

Implementation Rules for Environmental Impact Assessment Act

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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

These Implementation Rules are promulgated in accordance with Article 31 of the Environmental Impact Assessment Act ("the Act").

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 these Rules.

In translating these Rules, 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 these Rules, each paragraph is referred to as a "section" (*hsiang*). Bracketed text indicates translator additions for purpose of increasing clarity.

Article 2

The "Competent Authorities" specified in Section 4 of Article 3 of the Act are provincial (or municipal) governments. The Competent authorities specified in Section 5 of Article 3 are provincial governments.

Article 3

The jurisdiction of the Responsible Agency for the Act at the central government level includes the following:

1. the provision of nationwide environmental impact assessment ("EIA ") policies and plans;
2. the preparation, review and interpretation of nationwide EIA-related laws and regulations;
3. the review of Environmental Impact Statements ("EIS "), Environmental Impact Assessment Reports ("EIA Reports ") and Environmental Impact Survey Reports submitted by the Responsible Agency for the Enterprise Associated with the Project² at the central government level;
4. the supervision of the implementation of the requirements of EISs, EIA Reports and related review conclusions, environmental impact survey reports and the environmental damage mitigation measures;
5. the collection, establishment and exchange of nationwide EIA data;
6. research and development related to nationwide EIAs;
7. the training and management of nationwide EIA professionals;
8. public education related to nationwide EIAs;
9. supervision and support of provincial (or municipal) EIA work;

² 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.

10. international cooperation on EIA-related matters; and
11. the administration of other nationwide EIA-related matters.

Article 4

The jurisdiction of the Responsible Agency for the Act at the provincial (or municipal) government level includes the following:

1. the planning and implementation of provincial (or municipal) EIA work;
2. the preparation, review and interpretation of provincial (or municipal) EIA-related laws and regulations;
3. the review of EISs, EIA Reports and Environmental Impact Survey Reports submitted by the Responsible Agency for the Enterprise Associated with the Project with the project at the provincial (or municipal) government level;
4. the supervision of the implementation of the requirements of EISs, EIA Reports and related review conclusions, Environmental Impact Survey Reports and environmental damage mitigation measures for the development activities within the geographic jurisdiction of the provincial (or municipal) government;
5. the collection, establishment and exchange of provincial (or municipal) EIA data;
6. research and development related to provincial (or municipal) EIAs;
7. the training and management of provincial (or municipal) EIA professionals;
8. public education related to provincial (or municipal) EIAs;
9. the supervision and support of county (or city) EIA work; and

10. the administration of other provincial (or municipal) EIA-related matters.

Article 5

The jurisdiction of the Responsible Agency for the Act at the county (or city) government level includes the following:

1. the planning and implementation of county (or city) EIA work;
2. the preparation, review and interpretation of county (or city) EIA-related laws and regulations;
3. the review of EISs, EIA Reports and Environmental Impact Survey Reports submitted by the Responsible Agency for the Enterprise Associated with the Project at the county (or city) government level;
4. the supervision of the implementation of the requirements of EISs, EIA Reports and related review conclusions, Environmental Impact Survey Reports and the environmental damage mitigation measures for the development activities within the geographic jurisdiction of the county (or city) government;
5. the collection, establishment and exchange of county (or city) EIA data;
6. research and development related to county (or city) EIAs;
7. public education related to county (or city) EIAs; and
8. the administration of other county (or city) EIA-related matters.

Article 6

The "Adverse Impacts" mentioned in Article 5 of the Act refer to the following actions and effects resulting from development activities:

1. causing water, air, soil and noise pollution, vibrations, odors, wastes, toxic substances, subsidence, radioactive contamination and other environmental harm;
2. endangering the rational use of natural resources;
3. damaging natural vistas or the ecological environment;
4. damaging the social, cultural, or economic environment; and
5. other harmful effects designated by the Responsible Agency for the Act at the central government level.

Chapter 2: Evaluation, Review and Supervision

Article 7

The "Project Proponent" mentioned in the Act refers to juristic and natural persons, as well as groups or other persons engaged in development activities.

Article 8

The "Planning" mentioned in Section 1 of Article 6 of the Act means the feasibility study, pre-implementation preparations, permit application preparations, or other planning-related behavior determined by the Responsible Agency for the Act at the central government level.

Determinations regarding other planning-related behavior mentioned in the preceding Section shall be made by the Responsible Agency for the Act at the central government level in consultation with the Responsible Agency for the Enterprise Associated with the Project at the central government level.

Article 9

The "Signatures" mentioned in Subsection 3, Section 2 of Article 6

and Subsection 3, Section 2 of Article 11 of the Act shall be made by a person who possesses a professional degree relevant to the contents of their opinions or related work experience of two (2) or more years with certified proof thereof.

Article 10

The Responsible Agency for the Act may refuse to accept an EIS or a draft EIA Report which does not contain the items prescribed in Section 2 of Article 6, or Section 2 of Article 11 of the Act and shall furnish additional copies to the Responsible Agency for the Enterprise Associated with the Project of such a refusal.

Article 11

A project proponent shall only submit an EIS prescribed in Section 1 of Article 7 of the Act during the review stage or the permit application stage, unless otherwise prescribed by related laws and regulations.

Article 12

The governmental level of the "Responsible Agency for the Act" shall correspond with the level of the Responsible Agency for the Enterprise Associated with the Project which has the jurisdiction over the review of the proposed development activities. If necessary, the Responsible Agency for the Act at the superior level of government may delegate authority to review the proposed development activities to the Responsible Agency for the Act at the next subordinate level of government.

Article 13

The Responsible Agency for the Act at the county (or city) level of government, when making review conclusions in accordance with Articles 7 or 13 of this Act, shall inform the Responsible Agency for the Act at the provincial (or municipal) level of government. The Responsible Agency for the Act at the provincial (or municipal) level of government, when making review conclusions in accordance with Articles 7 or 13 of this Act, shall inform the Responsible Agency for the Act at the central government level.

Article 14

If the Responsible Agency for the Act, after accepting an EIS or Draft EIA Report, determines during review of the same that information must be supplemented, it shall notify the project proponent of the need to submit the missing information within a specified time period. If the project proponent fails to submit the required information within the specified time period, or if the supplemented information does not satisfy the requirements stipulated by the Responsible Agency for the Act, the Responsible Agency for the Act shall request in writing that the Responsible Agency for the Enterprise Associated with the Project dismiss the project proponent's permit application and furnish additional copies to the project proponent of the permit dismissal.

Article 15

The "Review Period" mentioned in Articles 7 and 13 of the Act shall commence on the date when the project proponent submits all required documentary information and pays the required review fees to the Responsible Agency for the Act.

Article 16

The "Unusual Circumstances" mentioned in Section 2 of Article 7 and Section 3 of Article 13 of the Act refer to a development activity falling within one (1) of the following situations:

1. the scale of the development activity is very large with widespread impacts and the review of the activity cannot be completed within a short time period; or
2. the development activity is controversial and the review of the activity cannot be completed within a short time period.

Article 17

The "Permit" mentioned in Section 3 of Article 7 of the Act refers to

a permit for the proposed development activity granted by the Responsible Agency for Enterprise Associated with the Project.

Article 18

The "Public Meetings" to be held by a project proponent, in accordance with Article 7, Section 3, shall be held after the Responsible Agency for the Enterprise Associated with the Project grants the permit for the proposed development activity and before the implementation of the proposed development activity.

Article 19

The "development activities are that are likely to have significant adverse impacts on the environment" mentioned in Article 8 of the Act, refer to any of the following:

1. activities that are obviously incompatible with, and obviously disadvantageous to, related projects in the vicinity of the development activities;
2. activities that have clearly adverse impacts upon environmental resources or characteristics;
3. activities that have obviously adverse impacts upon the habitats of endangered, rare and valuable species;
4. activities that will fall far below environmental quality standards or exceed the assimilative capacity of the local environment;
5. activities that will have obviously adverse impacts upon the free movement of masses of local residents, or the rights and the traditional way of living of minority peoples;
6. activities that will have clear adverse impacts upon the health or security of citizens;
7. activities that will have obviously adverse impacts upon the

environment of other nations; and

8. other activities or circumstances determined by the Responsible Agency for the Act.

Article 20

The "Appropriate Place" in Subsection 2, Section 1 of Article 8 of this Act refers to the following places in the vicinity of development activities:

1. government offices of towns (districts) and villages (boroughs);
2. neighboring government offices of towns (districts);
3. neighboring schools, temples, churches, or marketplaces;
4. places adjacent to public roads within 500 meters of the development activities; and
5. other places approved by the Responsible Agency for the Act.

The project proponent shall choose more than five (5) of the abovementioned places to display or disclose the EIS and shall ensure an even distribution [of the EIS] in the vicinity of the proposed development activities.

Article 21

The project proponent shall publish the information mentioned in Subsection 3, Section 1 of Article 8 of the Act in a newspaper for a minimum of three (3) consecutive days.

Article 22

The project proponent, when holding public meetings in accordance with Section 3 of Article 7 or Section 2 of Article 8 of the Act, shall publish in a newspaper the time, place and manner of the meetings and the name and

site of the proposed development activities. The project proponent shall also make this information available in public places and provide notification of the same to the following entities or persons:

1. relevant agencies;
2. adjacent government offices of towns (districts);
3. local governing councils; and
4. heads of villages (boroughs).

The project proponent shall produce meeting minutes and request in writing the same to the entities or persons mentioned in the preceding section within forty-five (45) days of the meeting.

Article 23

The "description of actions taken in response to comments" mentioned in Subsections 11 and 12, Section 2 of Article 11 shall include the following:

1. a comprehensive list of the source and contents of the comments, with an item-by-item explanation;
2. a description of adopted and rejected comments and the reasoning behind the adoption or rejection; and
3. explanations for comment revisions.

Article 24

The Responsible Agency for the Enterprise Associated with the Project, when conducting an on-site inspection prescribed in Section 1 of Article 12, shall distribute survey forms to the inspection participants during the inspection and compile the forms after collection into an inspection record to submit them to the Responsible Agency for the Act.

Article 25

The Responsible Agency for the Act, when conducting scoping in accordance with Article 10 of the Act, or the Responsible Agency for the Enterprise Associated with the Project, when conducting on-site inspections and holding public meetings in accordance with Article 12 of the Act, shall take the following into consideration in inviting the participation of experts and scholars:

1. the uniqueness of the development activities;
2. the items to be assessed; and
3. professional fields related to the assessment process.

Article 26

The Responsible Agency for the Enterprise Associated with the Project, when holding public meetings in accordance with Article 12 of the Act, shall inform the Responsible Agency for the Act, members of the EIA Committee, other relevant agencies, experts, scholars, nongovernmental groups and local residents of the meeting ten (10) days before date the meeting is to take place. The site of the public meeting shall be at an appropriate place in the vicinity of the proposed development activity.

The Responsible Agency for the Enterprise Associated with the Project may request that the government offices of local towns (districts) inform the residents thereof of the meeting.

Article 27

The public meeting shall be conducted orally, publicly and in a fair and just manner, unless otherwise prescribed by law.

Article 28

Project proponents, when submitting an EIS, Final EIA Report, or a Environmental Impact Survey Report in accordance with Articles, 7, 13 and

18, respectively, shall provide complete information on the proposed project and feasible alternatives.

If the Responsible Agency for the Act determines, within the appropriate scope of its authority, that the information provided by the project proponent is incomplete, it may order the project proponent to supplement the missing information/report, or it may notify the project proponent in writing to appear before it for questioning.

If the information mentioned in the preceding Section involves trade or other secrets, it shall be protected in accordance with relevant laws and regulations.

Article 29

If a project proponent fails to revise a Draft EIA Report in accordance with the review conclusions mentioned in Section 2 of Article 13 of the Act, the Responsible Agency for the Act shall return the Draft EIA Report to the project proponent with a written explanation for the return and a request that the project proponent make corrections within a specified time period.

Article 30

The public notification mentioned in Section 2 of Article 7 and Section 3 of Article 13 of the Act shall be displayed or disclosed at the appropriate place in the vicinity of the proposed development activity for a period of no less than fifteen (15) days.

Article 31

If the alternatives submitted by the project proponent in accordance with Section 2 of Article 14 of the Act are to take place at the same site, the alternatives must not conflict with the reasons for rejecting the original project as rendered by the Responsible Agency for the Act.

Article 32

The project proponent which submits alternatives in accordance with

Section 2 of Article 14 of the Act to the Responsible Agency for the Act for *de novo* review shall proceed in accordance with Articles 6 and 7 of the Act.

Article 33

"The Same Site" mentioned in Article 15 of the Act refers to sites within a specific area and with similar environmental background factors making it possible to jointly conduct the EIA.

Article 34

When EIA procedures for two (2) or more development activities are jointly conducted, each project proponent shall be jointly responsible for the implementation of the assessment and review procedure, the provision of the EIS or Final EIA Report and other related matters.

Each project proponent shall send its representative or shall appoint representatives to implement assessment procedures and to participate in the review process and other related matters.

Article 35

The Responsible Agency for the Act shall combine its review or approval of the jointly conducted EIAs. When two or more development activities are reviewed or approved by separate Responsible Agencies for the Act, the Responsible Agency at the highest level of government shall carry out the review and approval.

Article 36

The revision of "the contents of the approved EIS or Final EIA Report" mentioned in Section 1 of Article 16 refers to any revision of the contents of Subsections 1, 2, 4, 5, 8, Section 2 of Article 6 or Subsections 1, 2, 4, 5, 8, 10, 11 and 12, Section 2 of Article 11 of the Act.

Article 37

When the project proponent applies to Responsible Agency for the

Act for authorization to revise the contents of an approved EIS or Final EIA Report in accordance with Section 1 of Article 16 of the Act, and the proposed content revisions involve environmental protection measures but do not necessarily trigger *de novo* review by the Responsible Agency for the Act, the project proponent shall submit a report analyzing the differences between the pre- and post-development activity environments for review by the Responsible Agency for the Act and the Responsible Agency for the Enterprise Associated with the Project. Content revisions which do not involve environmental protection measures shall be submitted to the Responsible Agency for the Act for reference purposes.

The report analyzing the differences between the pre- and post-development activity environments mentioned in the previous Section shall include the following:

1. a description of revisions to the proposed development activities or environmental damage mitigation measures;
2. a description of differences in environmental impacts after revisions are made to the proposed development activities or proposed environmental damage mitigation measures;
3. a description of the examination and revision of the environmental damage mitigation measures, or a description of the examination and revision of the comprehensive environmental management plan; and
4. other matters specified by the Responsible Agency for the Act.

Article 38

When a revision proposed by a project proponent meets any of the following conditions, the project proponent must reinitiate the EIA process:

1. enlargement of proposed production capacity or scale by more than ten (10) percent, or an increase in the length of the roads by more than ten (10) percent;
2. changes to land use that involve protected areas, green belts, or other

- areas which are vulnerable to obvious environmental damage from development activities;
3. degrading of the treatment efficiency of an environmental protection facility;³
 4. possible significant impact on the living, natural, or social environmental, or another object of protection within the impact scope of the development activity;
 5. adverse impacts on the preservation of environmental quality; or
 6. other conditions specified by the Responsible Agency for the Act.

The existence of the conditions mentioned in Subsections 1 and 2 of the preceding Section need not trigger the reinitiation of the EIA process if the existence of these conditions is approved by both the Responsible Agency for the Act and the Responsible Agency for the Enterprise Associated with the Project.

Development activities which have been completed and for which operating permits have been issued, but with regard to which an expansion or modification of scale is proposed, shall subject the expanded or modified activities to the EIA process prescribed in Article 5 of the Act.

Article 39

The monitoring conducted by the Responsible Agency for the Enterprise Associated with the Project, in accordance with Article 18 of the Act, includes the following:

1. requirements stipulated by the Responsible Agency for the Enterprise Associated with the Project while granting a permit to a project proponent;
2. implementation by the project proponent of the contents of EIS or

³ Translators' Note: Such as publicly owned treatment works and sewerage systems.

Final EIA Reports and review conclusions of the Responsible Agency for the Act; and

3. other EIA-related matters.

A description of the implementation of the requirements prescribed in the preceding Section shall be request in writing to the Responsible Agency for the Act.

Article 40

The "Environmental Impact Survey Report" mentioned in Article 18 of the Act shall include the following, in addition to those items prescribed in Section 2 of Article 18:

1. items enumerated in Subsections 1, 2, 4 and 5, Section 2 of Article 6 the Act;
2. 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;
3. a description of the examination and revision of environmental damage mitigation measures;
4. a description of the examination and revision of comprehensive environmental management plans;
5. conclusions and recommendations (of the project proponent);
6. the budget for implementing environmental damage mitigation measures; and
7. a reference bibliography.

Article 41

In exercising the authority prescribed under Article 18 of the Act, the

Responsible Agency for the Act or the Responsible Agency for the Enterprise Associated with the Project may dispatch personnel to the project proponent or the proposed development site to investigate or inspect relevant operations.

Article 42

When a project proponent commences the development activities more than three (3) years from the date it acquired the construction permit from the Responsible Agency for the Enterprise Associated with the Project, the project proponent shall submit a report analyzing the differences between the pre- and post-development activity environments and a report examining the environmental damage mitigation measures for review by the Responsible Agency for the Act. The project proponent shall not commence the development activities before the Responsible Agency for the Act completes its review of the reports.

The Responsible Agency for the Act shall incorporate the requirements of the preceding sections into the review conclusions mentioned in Section 2 of Article 7 and Section 2 of Article 13 of the Act.

Article 43

The Responsible Agency for the Act shall include a comprehensive evaluation in the review conclusions of the EIS or the Final EIA Report. The comprehensive evaluations may include the following conclusions:

1. the development activities are approved;
2. the development activities are approved with conditions;
3. the development activities must undergo Phase II EIAs;
4. the development activities are not approved; or
5. other conclusions reached by the Responsible Agency for the Act at the central government level.

Article 44

If a project proponent cannot complete the required improvements within the specified time period because of a natural disaster or another *force majeure*, the project proponent shall, upon the removal of the cause of non-completion, resume the required improvements and submit the written reasons for the non-completion within fifteen (15) days accompanied with supporting documentation to the Responsible Agency for the Act to receive a determination of the time period remaining to complete the required improvements.

Article 45

A project proponent who has been issued an order for compliance within a specified time period shall submit an improvement report or other documentation before the lapsing of the specified time period for inspection by the Responsible Agency for the Act.

A project proponent who fails to follow the requirement in the preceding Section shall be deemed to have failed to complete the required improvements.

Article 46

The "violations found to be serious in nature" mentioned in Article 23 of the Act refer to one of the following:

1. widespread pollution or damage to natural resources;
2. failure to comply with the review conclusions made by the Responsible Agency for this Act or failure to implement the contents of the EIS or Final EIA Report resulting in the endangerment of human health or agriculture, forest, fishery and livestock resources;
or
3. punishment by continuous daily fines for more than thirty (30) days without completion of required improvements.

Article 47

A project proponent who has been ordered to suspend the performance of development activities in accordance with Article 23 of the Act shall submit the results of the required improvements for inspection by the Responsible Agency for the Act before the project proponent will be allowed to resume the performance of the development activities. The same shall follow for a project proponent who is the recipient of an order for compliance within a specified time period by the Responsible Agency for the Act but who elects to suspend the performance of the development activities. A project proponent shall not resume the performance of development activities if the activities fail to pass the inspection mentioned above.

During the development activity suspension period mentioned in the preceding Section, the Responsible Agency for the Act shall, in conjunction with relevant agencies and in accordance with relevant laws and regulations, order that the project proponent restore the environment to its original state and take emergency measures to prevent further exacerbation of environmental impacts. The Responsible Agency for the Act may request in writing that the Responsible Agency for the Enterprise Associated with the Project revoke the construction permit if the project proponent fails to follow the orders mentioned in the preceding sentence.

Chapter 3: Supplementary Provisions

Article 48

The determination of "necessity" by the Responsible Agency for this Act to order the project proponent to conduct a survey and analysis of environmental impacts and submit a description of environmental damage mitigation measures, mentioned in Article 28 of the Act, refers to one of the activities enumerated in Article 19 of these Implementation Rules which cannot be resolved by means of relevant laws and regulations.

Article 49

The "Survey and Analysis of Environmental Impacts" and the "Description of Environmental Damage Mitigation Measures" mentioned in Article 28 of the Act 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 name and site of the development activities;
4. description of the purpose and nature of the development activities;
5. a description of environmental protection measures adopted by the development proponent and the result of implementing the measures;
6. a description of the environmental status quo;
7. a description of known or predicted environmental impacts (of the proposed project);
8. a description of environmental damage mitigation measures;
9. a description of the alternatives to the proposed development plan;
10. the budget for implementing environmental damage mitigation measures; and
11. a reference bibliography.

Article 50

The "Relevant Responsible Agencies" mentioned in Article 29 of the Act are those agencies that review the EIS or EIA Report before the date upon which the Act comes into force.

The relevant responsible agencies, when conducting monitoring

activities in accordance with Article 18 of the Act, shall do so in conjunction with the Responsible Agency for the Act.

Article 51

For those project proponents who have completed the EIS or EIA process and the review by the Responsible Agency for the Act, but apply for a revision of the approved contents before the date upon which the Act comes into force, the provisions of Articles 36 to 38 shall apply, where appropriate.

Article 52

The Responsible Agency for the Act at the central government level shall prescribe the format of the various forms mentioned in the Act and these Implementation Rules.

Article 53

These Implementation Rules shall come into force on the date of promulgation.