

Strengthening Monitoring, Compliance and Enforcement Mechanisms for EIA : A Case Study from Thailand

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Abstract

Environmental Impact Assessment (EIA) is a tool used to predict direct and indirect impacts that may occur during project implementation. It is designed to set prevention, mitigation and monitoring measures of environmental impacts. Thailand has determined the types and sizes of projects or activities that may cause severely impacts to natural resources, environmental equality, health, sanitation, quality of life of local community, and therefore require EIA and Environmental Health Impact Assessment (EHIA) reports. Throughout its history, EIA in Thailand has encountered many difficulties in terms of its implementation, especially lack of stringent monitoring system, lack of access to EIA data, and lack of access to a monitoring report. In particular, a monitoring system is not strictly considered; therefore, the public has no confidence or trust in the EIA report. As a result, EIA process was modified in 2018 in accordance with the “Enhancement and Conservation of National Environmental Quality Act (No.2) B.E. 2561 (2018)”. The Act focuses on public participation in EIA process and emphasises that public consultation for communities and stakeholders is required in order to conduct the EIA report including taking into account prevention, mitigation and monitoring measures of environmental impacts.

1. Introduction

Thailand has adopted an EIA system since 1975 under the Enhancement and Conservation of National Environmental Quality Act B.E. 2518 (1975). However, types and sizes of projects or activities that required the EIA report were only initiated in 1981 which included 10 types and sizes of projects or activities. At present, the EIA requirement has been expanded to cover 35 and 12 types and sizes of projects or activities which require EIA and EHIA reports respectively. If types and sizes of projects or activities are classified that EIA or EHIA reports are required, project proponents shall hire a registered EIA consultant to prepare an EIA/EHIA report and submit to the Office of Natural Resources and Environmental Policy and Planning (ONEP) for further review by the Expert Review Committee (ERC). If the EIA report is approved, project proponents are required to submit a monitoring report to the permitting agencies in accordance with the Act.

2. Current Status of EIA

The current EIA is implemented in accordance with the Enhancement and Conservation of National Environmental Quality Act (No.2) B.E. 2561 (2018) and other relevant laws. It focuses on different issues than the previous EIA version. This includes:

- The Notification regarding types and sizes of projects or activities requiring the EIA report shall be reviewed every 5 years, but it can also be reviewed earlier if required.
- The EIA report shall take into account the Strategic Environmental Assessment (SEA).
- If the ERC disapproves the EIA report, project proponents or a person who asks for permission shall amend or provide a new EIA report within 180 days after having received the notification from the ERC. Otherwise, it shall be deemed that the review process is ended.
- If the EIA report is approved, project proponents or a person who asks for permission shall submit a monitoring report to the permitting agency at least once a year as well as through the electronic platform.
- The permitting agencies shall gather a monitoring report and submit to the Provincial Office of Natural Resources and Environment in their local areas or to ONEP in Bangkok within 60 days after having received a monitoring report.
- ONEP shall monitor and follow up on implementation measures as well as submit recommendations and opinions to the National Environmental Board (NEB) at least once a year.
- The approved EIA report should be used within a period of 5 years from the date the Notification is issued by ONEP.
- If project proponents or a person who asks for permission commence construction or implementation prior to the EIA approval, penalties of no more than 1 million THB and daily fines of no more than 100,000 THB throughout the period where construction continues will be imposed. In case the EHIA report is required, penalties of no more than 1.5 million THB and daily fines of no more than 50,000 THB throughout the period where construction continues will be imposed.

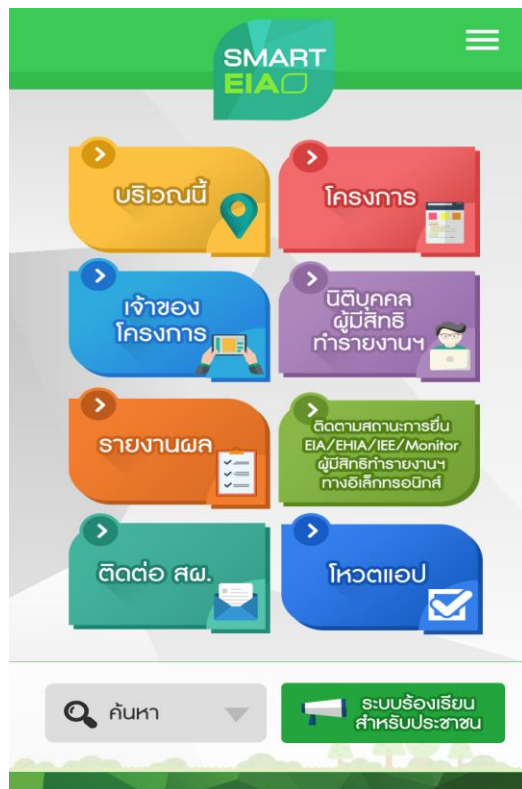


- If project proponents or a person who asks for permission fail to submit a monitoring report, penalties of no more than 1 million THB will be imposed.

3. Best Practice for Monitoring Compliance and Enforcement of EIA

The current EIA process is in accordance with the Enhancement and Conservation of National Environmental Quality Act (No.2) B.E. 2561 (2018) which focuses on prevention, mitigation and monitoring measures of environmental impacts. It determined projects or activities that require EIA and EHIA reports. If the EIA report is approved, a monitoring report shall be submitted to the permitting agencies at least once a year as well as through the electronic platform as prescribed in the NEB's notification. If project proponents or a person who asks for permission fail to submit a monitoring report, penalties of no more than 1 million THB will be imposed. In the event that project proponents or a person who asks for permission refuse to comply with measures required in the EIA or EHIA report, ONEP shall make a recommendation to the responsible authority to take action against violation which shall report their actions back to ONEP within a period of 90 days. In addition, the responsible authority in charge of granting permission can refer to monitoring measures required in the EIA report and prescribe conditions in giving permission or renewing a license.

4. Promotion of Innovative Mechanisms for EIA



In the past, ONEP has received over 2,000 EIA reports and 4,000 monitoring reports per year. There were also over 100 requests which included excessive numbers of submission of license applications for experts who eligible to prepare EIA reports as well as requests to amend and increase number of permanent staff. In general, EIA and monitoring reports should be made available to the public as prescribed in the Official Information Act B.E. 2540. Therefore, ONEP developed the “SMART EIA” application in order to give the public easy access to EIA and monitoring reports. The application has the menu which allows people to provide comments, suggestions and complaints. Through the application, ONEP also developed three registration systems as follows:

- 1) Submission of the EIA report via electronic platform;
- 2) Results of EIA monitoring report via electronic platform;

- 3) Submission of license applications for experts who are eligible to prepare EIA reports.

5. Conclusion and recommendation

EIA is a process used to predict environmental impacts that may occur during project implementation. EIA and monitoring reports shall be submitted to the permitting agencies if projects are approved. The Enhancement and Conservation of National Environmental Quality Act (No.2) B.E. 2561 (2018) has given emphasis on a monitoring report which indicates that penalties shall be imposed for those who fail to submit a monitoring report, as well as allowing the responsible authority in charge of granting permission to refer to monitoring measures required in the EIA report and prescribe conditions in giving permission or renewing a license. As a result, there have been many EIA reports in the past which were not easy to access by the public. Therefore, ONEP developed a channel that allows the public to easy and quickly access EIA information through mobile phone application "Smart EIA". In the next stage, the application will be further improved to increase efficiency of the database system to support connection between permitting agencies in the form of "Web Service". It will link the database of EIA reports and monitoring reports as well as the database of permitting agencies which will allow both ONEP and permitting agencies to be informed about current status of EIA reports as well as monitoring projects and implementation status of relevant permitting agencies. This will overall make the operating system transparent while allows the public to have easy access to the EIA information.

6. Reference

The Enhancement and Conservation of National Environmental Quality Act (No.2) B.E. 2561 (2018) www.onep.go.th/eia