

(7) Good practices

<Thailand>

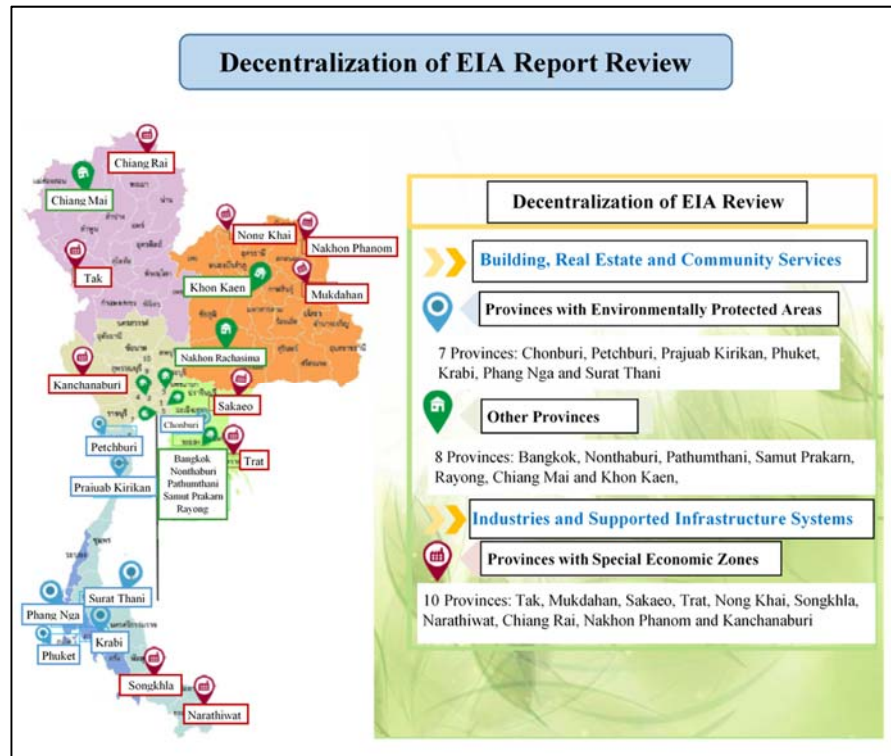
Good Practice 1 : Decentralization of EIA Report Review

1. Stage of EIA Process	Review of Environmental Impact Assessment Report
2. System/ implementation	System
3. Country	Thailand
4. Outline of good practice	<ul style="list-style-type: none"> Previously EIA reports of projects, regardless of where they are located, are reviewed by 9 Expert Review Committees (ERCs) at the central level appointed by the National Environment Board (NEB), except for projects located in areas which are designated as Environmentally Protected Areas, where EIA reports are reviewed by 7 Provincial ERCs established for provinces within which Environmentally Protected Areas are located, i.e. Chonburi, Phuket, Prajuab Kirikan, Petchburi, Surat Thani, Krabi and Phang Nga . The NEB decided in 2015 to decentralize the review of EIA reports of building, real estate and community services projects, except for projects or activities that may cause severe impact on quality of the environment, natural resources and health of community, to the provincial level by establishing Provincial ERCs at 8 more provinces, i.e. Nonthaburi, Pathumthani, Samut Prakarn, Rayong, Chiang Mai, Khon Kaen, Nakorn Rachasima and Bangkok. The NEB decided in 2015 to decentralize the review of EIA reports of industry and supported infrastructure systems, except projects or activities that may cause severe impact on quality of the environment, natural resources and health of community, to the provincial level by establishing the Provincial ERCs on industry and supported infrastructure system for the ten provinces with areas designated as SEZ areas, i.e. Tak, Mukdahan, Sakaeo, Trat, Nong Khai, Songkhla, Narathiwat, Chiang Rai, Nakhon Phanom, Kanchanaburi. The Provincial ERCs are chaired by the Governors of the provinces and the Secretariat is the Director of the Provincial Office of Natural Resources and Environment.
5. Background and issues identified (why and how does this good practice was started and evolved?)	The Office of Natural Resources and Environmental Policy and Planning (ONEP) held several consultative meetings in 2013 attended by relevant stakeholders, namely representatives of various government agencies having the roles as the project proponents and permitting agencies, representatives of the project proponents from

	<p>private sector, representatives of licensed EIA consultants, non-government organizations, civil society groups and members of ERCs to identify problems, obstacles and gaps in the EIA system and its implementation in Thailand for further improvement and development.</p> <p>Too many EIA reports are submitted to ONEP, in particular housing projects, which cause the delay in the review process and the review of EIA reports is made at the central level which might not have sufficient information of the area of the project site were among major issues identified. It was recommended from the consultative meetings to decentralize the review process to regional or local levels.</p> <p>In response to the recommendation, the NEB decided in 2015 to decentralize the review of EIA reports of building, real estate and community services projects, except for projects or activities that may cause severe impact on quality of the environment, natural resources and health of community, to the provincial level by establishing Provincial ERCs at 8 more provinces, i.e. Nonthaburi, Pathumthani, Samut Prakarn, Rayong, Chiang Mai, Khon Kaen, Nakorn Rachasima and Bangkok in addition to 7 provinces with Environmentally Protected Areas, i.e. Chonburi, Phuket, Prajuab Kirikan, Petchburi, Surat Thani, Krabi and Phang Nga, for a total of 15 Provincial ERCs.</p> <p>The Provincial ERCs are chaired by the Governor of the Provinces. The Director of the Provincial Offices of Natural Resources and Environment (PoNRE) are the Secretariat of the Provincial ERCs, except for Bangkok, the Secretariat is the Director of Air Quality and Noise Management Division of Bangkok Metropolitan Administration.</p> <p>The 14 Provincial ERCs, except Bangkok, are entrusted to review and consider for approval or disapproval of EIA reports of building, real estate and community services projects under Item 28 to Item 31 of types and sizes of projects or activities for which EIA reports are required with height less than 23 meters or with total floor areas or utilization areas of less than 10,000 square meters. Since Bangkok is considered to have higher capacity, the Provincial ERC for Bangkok is entrusted to review and consider for approval or disapproval of EIA reports of building, real estate and community services projects under Item 27 to 31 of types and sizes of projects or activities for which EIA reports are required including those with height of 23 meters and more or with total floor areas or utilization areas of 10,000 square meter and more.</p>
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	<p>Additionally, the Government established areas in 10 provinces in Thailand, i.e. Tak, Mukdahan, Sakaeo, Trat, Nong Khai, Songkhla, Narathiwat, Chiang Rai, Nakhon Phanom, Kanchanaburi, having borders with neighboring ASEAN countries to be Special Economic Zone (SEZ) Areas with the following objectives,</p> <ul style="list-style-type: none"> - to promote connectivity in economy, trade, investment in ASEAN and expand economic cooperation with neighboring countries; and - to develop transport and logistic connectivity within ASEAN. <p>It is expected that there will be numerous projects and activities, in particular industries and supported infrastructure systems, for which EIA reports are required to be established in the SEZ areas in the ten provinces. In order to efficiently facilitate the review of EIA reports of projects and activities to be established in the SEZ areas, the NEB decided in 2015 to decentralize the review of EIA reports of industry and supported infrastructure systems, except projects or activities that may cause severe impact on quality of the environment, natural resources and health of community, to the provincial level by establishing the Provincial ERCs on industry and supported infrastructure system for the ten provinces with areas designated as SEZ areas chaired by the Governors of the provinces and the Secretariat is the Director of the Provincial Office of Natural Resources and Environment.</p>
6. Key features of good practice and its consequences /outcomes	<p>Decentralization of EIA report review to the provincial level is in line with the policy of the Government in decentralizing responsibilities and activities from the central level to provincial and local levels. It will reduce the workloads of the ERCs at the central level and will make the review process more time-efficient. Provincial ERCs consist of local officials and experts who are familiar and know the local condition and have information of the area of the project site much better than members of the ERCs at the central level. Consequently, the review of the EIA report will be more precise and accurate.</p>
7. Lessons learnt /way forward	<p>The decentralization of EIA report review is still in an early stage which has just been practiced for a few years. Currently, there are only 15 provinces (Thailand has a total of 77 provinces) which have Provincial ERCs for the review only of the EIA reports of building, real estate and community services projects and 10 provinces, within which Special Economic Zone areas are located, which have Provincial ERCs for the review only of industry and supported infrastructure systems projects. It is necessary to closely and carefully monitor and evaluate its efficiency and effectiveness before more types and sizes of projects and activities will be decentralized and the EIA report review will be decentralize to other provinces.</p>

8. Photos



<Thailand>

Good Practices 2 : Improved Smart EIA

– An On-line Public Disclosure of EIA information

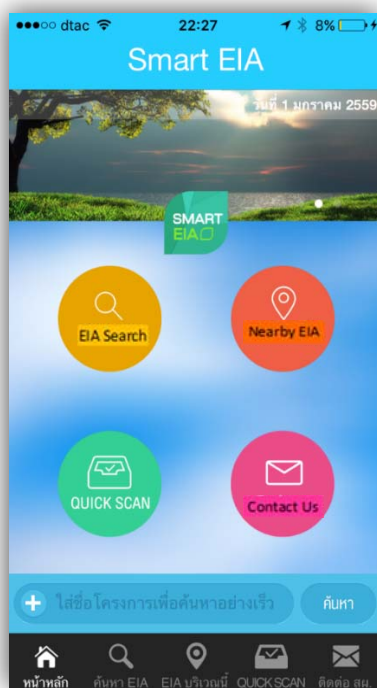
1. Stage of EIA Process	Information Disclosure
2. System/ implementation	System
3. Country	Thailand
4. Outline of good practice	<ul style="list-style-type: none"> • Earlier, a person interested to inspect information related to EIA of any projects or activities had to personally visit the Office of Natural Resources and Environmental Policy and Planning (ONEP) and made a request for such information as EIA reports or EIA monitoring and audit reports of any interested projects and activities. Inspection was done in the library of ONEP and necessary photocopies could be made as appropriate. • The ONEP developed a computerized web-based database called “Smart EIA” for information related to EIA of projects and activities of which EIA reports were approved. The database, including information on EIA reports, Initial Environmental Examination (IEE), EIA report approval documents, EIA monitoring and audit reports, list of registered EIA consultants, etc., can be remotely accessed and EIA information can be downloaded through ONEP website: http://onep.go.th. • The mobile phone application of the Smart EIA was also developed for any interested person to conveniently access EIA information through a smart phone or a tablet at any time and from anywhere where signal is available. The “Smart EIA” mobile application is available for both IOS and Android operating systems and can be downloaded from App Store and Google Play, respectively. • The Smart EIA system has been continuously improved and upgraded for more efficient and effective management of EIA system and process and disclosure of information related to EIA of any projects and activities
5. Background and issues identified (why and how does this good practice was started and evolved?)	<ul style="list-style-type: none"> • The Office of the Official Information Commission concluded that information related to Environmental Impact Assessment (EIA) of any projects and activities for which EIA reports are required, including EIA reports, EIA report approval documents, EIA monitoring and audit reports, etc., are considered as official

	<p>information and subject to the Official Information Act, B.E. 2540 (1997) and have to be made available for public inspection.</p> <ul style="list-style-type: none"> • The Constitution of Thailand of 2007 and of 2017 have several Sections with provision on rights to information of the Thai people, • Section 41 and Section 43 of the Constitution of Thailand of 2017 stipulated the rights of a person and a community to be informed and have access to public data or information in the possession of a State agency and to manage, maintain and utilize natural resources, environment and biodiversity in a balanced and sustainable manner, in accordance with the procedures as provided by law respectively and the State has the duty under Section 50 to disclose any public data or information in its possession to which the public can conveniently access, unless such information is related to the security of the State or government confidentiality. • With the modern information and communication technologies, it is possible to improve the accessibility to information to make it easier, more convenient, more efficiency, faster and online. Information can be accessed anytime and from anywhere where internet access is available. • The Smart EIA system with both web-based database and mobile phone application has been developed and continuously improved and upgraded for efficient and effective disclosure and dissemination of information related to EIA of any projects and activities for better management of EIA system and process and for the people to easily and conveniently access the information.
6. Key features of good practice and its consequences /outcomes	<ul style="list-style-type: none"> • The web-based Smart EIA system has been continuously improved and upgraded. It is now possible to submit on-line an application for a license to be an expert eligible to prepare environmental impact assessment reports and an EIA monitoring report (under testing) through the web-based Smart EIA system. An on-line submission of EIA, Environmental and Health Impact Assessment (EHIA) and IEE reports is under testing and will be fully implemented this year. • The following information on EIA can be obtained the web-based Smart EIA system <ul style="list-style-type: none"> - Projects or activities for which EIA reports are approved - Project proponents - Status of submitted EIA reports

	<ul style="list-style-type: none"> ○ by types of projects or activities ○ by EIA process - Status of EIA monitoring reports <ul style="list-style-type: none"> ○ Projects or activities that submit EIA monitoring reports ○ Projects or activities that do not submit EIA monitoring reports - Statistics on EIA reports <ul style="list-style-type: none"> ○ Statistics of EIA reports approved by Expert Review Committee (ERC) through ONEP ○ EIA reports approved by ERC through ONEP (by Projects) ○ EIA reports submitted to ONEP - Statistics on decisions of the Expert Review Committees - Permitting agencies, competent agencies and relevant agencies - GIS information on water quality and air quality - Submission for project detail changes - Information inquiry and complaints - Submission of EIA monitoring reports ● Consequently, it is expected that the management of EIA system and public disclosure of information related to EIA of any projects and activities will be more efficient and effective.
7. Lessons learnt /way forward	<ul style="list-style-type: none"> ● Modern information and communication technology can be used to improve the efficiency and effectiveness of the management of EIA system including the disclosure of information related to EIA of any projects and activities and public participation. ● Evaluation of the Smart EIA system should be carried out and additional features should be added for further improvement.
8. Photos	



Figure 1 – Webpage of the Smart EIA (<http://eia.onep.go.th>)



Earlier Version
Smart EIA Mobile Application



Improved Version
Smart EIA Mobile Application

Figure 2 – Main Screens of the Earlier and Improved Versions of the Smart EIA Mobile Application

< Thailand >

Good Practice 3 : Improvement of EIA Law in Thailand

1. Stage of EIA Process	EIA System
2. System/ implementation	System
3. Country	Thailand
4. Outline of good practice	<ul style="list-style-type: none"> • EIA system in Thailand is stipulated by the Enhancement and Conservation of National Environmental Quality Act (NEQA) B.E. 2535 (1992). • Preparation and review processes of EIA reports were changed to be in accordance with Paragraph 2 of Section 67 of the Constitution of Thailand B.E. 2550 (2007) for project and activity which may seriously affect communities with respect to the quality of the environment, natural resources and biological diversity. • Preparation and review processes of EIA reports were changed again to be in accordance with Section 58 of the Constitution of Thailand B.E. 2560 (2017) for any undertaking by the State or which the State will permit any person to carry out which may severely affect the natural resources, environmental quality, health, sanitation, quality of life or any other essential interests of the people or community or environment. • Types and sizes of projects or activities which may seriously affect communities with respect to the quality of the environment, natural resources and biological diversity for which Environmental and Health Impact Assessment (EHIA) reports are required to study and evaluate the impact on the quality of the environment and on health of the people in the communities were announced. • In 2010, the Government established the Independent Commission on Environment and Health (ICEH) by the Prime Minister Office Rule on Coordination for Opinions of Independent Organization on Projects or Activities which may cause Severe Impacts to Community B.E. 2553 (2010) acting as an independent organization to give opinions on an EIA report of any project or activity which may seriously affect communities with respect to the quality of the environment, natural resources and biological diversity.

	<ul style="list-style-type: none"> • The preparation and review processes of EHIA report for projects and activities which may seriously affect communities with respect to the quality of the environment, natural resources and biological diversity were established. • The National Reform Council of Thailand established under the Constitution of the Kingdom of Thailand (interim), B.E. 2557 (2014) established the Commission on the Reform of Natural Resources and Environment under which the Sub-Commission on the Reform of Environmental Impact Assessment (EIA) System was subsequently established on 24 November 2014 with the tasks to study, assess and make recommendations for the reform of EIA system in Thailand. • The report on Environmental Impact Assessment System Reform prepared by the Sub-Commission was submitted through the Commission to the National Reform Council was adopted on 22 July 2015 and submitted to the Cabinet on 22 July 2015. • Based on the report on Environmental Impact Assessment System Reform, Provisions in Part 4 on Environmental Impact Assessment of the Enhancement and Conservation of National Environmental Quality Act (NEQA) of 1992 has been also under amendment to be in accordance with Section 58 of the Constitution of Thailand of 2017. • The draft amendment of the NEQA (1992) prepared by the ONEP and endorsed by the Cabinet was submitted to the National Legislation Assembly (NLA) on 24 November 2017. • The NLA at its 3rd/B.E. 2561 (2018) on 19 January 2018 passed the amendment of the NEQA (1992) on provisions related to EIA system with some minor changes.
<p>5. Background and issues identified (why and how does this good practice was started and evolved?)</p>	<ul style="list-style-type: none"> • Section 58 of the Constitution of Thailand B.E. 2560 (2017) stipulates that <i>“In regard to any undertaking by the State or which the State will permit any person to carry out, if such undertaking may severely affect the natural resources, environmental quality, health, sanitation, quality of life or any other essential interests of the people or community or environment, the State shall undertake to study and assess the impact on environmental quality and health of the people or community and shall arrange a public hearing of relevant stakeholders, people and communities in advance in order to take them into consideration for the</i>

	<p><i>implementation or granting of permission as provided by the law.”</i></p> <ul style="list-style-type: none"> • Since the requirement to obtain opinions of an independent organization is not prescribed in Section 58 of the Constitution of Thailand of 2017, the Ministry of Natural Resources and Environment (MoNRE) issued the Ministerial Notification No. 4 B.E. 2560 (2017) on Rules, Procedures, Practices and Guidelines for Preparing Environmental Impact Assessment for Projects and Activities that may cause Severe Impact on Quality of the Environment, Natural Resources and Health of Community in August 2017 replacing the earlier ones issued in 2009, 2010 and 2012 in which the step to obtain opinions of an independent organization is removed. • The Cabinet had a resolution on 10 October 2017 to revoke the Prime Minister Office Rule on Coordination for Opinions of Independent Organization on Projects or Activities which may cause Severe Impacts to Community B.E. 2553 (2010) which established the Independent Commission on Environment and Health (ICEH). • After the EIA report is approved by the relevant Expert Review Committee (ERC), ONEP will send the approved EIA report to the government agency or state enterprise responsible for the project or activity or the permitting agency for the agency to arrange a public hearing of relevant stakeholders, people and communities in order to take them into consideration for the implementation or granting of permission. • The report on Environmental Impact Assessment System Reform prepared by the Sub-Commission was submitted through the Commission to the National Reform Council was adopted on 22 July 2015 and submitted to the Cabinet on 22 July 2015. Major problems of the current EIA system identified included, <ul style="list-style-type: none"> - Problems related to environmental management system at the policy level, - Problems related to the management of EIA system at the project level, - Problems related to the enforcement of the second paragraph of Section 67 of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007), and - Problems related to monitoring, evaluation and auditing of the implementation of mitigation measures specified in the EIA report. • To be in accordance with Section 58 of the Constitution of Thailand B.E. 2560 (2017), Part 4 of the NEQA (1992) on Environmental Impact Assessment is under the based on the report on Environmental Impact Assessment System Reform.
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	<p>Major points of the amendment include,</p> <ul style="list-style-type: none"> - Give the power to the Minister on MoNRE with the approval of National Environment Board (NEB) to prescribe in the Ministerial Notification types and sizes of projects or activities of the State or for which permits are required from the State to be projects or activities which may severely affect the natural resources, environmental quality, health, sanitation, quality of life or any other essential interests of the people or community or environment for which EIA reports are required, including criteria, procedures and conditions for the preparation of an EIA report. - Such criteria, procedures and conditions as prescribed by the Ministerial Notification with the approval of the NEB may be different by types or sizes of the project or activities and at least contain matters related to the detail of the project or activity or operation, present state of environment, assessment of operational alternatives, assessment of environmental impacts which may arise both directly and indirectly from the project or activity or operation, participation of people in the assessment of environmental impacts, measures to prevent and mitigate environmental impacts and compensation for damages. - In the preparation of an EIA report for projects and activities which may severely affect the natural resources, environmental quality, health, sanitation, quality of life or any other essential interests of the people or community or environment, operators or permit applicants have to assess the health impact and make arrangement for public hearing for relevant stakeholders and people and communities following criteria, procedures and conditions as prescribed by the Ministerial Notification with the approval of the NEB. - The ONEP is to review the types and sizes of projects or activities which may severely affect the natural resources, environmental quality, health, sanitation, quality of life or any other essential interests of the people or community or environment for which EIA reports are required every 5 years or earlier as necessary. - For the project or activity for which an EIA report is exempted because it is similar in terms of type, size and area, to other project or activity of which an EIA report is approved, the project or activity has to express its
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	<p>consent to implement measures specified for the EIA approved project or activity or other additional measures. Permitting agency is required to include the measures as a condition or a part of the permit.</p> <ul style="list-style-type: none"> - The ONEP with the approval of the NEB may authorize other government agencies to perform functions of ONEP prescribed in certain Sections, i.e. to receive, examine the completeness of the submitted EIA report, and provide preliminary opinions on the EIA report for submission to the ERC, except for projects and activities which may severely affect the natural resources, environmental quality, health, sanitation, quality of life or any other essential interests of the people or community or environment. This is to support the decentralization of the EIA review process. - In the case that the ERC disapprove an EIA report, the project proponent can resubmit the EIA report which is revised in accordance with what the ERC specifies within 120 days or else it will be the end of the review process. - Require the permitting agency to include measures specified in the approved EIA report as a condition or a part of the permit or the permit renewal and to take the monitoring report into account in granting the permit or the permit renewal. - Require an EIA report to be prepared or certified by a person who is licensed to be an expert in environmental impact assessment. The qualifications of experts eligible to prepare or certify environmental impact assessment reports are to comply with the criteria, procedures, and conditions as prescribed by Ministerial Decree. - The operator or permit applicant of the project or activity originally not required to prepare and submit an EIA report is not allowed to make any change or modification to the project or activity which will then make the project or activity becoming the type and size of project and activity for which an EIA report is required unless an EIA report is prepared, submitted and approved. The permitting agency is to withhold the granting of the permit until the EIA report is approved. - The approved EIA report can be used to obtain permit within 5 years after which the operator or permit applicant will need to review measures in the approved EIA report before resubmitting the EIA report.
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	<ul style="list-style-type: none"> - The operator or permit applicant of the EIA approved project or activity has to prepare and submit a monitoring report to the permitting agency once a year to report the implementation of measures specified in the approved EIA report. Then, the permitting agency has to send the monitoring report to the Provincial Office of Natural Resources and Environment of the province where the project or activity is located or to the ONEP if the project or activity is located in Bangkok within 60 days. - In the review of EIA reports of projects or activities which may severely affect the natural resources, environmental quality, health, sanitation, quality of life or any other essential interests of the people or community or environment or are complicated or use advance technologies or need special expertise, the ERC may ask an individual or institute to give opinions for its consideration in the review and may authorize members of the ERC or competent official to inspect the site of the project or activity or operation submitting the EIA report as appropriate. - In the case which the operator or permit applicant of the approved EIA project or activity does not comply with measures in the EIA report or consented measures which are a part of the permit, the ONEP or other agencies acting on behalf of the ONEP has to notify the permitting agency to order the operator or permit applicant to withhold or stop the operation or activity until it complies with the specified or consented measures. - Any project or activity starting the construction or the operation before the EIA report is approved is subject to fine of not more than one million baht and not more than one hundred thousand baht daily for the period of incompliance or until the construction or the operation is stopped. The fine is one half more if the project or activity is the project or activity which may severely affect the natural resources, environmental quality, health, sanitation, quality of life or any other essential interests of the people or community or environment - Any operator or permit applicant who does not submit the monitoring report is subject to fine not more than one million baht and the ONEP is to notify the permitting agency to order the operator or permit applicant to shut down or to suspend or revoke the permit or to withhold or stop the operation of the project or activity until it is correctly done.
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	<ul style="list-style-type: none"> - Give the power to the Minister of MoNRE to the appoint Settlement Committee for Bangkok and regional area as appropriate and the Settlement Committee has the power to settle any commission of offense having fine penalty only or fine penalty or imprisonment of not more than 2 years. The case is considered over if the fine is paid within 30 days after the settlement.
6. Key features of good practice and its consequences /outcomes	<ul style="list-style-type: none"> • Provisions on the EIA system in Thailand stipulated in the NEQA (1992) has been implemented for the last 25 years with several problems, gaps and challenges. • The amendment of provisions on EIA stipulated in the NEQA (1992) which addresses the problems in the existing EIA system in Thailand identified by the Sub-Commission on the Reform of Environmental Impact Assessment (EIA) System under the Commission on the Reform of Natural Resources and Environment of the National Reform Council of Thailand will improve the EIA system in Thailand especially in streamlining the EIA process, strengthening public participation and enhancing monitoring, compliance and enforcement..
7. Lessons learnt /way forward	<ul style="list-style-type: none"> • The NEQA (1992) has been used for the management of environmental quality including EIA system in Thailand for the 25 years without any amendment even once although there have been several attempts for the amendment but not successful. • Provisions stipulated in the NEQA (1992) 25 years ago are not applicable to and are not able to keep up with the fast changing world. • The law should have been reviewed and evaluated regularly and amended as appropriate. • For the enhancement and conservation of national environmental quality to achieve sustainable development, -it is also necessary to amend the other parts of the NEQA (1992) since they are not suitable for the present situation and they are also linked to the provisions related to EIA system and their implementation.
8. Photos	