

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Thirteenth Congress
Third Regular Session

House Bill No. 5716



Introduced by AKBAYAN Party-List Representatives
Ana Theresia Hontiveros-Baraquel,
Mario “Mayong” Joyo Aguja and Loretta Ann P. Rosales

EXPLANATORY NOTE

The concept of integrating environmental considerations into the planning of projects was conceived in Philippine law with the promulgation of the Philippine Environmental Policy (PD 1151) in 1977, wherein the people's right to a healthful environment, now enshrined in our Constitution, was first recognized. Giving emphasis to the need for “the establishment and institutionalization of a system whereby the exigencies of socio-economic undertakings can be reconciled with the requirements of environmental quality,” the system was formally instituted during the following year with the declaration of PD 1586 establishing the Philippine Environmental Impact Assessment (EIA) System.

Since then, a number of presidential and department orders have been enacted to implement and refine the EIS System. As it stands, Philippine EIA legislation is perceived as piecemeal but comprehensive and in many ways advanced, as it goes beyond regulation of industrial pollution but also aims to protect natural resources, fragile ecosystems and biodiversity, and the rights of local communities. It has evolved into both a permitting/regulatory and a planning/management tool, with the ultimate objective of providing decision-makers with an indication of likely environmental consequences of their actions. The current implementing order, DENR Administrative Order 37 Series of 1996, is seen by some authorities as “today the most important and comprehensive legal pronouncement on the EIA system in the Philippines, and perhaps in the whole Southeast Asian region.”

Among the most significant features of DAO 37/1996 are the requirement of the establishment of an Environmental Guarantee and Monitoring Funds, the enumeration and definition of Environmentally Critical Projects and Areas, and the incorporation of public participation and social acceptability into the policy of the law. Thus, requirements on public information, public hearings, alternative dispute or conflict resolution processes and process documentation reports are to be adhered to by project proponents as well as concerned local and national government agencies. This has been welcomed by environmental organizations here and even abroad, and most especially by residents and stakeholders in affected communities who for a long time were ignored in decision-making for matters and projects that ultimately affect their health, environment, and quality of life.

However, issues have been raised regarding the implementation of the EIA System. These include lack of capacity or technical expertise, especially at the local levels, to fully appreciate and implement the EIA System; the lack of penal consequences for violators; and the lack of provisions for integrated or “programmatic” EIAs which are intended to assess the cumulative effects of several activities taken together, and at the earliest possible time.

Project proponents also point out the high costs of compliance and the tediousness of the process, seeing social acceptability requirements as another hurdle for obtaining project approval. On the other hand, environmental groups and stakeholders, see the laws as poorly implemented, citing instances of lack of compliance and clamor for even further strengthening and effective operationalization of the public participation provisions of the law. They seek to have a better standing in the decision-making process,

and to ensure that public consultations and hearings are made not merely as formalities. Further, they seek the institution of effective remedial measures, in cases of violations of or non-compliance to rules, terms, and conditions, subsequent to the issuance of the Environmental Compliance Certificate.

This apparent conflict is emphasized by government policy encouraging the flow of investments into the country in the name of economic development which fosters leniency in the implementation of environmental laws on the part of administrative bodies and in circumvention of these laws by investors and project proponents. In turn, these result in adverse consequences that the law in the first place seeks to mitigate or to prevent, the brunt of which is borne by members of local communities.

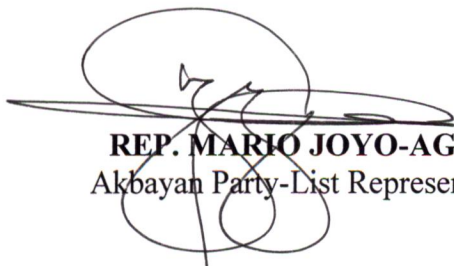
What bears stressing is that for any environmental assessment system to be truly effective, public participation and social acceptability should be deemed essential and must not be looked at as a mere concession to communities but as a crucial step in proper project planning and implementation. For one, access to information, public participation in decision-making, and access to justice are fundamental to democracy and are internationally recognized rights as enunciated in Principle 10 of the landmark Rio Earth Summit in 1992. Also, if the purpose of environmental impact assessment is to ultimately improve the quality of decisions, then the participation of the public should be taken by all parties concerned as a welcome opportunity to exchange relevant, truthful, and accurate information that could contribute both to the protection of the environment as well as to the success of the project. The integration of local knowledge, values and interests can only result in the making of better decisions, both on the per-project and policy levels, in the short-, medium-, and long-term.

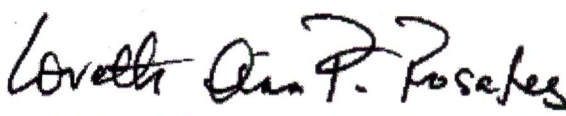
Equally important is the emphasis on public participation as an open-ended process where the acceptance by the communities is not always guaranteed and should never be unduly coaxed. Only when parties are assured of parity between them would scoping sessions, public hearings, and the procurement of the community's free and prior informed consent truly be said to support the intent of the law --- to ensure that economic development is pursued without sacrificing the integrity of the environment for the benefit of present and future generations, consistent with the principle of sustainable development.

The proposed bill aims to address the issues put forth above and to strengthen the Philippine environmental assessment law. It will consolidate the laws and put the system into a singular legislative framework with Congressional fiat. It will provide penalties and remedies for violations and non-compliance. It will create an independent national environmental protection body and call for the development of technical expertise and capacity among implementing agencies, especially at the local level. It will provide for the institution of a Programmatic EIA System and the mainstreaming of EIA in National Policy Formulation to integrate environmental considerations into the planning of policies and programs as early as possible. Most importantly, it will strengthen public participation and social acceptability requirements in such a way as to empower communities to fully realize the rights vested upon them in the EIA System.

Given the significance of our nation's pursuit of authentic sustainable development, the immediate passage of this bill is earnestly sought.


REP. ANA THERESIA HONTIVEROS-BARAQUEL
Akbayan Party-List Representative


REP. MARIO JOYO-AGUJA
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Akbayan Party-List Representative

1 Republic of the Philippines
2 HOUSE OF REPRESENTATIVES
3 Quezon City, Metro Manila

4
5 THIRTEENTH CONGRESS
6 Third Regular Session

7
8 House Bill No. 5716
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12 Introduced by AKBAYAN Party-List Representatives
13 Ana Theresia Hontiveros-Baraquel,
14 Mario “Mayong” Joyo Aguja and Loreta Ann P. Rosales
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17
18 AN ACT
19 TO ENHANCE THE PHILIPPINE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) SYSTEM,
20 TO STRENGTHEN PUBLIC PARTICIPATION THEREIN,
21 AND FOR OTHER PURPOSES
22

23
24 Be it enacted by the Senate and the House of Representatives of the Philippines in Congress
25 assembled:
26

27
28 CHAPTER I
29 GENERAL PROVISIONS
30

31 SECTION 1. Title. - This Act shall be known as the “EIA Act of 2006.”
32

33 SECTION 2. Declaration of Policy. - It is the policy of the State to adhere to the principle of
34 sustainable development where economic growth is pursued with concern and consideration for the
35 protection of the environment and natural resources for present and future generations. The State
36 shall, at all times, promote a balanced and healthful ecology through the adoption of measures that
37 determine the adverse environmental impacts of economic undertakings and prescribe appropriate
38 schemes and regulations to avoid and mitigate the same. In the implementation of this policy, the
39 State shall be guided by the following principles:

- 40 (a) Fulfillment of the responsibilities of each generation as trustee of the environment for
41 succeeding generations;
42 (b) Protection and upliftment of the quality of life of all Filipinos, recognizing that such quality
43 of life is intimately related to the quality of their natural environment;
44 (c) Assurance for all Filipinos of environs that are safe, healthful, and productive;
45 (d) Attainment of the widest range of beneficial uses of the environment without degradation
46 to its integrity or sustainability or risk to the health, safety, and livelihood of persons and
47 local communities;
48 (e) Preservation of important historic, cultural, and natural aspects of our national patrimony;
49 and
50 (f) Promotion of public participation in decision-making, including project planning and policy
51 formulation, pursuant to the internationally-recognized rights of people to information and
52 self-determination.

1 **SECTION 3. Aids to Construction.** - This Act shall be construed taking the following into
2 consideration:

- 3
4 (a) The environment is a resource not only for present but for future generations; and
5 (b) Marginalized communities and vulnerable sectors will always be disadvantaged in formal
6 legal processes.
7

8 **SECTION 4. Definition of Terms.** -- For purposes of this Act, the following shall be defined as stated
9 below:

10
11 “Certificate of Non-Coverage” (CNC) refers to the document issued by the Commission or its duly
12 authorized representative certifying that the proposed project or undertaking does not fall within
13 the category of critical projects that require the issuance of an Environmental Compliance
14 Certificate prior to project implementation and operation;
15

16 “Co-located Projects” are projects, or a series of similar projects or undertakings, located in a
17 contiguous area, or a project subdivided into several phases and/or stages;
18

19 “Commission” refers to the National Environmental Protection Commission;
20

21 “Critical Project” refers to any project or activity that has a high potential to create an adverse
22 impact on the environment, or to the safety and health of persons and their quality of life;
23

24 “Environmental Compliance Certificate” (ECC) refers to the document issued by the President of
25 the Philippines or his duly authorized representative certifying that the project under consideration
26 will not bring about unacceptable environmental impact and that the proponent has complied with
27 the requirements of the Environmental Impact Assessment System;
28

29 “Environmentally Critical Areas” (ECA) refer to all declared protected areas, including but not
30 limited to those declared under Republic Act No. 7586 (National Integrated Areas System Act of
31 1992) and other areas which are ecologically important or especially sensitive to degradation, such
32 as watersheds, fish sanctuaries, etc.;
33

34 “Environmentally Critical Projects” (ECP) refer to all projects declared as environmentally critical,
35 or those which have high potential for creating negative impacts on the environment and to the
36 safety and health of persons and their quality of life, due to the nature of the project and the
37 activities to be done pursuant to its implementation;
38

39 “Environmental Impact Assessment” (EIA) refers to the processes of identifying, forecasting and
40 evaluating the future state of the environment as a consequence of a particular activity and with
41 reference to a comparative assessment of the environment’s future state without the activity;
42

43 “Environmental Impact Assessment Report” refers to the documentation of the process undergone
44 by a project to assess its environmental impacts and includes documentary requirements as
45 determined according to the nature or type of project being proposed;

1
2 “Environmental Impact Statement” (EIS) refers to the documentation of the studies of the
3 environmental impact of a project including a discussion of the direct and indirect consequences
4 upon human welfare and ecological and environmental integrity. The EIS may vary from project to
5 project but shall in every case contain all relevant environmental information and details about the
6 project;

7
8 “Free and Prior Informed Consent” (FPIC) as used in this Act shall mean the consensus of all
9 members of the affected communities consenting to the implementation of a project being
10 proposed and undergoing environmental assessment, free from any external fraud, manipulation,
11 interference or coercion, and obtained after fully disclosing the intent and scope of the project, in
12 a language and process understandable to the community affected;

13
14 “Policy and Programmatic Environmental Impact Assessment” refers to the process of review and
15 evaluation by the Commission of projects on contiguous areas, where the focus of the review
16 process is the carrying capacity of the area with respect to the projects to be sited there and on the
17 applicability and appropriateness of the proposed management program;

18
19 “Project” means activities including actions, programs, or undertakings, regardless of magnitude,
20 which may have significant impact on the environment;

21
22 “Principal Investor” means any person, whether natural or juridical, or of Filipino or foreign
23 citizenship or registration, which owns at least a thirty percent (30%) equity in the paid-in capital
24 stock of the proponent firm;

25
26 “Proponent” refers to persons, whether natural or juridical, owners/agents, organizations, or other
27 entities planning, proposing or otherwise undertaking a project, program or policy, including
28 government agencies, government-owned and controlled corporations, and Local Government Units;

29
30 “Public Participation” means an open, transparent, gender-sensitive, fair, truthful, and community-
31 based process consisting of one or several activities where the primary objective to provide a venue
32 where relevant issues concerning the project and its effects on the environment, including on the
33 health of persons and communities and their quality of life, are to be presented and discussed by all
34 stakeholders, at all relevant stages of project implementation including project planning and
35 development, and post-assessment monitoring;

36
37 “Social Acceptability” refers to the acceptance of a projected by affected communities based on
38 timely and informed participation in the assessment process with particular regard to environmental
39 impacts that are of concern to them;

40
41 “Social Acceptability Report” refers to the documentation of the process, which is to be based on
42 public participation, undertaken to secure the consent of the affected communities to the project,
43 whether or not such consent is actually secured;

1 “Stakeholders” includes all persons or entities who may be significantly affected by the project or
2 undertaking, whether directly or indirectly.

3
4
5 **CHAPTER 2**
6 **ENVIRONMENTAL IMPACT ASSESSMENT (EIA) SYSTEM**
7

8 **SECTION 5. Environmental Impact Assessment (EIA) System.** - The EIA System is intended to
9 identify, forecast, and evaluate the adverse direct and indirect effects of a proposed project on the
10 environment as a result of the implementation of the project or any of its components, including on
11 the health of persons. All persons, whether natural or juridical, and entities including government-
12 owned or controlled corporations and local government units, intending to implement any project
13 which may have adverse impacts on the environment shall undertake an Environmental Impact
14 Assessment (EIA) to disclose the potential impacts of the proposed project or activity for public
15 review.

16
17 The EIA shall be integrated into the planning process, and shall require public participation as
18 described in Section 17 of this Act.

19
20 The assessment process should result in the production of an EIA Report, which shall disclose all
21 findings and contain all requirements, including but not limited to the Free and Prior Informed
22 Consent document, a list of applicable national and local environmental laws and ordinances, and
23 others as provided in Sections 10 and 11 of this Act.

24
25 **SECTION 6. Coverage.** - The EIA System shall apply to all projects planned or proposed by any
26 individual, organization or instrumentality including government-owned or controlled corporations,
27 which can potentially have adverse effects on the environment, including the health of persons, as
28 classified under Section 7 of this Act.

29
30 **SECTION 7. Taxonomy and Guidelines of Appraisal.** - To enable the Commission to effectively
31 pursue the intent and purpose of the EIA System, a technical classification and evaluation scheme
32 shall prescribe the necessary requirements for the issuance of ECCs to proposed activities and
33 projects. The primary aim of the scheme is to guide the determination of the nature or
34 characteristics of a proposed project and its potential to create adverse impact on environmental
35 resources in the project area.

36
37 For the purpose of these rules and regulations, projects may be classified as either covered or not
38 covered by the EIA System and as such shall be treated accordingly *in the approval of the projects*.
39 The Commission may issue additional guidelines for project classification and evaluation in keeping
40 with applicable laws and rules. The various project categories and classifications under these rules
41 shall be as follows:

- 42
43 Type A. Environmentally Critical Projects (ECPs);
44 Type B. Projects located in Environmentally Critical Areas (ECAs) tending to cause
45 adverse environmental impacts;

1 Type C. Projects not falling in any of the aforecited categories but may have
2 significant or adverse environmental impacts;
3 Type D. Projects projected to create positive impact on the environment;
4 Type E. Exempted Projects.

5
6 The Commission shall issue further rules and regulations as may be necessary to effectively
7 implement the intent and purpose of this section.

8
9 **SECTION 8. Review of Classification of Projects and Categories of Assessment.** - The Commission
10 shall review and update the current classification of programs and projects within the coverage of
11 the System to mitigate hazards to public health and welfare; *Provided*, That the Commission shall
12 factor in all information on potential adverse environmental impacts of the proposed programs and
13 projects in the formulation of additional classification schemes for coverage and/or non-coverage.

14
15 **SECTION 9. EIA Reportorial System.** - If a project is considered an ECP or a Type A project, the
16 proponent shall be required to prepare an Environmental Impact Statement (EIS). If the project is
17 not considered an ECP but is located within an ECA or a Type B project, the proponent shall be
18 required to submit an Initial Environmental Evaluation (IEE), without prejudice to the submission of
19 an EIS or any part thereof as may be further required by the Commission upon review of the IEE. At
20 its option, a proponent of Type B project may submit an EIS instead of an IEE, pursuant to guidelines
21 to be promulgated by the Commission.

22
23 If a project is falls under Type C, the proponent shall submit a Project Description to the
24 Commission. The Commission shall thereafter, and within a reasonable time after submission of the
25 Project Description, determine whether the Proponent will be further required to submit an EIS or
26 an IEE. The same shall apply to projects designed to create positive impacts on the environment
27 (Type D).

28
29 Projects which have already undergone assessment shall undergo a new assessment prior to any
30 development or further activity not covered by the first assessment. Such development or further
31 activity may be deemed as a separate and distinct project.

32
33 Co-located projects shall be required to conduct an EIA that shall consider the cumulative
34 environmental impacts of all the project components. A single ECC covering all co-located projects
35 may be issued for such co-located projects except where the Commission determines that each or
36 any component should be treated as a separate and distinct project.

37
38 The Commission shall issue further rules and regulations, including guidelines for the determination
39 of exempted projects, as may be necessary to effectively implement the intent and purpose of this
40 section.

41
42 **SECTION 10. Environmental Impact Statement.** The EIS shall include, but not be limited to the
43 following:

- a. Project Description, including data on project location, specifically describing the primary and secondary impact zones, project rationale, alternatives, including alternative sites or actions, no action alternatives, and project phases;
- b. Scoping Report;
- c. Social Acceptability Report, detailing the process of public participation, and containing the Free and Prior Informed Consent document;
- d. Baseline Environmental Conditions for land, water, air, and people;
- e. Impact Assessment, including a discussion of the impact of the project or undertaking on the environment and public health;
- f. Environmental Risk Assessment, when appropriate;
- g. Environmental Management Plan;
- h. Proposals for Environmental Monitoring and Guarantee Funds when required;
- i. List of relevant national and local environmental laws, including but not limited to ordinances and land and water use plans, which require compliance;
- j. Supporting Documents, such as documents on technical and socio-economic data used, gathered, or generated;
- k. Accountability Statements of the preparer and the proponent.
- l. For projects located in ancestral lands or domains, as defined or to be defined by law, of indigenous communities, a specific chapter in the socio-economic impact assessment shall be devoted to a discussion of indigenous peoples' concerns and possible socio-economic, political and cultural impacts of the proposed project on such people.
- m. For projects or undertakings with significant impact on women, a specific chapter in the socio-economic impact assessment shall be devoted to a discussion and consideration of gender issues.
- n. For projects or undertakings with significant impact on population, a specific chapter on the socio-economic impact assessment shall be devoted to a discussion of the relationship among population, development, and the environment.

The Commission shall promulgate the rules and regulations necessary to effectively implement the procedure by which an EIS is required, produced and assessed.

SECTION 11. Initial Environmental Examination. - The IEE shall include, but not be limited to the following:

- a. a full description of the environmental setting and receiving environment, including the primary and secondary impact areas;
- b. a brief description of the project or undertaking and its process of operation;
- c. a brief description of the environmental impact of the project or undertaking, including its socio-economic impact;
- d. the Social Acceptability Report, detailing the process of public participation, and containing the Free and Prior Informed Consent document;
- e. a matrix of mitigation and enhancement measures;
- f. a documentation of the consultative process undertaken, when appropriate;
- g. a list of relevant national and local environmental laws, including but not limited to ordinances, land and water use plans, and declarations on the protected or critical nature of the area where the project is located, which require compliance;

- h. a brief discussion of indigenous peoples' concerns and possible socio-economic, political and cultural impacts of the proposed project or undertaking on such people for projects or undertakings located in ancestral lands or domains, as defined or to be defined by law, of indigenous communities;
- i. a brief discussion of gender issues for projects or undertakings with significant impact on women;
- j. a brief discussion of the relationship among population, development, and the environment for projects or undertakings with significant impact on population; and,
- k. Accountability Statements of the preparer and the proponent.

The Commission shall promulgate the rules and regulations necessary to effectively implement the procedure by which an IEE is required, produced and assessed. After due appraisal of the IEE, the Commission shall decide to either deny or issue an ECC or to further require the proponent to produce an EIS, or any part thereof as it may deem necessary. In all cases, the proponent shall be notified by the Commission of its action within a reasonable amount of time.

SECTION 12. Environmental Compliance Certificate (ECC). - An ECC shall issue only after favorable evaluation by the Commission of the pertinent environmental impact report, whether such is in the form of an EIS or an IEE, within a reasonable time. No program or project shall be implemented absent an ECC. In evaluating environmental impact reports, the Commission may seek the assistance of other government agencies and concerned stakeholders, but in all cases shall be the lead agency in such evaluation. In every case, an ECC shall be issued subject to conditions set forth by the Bureau, the non-fulfillment or violation of which shall be grounds for revocation of the ECC and administrative, civil, or criminal charges.

SECTION 13. Local Monitoring Bodies. - Local Monitoring Bodies shall be organized by the Commission consisting of representatives from the regional or local office of the Commission, the Local Government Unit having jurisdiction, local communities and stakeholders, that shall monitor the compliance of a project or projects to the terms and conditions set forth in the ECC or CNC.

CHAPTER 3 PROGRAMMATIC ENVIRONMENTAL IMPACT ASSESSMENT SYSTEM

SECTION 14. Mainstreaming EIA in National Policy Formulation. - Cognizant of the need to ensure the formulation of policies, programs, and plans founded upon sound environmental considerations and the principles of sustainable development, it is hereby declared the policy of the State to systematically integrate environmental impact assessment concepts and processes in various phases of policy formulation by all national agencies and instrumentalities of government. The Commission shall, within a reasonable period from the effectivity of this Act, formulate and publish guidelines for identifying, appraising and addressing potential environmental impacts of national policies in order to incorporate environmental safeguards into the development process. There shall be a regular review of such guidelines considering relevant information and best practices in order to enhance the quality of the EIA as a policy and planning tool.

SECTION 15. Policy and Programmatic EIA. - Policy and Programmatic EIA shall be required by the Commission for proposed policies, programs and plans, when:

(a) the proposal pertains to, but not be limited, to agriculture, forestry, fisheries, energy, health, manufacturing, resource exploration and extraction, infrastructure, transport, waste management, water management, telecommunications, tourism, coastal zone management, national, regional, provincial and municipal / city development planning or land use;

(b) implementation of the proposal may pose significant environmental risks or result in adverse or doubtful effects on the environment, including the health of individuals or communities;

(c) the proposal consists of several components or a cluster of projects co-located in area such as an industrial estate or export processing zone.

SECTION 16. Relationship with the Per Project EIA System. - As such policy and planning tool, the Policy and Programmatic EIA is intended to strengthen and support, and not to replace the per project EIA System. Projects included in policies, programs, or plans that have undergone Policy and Programmatic EIA, shall not be automatically exempted from the per project EIA System.

Chapter 4

FREE AND PRIOR INFORMED CONSENT

SECTION 17. Free and Prior Informed Consent. - It is hereby declared to be the policy of the State to ensure the direct and meaningful participation of affected communities and sectors in the approval of policies, programs and projects with possible adverse impacts on the environment. The social acceptability of the project, in the form of the free and prior informed consent of affected persons or communities, shall be *a condition precedent* to the approval of any program or project. Toward this end, proponents of projects shall, at all times, be required to conduct scoping sessions and submit to public consultations.

A. Nature and Purpose of Public Consultations and Scoping Processes

It is hereby declared that the environmental assessment process, including the public consultation and scoping procedures, are not conducted for the purpose of encouraging or soliciting the concerned communities' approval of or support for the project being discussed, but as a fair, truthful, and comprehensive forum where all parties may present relevant issues concerning the project and its perceived significant effects on the environment, including the health of persons and communities and their quality of life. It shall be incumbent upon project proponents and representatives from local government units and other government agencies and Commissions with jurisdiction over the project, to present all and any relevant data and aspects of the project that may affect the community, whether positively or adversely. Such data shall be complete, accurate, and unbiased.

1 Within six (6) months from the effectivity of this Act, the Commission shall promulgate
2 implementing rules and regulations to ensure the objectivity of the conduct of the EIA and
3 the truthfulness of all presentations and representations made therein by all parties
4 thereto. These rules shall also provide for penalties where parties, including representatives
5 from local government units and other government agencies and Commissions with
6 jurisdiction over the project, fail to comply with the duties and responsibilities vested upon
7 them by this Section.

8 9 **B. Conduct of Scoping**

10
11 Scoping shall be initiated by the proponent at the earliest possible stage of project
12 planning, to determine the range of actions, alternatives and impacts to be examined in the
13 EIA process. The objectives of the scoping shall be to:

- 14
- 15 a. provide an early link between the Commission and the proponent to ensure that the EIA
16 addresses relevant issues and presents results in a form consistent with EIA review
17 requirements;
 - 18 b. allow stakeholders to make their concerns known to ensure that the EIA adequately
19 addresses the relevant issues;
 - 20 c. establish an agreement at the outset of the EIA between the proponent, the DENR and
21 stakeholders on what issues and alternatives are to be examined;
 - 22 d. address issues on carrying or assimilative capacity of the environment and identify possible
23 legal constraints or requirements regarding the project proposal;
 - 24 e. determine whether the project or undertaking requires the conduct of an environmental
25 risk assessment; and
 - 26 f. determine and agree on the process of dealing with issues relating to social acceptability.
- 27

28 Based on the scoping process, the proponent shall submit a formal scoping report to the
29 Commission. The scoping process shall be conducted in a language and manner that is
30 understandable to the community concerned, and the proceedings shall be duly recorded.
31 The record of the proceedings shall be attached to the formal scoping report.

32
33 The Commission shall review the scoping report submitted by the proponent and, after
34 consultation with the latter and the community, determine the actual scope of the EIS. In
35 determining the scope of the EIS, the Commission shall take into account the concerns of
36 and the recommendations of stakeholders.

37 38 **C. Public Consultations**

39
40 After scoping and the submission of the formal scoping report, a series of public
41 consultations shall be initiated by the Commission to determine the social acceptability of
42 the project. For this purpose, a *multi-sectoral committee* shall be created for the project
43 to assist the Commission in ensuring that the requisite consent of affected persons or
44 communities is obtained consistent with guidelines issued for such purpose.

1 Whenever a public consultation is to be conducted, notice thereof shall be published once a
2 week for three (3) consecutive weeks in any newspaper of general circulation at least thirty
3 (30) calendar days prior to the consultations. Notice shall likewise be posted in a
4 conspicuous place in the municipality or barangay where the project is to be located. All
5 expenses incurred relating to the notices shall be borne by the project proponent. The
6 Commission may seek comments and recommendations, in writing, of other government
7 agencies and stakeholders with expertise over the proposed project and the possible
8 impacts that may be generated.

9
10 **D. Social Acceptability Report**

11
12 The proceedings in the public consultations shall be summary in character and need not
13 strictly adhere to the technical rules of evidence and procedure. Information on the
14 proposed projects, including environment impacts, shall be disseminated or presented in a
15 manner and language understandable to the community. The proceedings shall be duly
16 recorded, with such record being attached to the Social Acceptability Report that shall be
17 rendered by the hearing officers designated by the Commission within fifteen (15) working
18 days from the termination of the consultations. The Social Acceptability Report shall be part
19 of the documentary requirements in the environmental impact report, whether in the form
20 of an EIS or an IEE.

21
22 Should the project obtain the free and prior informed consent of the community concerned,
23 the document representing the same shall be attached to the Social Acceptability Report.
24 The document evidencing the concerned community's free and prior informed consent shall
25 be an indispensable requisite for the issuance of an ECC. If the community does not give its
26 consent to the project, such shall be stated in the Social Acceptability Report.

27
28 The Commission shall issue necessary guidelines for the proper conduct of consultations to obtain
29 the most truthful and accurate expression of people's consent to the proposed project. In the
30 conduct of consultations, all parties shall adhere to the standards set by the Commission for such
31 purpose.

32
33 **Chapter 5**
34 **ACTIONS**

35
36 **SECTION 18. Jurisdiction of the Court.**

- 37 (A) Notwithstanding the provisions of Republic Act No. 8975, a court may issue a temporary
38 restraining order or a writ of preliminary injunction against any project which shall attempt to
39 operate in violation of any provision of this Act or its implementing rules and regulations
40
41 (B) Where an ECC has already been issued, and a temporary restraining order or writ of
42 preliminary injunction issued for violation of the requirements or conditions set therein, such ECC
43 shall be automatically suspended, and the proponent subject to the penalties set forth in this Act.
44

1 (C) The temporary restraining order or writ of preliminary injunction shall be enforceable
2 throughout the Republic of the Philippines.

3
4 (D) The power of the courts to issue such preliminary injunction shall not prejudice the power
5 of the Commission to issue cease and desist orders as provided for in Section 24 of this Act.

6
7 **SECTION 19. Administrative Action.** - Without prejudice to the right of any affected person to file
8 any other criminal or civic action, the Commission shall, on its own instance or upon verified
9 complaint by any person, institute administrative proceedings against any person who violates any
10 order, rule or regulation issued by the Commission with respect to this Act.

11
12 **SECTION 20. Citizen Suits.** - For purposes of enforcing the provisions of this Act or its implementing
13 rules and regulations, any citizen may file an appropriate civil, criminal, or administrative action in
14 the proper courts against:

15
16 a) Any person who violates or fails to comply with the provisions of this Act or its
17 implementing rules and regulations;

18 b) Any person who violates the terms and conditions set forth by the Commission in the
19 ECC or CNC;

20 c) The Commission or other implementing agencies with respect to orders, rules and
21 regulations issued inconsistent with this Act; and/or

22 d) Any public officer who willfully or grossly neglects the performance of an act
23 especially required as a duty by this Act or its implementing rules and regulations; or abuses his
24 authority in the performance of his duty; or, in any manner, improperly performs his duties under
25 this Act or its implementing rules and regulations: Provided, however, That no suit can be filed until
26 after thirty (30) days from notice given to the concerned public officer and the alleged violator or
27 violators, and no appropriate action has been taken thereon.

28
29 The court shall exempt such action from the payment of filing fees, except fees for actions not
30 capable of pecuniary estimation, and shall, likewise, upon prima facie showing of the non-
31 enforcement or violation complained of, exempt the plaintiff from the filing of an injunction bond
32 for the issuance of a preliminary injunction.

33
34 Within thirty (30) days, the court shall make a determination if the complaint filed herein is
35 malicious and baseless and shall accordingly dismiss the action and award attorney's fees and
36 damages, as it may seem appropriate.

37
38 **SECTION 21. Independence of Action.** - The filing of an administrative suit against such person or
39 entity does not preclude the right of any other person to file any criminal or civil action. Such civil
40 and/or criminal action shall proceed independently.

41
42 **SECTION 22. Suits and Strategic Legal Actions Against Public Participation and the Enforcement**
43 **of this Act.** - Where a suit is brought against a person who filed an action as provided in Section 19
44 of this Act, or against any person, institution or government agency that implements this Act, it
45 shall be the duty of the investigating prosecutor or the court, as the case may be, to immediately

1 make a determination not exceeding thirty (30) days, whether such legal action has been filed to
2 harass, vex, exert undue pressure, or stifle legal resources of the person complaining or of enforcing
3 the provisions of this Act. In case of such determination, the investigating prosecutor or the court
4 shall dismiss the case and award attorney's fees and damages, as it may deem appropriate.
5

6 **SECTION 23. Lien upon Personal and Immovable Properties of Violators.** - Fines and penalties
7 imposed pursuant to this Act shall be liens upon personal and immovable properties of the violator.
8 Such lien shall, in case of insolvency of the respondent violator, enjoy preference subsequent to
9 laborer's wages under Articles 2241 and 2242 of Republic Act 386 or the New Civil Code of the
10 Philippines.
11

12 **SECTION 24. Power to Issue Orders.** - The Commission, as the implementing agency of this Act,
13 shall, forthwith or within such time as specified in his order, upon its own instance or upon verified
14 complaint by any person, require the proponent to remedy any practice connected with the
15 implementation of the project or any part or activity thereof, which is not in accordance with the
16 provisions of this Act or its implementing rules and regulations or any other order, statute, or
17 standard pertaining to environmental, safety or health concerns. In case of imminent danger to life
18 or property, the Commission may issue a cease-and-desist order and summarily suspend the
19 operations and activities until the danger is removed and appropriate measures taken by the
20 proponent.
21

22 **SECTION 25. Grounds for Non-issuance or Revocation of an ECC.** - An ECC shall in no case be
23 issued, or otherwise shall be suspended or revoked by the Commission or the Bureau as the case
24 may be, for any of the following grounds:

- 25 a) late or non-filing of requirements;
- 26 b) violation of or non-compliance with terms and conditions;
- 27 c) non-payment of taxes or fees;
- 28 d) falsehood or omission of statements and facts in the EIS, IEE, Project Description, or any
29 part thereof, or during the conduct of public consultations such as, but not limited to, scoping
30 sessions and public hearings; or
- 31 e) showing of loss, injury, or damage to any person as a result of the implementation of the
32 project or any part or activity thereof, without need to show bad faith or any degree of negligence
33 on the part of the proponent.
34

35 Such non-issuance, suspension or revocation of an ECC shall not prejudice the right of any person to
36 file appropriate administrative, civil, or criminal suits as provided in this Act.
37

38 **SECTION 26. Cancellation of a CNC.** - A CNC the issuance of which is subject to terms and
39 conditions may likewise be cancelled for any of the grounds set forth in Section 24 of this Act. Upon
40 determination by the Bureau, such project may thereafter be reclassified as a critical project or be
41 required to submit further requirements.
42

43 Where the implementation of the project or any part thereof is shown to cause damage, injury, or
44 loss to persons and property, the project and its proponents may be subject to the same actions,
45 liabilities and penalties as critical projects.

1
2 **SECTION 27. Strict Liability in Cases of Loss, Injury, or Damage to Persons or Property and**
3 **Award of Damages.** - The proponent shall be liable for damages for any harm, loss, or injury to
4 persons and property; *Provided*, That it can be clearly shown that the act or omission complained of
5 is in violation or non-compliance of this Act, its implementing rules and regulations, or the terms
6 and conditions set forth in the ECC or CNC; *Provided further*, That the showing of a violation or
7 non-compliance to this Act, its implementing rules and regulations, or to the terms and conditions
8 of an ECC shall be a conclusive presumption of the proponent's fault or negligence.
9

10 **SECTION 28. Solidary Liability of Chief Operating or Executive Officer.** - The separate and
11 distinct legal personality of the proponent firm notwithstanding, the chief operating officer, chief
12 executive officer, and principal investors of the proponent firm shall be jointly and severally liable
13 for any financial liability or award of damages made by the Court under the preceding section. The
14 same shall apply to transnational corporations and foreign firms licensed to do business in the
15 Philippines.
16

17 **CHAPTER 7**
18 **PENALTIES**
19

20 **SECTION 29. Operation without a Required ECC.** - Any critical project which shall operate without
21 the required ECC shall face closure, suspension of development or construction or cessation of
22 operations until such time that proper environmental safeguards are put in place and the necessary
23 ECC has been issued; *Provided*, that the project proponent shall be fined an amount equivalent to
24 200% of its authorized capital stock or, in the case of an individual, of its net worth, or 400% of its
25 gross profit, whichever is higher; *Provided*, That the chief operating or executive officer of the
26 proponent firm shall be held criminally liable and be imprisoned for a period not less than five (5)
27 years but not more than ten (10) years at the discretion of the court, and shall be jointly and
28 severally liable for actual, moral, or exemplary damages with the proponent firm, and the principal
29 investors, as may be found by the court.
30

31 **SECTION 30. Violations of Terms and Conditions of the ECC.** - Any project proponent found in
32 violation of the terms and conditions set forth in the ECC shall face closure, suspension of
33 development or construction or cessation of operations; *Provided*, that the project proponent shall
34 be fined an amount equivalent to 200% of its authorized capital stock or, in the case of an
35 individual, of its net worth, or 400% of its gross profit, whichever is higher; *Provided*, That the chief
36 operating or executive officer of the proponent firm shall be held criminally liable and be
37 imprisoned for a period not less than five (5) years but not more than ten (10) years at the
38 discretion of the court, and shall be jointly and severally liable for actual, moral, or exemplary
39 damages with the proponent firm, and the principal investors, as may be found by the court.
40

41 **SECTION 31. False statements or representation.** - Any project proponent who is found to have
42 knowingly and willfully made a false representation or an untruthful or incomplete presentation of
43 material or relevant facts and findings to the Government or to the public in contravention of
44 Section 16, shall be fined a minimum of Fifty Thousand Pesos (Php50,000.00) but not more than
45 One Hundred Thousand Pesos (Php100,000.00), upon the discretion of the Commission, for every

1 false representation or statement. In cases where harm, loss, or injury be sustained by the
2 community or any of its members as a result of a false representation or statement, whether or not
3 made knowingly or willfully, the proponent shall be fined a minimum of Two Hundred Fifty
4 Thousand Pesos (Php250,000.00) to a maximum 10% of the project cost or Five Hundred Thousand
5 Pesos (Php500,000.00), depending upon the nature and degree of the loss, injury, or damage
6 sustained, whichever is higher, to be imposed at the discretion of the Commission, and without
7 prejudice to the filing of administrative, civil, or criminal charges.

8
9 **SECTION 32. Violations by Public Officials of the Duties Reposed by this Act.** - Any government
10 official tasked with the implementation of the Act or any of its components who fails to enforce the
11 provisions of this Section shall be charged administratively and, if found guilty pursuant to Section
12 19, be subject either to suspension from office for a minimum period of one (1) year without pay, or
13 to separation from service without benefits, subject to existing civil service laws. Further, the
14 violator shall be held criminally liable and be imprisoned for a period not less than two (2) years but
15 not more than five (5) years, at the discretion of the Court.

16
17 **SECTION 33. Financial Guarantees for Environmental Rehabilitation and Injuries to**
18 **Communities.** - The Commission shall establish a mechanism that systematically addresses the need
19 for clean-up and rehabilitation of areas damaged as a result of the implementation of projects
20 taking into consideration the resources required to undertake the rehabilitation activities, as well as
21 to ensure just and timely compensation for any adverse effect which project or program
22 implementation may directly or indirectly cause to the environment or the community. For these
23 purposes, the program and project proponents shall be required to put up a guarantee fund and/or
24 any other trust, insurance, or financial mechanism as the Commission may deem appropriate;
25 *Provided, That,* the guarantee fund or funds shall be utilized for damage caused during any stage pf
26 project implementation and after the termination of the project or program. *Provided further,* that
27 the establishment of such funds shall not exempt the proponents from civil or criminal liability for
28 violations of this Act, its implementing rules and regulations, or the terms and conditions imposed
29 upon them by the Commission.

30
31
32 **CHAPTER 7**
33 **IMPLEMENTATION MECHANISM AND RESPONSIBILITIES**
34

35 **SECTION 34. National Environmental Protection Commission (NEPC).** - To carry out the policies
36 herein set forth, there shall be created the National Environmental Protection Commission, which
37 shall be the primary government agency responsible for the implementation of this Act and the
38 formulation of its implementing rules and regulations. It shall also be the lead agency in the
39 conduct of environmental impact assessments and issuance of ECCs.

40
41 **SECTION 35. Mandate.** - THE NEPC shall protect and promote the people's right to a healthful
42 environment and at all times shall be guided by the principles of sustainable development and
43 meaningful public participation in its decision-making processes.

44
45 In no instance may the NEPC be put under the supervision or control of the DENR.

SECTION 36. Composition. - The NEPC shall be an independent agency under the Office of the President and shall be composed of three (3) Commissioners, one of whom shall be the Chairperson. The Board of Commissioners shall be comprised in this wise: one (1) Commissioners shall come from the scientific community with expertise in natural resource management and conservation of aquatic ecosystems and biodiversity; one (1) Commissioner shall come from the scientific community with expertise in natural resource management and conservation of terrestrial ecosystems and biodiversity; one (1) Commissioner shall be a member of the Philippine bar in the practice of environmental law; *Provided*, That at least one Commissioner shall be female.

The Commissioners shall be appointed by the President of the Philippines from a pool of recommendees from the communities or sectors to be represented by each Commissioner.

SECTION 37. Qualifications, Tenure, Compensation.- The Chairperson and the two (2) Commissioners must be natural born Filipino citizens, are at least 35 years of age at the time of appointment, with at least (10) years experience in their field of expertise, and must be of proven honesty and integrity; *Provided*, That the Commissioners shall hold office for a period of three (3) years, and may be subject to re-appointment for another term. *Provided, further*, That no person shall serve for more than two (2) consecutive terms and that in case of a vacancy, the new appointee must fully meet the qualifications of a Commissioner and hold office for a full term and in no case shall a member be appointed or designated in a temporary or acting capacity.

The Chairperson and the Commissioners shall be entitled to compensation in accordance with the Salary Standardization Law.

SECTION 38. Removal from Office.- Any member of the NEPC may be removed from office by the President, [on his own initiative] or upon a verified complaint by any adversely affected community, before the expiration of his term for cause and after complying with due process requirement of law.

SECTION 39. Appointment of Commissioners.- The President shall appoint the three (3) Commissioners of the NEPC within sixty (60) days from the effectivity of this Act.

SECTION 40. Powers and Functions.- To accomplish its mandate, the NEPC shall have the following powers and functions:

- (1) To serve as the primary government agency responsible for the implementation of this Act;
- (2) To promulgate rules and regulations necessary for the implementation of this Act;
- (3) To regularly monitor, review, and assess such rules and regulations to ensure that these adhere to the policy and objectives of this Act and the mandate of the Commission, and submit a yearly report to the President;
- (4) To issue or deny Environmental Compliance Certificates and set terms and conditions therein once issued;
- (5) To monitor and require the continued compliance of projects this Act, its implementing rules and regulations, or to the terms and conditions of an ECC, and penalize persons for violations or non-compliance;

- 1 (6) To recommend possible legislation, policies and programs related to environmental
2 assessment;
- 3 (7) To formulate minimum environmental compliance standards;
- 4 (8) To provide technical assistance for the implementation of this Act;
- 5 (9) To gather timely and authoritative information concerning the conditions and trends in the
6 quality of the environment both current and prospective, to analyze and interpret such information
7 for the purpose of determining whether such conditions and trends are interfering, or are likely to
8 interfere, with the achievement of the policy set forth in Chapter I of this Act, and to compile and
9 submit to the President studies relating to such conditions and trends;
- 10 (10) To assist or supervise the conduct of public consultations and ensure that such are carried
11 out according to the policy set forth in Chapter 4 of this Act;
- 12 (11) To conduct public hearings in cases where there is a strong showing of concern by the public
13 over a proposed project, policy or program;
- 14 (12) To develop and conduct capability-building modules, training, and other activities for the
15 benefit of implementers as well as the public to support the effective implementation of this Act;
16 and
- 17 (13) To formulate and disseminate information on environmental assessment and compliance
18 matters to the general public.

19
20 **SECTION 41. Accessibility and Transparency.**- Subject to such limitations as may be provided by
21 law or by rules and regulations promulgated pursuant thereto, all official records, documents and
22 papers pertaining to official acts, transactions or decisions, as well as research data used as basis
23 for policy development of the Agency shall be made accessible to the public.
24

25 **SECTION 42. Offices within the NEPC.** - To effectively implement this Act, its rules and
26 regulations, and in furtherance of its mandate, the NEPC shall have the following offices:
27

28 a) **Office of the Secretariat** - provides overall supervision of the Agency and is responsible directly
29 to the Commissioners; enhances public health and environmental protection through effective
30 management of NEPC's human, financial, and physical resources.
31

32 b) **Office of Enforcement and Compliance Assurance** - shall be primarily responsible for the
33 enforcement of this Act and its rules and regulations, for the review of documentary and other
34 submissions and requirements in relation to the issuance of ECCS, and the assurance of compliance
35 by projects to environmental laws and regulations, including but not limited to those under this Act.
36 This Office shall submit its recommendations to the Commission which shall en banc decide on the
37 issuance or non-issuance of ECCs.

38 i. **Office of Environmental Justice** - shall be responsible for community concerns,
39 with special attention to indigenous groups, fisherfolk, farmers, women, and other sectors within
40 specific affected communities. This Office shall assist in ensuring compliance with the Public
41 Participation and Social Acceptability requirements under this Act.

42 ii. **Post-assessment Monitoring Committee** - shall be responsible for the monitoring of
43 projects and ensuring their compliance to environmental laws and regulations after completion of
44 assessment, and to the terms and conditions set forth in Environmental Compliance Certificates, if
45 issued.

1
2 c) **Office of General Counsel** - provides legal service to all organizational elements of the
3 Commission with respect to its programs and activities as well as legal opinions, legal counsel, and
4 litigation support. In addition, the Office assists in the formulation of the Commission's policies and
5 programs as legal advisor. It shall also provide legal assistance to communities affected by violations
6 or non-compliance by persons to this Act.

7
8 d) **Office of Research and Development** - is responsible for the research and development needs of
9 the Commission's operating programs, as well as to address policy issues.

10
11 e) **Office of Public Information and Training** - shall be responsible for development and
12 dissemination of information and education materials and modules, as well as providing capacity-
13 building programs for environmental assessment practitioners and communities.

14
15 **SECTION 43. Other Offices.**- The NEPC shall have the power to create other offices and sub-offices,
16 including regional or local offices, as it may deem necessary subject to existing rules and
17 regulations.

18
19 **SECTION 44. Implementing Rules and Regulations.** The Commission shall promulgate the
20 implementing rules and regulations of this Act within 120 days after their appointment.

21
22 **SECTION 45. Joint Congressional Oversight Committee.** - There is hereby created a Joint
23 Congressional Oversight Committee to monitor the implementation of the Act. The Committee shall
24 be composed of five (5) Senators and five (5) Representatives to be appointed by the Senate
25 President and the Speaker of the House of Representatives, respectively. The Oversight Committee
26 shall be co-chaired by a Senator and a Representative designated by the Senate President and the
27 Speaker of the House of Representatives, respectively.

28
29
30 **CHAPTER 8**
31 **CREATION AND LOCALIZED MANAGEMENT OF AN EIA ADMINISTRATION FUND**
32

33 **SECTION 46. Establishment of an EIA Administration Fund.** -There is hereby created a revolving
34 fund to be known as the EIA Administration Fund to cover for administrative expenses, equipment
35 purchases or leases and other program costs directly incurred in EIA review, assessment and
36 monitoring. The Fund, which may be generated from various sources, shall entitle the donor or
37 grantor thereof to corresponding exemption from income or gift taxes and all other related
38 impositions by proper government agencies. All income likewise generated from fees, fines and
39 penalties directly related to the implementation of the EIA System shall accrue to *the Fund may be*
40 *utilized directly by the Commission for the above purpose; Provided,* That the Commission shall
41 provide the proper guidelines for the sourcing, utilization and proper accounting of such funds;
42 *Provided further,* That all information regarding the Fund, including, but not limited to, its
43 transactions and its status shall be accessible to the public at anytime.

SECTION 47. Localized Management of EIA Fund. - The Commission shall facilitate the creation of corresponding local structures and mechanisms for the localized sourcing and management of EIA administration funds.

The Commission, shall, in consultation and coordination with the DILG and the local government units, formulate the necessary guidelines to govern the localized sourcing and management of EIA fund.

SECTION 48. Appropriations. - An amount of One Hundred Million Pesos (P100,000,000.00) shall be appropriated for the initial implementation of this Act.

CHAPTER 9
FINAL PROVISIONS

SECTION 49. Separability Clause. - Should any provision herein be subsequently declared unconstitutional, the same shall not affect the validity or legality of the other provisions of this Act.

SECTION 50. Repealing Clause. - All laws, orders, circulars, rules and regulations, including B.P. 129 and R.A. 8975, or any part thereof which are inconsistent with the provisions of this Act are hereby repealed or amended.

SECTION 51. Date of Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

APPROVED.