

(1) Thailand: Situation of the Development of Legal Systems for Environmental Impact Assessment

In 1975 the Environmental Impact Assessment (EIA) System was introduced in Thailand under the Enhancement and Conservation of the National Environment Quality Act (NEQA 1975) as a tool for environmental planning and management of development projects when the country faced worsening environmental problems resulting from rapid progress in industrialization and urbanization.

In 1992, in response to the growing demand for environmental protection, the NEQA 1975 was fully reformed to introduce the Enhancement and Conservation of National Environment Quality Act of 1992 (NEQA 1992). The NEQA 1992 having the polluter-pays principle, it is currently the most basic and comprehensive legal basis for the environmental regulations in Thailand. In 2012, the rules and procedures (screening, EAI reports preparation, review process and period, environmental conservation measures [impact mitigation and preventive measures], monitoring, etc.) for the project types and scales that require EIA were revised and updated in the Notification of Ministry of Natural Resources and Environment (MoNRE). After partial revisions have been made for the preparation of Environmental Impact Assessment Reports and implementation of EIAs in 2015, there are 35 project types and scales that require EIA, as of January 2018.

Regarding the impacts of human health, the Article 67 of the Constitution of 2007 required communities to perform the Environment and Health Impact Assessment (EHIA) on projects that may seriously affect environmental quality, natural resources, or human health; the same provision was maintained under the Article 58 of the Constitution of 2017 (equivalent to Article 67 of the Constitution of 2007).

Key ministerial notifications that serve as the basis of the EIA are as follows:

- Ministerial Notifications of MoNRE: Procedures for 35 project types and scales that require EIA (No.1 of 2012, No.2-3 of 2013, No.4-6 of 2014, No.7-8 of 2015, No.9 of 2016, and No.10-11 of 2017)
- Ministerial Notification of MoNRE: 12 project definitions, types, scales, etc. that require EHIA (No.1 of 2009, No.2 of 2010, No.3 of 2012, No.1-2 of 2010, No.3 of 2015, and No.4 of 2016), etc.
- Ministerial Notifications of MoNRE on Environmentally Protected Areas: In case where the Initial Environmental Examination is applied. The area names and notification years are as follows: Phuket (2010), Krabi (2010 and 2016), Pang-Nga (2007 and 2016), Suratthani (2014), Petchaburi (2010), Prachuab-Khirikan (2010), Chonburi (2010).

As of January 2018, the NEQA 1992 is under revision. After the Report on Reviewing the Environmental Impact Assessment System (which was adopted by the National Reform Council

[NRC] established under the rule of the Prayuth interim administration) was submitted to the Cabinet, the government developed a draft revision to the NEQA 1992 and submitted it to the National Legislative Assembly (NLA). The proposed revisions include expanded authority granted to the MoNRE, strengthening of environmental conservation measures and monitoring capability by the project approval authorities, enhancement of the requirements for preparation of Environmental Impact Assessment Reports (to be performed by those who have certified for environmental impact assessment, etc.), and penalties for constructions/operations without approval of the environmental impact assessment and for failure of filing monitoring reports (Wangwongwatana 2018ⁱ). A revision will also be made in NEQA 1992 to align with the procedures for public participation specified in the Constitution of 2017.

ⁱ Based on the Assessing Environmental Impact Assessment (EIA) in Thailand: Implementation Challenges and Opportunities for Sustainable Development Planning, Asian Environmental Compliance and Enforcement Network (AECEN) Working Paper by Supat Wangwongwatana et. al in 2015 and updated survey information conducted by Wangwongwatana in 2018 as part of work commissioned by the Ministry of the Environment, Japan in 2017.