably knowing that such agricultural commodity has not been inspected and certified, shall be liable to imprisonment for a term not exceeding three years, or a fine not exceeding three hundred thousand baht or both.

Section 76. In case where a juristic person is an offender under this Act, the legal representative, managing director, and any other person acting on its behalf shall be deemed as the offender and be liable to the same punishment as imposed on the juristic person unless that person shall prove of innocence from such juristic person wrongdoing.

Section 77. The committee on settling the offence appointed by the Minister shall have the authority to settle all offences under this Act on the cases of imposition on fine.

The settling committee appointed by the Minister under paragraph one shall consist of three members which includes a government servant from the Ministry of Agriculture and Cooperatives, a public prosecutor and an inquiry official under the Criminal Procedural Code.

When the alleged offender has paid the fine so fixed, the case shall be settled under the Criminal Procedural Code.

Transitory Provisions

Section 78. All agricultural standards as notified by the Notional Committee on Agricultural Commodity and Food Standards in the Royal Gazette before the effective date of this Act shall be regarded as voluntary standards under this Act.

Section 79. Any person holding certificate as a conformity assessment service provider issued by the National Committee on Agricultural Commodity and Food Standards before the effective date of this Act shall submit formal letter in writing to the Bureau within sixty days as from the effective date of this Act in order to be granted a license by the Bureau. After submission, that person shall be deemed as the conformity assessment service provider under this Act until the Bureau refuses to grant such license or until the certificate is expired. In this respect, all provisions relating to the conformity assessment service provider and control thereof as well as relevant punishment provisions under this Act shall be applied.

Section 80. Any person permitted to apply a certified standard mark for the agriculture commodity by the Bureau, which that mark is registered under the law on trademarks, before the effective date of this Act, shall be allowed to continue its application. That certified standard mark shall be deemed as voluntary certified standard mark under this Act. In this respect, all provisions relating to the standard certification marks, including relevant punishment provisions shall be applied.

Countersigned by:

General Surayudh Julanondh

Prime Minister

Rates of Fees

- | | |
|---|-------------------|
| 1. License under section 20 | 10,000 Baht each, |
| 2. License under section 33 | 50,000 Baht each, |
| 3. Substitute license under section 20 | 5,000 Baht each, |
| 4. Substitute license under Section 33 | 10,000 Baht each, |
| 5. Renewal license under section 20 or section 33 | |
- shall be half of the fee of such respective license per time.

For issuance of the Ministerial Regulation on the determination on fees, the schedules may be prescribed at different rates, taking into account the size or characteristics of business or scopes of standard inspection and certification.

Remark: Rationale for the promulgation of this Act is that: Thailand has been keeping on pace of development on agricultural commodity standards. At present, several types of agricultural commodity, both being produced in Thailand and imported from foreign countries, are not currently regulated by certain standards, resulted in inferior quality, unsafe to consumer, and lacking confidence by public. Accordingly, agricultural commodity trade and competitiveness of Thailand in the world market have been thereby affected, which would damage the economy of the country as a whole. It is expedient to have mechanisms for the determination, inspection and certification of agricultural standards in order to encourage agricultural commodity to meet standard requirements, to promote safety, or to prevent damage to public, agricultural commodity trade or the economy of the country, as well as in compliance with international obligations. Thus, it is deemed necessary to promulgate this Act.