

Strengthening the Right to Access Environmental Information in Thailand



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Legal Framework for the right to access environmental information in Thailand

- I. The 2007 Thai constitution
- II. The Law ensuring the right to have a good environment and ensuring people participation with respect to health
- III. Laws relating to access to state information
- IV. Laws relating to public participation
- V. Laws to access the judicial system
- VI. PRTR (Pollution Release and Transferred Registers)
- VII. Environmental Monitoring and its data
- VIII. Conclusions



I. The 2007 Thai constitution

This constitution has provisions covering 3 dimensions:

1) The right of access to data and information.

The individual has the right to receive information, elaboration, and explanation from state agencies before they approve or implement a project or other activity that might have an effect on the environment, health, and quality of life.

2) The right of participation by the people.

The individuals that form themselves into a community, a local community, or a traditional local community have the right to participate in the management, supervision, maintenance, utilization of natural resources, the environment, and biodiversity, in a manner that is balanced and sustainable.

3) The right of access to the justice system.

The individual has the right to access the judicial process with ease and convenience, without delay, and that such rights are equally dispensed to all. Also, the community has their right to sue the state bureaucracy, state agencies, state enterprises, local government agencies, and state agencies with regards to environmental matters.

II. The Law ensuring the right to have a good environment and ensuring people participation with respect to health

- **National Health Act of 2007** is another law that places importance on affirming the people's right to live in a good environment. In Section 5 para.1 states that “**the individual has the right to live in an environment and surroundings that are conducive to good health**”, and in Section 5 para.2 which states that “**the individual has the duty to work together with state agencies so as to create the type of environment and surroundings as stated in para. 1**”

III. Laws relating to access to state information

- **The National Environmental Quality Act B.E. 2535 (1992)** has a provision on the access to environmental information in general terms but there is no specific prescription that supports access to such information by the public. Thus, a request for the disclosure of environmental information would have to be based mainly on **the Official Information Act B.E. 2540 (1997)**.

VI. Laws relating to public participation

- Public participation in the decision-making process of the state can be divided into 2 levels.
 1. Participation at the level of interacting with local government officials: The **Administrative Procedures Act B.E. 2539 (1996)** enhance individual to participate in decision making process but provides merely general guidance.
 2. Participation at the level of projects : **Office of the Prime Minister Regulations on Public Hearing B.E. 2548 (2005)** provide an opportunity for the public to participate in decision making processes involving state projects.

V. Laws related to access to the judicial system

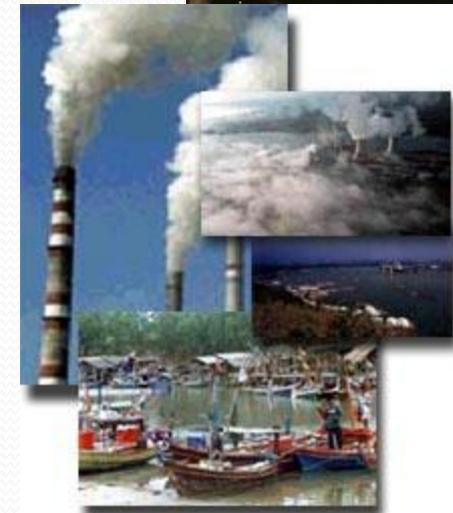
- The right to take environmental cases to court in Thailand is subject to many existing laws, for example, **the Civil Procedure Code, the Act on Establishment of the Administrative Courts and Administrative Court Procedures B.E. 2542 (1991), the National Environmental Quality Act B.E. 2535 (1992), and the Criminal Code in which penalties are prescribed for environment violations.**
- For environmental cases, the **National Environmental Quality Act B.E. 2535 (1992)** accepts that a private organization registered in accordance with the Act could act as a party in a court case and sue for damages suffered.

The example of Public Participation in Environment Impact Assessment process in Thailand

Environmental Impact Assessment (EIA)

- Propose :

- To inform stakeholder of project description and impacts that may occur
- To listen their opinion and concerns and use for in-depth studying of the unclear issues
- To inform stakeholders of proposed mitigation measures, exchange ideas and experiences in order to gain more suitable mitigation measures



The example of Public Participation in Environment Impact Assessment process in Thailand (Cont.)

Environmental Impact Assessment (EIA)

● Obligation:

- EIA requires at least 2 stages of public participation: scoping and drafting EIA
- EHIA requires 4 states: **scoping, preparation, review, and before decision making**
- IEE requires at least 1 stage at drafting stage

● Stakeholder:

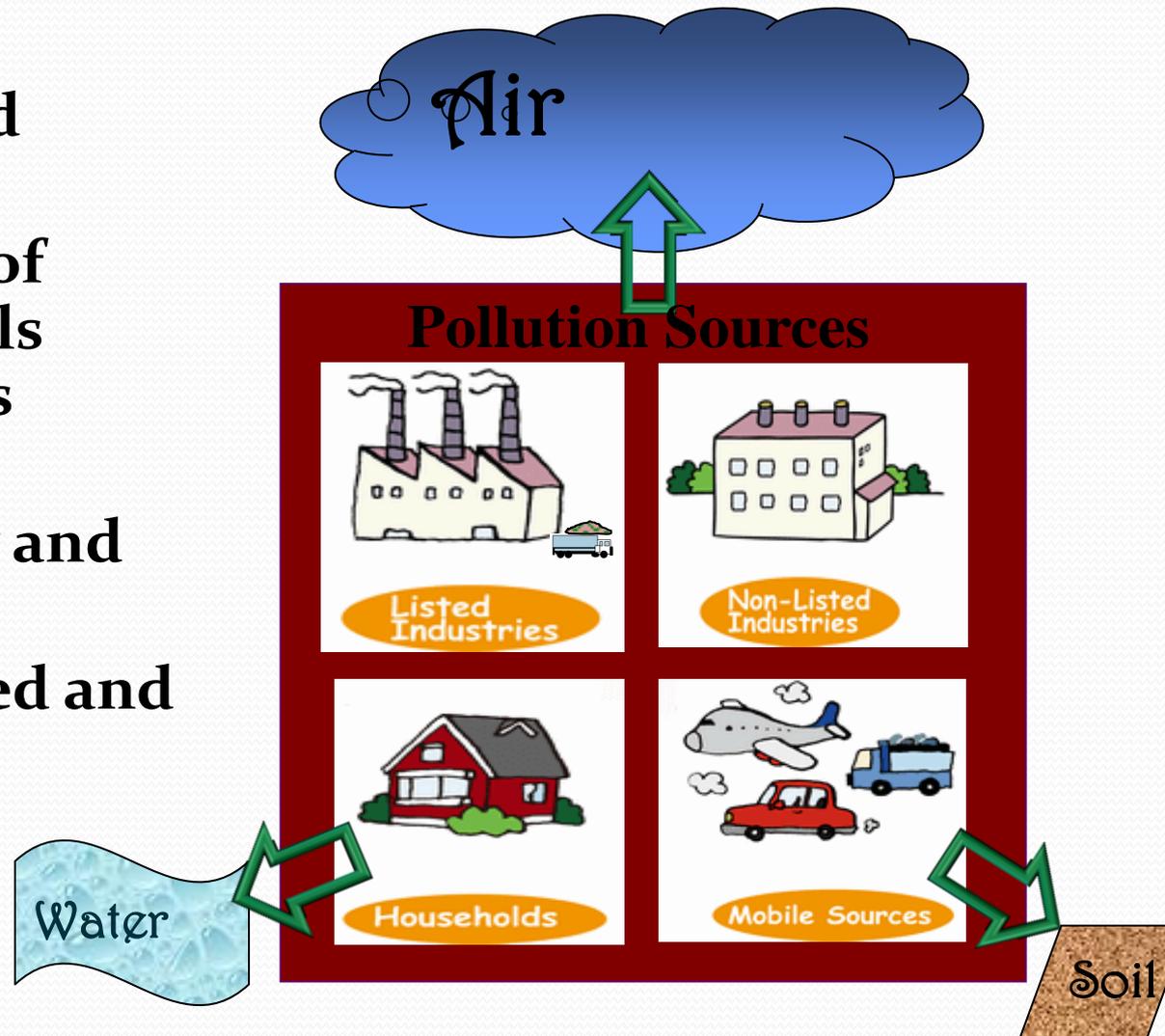
- Direct effected groups (loser and gainer)
- EIA preparation agencies (project owner and consultations)
- Review agencies (ONEP, EIA Committee, NEB)
- Related government agencies
- NGOs, Institute, Independent experts
- Mass media
- General interested groups

Examples of other environmental informations that public can access

- Policies, plans, projects, and budgets related to environment
- Report and Information related to Environment e.g. EIA report, Mitigation measure report, Environmental monitoring report, Pollution emission report, State of environment report etc.
- Environmental research and data e.g. Toxic substance contamination in food crops and their products analysis, Risk assessment from industrial sector etc.
- International agreements, negotiation framework related to environment.
- Online pollution complaint

Pollutant Release and Transfer Registers: PRTR

- Data availability and disclosure
- Types and quantity of pollutants/chemicals release from various sources
- Release to air, water and soil
- Pollutant Transferred and treatment off-site



PRTR website of Thailand (under development)

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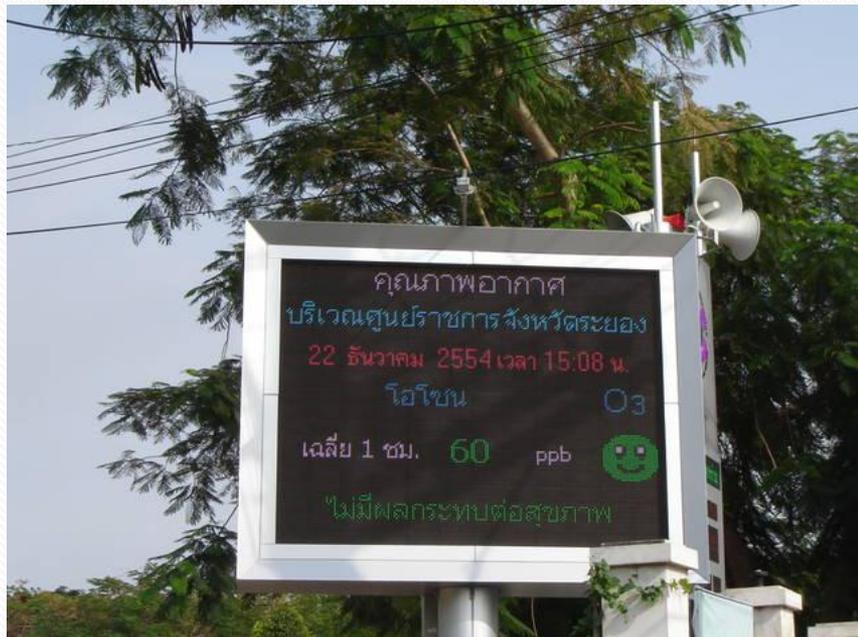
Air Quality Monitoring Systems



แผนที่แสดงตำแหน่งของสถานีตรวจวัดคุณภาพอากาศของเขตกรุงเทพมหานคร



Real-Time Air Quality Data to Public by Display Board



Conclusions

- Limitation of data availability to public
- Access to private (facility) and government data
- Translate scientific information to public in general
- Risk communication – Environmental standards, health impacts
- Various sources of data or sharing data among government agencies
- Centre of environmental data at community level
- TURST



Thank you

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