

**The Enhancement and Conservation of National Environmental Quality Act,  
B.E. 2535 (1992)**

**Translation**

BHUMIBOL ADULYADEJ, REX.

Given on the 29<sup>th</sup> Day of March B.E. 2535 (1992),

Being the 47<sup>th</sup> Year of the Present Reign

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

Whereas it is deemed expedient to reform and improve the law on enhancement and conservation of national environmental quality;

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

**Section 1**

This Act shall be called "The Enhancement and Conservation of National Environmental Quality Act, B.E. 2535 (1992)"

**Section 2**

This Act shall come into effect after the elapse of a period of sixty days from the date following its publication in the Government Gazette.

**Section 3**

The following Acts shall be repealed:

- (1) The Enhancement and Conservation of National Environmental Quality Act, B.E. 2518;
- (2) The Enhancement and Conservation of National Environmental Quality Act (No. 2), B.E. 2521;
- (3) The Enhancement and Conservation of National Environmental Quality Act (No. 3), B.E. 2522.

**Section 4**

In this Act,

"Environment" means natural things, which form the physical and biological conditions surrounding man and man-made things.

"Environment Quality" means the balance of nature, being composed of animals, plants, natural resources and man-made objects which is for the benefit of subsistence of mankind and the sustenance of human-being and nature.

"Environment Quality Standards" means the parameters of quality standards for water, air, noise and other conditions of the environment, which are determined as the general criteria for enhancement and conservation of environmental quality.

"Fund" means the Environmental Fund.

"Pollutant" means wastes, hazardous substances and other polluting substances as well as residues, sediments or the remainder of such matters, which are discharged from point sources of pollution or naturally occur in the environment, that have or are likely to have impacts on environmental quality or to cause conditions poisonous or harmful to the health and hygiene of the public, and shall mean to include radiation, heat, light, noise, odor, vibration or other nuisances emanated or discharged from point sources pollution.

"Pollution" means the state of the environment that has been affected, changed or contaminated by pollutants, resulting in deterioration of environmental quality, such as water pollution, air pollution, and soil pollution.

"Point Source of Pollution" means any community, factory, building, structure, vehicle, place of business, activity, or any other thing from which pollution is generated.

"Waste" means refuse, garbage, filth, dirt, wastewater, polluted air, polluting substances or any other hazardous substances which are discharged or originate from point sources of pollution, including residues, sediments, or the remainders of such matters, either in the state of solid, liquid or gas.

"Wastewater" means waste in a liquid state, including polluting or contaminating substances contained in such liquid.

"Polluted Air" means waste in a gaseous state in the form of vapor, steam, exhaust, fume, odor, smoke, gas, dust, soot, ash or other polluting substances in the form of particulate matters that can be suspended in the atmospheric air.

"Hazardous Substance" means explosive substances, inflammable substances, oxidizing and peroxidizing substances, toxic substances, pathogenic substances, radioactive substances, genetic transforming substances, corrosive substances, irritating substances, or other substances, whether chemical or not, which may cause danger to human-being, animal, plant, property, or the environment.

"Nuisance" means nuisance according to the law on public health.

"Factory" means factories according to the law on industrial plants.

"Building" means buildings according to the laws on building control.

"Vehicle" means automobiles or motorcycles according to the law on automobiles, vessels according to the law on Thai vessels, and aircraft according to the laws on aviation.

"Monitoring Control Operator" means a person licensed to monitor, control, assess, operate and maintain a wastewater treatment or waste disposal facility, or equipment, instruments, tools, appliances for control, treatment or disposal of any other pollution, which the owner or possessor of a point source of pollution manages to constructs and brings into operation by his own investment and expense for the treatment of wastewater or disposal of wastes or any other pollutants.

"Service Contractor" means the person licensed to render for hire the services of wastewater treatment or waste disposal or monitoring of environmental quality.

"Conservation Area" means the areas designated as national parks, wildlife reserves, tourism preserve and other protected areas pursuant to the governing laws related thereto.

"Local Official" means:

- (1) President of the Municipal Council within a municipality;
- (2) President of the Sanitary District Board within a sanitary district;
- (3) Provincial (Changwat) Governor within a local administration organization;
- (4) Governor of the Bangkok Metropolitan Administration within Bangkok Metropolis;
- (5) Permanent Secretary of Pattaya City Administration within the City of Pattaya;
- (6) Head of a local administration in the administration of the local administration organization other than (1) to (5) above, established under the specific law governing thereof, within such local administration organization.

"Pollution Control Official" means the person appointed by the Minister to perform functions concerning pollution control under this Act.

"Competent Official" means the person appointed by the Minister to have the power and duty to take action under this Act.

"Minister" means the Minister of Science, Technology and Environment.

## **Section 5**

In case any provision under this Act refers to Province (Changwat) or mandates the power and duty of the Provincial Governor, such reference or mandate shall denote the inclusion of

Bangkok Metropolitan Administration or the powers and duties of the Governors of the Bangkok Metropolitan Administration, as may be the case.

### **Section 6**

For the purpose of public participation in the enhancement and conservation of national environmental quality, the following rights and duties may be accorded to individual persons as provided by this Act or governing laws related thereto:

- (1) To be informed and obtain information and data from the government service in matters concerning the enhancement and conservation of environmental quality, except information or data that are officially classified as secret intelligence pertaining to national security, or secrets pertaining to the right to privacy, property rights, or the rights in trade or business of any person which are duly protected by law;
- (2) To be remedied or compensated by the State in case damage or injury is sustained as a consequence of dangers arising from contamination by pollutants or spread of pollution, and such incident is caused by any activity or project initiated, supported, or undertaken by a government agency or state enterprise;
- (3) To petition or lodge a complaint against the offender in case of being a witness to any act committed in violation or infringement of the laws relating to pollution control or conservation of natural resources;
- (4) To co-operate and assist government officials in the performance of duties relating to the enhancement and conservation of environmental quality;
- (5) To strictly observe the provisions of this Act or other laws concerning the enhancement and conservation of environmental quality.

### **Section 7**

In order to encourage public participation in the promotion and conservation of environmental quality, non-governmental organizations (NGOs) having the status of a juristic person under Thai or foreign law which are directly engaged in activities concerning environmental protection or conservation of natural resources without any objective to be involved in politics or to make profits from engagement in such activities, shall be entitled to register with the Ministry of Science, Technology and Environment as an NGOs for environmental protection and conservation of natural resource in accordance with the rules, procedures, and conditions prescribed by ministerial regulations.

### **Section 8**

The NGOs that have been registered pursuant to Section 7 may request government assistance or support in the following matters:

- (1) The organization of volunteers to assist in the performance of duties of government officials under this Act or other laws concerning the enhancement and conservation of environmental quality;
- (2) Public relations campaigns and dissemination of information or data to promote public awareness and proper understanding and knowledge of environmental protection and conservation of nature and natural resources;
- (3) Providing assistance to people in certain areas of the country to initiate projects or activities for environmental protection and conservation of natural resources in such areas;
- (4) Conducting study and research with respect to environmental protection and conservation of natural resources and bringing to the attention of the Government or agencies concerned on what are the viewpoints and suggestions that are based upon the outcome of such study and research;
- (5) Providing legal aid to people who are in jeopardy or afflicted by pollution damage caused by leakage of pollutants or contamination, as well as acting as the representative of such pollution victims to bring lawsuits and litigate claims in court for compensation or damages to which they are entitled as legal remedies.

In case any registered NGO, in the carrying out of activities indicated in the first paragraph, encounters problems or difficulties and requests help from the National Environment Board, the Prime Minister shall, with the recommendation of the National Environment Board, have the power to direct appropriate recourse or order the government agency or state enterprise concerned to render assistance or facilitation as seen fit under the circumstances.

The Fund Committee, with the approval of the National Environment Board, may consider allocation of grants or loans in support of any activity of the registered NGOs as deemed appropriate.

The registered NGOs may propose for nomination of candidates as representatives of the private sector to be appointed by the cabinet as qualified members of the National Environment Board.

In case any registered NGO's activities are undertaken by causing disturbances or contrary to public order or unsuitable, the Minister shall have the power to revoke the registration of the NGO involving in such activities.

### **Section 9**

In case there is an emergency or public danger arising from a natural disaster or pollution caused by contamination and spread of pollutants which will, if left without any remedial actions, seriously endanger the safety of life, body or health of the people, or aggravated (sic) cause damage to the properties of the people or the State, the Prime Minister shall have the power to order, as deemed appropriate, government agencies, states enterprises or any persons, including persons who are or may be the victims of such danger or damage, to take prompt action, individually or jointly, in order to be able to control, extinguish, or mitigate the adverse effects of such danger or damage. In case any polluters are known and can be identified, the Prime Minister shall be empowered to enjoin such persons from any acts, which may aggravate the adverse effects of pollution during the occurrence of such endangering incident.

The Prime Minister may delegate the power to give orders pursuant to the first paragraph to the Provincial Governor to exercise such power and act on his behalf within the territorial jurisdiction of that Province. The said delegation of power shall be made by a written order and published in the Government Gazette.

When any order is given by the Prime Minister by virtue of the first paragraph or by the Provincial Governor acting on behalf of the Prime Minister by virtue of the second paragraph, such order shall be published in the Government Gazette without delay.

### **Section 10**

In order to prevent, remedy, extinguish or mitigate the emergency or danger of pollution envisaged by Section 9, the Minister shall determine preventive measures and prepare a contingency plan to rectify the situation in advance.

### **Section 11**

The Prime Minister and the Minister of Science, Technology and Environment shall have charge and control of the execution of this Act, insofar as it is concerned with their respective powers and duties conferred upon them under this Act.

The Minister of Science, Technology and Environment shall have the power to appoint pollution control officials and other competent officials, issue ministerial regulations prescribing fees not exceeding the rates attached hereto and prescribing other activities for the execution of this Act.

The Ministerial Regulations shall come into force upon their publication in the Government Gazette.

## **CHAPTER 1 NATIONAL ENVIRONMENT BOARD**

## **Section 12**

There shall be a National Environment Board consisting of the Prime Minister as the Chairman, a Deputy Prime Minister designated by the Prime Minister as the first Vice Chairman, the Minister of Science, Technology and Environment as the second Vice Chairman, the Minister of Defense, the Minister of Finance, the Minister of Agriculture and Co-operatives, the Minister of Transportation and Communications, the Minister of Interior, the Minister of Education, the Minister of Public Health, the Minister of Industry, the Secretary-General of the National Economic and Social Development Board, the Secretary-General of the Board of Investment, the Director of the Bureau of the Budget as members ex officio, and members qualified in environmental matters not more than eight persons of which no less than half shall be representatives from the private sector, and the Permanent Secretary of the Ministry of Science, Technology and Environment as member and secretary.

The appointment of qualified members shall be made by drawing from persons who are knowledgeable and known for their expertise, contributions, and experience in matters concerning the enhancement and conservation of environmental quality.

## **Section 13**

The National Environment Board shall have the following powers and duties as follows:

- (1) To submit a policy and plan for enhancement and conservation of national environmental quality to the cabinet for approval;
- (2) To prescribe environmental quality standards pursuant to Section 32;
- (3) To consider and give approval to the Environmental Quality Management Plan proposed by the Minister according to Section 35;
- (4) To consider and give approval to the Provincial Action Plan for environmental quality management according to Section 37;
- (5) To make recommendations to the Cabinet with respect to financial, fiscal, taxation, and investment promotion measures for the implementation of the policy and plan for enhancement and conservation of national environmental quality;
- (6) To propose for amendment or improvement of laws relating to the enhancement and conservation of environmental quality to the Cabinet;
- (7) To consider and give approval to the action plan for prevention and remedy of danger caused by contamination of pollutants or spread of pollution proposed by the Pollution Control Committee pursuant to Section 53 (1);
- (8) To consider and give approval to the setting of emission or effluent standards proposed by the Minister pursuant to Section 55;
- (9) To supervise, oversee and expedite the enactment of royal decrees and issuance of ministerial regulations, rules, local ordinances, notifications, bye-laws and orders which are necessary to ensure systematic operation of the laws relating to enhancement and conservation of environmental quality to the fullest extent possible;
- (10) To submit opinions to the Prime Minister for his directions in cases it appears that any government agency or state enterprise infringes or refrains from complying with laws and regulations for environmental protection such that it may cause extensive damage to the environment;
- (11) To specify measures for the strengthening and fostering co-operation and co-ordination among government, agencies, state enterprises, and the private sector in matters concerning the promotion and conservation of environmental quality;
- (12) To supervise the Fund management and administration;
- (13) To submit reports on national environmental quality situation to the Cabinet at least once a year;
- (14) To perform other functions as may be provided by this Act or other laws to be within the authority of the National Environment Board.

#### **Section 14**

A qualified member appointed by the Cabinet shall hold office for a term of three years and may be re-appointed for a period of not more than one consecutive term.

In case an additional appointment of a qualified member is made during the term of those members who have already been appointed to hold office, the term of the additional membership shall be equal to the remainder of the term of those members who have already been appointed before.

#### **Section 15**

In addition to the expiration of a term of office under Section 14, a qualified member appointed by the Cabinet shall vacate office upon:

- (1) Death;
- (2) Resignation;
- (3) Being a bankrupt;
- (4) Being an incompetent or quasi- incompetent person;
- (5) Being punished by a final judgment to a term of imprisonment except for an offence committed through negligence or for a petty offence;
- (6) Being dismissed by the Cabinet for incompetence, misconduct, or having vested interests in any activity or business that may have a direct impact on or adversely affect environmental quality.

When a qualified member vacates office before the expiration of his term of office, the Cabinet may appoint another person to fill the vacancy and such person shall hold office only for remaining term of his predecessor.

#### **Section 16**

In convening the National Environment Board meeting, if the Chairman is absent or unable to perform the function, the first Vice Chairman shall act as the Chairman. If both the Chairman and the first Vice Chairman are absent or unable to perform the function, the second Vice Chairman shall act as the Chairman. If the Chairman and both the two Vice Chairman are all absent or unable to perform the function, the members who attend the meeting shall elect one of the attending members to act as the Chairman of the meeting.

#### **Section 17**

A meeting of the National Environment Board requires the presence of not less than one-half of the total number of its members to constitute a quorum.

The decision of a meeting shall be made by a majority of votes. In casting votes, each member shall have one vote. In case of an equality of votes, the Chairman of the meeting shall have an additional vote as a casting vote.

#### **Section 18**

The National Environment Board may appoint an expert committee or subcommittee to consider or carry out any matter as may be entrusted by the National Environment Board.

Sections 16 and 17 shall apply *mutatis mutandis* to the meeting of the expert committee or subcommittee.

#### **Section 19**

The National Environment Board shall have the power to require government agencies, state enterprises and other persons to deliver documents relating to the examination of impacts on environmental quality and documents or data concerning the projects or work-plans of such government agencies, state enterprises, and persons for its consideration. For this purpose, the Board may summon persons concerned to give explanation. If the Board is of the opinion that any project or work-plan may seriously affect environmental quality, it shall recommend remedial measures to the Cabinet.

In case the documents or data required to be delivered to the National Environment Board pursuant to the first paragraph are relevant to trade secrets in the nature of a patent and protected by the law on patent rights, the National Environment Board shall specify suitable measures and methods for preventing such documents or data being disclosed to anyone to ensure that they shall only be used strictly for the purpose of this Section.

### **Section 20**

In the performance of its function, the National Environment Board, the expert committee or the subcommittee may invite any person to present facts, explanation, opinion or technical advice as it deems fit and may request co-operation from any person with a view to ascertaining any fact or surveying any activity which may have an adverse effect on environmental quality.

### **Section 21**

In the performance of its duties under this Act, the National Environment Board may entrust the Office of Environmental Policy and Planning, the Pollution Control Department or the Environment Quality Promotion Department under the Ministry of Science, Technology and Environment with the operation or preparation of preposition to be made to the National Environmental Board for further actions.

## **CHAPTER 2 ENVIRONMENTAL FUND**

### **Section 22**

There shall be established a fund called the "Environmental Fund" in the Ministry of Finance with the following moneys and properties:

- (1) Money from the Fuel Oil Fund in the amount determined by the Prime Minister;
- (2) Money transferred from the Revolving Fund for Environmental Development and Quality of Life established by the Annual, Budget for the Fiscal Year of B.E. 2535 Act, B.E. 2535;
- (3) Service fees and penalties collected pursuant by virtue of this Act;
- (4) Grants from the Government from time to time;
- (5) Moneys or properties donated by donors in the private sector both domestic and foreign, by foreign governments, or by international organizations;
- (6) Interest and benefits accrued from this Fund;
- (7) Other moneys received for the operation of this Fund.

The Comptroller-General's Department, Ministry of Finance, shall keep the moneys and properties of the Environmental Fund and make disbursements from the fund in accordance with this Act.

### **Section 23**

Fund disbursements shall be made for the following activities and purposes:

- (1) As grants to a government agency or local administration for investment in and operation of a central wastewater treatment plant or central waste disposal facility, including the acquisition and procurement of land, materials, equipment, instruments, tools, and appliances necessary for the operation and maintenance of such facility;
- (2) As loans to a local administration or state enterprise for making available air pollution control systems, wastewater treatment, or waste disposal facilities to be used specifically in the activities of such local administration or state enterprise;

- (3) As loans to a private person in case such person has the legal duty to make available and install an on-site facility of his own for the treatment of polluted air, wastewater, or waste disposal, or any other equipment for the control, treatment, or eliminate pollutants generated by his activities or business undertaking, or such person is licensed to undertake business as a Service Contractor to render services of wastewater treatment or waste disposal under this Act;
- (4) As aids or grants to support any activity concerning the promotion and conservation of environmental quality as the Fund Committee sees fit and with the approval of the National Environment Board;
- (5) As expenditures for administering the Fund.

#### **Section 24**

There shall be a Fund Committee consisting of the Permanent Secretary of the Ministry of Science, Technology and Environment as the Chairman, the Permanent Secretary of the Ministry of Agriculture and Co-operative, the Secretary-General of the National Economic and Social Development Board, the Director of the Bureau of the Budget, the Director-General of the Department of Local Administration, the Comptroller-General of the Comptroller-General's Department, the Director-General of the Department of Public Works, the Director-General of the Department of Industrial Works, the Director-General of the Department of Mineral Resources, the Director-General of the Pollution Control Department, the Director-General of the Environmental Quality Promotion Department and not more than five qualified persons appointed by the National Environment Board as members, and the Secretary-General of the Office of Environmental Policy and Planning as a member and secretary.

Sections 14 and 15 shall apply *mutatis mutandis* to the holding of office by the qualified members of the Fund Committee.

#### **Section 25**

The Fund Committee shall have the following powers and duties as follows:

- (1) To consider Fund allocations for use in the activities prescribed by Section 23;
- (2) To prescribe rules, conditions, procedures, and methods concerning application for allocations or loans from the Fund;
- (3) To lay down administrative rules and procedures concerning the power, duties, and working methods of the Fund managers according to Sections 29 and 30, as well as mechanisms for co-ordination among the Fund Committee, the Comptroller-General's Department and the Fund managers according to Sections 29 and 30;
- (4) To lay down rules and procedures for the receipt and disbursement of moneys from the Fund;
- (5) To fix duration limits for repayment of loans from the Fund according to Section 23 (2) or (3) as well as interest rates and securities as necessary and appropriate;
- (6) To determine the ratio and criteria for deduction of service fees and penalties that are required by Section 93 to be remitted to the Fund;
- (7) To perform any other functions provided under this Act.

The prescription of rules according to sub-Section (2), (3) or (4) and guidelines under sub-Section (1) or (5) shall be approved by the National Environment Board.

The Fund Committee may appoint a subcommittee to consider or carry out any matter as may be entrusted by the Fund Committee.

#### **Section 26**

Section 16, Section 17, and Section 20 shall apply *mutatis mutandis* to the performance of functions of the Fund Committee and the subcommittee appointed by the Fund Committee.



## **Section 27**

In consideration to facilitate allocation of money from the Fund for the purpose of Section 23 (1), the Fund Committee shall give first priority to the requests made for allocation under the Provincial (Changwat) Action Plan for environmental quality management according to Section 39 to construct or operate the wastewater treatment plant or waste disposal facility, for which certain amount of government budget has been earmarked or revenues of the local administration have been allocated as additional contributions to the Fund allocation.

The proportion between the government budget or contributions from the local revenues and the Fund allocation to be determined by the Fund Committee according to the first paragraph shall be determined in accordance with the rules laid down by the National Environment Board.

## **Section 28**

Fund allocations as loans to the local administration, state enterprises, or private persons pursuant to Section 23 (2) or (3) shall be determined by the Fund Committee in accordance with the rules and conditions stipulated by the National Environment Board.

In order to encourage compliance with this Act, the Fund Committee may, with the approval of the National Environment Board, allocate from the Fund as an exceptional long-term loan to any local administration, state enterprises, or private person and may determine to reduce the interest rates or make exemption to the payment of such interest as deemed appropriate.

## **Section 29**

The Comptroller-General of the Comptroller-General's Department, Ministry of Finance, shall be the Fund manager in relation to such portion of the Fund to be allocated as grants to the government agency or the local administrations for investment in and operation of central facilities for wastewater treatment or waste disposal according to Section 23 (1) and those portions of the Fund to be allocated for purposes other than those provided by Section 23 (2) and (3).

## **Section 30**

The Fund Committee may authorize an appropriate financial institution owned by the State or the Industrial Financing Corporation of Thailand to be the Fund manager in relation to such portion of the Fund that will be allocated as loans to local administrations, state enterprises, or private persons pursuant to Section 23 (2) or (3).

In carrying out the management of Fund according to the First paragraph, the Fund manager has the duty to study and analyze the investment and technical feasibility of the project and shall be empowered to enter the loan agreement on behalf of the Fund Committee in the capacity as the lender, to keep and disburse moneys to the borrowers from this portions of the Fund in accordance with the terms and conditions of the loan agreement, to pursue, demand and receive repayments and interest from the borrowers in order to pay back to the Fund, and shall be empowered to lay down rules and procedures, with the approval of the Fund Committee, for such matters.

Under the loan agreement to be entered into according to the Second paragraph, there must be a condition stipulated as an essential element of the agreement that the borrower shall have the duty to make use of the loan specifically for the purpose of meeting the requirements with which the borrower has the legal duty to comply under this Act or other related laws.

## **Section 31**

The moneys received into the Fund and kept by the Comptroller-General's Department, Ministry of Finance, shall be managed by deposit in saving or fixed accounts with State-owned financial institutions in order to earn accrued interest.

All moneys earned by the Fund according to Section 22 shall be paid into its account for the purpose of uses in the activities indicated in Section 23 and shall not be remitted to the Treasury as revenues of the Government.

**CHAPTER 3**  
**ENVIRONMENTAL PROTECTION**

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**PART 1**  
**ENVIRONMENTAL QUALITY STANDARDS**

**Section 32**

For the purpose of environmental quality enhancement and conservation, the National Environment Board shall have the power to prescribe by notifications published in the Government Gazettes the following environmental quality standards:

- (1) Water quality standards for river, canal, swamp, marsh, lake, reservoir, and other public inland water sources according to their use classifications in each river basin or water catchment;
- (2) Water quality standards for coastal and estuarine water areas;
- (3) Groundwater quality standards;
- (4) Atmospheric ambient air standards;
- (5) Ambient standards for noise and vibration;
- (6) Environmental quality standards for other matters.

The prescription of environmental quality standards pursuant to the foregoing paragraph shall be based upon scientific knowledge, principle, criteria and evidence related thereto and shall also take into account the practicability of such standards, from the viewpoint of economic, social, and technological considerations.

**Section 33**

The National Environment Board shall, if deem reasonable, have the power to prescribe special standards which are higher than the environmental quality standards prescribed pursuant to Section 32, to protect areas designated as conservation or environmentally protected areas according to Section 43, areas designated according to Section 45, or pollution control areas designated pursuant to Section 59.

**Section 34**

The National Environment Board shall have the power to make appropriate modifications and improvements to the prescribed environmental quality standards in light of scientific and technological progresses and changes in economic and social conditions of the country.

**PART 2**  
**ENVIRONMENTAL QUALITY MANAGEMENT PLANNING**

**Section 35**

The Minister shall, with the approval of the National Environment Board, formulate an action plan called "Environmental Quality Management Plan" for implement the national policy and plan for enhancement and conservation of environmental quality determined by virtue of Section 13 (1).

The Environmental Quality Management Plan pursuant to the first paragraph shall be published in the Government Gazette.

It shall be the duty of all government agencies concerned to take actions within their powers and functions that are necessary for effective implementation of the Environmental Quality Management Plan and in order to ensure that actions are taken to achieve the objectives and goals as prescribed, it shall be the duty of the Ministry of Science, Technology and Environment to give advice to government agencies and state enterprises which are concerned with the formulation of work-plans or the taking of any actions to implementing the Environmental Quality Management Plan.

### **Section 36**

The Environmental Quality Management Plan developed pursuant to Section 35 may be a short, intermediate or long-term plan, as appropriate, and should contain work-plans and guidance's for action on the following matters:

- (1) Management of air, water, and environmental quality and any other area of concerns;
- (2) Pollution control from point sources;
- (3) Conservation of the natural environment, natural resources, or cultural environment pertaining to aesthetic values;
- (4) Estimation of financing to be appropriated from the government budget and allocated from the Fund which is necessary for implementation of the Plan;
- (5) Scheme for institutional arrangements and administrative orders by co-operation and co-ordination among government agencies concerned and between the public service and private sectors could be further promoted and strengthened, including the determination of a manpower allocation scheme necessary to implement the plan;
- (6) Enactment of laws and issuance of regulations, local ordinances, rules, orders, and notifications necessary for implementation of the Plan;
- (7) Scheme for inspection, monitoring, and assessment of environmental quality by which the results of implementation of the Plan and enforcement of law related thereto can be evaluated objectively.

### **Section 37**

After the Environmental Quality Management Plan has been published in the Government Gazette, it shall be the duty of the Governor of a Province (Changwat), in which there is a locality designated as environmentally protected area according to Section 43, or as a pollution control area according to Section 59, to formulate an action plan for environmental quality management at Provincial level and submit it to the National Environment Board for approval within one hundred and twenty days from the date on which the Governor of that Province is directed by the National Environment Board to prepare the Provincial action plan for environmental quality management. If, however, there is a reasonable ground, the said duration may be extended as appropriate by the National Environmental Board.

In preparing a Provincial Action Plan for the pollution control area according to Section 59, the Governor shall incorporate into it the action plan for mitigation and elimination of pollution prepared by a local authority pursuant to Section 60 and the local action plan shall form an integral part of the Provincial Action Plan.

In case there is any Provincial, in which no locality is designated as an environmentally protected area according to Section 43, or as pollution control area according to Section 59, that is nevertheless desirous to enhance and conserve the environmental quality within the limits of its territorial jurisdiction, the Governor of that Province may prepare a Provincial Action Plan, within the framework of and in conformity with the requirements of the Environmental Quality Management Plan, and submit it to the National Environmental Board for approval.

### **Section 38**

The Provincial Action Plan to be submitted to the National Environment Board shall be an action plan which proposes a system of integrated management of environmental quality in conformity with the guidelines specified in the Environmental Quality Management Plan, taking into account the severity of the problems and economic, social, and environmental conditions of that Province, and should address and contain essential elements in the following matters:

- (1) Plan for control of pollution from point sources;
- (2) Plan for procurement and acquisition of land, materials, equipment, tools, and appliances which are essential for the construction, installation, improvement, modification, repair, maintenance, and operation of central wastewater treatment plants or central waste disposal facilities belonging to government agency or local administration concerned;
- (3) Plan for collection of taxes, duties, and service fees for operation and maintenance of central wastewater treatment plants or central waste disposal facilities referred to in sub-Section (2) above;
- (4) Plan for inspection, monitoring and control of wastewater and other waste matters which are discharged from point sources of pollution;
- (5) Law enforcement plan for the prevention and suppression of violations of infringement of laws and regulations pertaining to pollution control, conservation of nature, natural resources, and cultural environment pertaining to aesthetic values.

### **Section 39**

The Provincial Action Plan for environmental quality management to be given first priority for the consideration by the National Environment Board must propose an estimate of budgetary appropriation and allocation from the Fund for the construction or procurement for the acquisition of a central wastewater treatment plant or a central waste disposal facility pursuant to Section 38 (2). In case any Province is not ready to take steps for the procurement or acquisition of the a central wastewater treatment plant or central waste disposal facility, it may instead propose a plan to promote private investment in the construction and operation of wastewater treatment or waste disposal facilities in order to make available of such services within its jurisdiction.

The Provincial Action Plan to be prepared in accordance with the first paragraph with a request for budgetary appropriation and allocation from the Fund shall be accompanied by drawings, plans, specifications, the estimated price of project for construction, installation, improvement, modification, repair, maintenance as well as the process and method for operation of the proposed central wastewater treatment plant or central waste disposal facility.

For the purpose of approving the Provincial Action Plan with a request for budgetary appropriation in accordance with the first paragraph, the office of Environmental Policy and Planning shall be responsible for the gathering and analysis of the Provincial Action Plans for environmental quality management in order to make a proposal for annual budgets of the Office to be earmarked specifically for this purpose

### **Section 40**

In case the management of environmental quality in any matters will have to carried out in an area adjoining the territorial jurisdictions of two or more provinces due to the geographical conditions or the characteristics of the natural ecosystems of that area, or for the purpose of a sound, systematic, and proper management in accordance with the principle of integrated management of environmental quality and natural resources, the Governors of the relevant provinces shall jointly prepare the action plan mandatory required by Section 37.

#### **Section 41**

In case any Province, which is mandatory require to prepare the action plan area according to Section 37, fails or is incapable to evolve such a plan, or has prepared and submitted the plan as required but failed to get the approval of the National Environment Board for any reason, the National Environment Board shall consider the nature of the problems encountered by that Province and evaluate whether its environmental quality is adversely affected to such an extent that any action is warranted to rectify the situation. If action is deemed necessary, the National Environment Board shall propose to the Prime Minister to issue an order directing the Ministry of Science, Technology and Environment to prepare the Provincial Action Plan on behalf of the Province in question.

### **PART 3**

#### **CONSERVATION AND ENVIRONMENTALLY PROTECTED AREAS**

#### **Section 42**

Protection and management of areas within the limits of national parks and wildlife reserves shall be in accordance with the Environmental Quality Management Plan effective by virtue of Section 35 and governed by the laws related thereto.

#### **Section 43**

In case it appears that any area is characterized as watershed area, or characterized by unique natural ecosystems which are different from other areas in general, or naturally composed of fragile ecosystems which are sensitive and vulnerable to destruction or impacts of human activities, or worthy of being conserve due to its natural or aesthetic values or amenities, and such area is yet to be designated as a conservation area, the Minister shall, with the advice of the National Environment Board, be empowered to issue ministerial regulation designating such area as an environmentally protected area.

#### **Section 44**

In issuing the ministerial regulation pursuant to Section 43, any one or more of the following protective measures shall be prescribed thereunder:

- (1) Land use prescriptions for preserving the natural conditions of such area or for preventing its natural ecosystems or its aesthetic values or amenities from being adversely impacted;
- (2) Prohibition of any acts or activities that may be harmful or adversely affect or change the pristine state of the ecosystems of such area;
- (3) Specifying types and sizes of projects or activities undertaken by government agencies, state enterprises or private entities to be constructed or operated in such area, which shall have the legal duty to submit reports of environmental impact assessment;
- (4) Determination of management approach and method specific to the management of such area, including the scope of functions and responsibilities of relevant government agencies for the purpose of co-operation and co-ordination that are conducive to efficient performance of work towards the preservation of natural conditions or ecosystems or aesthetic values and amenities in such area;
- (5) Prescriptions of any other protective measures which are deemed proper and suitable to the conditions of such area.

#### **Section 45**

In any area, despite having been designated as a conservation area, a master town and country plan area, a specific town and country plan area, a building control area, and industrial estate area pursuant to the governing laws related thereto, or designated as a pollution control area pursuant to this Act, but which nevertheless appears to have been

adversely affected by environmental problems which assume a critical proportion to such an extent that an immediate action has become imperative and yet no action is taken by government agencies concerned to rectify the situation due to a lack of clear legal authorization or otherwise failure to do so, the Minister shall, with the approval of the National Environment Board, propose for a cabinet authorization to take any one or several protective measures provided by Section 44 as necessary and appropriate, in order to control and solve the problems in such area.

When cabinet authorization is obtained as provided in the first paragraph, the Minister shall, by notification published in the Government Gazette, determine the limits of such area and prescribe in detail the protective measures and the duration for which such measures shall be effectively taken therein.

With the approval of the National Environment Board and the cabinet, the duration of effectiveness specified according to the second paragraph may be extended by notification published in the Government Gazette.

## **PART 4**

### **ENVIRONMENTAL IMPACT ASSESSMENT**

#### **Section 46**

For the purpose of environmental quality promotion and conservation the Ministers shall, with the approval of the National Environment Board, have the power to specify by notification published in the Government Gazette types and sizes of projects or activities likely to have environmental impact, of any government agency, state enterprise, or private person, which are required to prepare reports on environmental assessment for submission to seek approval in accordance with Section 47, Section 48 and Section 49.

In the notification issued according to the first paragraph, procedures, rules, methods, and guidelines shall be laid down for the preparation of environmental impact assessment reports for each type and size of project or activity, including related documents that are required to be filed together with the report.

In case there has been an environmental impact assessment concerning a project or activity of any particular type or size, or site selection for such project activity in any particular area and such assessment can be used as a standard assessment applicable to the project or activity of the same type or size or to the site selection of such project or activity in the area of similar nature, the Minister may, with the approval of the National Environment Board, issue a notification in the Government Gazette exempting such project or activity of the same or similar nature from the requirement of environmental impact assessment, provided that the proponent of such project or activity shall express its consent to comply with various measures prescribed in the environmental impact assessment report which is applicable as the standard for assessment of such project or activity in accordance with the rules and methods specified by the Minister.

#### **Section 47**

In case the project or activity which is required to prepare the environmental impact assessment area according to Section 46 is the project or activity of a government agency or of a state enterprise, or to be jointly undertaken with private enterprise which is required the approval of the cabinet in accordance with official rules and regulations, the government agency or state enterprise responsible for such project or activity shall having the duty to prepare the environmental impact assessment report at the stage of conducting a feasibility study for such project, such report shall be filed with the National Environment Board for its review and comments and then submitted to the Cabinet for consideration.

In considering giving approval to the environmental impact assessment report filed according to the first paragraph, the cabinet may as well request any person or institution, being an expert or specialize in environmental impact assessment, to study and submit report or opinion for its consideration thereof.

For project or activity of government agency or state enterprise which is not required to be approved by the Cabinet according to the first paragraph, the government agency or state enterprise responsible for such project or activity shall prepare and file the environmental impact assessment report in order to obtain approval prior to the initiation of such project or activity in accordance with the rules and procedures as provided by Section 48 and Section 49.

#### **Section 48**

In case the project or activity which is required by Section 46 to prepare an environmental impact assessment report is the project or activity which is required by law to obtain a permission prior to construction or operation, the person applying for permission shall file the environmental impact assessment report with the permitting authority under such law and with the Office of Environmental Policy and Planning simultaneously. The report to be filed as aforesaid may be made in the form of an initial environmental examination (I.E.E.) in accordance with rules and procedures determined by the Minister pursuant to Section 46, second paragraph.

The official who is legally authorized to grant permission shall withhold the granting of permission for the project or activity referred to in the first paragraph until having been notified by the Office of Environmental Policy and Planning of the result of consideration pertaining to the review of the environmental impact assessment report in accordance with Section 49.

The office of Environmental Policy and Planning shall examine the environmental impact assessment report and related documents filed therewith. If it is found that the report as filed is not correctly made in accordance with the rules and procedures specified by virtue of Section 46, second paragraph, or the accompanied documents and data are incomplete, the Office of Environmental Policy and Planning shall notify the person applying for permission who files the report within fifteen days from the date of receiving such report.

In case the Office of Environmental Policy and Planning finds that the environmental impact assessment report together with related documents as filed is duly made and completed with the data as required, or has been duly amended or modified in accordance with the foregoing third paragraph, it shall review and make preliminary comments on the report within thirty days from the date of receiving such report in order that the report together with the preliminary comments shall be referred to the committee of experts for further consideration.

The appointment of the committee of experts according to the foregoing fourth paragraph shall be in accordance with the rules and procedures determined by the National Environment Board. The committee shall be composed of expert's members who are qualified or specialized in various fields of related disciplines and the authority legally competent to grant permission for the given project or activity under review, or its representative, shall be included in its membership.

#### **Section 49**

The review and consideration by the committee of experts according to Section 48 shall be carried out within forty-five days from the date of receiving the environmental impact assessment report from the Office of Environmental Policy and Planning. If the committee of experts fails to conclude its review and consideration within the said period, the report shall be deemed to have been approved by it.

In case the committee of experts approves or is deemed to have given approval to the report, the official legally empowered to grant permission shall accordingly order that the permission be granted to the person who applied for it.

In case approval of the report is denied by the committee of experts, the permitting authority shall withhold the granting of permission to the person who applied for it until such person will resubmit the environmental impact assessment report that has been amended or entirely redone in conformity with the guidelines and detailed requirements determined by the order of the committee of experts.

When such person has resubmitted the environmental impact assessment report that has been amended or entirely redone, the committee of experts shall review and conclude its consideration within thirty days from the date of receiving the resubmitted report. If the committee of experts fails to conclude its review and consideration within the said period, it shall be deemed that the committee has approved the report and the permitting authority accordingly grant permission to the person who applied for it.

In case it is deemed reasonable the Minister may issue a notification in the Government Gazette requiring that the project or activity of the type and size specified by the notification issued by virtue of Section 46 also file an environmental impact assessment report when an application is made for renewal of permission for such project or activity in accordance with the same procedures as applicable to the application for the permission.

#### **Section 50**

For the purpose of review and consideration of the environmental impact assessment report pursuant to Section 48 and Section 49 and site inspection is deemed appropriate, the committee of experts or the competent official assigned by the committee shall be authorized to inspect the site of the project or activity identified in the report for which approval thereof is sought.

When the committee of experts has approved the environmental impact assessment report pursuant to Section 49, the official who is legally competent to grant permission or a renewal of permission shall stipulate as the conditions of the permission or renewal thereof all the mitigation measures proposed in the environmental impact assessment report and all such conditions shall be deemed the conditions prescribed virtue of the governing laws on the subject matter.

#### **Section 51**

For the purpose of compliance with Section 47 and Section 48, the Minister may, with the approval of the National Environment Board, require that the environmental impact assessment report as required by Section 46 be prepared or certified by a person who is licensed to be a specialist in environmental impact assessment.

Application and issuance of license, qualifications of specialists who will be eligible to prepare environmental impact assessment reports, control of the licensee's performance, renewal of license, issuance of certificate in lieu of license, suspension or revocation of license and fee payments for the application and issuance of license shall be, in accordance with the rules, procedures, and conditions stipulated by ministerial regulation.

## **CHAPTER 4 POLLUTION CONTROL**

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### **PART 1 POLLUTION CONTROL COMMITTEE**

#### **Section 52**

For the purpose of pollution control under this Act, there shall be a committee called the "Pollution Control Committee" (PCC) which consists of the Permanent Secretary of the Ministry of Science, Technology and Environment as the Chairman, the Director-General of the Department of Local Administration, the Director-General of the Police Department, the Director-General of the Department of Land Transport, the Director-General of the Harbor Department, the Director-General of the Department of Public Works, the Director-General of the Department of Mineral Resources, the Director-General of the Department of Industrial Works, the Director-General of the Health Department, the Director-General of the Department of Agriculture, the Director-General of the Department of Environmental Quality Promotion, the Secretary-General of the Office of Environmental Policy and Planning, the Permanent Secretary for the Bangkok Metropolitan Administration and not



more than five qualified persons appointed by the National Environment Board as members and the Director-General of the Department of Pollution Control as member and secretary.

Section 14 and Section 15 shall apply *mutatis mutandis* to the holding office of the qualified members in the Pollution Control Committee.

### **Section 53**

The Pollution Control Committee shall have the power and duty as follows:

- (1) To submit an action plan for prevention or remedy of pollution hazards or contamination to the National Environment Board;
- (2) To give opinions and recommend to the National Environment Board on proposed amendments to or improvement of any laws concerning the control, prevention, reduction, or eradication of pollution;
- (3) To propose incentive measures regarding taxation and private investment promotion in relation to pollution control and promotion and conservation of environmental quality to the National Environment Board;
- (4) To recommend to the National Environment Board on the determination of service fee rates for the central waste water treatment or central wastes disposal services of the government;
- (5) To give advice to the Minister on the setting of emission or effluent standards under Section 55;
- (6) To give advice to the Minister concerning the types of point sources of pollution that will be require to comply with Sections 68 and 69;
- (7) To make recommendation on the issuing of ministerial regulations specifying the types and categories of hazardous wastes to be regulated under Section 79;
- (8) To co-ordinate government agencies, state enterprises, and the private sector in their actions to control, prevent, mitigate, or eradicate pollution;
- (9) To prepare and submit the report on pollution situation to the National Environment Board once a year;
- (10) To consider and resolve the challenge to the order of the pollution control official under this Act;
- (11) To perform other functions designated by this Act or other law to be the power and duty of the Pollution Control Committee;
- (12) To carry out other matters assigned by the National Environment Board.

The Pollution Control Committee may appoint a subcommittee to consider or carry out any matter as may be assigned by the Pollution Control Committee.

### **Section 54**

Section 16, Section 17 and Section 20 shall apply *mutatis mutandis* to the performance of functions of the Pollution Control Committee and subcommittee.

## **PART 2**

### **EMISSION OR EFFLUENT STANDARDS**

### **Section 55**

The Minister shall, with the advice of the Pollution Control Committee and the approval of the National Environment Board, have the power to publish notification in the Government Gazette prescribing emission or effluent standards for the control of wastewater discharge, polluted air emissions, or discharge of other wastes or pollutants from point sources into the environment, in order to meet the environmental quality standards set by virtue of this Act for the conservation of national environmental quality.

## **Section 56**

In case there have been standards prescribed by virtue of the other laws concerning wastewater discharges, polluted air emissions, or discharge of other wastes or pollutants from point sources of pollution into the environment and such standards are no less stringent than the emission or effluent standards set by the Minister by virtue of Section 55, such standards shall continue to be remain effective by virtue of the laws related thereto. If, however, such standards are less stringent than the emission or effluent standards set by Minister pursuant to Section 55, the government agencies empowered by such laws shall amend such standards in conformity with the emission or effluent standards under this Act. If there is any obstacle preventing from doing so, the National Environmental Board shall resolve on such matter and the government agencies concerned shall act in accordance with such resolution.

## **Section 57**

In case any government agency is empowered by the other law to prescribe emission or effluent standards in any matter, but that government agency fails to exercise its power, the Minister shall, with the recommendation of the Pollution Control Committee and with the approval of the National Environment Board, publish notification in the Government Gazette prescribing the emission or effluent standards in question and such standards shall be deemed to have been set by the governing law on such matter.

## **Section 58**

If it is deemed reasonable, the Provincial (Changwat) Governor shall have the power to publish notification in the Government Gazette prescribing a special set of emission or effluent standards applicable to pollution control area designated by Section 59, higher than the standards set pursuant to Section 55 or the standards set by virtue of other law which remain in force according to Section 56.

## **PART 3**

### **POLLUTION CONTROL AREA**

## **Section 59**

In case it appears that any locality is affected by pollution problems and there is a tendency that such problems may be aggravated, to cause health hazards to the public or adverse impact on the environmental quality, the National Environment Board shall have power to publish notification in the Government Gazette designating of such locality as a pollution control area in order to control, reduce, and eliminate pollution.

## **Section 60**

For the purpose of the Provincial Action Plan for environmental quality management to be prepare according to Section 37, the local official in the locality designated as the pollution control area pursuant to Section 59 shall prepare and submit an action plan for reduction and eradication of pollution in such to the Provincial Governor in order to be incorporate such plan into the Provincial Action Plan for environmental quality management.

In preparing the action plan for reduction and eradication of pollution, steps shall be taken as follows:

- (1) to survey and collect data concerning point sources of pollution located within the limits of that pollution control area;
- (2) to make an inventory showing the number, type, and size of point sources of pollution under survey and collection of data according to sub-Section (1) above;
- (3) to study, analyze, and assess the state of pollution, as well as the scope, nature, severity of the problem, and impacts on environmental quality in order to specify suitable and necessary measures for mitigation and eradication of pollution in that pollution control area.

The pollution control official shall give advice and assistance to the local official necessary for the preparation of the action plan to reduce and eradicate pollution according to the first and second paragraphs.

#### **Section 61**

The action plan for reduction and eradication of pollution in the pollution control area under Section 60 shall propose the estimation and request for government budget and Fund allocations for the construction or operation of the central wastewater treatment plant or the central waste disposal facility necessary to reduce and eradicate pollution in that pollution control area.

#### **Section 62**

In case it is necessary to acquire a piece of land to be used as the site of the central wastewater or central waste disposal facility for any pollution control area but state-owned land is not available, steps shall be taken to select and acquire land for sitting this purpose. If there are expenses, the estimate and request for government budget and Fund allocation shall be made in the Provincial Action Plan.

If it is unable to proceed under the first paragraph, suitable land shall be selected and proposed made to the Minister in order to take step to expropriate such land in accordance with the law on expropriation of immovable property.

#### **Section 63**

The Provincial Governor shall supervise and oversee the local official's actions under Section 60. If no action is taken by the local official within a reasonable time, the Provincial Governor shall have the power to take action on behalf of the local authority upon notification to such local authority and the National Environment Board.

### **PART 4**

#### **AIR AND NOISE POLLUTION**

#### **Section 64**

Every usable vehicle shall conform to the emission standards prescribed for such vehicle pursuant to Section 55.

#### **Section 65**

If it is found that the use of any vehicle is in violation of Section 64, the competent official shall have the power to prohibit the use of the vehicle permanently or until it will have been modified or improved to meet the emission standards requirement prescribed pursuant to Section 55.

#### **Section 66**

In issuing the order prohibiting the use of vehicle according to Section 65, the competent official shall make the sign clearly shows the words "Use Prohibited Permanently" or "Use Prohibited Temporarily" or any other sign, known and understood by the general public to have the same meaning, on any part of such vehicle

The making or removal of the sign under the first paragraph, or the use of the vehicle while the said sign is on, shall be in accordance with the rules, methods, and conditions specified by ministerial regulations.

#### **Section 67**

In performing his duty under Section 65, the competent official has the power to stop and inspect a vehicle, enter into vehicle or to do any act necessary to check and test the engine and equipment of such vehicle.

## **Section 68**

The Minister shall, with the advice of the Pollution Control Committee, have the power to publish notifications in the Government Gazette specifying the types of point sources of pollution that shall be controlled in regard to the emissions of polluted air, ray, or other pollutants, in the form of smoke, fume, gas, soot, dust, ash, particle, or any other form of air pollution, to the atmosphere, in conformity with the emission standards prescribed under Section 55, or standards prescribed by any government agency by virtue of the other law which remains in force according to Section 56, or standards set by a Provincial Governor for the pollution control area according to Section 58.

The owner or possessor of a point source of pollution under the first paragraph has the duty to install or bring into operation an on-site facility for air pollution control, equipment, or other instrument as determined by the pollution control official in order to control, dispose, reduce, or eliminate pollutants which may effect air quality, unless such facility, equipment or instrument has already been in place and still in working condition upon the inspection and testing by the pollution control official. For the purpose of this Section, the pollution control official may also require that the operation of such facility, equipment, or instrument be controlled by the Monitoring Control Operator.

The provisions of the first and second paragraphs shall apply mutatis mutandis to the point sources of pollution which emit or generate noise or vibration in excess of the emission standards set pursuant to Section 55, or the standards set by any government agency by virtue of the other law that remains in force according to Section 56, or the standards set by the Provincial Governor in special case for the pollution control area according to Section 58.

## **PART 5 WATER POLLUTION**

### **Section 69**

The Minister shall with the advice of the Pollution Control Committee, have the power to publish notifications in the Government Gazette specifying the types of point sources of pollution that shall be controlled in regard to the discharge of wastewater or wastes into public water sources or into the environment outside the limits of such point sources, in conformity with the effluent standards set pursuant to Section 55, standards set by any government agency by virtue of the other law that remains in force according to Section 56, or the standards set by the Provincial Governor in special case for the pollution control area according to Section 58.

### **Section 70**

The owner or possessor of the point source of pollution under Section 69 has the duty to construct, install or bring into operation an on-site facility for wastewater treatment or waste disposal as determined by the pollution control official. For this purpose, the pollution control official may also require that such owner or possessor commission a Monitoring Control Operator to control the wastewater treatment or waste disposal facility that shall be constructed, installed, or brought into operation accordingly.

If any point source of pollution has an on-site facility for wastewater treatment or waste disposal before the date of a notification of the Minister under Section 69, the owner or possessor of such point source of pollution shall inform the pollution control official to check the functioning system of the facility. If its capability to treat wastewater or dispose of wastes fails to meet applicable standards, the owner or possessor has the duty to modify or improve it in conformity with the pollution control official's directions.

### **Section 71**

In any pollution control area or locality where a central wastewater treatment plant or a central waste disposal facility has been brought into operation by the administration

concerned, the owner or possessor of a point source of pollution according to Section 70, first paragraphs, who has not yet constructed, installed or brought into operation the on-site facility for wastewater treatment or waste disposal according to the prescription of the pollution control official, or may not want to construct or make arrangements for such system, shall have the duty to send the wastewater or wastes generated by the point source to the central wastewater treatment plant or central waste disposal facility in the pollution control area or in that locality for treatment or disposal and shall have the duty to pay the service fees at the rates fixed by virtue of this Act or other related laws.

### **Section 72**

In any pollution control area or locality where a central waste water treatment plant or central waste disposal facility has been brought into operation by the administration concerned, the owner or possessor of any point source of pollution, except those under Section 70, shall have the duty to send wastewater or wastes from his source of pollution to the central wastewater treatment plant or the central waste disposal facility in that pollution control area or locality for treatment or disposal and shall have the duty to pay service fees at the rates fixed by virtue of this Act or other related laws, except such point source of pollution already has already had its own wastewater treatment or waste disposal facility which is capable of meeting the standards prescribed under this Act.

### **Section 73**

No person shall be employed as a Monitoring Control Operator or as a Service Contractor, who renders for hire the services of wastewater treatment or waste disposal, without obtaining the license from the local official.

Application and issuance or license, qualifications of the applicant, control of licensee's performance, renewal of license, issuance of certificate in lieu of license, suspension or revocation of license, and fee payments for application and issuance of license shall be in accordance with the rules, procedures, and conditions stipulated by ministerial regulation.

A person who has obtained a license to be Service Contractor shall also be deemed to have obtained a license to be a Monitoring Control Operator.

In rendering the services of wastewater treatment or waste disposal by the Service Contractor according to the first paragraph, the service charges shall not exceed the rates fixed by the ministerial regulation.

### **Section 74**

In any pollution control area or locality where the central wastewater treatment or central waste disposal facility of the public service is yet to be put into operation, but there is nonetheless a Service Contractor who is licensed to render such services within that area, the owner or possessor of a point source of pollution according to Section 71 and Section 72 shall be required to send the wastewater or wastes from his point source for treatment or disposal by such Service Contractor in accordance with the rules, regulations, methods, and conditions prescribed by the local official, with the advice of the pollution control official.

### **Section 75**

In pollution control area or locality where a public central wastewater treatment or central waste disposal facility is yet to be put into service by the government and there is no licensed Service Contractor rendering services therein, the local official may, with advice of the pollution control official, determine a temporary method necessary for the treatment of wastewater or disposal of wastes from point sources of pollution under Section 71 and Section 72 until a central waste water treatment or central waste disposal facility will have been constructed, installed, and put into operation within such pollution control area or locality.

The temporary method for wastewater treatment or waste disposal according to the first paragraph shall include mean to the collection, transport or conveyance of wastewater or wastes by whatever appropriate means to be treated or disposed by the central wastewater treatment plant or central waste disposal facility of the government in the other area; or to allow the licensed Service Contractor rendering services in the other area to render the

same services in that pollution control area or locality temporarily; or to allow such licensed Service Contractor to collect and transport wastewater or wastes to treated or disposed by his own wastewater treatment or waste disposal facility located outside that pollution control area or locality.

#### **Section 76**

Wastewater treated by either the central wastewater treatment plant of the government or by the wastewater treatment facility of the Service Contractor must also have the properties which meet the requirement of the effluent standards prescribed by virtue of Section 55, or the standards prescribed by virtue of the other law which remains in force according to Section 56, or standards set by the Provincial Governor in special case for the pollution control area according to Section 58.

#### **Section 77**

The government agency or local authority which makes provision for the services of central wastewater treatment or central waste disposal facilities by using government budget, or revenues of the local authority, and Fund allocations under this Act shall be responsible for the management and control of such facilities. In this respect, the responsible agency or local authority may employ a licensed Service Contractor under this Act to manage and control the operation of such facilities.

Regulations, rules, and methods for conveyance, collection, and transport of wastewater or wastes from the point sources of pollution to a central waste treatment plant or central waste disposal facility as well as prescriptions, prohibitions, restrictions, and other conditions for discharging and draining of wastewater or wastes from factories and other point sources of pollution under to Section 72 into central wastewater treatment or central waste disposal facilities shall be prescribed by the ministerial regulation.

### **PART 6**

#### **OTHER POLLUTION AND HAZARDOUS WASTE**

#### **Section 78**

The collection, transport, and other arrangements for the treatment and disposal of garbage and other solid wastes; the prevention and control of pollution from mining both on land and in the sea; the prevention and control of pollution from the exploration and drilling for oil, natural gas, and all kinds of hydrocarbon both on land in the sea; and the prevention and control of pollution resulting or originating from the discharge of oil and the dumping of wastes and other matters from sea-going vessels, tankers, and other types of vessel, shall be in accordance with the governing laws related thereto.

#### **Section 79**

In case there is no specific law applicable thereto, the Minister shall, with the advice of the Pollution Control Committee, have the power to issue ministerial regulations specifying the types and categories of hazardous wastes generated from the production and usage of chemicals or hazardous substances in the production process of industry, agriculture, sanitation and other activities which shall be brought under control. For this purpose, rules, regulations, measures and methods must also be prescribed for the control of collection, storage, safety measures, transportation, import into the Kingdom, export out of the Kingdom, and for proper and technically sound management, treatment and disposal of such hazardous wastes.

### **PART 7**

#### **MONITORING, INSPECTION AND CONTROL**

## **Section 80**

The owner or possessor of the point source of pollution, required by virtue of Section 68 or Section 70, to have his own facility for treatment of polluted air, equipment or instrument for control of the discharge of polluted air or other pollutants or the wastewater treatment or waste disposal facility, shall have the duty to collect statistics and data showing the daily functioning of the said facility or equipment and instrument, and make detailed notes thereof to be kept as recorded evidence at the site of that point source of pollution, and shall submit report summarizing the functioning results of the facility, equipment to the local official of the locality where such point source is situated at least once a month.

The collection of statistics and data, the making of notes and reports shall be in accordance with the rules, procedures, methods and format specified by ministerial regulation.

In case the facility for treatment of polluted air, wastewater or waste disposal or equipment and instrument indicated in the first paragraph requires a Monitoring Control Operator as determined by the pollution control official, the Monitoring Control Operator shall have the duty to act under the first paragraph on behalf of the owner or possessor.

The Service Contractor licensed to render wastewater treatment or waste disposal services shall have the duty to do the same as owner or possessor of the point source of pollution is required under the first paragraph.

## **Section 81**

The local official shall gather the reports received according to Section 80 and send them to the pollution control official, who has jurisdiction over that locality, on a regular basis at least once a month. In doing so, the local official may make comments for consideration of the pollution control official.

## **Section 82**

In order to perform his functions under this Act, the pollution control official is empowered as follows:

- (1) To enter into the building, place and site of the factory or point source of pollution or the site of wastewater treatment or waste disposal facility which belongs to any person, between the sun rise and sun set or during the working hours, to inspect the functioning process of wastewater treatment or waste disposal facility, air pollution control system or equipment and other instrument for the control of polluted air or other pollutants, as well as to examine the notes, statistics or data on the functioning of the said facility, equipment and instrument, or when there is a reasonable suspicion that there is a non-compliance with this Act;
- (2) To issue an order in writing directing the owner or possessor, the Monitoring Control Operator, or the licensed Service Contractor rendering the services of wastewater treatment or waste disposal, to correct, change, improve or repair the air pollution control, wastewater treatment or waste disposal facility or other equipment and instrument for the control of polluted air or other pollutants. If, however, the point source of pollution is a factory, the official under the law on industrial plants shall be notified to take action within his power and duty. If such official fails to do so, the pollution control official shall have the power to take action in accordance with this Act;
- (3) To issue a written order directing the owner or possessor of the point source of pollution which is not a factory to pay penalties as provided under Section 90, 91 or 92. If the point source of pollution is a factory, the official under the law on industrial plant shall be notified to order the owner or possessor of such factory to pay the penalties and, in doing so, such official under the law on industrial plants shall be deemed to be the pollution control official under this Act. If, however, such official fails to issue the penalty order within a reasonable time, the pollution control official shall then have the power to issue the order directing the owner or possessor of such factory to pay the penalties;

- (4) To issue a written order directing the Service Contractor licensed to render the services of wastewater treatment or waste disposal to stop or shut down his services, or revoking his license in case such Service Contractor violates or does not comply with this Act, or any ministerial regulation, local ordinance, rule, notification or condition issued or stipulated by virtue of this Act, or does not comply with the order of the pollution control official issued by virtue of this Act;
- (5) To issue a written order suspending the Monitoring Control Operator under Section 68 or 70 in case such Monitoring Control Operator violates or does not comply with this Act, or any ministerial regulation, local ordinance, rule, notification, or condition issued or stipulated by virtue of this Act, or does not comply with the order of the pollution control official issued by virtue of this Act.

### **Section 83**

In case it is deemed reasonable in the interest of co-ordination of action among agencies concerned, the pollution control official may:

- (1) Recommend the official who has legal power to control the point source of pollution, to close down its operation, to suspend or revoke the license of its owner or operator, or to bar its use or utilization in any way, especially in connection with the point source of pollution under Section 68, Section 69 or Section 78 which has no intention to treat the polluted air, wastewater or other wastes and illegally discharge the untreated wastes into the environment outside the limits of its site and promise;
- (2) Recommend the local official to take legal action against the owner or possessor of the point source of pollution under Section 71 or Section 72 in order to coerce him to send wastewater or wastes to be treated or disposed in according to this Act;
- (3) Give advice and suggestions to the local official or the government agency concerned in connecting with the operation and maintenance of the central wastewater treatment plant or the central waste disposal facility under the responsibility of such local official or government agency.

### **Section 84**

In the performance of duty under this Act, the competent official or the pollution control official must produce his identity card at the request of the person concerned.

The identity card of the competent official and pollution control official shall be in such a form as prescribed in the ministerial regulation.

### **Section 85**

The owner or occupier of premises, vehicles or any person concerned shall facilitate the performance of duty under this Act by the competent official or the pollution control official who shall be official under the Penal Code.

### **Section 86**

The performance of duty by the competent official under Section 50, first paragraph, or Section 65 and the performance of duty by the pollution control official under Section 82 (1) shall be done in the presence of the owner or occupier of the premise or vehicle; if such person cannot be found, it shall be done in the presence of at least two other persons requested by the competent official or the pollution control official to attend as witnesses.

### **Section 87**

The owner or possessor of the point source of pollution, the Service Contractor licensed to render services of wastewater treatment or waste disposal, the Monitoring Control Operator or any other person who is not satisfied with the order of the pollution control official under Section 82 (2), (3), (4) or (5), is entitled to challenge such order by petition to the Pollution Control Committee within thirty days from the date of receiving the order of the pollution control official.



If the petitioner does not agree with the decision of the Pollution Control Committee, he shall appeal to the Minister within thirty days the date of receiving notification of the Pollution Control Committee's decision.

The decision of the Minister shall be final.

## **PART 8**

### **SERVICE FEE AND PENALTY**

#### **Section 88**

In any pollution control area or locality where a central wastewater treatment plant of a central waste disposal facility has been constructed and brought into operation as a public utility service, funded by government budget or revenue of the local administration and money allocated from the Fund as provided in this Act, the National Environment Board shall, with the advice of the Pollution Control Committee, fix the rates of service fee to be applicable within the limits of each pollution control area or locality, being the site of and served by the operation of such facility.

The service fee rates fixed according to the foregoing first paragraph shall be notified and published in the Government Gazette.

#### **Section 89**

The rates of service fee fixed according to Section 88 for treatment of wastewater or for disposal of wastes emanated from point sources pursuant to Section 71 and Section 72 may be varied as appropriate.

The owner or possessor of the point source of pollution governed by the provision of Section 72, in the category of domestic household, that can be classified as a small-scale user is entitled to be exempted from the payment of service fees in accordance with the rules and conditions stipulated by the National Environment Board, with the advice of the Pollution Control Committee.

#### **Section 90**

Any owner or possessor of point source of pollution who avoidably refrains from sending wastewater or wastes to the central wastewater treatment plant or the central waste disposal facility as required by Section 71 or Section 72 and illegally discharges such wastewater or wastes into the environment outside the limits of the site of the point source owned or possessed by him, or does send the wastewater or wastes to the central wastewater treatment plant or the central waste disposal facility of the public service for treatment but fails and refuses to make payment for the service fees without being entitled to the exemption as provided by Section 89, second paragraph, shall be liable to pay as a penalty four times as much the amount of service fee that he is liable to pay at the rate fixed in accordance with Section 88 until the provision of this Act is observed by him.

#### **Section 91**

Any owner or possessor of the point source of pollution, required by Section 70 to have an on-site facility for wastewater treatment or waste disposal, who illegally discharges wastewater or wastes into the central wastewater treatment plant or the central waste disposal facility of the public service, shall be liable to pay as a daily penalty four times as much the amount of daily expenses for the normal operation of his on-site facility for wastewater treatment or waste disposal throughout the duration of such illegal discharge and shall also be liable to pay damages if such illegal discharge has caused any damage or defection to the central wastewater treatment plant or the central waste disposal facility of the public service.

#### **Section 92**

Any owner or possessor of the point source of pollution subject to the requirements of Section 68 or Section 70, who refrains from using his on-site facilities or equipment for the

control of air pollution, noise pollution and vibrations, or refrains from operating his on-site facilities for the treatment of wastewater or disposal of wastes and illegally discharges such untreated wastewater or wastes into the environment outside the limits of the site of the point source of pollution, shall be liable to pay as a daily penalty four times as much the amount of daily expenses for the normal operation of his facilities, equipment or process for wastewater treatment or waste disposal throughout the duration of such illegal discharge.

### **Section 93**

The local authority or the competent official of the government agency responsible for the operation of the public wastewater treatment plant or waste disposal facility shall have the power and duty to collect service fees, penalties and claim for damages as provided in this Part, particularly in connection with the operation of the central wastewater treatment plant or the central waste disposal facility of the public service which is made available by such local authority or government agency.

The service fees and penalties collectable in accordance with the foregoing first paragraph shall be exempted from being remitted to the Treasury as government revenues, but shall be deducted and remitted to the Fund at the ratio specified by the Fund Committee, whereas the balance therefrom shall be used as expenditures for operation and maintenance of the central wastewater treatment plant or the central waste disposal facility of the local authority or government agency which is responsible to collect such service fees and penalties.

## **CHAPTER 5 PROMOTIONAL MEASURES**

### **Section 94**

The owner or possessor of any point source of pollution, who has the duty according to this Act or other related laws to install an on-site facility for treatment of polluted air or wastewater or for disposal of any other wastes, including the procurement of equipment, instrument, tools, appliances or materials necessary for control of pollution from such point source, or the Service Contractor licensed pursuant to this Act, is entitled to request for promotional support and assistance from the government service in the following matters:

- (1) Request for assistance regarding important duties for the import into the Kingdom of necessary machinery, equipment, instrument, tools, appliances or materials which are not available in the Kingdom;
- (2) Application for permission to bring foreign experts or specialists into the country to carry out works concerning the installation, monitoring control or operation of air pollution control systems, wastewater treatment works or waste disposal facilities in case qualified persons within the Kingdom are not available for recruitment and commissioning to supervise and control machinery, equipment, instrument or tools imported into the Kingdom pursuant to sub-Section (1), including application for exemption of income tax that will incur from the performance of work as a supervisor of such person within the Kingdom.

The owner or possessor of the point source of pollution who has no legal duty as referred to in the foregoing first paragraph, but nonetheless wishes to install an on-site facility with his own equipment, instrument, tools or appliances for air pollution control, wastewater treatment or for disposal of other wastes emanated from his activities or business undertakings, is also entitled to request for promotional supports and assistance from the government service in accordance with the foregoing first paragraph.

### **Section 95**

The request for promotional supports and assistance according to Section 94 shall be made to the National Environment Board in accordance with the rules, procedures, methods and formats prescribed by ministerial regulation.

The National Environment Board shall consider and proceed with the request for promotional supports and assistance according to the foregoing first paragraph as it sees fit, taking into account the economic, financial and investment necessities of each individual applicant. In case it is considered appropriate to give assistance to the applicant, the National Environment Board shall recommend the government agencies concerned to act within their powers and functions to render promotional supports and assistance to the applicant accordingly.

## **CHAPTER 6 CIVIL LIABILITY**

### **Section 96**

If leakage or contamination caused by or originated from any point source of pollution is the cause of death, bodily harm or health injury of any person or has caused damage in any manner to the property of any private person or of the State, the owner or possessor of such point source shall be liable to pay compensation or damages therefore, regardless of whether such leakage or contamination is the result of a willful or negligent act of the owner or possessor thereof, except in case it can be proved that such pollution leakage or contamination is the result of:

- (1) Force majeure or war;
- (2) An act done in compliance with the order of the Government or State authorities;
- (3) An act or omission of the person who sustains injury or damage, or of any third party who is directly or indirectly responsible for the leakage or contamination.

The compensation or damages to which the owner or possessor of the point source of pollution shall be liable according to the foregoing first paragraph shall mean to include all the expenses actually incurred by the government service for the clean-up of pollution arisen from such incident of leakage or contamination.

### **Section 97**

Any person who commits an unlawful act or omission by whatever means resulting in the destruction, loss or damage to natural resources owned by the State or belonging to the public domain shall be liable to make compensation to the State representing the total value of natural resources so destroyed, lost or damaged by such an unlawful act or omission.

## **CHAPTER 7 PENAL PROVISIONS**

### **Section 98**

Any person who violates or refuses to observe the order issued by virtue of Section 8 or obstructs any act done in compliance with such order shall be punished by imprisonment not exceeding one year or fine not exceeding one hundred thousand Baht, or both.

In case the person who violates or refuses to observe the order or obstructs any act done in compliance with such order is the person who has caused danger or damage arisen from pollution, such person shall be punished by imprisonment not exceeding five years or fine not exceeding five hundred thousand Baht, or both.

### **Section 99**

Any person who illegally encroaches upon, occupies, or enters into public land to act in any manner which results in the destruction, loss or damage to natural resources or treasures worthy of being conserved, or causes the occurrence of pollution having impact on the environment within the limits of environmentally protected areas designated by virtue of Section 43 shall be punished by imprisonment not exceed five years or fine not exceeding five hundred thousand Baht, or both.

### **Section 100**

Any person who violates or refrains from observing the restrictions stipulated by ministerial regulation issued according to Section 44 or by notification given by the Minister according to Section 45 shall be punished by imprisonment not exceeding one year or fine not exceeding one hundred thousand Baht, or both.

### **Section 101**

Any person who spreads or disseminates false information about the danger from any point source of pollution with the intention to destroy its reputation or to undermine public trust on the lawful operation of its business or activity shall be punished by imprisonment not exceeding one year or fine not exceeding one hundred thousand Baht, or both.

If the spread or dissemination of information according to the foregoing first paragraph is done by means of publication, announcement, advertisement or reports through newspaper, radio, television or other forms of mass media, the person who commits such act shall be punished by imprisonment not exceeding five years or fine not exceeding five hundred thousand Baht, or both.

### **Section 102**

Any person who violates the order of competent official forbidding the use of vehicle according to Section 65 shall be punished by fine not exceeding five thousand Baht.

### **Section 103**

Any person who refuses to observe the order given by competent official according to Section 67 shall be punished by imprisonment not exceeding one month or fine not exceeding ten thousand Baht, or both.

### **Section 104**

Any owner or possessor of the point source of pollution who refrains from observing the provision of Section 71, or any person who refrains from observing the provision of Section 72, or the rules laid down by the local authority by virtue of Section 74 or Section 75, first paragraph, or the ministerial regulation issued by virtue of Section 80 shall be punished by imprisonment not exceeding one year or fine not exceeding one hundred thousand Baht, or both.

### **Section 105**

Any person who renders services as a Monitoring Control Operator or as a Service Contractor for wastewater treatment or waste disposal without the license granted according to Section 73 shall be punished by imprisonment not exceeding one year or fine not exceeding one hundred thousand Baht, or both.

### **Section 106**

Any owner or possessor of the point source of pollution or any Monitoring Control Operator or any Service Contractor rendering the services of wastewater treatment or waste disposal, who refrains from collecting statistics or data or from making notes or reports as required by Section 80 shall be punished by imprisonment not exceeding one month or fine not exceeding ten thousand Baht, or both.

### **Section 107**

Any Monitoring Control Operator or Service Contractor having the duty to make notes or reports according to this Act, who intentionally makes such notes or reports showing false information or statements shall be punished by imprisonment not exceeding one year or fine not exceeding one hundred thousand Baht, or both.

### **Section 108**

Any person who obstructs or refuses to comply with the order of the pollution control official given in the performance of his duty according to Section 82 (2) shall be punished by imprisonment not exceeding one month or fine not exceeding ten thousand Baht, or both.

### **Section 109**

Any Service Contractor rendering services for wastewater treatment or waste disposal ordered by the pollution control official to stop or close down his services pursuant to Section 82 (5), or any Monitoring Control Operator whose license has been revoked by the order of the pollution control official pursuant to Section 82 (6), who violates or refuses to comply with such order of the pollution control official or continues to carry on his service in violation of such order shall be punished by imprisonment not exceeding one year or fine not exceeding one hundred thousand Baht, or both.

### **Section 110**

Any owner or possessor of the point source of pollution who employs the person, whose license to be a Monitoring Control Operator has been revoked, to supervise and monitor the operation of air pollution control, wastewater treatment or waste disposal facility that he has the duty to install and operate according to this Act, shall be punished by fine not exceeding fifty thousand Baht.

### **Section 111**

In case the offender who is liable to be punished according to this Act is a juristic person, the directors or managers of such juristic person, or any person who is responsible for the business operation of such juristic person, shall also be punishable by the same penalties prescribed by law for such offence, unless it can be proved that they have no part to play in the commission of such offence.

## **PROVISIONS**

### **Section 112**

In the period during which the National Environment Board is yet to be appointed in accordance with Section 12 of this Act, the National Environment Board appointed prior to the date of effectiveness of this Act shall continue to hold office in order to perform its function until the new Board shall be appointed and take over the office.

### **Section 113**

All ministerial regulations, rules, procedures, notification or orders, issued by virtue of the Enhancement and Conservation of National Environmental Quality Act, B.E. 2518 which remain in force on the date of effectiveness of this Act, shall continue to be effective, insofar as they are not in conflict with or contrary to this Act, unless and until ministerial regulations, rules, procedures, notifications or orders will have been issued in accordance with this Act.

### **Section 114**

The person, who has been holding a license as an eligible person to prepare reports concerning the study and measures for the prevention of and remedy for the adverse effect on environmental quality by virtue of the Enhancement and Conservation of National Environmental Quality Act, B.E. 2518, shall continue to be eligible to prepare the environmental impact assessment report provided by this Act, until such person is required by the Minister to apply for license in accordance with this Act.

### **Section 115**

For all the reports concerning the study and measures for the prevention of and remedy for the adverse effect on environmental quality required for any project or activity pursuant to the Enhancement and Conservation of the National Environmental Quality Act, B.E. 2518, that have been filed prior to the date on which this Act shall come into effect and still pending review by the Office of National Environment Board, the review and approval of such reports shall be further proceeded with in accordance with the rules and procedures laid down by virtue of the Enhancement and Conservation of National Environmental Quality Act, B.E. 2518. For this purpose, the power and duty of the Office of National Environment

Board in connection with the review and approval of such reports shall become the power and duty of the Office of Environmental Policy and Planning.

Countersigned by

Mr. Anand Panyarachun

Prime Minister

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