

DRAFT

ACT TO REGULATE THE INTEGRATED MANAGEMENT OF CLEAN AIR FOR HEALTH

B.E.

.....

.....

.....

.....
.....

Whereas it is expedient to have a law to regulate the integrated management of clean air for health.



.....
.....

Section 1. This Act is called the “*Act to Regulate the Integrated Management of Clean Air for Health B.E.*”.

Section 2. This Act shall come into force after one hundred eighty days as from the date of its publication in the Government Gazette.

Section 3. In this Act:

“Clean Air” means the air without pollutants or without pollutants contaminated in the

Unofficial Translation

air higher than a standard quantity, for a long enough period of time to cause harm to humans, animals, plants, or property, which is accepted by international academic standard or determined and announced by the Regulatory Committee, with approval of the Joint Committee.

“Clean Air for Health” means reducing the quantity of air pollution and toxic haze and improving the clean air quality to meet the standard level, which is sufficient for citizens to breathe normally without any impediment to their bodily functions or becomes a detriment to their health, whether in matters of acute or chronic conditions that precipitate premature death, so as to protect the life safety and health of the citizens.

“Toxic Haze” means haze with pollutants that has an impact on the air quality and the sustainability of the ecosystem including toxic haze with concentration level, as determined by the health care agencies, that may cause long-term impact on people’s health and maybe the causes of premature death, and it shall include air pollution under this Act or those of related laws.

“Source of Toxic Haze” means machine operations in industrial factories, use of vehicles for transportation; biomass burning in agriculture and in agricultural industry; forest burning for any reason; open and uncontrolled waste incineration; construction of all structures; release of pollutants from households, buildings or offices; mining operations; trans-boundary toxic haze; or other sources of toxic haze as determined and announced by the Regulatory Committee, with approval of the Joint Committee.

“Vulnerable Group” means a person whose physical readiness, immunities and tolerance to exposure to air pollution from toxic haze is lower than an ordinary person. This group includes children, pregnant women, the elderly, patients with chronic diseases, patients with cardiovascular disease, outdoor workers, and individuals who work outdoors, all of whom are in need of special protection measures.

“Air Quality Index” means indexes or indicators for reporting air quality to the public in each area at a given time period. One unit of air quality index represents the concentration level of various types of air pollutant, as determined and announced by the Regulatory Committee

Unofficial Translation

with approval of the Joint Committee. These air pollutants include but are not limited to, Ozone (O₃), dust or solid or liquid particles smaller than 10 microns or 2.5 microns (PM₁₀, PM_{2.5}), Carbon Monoxide (CO), Sulfur Dioxide (SO₂), and Nitrogen Dioxide (NO₂), which have concentration levels that are material to health advice.

“Air Quality Health Index” means indexes or indicators used for reporting air quality to the public in each area at a given time period. One unit of air quality health index represents a risk level impacting people’s health who are sensitive to short-term exposure to toxic haze, and is determined and announced by the Regulatory Committee, with approval of the Joint Committee. The representation of the risk level impacts on health is related to health advice.

“Health Impact Assessment” means the collaborative learning processes in society developed for all parties to be able to jointly deliberate on the health impact by applying approaches and various instruments to identify, conjecture, and consider the health impact which may happen or has occurred to any group of people

“Fund” means clean air for health fund.

“Subsidy of the Fund” means money collected from the person, obligated with the duties to pay excise tax, who shall make a contribution to the clean air for health fund under this Act.

“Integration” means clean air management for health amongst more than two government agencies for the purpose of collaborative problem analyzing and jointly seeking preventions and solutions whilst operating systematically, not separately, including co-management.

“Co-Management” means clean air co-management for health between the government and civil society to encourage public participation and strengthen decentralization to achieve clean air management for health that is balanced and sustainable.

“Regulating” means control, follow up, oversee, supervise, and accelerate the process of government agencies, who have the powers and duties under such laws, for the efficacy in the integrated clean air management for health.

Unofficial Translation

“Master Plan” means master plan policies for regulating the integrated management of clean air for health.

“Joint Committee” means Joint Committee for clean air for health policies

“Regulatory Committee” means Regulatory Committee of clean air for health management

“Measures and Instruments Board Committee” means economic measures and instruments Board Committee for clean air.

“Fund Committee” means Fund Committee for clean air for health.

“Civil society” means person, people, communities, private organizations, professional organizations, associations, foundations, community enterprises, social enterprises, village organizations, public health volunteers, environmental volunteers, rescue volunteers, academic staffs from educational institution, independent academic professionals, local scholars and any people with similar disposition.

“Government Agencies” means central administrations, provincial administrations, local administrations, state enterprises, public organizations, or any government agencies regardless of whether they are a juristic person or not.

Section 4. The Prime Minister shall have charge and control of the execution of this Act for the purpose of the administration of relevant ministries to ensure an integrated management of clean air for health. The Prime Minister shall have the power to issue ministerial regulations, rules, announcements or orders with recommendations from the Joint Committee,

Ministerial regulations, regulations, announcements under paragraph one shall come into effect after its publication in the Government Gazette.

Section 5. In case of any occurrence or where there are reasonable grounds to suspect serious damages to air quality for health, which affects people’s rights to breathe clean air and must be remedied urgently, the Prime Minister shall have the authority to issue orders, as deemed appropriate, to suspend any action or to take action to remedy or prevent such losses.

Unofficial Translation

If such person is ordered, under paragraph one, does not comply with the order within a reasonable time, the Prime Minister may order a duly authorized competent official to perform any action to remedy or prevent such losses. For this purpose, the competent official shall take precautions reasonable to the circumstances and such person who is ordered shall bear the expenses thereof.

CHAPTER I GENERAL PROVISIONS

Section 6. To guarantee and protect right to life and right to health, that are interconnected from an environmental aspect and lead to the right to breathe clean air, which accords every person the ability to live in a clean air environment that is not harmful to health nor exposes one to the risk of premature death and protects vulnerable groups. The State has the obligation to protect, respect, and fulfill this right for every person as a human right. In addition, the State is required to have the provision for the right to breathe clean air be respected and not be infringed upon by any person and/or government agency.

In order for the right to breathe clean air under paragraph one, to be fully effective, the State has a duty to stringently perform and execute this Act and those of related laws. The institutions, through which the State discards responsibilities, must not operate in parallel which had resulted in the rights, under paragraph one, from being infringed upon, and additionally the State must also operate in accordance with good governance and sustainable development principles.

Section 7. In case a statement in any law is inconsistent or contrary to this Act and its execution relates to the integrated management of clean air for health, this Act shall be enforced. In case there is a problem to regulate the integrated management of clean air for health and to guarantee and protect the right to breathe clean air of the people, for the safety of life and health the provisions of this Act shall be effective. Unless other laws specify standards not lower

Unofficial Translation

than those as determined in this Act, then such laws shall continue to remain in effect so long as they are not inconsistent or contrary to the provisions of this Act. However, in case other laws have lower standards than those determined in this Act, the government agencies, with the authority under such laws, shall amend their standards in accordance with this Act. In case there are obstacles which prevent the above-mentioned amendments, the Joint Committee shall make the executive decision and the relevant government agencies shall abide by such decision.

CHAPTER II

RIGHT TO BREATHE CLEAN AIR

Section 8. Every person has the right to breathe clean air.

The right to breathe clean air is the right which accords every person the ability to live in a clean air environment, that is not harmful to health nor exposes a person to the risk of premature death, which is in accordance with and related to the right to health and the right to life that are both fundamental rights guaranteed and protected as human rights recognized by both international law and domestic law of developed nations including the Kingdom of Thailand.

For those categorized as vulnerable groups shall be entitled to have medical examination in a public hospital or medical facility, whose standard is not lower than the hospital provided by the State, without incurring any expense so as to monitor the potential toxic haze-related health impacts.

Section 9. In order to have clean air, every person has the right to have access to information on air quality, information on the possible air quality impact on the environment and health, as well as, the right to participate in policy-making with the State including to enact legislation, and to regulate the management of clean air and the right to access and receive environmental justice.

Unofficial Translation

Section 10. In order for the right of a person, under section 8 and section 9, the State shall respect, protect, and ensure the right to breathe clean air of the people is duly established. The State shall facilitate and regulate the integrated management of clean air.

PART I

RIGHT TO ACCESS TO INFORMATION RELATED TO CLEAN AIR

Section 11. Every person has the right to know and access to information related to clean air.

In order for such right under paragraph one, the State shall have the following duties:

(1) Monitor and report air quality index and air quality index health index on a daily basis and the possible impact on people's health, which differs for each person in each area, in a thorough, systematical, and regular basis so that people are able to easily access, monitor, and protect themselves in a timely manner.

(2) Provide information to the general public on the source of the current air quality problem such as toxic haze release and transfer data, the activities which cause an impact on air quality and public health, and the operational procedure of the State to manage clean air for health that include measures to remediate the impact of people's health especially those from vulnerable groups.

(3) Listen to information, complaints, viewpoint from people in matters concerning (2)

(4) Collect, gather, process, analyze the data, and prepare an up-to-date and effective data system to notify the people and encourage management of clean air for health for the people including the provision of sufficient budgetary support to the private sector or the general public required to develop the system and to publicize information related to clean air for health.

Section 12. Every person has the right to know information which may have an impact on air quality and public health including preventive health measures as soon as possible, and also

Unofficial Translation

the right to request government agencies to have health impact assessment systems to be in place that is supported by measures both at a policy level and at an operational level.

In order for such right, under paragraph one, the State shall instate the health impact assessment system and a monitoring system for health impact assessment which includes an efficient and material enforcement system.

PART II

RIGHT TO PARTICIPATE IN POLICY-MAKING OF THE STATE INCLUDING TO ENACT LEGISLATION, AND TO REGULATE THE MANAGEMENT OF CLEAN AIR FOR HEALTH

Section 13. Every person has the right to participate in policy-making with the State including to enact legislation, and to regulate the management of clean air for health.

In order for such right, under paragraph one, the State shall have the duties as follows:

(1) to enable public participation to determine the policy-making and the master plan.
(2) to enable public participation to prepare for the project operational plan or the State's activities, both at the national and local level, which may have an impact on air quality and people's health; and public participation is part of the decision-making process in the abovementioned projects or activities.

(3) to disclose information on the projects or activities prepared under (2). The State shall notify people in the relevant area of such information and hold a public hearing prior to the preparation of the project operational plan. In this regard, the State shall also determine a period of time that is sufficient to receive public inputs.

(4) Government agencies shall take the public opinions obtained under (3) to be part of the consideration for the approval or authorization of the projects or activities, under paragraph one. In this regard, the State shall also notify the people of the result which has taken full consideration of the public's input in deriving that decision.

Unofficial Translation

(5) to conduct public participation to determine the criteria for setting the standard of clean air for health which include criteria related to monitor, protect, supervise, and manage air quality to be in line with the abovementioned standard.

(6) to conduct public participation to determine and develop the toxic haze release and transfer data, air quality index, and air quality health index in each area.

(7) to conduct public participation to listen to public opinion, to enable public involvement in the consultation and co-management to amend laws that have been an obstacle to bring about clean air, and to enact of a draft legislation related to the clean air for health which includes the revision of the suitability of existing legislation, legislation amendment, and the drafting of new legislation.

(8) to conduct public participation to determine measures to regulate the performance of government agencies in discharging their duties related to the management of clean air for health in order to achieve the results in accordance with the policy and master plan as specified under (1).

The criteria and procedures to carry out under (1) shall be in accordance with those, as determined by the Joint Committee with the recommendation from the Regulatory Committee.

Section 14. Every person has the right to know information, receive clarification, and obtain explanation from government agencies before any authorization or any project development or any activities which may impact on their health or communities including having the right to be fully engaged in the public participation process.

In order for such right, under paragraph one, whereby there will be an impact on air quality and on people's health, the State has the duty to disclose information of the situation, notify the people about the preventive health measures, and to provide this information as expediently as possible. In this regard, such information disclosure shall be presumed not to include disclosure of personal data, unless proven otherwise that such information is personal data protected under the law.

Unofficial Translation

Information, clarification, and explanation under this section is presumed not to be any trade secret, unless proven otherwise that such information is indeed a trade secret under the law on trade secret and that this determination occurred prior to the information being disclosed.

PART III

RIGHT TO ACCESS AND RECEIVE ENVIRONMENTAL JUSTICE

Section 15. Every person has the right to access and receive environmental justice

To acquire such right, under paragraph one, the State has the duties as follows:

(1) to receive complaints from anyone whose health may have been impacted from toxic haze and to coordinate with the responsible government agencies.

(2) to provide advice to the complainant with regards to environmental prosecution related to toxic haze and to coordinate with the litigator to consider and to receive compensation, remediation, and rehabilitation for the damages incurred.

Section 16. Private agencies, whose objectives relate to health, the environment, consumers, children, the elderly, pregnant women, patients and outdoor workers, have the right to pursue civil, criminal, administrative prosecutions and to initiate any proceedings, including seeking compensation or damages, in court cases related to clean air for health. These legal proceedings are for public interest benefits in general and are in accordance with the nature and types of court cases, as determined and announced by the Joint Committee.

Once there is prosecution under paragraph one, government agencies or private agencies accused of causing toxic haze shall act or cease such action, unless the abovementioned government agencies or private agencies have proven to the court during such trial that they are not the responsible party causing toxic haze.

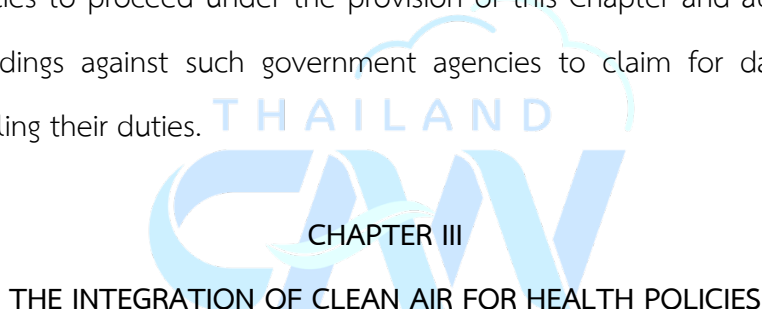
Unofficial Translation

In court proceedings, private agencies shall not be allowed to withdraw the case except as permitted by the court when the court is of the opinion that such withdrawal is not detrimental to the protection of public interest in general.

The private agencies under paragraph one shall be represented by a person who has the authority to prosecute class action lawsuits under the law on civil, criminal, or administrative procedure, as the case may be.

Section 17. In case the government agencies fail to comply under section 12 and section 14, a person or a group of peoples shall have the authority to take legal proceedings against government agencies to enforce them to comply.

Section 18. A person or private agencies under section 16, has the right to request the government agencies to proceed under the provision of this Chapter and also has the right to take legal proceedings against such government agencies to claim for damages caused by negligence in fulfilling their duties.



Section 19. In order to integrate policies, regulate, manage clean air for health, and fulfill the intent of this Act, the Joint Committee, the Regulatory Committee, the Measures and Instruments Board Committee, and the Fund Committee shall convene meetings at least twice a year.

Section 20. The Minister of Education and Minister of Higher Education, Science, Research and Innovation shall prepare the policies and issue ministerial regulations to prescribe the criteria and procedures on budgetary support to vocational institutions or tertiary schools, research bodies, and academic service entities to undertake work, in accordance with the integration of clean air for health policies. The Ministers shall encourage vocational institutions or tertiary schools to share such research findings and academic services for broader public benefit.

Unofficial Translation

Furthermore, these research findings shall be used in the preparation and amendment of the integration of clean air for health policies and master plan presented to the Joint Committee.

To determine the criteria and procedures for budgetary support under paragraph one, the Ministers shall consider research and academic services which include public participation during the operational process and public interest as key consideration.

PART I

POLICIES AND MASTER PLAN TO REGULATE THE INTEGRATED MANAGEMENT OF CLEAN AIR FOR HEALTH

Section 21. The Joint Committee shall prepare policies and master plan to be used as the framework and guideline to develop policies, strategies and operational procedures to regulate and integrate the performance of government agencies and other agencies relevant to clean air for health management. The Joint Committee shall submit such policies and master plan to the Council of Ministers, Members of the House of Representatives and Senators for notification and they shall be published in the Government Gazette.

For the master plan preparation, the Joint Committee shall take the opinions and suggestions from vulnerable groups and groups that may have had adverse health effects due to air quality problems into consideration.

The Joint Committee shall reassess the master plan at least once every five years.

Section 22. The master plan must at least consist of matters related to the following:

- (1) the concept to integrate health and the environment as they pertain to the issue of clean air for health;
- (2) the objective to regulate the integrated management of clean air for health;
- (3) to establish mechanisms and measures in place for government agencies to comply with to guarantee people's right to breathe clean air, and to require government agencies to

Unofficial Translation

consider the health impact assessment results in discharging their responsibilities in line with their powers and duties;

(4) to determine mechanisms and measures to manage special cases such as vulnerable groups, or areas with unique characteristics;

(5) to monitor, protect, and supervise factors to prevent violation to the right to breathe clean air;

(6) to elevate the standard of clean air quality for health including air quality index, air quality health index and citizen air quality data monitoring system;

(7) to promote and support civil society and educational institutions to participate with the State in the integrated management of clean air for health;

(8) to collect the information on air quality in order to develop a database and implement and disseminate knowledge on the integrated management of clean air for health through various channels;

(9) to determine economic measures and instruments;

(10) to determine measures related to trans-boundary toxic haze.

The master plan under paragraph one shall be incorporated into two phases namely a medium-term plan and a long-term plan.

The long-term master plan shall be established every ten years to determine the objectives for over the next ten years.

The medium-term master plan shall be established every five years in order to achieve the objectives of the long-term master plan in a substantial manner. Additionally, the medium-term master plan shall be the guideline to determine the operational plan to regulate the integrated management of clean air for health.

The long-term master plan shall be evaluated and reviewed within six months before the end of the ten-year period and the new draft long-term master plan shall be in place before the existing version expires.

Unofficial Translation

In case of force majeure and the established of a new master plan may not be completed before the existing one expires; the existing long-term master plan shall remain in effect but for a period not exceeding six months.

Section 23. The master plan under section 21, approved by the Joint Committee shall be binding upon the government agencies and relevant agencies, who shall continue to operate under their authority.

Section 24. The Regulatory Committee, with approval of the Joint Committee, shall have the duty to draw up an action plan for an integrated management of clean air for health on a yearly basis, in accordance with the master plan.

PART II

JOINT COMMITTEE FOR CLEAN AIR FOR HEALTH POLICY

Section 25. There shall be a committee called “Joint committee for clean air for health policies” that consist of

- (1) Prime Minister as Chairperson;
- (2) the Minister of Public Health as Vice-Chairperson;
- (3) the Minister of Natural Resources and the Environment as Vice-Chairperson;
- (4) two selected people from representatives of civil society as Vice-Chairperson;
- (5) five selected people from representatives of the government agencies who have distinguished experience and professional contribution related to clean air for health management or in the area of environment conservation, as duly appointed by the Prime Minister;
- (6) five selected people from representatives of civil society with distinguished experience and professional contribution related to clean air for health management or in the area environment conservation;

Unofficial Translation

At least four representatives of the civil society under (4) and (6) shall not be involved in creating toxic haze.

The criteria and procedures to select representatives of civil society under (4) and representative of civil society under (6) shall be in accordance with the announcement as determined by the Joint Committee.

The Chairperson of the Regulatory Committee shall be the secretary of the Joint Committee and the Director of the Clean Air for Health Organization shall be the assistant secretary of the Joint Committee.

Section 26. The representative members from civil society under section 25(4) and (6) shall have the following qualifications and shall not possess any of the following disqualifying criteria as follows:

- (1) be a Thai nationality;
- (2) be not less than thirty-five years of age on the date of nomination;
- (3) has no serious detrimental, dishonest or, malfeasance conduct, and has no record on conflict of interest;
- (4) not an individual of unsound mind or of mental infirmity;
- (5) not bankrupt, or have been previously involved in any dishonest bankruptcy;
- (6) not an individual sentenced by a judgement to imprisonment and being detained by a court warrant.

Section 27. The member under section 25 shall hold office for a term of five years as of the date of nomination and may be re-appointed for a period of not more than two consecutive terms.

The member whose term expires shall remain in office to perform his or her duties until a new successor member is appointed.

In order for the new successor members to transition in time to perform their duties as the term of the incumbent members expires, the selection for the new members shall be

Unofficial Translation

conducted well in advance and must commence not less than one hundred and twenty days prior to the expiration of the incumbent members' term.

Section 28. In addition to vacating the office upon term expiration under section 27, members shall be deemed to have vacated office upon:

- (1) death;
- (2) resignation;
- (3) being disqualified or being under the prohibitions listed under section 26.

Upon the term expiration, under paragraph one, the selection for the newly appointed members shall commence henceforth. The term of the newly appointed member shall be equal to the remaining term of the incumbent member except if the remaining term is less than one year, then the position may be left unfilled.

In the period during which the successor member is yet to be appointed, under paragraph two, the remaining members shall continue to perform their duties and shall be deemed that the members will consist of the remaining members, except where there is no more than seven members remaining

Section 29. The Joint Committee shall have the authority and duties as follow:

- (1) to propose policies and master plan to the Council of Ministers for approval;
- (2) to assess the results of the policies and master plan proposed by the Regulatory Committee and submit a report on this the Council of Ministers at the end date of every fiscal year;
- (3) to consider the standard of clean air for health that includes air quality index and air quality health index (as determined) and announced by the Regulatory Committee;
- (4) to prescribe measures to protect and conserve the balance and sustainability between the environment public, health and the economy;
- (5) to monitor and assess the results of legal measures implemented under the Law on Enhancement and Conservation of the National Environmental Quality, the Law on Public Health,

Unofficial Translation

the Law on Zoning, the Law on Factories, the Law on Minerals, the Law on Hazardous Substances, the Law on Road Traffic, the Law on National Reserved Forest or any other law that relate to the standard of clean air for health. The assessments are summarized in a report to the Council of Ministers at least once a year or when there is a toxic haze incident that impacts on public health on a wider scale;

(6) to recommend measures or guidelines to enhance clean air for health and to resolve the ineffective implementation problem related to laws enforcement of air quality standard to the Council of Ministers and relevant agencies. This includes recommendation to modify and improve upon any law, regulation, rule or order to be in accordance with enabling clean air for health;

(7) to propose solutions on performance issues of government agencies in undertaking their duties related to the administration and management of clean air for health to the Council of Ministers;

(8) to supervise the operation of the Regulatory Committee to be in accordance with the purposes of this Act;

(9) to support, enhance, and raise public awareness from, from every facet of society, about the health impact from toxic haze and the necessity to have access to clean air; this includes public participation in the monitoring, protecting, and resolving the toxic haze problem in a significant manner;

(10) to perform other functions to achieve the purposes of this Act.

Section 30. In the performance of their duties, the Joint Committee or the sub-committee delegated by the Joint Committee, shall have the authority to issue a written order to call upon any person to give a statement or to provide any document or evidence to support their examination as is deemed necessary.

Section 31. To promote and maintain air clean for health, the Regulatory Committee, with the approval of the Joint Committee, shall have the authority to determine the air quality index

Unofficial Translation

and air quality health index which will be published in the Government Gazette. This determination will be based on the core principle that air is contaminated with various polluting substances and each type of polluting substances has different impact on health.

The air quality index and air quality health index, under paragraph one, shall be determined in accordance with internationally-accepted standards based on academic principle and supported by the criteria of science and scientific evidence as fundamental basis, while also taking the right to breathe clean air and people's health as important consideration, other important factors to also consider include the aspects of economies, society and relevant technology. In this regard, the air quality index and air quality health index may be determined differently based on the environment in each area and their application. To this end, the avenue must be open for relevant stakeholders to participate in the setting of the abovementioned standards, which includes public disclosure to enable information to be readily available to all stakeholders.

The Joint Committee shall have the duties to review the air quality index and air quality health index according to changes in science, technology, economy, society, and health at least once every three years, and this involves including public participation into the process for consideration.

Section 32. In cases where it is deemed appropriate, the Joint Committee shall have the authority to determine the air quality index and air quality health index using standards that are higher than normal in specific area or areas where vulnerable groups reside.

Section 33. To enable the monitoring of information on air quality for health, the Joint Committee shall issue measures to promote and support civil society to install a system to monitor air quality data for health.

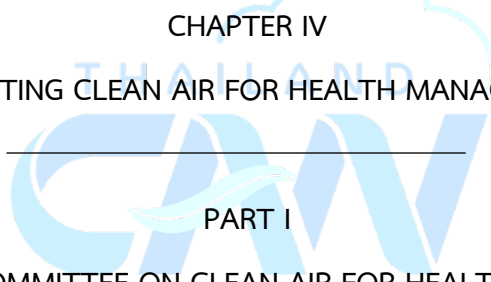
Section 34. The Changwat (Provincial) governor and the administrator of local administration agencies shall have duties to collect information on air quality for health in their responsible area. This information shall be proposed to the Joint Committee of Changwat

Unofficial Translation

(Provincial) level on clean air for health on at least a yearly basis. The Joint Committee of Changwat (Provincial) level on clean air for health shall submit such information to the Regulatory Committee to enable the compilation of data base on air quality for health information at the national level.

The criteria, procedures, and format to collect air quality information, under paragraph one, shall be in accordance with the ministerial regulation determined by the Minister, with the approval of the Joint Committee.

Section 35. The Regulatory Committee shall apply the air quality for health information received under section 34 to determine a guideline on monitoring the operation of government agencies under the policies and master plan.



CHAPTER IV
REGULATING CLEAN AIR FOR HEALTH MANAGEMENT

PART I
REGULATORY COMMITTEE ON CLEAN AIR FOR HEALTH MANAGEMENT

Section 36. There shall be a committee called “Regulatory Committee on Clean Air for Health Management” to consist of a Chairperson and not more than thirteen members. The Committee members are selected and appointed from a pool of qualified potential members with knowledge, experience, and contribution or previous credentials that demonstrate compelling knowledge or expertise in at least in one of these areas: environmental science, environmental health, environmental economics, environmental law, social science related to environmental health, human right related to environmental health and administration of the public sector related to environmental health.

Unofficial Translation

The Regulatory Committee shall consist of two categories of members namely independent members and permanent members. The permanent members shall have a proportion not less than two-thirds of all members.

The Director of the Clean Air for Health Organization shall be a member and be the secretary of the Regulatory Committee.

The criteria and procedures to be appointed as a Chairperson and committee members, under paragraph one, shall be in accordance with the announcement as determined by the Joint Committee.

The committee member under paragraph one, shall hold office for a three-year term as of the date of appointment and can be reappointed for a period of not more than two consecutive terms.

When a committee members term expires, vote casting including carrying out the functions of the committee member, under paragraph one, shall be in accordance with the rules as determined by the Joint Committee. In this regard, in a meeting convene to consider a matter under consideration with a direct conflict of interest with a committee member, such conflictive committee member will not be eligible to attend the meeting and express an opinion.

Section 37. The Regulatory Committee under section 36 shall have the qualifications and shall not possess any of the disqualifying criteria as follows:

- (1) be a Thai nationality;
- (2) be not less than thirty years of age;
- (3) has no serious detrimental, dishonest or, malfeasance conduct, and has no record on conflict of interest;
- (4) not an individual of unsound mind or of mental infirmity, incompetent or quasi-incompetent person;
- (5) not bankrupt, or not have been previously involved in any dishonest bankruptcy;

Unofficial Translation

(6) not an individual who has been sentenced by a judgement to imprisonment and is being detained by a court warrant;

(7) not sentenced by a final judgment to imprisonment, except for an offence committed through negligence or deemed as a petty crime;

(8) not an individual holding any political position, or a member of the local assembly or local administrator, or a director or an individual holding any position responsible for the administration of any political party, or an advisor or an official of any political party;

(9) not been expelled, dismissed or discharged from official public service, or from a State agency on grounds of dishonest discharge of duties or deemed as having committed dishonest acts and malfeasance in undertaking official service;

(10) not an executive of any government agencies;

(11) not a government official holding a permanent position or receiving a permanent salary, or is an official or employee, or member of any government agencies;

The permanent member shall work full-time.

Section 38. The Regulatory Committee shall have duties and power as follows:

(1) to assess operational results implemented under the policies and master plan;

(2) to regulate, supervise, assess, accelerate, support, and give advice to all members who have the power and duties related to clean air for health; this includes oversight of government agencies in implementing the policies and master plan, as well as. to submit an annual report to Joint Committee at the end of every fiscal year;

(3) to coordinate and facilitate the operation of the Fund Committee;

(4) to regulate and follow up with relevant agencies to collect toxic haze release and transfer data from their emission sources for the environment in accordance with the criteria and procedures as determined by the Regulatory Committee.

Unofficial Translation

(5) to propose issues to the Ombudsmen, National Anti-Corruption Commission, Human Rights Commission, National Anti-Corruption Commission in the public sector, as the case may be, should any government agency fail to comply under this Act.

(6) to support and promote public awareness, especially amongst those from the vulnerable groups, to gain an awareness of their right to breathe clean air and the means to access those rights;

(7) to promote more research on clean air for health;

(8) to determine the standard of clean air for health that includes air quality index and air quality health index and to seek approval from the Joint Committee.

(9) to determine the notification level when the air quality is lower than the air quality index and air quality health index;

(10) to announce and determine the subsidiary legislation which is delegated as the authority of the Regulatory Committee under this Act;

(11) to perform other functions to achieve the purposes of this Act.

Section 39. In the performance of their duties, the Regulatory Committee or the sub-committee entrusted by the Joint Committee, shall have the authority to issue a written order to call upon any person to give a statement or to provide any document or evidence to support its examination as is deemed necessary.

PART II

CLEAN AIR FOR HEALTH ORGANIZATION

Section 40. Clean Air for Health Organization shall be established as a juristic person, abbreviated as Aor.Aor.Sor.Sor. and the English name shall be “Clean Air for Health Organization”,

Unofficial Translation

abbreviated as “CAHO”, with the objectives to regulate, follow up, and carry out the Integrated Management of Clean Air for Health bringing together health and the environment. The Clean Air for Health Organization shall be a State agency, which is not part of the government agency or State Enterprise that fall under the Law on Budget Procedures, and is supervised under the Regulatory Committee and Office of the Prime Minister.

The activities of this organization are not subject to the Law on Labor Protection, Law on Labor Relations, Law on Social Security and Law on Compensation. However, the officials and employees of the Organization shall receive benefits and compensation not less than as determined therein.

Section 41. To achieve the purposes under section 40, the Organization shall have duties and power as follows;

- (1) to operate under the policies and master plan;
- (2) to collect information related to the operation of those committees with the duties and authority related to clean air for health including government agencies so as to propose such information to the Regulatory Committee to regulate, supervise, follow up, accelerate, and to submit reports on failure to perform duties by any committee or relevant agencies under this Act;
- (3) to coordinate with the relevant committees who have the authority and duties related clean air for health, this includes government agencies whose role is to support and provide advice related to the integrated management of clean air for health;
- (4) to collect, study, and analyze information on toxic haze release and transfer data from their emission sources from the relevant agencies to submit to the Regulatory Committee for consideration;
- (5) to manage the clean air for health fund;
- (6) to analyze and determine economic instruments and measures related to the management of clean air for health;

Unofficial Translation

(7) to promote research, support information, and disseminate the knowledge related to clean air for health with inputs through public participation;

(8) to be responsible for general affairs of the Policy Committee, the Regulatory Committee and the Fund Committee.

Section 42. In addition to the authority and duties under section 41, the Organization shall have the authority to execute the following affairs;

(1) to have ownership, possessory and real rights;

(2) to establish rights or execute any juristic act both inside or outside the Kingdom of Thailand for the benefit of carrying out activities of the Organization;

(3) to enter into funding partnership with individuals or juristic person both inside or outside the Kingdom of Thailand on activities related to the objectives of the Organization;

(4) collect subsidy for the Clean Air for Health Fund in the form of fees, maintenance fees, service fees or any other compensation related to services provided by the Fund Committees;

(5) to perform other functions which is necessary or must occur continuously to achieve the purposes of the Organization.

Section 43. Revenues of the Organization consists of;

(1) Grants in general from the Government allocated appropriately on an annual basis;

(2) Money and property from donation;

(3) Money and property which the Organization is entitled to;

(4) Revenues from the operation of the Organization's activities;

(5) Interest on money and property under (1), (2), (3) and (4).

Section 44. All revenues of the Organization, under section 43, shall not be the revenues remitted to the Ministry of Finance under the Law on Treasury Reserves and Law on Budgetary Procedures.

The property of the Organization shall not be liable for execution and any person shall not be able to raise the statute of limitation against the property of the Organization.

Unofficial Translation

All immovable properties which the Organization has acquired by way of donation or purchase or exchange for the revenues of the Organization under section 43 (2), (3), (4), or (5) shall be the ownership of the Organization.

Section 45. There shall be a Director in the Organization and a Deputy Director in accordance with the number of Organizational members as determined by the Regulatory Committee.

The Regulatory Committee shall have the authority to select, appoint, and remove the Director and to determine the salary level and other benefits of the Director.

The selection of the Director and the determination of the compensation and other benefits of the Director shall be in accordance with the rules as determined by the Regulatory Committee.

Section 46. The appointment of the Director shall be completed within ninety days as from the date required to have a Director appointed. In case of necessity, the Regulatory Committee may extend such deadline by not more than sixty days. In case, the Regulatory Committee is unable to complete the appointment within the aforementioned time period, the Regulatory Committee shall submit a report on the result to the Joint Committee for consideration.

Section 47. The Director shall have knowledge, competence, and appropriate experience needed to fulfill the role for the Organization as determined in the objectives and the power of the Organization. The Director shall have the following qualifications and shall not possess any of the following disqualifying criteria as follows;

- (1) be a Thai nationality;
- (2) be not less not than sixty-five years of age;
- (3) be able to work full-time for the Organization;
- (4) not an individual of unsound mind or of mental infirmity,

Unofficial Translation

(4) not bankrupt, or not have been previously involved in any dishonest bankruptcy, and not an incompetent or quasi-incompetent person;

(5) not sentenced by a final judgment to imprisonment, except for an offence committed through negligence or deemed as a petty crime;

(6) not an individual holding any political position, or a member of local assembly or local administrator, or a director or an individual holding any position responsible for the administration of any political party, or an advisor or an official of any political party;

(7) not been expelled, dismissed or discharged from official public service, or from a State agency on grounds of dishonest discharge of duties or deemed as having committed dishonest acts and malfeasance in undertaking official service;

(8) not an executive of any government agencies;

(9) not a government official holding a permanent position or receiving a permanent salary, official or employee, or a member of any government agencies;

(10) not an individual with vested interest in the affairs of the Organization, or involved in activities that compete against the affairs of the Organization, whether directly or indirectly.

Section 48. The Director shall hold office for a term of four years and may be re-appointed for a period of not more than two consecutive terms.

Section 49. In addition to leaving office at the end of the term, the Director will be deemed to have left office upon:

(1) death;

(2) resignation;

(3) terminated as determined in the agreement between the Regulatory Committee and the Director;

(4) being dismissed by the Regulatory Committee due to negligence or disgraceful behaviour or lacking of ability;

Unofficial Translation

(5) rendered as an incompetent person or quasi- incompetent person;

(6) lack the qualification or possess any of the disqualifying qualifications to be the Director.

The resolution of the Regulatory Committee to dismiss under (4) shall be passed by not less than two-thirds of the total existing members that excludes the Director.

The lacking of qualification due to being above than sixty-five years of age shall be deemed as terminating the office under the term specified in the employment contract.

Section 50. The Director shall have the duties to administer the activities of the Organization in accordance with the law, objectives of the Organization, rules, by-laws, regulations, policies, resolutions and announcement of the Joint Committee and the Regulatory Committee and who shall jointly have supervisory oversight of any position within the Organization.

The Director shall be responsible to the Regulatory Committee on the daily activities of the Organization.

Section 51. The Director shall have the power to:

(1) to assign, appoint, promote, demote, decide on any salary or wage reduction, undertake a disciplinary action which includes the dismissal of officials and employees, as determined in the by-laws as determined by the Regulatory Committee;

(2) to determine the rules related to the operation of the Organization which will not be contrary to or inconsistent with the rules, by-laws, regulations, policies, resolutions, as determined by the Joint Committee and the Regulatory Committee;

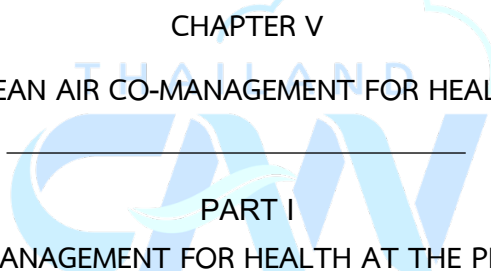
(3) act as representative with the authority to act on behalf of the Fund.

Section 52. For activities that involve interaction with external counterparts, the Director shall be the representative of the Organization. For this purpose, the Director may entrust the authority to any person to operate on his or her behalf, so long as the assigned role is in accordance with the by-laws as determined by the Joint Committee and the Regulatory Committee.

Unofficial Translation

Section 53. In cases where the office of Director is vacant or the Director is unable to perform his or her duty, the next individual in charge in terms of seniority will take charge and control of the execution of the office. In case there is no Deputy Director or if he or she cannot perform his or her duties, the Regulatory Committee shall appoint a committee or a person performing work for the Organization to take charge and control of the execution of the office.

A person who takes charge and control of the execution of the office shall have the same authority as the Director. In case there are laws, rules, by-laws, or other orders appointing the Director to be a committee member or to enable the Director to have any authority and duties, the person who takes charge and control of the execution of the office shall be a committee member or have the same authority as the Director, as the case may be.



CHAPTER V
CLEAN AIR CO-MANAGEMENT FOR HEALTH

PART I
CLEAN AIR CO-MANAGEMENT FOR HEALTH AT THE PROVINCIAL LEVEL

Section 54. Each province shall have a Provincial Joint Committee for clean air for health.

The composition and the procedure to establish the Provincial Joint Committee for Clean Air for Health shall be in accordance with as determined by the Regulatory Committee. The Changwat (Provincial) governor shall be chairperson and the members must at least consist of representatives from the local administration organization, community organization or civil society sector, university, and an expert who is domiciled in the co-management area. The above-mentioned representative should constitute no less than two-thirds of the total members of the Provincial Joint Committee for Clean Air for Health.

Unofficial Translation

Section 55. The qualifications, terms for holding office, terms for termination, meeting procedure, voting process including in carrying out functions of the committee under section 54, shall be in accordance with the rules as determined by the Regulatory Committee.

In any meeting if any matter under consideration poses any direct conflict of interest with any committee member, the affected committee member shall have to be secluded from attending the meeting and not express any opinion.

Section 56. In case a member the Provincial Joint Committee for Clean Air for Health, under section 55, vacates office, the Provincial Joint Committee shall proceed to fill this vacancy and this shall be completed within ninety days from the date that the abovementioned member vacates office. During the appointment period, the Provincial Joint Committee for Clean Air for Health shall consist of the existing committee members.

Section 57. Committee members of the Provincial Joint Committee for Clean Air for Health shall hold office for a term of three years, and may be reappointed but for not more than two consecutive terms.

Section 58. The Provincial Joint Committee for Clean Air for Health shall have the following authority and duties:

(1) to prepare the master plan for the management of clean air for health at the province and to propose to the Regulatory Committee for approval;

(2) to establish the criteria to monitor and follow up on the government agencies in carrying out the prevention, resolution, and remedial measures in order to have clean air for health in those provincial areas, as per the scope and guideline as determined by the Regulatory Committee;

(3) to consider and provide recommendation to the Regulatory Committee on the solution of air quality for health and the management of clean air for health in the provincial areas;

(4) to coordinate with the relevant government agencies in law enforcement or policy implementation in the co-management of clean air for health;

Unofficial Translation

(5) to support and promote public awareness on the co-management of clean air for health in the provincial areas;

(6) to supervise and regulate the establishment of air quality data monitoring systems in each province and to support the development of air quality data monitoring system within civil society;

(7) to perform other functions as assigned by the Joint Committee or the Regulatory Committee.

Section 59. The Provincial Joint Committee for clean air for health shall regulate the operation of the government agencies in the co-management of clean air for health in provincial area including to continuously follow up and monitor the air quality problems in the provincial areas. The Provincial Joint Committee for clean air for health shall submit a report to the Regulatory Committee at least once a year.



PART II THE CO-MANAGEMENT OF CLEAN AIR FOR HEALTH AT THE LOCAL LEVEL

Section 60. In order to ensure that every person has the right to breathe clean air for health under Chapter 2, the local administration agencies shall have the duties to manage clean air for health by taking into consideration the prevention and resolution of air quality problems, which include remedial medical measures for the public especially those for vulnerable groups who may have possible health impact due to air quality problems.

The Regulatory Committee, with approval of the Joint Committee, shall announce the duties of the local administration agencies under paragraph one, that includes setting the criteria and procedures to access budgetary support, resource, tools, and knowledge to support the local administration agencies to be able to manage the clean air for health and to cooperate with civil

Unofficial Translation

society, the private sector, educational institutions and communities so as to enable the general public to access to the right to breathe clean air for health.

Section 61. The government agencies, who have the relevant authority to supervise and regulate air quality and to provide remedial public health support, shall cooperate with the local administration agencies in order to perform their functions under this Act as per the criteria, procedures, and conditions as determined in the ministerial regulation by the Minister, with the recommendation from the Joint Committee.

In case any local administration agencies deems it appropriate to cooperate with other local administration agencies or educational institutions in their area, for the benefit to supervise and regulate the air quality and to remediate public health impact, the local administration agencies shall execute a joint agreement, as per the criteria and procedures determined by the Regulatory Committee.

Section 62. The Administrators of the local administration agencies have the duty to notify the public should monitor air quality data system in their responsible area become lower than the air quality index or air quality health index, and the Administrator of the local administration agencies shall notify to the Joint Committee for clean air for health at the provincial level.

The Regulatory Committee shall determine the applicable notification level under paragraph one.

Section 63. Should the provision of the local administration agencies be in conflict with or in contrary to the issued ministerial regulation, such ministerial regulation shall prevail, except when there is necessity or special reason applicable to the specific local area, then the local administration agency may issue local provisions that are in conflict with or contrary to the issued ministerial regulation, as approved by the Joint Committee and authorized by the Minister.

PART III

CO-MANAGEMENT OF CLEAN AIR FOR HEALTH IN SPECIFIC AREA

Section 64. In cases of clean air quality problems in any area which impact or may possibly impact on public health and the environment, the Joint Committee shall have the authority to issue a Royal Decree to determine the specific area to co-manage clean air for health, and to appoint the Joint Committee for clean air co-management for health in the specific area to resolve the problem on a temporary basis until the problem has been fully resolved.

The Joint Committee shall consider and review the specific area under paragraph one, annually. If the Joint Committee is of the view that the specific area has changed, the committee shall be able to revoke or amend such announcement or determine additional measures to prevent and resolve the problem or rehabilitate that specific area as appropriate.

Private organizations or private environment and public health development agencies, the local administration agencies, educational institutions, or civil society have the right to propose solutions to the Joint Committee to determine the specific area as per paragraph one.

Section 65. In considering whether there is toxic haze which impact or may impact on public health and the environment in each area, the following factors shall be taken into consideration:

(1) The areas where the annual average air quality index or the air quality health index is lower than the standard as per announced and determined by the Regulatory Committee;

(2) The areas where the air quality index or the air quality health index reaches a crisis level as determined by the standard as per announced and determined by the Regulatory Committee;

(3) The areas where there are patients who fall within the vulnerable groups and where symptoms of respiratory illness caused by toxic haze exceed the minimum level as per the standard announced and determined by the Regulatory Committee.

Unofficial Translation

Section 66. The composition and procedures to form the Joint Committee for clean air for health in specific area shall be in accordance with (the criteria) as determined by the Regulatory Committee. This Joint Committee shall consist of at least representative from the local administration organization, community organization or civil society, university, and experts who are domiciled in the co-management area. Representatives from the above-mentioned groups will comprise of not than two-thirds of the total Joint Committee for clean air for health in the specific area.

Section 67. The qualifications, terms for holding office, terms for expiration, meeting procedure, voting process including in carrying out functions of the committee, under section 64, shall be in accordance with the rules as determined by the Regulatory Committee.

In any committee meeting, if any matter under consideration poses any direct conflict interest with any committee member, the affected committee shall have to be secluded from attending the meeting and not express any opinion.

Section 68. The Joint Committee for clean air for health for the specific area shall have the following duties and authority:

- (1) to appoint a working group to resolve the air quality problem which has an impact on (public) health in that specific area;
- (2) to prevent any person who has a vested interest or to grant a permission to any person to enter into that specific area;
- (3) to determine allowable activities or set impermissible activities to be undertaken or to prescribe measures to resolve and prevent air quality problems that cause with health impacts so that their dispersion will be limited;
- (4) to determine the rehabilitation measures during and after the occurrence of air quality problems that causes health impact;
- (5) to develop the operational plans to reduce and eliminate air quality problems that causes health impact in the specific area;

Unofficial Translation

(6) to perform any function which helps to create solutions to air quality problems that causes health impact

The operational plan to reduce and eliminate air quality problem that causes health impact in the specific area under (5) shall be in accordance with the criteria and procedures as determined by the Regulatory Committee;

Within the specific area the Local Official shall have the authority to order any person who create the air quality problems that causes health impact to cease such action, or to take any action to support the supervision, reduction, elimination of the air pollution and rehabilitation of the air quality within a period of time as determined.

Section 69. The Joint Committee for clean air for health for the specific area shall regulate and follow up on the operation according to the operational plan to reduce and eliminate air quality problem with health impact in the specific area. If the Changwat (Provincial) governor and the administrator of local administration agencies take no action within a reasonable time, the Joint Committee for clean air for health for specific area shall report to the Regulatory Committee to consider and prescribe additionally measures as appropriate.

CHAPTER VI

ECONOMIC MEASURES AND INSTRUMENTS FOR CLEAN AIR

PART I

CLEAN AIR FOR HEALTH FUND

Section 70. There shall be a fund called “Clean Air for Health Fund” under the purview of the CAHO to be used as working capital to cover expenses to assist, subsidize, develop, promote, support, protect, remedy, rehabilitate, prevent or manage the toxic haze problem and its related health impact in an integrated manner. This includes the cost of office administration

Unofficial Translation

service and the operations related to the management of clean air for health under this Act. The Fund shall consist of the following monetary and asset:

- (1) initial monetary support as allocated by the Government;
- (2) monetary contribution into the Fund collected under section 72;
- (3) fees from the management of toxic haze collected under 95;
- (4) money received from economic measures and instruments for clean air;
- (5) money received from fines, compensation or compensation received from lawsuit under this Act to be remitted as contribution towards the Fund;
- (6) other money authorized by this Act to be remitted as contribution towards the Fund;
- (7) monetary support from the Government or annual Government budgetary appropriation as necessary;
- (8) money or other property received from domestic or foreign private sector, foreign governments, or international organizations; this includes those given grants as well as those requiring repayment with interest;
- (9) fees, maintenance fees, remuneration, service fees or income from the Fund's operation;
- (10) money from legal fruit or benefits accruing from assets of the Fund;
- (11) other money received to enable the Fund to achieve its objectives.

The CAHO shall retain money and property of the Fund and be responsible for the Fund disbursement in accordance with this Act.

With regards to the money and property, under paragraph one, the CAHO shall be the owner for achieving the Funds objective. Additionally, the revenues of the Fund are not required to be remitted as State income.

Unofficial Translation

Section 71. Fund disbursements shall be made for the following purpose:

(1) as expenditures to prevent, monitor, supervise, and maintain healthy air quality in a sustainable way;

(2) as expenditures for the treatment, mitigation, elimination and management of toxic haze;

(3) as expenditures for the rehabilitation and remediation of air quality and general ecological damage;

(4) as expenditures to assist, subsidize, support or promote the participation of communities or vulnerable groups in the prevention, monitoring and management of toxic haze problem;

(5) as compensation and remediation for special injury inflicted upon an individual, vulnerable groups, communities or organizations impacted by toxic haze, in case the compensatory damages have not been received from the person who has duties and responsibilities to undertake this under the law;

(6) as expenditures to fully cover the costs to pursue civil, criminal (and), administrative prosecutions and in any proceedings, this includes the costs for compensation or damages, related to clean air for health. Additionally, this also includes all expenditures to enforce court orders until completion and to also cover litigation costs to assist the general public;

(7) as expenditures to conduct research including to assist, subsidize or support research work on clean air for health;

(8) as expenditures to assist, subsidize, support or promote the strengthening of civil society in the area of clean air for health;

(9) as expenditures related to economic measures and instruments for clean air under this Act or those announced subsequently;

Unofficial Translation

(10) as working capital, assistance funds or subsidy for the investment and operation of government agencies, private sector, or international organizations to prevent, resolve, manage toxic haze problem and the consequential health problem caused by toxic haze.

(11) as expenditures to support international cooperation or international organizations to encourage, support and call for nations in the ASEAN region and other nations to cooperate in managing trans-boundary toxic haze in a sustainable way, this includes costs to attend international conferences to reach an agreement or international protocol on the issue of trans-boundary toxic haze and clean air for health and to encourage the efficacy of law enforcement;

(12) as loan for projects or activities to control or reduce the release of toxic haze to prevent the endangerment of public health, as proposed by the government or the private sector;

(13) as expenditures to assist, subsidize, or support insurance coverage costs against loss or insurance against loss related to toxic haze and issues related to clean air for health;

(14) as expenditures to advertise, disseminate data, and undertake public relation campaigns on protecting the public against adverse the health impact from the toxic haze;

(15) as expenditures for salary, wage, remuneration, and meeting allowance for committee, sub-committee, advisors, and officials who perform his or her functions under this Act;

(16) as expenditures to collect monetary payments or to cover for wages or service fees to collect revenue, fees or other money to be remitted to the Fund;

(17) as expenditures for administering the Fund;

(18) as subsidy for the administration of the CAHO, as determined by the Regulatory Committee;

(19) as subsidy or other expenses in any activities related to the management of clean air for health as determined by the Fund Committee, with recommendation from the Measures and Instruments Board Committee and approval of the Regulatory Committee;

Unofficial Translation

Criteria, procedures and conditions to allocate money in each account, which include the proportion and spending priorities for the activities under the item (1) to (19) of paragraph one, shall be determined by the Fund Committee.

Section 72. The Fund shall have the authority to collect maintenance fee into the Fund from a person who is obligated to pay excise tax for goods or services which may cause toxic haze and create adverse health impact at the rate of ten percent of tax levied therefrom.

The Regulatory Committee shall have the authority to announce a reduction in the rate of the Fund maintenance fee, under paragraph one, with recommendation from the Measures and Instruments Board Committee.

The announcement of the changes to the Fund maintenance fee rate under paragraph two, shall be published in advance but no later than the 1st of December of every year and shall be effective on the 1st of January of the following year.

In calculating the Fund maintenance fee in accordance with the calculated rate under paragraph one, a fraction of one satang shall be discarded.

Section 73. The goods or services which may cause toxic haze and create adverse health impact, under section 72 paragraph one, shall include:

- (1) oil and oil-based products;
- (2) battery products;
- (3) automobile products;
- (4) motorcycle products;
- (5) marine vessel products;
- (6) fragrance products;
- (7) marble and granite products;
- (8) products that cause depletion of the atmosphere;
- (9) liquor products;
- (10) tobacco products;

Unofficial Translation

- (11) beverage powders or concentrated beverages with sugar in its composition;
- (12) businesses that adversely impact the environment;
- (13) businesses under permission or concession issued by the State;
- (14) other goods and services as determined under law on excise tax.

The Fund Committee shall determine the criteria, conditions, procedures related to the type or descriptions of the goods or services which may cause toxic haze and create adverse health impact under paragraph one, with the approval of the Regulatory Committee.

In case goods or services, which may cause toxic haze and adverse health impacts under paragraph one, are exempted from or not subject to excise tax, the Regulatory Committee, with the recommendation of the Measures and Instruments Board Committee, shall consult with the Excise Department to propose to the Council of Ministers to consider enacting the Royal Decree to determine the types of goods to be subject to excise taxes with immediate effect.

Section 74. For the purpose of collecting and remitting the maintenance fees into of the Fund:

(1) the Excise Department and the Customs Department shall be the authorities to collect the Fund maintenance fees to be remitted as income of the Fund, without having to remit such income to the Ministry of Finance as income of the State, in accordance with the rules of the Minister of Finance;

(2) Fund maintenance fees shall be deemed as a tax, but shall not be accumulated in the tax value calculation.

Section 75. A person who is under the duty to pay excise tax for goods or services which may cause toxic haze and create adverse health impact shall have a duty to also remit Fund maintenance fees according to the rate as determined under section 72, and to do so at the same time as the tax payment in accordance with the rules of the Minister of Finance.

Section 76. In case where a person under duty to pay excise tax for goods or services which may cause toxic haze and create adverse health impact are exempted from this duty or

Unofficial Translation

receive tax refund, such person shall also be exempted or receive refund for the Fund maintenance fees in accordance with the rules of the Minister of Finance.

Section 77. In case where a person who is under the duty to remit Fund maintenance fees fails to do so or remits after the specified time period has lapsed or remits an incomplete amount, in addition to having committed an offence under this Act, such person shall pay an additional surcharge amount at a rate of two per cent per month of the amount of money that has not been remitted or remitted after the specified period of time or on the shortfall Fund maintenance fee amount that has yet to be remitted, as the case may be, as from the date the payment is due until the date the fees are remitted. However, the additional amount calculated shall not exceed the amount of total Fund maintenance fee owed and it shall also be deemed as part of the Fund maintenance fee.

In calculating the period of time under paragraph one, a fraction of a month shall be counted as one month.

With regards to the surcharge amount under paragraph one, the Regulatory Committee, with the recommendation of the Measures and Instruments Board Committee, shall have the authority to announce the reduction in the surcharge amount according to economic and societal circumstances and this shall be published in the Government Gazette.

Section 78. There shall be a committee called the “Fund Committee for Clean Air for Health” to comprise of not more than five persons appointed by the Regulatory Committee, and shall consist of at least one qualified member with knowledge and expertise in each of the following areas: public sector economics, public finance law or public law or budgetary law, and accountancy. Additionally, one of the CAHO Deputy Director shall be appointed as the secretary and the Fund’s official shall be appointed as assistant secretary

The selection of the qualified committee members shall be in accordance with the criteria, procedures and conditions as determined by the Regulatory Committee.

Unofficial Translation

Section 79. The qualifications, terms for holding office, terms for expiration, meeting procedure, voting process including in carrying out functions of the committee, under section 78, shall be in accordance with the rules as determined by the Regulatory Committee.

In the committee meeting if any matter under consideration poses any direct conflict interest with any committee member, the affected committee shall have to be secluded from attending the meeting and not express any opinion.

Section 80. The Fund Committee shall have the authority and duties to supervise and monitor the Fund to operate in accordance with the objectives as determined in section 70, such authority and duties shall include:

(1) to determine the management policies, to manage the operational expenses of the Fund and to approve the operational plan of the Fund;

(2) to approve the annual operational plan, the expenditure plan and annual budget plan of the Fund in cooperation with the Measures and Instruments Board Committee. The Funds expenditure plan shall be in accordance with the policy, operational plan, and annual strategy plan on the management of economic measures and instruments for clean air as determined by the Measures and Instruments Board Committee under section 93;

(3) to determine the criteria and procedures of allocating money to support activities in various areas;

(4) to fundraise;

(5) to supervise and monitor the general operation and administration of the Fund, as well as to issue Fund rules or by-laws in the following areas:

(a) internal division of work within the Office of the Fund and the scope of duty for each division;

(b) qualifications and disqualifying criteria of the manager and the selection criteria for the manager;

Unofficial Translation

(c) the specification of positions, formulation of specific qualifications for the officials and employees of the Fund;

(d) to determine the salary, wages and other remuneration for the officials and employees of the Fund;

(e) the selection, recruitment, appointment, discharge, disciplines and disciplinary penalties to be imposed, dismissal from position, means for receiving complaints and penalty appeal against officials and employees of the Fund, including procedures and conditions for employee hiring;

(f) the administration and management of finance, procurement and assets of the Fund including accounting and asset write-off;

(g) the provision of welfare and other benefit to officials and employees of the Fund;

(h) the scope of the authority and duties and rules relating to the role of the internal auditor;

(6) to present an annual report and views to the Regulatory Committee and the Joint Committee in accordance with the objectives of the Fund;

(7) to perform any other tasks which are necessary or must be continued in order to achieve the objectives of the Fund.

The Fund Committee may appoint sub-committees to consider and to perform any other task as delegated by the Fund Committee.

Section 81. The CAHO Director shall be the representative of the Fund to execute any activities and shall have the following authority and duties:

(1) to administer activities of the Fund to be in accordance with the law and objectives of the Fund;

Unofficial Translation

(2) to study, analyse and assess the performance of the Fund, including to present targets, work plans, projects, annual operational plans of the Fund, and financial and annual budgetary plans to the Fund Committee;

(3) to prepare a report and financial accounts of the Fund and to present the performance annually;

(4) to supervise and monitor the performance of officials and employees of the Fund in accordance with the rules and by-laws;

(5) to perform any other task as delegated by the Fund Committee.

Section 82. The accounting of the Fund shall be prepared pursuant to international principles under the system and criteria will be as determined by the Fund Committee.

Section 83. The Fund must arrange for internal audit of the finances, accounting and procurement of the Fund, as well as, report the result of the audit to the Fund Committee at least once a year.

In an internal audit, an official of the Fund shall be the internal auditor and shall be directly responsible to the Fund Committee pursuant to the rules as determined by the Fund Committee.

Section 84. The Fund shall prepare financial statements which shall include at least balance sheet and accounts required by the auditor to be submitted within one hundred and twenty days from the end of every fiscal year.

Annually, the Office of the Auditor-General or an external auditor, as appointed by the Fund Committee with the approval of the Office of the Auditor-General, shall conduct an audit and evaluate the expenditure and asset of the Fund and shall opine on whether the expenditures are in accordance with the Fund's objectives, are cost-effective and have achieved the intended objectives, and to prepare the audit report to present to the Fund Committee.

In this regard, the auditor shall have the authority to examine accounting records and documents and evidence of the Fund, to question the internal auditor, officials and employees

Unofficial Translation

of the Fund, and to call on additional accounting records and documents and evidence of the Fund as is deemed necessary.

Section 85. The Fund shall prepare an annual report to present to the Council of Ministers, the House of Representatives and the Senate for consideration within one hundred and eighty days from the end of the fiscal year. Such report shall include the performance of the Fund during the previous year, including financial statements and the audit report.

PART II

THE MANAGEMENT OF ECONOMIC MEASURES AND INSTRUMENTS FOR CLEAN AIR

Section 86. Economic measures and instruments for clean air include measures and instruments to create, increase or reduce the economic incentives or change a person or a group's economic behaviors for the purpose to prevent, treat, eliminate, or reduce toxic haze or to encourage clean air for health. These measures and instruments shall include, but are not limited to, the following:

- (1) clean air for health tax;
- (2) maintain fee revenue for the clean air for health fund;
- (3) management fees for toxic haze;
- (4) deposit-refund measures;
- (5) formulation and assignment of the right to emit toxic haze;
- (6) risk insurance for ecological damages that worsen air quality;
- (7) measures to subsidize, support or encourage people or activities to bring about clean air for health;
- (8) other instruments and measures determined by the Regulatory Committee, with the recommendation of the Measures and Instruments Board Committee.

Unofficial Translation

Section 87. There shall be a committee called the “Economic Measures and Instruments Board Committee for Clean Air” This one committee shall comprise not more than seven persons appointed by the Regulatory Committee, consisting of at least one qualified member with knowledge and expertise in following areas: public sector economics, environmental engineering, environmental health, and environmental law. Additionally, the clean air for health Fund manager shall be the Committee member and Secretary.

Section 88. The qualifications, terms for holding office, terms for expiration, meeting procedure, voting process including in carrying out functions of the committee, under section 87, shall be in accordance with the rules as determined by the Regulatory Committee.

In the committee meeting if any matter under consideration poses any direct conflict interest with any committee member, the affected committee shall have to be secluded from attending the meeting and not express any opinion.

Section 89. Economic Measures and Instruments Board Committee under section 87 shall have the following authority and duties:

(1) to determine policy, operational plan, and annual strategy plan related to the management of the integrated economic measures and instruments for clean air for health with cooperation of the Fund Committee;

(2) to propose policy and provide advice to the Regulatory Committee to announce additional measures and economic instruments for clean air;

(3) to consider determining the criteria, conditions, procedures, types, and categorization of the goods or services that are required to remit maintenance fees into the Fund, this includes the rate of the Fund maintenance fees under the law on excise tax to propose to the Regulatory Committee to determine, as the case may be;

(4) to consider determining the measures of clean air for health tax or toxic haze management fees to propose to the Regulatory Committee and Joint Committee in order to

Unofficial Translation

submit to the Council of Ministers for approval. This will enable the authorized government agencies to announce these tax measures or fees that relates to clean air for health.

(5) to consider determining the toxic haze management fees rate of the and to ascertain the types, categorization, nature and criteria on the source of the toxic haze that are required to pay this fees. This would include the establishment, business, activities, person or a group of people who are required to pay the fees, as well as, the regulations, rules, other relevant guidelines on the toxic haze management fees rate to propose to the Regulatory Committee to announce and formulate the subsidiary legislation that would be in accordance with the objectives of this Act;

(6) to consider determining the criteria, conditions, procedures, operational details related to each economic measures and instruments;

(7) to present, convene a joint meeting, or prepare the memorandum of understanding with the Fund Committee in order to approve expenditures for relevant economic measures and instruments to achieve efficacy in accordance with the objectives of the Fund;

(8) to seek cooperation, coordinate, consult or propose economic measures related to clean air tax or management fees for toxic haze between the Excise Department, Revenue Department, Customs Department, local administration organizations, or relevant government agencies on the efficacy in implementing economic measures and instruments to manage toxic haze;

(9) to follow up, supervise, coordinate, support, accelerate the operation and assessment on the use of integrated economic measures and instruments for clean air for health;

(10) to consider issuing announcements or rules related to economic measures and instruments under this Part;

(11) to appoint qualified members with expertise to be advisors to the Measures and Instruments Board Committee;

Unofficial Translation

(12) to appoint sub-committee to consider or perform duties as delegated by the Measures and Instruments Board Committee;

(13) to perform any other task as delegated by the Regulatory Committee or the Joint Committee or in accordance with the objectives of this Act.

Section 90. The Chairperson, members of the Committee, advisors and members of the sub-committee shall receive meeting allowances or other remuneration pursuant to the criteria as determined by the Regulatory Committee.

Section 91. In the performance of their duties the Measures and Instruments Board Committee under this Act, with the approval of the Regulatory Committee, shall have the authority to invite representatives from any agencies or any person from the government and the private sector to present the facts or express their views and this includes to requesting such person to provide any document or relevant information to support the abovementioned review.

A. CLEAN AIR TAX AND SUBSIDY OF THE FUND

Section 92. The Regulatory Committee, with the recommendation of the Measures and Instruments Board Committee, shall communicate, coordinate, consult, seek cooperation, or propose to the Ministries, Departments or government agencies or government units, whose duties are to collect all types of clean air tax, to jointly determine the guideline on the implementation of tax measure whether to increase, or reduce or exempt taxes in order to achieve clean air for health.

The clean air tax under paragraph one includes all types of taxes which are either additionally levied, reduced, or exempted for any person, a group of people, establishment, business or activities under this law or other laws for the purpose to promote clean air for health.

Section 93. In case the proceedings under section 92 are not able to be achieved within a period of two-consecutive quarters, the Joint Committee, with recommendation from the

Unofficial Translation

Regulatory Committee and the Measures and Instruments Board Committee, shall have the authority to propose to the Council of Ministers to consider issuing Ministerial Regulations, Royal Decrees or Royal ordinance related to the tax measures for clean air by virtue of the law on each type of taxes, in order to manage economic instruments and measures to achieve clean air objectives.

Section 94. Unless otherwise specified, the Measures and Instruments Board Committee shall have the authority to determine the criteria, conditions, other procedures so as to ensure the remittance of the maintenance fee revenue occurs in an orderly manner and to achieve the objectives of the management of economic instruments and measures for clean air under this Act.

B. MANAGEMENT FEES FOR TOXIC HAZE

Section 95. An owner or an occupier of the sources of toxic haze shall have the duty to remit the toxic haze management fees as service fees to treat or manage toxic haze. Such management fees are collected from the occupier of the sources of toxic haze and shall include money collected for the use of public services for the toxic haze management which the government agencies or those licensed by the State have provided.

The criteria, conditions, procedures and the toxic haze management fees rate under paragraph one, shall be in accordance with the ministerial regulations, with recommendation from the Regulatory Committee.

Section 96. The sources of toxic haze which shall have to remit fees under section 95 include:

- (1) Fuel combustion engines for all types of vehicles;
- (2) Urban development and construction projects carried out by government entities;
- (3) Agricultural activities including open-air biomass burning;

Unofficial Translation

- (4) Private construction projects;
- (5) Mines;
- (6) Other toxic haze sources determined by the Regulatory Committee;

The criteria, conditions and nature of the sources of toxic haze under paragraph one, shall be in accordance with the specification and announcement by the Regulatory Committee.

Section 97. In setting the fee rate under ministerial regulations under section 95 paragraph two, due consideration should be given to the costs and expenses in the treatment and management of toxic haze in the previous year, economic and societal circumstances, and linkage to other economic instruments and measures for clean air. This requires an explanation on the criteria and procedures used as the basis to ascertain the abovementioned fees. Additionally, the public will be notified of this fee rate through publication in the Government Gazette.

The toxic haze management fees rate, as determined in paragraph one, may be determined differently in each toxic haze area based on topography, climate, environment, economy, and society or any other relevant factors.

Section 98. For the purpose of collecting and remitting toxic haze management fees, the government agencies shall be under duty to regulate the sources of the toxic haze which shall remit the fees under this law. The government agencies shall have the authority to collect money under other laws and shall be authorized to collect the toxic haze management fees on behalf of the Fund, so as to remit as income of the Fund, without having to remit such income to the Ministry of Finance as income of the State.

The government agencies shall be under duty to collect the toxic haze management fees under paragraph one. The government agencies are entitled to the remuneration for the collection services rendered when the CAHO has received the fees in full.

In case where the government agencies have the duty to collect the toxic haze management fees under paragraph one but fails to remit such fees, the action of these

Unofficial Translation

government agencies shall be deemed as an intended act to refrain from fulfilling their duties as required under the law.

Section 99. In case a person under the duty to remit the toxic haze management fees fails to do so or remit after the specified time period has lapsed or remit an incomplete fee amount, in addition to having committed an offence under this Act, such person shall pay an additional surcharge amount at a rate of two per cent per month of the amount of money that has not been remitted or remitted after the specified period of time or the shortfall toxic haze management fee that has yet to be remitted, as the case may be, as from the date the payment is due until the date the fees are remitted. However, the additional amount calculated shall not exceed the amount of the total owed and it shall also be deemed as part of the toxic haze management fees.

In calculating the period of time under paragraph one, a fraction of a month shall be counted as one month.

With regards to the surcharge amount under paragraph one, the Regulatory Committee, with the recommendation of the Measures and Instruments Board Committee, shall have the authority to announce the reduction of surcharge according to the economic and societal circumstances and this shall be published in the Government Gazette.

C. DEPOSIT-REFUND MEASURE

Section 100. The Regulatory Committee, with recommendation of the Measures and Instruments Board Committee, shall have the authority to specify and announce the criteria, conditions, procedures to collect surcharge applicable to goods once they have been transferred in accordance with the deposit-refund measure under this Act.

The deposit-refund measure includes measures to apply surcharge from the transferee of any goods which may impact clean air for health based on the type, categorization and nature of

Unofficial Translation

the goods. In addition, the collection rate of the surcharge is in accordance with the announcement determined by the Regulatory Committee and the refund will be paid once those goods have been returned or disposed of, pursuant to criteria and procedures as determined by the Government Gazette.

Section 101. For the benefit of complying with the deposit-refund measure, the Regulatory Committee, with recommendation of the Measures and instruments Board Committee, shall have the authority to order and delegate government agencies to regulate the transfer of the goods based on the type, categorization or nature of the applicable surcharge collection under section 100. The government agencies shall have the authority to collect the surcharges when goods are transferred and the refund returned to the transferee based on the set terms duly announced. This is carried out so as to achieve the objective and improve the efficacy of the deposit-refund measure.

The government agencies delegated to collect surcharges and refund money under the deposit-refund measured as per paragraph one, shall be entitled to receive their remuneration for undertaking this duty once the CAHO has received the surcharge collection report and confirmed that money was received and refunded in accordance with rules determined by the Regulatory Committee.

D. RIGHTS DETERMINATION AND THE ASSIGNMENT OF TOXIC HAZE RELEASE

Section 102. In order to have environmental justice in delineating the benefits of clean air and in restricting the quantity of toxic haze in the Kingdom, the Regulatory Committee, with recommendation from the Measures and instruments Board Committee, shall have the authority to consider and determine the system of rights determination and the assignment of toxic haze release to be implemented across the Kingdom or for other areas to be specified.

Unofficial Translation

The criteria, conditions, and procedures related to determining rights and the assignment of toxic haze release under paragraph one, shall be in accordance with the announcement determined by the Regulatory Committee.

Section 103. In order for the system of rights determination and the assignment of toxic haze release to achieve the objectives under section 102, the Regulatory Committee, with the recommendation of the Measures and instruments Board Committee, shall have the authority to order and delegate government agencies to regulate activities that cause toxic haze. The delegated government agencies are able to carry out any matters with the owners or occupier of the toxic haze sources to utilize the system of right determination and the assignment of toxic haze release.

The government agencies under the duty to implement the system of rights determination and the assignment of toxic haze release under paragraph one, shall be entitled to remuneration as per the rate determined by the Fund Committee.



E. INSURANCE FOR DAMAGES

Section 104. The Regulatory Committee, with recommendation from the Measures and instruments Board Committee, shall have the authority to determine the insurance for damages for the possible impact on environment, health, loss of life, or property impairment caused by activities that risk being the point-source of toxic haze as determined in the Government Gazette.

In case of activities that risk being the sources of the toxic haze that cause damages to the environment, health, loss of life, property impairment and insurance has been provided under paragraph one, the insured shall pay initial compensation to the injured person or government agencies or private agencies delegated by the State to provide assistance, relocation, treatment, mitigation, or abatement of the damages incurred.

Unofficial Translation

The amount, maintenance, and disbursement of the initial compensation under paragraph one, shall be in accordance with the criteria, conditions, and procedures in the announcement determined by the Fund Committee.

The initial compensation, which the government agencies received from the insured to provide assistance, relocation, treatment, mitigation, or abatement of the damages incurred, shall not be remitted to the Ministry of Finance as income of the State.

Section 105. For the benefit of complying under section 104, the Regulatory Committee, with the recommendation of the Measures and instruments Board Committee, shall have the authority to order and delegate government agencies to regulate risk activities related to the sources of toxic haze. The delegated government agencies shall order the owner or occupier of the sources of toxic haze to provide insurance for damages as determined by the Regulatory Committee or any undertaking to provide the insurance for damages.

F. ENCOURAGEMENT MEASURES, SUPPORT AND OTHER MEASURES

Section 106. The Regulatory Committee, with recommendation from the Measures and instruments Board Committee, shall have to the authority to specify and announce criteria, conditions, and procedures on measures to assist, subsidy, support, or promote a person, a group of people, juristic person, organization, government agencies or activities related to any proceedings for clean air for health under this Act as published in the Government Gazette.

Section 107. In order to achieve the objectives of clean air management for health under this Act, the Regulatory Committee, with recommendation of the Measures and Instruments Board Committee, shall have the authority to determine instruments or any other measures to increase or reduce economic incentives or to change economic behavior of a person or a group of people for the purpose of preventing, treating, remaining or reducing toxic haze or to encourage clean air

for health through the use of this Fund in line with the Fund's objectives as published in the Government Gazette.

CHAPTER VII TRANS-BOUNDARY TOXIC HAZE

Section 108. Any person, who is the owner or occupier of the source of toxic haze outside the Kingdom of Thailand, cause or is the source of leakage or spread of the toxic haze into the Kingdom of Thailand that caused damaged to the environment or endanger the health of the people in the Kingdom of Thailand, such person shall be liable to a fine not exceeding two million baht and to a daily fine not exceeding one million baht. The total maximum fine will not exceed fifty million baht.

In case of toxic haze in Thailand, which the Director of the CAHO has notified in writing or has widely announced through public media under section 115, the owner or the occupier of the source of toxic haze, under paragraph one, has undertaken all matters to prevent or abate the toxic haze from leaking or spreading into the Kingdom of Thailand, and the owner or the occupier of the source of toxic haze has proved that all possible steps have been taken to prevent, reduce, or spread of this toxic haze. However, the toxic haze is still leaking and spreading into the Kingdom of Thailand, therefore the owner or the occupier of the source of toxic haze shall be liable to a fine not exceeding two million baht and a daily fine not exceeding five hundred thousand baht. The total maximum fine will not exceed fifty million baht.

Section 109. Any source of toxic haze located outside the Kingdom of Thailand that causes toxic haze to leak or spread into the Kingdom of Thailand resulting in environmental damages or adverse health impact on the people in the Kingdom of Thailand, the owner or the occupier of this source of toxic haze shall be responsible for compensation or damages regardless of whether the toxic haze leakage or spread is caused intentionally or through negligence by the

Unofficial Translation

owner or the occupier of the source of toxic haze, unless it is proven that such toxic haze was caused by a natural phenomenon or through inadvertent or unavoidable war, or is unpreventable through human activity.

Compensations or damages under paragraph one, which the owner or occupier of the source of toxic haze is under duty and responsibility under paragraph one, apart from the expenses which the owner or the occupier of the source of toxic haze shall be responsible for to the affected person, it shall also include all expenses related to the treatment, abatement, remediation and rehabilitation for healthy clean air, and for losses or economic damage to the Thai general public and to the Kingdom of Thailand.

Section 110. For the benefit to investigate, inquire, seek witnesses and evidence outside the Kingdom to prosecute for offences under section 108 and 109, it shall be presumed that:

(1) An owner or an occupier of an area that is on fire – be it buildings, industrial factories, agricultural area or forest situated outside the Kingdom of Thailand - that is causing the toxic haze into the Kingdom of Thailand based on satellite imagery, data wind speed and information from the Meteorological Department, is deemed to be the owner or occupier of the source of toxic haze that leaked or spread into the Kingdom of Thailand, unless proven otherwise;

(2) the increase over the air quality index standard or the air quality health index in the Kingdom of Thailand at or about the time of the offence that cause toxic haze to leak or spread into the Kingdom of Thailand under (1) is sufficient to deem that there is environmental damages or adverse health impact on the people in the Kingdom of Thailand, without having to investigate any other damages, unless to prove the value of the damage incurred that offender shall be responsible for to recompense the injured party.

(3) documented evidence formally issued by foreign government agencies include information on personal data, juristic person, or people or juristic person's property, as well as, national identification card, data copy of household registration, the company's affidavit, evidence

Unofficial Translation

of land ownership or occupation, map photo or any accurate and reliable documents, unless proven otherwise.

Section 111. A supporter or an instigator of the offender, employer, anyone who hires him or her to commit the offence, or a person who participates directly or indirectly in the offence, whether inside or outside of the Kingdom of Thailand, shall be jointly responsible for the offence under section 108 and section 109. This is unless such person can prove that he or she, has undertaken every means to defense, dissuade, or obstruct the offence from taking place, however, the offender nonetheless still opts to proceed ahead.

The exemption of the offence under paragraph one, which shall not be proven otherwise, if the offender is an employee, hired person, agent, representative of the juristic person, or any person with vested interest whether directly or indirectly in carrying out any activities for the owner or occupier of the sources of toxic haze.

Section 112. Where the offender is a juristic person, if the offence derives from an order or action of a director or the manager or any responsible person for the abovementioned entity, or where the action causes the juristic person to be in violation, the offender shall be liable for the compensation or damages prescribed for the offence.

Section 113. An offence under section 108 and section 109 shall be deemed as having been committed within the Kingdom of Thailand and the civil, criminal or administrative court shall have the jurisdiction over the trial, as the case may be.

Section 114. An injured person or a person who may be injured has the right to bring suit in court against the offender under section 108 and 109 which shall include:

(1) A person, juristic person, communities, group of people, people who reside in the toxic haze impacted areas during in such period of time which the offence had been committed against any person;

(2) Thai government;

(3) the CAHO;

Unofficial Translation

(4) Director of the CAHO.

To prosecute under paragraph one, shall be deem as prosecution on behalf of every injured person or every person who may be injured from the effect of toxic haze and this includes the authority to seek criminal prosecution and to claim for joint damages on behalf of the injured or those who may be injured.

Section 115. When report on the trans-boundary toxic haze situation has been received, the Director of the CAHO shall be under the duty to notify in writing or to announce through public media to the owner or the occupier of the sources of toxic haze or relevant person, or government agencies of the country where the sources of toxic haze is located or suspect to be the source of toxic haze to immediately implement any preventive measures or to mitigate any toxic haze that has not leaked or spread into the Kingdom of Thailand.

The notification or announcement, under paragraph one, by the Director of the CAHO shall be based on satellite imagery, data on wind speed or information from the Meteorological Department and it shall be deemed to be an act in good faith for the public interest and thereby receive immunity from any civil and criminal prosecution.

Section 116. For the benefit of prosecuting for the offence in this part, the public prosecutor, inquiry official or Director of the CAHO shall have the authority to issue a summons to any relevant person, documented evidence, or any material evidence to the investigation or inquiry, as is necessary, and shall be under duty to coordinate and seek cooperation with agencies, person, juristic person located outside Thailand that include agencies of the Ministry of Foreign Affairs to provide documentation, evidence and witnesses to be presented as part of the prosecution process.

Section 117. The fine under section 108 shall be remitted as Fund maintenance fee without having to remit such income as income to the State.

Unofficial Translation

The compensation or damages that the CAHO has received under section 109 shall be remitted as Fund maintenance fee without having to remit such income as income to the State, and this money can be completely spent on the treatment, abatement, rehabilitation, and remediation of the environment and in the restoration of the health of the people in the impact area as per the conditions, criteria, and procedures as determined by the Regulatory Committee.

Section 118. In the prosecution under section 108 and section 109, there shall be statute of limitation of ten years as of the date that the toxic haze entered into the Kingdom of Thailand based on scientific data that include on satellite imagery, data on wind speed or information from the Meteorological Department.

CHAPTER VIII

PENALTIES

Section 119. Any person who violates or fails to comply with the order of the Prime Minister issued by virtue of section 5 or obstructs any act carried out in compliance with such orders must be punished with imprisonment for a term not exceeding one year or a fine not exceeding one hundred thousand baht, or both.

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

Section 120. A State official, who violates or fails to comply with measures on the prevention, monitoring, supervision, and in maintain healthy clean air environment and in managing air quality problems that adversely impact on public health as determined under this Act, shall deem such action to be an intentional act to omit to perform his or her as legally required.

Unofficial Translation

Section 121. Any person who is under the duty to remit Fund maintenance fee under section 78 and any person who is obligated to pay the toxic haze management fees under section 99 and fails to do so or remits an incomplete amount or fails to pay the fees or pay an incomplete amount of fees, shall be liable to imprisonment for a term of not exceeding one year, or to a fine of five times to twenty times of the fee amount to be remitted, or the fees to be paid.

Section 122. A person who fails to give a statement or to provide any document or material as requested by the Joint Committee or the Regulatory Committee under section 30 or section 39, or fails to provide the facts or opinions or fails to submit any documents or provide any information as request by the Measures and Instruments Board Committee under section 91, such person shall be punished with a fine not exceeding fifty thousand baht.

Section 123. For all offences under this Act, the Commission for Case Settlement shall have the power to determine the amount of the fine. If the Committee for Case Settlement is of the opinion that the accused should not be prosecuted or imprisoned, then the accused has to pay the fine amount within thirty days from the date that the fine was established and the case shall be deemed settled under the Criminal Procedure Code.

In case the inquiry official finds that any person has committed an offence under paragraph one, and such person consents to have the case settled, the inquiry officer shall submit the case to the Committee for Case Settlement within seven days from the date that such person consented to have the case settled. If the accused does not agree with the settlement, or despite having consented but fails to pay the fine within the period under paragraph three, then the case shall be further prosecuted.

Section 124. There shall be a Committee for Case Settlement which consists of the following person:

(1) for the area within Bangkok Metropolitan Administration, representative of the Office of Attorney-General as a chairperson, the representative of the Royal Thai Police Headquarters

Unofficial Translation

and the representative of the Office, as member, and State officials appointed by the Minister as member and secretary;

(2) for the area in other Changwat (Provinces), consisting of Changwat (Provincial) Governor, the Provincial Chief Public Prosecutor as a Chairperson, the Chief of Provincial Police, and the representative of the Office, as member, and State officials appointed by the Minister as member and secretary;

Countersigned by:

.....

Prime Minister

