

Unofficial translation*

**ENHANCEMENT AND CONSERVATION
OF THE NATIONAL ENVIRONMENTAL QUALITY ACT,
B.E. 2535 (1992)**

BHUMIBOL ADULYADEJ, REX.

Given on the 29th Day of March B.E. 2535 (1992);

Being the 47th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:
Whereas it is expedient to revise the law on the enhancement and conservation of the 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 is called "The Enhancement and Conservation of the National Environmental Quality Act, B.E. 2535 (1992)".

Section 2. This Act shall come into force after the expiration of 60 days from the date of its publication in the Government Gazette¹.

Section 3. The following shall be repealed:

- (1) The Enhancement and Conservation of the National Environmental Quality Act, B.E. 2518 (1975);
- (2) The Enhancement and Conservation of the National Environmental Quality Act (No. 2), B.E. 2521 (1978);
- (3) The Enhancement and Conservation of the National Environmental Quality Act (No. 3), B.E. 2522 (1979).

* Translated by Mr. Tohpong Smiti, and reviewed by Associate Professor Pisawat Sukonthapan under contract for the Office of the council of State of Thailand's Law for ASEAN project. –Tentative version –pending review and approval by the Office of the Council of State.

¹Published in the Government Gazette, Vol. 109, Part 37 Page 1 dated 4th April B.E. 2535 (1992).
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Section 4. In this Act,

"Environment" means things with physical and biological characteristics that surround humans and human-made things.

"Environmental quality" means the balance of nature, which consists of animals, plants, natural resources, and human-made objects, for the benefits of the sustenance of the people and the abiding integrity of humans.

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

"Fund" means the Environment Fund.

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

"Pollution" means the state in which the environment changes or is contaminated by pollutants, resulting in the deterioration of environmental quality, such as water pollution, air pollution, and soil pollution.

"Source of pollution" means any community, industrial factory, building, structure, vehicle, place of business, or any other thing from which pollutants are generated.

"Waste" means solid wastes, filth, wastewater, waste air, polluting substances or any other hazardous materials which is discharged or originates from a source of pollution, including residues, sediments, or the remainders of such matters, either in solid, liquid or gaseous state.

"Wastewater" means waste in a liquid state, including polluting substances that is contained in such liquid.

"Polluted air" means waste in the form of exhaust, fume, odour, gas, smoke, dust, ash, soot, or other polluting substances in the form of particulate matter that can be suspended in the air.

"Hazardous material" means explosive material, inflammable material, oxidising material, peroxidising material, toxic material, pathogenic material, radioactive material, material that causes genetic change, corrosive material, irritating material, or other

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material, whether chemical or not, which may cause danger to humans, animals, plants, property or the environment.

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

"Industrial factory" means an industrial factory according to the law on factories.

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

"Vehicle" means an automobile or a motorcycle according to the law on automobiles, vessels according to the law on Thai vessels, and aircraft according to the law on aviation.

"Monitoring Control Operator" means a person who is licensed to control, monitor, assess, operate, or maintain a wastewater treatment system, waste removal system, or equipment, instruments, tools, appliances for the control, treatment or elimination of any other pollutants, which is set up by investment or at the expense of the owner or possessor of a source of pollution for the purpose of wastewater treatment or waste removal or the elimination of any other pollutants.

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

"Conservation Area" means national parks, wildlife reserves, areas that are reserved for tourism purposes, and other protected areas for the purpose of the preservation and the protection of the natural environment pursuant to the governing laws related thereto.

"Local Official" means:

- (1) Mayor (*nāyok thēsamontrī*) of a municipality (*thēsabān*), for a municipality;
- (2) President of *Sukhāphibān* Board, for a *khēt sukhāphibān* (a sanitary district);
- (3) *Changwat* (Provincial) governor, for a provincial administrative organization;
- (4) Bangkok Governor, for the Bangkok Metropolis;
- (5) Deputy Governor (*palat*) of Pattaya City, for the Pattaya City Administrative Area;
- (6) Head of the administrative body of any other local administrative organisation apart from (1) to (5) above mentioned, established as a local government under the specific law governing thereof, within such local administrative organisation.

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"Pollution Control Official" means a person appointed by the Minister to take actions relating to pollution control under this Act.

"Competent Official" means a person appointed by the Minister to have the powers and the duties under this Act.

"Minister" means the Minister of Natural Resources and the Environment.

Section 5. In the case where a provision under this Act refers to a *Changwat* (province) or mandates the power and duty of a *Changwat* governor, such reference or mandate shall denote the inclusion of the Bangkok Metropolis or the powers and duties of the Bangkok Governor, as may be the case.

Section 6. For the benefit of contribution to the Enhancement and conservation of national environmental quality, any individual may have the following rights and duties:

(1) obtaining information (*khømŪn*) and news from the government in matters related to the enhancement and conservation of environmental quality, except the information or news that the government considers to be secrets pertaining to the protection of national security or secrets regarding the right to privacy, rights in property, or the rights in trade or business of a person which are duly protected by law;

(2) receiving damages or compensation from the State in the case of loss or harm suffered as a result of dispersion of pollutants or pollution, which is caused by an affair or a project initiated, supported, or undertaken by a government agency or a state enterprise;

(3) making a complaint to government officials accusing an offender (*phŪ kratham phit*) in the case of witnessing an act committed in infringement or violation of the laws relating to pollution control or conservation of natural resources;

(4) providing cooperation and assistance to government officials in carrying out the functions relating to the enhancement and conservation of environmental quality;

(5) implementing this Act or other laws that relate to the enhancement and conservation of environmental quality.

The utilisation and enforcement of this section shall comply with the provisions of this Act or those of related laws.

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Section 7. In order to encourage public participation in the enhancement and conservation of environmental quality, non-governmental organisations (NGOs) that have the status of a judicial person under Thai law or foreign law and whose activities relate directly to the environmental protection or the conservation of natural resources and who do not pursue political purposes nor aim to make profits from the engagement in such activities, shall be entitled to apply to the Ministry of Natural Resources and the Environment for registration as NGOs for environmental enhancement and conservation of natural resources in accordance with the criteria (*lakken*), procedures, and conditions as prescribed in the ministerial regulations related thereto.

Section 8. The NGOs that have been registered under section 7 may be given assistance or support from the government when they work on the following matters:

(1) volunteers to assist government officials in carrying out functions under this Act or other laws relating to the enhancement and the conservation of environmental quality;

(2) campaigns and the dissemination of information or news in order to promote public awareness and proper understanding about environmental enhancement and the conservation of nature and natural resources;

(3) supporting the people in an area to initiate a project or an activity for the purpose of environmental protection or conservation of natural resources in such area;

(4) research activities relating to the environmental protection and the conservation of natural resources accompanied with recommendations or suggestions to the government (*ratthabān*) or related government agencies;

(5) providing legal aid to people who suffer from injury, loss or damage from pollution that is caused by leakage or dispersion of pollutants, including serving as a representative in litigation in court to claim for indemnity or damages for the victim of such injury, loss, or damage.

In the case where a registered NGO encounters problems or difficulties while carrying out the affairs as prescribed in paragraph one and requests assistance from the National Environment Board, the Prime Minister shall, by a suggestion from the National Environment Board, have the power to direct appropriate resources or order a relevant government agency or a relevant state enterprise to give such assistance or facilitation.

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

The registered NGOs may propose candidates as representatives of the private sector, to be appointed by the Council of Ministers as qualified members of the National Environment Board.

In the case where a registered NGO carries out an operation causing disturbance, violating public order or an inappropriate operation, the Minister shall have the power to revoke the registration of such NGO.

Section 9. In the case where there is an emergency or a public danger arises from a natural disaster or the pollution caused by dispersion of pollutants which will, if no action is undertaken, seriously endanger the life, body, or health of the population, or cause immense damage to property of the population or the State, the Prime Minister shall have the power to order, as deemed appropriate, government agencies, state enterprises or any person, including people who are or may be victims of such danger or damage, to take action, individually or jointly, which will result in the prompt control, suspension, or mitigation of the adverse effects of such danger or damage. If the initiator of such pollution is known, the Prime Minister shall have the power to order such person to refrain from any act which may result in the aggravation of the pollution during the occurrence of such dangerous incident.

The Prime Minister may delegate the powers as prescribed in paragraph one to a *Changwat* governor to perform such functions on his or her behalf within the territorial jurisdiction of such *Changwat*. The delegation of power shall be decreed as an order published in the Government Gazette.

When an order is given by the Prime Minister pursuant to paragraph one, or by a *Changwat* governor acting on behalf of the Prime Minister pursuant to paragraph two, 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 from the pollution as prescribed in section 9, the Minister of Natural Resources and the Environment shall prescribe preventive measures and draw up an emergency plan to remedy the incidence in advance.

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Section 11. The Prime Minister and the Minister of Natural Resources and the Environment shall have charge and control of the execution of this Act, in relation to their respective powers and duties.

The Minister of Natural Resources and the Environment shall have the power to appoint Pollution Control Officials and other competent officials, and issue ministerial regulations prescribing fees not exceeding the rates attached hereto and prescribe other activities for the execution of this Act.

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

CHAPTER I NATIONAL ENVIRONMENT BOARD

Section 12. There shall be a National Environment Board consisting of the Prime Minister as Chairperson, a Deputy Prime Minister entrusted by the Prime Minister as First Vice-Chairperson, the Minister of Natural Resources and the Environment as Second Vice-Chairperson, the Minister of Defence, the Minister of Finance, the Minister of Agriculture and Co-operatives, the Minister of Transportation, 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, and not more than eight qualified members, with expertise in the environment, appointed by the Council of Ministers, of which at least half must be representatives from the private sector, and the Permanent Secretary of the Ministry of Natural Resources and the Environment as a member and the Secretary.

The appointment of qualified members shall be made by nominations of persons having knowledge, expertise, contribution (*phon ngān*), and experience in the areas of the enhancement and conservation of environmental quality.

Section 13. The National Environment Board shall have the powers and duties as follow:

(1) to propose policies and plans for the enhancement and conservation of national environmental quality to the Council of Ministers for approval;

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- (2) to prescribe Environmental Quality Standards according to section 32;
- (3) to consider and approve the Environmental Quality Management Plan as proposed by the Minister according to section 35;
- (4) to consider and approve the provincial action plan for environmental quality management according to section 37;
- (5) to suggest monetary, financial, tax, and investment promotion measures implementing the policies and plans for the enhancement and conservation of national environmental quality to the Council of Ministers;
- (6) to suggest amendments or reform of laws relating to the enhancement and conservation of environmental quality to the Council of Ministers;
- (7) to consider and approve the Action Plan for the Prevention or Remedy of Danger Caused by the Dispersion of Pollutants or Pollution which is proposed by the Pollution Control Committee under section 53 (1);
- (8) to consider and approve the prescription of standards for controlling pollution emitting from the sources of pollution as proposed by the Minister pursuant to section 55;
- (9) to supervise and accelerate the enactment of royal decrees and the issuance of ministerial regulations, regulations (*khøbangkhap*), local ordinances (*khøbanyat*), notifications, rules (*rabTep*) and orders which are necessary to make laws relating to the enhancement and conservation of environmental quality totally systematic;
- (10) to recommend to the Prime Minister to consider an order in the case where it appears that a government agency or a state enterprise infringes or refrains from complying with the laws, rules and regulations relating to the conservation of environmental quality, which may cause severe damage to the environment;
- (11) to prescribe measures strengthening and fostering cooperation and coordination among government agencies, state enterprises, and the private sector in matters concerning the enhancement and conservation of environmental quality;
- (12) to direct and manage the Fund;
- (13) to submit reports on the national environmental quality situation to the Council of Ministers at least once a year;
- (14) to perform other functions as prescribed by this Act or by other laws as the powers and duties of the National Environment Board.

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Section 14. A qualified member appointed by the Council of Ministers holds office for a term of three years and may be re-appointed for a period of not more than one consecutive term.

In the case where an additional appointment of a qualified member is made during the term of appointed members, the term of the additional qualified member shall be equal to the remainder of the term of the appointed members in office.

Section 15. In addition to vacating office at the end of the term under section 14, a qualified member appointed by the Council of Ministers vacates office upon:

- (1) death;
- (2) resignation;
- (3) being bankrupt;
- (4) being an incompetent person or quasi- incompetent person;
- (5) being sentenced by a final judgment of the Court to a term of imprisonment except for an offence committed through negligence or a petty offence;
- (6) being dismissed by the Council of Ministers due to incapacity in the discharge of duty, disgraceful behaviour, or a conflict interests in an activity or business that may have a direct impact on or produce grave damage to environmental quality.

In the case where a qualified member vacates office before the end of the term for that office, the Council of Ministers may appoint another person to replace him or her and such person shall remain in office for the unexpired term of office of the member he or she replaces.

Section 16. In a National Environment Board meeting, if the Chairperson is not present at the meeting or unable to perform his or her duty, the first Vice-Chairperson shall preside over the meeting. If both Chairperson and the first Vice-Chairperson are not present at the meeting or are unable to perform their duties, the second Vice-Chairperson shall preside over the meeting. If the Chairperson and both Vice-Chairpersons are not present at the meeting or are unable to perform their duties, the members who are present at the meeting shall select one among themselves to preside over that meeting.

Section 17. At a meeting of the National Environmental Board, not less than half of the total number of the members must be present to constitute a quorum.

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All decisions shall be made by a majority of votes. Each member shall have one vote. In the case of an equality of votes, the person who presides over the meeting shall cast an additional vote as a casting vote.

Section 18. The National Environment Board may appoint an expert (*phŪchamnānkān*) committee or subcommittee for consideration or execution of any matter as may be entrusted by the National Environment Board.

The provisions of sections 16 and 17 shall be applied *mutatis mutandis* to the meeting of the expert committee and sub-committee.

Section 19. The National Environment Board shall have the power to summon government agencies, state enterprises and other persons to deliver documents relating to environmental impact assessment and documents or data (*khømŪn*) relating to projects or work-plans of such government agencies, state enterprises, and persons for its consideration. For this purpose, the Board may summon any involved person to give further explanation. If the Board considers that any project or work-plan may seriously affect environmental quality, it shall recommend remedial measures to the Council of Ministers.

In the case where the documents or data summoned by the National Environment Board under paragraph one are confidential documents or data as protected by the law on patent, the National Environment Board shall prescribe appropriate measures and methods to prevent the disclosure of such documents or data to any other person. Such documents or data must be strictly used only for the purpose of this section.

Section 20. In the performance of duties, the National Environment Board, the expert committee or its sub-committee may summon any person to give facts, explanations, opinions or technical advice as it deems necessary and may request co-operation from any person to ascertain a fact or to investigate any activity which may have an adverse effect on environmental quality.

Section 21. In the performance of duties under this Act, the National Environment Board may entrust the Office of National Resources and Environmental Policy and Planning, the Pollution Control Department or the Department of Environment Quality Promotion under the Ministry of Natural Resources and the Environment to prepare proposals or suggestions to the National Environmental Board for further action.

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CHAPTER II
ENVIRONMENTAL FUND

Section 22. There shall be a fund called the "Environmental Fund" within the Ministry of Finance composed of money and property as follow:

- (1) money from the 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 under the Annual Expenditure Budget Act, B.E. 2535 (1992);
- (3) service fees and fines (*khāprap*) collected under this Act;
- (4) occasional grants from the Government;
- (5) money or other property donated by domestic or foreign private donors, foreign governments, or by international organisations;
- (6) interest and benefits accrued from this Fund;
- (7) other money received for the operation of this Fund.

The Comptroller General's Department under the Ministry of Finance shall hold the money and property 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 matters:

- (1) as grants to a government agency or a local government for investment in and operation of a central wastewater treatment or waste removal system, including the procurement of land, materials, equipment, instruments, and appliances which are necessary for the operation and maintenance of such systems;
- (2) as loans to a local government or a state enterprise for the provision of air pollution control, wastewater treatment, or waste removal systems or other equipment to be used specifically in the activities of such local government or state enterprise;
- (3) as loans to a private entity in the case where such person has the legal duty to provide for treatment of polluted air and wastewater facilities, or waste removal, or any other equipment for the control, treatment, or elimination of pollutants generated by his or her activities or business undertaking, or such person is licensed to undertake business

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as a service contractor to render services of wastewater treatment or waste removal under this Act;

(4) as aids or grants to support any activity concerning the enhancement and conservation of environmental quality as the Fund Committee deems appropriate, 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 Natural Resources and the Environment as the Chairperson, the Permanent Secretary of the Ministry of Agriculture and Co-operatives, 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 Provincial Administration, the Comptroller-General of the Comptroller-General's Department, the Director-General of the Department of Public Works and Town and Country Planning, the Director-General of the Department of Industrial Works, the Director-General of the Department of Primary Industries and Mines, 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 Natural Resources and Environmental Policy and Planning as a member and the secretary.

The provisions of section 14 and section 15 shall be applied *mutatis mutandis* to the holding of office by the qualified members of the Fund Committee.

Section 25. The Fund Committee shall have the powers and duties as follow:

(1) to consider Fund allocations for use in the activities as prescribed in section 23;

(2) to prescribe criteria, conditions, rules, and procedures with respect to the application for allocations or loans from the Fund;

(3) to prescribe rules on the powers and the duties, and the operating procedures of the Fund managers according to sections 29 and 30, as well as the procedures of co-ordination among the Fund Committee, the Comptroller-General's Department and the Fund managers according to sections 29 and 30;

(4) to prescribe rules on the receipt and disbursement of the Fund money;

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(5) to set the deadline for the repayment of loans from the Fund according to Section 23 (2) or (3), interest rates, and securities as necessary and appropriate;

(6) to fix the ratio and criteria for the deduction of service fees and fines which shall be remitted to the Fund according to section 93;

(7) to make and present the Fund deposit/withdrawal report to the National Environmental Board, as prescribed by the National Environmental Board;

(8) to carry out any other duty as prescribed by this Act.

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

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

Section 26. The provisions of sections 16, 17, and 20 shall be applied *mutatis mutandis* to the exercise of duties of the Fund Committee and the subcommittee as appointed by the Fund Committee.

Section 27. When considering a Fund allocation under section 23 (1), the Fund Committee shall consider, in the first place, the applications as part of the provincial operation plans for environmental quality management under section 39 for the purposes of a construction or a provision for wastewater treatment or waste removal systems, for which an allocation may have already been made from the National budget, or where a local government may have allocated additional contributions from its revenues.

The ratio of the National budget or contributions from the local revenues and the Fund allocation to be approved by the Fund Committee according to paragraph one shall be determined in accordance with the criteria as prescribed by the National Environment Board.

Section 28. Fund allocations as loans to the local government, state enterprises, or private entities pursuant to section 23 (2) or (3) shall be determined by the Fund Committee in accordance with the criteria and conditions as prescribed 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 an

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exceptional long-term loan to any local government, state enterprises, or private entities and may determine to reduce the interest rates or allow exemption of such interests as deemed appropriate.

Section 29. The Comptroller-General of the Comptroller-General's Department, Ministry of Finance, shall be the Fund manager in the part of Fund allocations as grants to a government agency or a local government for the investment in and the operation of central wastewater treatment or waste removal systems under section 23 (1) and in the part where the Fund Committee allocates the Fund for purposes other than those prescribed in by section 23 (2) and (3).

Section 30. The Fund Committee may entrust a state financial institution which it deems appropriate or the Industrial Finance Corporation of Thailand as the Fund manager in the part where the Fund is allocated as loans to local governments, state enterprises, or private entities under section 23 (2) or (3).

To proceed as prescribed in paragraph one, the Fund manager has the duty to analyse the investment and technical feasibility and has the power to contract the loan agreements on behalf of the Fund Committee as the lender, to keep and disburse such money to the borrowers in accordance with the terms of the loan agreement, to follow up, press the claim of repayment and receive repayments and interests from the borrowers, and remit the repayments and the interests to the Fund. The Fund Committee shall also have the duty to prescribe rules for the operation of loans subjecting to the approval of the Fund Committee.

The loan agreements under paragraph two must contain the condition which constitutes the essence of the agreement that the borrower shall have the duty to make use of the loan only for the purpose of carrying out its duties as required by this Act or other related laws.

Section 31. The Comptroller-General's Department within the Ministry of Finance shall manage the Fund money under its supervision pursuant to section 22, by depositing such money in saving or fixed deposit accounts of a State-owned financial institution in order to earn accrued interest.

All the Fund revenues according to section 22 shall be remitted into the Fund for use in the activities as prescribed in section 23 and shall not be remitted to the Treasury as revenues of the Government.

CHAPTER III
ENVIRONMENTAL PROTECTION

Part 1
Environmental Quality Standards

Section 32. For the purpose of the enhancement and conservation of environmental quality, the National Environment Board shall have the power to prescribe by notifying in the Government Gazette Environmental Quality Standards in the following matters:

- (1) quality standards of water in rivers, canals, swamps, marshes, lakes, reservoirs, and other public inland water sources sorting on the uses of each water catchment area;
- (2) coastal seawater quality standards, which include the seawater in an estuarine area;
- (3) groundwater quality standards;
- (4) ambient air standards;
- (5) ambient standards for noise and vibration;
- (6) environmental quality standards for other matters.

The prescription of Environmental Quality Standards under paragraph one shall be based upon academic principles and scientific evidence and shall also take into consideration economic, social, and technological feasibility.

Section 33. In the case where it deems appropriate, the National Environment Board shall have the power to prescribe especially higher Environmental Quality Standards than the Environmental Quality Standards prescribed under section 32 for the Conservation Areas or environmentally protected areas under section 43, the areas under section 45 or pollution control areas under section 59.

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Section 34. The National Environment Board shall have the power to revise or amend the prescribed Environmental Quality Standards in light of scientific and technological progress and changes in the 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, make an action plan called the "Environmental Quality Management Plan" so as to implement the national policy and plan on the enhancement and conservation of environmental quality which is required by section 13 (1).

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

Every relevant government agency shall proceed with respect to its powers and duties so as to execute the Environmental Quality Management Plan and to ensure that actions are undertaken to achieve the objectives and goals as prescribed. The Ministry of Natural Resources and the Environment shall have the duty to give advice to the relevant government agencies and state enterprises in order to develop a work plan or proceed otherwise as determined by the Environmental Quality Management Plan.

Section 36. The Environmental Quality Management Plan as prescribed in section 35 may be a short, intermediate or long-term plan, as appropriate, and should contain work-plans and guidance for actions on the following matters:

- (1) management of air and water quality and other environmental qualities;
- (2) pollution control from sources of pollution;
- (3) conservation of the natural environment, natural resources, or cultural heritage;
- (4) estimation of the budget as necessary for the operation according to the Environment Quality Management Plan, which is to be allocated both from the National Budget and from the Fund;
- (5) institutional arrangements and managerial rules for the purposes of the promotion of co-operation and co-ordination among relevant government agencies and

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between government agencies and the private sector, including the determination of human resource allocation which is necessary to proceed according to the Plan;

(6) enactment of laws and issuance of regulations, local ordinances, rules, orders, and notifications, which are necessary for implementation of the Plan;

(7) inspection, monitoring, and assessing of environmental quality in order to evaluate the implementation of the plan and the enforcement of the laws related thereto.

Section 37. After the publication of the Environmental Quality Management Plan in the Government Gazette, the governor of the *Changwat*, which is in the environmentally protected area under section 43 or in a pollution control area under section 5, shall have the duty of create a provincial plan of action to manage environmental quality to be submitted for approval from the National Environmental Board. This is to be done within one hundred twenty days from the day of receiving the notification from the Board requiring such province to make such plan. Upon a reasonable need, the National Environmental Board may extend such deadline as appropriate.

In creating a provincial plan of action for the management of environmental quality, the *Changwat* governor shall incorporate into this plan the plan of action to mitigate and eliminate pollution in a pollution control area which the local official has created under section 60.

When *Changwat*, in which there are no areas classified as environmentally protected areas under section 43 or as pollution control areas under section 59, wants to promote and conserve the environmental quality within the limits of its territorial jurisdiction, the governor of the province may elaborate a provincial action plan in conformity with the Environmental Quality Management Plan and submit it to the National Environmental Board for approval.

Section 38. The provincial plan of action to manage environmental quality to be submitted to the National Environmental Board shall propose a system for the management of environmental quality, which conforms with the guidelines contained in the Environmental Quality Management Plan. The provincial plan shall also take into account the severity of the problems, as well as the economic, social, and environmental conditions of that province. The plan should contain the following essence.

(1) a plan for pollution control from sources of pollution;

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(2) a plan for procurement and acquisition of land, materials, equipment, tools, and appliances that are necessary for the construction, installation, improvement, adjustment, repair, maintenance, and operation of central wastewater treatment or waste removal systems in the possession of a government agency or a local government;

(3) a plan for collection of tax and duty and service fees for the operation and the maintenance of central wastewater treatment or waste removal systems as prescribed by (2);

(4) a plan for inspection, monitoring, and control of wastewater and other solid wastes that are discharged from sources of pollution;

(5) a law enforcement plan for the prevention and suppression of violations and disobedience of laws relating to pollution control, conservation of nature, natural resources, and cultural heritage.

Section 39. The provincial plan of action to manage environmental quality, which will receive first priority for the consideration of the National Environmental Board, shall propose an estimation of budgetary appropriation and allocation from the Fund for the construction or procurement of a central wastewater treatment system or a central waste removal system pursuant to section 38 (2). For the *Changwat*, that is not prepared to take action to make available a central wastewater treatment system or central waste removal system, it may propose a plan to promote private investment in the construction and operation of wastewater treatment or waste removal systems in order to make available such services within its territorial jurisdiction.

The provincial plan of action under paragraph one shall contain a report on details and the estimated cost of the construction, installation, improvement, adjustment, repair, and maintenance, as well as the operational procedures and techniques of the proposed central wastewater treatment system or central waste removal system, accompanying an allocations request from the National Budget and from the Fund.

To facilitate the approval of a provincial plan of action to manage environmental quality which includes application for budgetary appropriation under paragraph one, Office of Natural Resources and Environmental Policy and Planning shall have the duty to collect and analyse the provincial plan in order to propose it for the Office's annual budget, reserved specifically for this purpose.

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Section 40. In the case where the management of environmental quality in a matter must be carried out in an area that spreads across two or more provinces due to the geographical conditions or the characteristics of the natural ecosystems of such area, or in the interest of an orderly management with pertinent and accurate principles of management of environmental quality and natural resources, the governors of the relevant *Changwats* shall jointly prepare the action plan pursuant to section 37.

Section 41. In the case where a province, which is mandatorily required to prepare the action plan area under section 37, fails or is incapable to do it, or has prepared and submitted the plan but failed to obtain the approval of the National Environment Board, the National Environment Board shall consider from the nature of environmental quality problems occurring in that province whether it is necessary to undertake an action. If an action is deemed necessary, the National Environment Board shall propose to the Prime Minister to issue an order to the Ministry of natural resources and the environment so as to prepare for the provincial action plan on behalf of such province.

Part 3

Conservation Areas 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 pursuant to section 35 and governed by the laws related thereto.

Section 43 In the case where it appears that an area has the characteristics of a headwater area, or consists of a natural ecosystem which is different from other areas in general, or consists of an ecosystem which may be destroyed or may be easily affected by human activities, or exhibits natural or aesthetic values worthy of conservation, and such area has not been officially declared a Conservation Area, the Minister shall, under a recommendation of the National Environment Board, have the power to issue a ministerial regulation designating such area as an environmentally protected area.

Section 44 The ministerial regulation pursuant to section 43 shall comprise at least one of the following measures:

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(1) land use prescriptions for the purposes of the conservation of natural conditions of such area or the prevention of adverse impacts on its natural ecosystems or its cultural heritage values;

(2) prohibition of acts or activities that may be harmful to the ecosystem of such area, alter such ecosystem from its natural state, or affect its cultural heritage values;

(3) prescription of categories and sizes of projects or activities to be operated or constructed by government agencies, state enterprises or private entities in such area, which shall have the duty to submit reports of environmental impact assessment;

(4) prescription of the management *modus operandi* which is specific to the management of such area, including the scope of duties and responsibilities of relevant government agencies in the interests of co-operation and co-ordination inducing efficiency to the operation of conservation of natural state, natural ecosystems or cultural heritage values in such area;

(5) prescriptions of any other protective measures as deemed appropriate and suitable to the conditions of such area.

Section 45. In the areas in which already exist Conservation Areas, comprehensive planning areas, specific planning areas, building control areas, and industrial estate areas pursuant to the laws related thereto, pollution control areas pursuant to this Act, but in which nevertheless exist severe environmental quality problems, classifiable as crucial and requiring immediate remedy and relevant government agencies do not have legal authority, or are unable to resolve the problems, the Minister shall, with the approval of the National Environment Board, solicit the Council of Ministers for authorisation to take one or several protective measures as provided by section 44 as necessary and appropriate, in order to control and resolve the problems in such area.

When the Council of Ministers' authorisation is obtained pursuant to paragraph one, the Minister shall notify in the Government Gazette prescribing the limits of such area, the details of the protective measures, and the duration for which such measures shall be applied therein.

The application duration according to paragraph two can be extended after an approval from the National Environmental Board and the Minister, by notifying in the Government Gazette.

Part 4

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Environmental Impact Assessment

Section 46 In the interest of environmental quality enhancement and conservation, the Minister shall, with the approval of the National Environment Board, have the power to prescribe, by notifications in the Government Gazette, categories and sizes of projects or activities of a government agency, a state enterprise, or a private entity that produce impact on the environment and for which a report on environmental impact assessment is required in order to submit for approval in accordance with sections 47, 48 and 49.

The notification issued according to paragraph one shall determine criteria, procedures, rules and practices for the elaboration of environmental impact assessment reports and other related documents, which must be submitted together with the reports, for each category and size of project or activity.

In the case where an environmental impact assessment has already been prepared for a project or activity of a particular category or a particular size, or for an area in which a project or activity is to be realised, and such assessment can be used as a standard of assessment applicable to the project or activity of the same category or size or to the project or activity in an area of similar characteristics, the Minister may, with the approval of the National Environment Board, notify in the Government Gazette exempting such project or activity of the same or similar nature from the requirement of environmental impact assessment. Nevertheless, the proponent of such project or activity shall express its consent to act in compliance with various measures prescribed in the environmental impact assessment, which is applicable as the standard for assessment of such project or activity, in accordance with the criteria and procedures as stipulated by the Minister.

Section 47. In the case where the project or activity for which the environmental impact assessment report is required according to section 46 is a project or activity of a government agency, a state enterprise, or a project or activity jointly undertaken with a private entity, and must be approved by the Council of Ministers in accordance with the official rules and practices (*rabTep patibat*), the government agency or state enterprise responsible for such project or activity shall prepare the environmental impact assessment report at the stage of a feasibility study for such project submitting to the National

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Environment Board for its review and comments, which supplement the Council of Ministers' consideration.

When considering an environmental impact assessment report submitted for approval in accordance with paragraph one, the Council of Ministers may also request a person or institution, being an expert or specialising in the environmental impact assessment, to study and submit a report or opinion for its consideration thereof.

With regard to projects or activities of a government agency or a state enterprise under section 46 of which the Council of Ministers' approval is not required under paragraph one, the government agency or state enterprise responsible for such project or activity shall prepare the environmental impact assessment report so as to submit for approval prior to the initiation of such project or activity in accordance with the criteria and procedures as provided by sections 48 and 49.

Section 48. In the case where a project or activity of which an environmental impact assessment report is required under section 46 is a project or activity that must receive official approval prior to construction or operation according to the laws related thereto, the person applying for permission shall submit the environmental impact assessment report to the competent authority under such law and to the Office of Natural Resources and Environment Policy and Planning. Such report may be made in the form of a preliminary environmental impact report in accordance with criteria and procedures determined by the Minister pursuant to section 46, paragraph two.

The official having the power to grant permission according to the law shall withhold the granting of permission for the project or activity under paragraph one until being informed of the result of the examination of the environmental impact assessment report by the Office of Natural Resources and Environment Policy and Planning in accordance with section 49.

The Office of Natural Resources and Environment Policy and Planning shall verify the environmental impact assessment report and related documents submitted therewith. If it deems that the report as submitted is not accurate pursuant to the criteria and procedures as specified in section 46, paragraph two, or that the documents and data therein are incomplete, the Office of Natural Resources and Environment Policy and Planning shall notify the applicant within fifteen days from the date of receiving such report.

In the case where the Office of Natural Resources and Environment Policy and Planning deems that the environmental impact assessment report and related

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documents as submitted are accurate and complete, or have been duly amended as required by paragraph three, the Office shall review and make preliminary comments on the report within thirty days from the date of receiving such report so as to refer such report to the expert committee for further consideration.

The appointment of the expert committee according to paragraph four shall be in accordance with the criteria and procedures as determined by the National Environment Board. The committee shall be composed of experts (*phŪsong khunnawut*) or specialists in related academic disciplines. The competent authority having the power to grant permission for the project or activity under review, or its representative, shall be included as a member.

Section 49. The examination by the expert committee under section 48 shall be carried out within forty-five days from the date of receiving the environmental impact assessment report from the Office of Natural Resources and Environment Policy and Planning. If the expert committee fails to complete the examination within such duration, the report shall be deemed approved.

In the case where the expert committee approves the report or the report is approved, the competent authority shall grant permission to the applicant.

In the case where the expert committee disapproves, the competent authority shall withhold the granting of permission to the applicant until such applicant resubmits the environmental impact assessment report as amended or entirely revised in accordance with the guidelines or details as determined by the expert committee.

When such applicant has resubmitted the environmental impact assessment report that has been amended or entirely revised, the expert committee shall complete the examination within thirty days from the date of receiving the resubmitted report. If the expert committee fails to complete the examination within such duration, the report shall be deemed approved by the expert committee and the competent authority shall grant permission to the applicant.

In the case where it is deemed reasonable, the Minister may notify in the Government Gazette stipulating that, in applying for renewal of the licence for the project or activity of the type and size specified in the notification under section 46, the applicant must submit an environmental impact assessment report following the same procedures applicable to application for licence.

Section 50. In the interest of the examination of the environmental impact assessment report pursuant to sections 48 and 49, a member of the expert committee or the competent official entrusted by the expert committee shall have the power to inspect the site of the project or activity for which the report is submitted for an approval as appropriate.

After the expert committee has approved the environmental impact assessment report pursuant to section 49, the competent authority, that has the power to grant permission or to renew a permit, shall stipulate as the conditions of the permission or renewal thereof all the measures proposed in the environmental impact assessment report and all such conditions shall also be deemed conditions as prescribed by the laws on the subject matter.

Section 51. In the interest of compliance with sections 47 and 48, the Minister, with the approval of the National Environment Board, may require that the environmental impact assessment report as required by section 46 be prepared or certified by a person who is licensed to be an expert (*phŪchamnānkān*) in environmental impact assessment.

Application for and issuance of a license, the qualifications of experts (*phŪchamnānkān*) eligible to prepare environmental impact assessment reports, control of the licensee's performance, renewal of licenses, issuance of replacement licenses, suspension or revocation of a license, as well as payment of application fees and payment of license fees, shall comply with the criteria, procedures, and conditions as prescribed by ministerial regulations.

CHAPTER IV POLLUTION CONTROL

Part 1 Pollution Control Committee

Section 52. In the interest of pollution control under this Act, there shall be a committee called the "Pollution Control Committee" that consists of the Permanent

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Secretary of the Ministry of Natural Resources and the Environment as the Chairperson, the Director-General of the Department of Provincial Administration, the Director-General of the Police Department, the Director-General of the Department of Land Transport, the Director-General of the Harbour Department, the Director-General of the Department of Public Works and Town and Country Planning, the Director-General of the Department of Primary Industries and Mines, 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 Natural Resources and Environment Policy and Planning, the Permanent Secretary for the Bangkok Metropolitan Administration, and not more than five experts (*phŭsong khunnawut*) appointed by the National Environment Board as qualified members, and the Director-General of the Department of Pollution Control as a member and the secretary.

Sections 14 and 15 shall be applied *mutatis mutandis* to the holding office of the qualified members in the Pollution Control Committee.

Section 53. The Pollution Control Committee shall have the following powers and duties:

- (1) to submit the action plan for the prevention or remedy of danger caused by the dispersion of pollutants or pollution to the National Environment Board;
- (2) to advise the National Environment Board on amendments to revisions of laws relating to the control, prevention, reduction, or eradication of pollution;
- (3) to advise the National Environment Board on tax incentives and private investment promotion measures concerning pollution control as well as the enhancement and conservation of environmental quality;
- (4) to offer recommendations to the National Environment Board on the determination of service fee rates for the public central wastewater treatment or central wastes removal services;
- (5) to advise the Minister regarding the prescription of emission or effluent standards under section 55;
- (6) to advise the Minister on determining the sources of pollution for which actions are required according to sections 68 and 69;
- (7) to make recommendations on the issuing of ministerial regulations specifying the types and categories of hazardous wastes pursuant to section 79;

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(8) to co-ordinate between government agencies, state enterprises, and private entities in order to control, prevent, mitigate, or eradicate pollutants;

(9) to prepare a report covering the pollution situation and submit to the National Environment Board once a year;

(10) to adjudicate on objections against Pollution Control Official's orders under this Act;

(11) to perform other functions as prescribed by this Act or other laws as the powers and duties of the Pollution Control Committee;

(12) to perform other functions as entrusted by the National Environment Board.

The Pollution Control Committee may appoint a subcommittee so as to examine or operate on matters that may be entrusted by the Pollution Control Committee.

Section 54. Sections 16, 17 and 20 shall apply *mutatis mutandis* to the exercise of duties 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, by publication in the Government Gazette, to prescribe emission or effluent standards for the control of wastewater discharge, polluted air emissions, or discharge of other wastes or pollutants from the source(s) into the environment, in order to meet the Environmental Quality Standards set by this Act for the purpose of the conservation of environmental quality.

Section 56. In the case where standards have been prescribed by virtue of other laws relating to wastewater discharges, polluted air emissions, or discharge of other wastes or pollutants from the source(s) of pollution into the environment and such standards are not 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

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effluent standards set by the Minister pursuant to section 55, the competent government agencies under such laws shall amend such standards in order to conform with the emission or effluent standards set under this Act. In the case where there is an obstacle preventing the aforementioned actions, the National Environmental Board shall resolve such matters and the government agencies concerned shall act in accordance with such resolution.

Section 57. In the case where another law grants power to a government agency to prescribe emission or effluent standards, but that government agency fails to exercise its power, the Minister shall, by the recommendation of the Pollution Control Committee and with the approval of the National Environment Board, have the power, by publication in the Government Gazette, to prescribe emission or effluent standards that shall be deemed as the official standards under the law in all such matters.

Section 58. In the case where it is deemed reasonable, the *Changwat* governor shall have the power to notify in the Government Gazette of more stringent emission or effluent standards overruling the standards set pursuant to section 55 or the standards set by virtue of other laws that remain in force according to section 56. These new standards shall be applied in pollution control areas as designated by section 59.

Part 3 Pollution Control Area

Section 59. If it appears that a locality is affected by pollution problems and those problems have progressed to a level that endanger the public health or may cause adverse impacts on the environmental quality, the National Environment Board shall have the power to publish a notification in the Government Gazette and designate all such localities as pollution control areas in order to control, reduce, and eliminate pollution.

Section 60. In the interest of the provincial action plan for environmental quality management according to section 37, the Local Official in the locality designated as a pollution control area pursuant to section 59 shall prepare and submit an action plan for the reduction and eradication of pollution to the *Changwat* governor. This action will be

taken in order to incorporate any such action plan into the provincial action plan for environmental quality management.

The embellishment of the action plan for reduction and eradication of pollution shall be undertaken as follows:

(1) to survey and collect data concerning source(s) of pollution located within the limits of that pollution control area;

(2) to make an inventory showing amount, categories, and size of source(s) of pollution issued from the survey and collection of data according to (1);

(3) to study, analyse, and assess the state of pollution, the scope and the severity of the problem, and the impacts on environmental quality, in order to specify suitable and necessary measures for the mitigation and eradication of pollution in the designated pollution control area.

The Pollution Control Official shall guide and assist the Local Official as necessary in the execution of the action plan for reduction and eradication of pollution according to paragraphs one and two.

Section 61. The action plan for reduction and eradication of pollution in the pollution control area under section 60 shall include a proposal estimating and requesting allocations from the National budget and the Fund for the construction or provision of the **government's** central wastewater treatment system(s) or central waste removal system(s) all necessary to reduce and eradicate pollution in that the designated pollution control area.

Section 62. If an acquisition of land is necessary for the location of a central wastewater or central waste removal system for a pollution control area but no state-owned land is available, private lands shall be considered for the location. To cover the costs, if there are any, the estimate and request for allocations from the National budget and the Fund shall be made in the provincial action plan.

If authorities are unable to obtain the necessary land by the methods described in paragraph one, authorities shall determine a suitable piece of land and propose to the Minister that the land be appropriated in accordance with the law regarding expropriation of immovable property.

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Section 63. The *Changwat* governor shall control the Local Official's exercise of duties under section 60. If the Local Official takes no action within a reasonable time, the *Changwat* governor shall have the power to proceed on behalf of the Local Official upon notification to such Local Official and the National Environment Board.

Part 4
Air and Noise Pollution

Section 64. Every vehicle, which is going to be used, shall conform to the emission standards as prescribed pursuant to section 55.

Section 65. In the case where the competent official discovers the use of a vehicle is in violation of section 64, the competent official shall order a permanent prohibition of usage or a prohibition of usage until a modification or an improvement is made to the vehicle in order to meet the emission standards' requirements as prescribed pursuant to section 55.

Section 66. With respect to the issuance of any such order prohibiting the usage of a vehicle according to section 65, the competent official shall issue and place a sign that clearly shows the messages: "permanent prohibition of usage" or "temporary prohibition of usage" or any other sign, known and understood by the general public to have the same meaning.

The making and removal of the sign under the first paragraph, or the use of the vehicle while restrictions prohibiting usage are still in place, shall be in accordance with the rules criteria, procedures, and conditions, as specified by ministerial regulations.

Section 67. When the competent official exercises the duty stated under section 65, the competent official shall have the power to stop and inspect a vehicle, enter the vehicle or to proceed as necessary to check and test the engine and equipment of any such vehicle.

Section 68. The Minister shall, by the advice of the Pollution Control Committee, have the power to notify in the Government Gazette the specific source(s) of pollution that shall be controlled in regard to the emissions of polluted air, radiation, 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 other government agencies by virtue of other laws that remain in force according to section 56, or standards especially set by a *Changwat* governor for the pollution control area according to section 58.

The owner or possessor responsible for the source(s) of pollution under paragraph one has the duty to install or provide for an on-site facility for air pollution treatment, equipment, or other instruments in order to control, dispose, reduce, or eradicate pollutants that may affect air quality as stated by the Pollution Control Official, unless such facility, equipment or instrument has already been in place and is still in working condition upon the inspection and testing by the Pollution Control Official. For this purpose, the Pollution Control Official may also require that a Monitoring Control Operator control the operation of such facility, equipment, or instrument.

The provisions of paragraphs one and two shall apply *mutatis mutandis* to the source(s) of pollution that generate noise or vibration exceeding the emission standards set pursuant to section 55, or the standards set by the government agency by virtue of another law that remains in force according to section 56, or by the standards specifically set by the *Changwat* governor for the pollution control area according to section 58.

Part 5 Water Pollution

Section 69. The Minister, acting on the advice of the Pollution Control Committee, has the power to publish notifications in the Government Gazette specifying specific categories of sources of pollution that shall be controlled under the following standards:

- (a) the level of discharge of wastewater or waste into public water sources or into the environment outside the area where the source is located shall not exceed the standards set pursuant to section 55,
- (b) any standards set by a government agency by virtue of the another law that remains in force according to section 56, or

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- (c) any standards specially set by the *Changwat* governor for the pollution control area according to section 58.

Section 70. The owner or possessor responsible for the source(s) of pollution under section 69 has the duty to construct, install, or provide for an on-site facility for wastewater treatment or waste removal as determined by the Pollution Control Official. For this purpose, the Pollution Control Official may also order that the owner or possessor has a Monitoring Control Operator to monitor and control the wastewater treatment or waste removal system as ordered accordingly.

In the case where there is already an on-site facility for wastewater treatment or waste removal at the source of pollution before the date of the Minister's notification under section 69, the owner or possessor of such source of pollution shall inform the Pollution Control Official for inspection. If the Pollution Control Official is of the opinion that its capability to treat wastewater or dispose of wastes fails to meet the effluent standards, the owner or possessor has the duty to modify or improve it in conformity with the Pollution Control Official's order.

Section 71. In a pollution control area or a locality where a competent authority has provided for a central wastewater treatment system or a central waste removal system, the owner or possessor responsible for the source of pollution according to section 70, paragraph one, who has not yet constructed, installed or provided for the wastewater treatment or waste removal system as ordered by the Pollution Control Official, or does not want to construct or provide for any such systems, has an obligation to send the wastewater or wastes generated by the source(s) to central wastewater treatment system(s) or central waste removal system(s) in the pollution control area or in that locality for treatment or removal and also has the duty to pay the service fees at the rates fixed by virtue of this Act or other related laws.

Section 72. In a pollution control area or a locality where a competent authority has provided for a central wastewater treatment system or a central waste removal system, the owner or possessor responsible for the source(s) of pollution of all categories, except the owners or possessors of sources of pollution under section 70, has an obligation to send the wastewater or wastes generated by the source(s) to the central wastewater treatment system or central waste removal system in the pollution control area

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or in any other agreed area in that locality for treatment or removal, and also has the duty to pay the service fees at the rates fixed by virtue of this Act or other related laws, unless there is already a wastewater treatment or waste removal system on the site of such source(s) of pollution capable of meeting the standards as prescribed under this Act.

Section 73. No person shall be employed as a Monitoring Control Operator or as a wastewater treatment or waste removal service contractor without obtaining the necessary license from the Local Official.

Application for and issuance of the licence, qualifications of the applicant, control of licensee's performance, renewal of license, issuance of substitute licence, suspension or revocation of licence, and fee payments for application and issuance of licence shall be in accordance with the criteria, procedures, and conditions as prescribed by ministerial regulations.

A person who has obtained a service contractor licence shall also be deemed to have obtained a Monitoring Control Operator licence.

With regard to the provision of services of wastewater treatment or waste removal by the service contractor pursuant to paragraph one, the service charges shall not exceed the rates fixed by the ministerial regulation.

Section 74. In a pollution control area or a locality where a competent authority has not provided for a central wastewater treatment system or a central waste removal system, but there is a licensed wastewater treatment or waste removal service contractor therein, the owner or possessor responsible for the source of pollution according to sections 71 and 72 shall send the wastewater or wastes from the source for treatment or removal to the licensed service contractor in accordance with the criteria, procedures, and conditions as prescribed by the Local Official, on the advice of the Pollution Control Official.

Section 75. In a pollution control area or a locality where a competent authority has not provided for a central wastewater treatment system or a central waste removal system, but there is no licenced wastewater treatment or waste removal service contractor therein, the Local Official may, on the advice of the Pollution Control Official, prescribe temporary methods necessary for the treatment of wastewater or removal of wastes from source of pollution under sections 71 and 72 until a central waste water

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treatment or central waste removal system is constructed, installed, and put into operation within such pollution control area or locality.

The temporary method for wastewater treatment or waste removal according to paragraph one shall include the collection, transport or conveyance of wastewater or wastes by appropriate methods so as to be treated or disposed by the government's central wastewater treatment system or central waste removal system in another area; or allow a licenced service contractor in another area to temporarily provide services in the pollution control area or locality; or allow the licenced service contractor to collect and transport wastewater or wastes to be treated or disposed by the licenced service contractor's own wastewater treatment or waste removal system(s) located outside the pollution control area or locality.

Section 76. Wastewater treated by either the government's central wastewater treatment system or by a licenced service contractor's wastewater treatment system must have the qualities required by the effluent standards prescribed by virtue of section 55, the standards prescribed by virtue of another law which remains in force according to section 56, or standards specifically set by the provincial governor for the pollution control area according to section 58.

Section 77. A government agency or the local government that provides for central wastewater treatment or central waste removal system(s) by using allocations from the Nation budget or revenues from the local government and allocations from the Fund under this Act shall have the duty to manage and control the operation of such system(s). In such a case, the responsible government agency or local government may employ a licensed service contractor under this Act to manage and control the operation of such system(s).

Criteria and procedures for conveyance, collection, and transport of wastewater or wastes from the source(s) of pollution to the government's central waste removal system(s) or central waste removal system(s) as well as prescriptions, prohibitions, restrictions, and other conditions on the discharge and drainage of wastewater or wastes from industrial factories and other source(s) of pollution into the government's central wastewater treatment or central waste removal systems under section 72 shall be prescribed by the ministerial regulations.

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Part 6
Other Pollution and Hazardous Waste

Section 78. The collection, transport, and other management for the treatment and removal 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 the case where 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, criteria, measures and procedures must also be prescribed for the control of collection and storage, safety measures, transportation, importation into the Kingdom, exportation out of the Kingdom, and management, treatment and removal of such hazardous wastes by proper and scientifically accurate methods.

Part 7
Inspection and Control

Section 80. The owner or possessor responsible for any source(s) of pollution is required by virtue of section 68 or 70, to operate a system for treatment of polluted air, equipment or instruments for control of the discharge of polluted air or other pollutants or wastewater treatment or waste removal system and shall additionally have the duty to collect statistics and data showing the daily functioning of such system(s), and/or the equipment and instruments, and make detailed notes thereof to be kept as recorded evidence at the site of that source(s) of pollution, and shall submit a monthly

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report to the Local Official of the locality where the source is situated. The submitted report shall contain a summary of the functioning results of the system(s) and/or the instruments and equipment mentioned in this section.

The collection of statistics and data, the making of notes and reports shall be in accordance with the criteria, procedures, and format as specified by ministerial regulations.

In the case where the system for treatment of polluted air, wastewater or waste removal or the equipment and instruments as indicated in paragraph one requires a Monitoring Control Operator as determined by the Pollution Control Official, the Monitoring Control Operator shall have the duty to act under paragraph one on behalf of the owner or possessor.

The licensed wastewater treatment or waste removal service contractor shall have the duty to proceed in the same manner as the owner or possessor responsible for the source(s) of pollution would need to carry out duties as required under paragraph one.

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 or at least once a month. In doing so, the Local Official may make comments in accompaniment of such report so as to support its examination by the Pollution Control Official.

Section 82. In order to proceed according to this Act, the Pollution Control Official has the following powers:

(1) to enter the building, place and/or site of an industrial factory or a source of pollution or the site of wastewater treatment or waste removal system that belongs to any person between sun rise and sun set or during working hours, to inspect the functioning process of any wastewater treatment or waste removal systems, air pollution control systems, or equipment and other instruments for the control of polluted air or other pollutants, as well to examine the notes, statistics or data on the functioning of such system(s), the equipment and instruments, or when there is a reasonable reason to suspect that there is a non-compliance with this Act;

(2) to issue a written order directing an owner or possessor, a Monitoring Control Operator, or a licensed service contractor, to correct, change, improve or repair the air pollution control, wastewater treatment or waste removal system or other equipment and instruments for the proper control of discharging polluted air or other pollutants. If,

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however, the source of pollution is a factory, the official under the law on industrial plants shall be notified so as to proceed with respect to his powers and duties. If such official fails to do so, the Pollution Control Official shall have the power to proceed in accordance with this Act;

(3) to issue a written order imposing a fine to the owner or possessor of the source of pollution which is not a factory under section 90, 91 or 92. In the case where the source of pollution is a factory, the competent official under the law on industrial plants shall be notified so as to issue and order an imposing fine to the owner or possessor of such factory. The competent official under the law on industrial plants shall be deemed the Pollution Control Official under this Act. If, however, the designated competent official fails to issue the penalty order within a reasonable time, the Pollution Control Official shall then have the power to issue the order imposing such fines on the owner or possessor of such sources of pollution which is a factory;

(4) to issue a written order directing a licensed wastewater treatment or waste removal service contractor to stop or shut down all services, or revoke the licenced body's licence in the case where such service contractors violate or fail to comply with the provision of this Act or any ministerial regulations, local ordinances, rules, notifications, or conditions issued or stipulated by virtue of this Act, or in cases whereby the licenced body does not comply with the specific orders issued by the Pollution Control Official following procedures by virtue of this Act;

(5) to issue a written order revoking the licence of a Monitoring Control Operator under section 68 or 70 in the case where such Monitoring Control Operator violates or does not comply with the provision of 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's instructions issued by virtue of this Act.

Section 83. In the case where it is deemed reasonable and in the interest of a co-ordination in the execution of duties among relevant agencies, the Pollution Control Official may proceed as follows:

(1) recommend the official who has the power under the law to control a source of pollution under section 68, 69 or 78, to close down its operation, to suspend or revoke the licence of its owner or operator, or to bar its use or utilisation in any way in the case where the treatment of polluted air, wastewater or other wastes is intentionally

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avoided and the untreated polluted air, wastewater or wastes are illegally discharged into the environment outside the predefined limits of its site and agreement

(2) recommend a Local Official to proceed as imposed by the law against the owner or possessor of a source of pollution under section 71 or 72 in order to force him to send wastewater or wastes to be treated or removed in accordance with to this Act;

(3) give advice and suggestions to relevant Local Officials or government agencies regarding the operation and maintenance of the central wastewater treatment system or the central waste removal system under the responsibility of such Local Official or government agencies.

Section 84. Regarding the execution of duties under this Act, the competent official or the Pollution Control Official must display his identity card at the request of the person concerned.

The identity card of the competent official and Pollution Control Official shall be as prescribed by ministerial regulation.

Section 85. The owner or occupier of premises, vehicles or any relevant person shall reasonably facilitate the execution of duties under this Act. The competent official and the Pollution Control Official shall be deemed the officials under the Penal Code.

Section 86. Regarding the execution of duties by the competent officials under section 50, paragraph one, or section 65 and the execution of duty by the Pollution Control Official under section 82 (1), this shall be done in the presence of the owner or occupier of the premises 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. An owner or possessor responsible for a source of pollution, a licensed wastewater treatment or waste removal service contractor, a 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), has the right to object such order to the Pollution Control Committee within thirty days from the date of reception of the order issued by the Pollution Control Official.

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If the objector does not agree with the decision of the Pollution Control Committee, he or she shall appeal to the Minister within thirty days from the date of reception of notification of the Pollution Control Committee's decision.

The decision of the Minister is final.

Part 8

Service Fee and Fine (*khāprap*)

Section 88. In any pollution control area or locality where the government's central wastewater treatment system or central waste removal system has been constructed and operated by allocations from the National budget or revenues of the local government and allocations from Fund as provided under 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 where the site of the system in question is located.

The determination of service fee rates under paragraph on shall be published by notification in the Government Gazette.

Section 89. The rates of service fees as fixed according to section 88 for treatment of wastewater or for removal of wastes emanated from sources of pollution pursuant to sections 71 and 72 may vary as appropriate.

The owner or possessor of a source of pollution under section 72, in the category of domestic household, that can be classified as a small-scale user, has the right to be exempted from the payment of such service fees in accordance with the criteria and conditions as stipulated by the National Environment Board, by the advice of the Pollution Control Committee.

Section 90. Any owner or possessor of a source of pollution who avoids the conveyance of wastewater or wastes to the government's central wastewater treatment system or central waste removal system as required by section 71 or 72 and instead illegally discharges such wastewater or wastes into the environment outside the limits of the site of the source owned or possessed by the owner in question, or who sends the wastewater or wastes to the government's central wastewater treatment system or

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central waste removal system for treatment but fails and refuses to pay the service fees without being entitled to the exemption as provided by section 89, paragraph two, shall be required to pay a penalty four times the service fee rate fixed in accordance with section 88 until the owner or person responsible conforms with the provision of this Act .

Section 91. An owner or a possessor responsible for the source of pollution where there is an on-site wastewater treatment or waste removal system in accordance with section 70, who illegally discharges wastewater or wastes into the government's central wastewater treatment system or central waste removal system, must pay a daily penalty which is equivalent to four times the amount of the daily expenses for a normal operation of his on-site wastewater treatment or waste removal system. The daily fine will continue throughout the duration of such illegal discharge and the owner in question shall also be liable for damages if such illegal discharge of wastewater or wastes has any detrimental effects whatsoever on the government's central wastewater treatment system or central waste removal system.

Section 92. An owner or possessor responsible for the source of pollution subject to the requirements of section 68 or 70 who refrains from using 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 removal of wastes and illegally discharges such untreated wastewater or wastes into the environment outside the limits of the site of the source of pollution, shall be liable to pay a daily penalty which is equivalent to four times the amount of the daily expenses normally incurred for the normal operation of the on-site wastewater treatment or waste removal system. The daily fine will continue throughout the duration of such illegal discharge.

Section 93. The Local Official or the competent authority of the government agency who has provided for a central wastewater treatment system or waste removal system shall have the power and duty to collect service fees, fines and claim for damages as prescribed in this Part however, this will only apply to the part regarding the central wastewater treatment system or the central waste removal system which is provided for by such local government or government agency.

The service fees and fines collected in accordance with paragraph one shall be exempted from being remitted to the Treasury as National revenues, but shall be

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partially remitted to the Fund at the ratio specified by the Fund Committee; whereas the remaining amount therefrom shall be used as expenditures for the operation and maintenance of the central wastewater treatment system or the central waste removal system of the local government or government agency who collected such service fees and fines.

CHAPTER V SUPPORT MEASURES

Section 94. The owner or possessor of a source of pollution, who has the duty under this Act or other related laws to provide for a system for treatment of polluted air or wastewater or for removal of other wastes, including equipment, instruments, tools, appliances or materials as necessary for such source, or a licensed service contractor pursuant to this Act, is entitled to request for support and assistance from the government in the following matters:

(1) request for assistance regarding import duties for the import into the Kingdom of necessary machinery, equipment, instruments, tools, appliances or materials which are not available in the Kingdom;

(2) application for authorization to bring foreign experts or specialists into the Kingdom to install, monitor or operate, an air pollution or wastewater treatment or wastes removal system if the responsible entity it is unable to provide or employ a qualified person within the Kingdom to control the machinery, equipment, instruments or tools imported into the Kingdom pursuant to (1). This may include an application for an income tax exemption for such persons for taxes they may incur from their work within the Kingdom under this paragraph.

The owner or possessor of a source of pollution who has no legal duty as referred to in paragraph one, but nonetheless wants to provide systems, equipment, tools or appliances for air pollution control, wastewater treatment or for removal of other wastes emanated from the exempt owner's activities or business undertakings, is also entitled to request for support and assistance from the government in accordance with paragraph one.

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Section 95. The application for support and assistance from the government according to section 94 shall be made to the National Environment Board in accordance with the criteria, procedures, and forms as prescribed by ministerial regulations.

The National Environment Board shall examine any applications for support and assistance according to paragraph one as it sees fit, taking into account the economic, financial and investment necessities of each applicant. In the case where it is considered appropriate to give assistance to the applicant, the National Environment Board shall advise relevant government agencies to proceed within their powers and duties so as to give support and assistance to the applicant accordingly.

CHAPTER VI CIVIL LIABILITY

Section 96. If leakage or dispersion of pollutants caused by or originated from a source of pollution is the cause of death, bodily harm, injury, or ill health of a person or has caused damage in any manner to the property of a private person or of the state, the owner or possessor of such source shall be liable to pay compensation or damages therefor, regardless of whether such leakage or dispersion is the result of a wilful or negligent act of the owner or possessor thereof, except in the case where it can be proved that such pollution leakage or contamination is the result of:

- (1) *force majeure* or war;
- (2) an act carried out in compliance with the order of the Government or State authorities; or
- (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 source of pollution shall be liable according to paragraph one shall include all expenses actually incurred by the government for the clean-up of pollution that arose from incidents such as 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 pay compensation to the

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state. Compensation shall represent the total value of natural resources destroyed, lost or damaged by such an unlawful act or omission.

CHAPTER VII PENALTIES

Section 98. Any person who violates or fails to comply with the order issued by virtue of section 9 or obstructs any act carried out in compliance with such orders must be punished by a term of imprisonment not exceeding one year or a fine not exceeding one hundred thousand baht, or both.

In the case where a person who violates or fails to comply with the order or obstructs any act in compliance with such orders is the person responsible for causing danger or damage arisen from pollution, such person shall be punished by a term of imprisonment not exceeding five years or a fine not exceeding five hundred thousand baht, or both.

Section 99. Any person who illegally encroaches upon, occupies a public land, or enters a public land and acts in any manner which results in destruction, loss, or damage to natural resources or cultural heritages worthy of being conserved, or causes the occurrence of pollution that negatively impacts or adversely changes the environment within the limits of environmentally protected areas designated by virtue of section 43 shall be punished by a term of imprisonment not exceed five years or a fine not exceeding five hundred thousand baht, or both.

Section 100. Any person who violates or fails to comply with the prescriptions of ministerial regulations issued by virtue of section 44 or by a notification given by the Minister under section 45 shall be punished by a term of imprisonment not exceeding one year or a fine not exceeding one hundred thousand baht, or both.

Section 101. Any person who spreads or disseminates false information about the danger from any source of pollution with the intention to destroy another's reputation or to undermine public trust on the lawful operation of its business or activity

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shall be punished by a term of imprisonment not exceeding one year or a fine not exceeding one hundred thousand baht, or both.

If the spread or dissemination of information according to paragraph one is done by means of advertisement or reports through newspaper, radio, television or other forms of mass media, the person who commits such acts shall be punished by a term of imprisonment not exceeding five years or a fine not exceeding five hundred thousand baht, or both.

Section 102. Any person who violates the order of the competent official forbidding the use of any vehicle according to section 65 shall be punished by a fine not exceeding five thousand baht.

Section 103. Any person who fails to comply with the order of the competent official according to section 67 shall be punished by a term of imprisonment not exceeding one month or a fine not exceeding ten thousand baht, or both.

Section 104. Any owner or possessor responsible for a source of pollution who fails to comply with the provisions of section 71, any person who disobeys the provisions of section 72, or the rules as laid down by the Local Official by virtue of section 74 or section 75, paragraph **one** or the ministerial regulations issued by virtue of section 80 shall be punished by a term of imprisonment not exceeding one year or a fine not exceeding one hundred thousand baht, or both.

Section 105. Any person who is employed or hired as a Monitoring Control Operator or as a service contractor for wastewater treatment or waste removal without the licence(s) granted according to section 73 shall be punished by a term of imprisonment not exceeding one year or a fine not exceeding one hundred thousand baht, or both.

Section 106. Any owner or possessor responsible for a source of pollution or any Monitoring Control Operator or any service contractor for wastewater treatment or waste removal who does not collect statistics or data or make notes or reports as required by section 80 shall be punished by a term of imprisonment not exceeding one month or a fine not exceeding ten thousand baht, or both.

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Section 107. Any Monitoring Control Operator or service contractor given the duty to make notes or carry out reports according to this Act who intentionally makes such notes or reports showing false information or statements shall be punished by a term of imprisonment not exceeding one year or a 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 a term of imprisonment not exceeding one month or a fine not exceeding ten thousand baht, or both.

Section 109. Any service contractor rendering services for wastewater treatment or waste removal ordered by the Pollution Control Official to stop or close down such services pursuant to section 82 (4), or any Monitoring Control Operator whose licence has been revoked by the order of the Pollution Control Official pursuant to section 82 (5), violates or refuses to comply with such order of the Pollution Control Official or continues to continue operating services in violation of such order shall be punished by a term of imprisonment not exceeding one year or a fine not exceeding one hundred thousand baht, or both.

Section 110. Any owner or possessor of a source of pollution who employs a person whose licence to be a Monitoring Control Operator has been revoked, to supervise and monitor the operation of air pollution control, wastewater treatment or waste removal system that he has the duty to install and operate according to this Act, shall be punished by a fine not exceeding fifty thousand baht.

Section 111. If an offender under this Act is a juristic person, a managing director, manager, or representative of such juristic person, such person shall be liable for punishment as prescribed for such offence, except where he or she can prove that the offences were committed without his or her knowledge or consent.

TRANSITORY PROVISIONS

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

Section 114. The person holding a licence as an eligible person to prepare reports on the study and measures for the prevention of and the remedy for the adverse effects 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 for the environmental impact assessment report provided by this Act, until such person is required by the Minister to apply for licence in accordance with this Act.

Section 115. All the reports on the study and measures for the prevention of and the remedy for the adverse effects on environmental quality of 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 comes into force and is still on a 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 criteria 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 regarding the review and approval of such reports shall become the power and duty of the Office of Natural Resources and Environment Policy and Planning.

Countersigned by:

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Anand Panyarachun

Prime Minister

Office of the Council of State

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Fee Rates

- | | | | |
|--|-------|------|-----|
| (1) An application for the Environmental Impact Assessor licence | 40 | baht | |
| per licence | | | |
| (2) An Environmental Impact Assessor licence | 4,000 | | |
| baht per year | | | |
| (3) An application for a Monitoring Control Operator licence | 40 | baht | per |
| licence | | | |
| (4) A Monitoring Control Operator licence | | | |
| 4,000 baht per year | | | |
| (5) An application for a service contractor licence | 40 | baht | per |
| licence | | | |
| (6) A service contractor licence | 4,000 | baht | |
| per year | | | |

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