

Measures for Management of Environmental Inspection and Testing Institutions

Promulgated and Effective on November 19, 1997,

Latest Revision Effective on June 10, 1998

Environmental Protection Administration of the Republic of China on Taiwan

English Translation¹

by

Dennis Te-Chung Tang

Academia Sinica, Taipei, Taiwan

National Taiwan University, Taipei, Taiwan

and

Richard J. Ferris Jr.

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

Approved by

Hsung-Hsiung Tsai

Administrator, Environmental Protection Administration

Republic of China

Chapter 1: General Provisions

Article 1

These Measures are promulgated pursuant to Section 4 of Article 12 of the Air Pollution Control Act, Section 2 of Article 22 of the Water Pollution Control Act and Article 2 of the Organic Act for the National Institute of Environmental Analysis of the Environmental Protection Administration of the Executive Yuan.²

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

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

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

² Translators' note: The Environmental Protection Administration of the Executive Yuan (of the Republic of China on Taiwan) is also known as "TEPA."

Article 2

Particular terms used in these Measures are defined as follows:

1. “Environmental inspection and testing business” refers to the sampling, inspecting and testing of pollutants via physical, chemical, or biological inspection methods;
2. “Environmental inspection and testing institutions” refers to enterprises which have obtained permits in accordance with these Measures and engage in environmental inspection and testing business; and
3. “Environmental inspection and testing technicians” refers to technicians who are engaged in the environmental inspection and testing business.

Article 3

An environmental inspection and testing institution, (hereinafter referred to as “EITI”), shall only engage in environmental inspection and testing business after obtaining a permit therefor and as allowed in the permit.

Any EITI belonging to a contractee organization responsible for pollution control at a publicly or privately owned enterprise shall not engage in final inspection or functional evaluation of the pollution control facilities constructed by the contractee organization.

Chapter 2: Permits

Article 4

An EITI shall apply for a permit from the Responsible Agency at the central government level (*i.e.*, the Environmental Protection Administration of the Executive Yuan).

Article 5

An EITI applying for a permit shall, in addition to complying with the

requirements stipulated under Article 6 [of these Measures], shall fall within one of the following categories:

1. A private company with real capital in the amount of five million (5,000,000) New Taiwan Dollars (NTD), or a foundation with registered property valued at five million (5,000,000) NTD;
2. A government agency other than an environmental protection agency; or
3. A public university or college.

Article 6

An EITI applying for a permit shall be equipped with its own laboratory, measurement devices, and at least six (6) full-time environmental inspection and testing technicians (hereinafter referred to as “technicians”), at least two (2) of whom must be laboratory director and quality assurance personnel. Where the applicant is a government agency other than an environmental protection agency, it shall be staffed by at least two (2) technicians who shall be full-time professionals in a field related to the [government agency’s] business, one (1) of whom is a laboratory director.

Laboratory director and quality assurance personnel shall exhibit qualifications described within one (1) of the followings Items:

1. A graduate of the chemistry or environment-related department of a [domestic] public or private university, college, or a foreign university or college recognized by the Ministry of Education; if the laboratory is only engaged in inspection and testing of noise, vibration, or other physical environmental [media], the director of the laboratory may be a graduate of a physics or engineering department [of the aforementioned educational institutions]; where the [permit] applicant is a government agency other than an environmental protection agency, [the laboratory director and quality assurance personnel] may be graduates of fields related to the business of the [government] agency;
2. A person who has, for more than three (3) years, conducted inspection and testing of the type reflected in the [permit] application and can present evidentiary documents attesting to such work experience; for those persons who possess Masters degrees in relevant fields, only two (2) years of [the abovementioned

inspection and testing] experience is required; for those persons who possess doctorate degrees in relevant fields, only one (1) year of [the abovementioned inspection and testing] experience is required.

Technicians mentioned in Section 1 [of this Article], other than laboratory director and quality assurance personnel, shall exhibit qualifications described within one (1) of the following Items:

1. A graduate of basic and life science-related³ departments, engineering-related departments, medical departments, agriculture-related departments of a [domestic] public or private university, college, or a foreign university or college recognized by the Ministry of Education; and
2. A person who graduated from a public or private high school or senior vocational school has, for more than three (3) years, conducted inspection and testing and can present evidentiary documents attesting to such work experience; for those graduates of chemical testing departments, chemical engineering departments, agricultural chemical departments, food science departments, or environment-related departments, only two (2) years of [the abovementioned inspection and testing] experience is required.

A government agency other than an environmental protection agency, which has obtained a permit in accordance with these Measures, may only engage in environmental inspection and testing business related to the business of the [government] agency.

Article 7

An EITI applying for a permit shall submit the following documents:

1. Application form;
2. Evidentiary documents indicating the organization of the institution;

³ Translators' note: "Basic and life science-related departments" [a phrase drawn from the Chinese *li hsue yuan*] include a wide variety of disciplines, such as meteorology, physics and psychology.

3. Cop(ies) of the identification cards of the [legal] representatives of the institution;
4. Map indicating the location of the [institution's] laboratory;
5. Plat map and schematics of the inspection and testing facilities;
6. Cop(ies) of evidentiary documents related to the employment of the director of laboratory, quality assurance personnel and (other) technicians;
7. [Description of] the inspection and testing methods associated with the permit application;
8. Results of actual inspections and tests and quality assurance statistics associated with the permit application;
9. [Copy of] the laboratory practice manual; and
10. Other information designated by the Responsible Agency at the central government level.

Article 8

An EITI may have more than one (1) laboratory but must apply for a permit for each laboratory.

An EITI applying for an extension [of a permit], resumption of business, or increase [of the number of laboratories] or categories and items [that may be] inspected and tested, shall submit the documents prescribed in Items 1 and 4-10 in Section 1 of the preceding Article.

If the application is not consistent with the requirements prescribed in the preceding Section, the Responsible Agency at the central government level may order the applicant to correct the application within a specified time period; the applicant must reapply for the permit if it fails to correct the application within the specified time period.

Article 9

The categories of inspections and tests for permits include:

1. Air inspection and testing;
2. Water quality and quantity inspection and testing;
3. Drinking water inspection and testing;
4. Waste inspection and testing;
5. Soil inspection and testing;
6. Environmental sanitation chemical inspection and testing;
7. Toxic chemical substance inspection and testing;
8. Physical environmental media, such as noise and vibration, inspection and testing;
and
9. Other inspection and testing categories publicly announced the Responsible Agency at the central government level.

The items [inspected and tested] within each category prescribed in the preceding Section shall be limited to those items regulated by the various [Republic of China] environmental laws and regulations, those items the standardized inspection and testing methodologies for which have been publicly announced by the Responsible Agency at the central government level, or those items which have been publicly announced by the Responsible Agency at the central government level.

Article 10

The Responsible Agency at the central government level shall review applications in accordance with the following procedures:

1. Written form review: Review based on all documents submitted by an applicant;
2. Performance evaluation: Evaluation based on random tests, empirical comparisons or practical skill appraisals associated with the permit application; and

3. Systemic evaluation: Evaluation based on on-site inspection and scoring of individual laboratories the permits of which are under review.

The Responsible Agency at the central government level shall review an extension [of a permit], resumption of business, or increase [of the number of laboratories] or categories and items inspected and tested, in accordance with the procedures prescribed in the preceding Section; nevertheless, the Responsible Agency at the central government level may, when reviewing an increase of the items inspected and tested, waive systemic evaluation.

Detailed provisions for the review and evaluation prescribed in Section 1 shall be promulgated by Responsible Agency at the central government level.

Not only must the application review of special items⁴ (for inspection and testing) be conducted in accordance with the provisions promulgated pursuant to the preceding Section, but also pursuant to rules promulgated by the Responsible Agency at the central government level.

Article 11

A permit for an EITI shall include the following information:

1. Name of the institution;
2. Name and address of the laboratory;
3. [Name of] the laboratory director and his/her ID number;
4. [Listing of] inspection and testing categories and items authorized;
5. Validity period; and
6. Other information designated by the Responsible Agency at the central government level.

⁴ Translators' note: "Special items" refers to items not already listed in these Measures.

Article 12

A permit for an EITI shall be valid for a time period of five (5) years; an application for extension of a permit may be filed six-to-eight (6-8) months prior to the expiration date thereof. A [permit] extension shall be valid for a time period of five (5) years. After the expiration of the extension period, a new application for a permit shall be submitted.

Article 13

The Responsible Agency at the central government level may designate certain [EITI] technicians, or may order an EITI to designate appropriate technicians, for on-the-job training; the EITI may not refuse [to comply with the training instructions of] the Responsible Agency.

Chapter 3: Management

Article 14

When conducting environmental inspection and testing business, an EITI shall comply with the following:

1. Use [only] authorized laborator(ies) and measurement devices;
2. Employ standardized inspection and testing methods publicly announced by the Responsible Agency at the central government level; where no standardized inspection and testing methods are available, [the EITI shall employ] inspection and testing methods approved by the Responsible Agency at the central government level and a standardized operations manual including detailed descriptions of inspection and testing methods shall be kept at the laboratory for reference;
3. Compile a laboratory practice manual and conduct inspection and testing business in accordance with the practice manual; the practice manual shall include descriptions of the following:
 - (1) use [method] and revision of manual;

- (2) organization, division of labor and training;
 - (3) collection, transportation and safekeeping of samples;
 - (4) inspection and testing methods to be used;
 - (5) inspection and testing of samples and numerical data and data-tracing management [methods];
 - (6) equipment calibration, utilization, maintenance and related recordkeeping;
 - (7) quality assurance and control operations;
 - (8) preparation, review and safekeeping of inspection and testing reports;
 - (9) safety, sanitation and pollution control measures; and
 - (10) other information designated by the Responsible Agency at the central government level;
4. Submit laboratory reports to the Responsible Agency at the central government level for reference including the following information [and in accordance with the following provisions]:
- (1) inspection and testing results and individual inspection and testing business reports for the preceding month [for submission] by the tenth (10th) of each month;
 - (2) statistics on the last year's inspection and testing [for submission] by January 31 of each year; and
 - (3) other information as designated by the Responsible Agency at the central government level; and
5. Other matters prescribed by the Responsible Agency at the central government level.

Article 15

When the name and address of an EITI, or related laboratory, laboratory director, quality assurance personnel, or other technicians are changed, an EITI shall conduct registration modification within thirty (30) days of the occurrence of the changes. If, after the aforementioned changes, the number of laboratory director, quality assurance personnel and other technicians falls short of the quotas prescribed in Article 6 of these Measures, an EITI must fill the personnel vacancies [and thereby comply with the quotas] by the time the registration modification is conducted. As to other registration matters designated by the Responsible Agency at the central government level, an EITI shall conduct registration modification within the specified time period.

When an EITI is a corporate entity or a foundation and the EITI corporate license, foundation registration certificate, or business license for the internal department responsible for environmental inspection and testing business does not reflect registration authorizing engagement in environmental inspection and testing business, such an EITI shall complete registration at relevant Responsible Agencies within ninety (90) days [of acquiring a permit issued under these Measures] and report [the registration] to the Responsible Agency at the central government level for reference.

When an EITI changes its address or legal representative, it shall report to the Responsible Agency at the central government level for reference.

Article 16

The Responsible Agencies at the central government level may dispatch inspectors with proper identification to enter EITIs for inspection and verification purposes and order production of related documentation; an EITI shall not evade, obstruct or refuse such inspections, verifications and orders.

Confidentiality shall be maintained where inspections and verifications conducted by the Responsible Agency at the central government level, or documents produced under order of said Responsible Agency, involve commercial or military secrets.

When the inspections and verifications prescribed in Section 1 of this Article

uncover violations, the Responsible Agency at the central government level shall issue a written warning to the EITI and may order [the EITI] to correct [the noncompliance situation] within a specific time period; an EITI [acting under such an order] shall submit a correction report within a specified time period.

Article 17

In order to supervise the environmental inspection and testing business conducted by EITIs, the Responsible Agency at the central government level may: evaluate EITI sampling techniques; provide submit samples [to an EITI] for inspection and testing; or order an EITI to conduct inspection and testing of samples; and order an EITI to submit inspection and testing results [for review] within a specified time period.

Inspection and testing results may not consecutively exceed deviation limits prescribed by the Responsible Agency at the central government level more than two (2) times.

Article 18

When an EITI terminates its business it shall turn in its permit to the Responsible Agency at the central government level. The Responsible Agency at the central government level approving the resumption of business by EITI [that terminated its business] during a period of validity [of the turned-in permit], shall return the permit to the EITI.

Article 19

An EITI violating the requirements stipulated under these Measures, when conducting inspection and testing of a stationary air pollution source, shall be punished pursuant to Article 7 of the Air Pollution Control Act. An EITI violating the requirements stipulated under these Measures, when conducting inspection and testing of effluent quality and quantity, shall be punished pursuant to Article 46 of the Water Pollution Control Act.

Article 20

When an EITI conducting environmental inspection and testing business

violates Section 2 of Article 3, Section 1 of Article 8, Articles 13 and 14, Section 1 of Article 15, or Section 3 of Article 16, the Responsible Agency at the central government level shall issue written warning and may order the EITI to correct the violation within a specified time period. In such a case, the EITI shall submit a correction report within a specified time period.

Article 21

If an EITI violates Section 1 of Article 16, Section 1 of Article 17, or fails to submit correction reports in accordance with the preceding Article of these Measures, while engaged in environmental inspection and testing business, the Responsible Agency at the central government level shall issue a written warning [to the EITI] and may order the EITI to suspend the relevant inspection and testing business until such time as the EITI reports [to the Responsible Agency] that the violations have been corrected and the corrections are verified [by the Responsible Agency]. When an EITI violates Section 2 of Article 17, the Responsible Agency may order the EITI to suspend relevant inspection and testing business until such time as the EITI reports [to the Responsible Agency] that the violations have been corrected and the corrections are verified [by the Responsible Agency].

Article 22

When an EITI falls within one of the following categories, the Responsible Agency at the central government level may revoke the EITI's, or the EITI laboratory's, permit:

1. The EITI providing false information in a permit application regarding employment of laboratory personnel, the inspection or treatment of numerical data, inspection reports, or other documents submitted;
2. A laboratory that has been issued five (5) or more written warnings during the permit validity period;
3. [An EITI] that loses the capacity to conduct [inspection and testing] business, or does not conduct [such] business for one (1) year after the issuance of a permit;
4. An EITI that violates Section 2 of Article 15;

5. An EITI that violates Article 18;
6. [An EITI] that fails to comply with orders issued in accordance with Article 21 of these measures by the Responsible Agency at the central government level to suspend relevant inspection and testing business; or
7. [An EITI] committing other violations of these Measures deemed serious by the Responsible Agency at the central government level.

An EITI, the permit of which has been revoked, may not re-apply for a permit to conduct business under the same or similar name for three (3) years; the legal representative(s) and laboratory director(s) of such an EITI may not serve in another EITI (subject to permit requirements) for three (3) years.

An EITI that has had its permit revoked, or that has been ordered to suspend [inspection and testing] business, must cease its inspection and testing business on the date that the revocation or suspension orders are delivered.

Chapter 4: Supplementary Provisions

Article 23

The training methods and courses for the technicians shall be prescribed by the Responsible Agency at the central government level.

The training mentioned in the preceding Section shall be implemented by the Responsible Agency at the central government level or the institution designated by the Responsible Agency at the central government level. Training costs shall be charged by the institution providing the training.

Article 24

The Responsible Agency at the central government level may entrust certain institutions with responsibility for the review, evaluation, assistance and guidance [prescribed in these Measures].

Article 25

Applicants applying for issuance, replacement, renewal, extension of permits and registration modification shall pay review or document fees.

Rates for the fees mentioned in the preceding Section shall be prescribed by the Responsible Agency at the central government level; revenues from these fees shall be considered part of the Government budget.

Article 26

The formats for the relevant documents prescribed in these Measures shall be prescribed by the Responsible Agency at the central government level.

Article 27

If the relevant documents required under these Measures are in foreign [(non-Chinese)] languages, Chinese translations of the documents shall be submitted that are certified by liaison offices of the Republic of China, or an organization authorized by the Ministry of Foreign Affairs.

Article 28

An EITI that has conducted environmental and testing business under a permit issued by the Responsible Agencies prior to the promulgation of these Measures shall be allowed to continue its business until the expiration date [of the original permit]; such an EITI may apply for an extension of its permit pursuant to these Measures.

Article 29

These Measures shall come into force upon the date of promulgation.