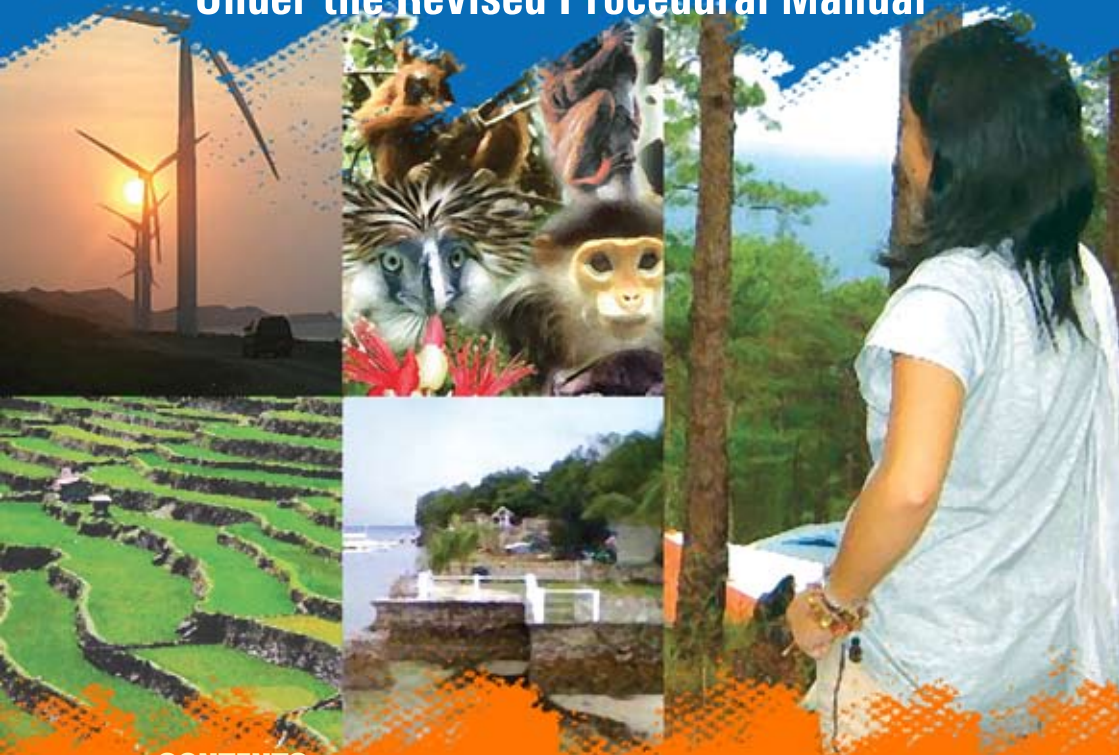


The Role of Government Agencies in the Philippine Environmental Impact Statement System (PEISS): Under the Revised Procedural Manual



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The Role of Government Agencies in the Philippine Environmental Impact Statement System (PEISS)

Under the Revised Procedural Manual

1. The Philippine Environmental Impact Statement System and the Role of National Government Agencies in Environmental Management

In 1977, Section 4 on Environmental Impact Statements of Presidential Decree (PD) 1151, the **Philippine Environmental Policy**, enforces “... all agencies and instrumentalities of the national government, including government-owned or controlled corporations, as well as private corporations firms and entities **shall prepare, file and include in every action, project or undertaking** which significantly affects the quality of the environment **a detailed statement on** (a) the **environmental impact of the proposed action, project or undertaking**, (b) any **adverse environmental effect** which cannot be avoided should the proposal be implemented, (c) alternative to the proposed action, (d) a determination that the short-term uses of the resources of the environment are consistent with

the maintenance and enhancement of the long-term productivity of the same, and (e) whenever a proposal involve the use of depletable or non-renewable resources, a finding must be made that such use and commitment are warranted.”

PD 1586 in 1978 thus established an Environmental Impact Statement (EIS) System. Specifically, Section 2 states “There is hereby established an EIS system founded and based on the EIS required, under Sec 4 of PD 1151,



of all agencies and instrumentalities of the National Government, including Government Owned Companies and Corporations, as well as private corporations, firms and entities, for every proposed project and undertaking which significantly affect the quality of the environment.

The Philippine EIS System (PEISS) is concerned primarily with assessing the direct and indirect impacts of a project on the biophysical and human environment and ensuring that these impacts are addressed by appropriate environmental protection and enhancement measures. It *“aids proponents in incorporating environmental considerations in planning their projects as well as in determining the environment’s impact on their project.”*

In 1991, **RA 7160 or the Local Government Code (LGC)** reiterates the important role of other government agencies (GAs) in environmental management.

The DENR in 1992 felt the urgency to develop an integrated approach towards an effective implementation of the country’s environmental management functions through a formalized interagency collaboration specifically under the Philippine EIS System. A **Memorandum of Agreement (MOA)** with 29 GAs was crafted to (i) incorporate environmental aspects and consider the conditions of the Environmental Compliance Certificate (ECC) into their decision making process, and (ii) required the issuance of an ECC **prior** to the release of permits, licenses and resolutions by the participating GAs.

The LGC, specifically Section 26 “Duty of National Government Agencies (NGA) in the Maintenance of Ecological Balance” and pronouncements under the 1992 Joint MOA are complementary.

Although the permits and licenses of from the LGUs are secured after the ECC, it is the duty of every NGA or GOCC authorized or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover, and extinction of animal or plant species, to consult with the local government units, nongovernmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof. This procedure facilitates the incorporation of the ECC recommendations in the LGU and GA decision-making process.

2. Rationale for the Revised Procedural Manual

The overarching goal in revising Procedural Manual of DAO 2003-30 is “to enhance the effectiveness and efficiency in the implementation of the PEISS.” To this end, the revisions focus on the following salient features:

- Integrates new EMB-DENR policies to further promote Environmental Impact Assessment (EIA) as a planning and decision-making

ing tool under the Philippine Environmental Impact Statement System (PEISS)

- Sets the framework for the inter-agency linkaging necessary for more effective integration of environmental concerns in the implementation of development projects.
- Clarifies how EIA findings may be used / considered in the issuance of permits, clearances, licenses, endorsements, resolutions, and other government approvals.
- Provide more guidance on the scope, requirements, and procedures through self-screening guides, templates, and other pro-forma documents for more organized and standardized EIS system implementation.

3. Purpose of the EIA Process

- To enhance planning and guide decision-making.

- To develop measures of reducing if not totally eliminating adverse environmental impacts of proposed actions.
- To appropriately advise Government Agencies (GAs) and Local Government Units (LGUs) on environmental considerations in their planning and decision-making when proponents apply for permits, clearances, licenses, endorsements, resolutions and other government approvals.
- To form the basis of a covenant on environmental management between proponents and society, through the Environmental Compliance Certificate (ECC) issued by the EMB-DENR.

4. EIA Process within the Project Cycle

In 1996, Malacanang Executive Order 291 and Administrative Order 42 in 2002 direct proponents to ***simultaneously conduct the EIA and the Feasibility Study (FS) of the proposed project in order to maximize the use of resources.***

The integration of the EIS System early into the project development cycle intends to enhance and promote its desired function as a planning tool for sustainable economic development and environmental planning and conservation in order to ensure that national development goals are achieved as planned and without delay.



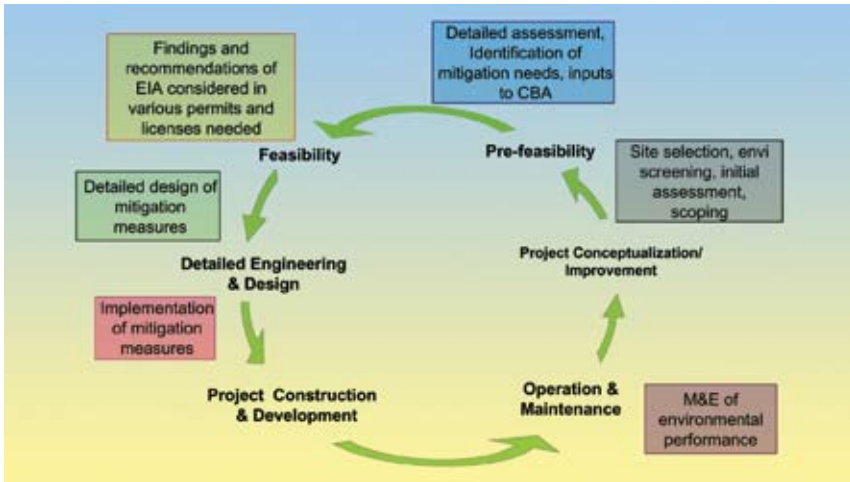


Figure 1. Location of the EIA Process within the Project Cycle

As a planning tool, EIA is initiated at the pre-feasibility stage of the project cycle as an input to the feasibility study and project design (Figure 1).

5. The EIA Requirement Under the PEISS

There are six stages in the generic EIA process (See Figure 2). The proponent initiates the first three stages (see color coding in Legend) while the EMB takes the lead in the last three stages. Public participation is enlisted in most stages.

a) Project Screening – This stage allows the proponent to determine if a project will be subject to the EIA Process and secure an ECC. The requirement to undergo the EIA Process covers undertakings established after 1982, which is covered by any or both of the following:

- Declared through Presidential Proclamations 2146 (1979) and

803 (1999) and technically defined by the EMB-DENR as project types that may pose **significant environmental impact at certain thresholds of operations** (also known as Environmentally Critical Projects or ECPs) regardless of location and/or,

- Located in **environmentally critical area (ECA)** declared through Presidential Proclamation 2146 wherein significant impacts are expected for certain types and thresholds of proposed projects.

For detailed project screening guidance, please refer to the Revised Procedural Manual or the EMB webpage (www.emb.gov.ph/eia).

b) EIA Study Scoping –The EIA Study Scoping as spearheaded by the proponent with guidance from the EMB, generates the needed terms of reference for the EIA Study. The agreed upon scope of the EIA Study is



based on consultations with relevant stakeholders (i.e., affected community, LGUs, etc.) forms the basis of the project proponent in the Preparation and conduct of the EIA Study. The public and concerned agencies are asked to comment on the purpose and need of the project, issues and impacts, and ways to minimize and mitigate impacts. It is important to ensure that representatives of pertinent GAs are present as resource persons during scoping.

c) Conduct of the EIA Study and the Preparation of the EIA Report – The EIA Study is conducted by the proponents and results in a description of the proposed project and its alternatives, characterization of the project environment, impact identification and prediction, evaluation of impact

significance, impact mitigation, and formulation of Environmental Management Plan (EMP). The study results are presented in an **EIA Report**. It is most advisable to secure pertinent secondary data from relevant GAs.



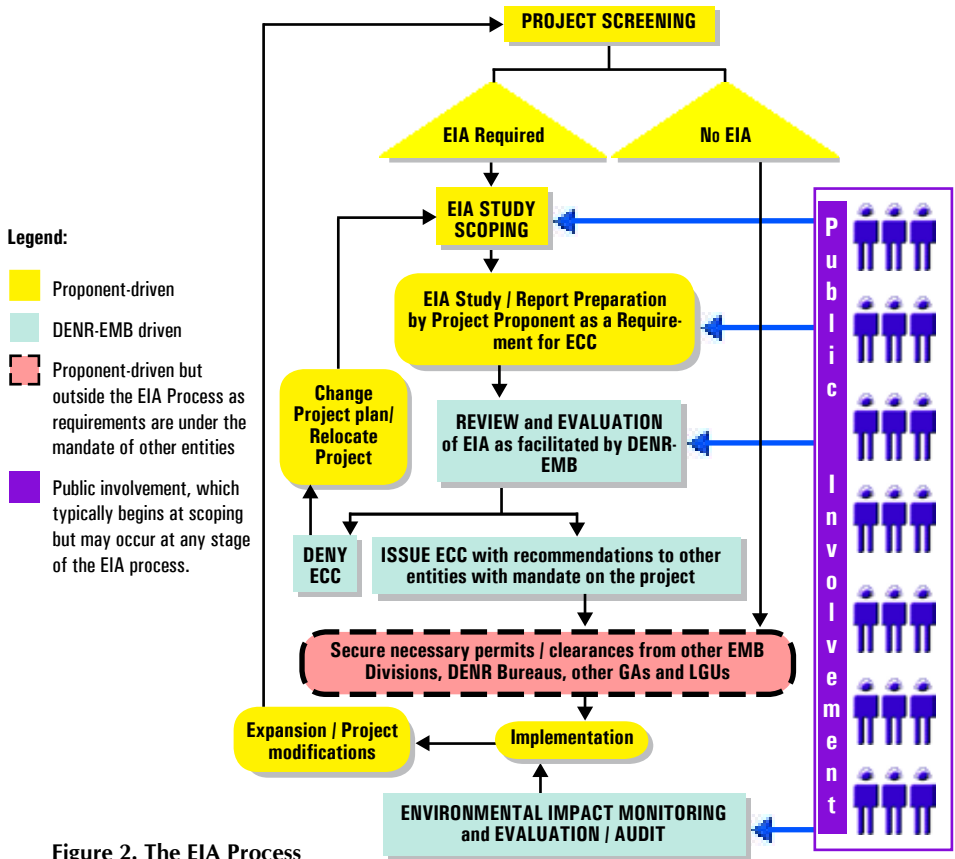


Figure 2. The EIA Process

d) Review and Evaluation – This stage is EMB-led as aided by the Review Committee and GA representatives who are invited as resource persons. The EIA Report is subjected to a review and evaluation and forms part of the documentary requirement for ECC applications, which may be filed either at the EMB Regional or Central Offices, depending on the project type. Particular to ECPs, it

is during this stage of review and evaluation when stakeholders like GAs and LGUs, aside from the proponent and EMB, are enjoined to participate during Public Hearings, Public Consultations, and Site Validations to ensure credible review and evaluation.

e) Decision-Making – At this stage, a decision document is prepared by EMB. Environmental and socio-eco-

Decisions on ECC issuance are based on striking a balance between socio-economic growth and environmental protection.

conomic criteria are utilized to arrive at the decision.

However, primacy of jurisdiction of other GAs are respected and supported. If results of the review and evaluation are positive, RECOMMENDATIONS on the incorporation of the results of the EIA Study to other entities with mandate on the project shall be transmitted for consideration in the processing of other permits/clearances. These entities may be other EMB Divisions, DENR Bureaus and other GAs requiring permits/clearances necessary for project implementation.

f) Environmental Impact Monitoring and Evaluation/Audit – After ECC issuance, the environmental performance of the project is assessed based on compliance to the ECC and EMP commitments. The project proponent monitors compliance to commitments as validated/evaluated by EMB and in some cases, by a Multi-Partite Monitoring Team (MMT).

The DENR-EMB decision to deny or grant an ECC is a delegated authority and could not be further delegated beyond what is stipulated in AO 42. Such is the case of Subic Bay Development Management Authority (SBDMA) with the Supreme Court decision that the delegation of authority by the Secretary DENR to SBDMA is not valid. Hence SBDMA could not issue the ECC.

6. The ECC Requirement and the Requirements of Other GAs

Issues outside the DENR-EMB purview shall be considered and evaluated within the EIA review process **but the resolutions shall be the responsibility of the concerned GA or LGU**. The final decision whether a project will be implemented or not lies either with the LGUs who have spatial jurisdiction over the project or with the lead government agency.

EIA findings are to be viewed as recommendations that provide guidance to GAs and LGUs to their decision making process. The Manual stresses that it is the **EIA findings and recommendations, which shall be transmitted through the ECC for consideration of other GAs and LGUs prior to their issuance of government documents within their respective mandates**.

GAs and LGUs have the option to accept, modify or disregard the recommendations in the ECC. **They will have to justify to the public the basis of their decision pertinent to said recommendations found in the ECC.**

Projects classified as ECPs or located in ECAs established prior to 1982 although not required to secure ECCs, shall be monitored for compliance to other environmental laws as earlier enumerated. Environmental monitoring of projects not required to undergo the EIA Process shall be under the purview of any or all of the following entities:

- **Lead Government Agency**, which has direct jurisdiction over the

project such as:

- Environmental Unit of the DOE for non-covered energy projects,
 - Environmental Unit of the MGB for non-covered mineral mining projects, and,
 - Environmental Unit of the DPWH for non-covered roads and bridges, etc.
- **Other GAs** who may have mandates over the project, e.g., National Operations Center for Oil Pollution (NOCOP) of the Philippine Coast Guard for non-covered offshore energy projects; and,
 - **LGUs** who have jurisdiction over the project area, especially in cases when there are no required DENR regional permits or other GA approvals that cover the project.

The primacy of jurisdiction is respected in the enforcement of ECC recommendations related to the mandate of LGUs and other GAs. Hence, the corresponding penalties and sanctions as regards enforcement of ECC recommendations shall primarily be imposed by the LGU or GA under whose mandate violations have been committed (e.g., observance of building code and occupational safety and health requirements).

8. Operating without an ECC or CNC

EIA is a planning tool. For projects operating without an ECC or a CNC, the EIA is no longer applicable as the planning stage is over. Environmental impacts of an on-going project are based on actual performance and compliance to environmental standards as

required under existing environmental laws. An Environmental Performance Management Review is carried out and conditions relating to the operation and abandonment may be required.

Submission of the EPMRC does not exempt the project from the penalties for operating without an ECC or additional documentation as may be required by environmental laws.

9. ECC Validity and Expiry

The ECC remains valid and active for the lifetime of the project. Its expiry is premised on the following:

- If a project has not been implemented within five (5) years from ECC issuance, or
- If the ECC has not been requested to be extended within three (3) months from the expiration of its validity

If the baseline characteristics have significantly changed to the extent that the impact assessment as embodied in the Environmental Management Plan (EMP) is no longer appropriate, the EMB office concerned shall require the proponent to submit a new application.

The continued validity of the ECC sustains the active commitments of the proponent to comply with ECC conditions which includes commitment to implement mitigation measures for potentially negative impacts and/or enhancement measures for potentially positive impacts as identified in the EIA Study. The ECC includes environmental conditions the project proponent has to fulfill even after the project useful life such those related to abandonment and site rehabilitation.

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