

Environmental Impact Assessment Act

Promulgated and Effective on December 30, 1994

Environmental Protection Administration of the Republic of China on Taiwan

English Translation¹

by

Dennis Te-Chung Tang

Academia Sinica, Taipei, Taiwan

National Taiwan University, Taipei, Taiwan

and

Richard J. Ferris Jr.

Beveridge & Diamond, P.C., Washington, D.C.

Approved by

Hsung-Hsiung Tsai

Administrator, Environmental Protection Administration

Republic of China

Chapter 1: General Provisions

Article 1

The purpose of this Act is to prevent and mitigate adverse impacts of development activities so as to attain the goal of environmental protection. For matters not provided for herein, other relevant laws and regulations apply.

¹ Translators' note: This translation is for informational purposes only and does not represent the binding law of the Republic of China. The binding law appears only in the national language--Chinese. Therefore, for purposes other than acquiring information, reference must be made to the original Chinese version of this Act.

In translating this Act, the translators did not depart from the original Chinese text. Accordingly, ambiguities present in the translation are also present in the original.

In the Chinese version of this Act, each paragraph is referred to as a "section" (*hsiang*). Bracketed text indicates translator additions for purpose of increasing clarity.

Article 2

The “Responsible Agency” for this Act shall be the Environmental Protection Administration of the Republic of China on Taiwan (TEPA) under the Executive Yuan at the central government level; the Environmental Protection Department (or bureau) of a provincial (or municipal)² government at the provincial (or municipal) level; or the County (or City) Government at the county (or city) government level.

Article 3

The Responsible Agencies for this Act at each level of government shall each establish an Environmental Impact Assessment Review Committee (“Committee”) to review environmental impact assessment reports and related matters.

Members of the Committee mentioned in the above section shall each serve a term of office of two (2) years; and among all the members of the Committee, no less than two thirds (2/3) may be comprised of experts and scholars. If the Responsible Agency for the Enterprise Associated with the Project³ is the project proponent,⁴ members of such Agency shall withdraw from the project review process.

Organic rules of the Committee at the central government level shall be proposed by TEPA and submitted to the Executive Yuan for approval and promulgation.

Organic rules of the Committee at the provincial (or municipal) level shall be proposed by the Responsible Agency at the provincial (or municipal) level and submitted to the relevant agencies for approval and promulgation.

Organic rules of the Committee at the county (or city) level shall be proposed by the Responsible Agency at the county (or city) level and submitted to the relevant agencies for approval and promulgation.

² Translators’ note: Under the jurisprudence of the Republic of China, there are three levels of government: central, provincial/municipal and county/city. At the time of this translation (May 1998), only two municipalities exist: Taipei and Kaohsiung.

³ Translators’ note: For example, the Ministry of Economic Affairs in the case of an electric power plant, or the Ministry of Finance in the case of a financial institution.

⁴ Translators’ note: The project proponent may be either a juristic or natural person.

Article 4

Definitions of terms used in this Act are as follows:

1. "Development Activities" means any activity prescribed in Article 5, including pre-implementation planning, project implementation and post-project facility use.
2. "Environmental Impact Assessment" ("EIA") means the environmental management plan, public explanation and review achieved through scientific, objective and comprehensive surveys, predictions, analyses and evaluations conducted in advance of project implementation to identify the potential impacts of development activities or government policies on the environment (including the living, natural and social environments), as well as the economy, culture and ecology of the Republic of China on Taiwan. The EIA process includes Phase I and Phase II EIAs, reviews and follow-up performance monitoring, etc.

Article 5

EIAs shall be conducted for the following development activities which are likely to have adverse impacts on the environment:

1. the establishment of a facility or industrial park;
2. the construction of a road, railway, mass rapid transit system, harbor or airport;
3. the extraction of gravel and soil and the exploitation or extraction of ores;
4. the construction of reservoir, water supply, flood control and drainage facilities;
5. the development and exploitation of agriculture, forest and pasture lands and fisheries;
6. the development of recreational and scenic areas, golf courses, and sports fields;

7. the construction of cultural, educational and medical facilities.
8. the development of new townships and municipalities, skyscrapers and the renovation of old municipal districts;
9. the construction of environmental protection facilities;⁵
10. the exploitation of nuclear or other energies and the construction of radioactive waste storage or treatment facilities; and
11. other activities designated by the Responsible Agency at the central government level.

Environmental Impact Assessment Items and Screening Criteria for Development Activities and the Working Guidelines for this Act shall be promulgated by the Responsible Agency at the central government level after consultation with other relevant agencies within one (1) year after the date upon which this Act enters into force⁶ and submitted to the Legislative Yuan for reference.

Chapter 2: Assessment, Review and Supervision

Article 6

During the planning stage, the project proponent of the development activities prescribed in Article 5 shall conduct, in accordance with the Working Guidelines for EIAs, a Phase I EIA and prepare an environmental impact statement (“EIS”).

The EIS mentioned in the above section shall include the following items and information:

1. the name and business address or office address of the project proponent;

⁵ Translators’ note: Such as publicly owned treatment works and sewerage systems.

⁶ Translators’ note: December 30, 1994.

2. the name, residence or domicile and identification number of the representative of the project proponent;
3. the signatures of the person(s) who made a comprehensive evaluation of the EIS and the person(s) who contributed their opinions to particular items included in the EIS;
4. the name and site of the development activities;
5. a description of the purpose and nature of the development activities;
6. all related plans and a description of the environmental status quo within the possible impact area covered by the development activities;
7. a description of potential environmental impacts caused by the development activities;
8. a description of environmental damage mitigation measures and alternatives to the proposed development plan;
9. the budget for implementing environmental damage mitigation measures; and
10. a summary of measures designed to prevent and mitigate adverse impacts to the environment caused by development activities.

Article 7

When applying for a permit related to the proposed development project, the project proponent shall submit the EIS to the Responsible Agency for the Enterprise Associated with the project, which will then transfer the EIS to the Responsible Agency for this Act.

The Responsible Agency for this Act shall, within fifty (50) days of receiving the EIS mentioned in the above section, publish its conclusions related to the EIS review and notify the Responsible Agency for the Enterprise Associated with the project, as well as the project proponent, of these conclusions. The review period may be extended for another fifty (50) days under unusual circumstances.

If the conclusions reached in the above section by the Responsible Agency for this Act dictate that there is no need to conduct a Phase II EIA and the permit related to the proposed development project is approved, the project proponent shall hold public meetings to explain the development activities.⁷

Article 8

If the conclusions reached in Article 7 show that the development activities are likely to have significant adverse impacts on the environment, the project proponent must take the following steps when conducting a Phase II EIA:

1. distribute the EIS to relevant government agencies;
2. display or disclose the EIS at appropriate place close to the development site for a period of not less than thirty (30) days; and
3. publish in a newspaper the name of the project proponent, development site, and the location where the EIS review conclusions and the EIS itself are displayed or disclosed.

The project proponent shall hold a public meeting to explain the development activities upon the expiration of the EIS display or disclosure period mentioned in the preceding section.

Article 9

If the relevant government agencies mentioned in the preceding Article or local residents have any comments on the explanation given by the project meeting, they must present their comments in writing to the project proponent within fifteen (15) days of the public meeting and furnish additional copies to the relevant agencies and the Responsible Agency for the Enterprise Associated with the Project.

Article 10

After the public meeting to explain the development activities, the Responsible

⁷ Translators' note: "Public meetings" (for explanation of the development activities) under this Act should not be confused with "public hearings" as used in Western jurisprudence.

Agency for this Act shall invite the Responsible Agency for the Enterprise Associated with the Project, other relevant agencies, non-governmental groups, scholars, experts and representatives of local residents for purposes of scoping.

The scoping mentioned in the preceding section shall include:

1. the identification of feasible alternatives to the proposed development plan;
2. the identification of items to be considered in the EIA, as well as determination of survey, prediction, analysis and evaluation methods to be used ; and
3. the identification of other matters related to the implementation of the EIA.

Article 11

The project proponent shall, after taking into consideration comments by the Responsible Agency for this Act, the Responsible Agency for the Enterprise Associated with the Project, other relevant agencies, scholars, experts, non-governmental groups and local residents, prepare a draft environmental impact assessment report [(“Draft EIA Report”)] and submit the Draft EIA Report to the Responsible Agency for the Enterprise Associated with the Project.

The Draft EIA Report mentioned in the previous section shall include the following:

1. the name and business address or office address of the project proponent;
2. the name, residence or domicile and identification number of the representative of the project proponent;
3. the signatures of the person(s) who conducted a comprehensive evaluation of the EIS and the person(s) contributed their opinions to particular items included in the EIS;
4. the name and site of the development activities;
5. a description of the purpose and nature of the development activities;

6. a description of the environmental status quo and the primary and secondary possible impacts of the development activities and all related plans;
7. a prediction, analysis and evaluation of the environmental impacts (of the proposed project);
8. a description of measures designed to mitigate or prevent adverse impacts to the environment caused by development activities;
9. a description of alternatives to the proposed development plan;
10. a description of the comprehensive environmental management plan;
11. a description of actions taken in response to the comments of relevant agencies;
12. a description of actions taken in response to the comments of local residents;
13. conclusions and recommendations (of the project proponent);
14. the budget for implementing environmental damage mitigation measures;
15. a summary of measures designed to prevent and mitigate adverse impacts to the environment caused by development activities; and
16. a reference bibliography.

Article 12

Within thirty (30) days after receipt of the Draft EIA Report, the Responsible Agency for the Enterprise Associated with the Project shall, in conjunction with the Responsible Agency for this Act, members of the Committee and other relevant agencies, invite experts, scholars, non-governmental groups and local residents to conduct an on-site inspection and hold a public meeting to explain the development activities. Within thirty (30) days after the on-site inspection and public meeting, the record of the inspection and the minutes of the meeting shall be submitted to the Responsible Agency for this Act.

The time limit(s) mentioned in the preceding section may be extended if necessary.

Article 13

The Responsible Agency for the Enterprise Associated with the Project shall submit the inspection record mentioned in Article 12, public meeting minutes and the Draft EIA Report for review by the Responsible Agency for this Act.

The Responsible Agency for this Act shall conclude its review within sixty (60) days and provide the review conclusions to the Responsible Agency for the Enterprise Associated with the Project and the project proponent. The project proponent shall revise its Draft EIA report in accordance with the aforementioned review conclusions and prepare an EIA report [(“Final EIA Report”)] for approval by the Responsible Agency for this Act (in accordance with the review conclusions).

Upon approval by the Responsible Agency for this Act, the Final EIA Report and a summary of the review conclusions shall be published in the [(TEPA)] register. The review period may be extended for another sixty (60) days under unusual circumstances.

Article 14

The Responsible Agency for the Enterprise Associated with the Project shall not grant a permit for development activities before the completion of the review of the EIS or Final EIA Report. A permit granted in violation of the preceding sentence is void. In this situation, the Responsible Agency for this Act shall request in writing that the Responsible Agency for the Enterprise Associated with the Project cancel the permit.

If the Responsible Agency for this Act determines, after review, that the proposed project shall not be allowed to proceed, the Responsible Agency for the Enterprise Associated with the Project shall not grant the permit for the development activities. Nevertheless, the project proponent may submit alternatives to the proposed development plan for de novo review by the Responsible Agency for this Act.

Article 15

If two or more development activities are to be performed at the same site, the EIA procedures for each activity may be jointly conducted.

Article 16

The contents of the approved EIS or Final EIA Report shall not be revised without the authorization of the Responsible Agency for this Act and the Responsible Agency for the Enterprise Associated with the Project.

The authorization mentioned in the preceding section and the circumstances under which a new EIA must be conducted for particular development activities shall be provided in the Implementation Rules for this Act.

Article 17

The project proponent shall implement faithfully the requirements of the EIS, the Final EIA Report and the review conclusions.

Article 18

During performance of development activities and post-project facility use, the Responsible Agency for Enterprise Associated with the Project shall monitor, and the Responsible Agency for this Act shall supervise, the enforcement of the EIS, Final EIA Report and review conclusion requirements. If necessary, for a specified period of time, the project proponent will be required to submit an Environmental Impact Survey Report.

The project proponent shall, while preparing the Environmental Impact Survey Report mentioned in the preceding section, investigate and analyze the differences between the pre- and post-development activity environments and review these differences by comparing them with the predictions included in the EIS and the Final EIA Report.

Upon a showing of adverse impacts to the environment, the Responsible Agency for this Act shall order the project proponent to submit a description of environmental damage mitigation measures within a specified time period for approval and

subsequent implementation.

Article 19

When exercising the authority described in Article 18, the Responsible Agency for the Enterprise Associated with the Project or the Responsible Agency for this Act may exercise police powers and, if necessary, may also seek assistance from civilian or military police authorities with jurisdiction over the site of the development activities.

Chapter 3: Penalties

Article 20

A person who knowingly makes untrue statements in documents submitted in accordance with Articles 7, 11, 13, or 18 of this Act shall be punished by imprisonment for no more than three (3) years, detention, and/or a fine of no more than thirty thousand (30,000) New Taiwan Dollars (“NTD”).

Article 21

If a proponent disobeys an order, issued in accordance with this Act by the Responsible Agency for the Enterprise Associated with the Project, to suspend development activities, then the representative of the project proponent shall be punished by imprisonment for no more than three (3) years, or detention, with the possible addition of a fine of no more than three hundred thousand (300,000) NTD.

Article 22

A project proponent who commences development activities mentioned in Article 5, Section 1 before receiving authorization from the Responsible Agency for this Act in accordance with Articles 7 or 13 shall be punished by a fine of between three hundred thousand (300,000) and one million five hundred thousand (1,500,000) NTD. Under this circumstances, the Responsible Agency for this Act shall request that the Responsible Agency for the Enterprise Associated with the Project suspend the performance of the development activities. If necessary, the Responsible Agency for this Act may order the suspension of the performance of the development

activities. In the event of violation of a suspension order by the project proponent, the representative of the project proponent shall be punished by imprisonment of no more than three (3) years or detention, with the possible addition of a fine of no more than three hundred thousand (300,000) NTD.

Article 23

Under any of the following circumstances, a fine of between three hundred thousand (300,000) and one million five hundred thousand (1,500,000) NTD shall be imposed and an order for compliance within a specified time period shall be issued, if the violation continues after the specified time period, then continuous daily fines shall be imposed.

1. a violation of Article 17;
2. a violation of Section 1 of Article 18 for failing to submit an Environmental Impact Survey Report or a violation of Article 18, section for failing to submit a description of environmental damage mitigation measures or failing to implement such measures; or
3. a violation of Article 28 for failing to submit a description of environmental damage mitigation measures or for failing to implement such measures.

In the event that the violations mentioned in the preceding section are found be serious in nature, the Responsible Agency for this Act may request that the Responsible Agency for the Enterprise Associated with the Project suspend the performance of the development activities. If necessary, the Responsible Agency for this Act may directly order the suspension of the performance of the development activities. Upon violation of a suspension order, the representative of the project proponent shall be punished by imprisonment for no more than three (3) years, or detention, with the possible addition of a fine of no more than three hundred thousand (300,000) NTD.

Article 24

A fine imposed in accordance with this Act shall be paid within the specified time period. A failure to pay a fine imposed in accordance with this Act shall be referred to a court for enforcement.

Chapter 4: Supplementary Provisions

Article 25

The EIA process for a development activity involving military secrets or emergency national defense construction projects shall be stipulated by the Responsible Agency for this Act at the central government level in conjunction with the Ministry of National Defense.

Article 26

The EIA process for a government policy which might impact the environment shall be stipulated by the Responsible Agency for this Act at the central government level.

Article 27

The Responsible Agency for this Act collect fees from the project proponent for reviewing the EIS, Draft EIA Report, Final EIA Report, or Environmental Impact Survey Report submitted in accordance with Articles 7, 11, 13, or 18, respectively.

The Responsible Agency for this Act shall promulgate measures for the collection of the review fees mentioned in the preceding section.

Article 28

Where a development activity has commenced but has not reached completion on the date this Act comes into force, the Responsible Agency for this Act may, if deemed necessary, order the project proponent to conduct a survey and analysis of environmental impacts and to submit a description of environmental damage mitigation measures for approval and subsequent implementation.

Article 29

For contents of an EIS or a Final EIA Report which have been completed and reviewed, but not implemented in accordance with the review conclusions before the

date this Act comes into force, the Responsible Agencies for this Act and other relevant responsible agencies shall order the project proponent to proceed according to the process stipulated in Article 18. The project proponent shall not object to this order.

Article 30

Local residents may delegate to a representative, in writing, the right to act on their behalf in accordance with this Act.

Article 31

The implementation rules for this Act shall be promulgated by the Responsible Agency for this Act at the central government level.

Article 32

This Act shall come into force upon the date of promulgation.