

FACTORY, PETROLEUM, AND MINING LICENSES

FACTORY OPERATIONS

Under the Factories Act B.E. 2535 (A.D. 1992), factories are divided into three categories:

- Factory Type 1: Factories that may operate immediately as desired by the operator without government notification or approval.
- Factory Type 2: Factories that must notify the Permanent Secretary of the Ministry of Industry before operating.
- Factory Type 3: Factories that must obtain a license before operating.

As of June 2009, the Minister of Industry has issued 35 Ministerial Regulations under the Act. The first prescribes guidelines for 104 categories of factories, the fifteenth sets 2 additional categories of factories, and the sixteenth sets 1 additional category, for a total of 107 categories of factories. The second regulation provides operational rules. The remaining regulations set environmental reporting requirements, various forms, government fees, safety measures, standards and methods of odor inspection, and worker qualifications.

License renewal must be made before the license expiration date. Expansion of a factory by the licensee is prohibited without approval of the Permanent Secretary of the Ministry of Industry.

ENVIRONMENTAL CONCERNS REGARDING SOURCES OF WATER

Certain areas, currently some districts in Ayuthaya and Pathum Thani Provinces, have been assigned by the Cabinet to be reserved as sources of water by the Metropolitan Waterworks Authority. In order to control the establishment or expansion of factories in such areas, regulations have been imposed forbidding setting up or expanding factories which release wastewater containing heavy metals or poisonous substances used in agriculture, or other chemicals such as PCBs, cyanide, arsenic, and phenol.

Factories are forbidden to set up and expand in areas reserved for water supply. The only exceptions are factories which release wastewater with a biochemical oxygen demand of less than one kilogram per day or those which are set up in Navanakorn Industrial Estates I and II.

Under Ministerial Regulation No. 3, factories specified by Ministry of Industry notifications as severely affecting the environment are required to provide environmental impact studies.

PETROLEUM OPERATIONS

The petroleum industry is governed by a different group of Thai laws which specify the regulations for exploration and operation in Thailand or its territorial waters. The petroleum industry is managed by the Department of Mineral Fuels and a Petroleum Committee under delegated authority from the Ministry of Energy. The Petroleum Act B.E. 2514 (A.D. 1971) establishes guidelines for petroleum companies to explore and operate in Thailand. Later, Petroleum Act No. 2 B.E. 2516 (A.D. 1973), Petroleum Act No. 3 B.E. 2522 (A.D. 1979), Petroleum Act No. 4 B.E. 2532 (A.D. 1989), Petroleum Act No. 5 B.E. 2534 (A.D. 1991), and Petroleum Act No. 6 B.E. 2550 (A.D. 2007)

evolved from the original Act and adjusted the requirements to fit changed circumstances in the industry and the world.

The petroleum industry must follow competitive bidding procedures for concession areas, formalize production areas, acknowledge special privileges, and adhere to strict royalty requirements and separate taxation laws. Technical information relating to these topics can be found in the aforementioned Acts. Prior approval must be granted by the Ministry of Energy before any petroleum venture may be commenced. Upon approval, the companies must comply with the Petroleum Acts as well as the rules and regulations of the Petroleum Income Tax Acts.

MINING OPERATIONS

The mining industry is highly regulated by Thai laws addressing exploration and mining projects. The mining industry is under the jurisdiction of the Department of Primary Industries and Mines (DPIM) of the Ministry of Energy. However, the Mining Council is the intermediary between companies and the government. All parties interested in mining must become members of the Mining Council before any business venture is considered.

The mining industry is controlled under the Minerals Act B.E. 2510 (A.D. 1967), as amended by Minerals Act No. 2 B.E. 2516 (A.D. 1973), Minerals Act No. 3 B.E. 2522 (A.D. 1979), Minerals Act No. 4 B.E. 2534 (A.D. 1991), and Minerals Act No. 5 B.E. 2545 (A.D. 2002). The Royal Proclamation Amending the Minerals Acts B.E. 2510 (A.D. 1967), B.E. 2526 (A.D. 1983), and the Royal Proclamation Amending the Minerals Act B.E. 2510 (A.D. 1967), No. 2 B.E. 2528 (A.D. 1985) give further guidance to the mining companies. Interested companies must apply for various exploration and mining licenses. Upon approval for exploration or mining, they must also receive the consent of the owners of the surface rights for which a fee is usually paid. Forestry Department clearance is often required. If actual mining is initiated, the mining companies pay royalties under the Mineral Royalty Rates Act B.E. 2509 (A.D. 1966) and its amendments and are subject to the Revenue Code taxes. The DPIM can provide further information on all mining issues.

Under the Enhancement and Conservation of National Environmental Quality Act B.E. 2535 (A.D. 1992), mining businesses are required to submit environmental impact analysis reports to the Office of Natural Resources and Environmental Policy and Planning under the Ministry of Natural Resources and Environment.