The Philippine Environmental Assessment Policies[1]

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Introduction

Environmental Assessment (EA) refers to the process of systematic analysis, evaluation and management of the potential environmental and social effects, short-term and long-term, of proposed actions or projects. It is an administrative tool that integrates environmental considerations in development initiatives to ensure that the proposed projects will have minimal environmental impacts and be environmentally sound (ADB, 2003). When properly implemented, it can serve as basis to improve project design and implementation through measures that prevent, mitigate and compensate for adverse environmental impacts.

The increasing and growing economic activities that failed to adequately account for the detrimental impacts of development activities to the environment led to the advent of environmental impact assessment (EIA). EIA, which involves evaluating and predicting the likely impacts of the projects on the environment, has an important role in resolving these environmental problems through its ability to contribute to environmentally sound and sustainable development. The concept was based on the Environmental Impact Assessment study framework first introduced in the United States in 1969 through the National Environmental Policy Act (NEPA). In 1992, Principle 17 of the Rio Declaration adopted EIA as a national instrument for sustainable development which "shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of competent national authority" (Tuyor *et al*., 2007). Since then, environmental assessment process has become an essential component for any proposed project.

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[1] A policy paper submitted to the Food and Fertilizer Technology Center (FFTC) for the project titled "Asia-Pacific Information Platform in Agricultural Policy". Policy papers, as corollary outputs of the project, describe pertinent Philippine laws and regulations on agriculture, aquatic and natural resources.

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In the Philippines, environmental protection is recognized in the 1987 Constitution which stipulates that "The State shall protect and advance the right of the people to a balance and healthful ecology in accord with the rhythm and harmony of nature." Anchored on the principles of sustainable development, it is the State's responsibility to ensure that environmental protection is institutionalized and materialized through assessment systems and processes.

The Philippines's policies that embody the protection to the environment against potential deterioration and damage is institutionalized through the establishment of the Environmental Impact Statement (EIS) System and the Environmental Impact Assessment (EIA). The country's EIS System is considered one of the most comprehensive environmental systems in the world. It is even described as "extremely comprehensive" (Tan 2002 as cited by Tuyor *et al*., 2007) that does not merely focus on regulation of industrial pollution but aims at protecting the entire spectrum of the environment and the rights of the local communities. However, the environmental assessment in the country is project-based.

This paper provides an overview of the policies that established the environmental assessment in the Philippines, the challenges and issues to implement these policies, and some policy implications including the recent policy initiatives of the government on EIS.

Evolution of the Philippine environmental assessment policies

This section discusses the evolution and development of the environmental assessment policies in the Philippines. These policies provide a comprehensive legal and procedural framework governing the conduct of EA in the country for projects that are likely to have significant environmental impacts, directly or indirectly, to human welfare and ecological and environmental integrity.

A. The Philippine environmental policy

Environmental assessment in the Philippines was first conceived in 1977 with the issuance of the Presidential Decree (PD) 1151, otherwise known as the Philippine Environmental Policy. PD 1151 was established to address the urgent need to formulate an intensive and integrated program to protect the entire spectrum of the environment. It stipulates the requirement for an environmental impact assessments and statements to uphold the State's policy to (1) create, develop, maintain and improve conditions under which man and nature can live in harmony with each other; (2) fulfil the social, economic and other requirements of present and future generations; and (3) insure the attainment of an environmental quality that is conducive to a life of dignity and well-being. Clearly, PD 1511 indicated the national intent to support an intergenerational responsibility and achieve sustainable development through environmental assessment laws.

PD 1511 encourages the use of all practicable means, with considerations of other national laws, to exploit the environment without degrading it or endangering human life, health and safety or creating adverse conditions for agriculture, commerce and industry. Moreover, the law provides importance to the preservation of historic and cultural aspects of the Philippine heritage; attainment of rational and orderly balance between population and its resource use; and improvement in the utilization of renewable and non-renewable resources.

The law mandates all national government agencies and instrumentalities, including government-owned and controlled corporations (GOCCs) as well as private corporations, firms

and entities to prepare and file EIS for any project or activity that may significantly affect the quality of the environment. The EIS shall provide 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 involves the use of depletable or non-renewable resources, a finding must be made that such use and commitment are warranted.

As indicated in the Letter of Instruction (LOI) No. 422, an Inter-Agency Committee composed of various government departments and agencies, enumerated as follows, and led by the Department of Natural Resources (now Department of Environment and Natural Resources) is directed to form, implement and monitor policies and programs to carry out the provisions of PD 1511.

1. Department of Natural Resources
2. Department of Agriculture
3. Department of Health
4. Department of Local Government and Community Development
5. Department of Public Works, Transportation and Communications
6. Department of Education and Culture
7. National Economic and Development Authority
8. Energy Development Board
9. National Pollution Control Commission
10. Philippine Atomic Energy Commission
11. Human Settlements Commission
12. Laguna Lake Development Authority
13. Philippine Council for Agricultural and Resources Research (now Philippine Council for Agriculture, Aquatic and Natural Resources Research and Development)
14. National Housing Authority
15. National Irrigation Administration
16. University of the Philippines Natural Science Research Center
17. Philippine Coast Guard
18. Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA)

PD 1511 is a landmark law that establishes the foundation of the precautionary principle of environmental policies in the country by requiring submission of an environmental impact statement on projects and activities that may adversely affect the environment. It further embodies and upholds the State's recognition, as stipulated in the 1987 Constitution, of the right of the people for a healthful environment.

B. The Philippine EIS system

PD 1586 or better known as the law Establishing an Environmental Impact Statement System Including Other Environmental Management Related Measures and for Other Purposes, signed on June 11, 1978, strengthened the EIS required under PD 1511 by formalizing the establishment of the Philippine Environmental Impact Statement (EIS) System. It was established on the basis of the regulatory requirements of the Environmental Impact Statement and Assessment instituted for environmental protection.

Under Section 4 of PD 1586, the President is empowered to declare certain projects or areas, by his own initiative or upon the recommendation of the National Environmental Protection Council[3], as "environmentally critical" and prohibits the implementation or operation of these projects without first securing an Environmental Compliance Certificate (ECC)[4]. Clearly, the law stipulated ECC as a requirement to conduct environmentally critical projects (ECPs)[5] or operate in environmentally critical areas (ECAs)[6]. On the other hand, for environmentally non-critical projects, EIS and ECC are not required, however, they may be required to provide additional environmental safeguards.

As a regulatory policy, penalty clause for violating the rules and regulations of PD 1586 is stipulated. Violations against the rules and regulations issued by the NEPC and non-compliance of the terms and conditions in the issuance of the ECC or of the standards shall be punished through suspension or cancellation of ECC and/or a fine in an amount of not exceeding Fifty Thousand Pesos (Php 50,000.00). The amount that will be generated from the penalties shall be automatically appropriated into an Environment Revolving Fund.

1. Environmentally critical projects and areas

With PD 1586 declaring certain projects and areas as environmentally critical, Presidential Proclamation (PP) 2146 or the policy "Proclaiming Certain Areas and Types of Projects as Environmentally Critical and Within the Scope of the Environmental Impact Statement System Established Under PD 1586" was issued on December 14, 1981. PP 2146 identified the ECPs, broadly categorized into: (1) heavy industries; (2) resource extractive industries; and (3)

[3] The National Environmental Protection Council (NEPC) was created through Presidential Decree 1121 on April 18, 1977 and was under the supervision and control of the Office of the President. Among others, the Council was tasked to rationalize the functions of government agencies assigned to environmental protection, formulate policies and issue guidelines on environmental quality standards and EIAs, recommend legislations or amendments to existing policies related to environment status in the country, review EIAs and monitor the alignment of development projects and initiatives with government's environmental protection priorities.

[4] Environmental Compliance Certificate (ECC) refers to the document issued the by the Department of Environment and Natural Resources or the Environmental Management Bureau (EMB) after a positive review of an ECC application, certifying that based on the representations of the proponent, the proposed project or undertaking will not cause significant negative environmental impact. The ECC also certifies that the proponent has complied with all the requirements of the EIS System and has committed to implement its approved Environmental Management Plan. The ECC contains specific measures and conditions that the project proponent has to undertake before and during the operation of a project, and in some cases, during the project's abandonment phase to mitigate identified environmental impacts. The issuance of an ECC does not exempt a project proponent from securing related permits (such as sanitary, land use conversion, water and building) from concerned government agencies.

[5] Environmentally Critical Projects (ECPs) are projects or programs that have high potential for significant negative environmental impact.

[6] Environmentally Critical Areas (ECAs) are delineated as environmentally sensitive areas such that significant environmental impacts are expected if certain types of proposed projects or programs are located, developed or, implemented in them.

infrastructure projects, and ECAs (Table 1). In addition, PP 803 was signed on June 6, 1996 which identified golf course projects as environmentally critical.

Table 1. Environmentally critical projects and areas under Presidential Proclamation 2146.

CRITICAL AREAS			CRITICAL PROJECTS
Heavy industries	Resource extractive Industries	Infrastructure projects	
1. Non-ferrous metal industries 2. Iron and steel mills 3. Petroleum and petro-chemical industries including oil and gas 4. Smelting plants	1. Major mining and quarrying projects 2. Forestry projects a. Logging b. Major wood processing projects c. Introduction of fauna (exotic-animals) in public/ private forests d. Forest occupancy e. Extraction of mangrove products f. Grazing 3. Fishery Projects a. Dikes for fishpond development projects	1. Major dams 2. Major power plants (fossil-fueled, nuclear fueled, hydroelectric or geothermal) 3. Major reclamation projects 4. Major roads and bridges.	1. All areas declared by law as national parks, watershed reserves, wildlife preserves and sanctuaries; 2. Areas set aside as aesthetic potential tourist spots; 3. Areas which constitute the habitat for any endangered or threatened species of indigenous Philippine Wildlife (flora and fauna); 4. Areas of unique historic, archaeological , or scientific interests; 5. Areas which are traditionally occupied by cultural communities or tribes; 6. Areas with critical slopes; 7. Areas classified as prime agricultural lands; 8. Recharged areas of aquifers; 9. Water bodies characterized by one or any combination of the following conditions; a. tapped for domestic purposes; b. within the controlled and/or protected areas declared by appropriate authorities; c. which support wildlife and fishery activities. 10. Mangrove areas characterized by one or any combination or the following conditions: a. with primary pristine and dense young growth; b. adjoining mouth of major river systems; c. near or adjacent to traditional productive fry or fishing grounds; d. which act as natural buffers against shore erosion, strong

			winds and storm floods; e. on which people are dependent for their livelihood. 11. Coral reef characterized by one or any combination of the following conditions: a. with 50% and above live coralline cover; b. Spawning and nursery grounds for fish; c. Which act as natural breakwater of coastlines

2. Institutional framework and general procedure

The Department of Environment and Natural Resources (DENR) is tasked to administer the EIS System through the Environmental Management Bureau (EMB) and its regional offices (ROs). The DENR-EMB central office provides not only policy direction, oversight and overall guidance on EIA concerns, but also reviews and processes ECPs. On the other hand, the DENR-EMB ROs review and approve projects considered to be located in ECAs, as well as projects outside the EIS system purview.

Environmentally critical projects require the completion of an Environment Impact Assessment (EIA) and the submission of an EIS report[7] while projects in ECAs are subjected to Initial Environmental Examinations (IEE)[8]. DENR determines whether a proposal is an ECP or a project to be implemented in an ECA, if either or both of these conditions apply, the proposal is required to secure an ECC. Otherwise, DENR-EMB or the ROs can issue a Certificate of Non-Coverage (CNC)[9] certifying that the project will not significantly affect the quality of the environment.

Likewise, LGU also plays a critical role in ensuring that all development projects in their jurisdiction that are classified as ECPs or located in ECAs are subjected to the EIA review process. They are also responsible in facilitating community participation through public outreach or consultation.

3. IES Implementing Rules and Regulations

The implementing rules and regulations (IRR) of PD 1586 are provided in five issuances (1979-1984; 1984-1992; 1992-1996; 1996-2003; and 2003-present) which are all geared at rationalizing, streamlining and simplifying the system. Among these policies, the Department of Environment

[7] Through DENR AO 2000-05, the required sections or outline of the EIS document include: EIS summary, project description, summary of scoping agreements, baseline environmental conditions, impact assessment and analysis, environmental risk assessment, environmental management program/plan, supporting documents, proposal for environmental monitoring and guarantee funds, and accountability statement.

[8] It contains a brief project description, expected impacts, and measures to be undertaken to control, manage or minimize impacts on the environment.

[9] Certificate of Non-Coverage is a certification issued by the EMB certifying that, based on the submitted project description, the project is not covered by the EIS System and is not required to secure an ECC.

and Natural Resources Administrative Orders (DAO) No. 21, series of 1992, No. 37, series of 1996 and No. 30, series of 2003 are the most relevant and comprehensive legal pronouncements of the EIS system.

a. DAO No. 21, series of 1992 (DAO 92-21)

The DAO 21, s. 1992 provides for the comprehensive administrative regulation of EIS which lodged the issuance of the ECC for ECAs to the DENR Regional Offices. In order to effect projects that are beneficial and acceptable to majority of the stakeholders and to a wider community, one of the key objectives of the DAO 92-21 is to involve the stakeholders in dialogues and exchanges of views, information and concerns. The consultations shall serve as venue to determine social acceptability of projects and bases for the possible reforms in the EIA System.

b. DAO No. 37, series of 1996 (DAO 96-37)

The DAO 37, series of 1996 provided for the strengthening of the implementation of the Environmental Impact Statement (EIS) System established under PD 1586 and promulgated revisions on the DAO 92-21. The underlying principle of the DAO 96-37 is to uphold the balance between socioeconomic growth and environmental protection. As an integral part of the EIS System, the AO mandates for public consultations and participation through the institutionalization of the Multipartite Monitoring Team System (MMTS)[10]. It also embodies social acceptability and other environmental safeguards.

DAO 96-37 adopts the ECPs and ECAs identified in PP 2146. It also identifies projects and undertakings not covered by the EIS System. The noted innovations of the AO included scoping[11] which considers full public participation, environmental risk assessment, carrying or assimilative capacity of the environment, the presumption of public risk and accountability statements of proponents and preparers, DENR and stakeholders (Ipat Luna as cited by the Interface Development Interventions, Inc., no date). Further, the AO provides guidelines on the contents of the EIS which include among others baseline environmental conditions, environmental risk assessment, environmental management plan, proposal for monitoring and evaluation, results of the public consultation and social acceptability and accountability statements.

c. DAO No. 30, series of 2003 (DAO 03-30)

The DAO 30, series of 2003, was issued in pursuant to the Administrative Order 42 of former President Gloria Macapagal-Arroyo which intended to rationalize the implementation of the Philippines EIS System. DAO 03-30 which superseded DAO 96-37, was established to

[10] Multipartite Monitoring Team (MMT) is a multi-sectoral team convened for the primary purpose of monitoring compliance by the proponent with the ECC, the EMP and applicable laws, rules and regulations.

[11] Scoping is defined as the stage in the EIS System where information and assessment requirements are established to provide the proponent with the scope of work for the EIS.

streamline the implementation of the EIS System in the country to make it a more effective planning and management tool.

Under DAO 03-30, the scope of the EIS System is based on two factors: (1) the nature of the project and its potential to cause significant negative environmental impacts; and (2) the sensitivity or vulnerability of environmental resources in the project area. Similar to its predecessor (DAO 96-37), salient provisions of DAO 03-30 include among others mandates for scoping, public participation, inclusion of social acceptability in the assessment, environmental carrying capacity analysis and environmental risk assessment. It further classifies the projects and areas to be covered by the EIS System into four categories:

1. Category A. Environmentally Critical Projects (ECPs) with significant potential to cause negative environmental impacts;
2. Category B. Projects that are not categorized as ECPs, but which may cause negative environmental impacts because they are located in Environmentally Critical Areas (ECA's);
3. Category C. Projects intended to directly enhance environmental quality or address existing environmental problems not falling under Category A or B.
4. Category D. Projects unlikely to cause adverse environmental impacts.

4. EIS procedural manuals

The procedural manuals serve as primary reference to clarify the steps and procedures required to implement the IES System in the country. They are designed to be used as reference materials for DENR staff or personnel, project proponents, EIA preparers and practitioners, environmental units of government agencies, local government officials, non-governmental or people's organization, and other stakeholders involved in the implementation of the Philippine EIS System. The manuals focus on the processes rather than the technical aspects of the EIA.

Villaluz (2003) presented a summary of the salient contents of the procedural manuals for the EIS System. The procedural manual issued in 1992 discussed the step-by-step procedure in the preparation and review of Environmental Impact Statements. Among others, the manual contained guidelines for the following:

1. the form and content of the documentation requirements;
2. the conduct of consultation to show proof of social acceptability;
3. the composition of the external EIA Review Committee (EIARC)[12];
4. the allocations in an Environmental Guarantee Fund (EGF); and
5. the creation of Multipartite Monitoring Team (MMT).

The second edition of the manual provided a detailed discussion of the guidelines in the conduct of the following:

1. scoping which include the technical definition of ECPs and ECAs and those under categories C and D of projects and areas;
2. the procedural and substantive review;

[12] The EIARC is composed of technically trained professionals in the natural, physical and social sciences. It meets within 10 working days after submission of the EIS and completes its report and recommendation for an ECC within an additional five days. Further, EIARC can hold meetings with the proponent, conduct site visits, technical tests and consultations with the stakeholders to ensure a thorough and substantive review of the EIS.

3. the Environmental Risk Assessment;
4. the Environmental Management Plans (EMP);[13]
5. public hearings and consultation; and
6. penalties and sanctions for violating requirements of the EIS system.

Issues in implementing EIS

The implementation of the Philippine EIS System has been confronted with various issues and challenges. The following are the key issues that were highlighted in several reports (Tuyor *et al*., 2007, Villaluz, 2003 and Interface Development Interventions, Inc., no date):

1. Loose specification of projects to be covered by the EIS. While the law provides the list of projects and areas to be subjected under EIS, the lack of delineation in ECAs poses confusions to proponents or even implementers in the DENR.
2. Incongruities/inconsistencies of the IRR. DAO 03-30 withers down the provisions of DAO 96-37 on public participation and social acceptability. Under DAO 03-30, public hearing is limited to ECPs only or "unless otherwise determined by EMB" which means that EMB has the discretion to decide on the conduct of this activity. It should be pointed out that achieving social acceptability requires taking into consideration the views, opinion and circumstances of as well as information from the stakeholders which can be addressed through adequate and appropriate public consultations and hearings. However, the vagueness of the operational definition of social acceptability resulted to confusions and uncertainty of the outcome of EIS.
3. Project-based nature of environmental assessment rather than holistic that looks at the environmental impacts and dynamics of mix of projects.
4. More attention is paid on the procedural and regulatory/bureaucratic procedures rather than on the technical aspects, resulting in generally poor quality environmental assessment characterized by voluminous reports and lack of focus and depth of analysis on critical issues and impacts.
5. Overlap with other laws such as the Republic Act (RA) 7942 or the "Philippine Mining Act of 1995", RA 8371 or the "Indigenous Peoples Rights Act of 1997", RA 8749 or the "Philippine Clean Air Act of 1999", RA 9275 or the "Philippine Clean Water Act", and other departmental orders and functions of the Department of Agriculture (DA), the Department of Agrarian Reform (DAR) and local government units (LGUs). Jurisdictional conflicts have caused confusion among project proponents which are usually resolved through court rulings. The overlapping of policies also resulted to processes that are more circuitous, time-consuming and ineffective.
6. Limited participation of the LGUs. The centralized administration of environmental assessment policies vested the authority and responsibilities to the DENR which do not have the enough human resources to perform the very rigid requirement of EIA. It should be noted that environmental projects and undertakings are fundamentally local in scope.
7. Limited capabilities of the government to perform a complex monitoring system. The monitoring protocols under EIS are very complex yet human resources and other resources

[13] Environmental Management Plans (EMP) defines the scope of compliance reporting, institutional and financial mechanisms to ensure that mitigating and monitoring measures will be instituted and implemented by the project proponent.

such as equipment and laboratories as well as data collection and storage need strengthening.

Conclusion and policy implications

Environmental assessment has been globally regarded as a crucial tool in achieving sustainable development. The Philippine EIS System provides the framework and mechanism to pursue the country's environmental policies and goals. As part of the EIS System, EIA has become an important process to determine the potential impacts of projects on the environment and the communities involve. However, several issues and challenges have been observed which included processes that are rigorous and complex yet do not provide in-depth analysis on critical environmental issues and impacts, overlapping and conflicting implementation strategies between and among interrelated agencies, limited participation of the LGUs that are the key units in local communities and lack of human resources to implement IES aggravated by the limited trainings to improve capabilities and poor facilities for environmental analysis. Hence, there is still a need to improve the quality of environmental assessment in the country in order to maximize its potential as basis for an informed decision-making and in preventing and mitigating negative impacts to the environment. Further, the EIS policies as well as rules and regulations should be revisited and amended to be able to respond to the demands of the changing times and be relevant with the advent of climate change and related policies on risk reduction management. Continuing effort to streamline and improve the EIS System in the country are being made through the following legislations, both at the Lower and Upper Houses of the Philippine Congress:

1. House Bill No. 3637 or the Act Enhancing the Philippine Environmental Impact Assessment System, Strengthen Public Participation Therein, and for Related Purposes. The proposed law seeks to consolidate and put the IES system into a singular legislative framework, provides for penalties and remedies for violations and non-compliance, create an independent national environmental protection body, engage local government units and strengthen public participation and social acceptability.

2. Senate Bill No. 684 or the Act to Enhance the Philippine Environmental Impact Assessment (EIA) System, to Strengthen Public Participation Therein, and for Related Purposes. Among the salient features of this proposed policy include the institutionalization of a Programmatic EIA System, mainstreaming of EIA in National Policy Formulation, strengthening of public participation and social acceptability and the creation of the Environmental Protection Commission.

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