

Appendix 7 Standards of Fines for Incompliance with Order by the Competent Authority to Recover or Destruct in accordance with Paragraph 2, Article 52 of the Act Governing Food Safety and Sanitation

Statute Violated	Statute Imposing Penalty	Fact of Violation	Penalty	Standards of Fine	Remarks
Paragraph 2, Article 52 of the Act	Subparagraph 3, Paragraph 1, Article 44 of the Act	Incompliance with order by the competent authority to recover or destruct in accordance with Paragraph 2, Article 52 of the Act.	A fine between NT\$60,000 and NT\$200,000,000.	<ol style="list-style-type: none"> 1. Based on the number of violations, the basic fine (A) per count is as follows: <ol style="list-style-type: none"> (1) 1 violation: NT\$60,000. (2) 2 violations: NT\$300,000. (3) 3 violations: NT\$600,000. (4) 4 violations: NT\$1,000,000. (5) 5 violations and above: NT\$1,700,000. 2. If any of the following aggravating events exists, the final amount of penalty shall be the basic fine (A) times the aggravating multiple. 	Number of violations: Number of fines imposed in accordance with Subparagraph 3, Paragraph 1, Article 44 of the Act during the period of 12 months preceding the date of discovery of the facts of violation by the competent authority.

Aggravating Events	Aggravating Multiple	
Financial Factor (B) ^{Note}	<ol style="list-style-type: none"> 1. If the person punished meets the following financial conditions: B=1 <ol style="list-style-type: none"> (1) During the period of 12 months preceding the date of discovery of the facts of violation by the competent authority, the sale amount of all incompliant products is less than NT\$2,400,000. (2) The amount of capital or paid-in capital under company or business registration, the working capital inside the Republic of China is less than NT\$100 Million, or there is no business registration. 2. If the person punished meets the following financial conditions: B=2 <ol style="list-style-type: none"> (1) During the period of 12 months preceding the date of discovery of the facts of violation by the competent authority, the sale amount of all incompliant products is above NT\$2,400,000 and less than NT\$4,800,000. (2) The amount of capital or paid-in capital under company or commercial registration, the working capital inside the Republic of China is above NT\$100 Million and less than NT\$1 Billion. 3. If the person punished meets the following financial conditions: B=3 <ol style="list-style-type: none"> (1) During the period of 12 months preceding the date of discovery of the facts of violation by the competent authority, the sale amount of all incompliant products is above NT\$4,800,000 and less than NT\$9,600,000. (2) The amount of capital or paid-in capital under company or commercial registration, the working capital inside the Republic of China is above NT\$1 Billion and less than NT\$5 Billion. 4. If the person punished meets the following financial conditions: B=4 <ol style="list-style-type: none"> (1) During the period of 12 months preceding the date of discovery of the facts of violation by the competent authority, the sale amount of all incompliant products is above NT\$9,600,000 and less than NT\$19,200,000. (2) The amount of capital or paid-in capital under company or commercial registration, the working capital inside the Republic of China is above NT\$5 Billion and less than NT\$10 Billion. 5. If the person punished meets the following financial conditions: B=5 <ol style="list-style-type: none"> (1) During the period of 12 months preceding the date of discovery of the facts of violation by the competent authority, the sale amount of all incompliant products is above NT\$19,200,000. (2) The amount of capital or paid-in capital under company or commercial registration, the working capital inside the Republic of China is above NT\$10 Billion. 	
	<p>Note:</p> <ol style="list-style-type: none"> 1. The “financial condition” referred to in the above aggravating multiples shall be based on the sale amount of all incompliant products during the period of 12 months preceding the date of discovery of the facts of violation by the competent authority. If such sale amount cannot be acquired, it shall be based on the amount of capital or paid-in capital under company or business registration, the working capital inside the Republic of China. 2. “The sale amount” referred to in the above aggravating multiples is the consideration received from the sale of goods, but not the business tax payable for that specific sale. 3. All “incompliant products” referred to in the above aggravating multiples shall be calculated based on the following principles: Total amount of foods, food additives, food utensils, food containers or packaging and food cleansers that are not recovered or destructed pursuant to the order of the competent authority in accordance with Paragraph 2, Article 52 of the Act. 4. When the company registration includes both the amount of capital and the amount of paid-in capital, the amount of paid-in capital shall be used. 	
Factory Illegality Factor (C)	1. The person punished has acquired in accordance with the law an approval from the industry competent authority for exemption	The person punished shall manage factory registration with the industry competent authority but has not done so: C=2

	from factory registration: C=1 2. The person punished has factory registration (including temporary factory registration): C=1		
Willful Violation Factor (D) ^{Note}	Negligence (including negligence with knowledge and negligence without knowledge): D=1	Willful violation (including direct and indirect intent): D=2	
	<p>Note:</p> <ol style="list-style-type: none"> “Negligence without knowledge” referred to in these Standards of Fines means a conduct is committed negligently if the actor fails, although not intentionally, to exercise his duty of care that he should and could have exercised in the circumstances. “Negligence with knowledge” referred to in these Standards of Fines means a conduct is considered to have been committed negligently if the actor is aware that his conduct would, but firmly believes it will not, accomplish the element of an offense. “Direct intent” referred to in these Standards of Fines means a conduct is committed intentionally if the actor knowingly and intentionally causes the accomplishment of the elements of an offense. “Indirect intent” referred to in these Standards of Fines means a conduct is considered an intentional commission of an offense if the actor is aware that the act will accomplish the elements of the offense and if such accomplishment is not against his will. 		
Violation Type Factor (E)	Incompliance with order by the competent authority to recover or destruct in accordance with Subparagraph 3, Paragraph 1, Article 52 of the Act: E=1	Incompliance with order by the competent authority to recover or destruct in accordance with Subparagraph 2, Paragraph 1, Article 52 of the Act: E=2	Incompliance with order by the competent authority to recover or destruct in accordance with Subparagraph 1, Paragraph 1, Article 52 of the Act: E=3
Incompliant Materials and Relevant Products Type Factor (F)	The incompliant materials and relevant products are not violation of Subparagraph 3, 7 or 10, Paragraph 1, Article 15 or Subparagraph 1, Article 16 of the Act: F=1	The incompliant materials and relevant products are violation of Subparagraph 3, 7 or 10, Paragraph 1, Article 15 or Subparagraph 1, Article 16 of the Act: F=2	
Other Aggravating Factor (G)	If the fine imposed in accordance with the above principles have been unconscionable at the time, individual situations of the case may be taken into consideration. The reasons shall be stated for aggravating factors to be applied in accordance with administrative penalty legislations. The aggravating factor may be above 1 or below 1. If an aggravating factor is applied, the underlying facts and the reasons for applying the aggravating factor shall be recorded clearly and in detail.		
Calculation of Final Amount of Fine	\$AxBxCxDxExFxG		
Remarks	<ol style="list-style-type: none"> For failure to comply with competent authority’s order of recall or destruction in accordance with Paragraph 2, Article 52 of the Act, the amount of fine shall be imposed in accordance with the formula listed. In imposing a fine, if the amount calculated after applying the aggravating factor exceeds the maximum statutory amount of fine provided by the penalty clause, unless there is an event under Paragraph 2, Article 18 of the Administrative Penalty Act, the maximum statutory amount of fine shall be applied. The fine imposed shall not be lower than the minimum statutory amount of fine, unless the Administrative Penalty Act allows for a reduction or remission. 		