

## DRAFT – ENVIRONMENTAL IMPACT ASSESSMENT RULES

The Government of the Union of Myanmar  
Ministry of Environmental Conservation and Forestry  
Notification No. -----/12

Nay Pyi Taw, the \_\_\_\_\_ Day of \_\_\_\_\_, 1374 M.E.  
( \_\_\_\_\_, 2012)

In exercise of the powers conferred by Section ??, Subsection (?) of the Myanmar Environmental Conservation Law and with the approval of the Government, the Ministry of Environmental Conservation and Forestry hereby makes the following Rules:-

### CHAPTER I

#### Title and Definitions

1. These Rules shall be called the Environmental Impact Assessment Rules.
2. The expressions contained in these Rules shall have the same meanings as defined in Section (?) of the Myanmar Environmental Conservation Law. In addition thereto the following expressions have the meanings given hereunder:-
  - (a) **Law** means the Myanmar Environmental Conservation Law 2012 and any subsequent amendments;
  - (b) **Environment** shall have the same meaning as defined in Section (?) of the Law;
  - (c) **Environmental Impacts** means the probable effects or consequences of proposed projects or businesses or activities or undertakings on the physical, biological and socioeconomic environment that can be direct or indirect, cumulative and positive or negative;
  - (d) **Environmental Impact Assessment** means the process of studying the significant impact of a proposed project or business or activity on the physical, biological and socioeconomic environment, which is required as part of the decision making process;
  - (e) **Initial Environmental Examination** means a preliminary examination of the possible impacts of a proposed project or business or activity with a view to determining whether such impacts are significant and, as such, require the preparation of an environmental impact assessment report and any other documents as may be prescribed;
  - (f) **Environmental Management and Monitoring Plan** means a document which describes the measures to be taken for preventing, mitigating and monitoring significant environmental impacts resulting from the implementation and operation of a proposed project or business or activity;
  - (g) **National Committee** means the Myanmar National Environmental Conservation Committee as established by Section ? of the Law;
  - (h) **Project** means any activity or combination of activities including actions or undertakings, regardless of magnitude, which may have a significant impact on the environment;
  - (i) **Project Proponent** means an individual, company, or organization proposing to initiate a project;

- (j) **Screening** means an initial assessment undertaken to determine whether or not an Initial Environmental Examination and/or an Environmental Impact Assessment, or any other form of reporting are required; and
- (k) **Scoping** means the stage in the environmental impact assessment process where information and assessment requirements are established to provide the project proponent with the scope and terms of reference for the Environmental Impact Assessment.

## CHAPTER II

### Establishment of Environmental Impact Assessment Scheme

3. Pursuant to Section ? of the Law there shall be established a system of environmental impact assessment which shall require any proposed project or business or activity or undertaking in Myanmar by any ministry, government department, corporation, board, development committee, local authority, company, cooperative, institution, enterprise, firm or individual likely to have a significant impact on the environment to obtain approval for its implementation in accordance with these Rules.
4. (a) The Ministry of Environmental Conservation and Forestry shall be the executing agency for the purpose of these Rules;
- (b) There shall be established under policy guidance of the National Committee an Environmental Impact Assessment Committee that shall, after obtaining and considering the recommendation of the Ministry of Environmental Conservation and Forestry, give environmental approval under these Rules;
- (c) The composition of the Environmental Impact Assessment Committee shall be determined by the National Committee and the Minister responsible for the environment or a person delegated by the Minister and may vary depending on the project to be assessed but shall involve at least five persons with the requisite expertise from, *inter alia*, government, industry, academia and civil society;
- (d) Any project which requires an Initial Environmental Examination or Environmental Impact Assessment shall not be issued a permit to commence exploration or construction or operation by the Myanmar Investment Commission or any relevant authority without the written environmental approval of the Environmental Impact Assessment Committee, and agreement in writing by the project proponent with any of the conditions attached to that approval, in the form required by the Ministry of Environmental Conservation and Forestry;
- (e) Subject to the provisions of these Rules, the functions and duties of the Ministry of Environmental Conservation and Forestry shall include:-
- (i) defining project screening criteria;
  - (ii) creating guidelines for Initial Environmental Examinations and Environmental Impact Assessments;
  - (iii) reviewing and approving Initial Environmental Examination Reports;
  - (iv) providing guidelines for and approving terms of reference for Environmental Impact Assessments;

- (v) reviewing Environmental Impact Assessment reports and requiring any amendments thereof;
  - (vi) providing recommendations to the Environmental Impact Assessment Committee in relation to approval of Environmental Impact Assessment reports, including any possible conditions that may be required;
  - (vii) evaluating Environmental Management and Monitoring Plans;
  - (viii) reviewing and recommending to the Environmental Impact Assessment Committee any contract provision or other legally binding document to fully incorporate the Environmental Management and Monitoring Plans;
  - (ix) monitoring and enforcing the implementation of the Environmental Management and Monitoring Plans, and recommending to the Environmental Impact Assessment Committee any amendments thereof occasioned by experience during implementation of the project; and
  - (x) performing other duties relating to Environmental Impact Assessment as stipulated by the Government.
- (b) The powers and functions of the Environmental Impact Assessment Committee shall include:-
- (i) approval of project screening criteria;
  - (ii) approval, subject to conditions, if any, of the Environmental Impact Assessment Reports; and
  - (iii) approval, subject to conditions, if any, of the Environmental Management and Monitoring Plans.

6. The Ministry of Environmental Conservation and Forestry shall arrange, as it deems necessary, for the public participation of civil society and relevant agencies in the conduct of Environmental Impact Assessment and in implementation of the Environmental Management and Monitoring Plan.

### **CHAPTER III**

#### **Screening**

7. The project proponent shall present the project proposal in the prescribed format to the Ministry of Environmental Conservation and Forestry for screening, at the same time as the project is submitted to the Myanmar Investment Commission or other relevant agencies for project approval.

8. (a) With respect to screening, the powers and functions of the Ministry for Environmental Conservation and Forestry shall include:-
- (i) prescribing those projects or businesses or activities that require an Initial Environmental Examination, even though the project or activity is not included in Schedule 1 of these Rules, having regard to whether or not the project or business or activity involves any of the following:
    - (a) modification of landforms, natural ecosystems and natural landscapes;

- (b) exploitation of renewable and non-renewable natural resources;
  - (c) processes and activities with the potential to cause waste, damage, or decline in ecosystem services;
  - (d) processes and activities which may affect the social and cultural environment;
  - (e) processes and activities which may affect the preservation of natural resource conservation areas and/or the protection of cultural and historical reserves;
  - (f) introduction of new species of plants, animals and microorganisms, including genetically modified organisms;
  - (g) applications of technology which are predicted to have considerable potential to affect the environment;
  - (h) activities having high risks and potentially affecting national security;
  - (i) production and use of biotic and abiotic substances; and
  - (j) such other criteria as may be prescribed by the National Committee to safeguard the environment.
- (ii) prescribing the format and timeframe for the Statement of No Significant Impact to the Environment, Initial Environmental Examination Reports and Environmental Impact Assessment Reports; and
  - (iii) reaching a decision based on the Initial Environmental Examination Report as to whether or not the proposed project or business or activity may have potentially significant environmental impacts and where it so determines requiring the project or business or activity to undergo a full Environmental Impact Assessment.
- (b) The selection of the type of projects or businesses or activities as referred to in the above sub-rule (a) and Schedule 1 shall be reviewed periodically, at least once every five years.
9. With respect to screening, the project proponent shall carry out the following duties, under guidance of the Ministry of Environmental Conservation and Forestry:-
- (a) If the proposed project or business or activity falls within the activities listed in Schedule 1, the project proponent shall conduct an Initial Environmental Examination of the proposed project or business or activity and shall ensure that it is carried out by experts in the field of environmental impact assessment, who are duly certified by the Ministry of Environmental Conservation and Forestry; and
  - (b) Submit the draft and final Initial Environmental Examination to the Ministry of Environmental Conservation and Forestry in the format and timeframe as may be prescribed by the Ministry of Environmental Conservation and Forestry.

#### **CHAPTER IV**

##### **Scoping**

10. At the scoping stage of the environmental impact assessment, the Ministry of Environmental Conservation and Forestry shall have the following powers and functions relating to scoping:-
  - (a) developing and promulgating guidelines for scoping;
  - (b) identifying in cooperation with the project proponent any issues and concerns related to the project that are likely to have a significant environmental impact; and
  - (c) providing guidelines for, advising on, and approving the terms of reference for the investigation of environmental impacts and for preparation of the Environmental Impact Assessment Report and the Environmental Management and Monitoring Plan.
11. All project proponents for projects that are required to carry out a full Environmental Impact Assessment, either by virtue of Schedule II or III, or by order of the Ministry of Environmental Conservation and Forestry shall first conduct a scoping process which shall involve the following:-
  - (a) providing full disclosure to the Ministry of Environmental Conservation and Forestry of all relevant information regarding the likely environmental impacts of the proposed project; and
  - (b) failing to disclose information that is, or should have been, known to the project proponent shall be an offence under the Law and may also be grounds for rejection of the proposed project.

## **CHAPTER V**

### **Investigation**

12. During the investigation of a proposed project's environmental impacts, the Ministry of Environmental Conservation and Forestry shall have the following powers and functions:-
  - (a) To supervise the investigations carried out by the project proponents and their certified or approved experts, and where necessary call on the assistance and support of relevant Ministries, agencies and institutions for this purpose; and
  - (b) To call for and receive interim reports on the progress of the investigation from the project proponent, and recommend remedial steps as necessary.
13.
  - (a) On the basis of the terms of reference, as approved by the Ministry of Environmental Conservation and Forestry, the project proponent shall carry out a full analysis and investigation of all the potential environmental impacts, both adverse and beneficial, of the proposed project;
  - (b) The investigation shall also include an analysis of feasible alternatives, mitigation measures, and the costs and benefits of both, and identify the likely residual environmental impacts after all mitigation measures are implemented;
  - (c) The investigation shall be carried out by experts in the field of environmental impact assessment, who are certified and approved by the Ministry of Environmental Conservation and Forestry and appointed by the project proponent; and
  - (d) The environmental impact assessment team shall include qualified national experts and/or any other experts, as deemed necessary by the Ministry of Environmental Conservation and Forestry.

**CHAPTER VI**  
**Reporting, Review and Approval**

14. (a) Every project proponent required to carry out an Environmental Impact Assessment in respect of a proposed project shall prepare an Environmental Impact Assessment Report detailing every stage of the assessment and its conclusion in a format and timeframe as may be prescribed by the Ministry of Environmental Conservation and Forestry; and
- (b) The project proponent shall prepare an Environmental Management and Monitoring Plan in a format prescribed by the Ministry of Environmental Conservation and Forestry and shall submit it with the Environmental Impact Assessment Report.
15. (a) Upon receipt of the Environmental Impact Assessment Report and the Environmental Management and Monitoring Plan from the project proponents, the Ministry of Environmental Conservation and Forestry shall invite relevant agencies, institutions, civil society organizations, and project-affected persons to provide comments and suggestions on the reports;
- (b) The Ministry of Environmental Conservation and Forestry shall, within the timeframe as may be prescribed, review and evaluate the Environmental Impact Assessment Report and the Environmental Management and Monitoring Plan on the basis of the prescribed guidelines and the approved terms of reference;
- (c) Upon review and evaluation of the Environmental Impact Assessment Report and the Environmental Management and Monitoring Plan, and consideration of the comments and suggestions from relevant agencies, institutions, civil society organizations, and project-affected persons, if it is determined by the Ministry of Environmental Conservation and Forestry that any of these documents do not fulfill the requirements as prescribed by the guidelines and the specific terms of reference, then the project proponent shall be called upon to undertake the necessary amendment in accordance with the directives issued by the Ministry of Environmental Conservation and Forestry; and
- (d) The Ministry of Environmental Conservation and Forestry shall, where it considers necessary, call upon the expertise of other Ministries, agencies, institutions and experts in the evaluation of such Environmental Impact Assessment Reports and Environmental Management and Monitoring Plans. Any costs or parts thereof, incurred in obtaining the above expertise as determined by the Ministry of Environmental Conservation and Forestry shall be borne by the project proponent.
16. (a) The Ministry of Environmental Conservation and Forestry after approving the Initial Environmental Examination or upon receipt of the Environmental Impact Assessment Report and the Environmental Management and Monitoring Plan, including all prescribed amendments conforming to the requirements of the Ministry of Environmental Conservation and Forestry, if any, the Ministry of Environmental Conservation and Forestry shall submit all documents with comments and recommendations to the Environmental Impact Assessment Committee;

- (b) The Environmental Impact Assessment Committee shall:-
  - (i) grant environmental approval for implementation of the proposed project either as proposed or subject to any conditions as may be prescribed; or
  - (ii) refuse to issue environmental approval for the proposed project and cite the reasons for doing so.
- (c) If the project has received environmental approval, the Environmental Impact Assessment Committee shall issue a certificate to the project proponent conferring environmental approval and specifying the terms and conditions of implementation and operation of the project, as well as advising the Myanmar Investment Commission or other relevant agencies of the decision and publicizing the decision in appropriate media;
- (d) The certificate issued pursuant to sub-rule (c) above shall include the duties imposed on the project proponent by virtue of the Environmental Management and Monitoring Plan;
- (e) Upon receiving environmental approval from the Environmental Impact Assessment Committee, the project proponent will include the certificate of environmental approval in submitting any application to the Myanmar Investment Commission or other relevant agency for a permit to proceed with implementation of the project; and
- (f) When the Myanmar Investment Commission or the relevant authority has given approval to an environmentally approved project, it shall communicate such approval to the Ministry of Environmental Conservation and Forestry. Upon receipt of the approval by the Myanmar Investment Commission or relevant authority the project proponent may commence implementation of the project according to the conditions attached to the approval and the Environmental Management and Monitoring Plan, within the timeframe as may be prescribed by the Ministry of Environmental Conservation and Forestry.

17. A project proponent whose Environmental Impact Assessment Report has been rejected pursuant to these Rules shall have the right to take necessary remedial measures and amend or entirely redraft the Environmental Impact Assessment Report and the Environmental Management and Monitoring Plan in conformity with the comments made by the Environmental Impact Assessment Committee on the submitted report, and shall have the right, within a given timeframe, to resubmit the report to the Ministry of Environmental Conservation and Forestry for their re-consideration as prescribed by these Rules.

## **CHAPTER VII**

### **Monitoring**

- 18. (a) The Ministry of Environmental Conservation and Forestry shall, where necessary in collaboration with other Ministries, agencies and institutions, carry out monitoring according to the Environmental Management and Monitoring Plan prepared by the project proponent;

- (b) During all stages of implementation and operation of a project, the project proponent shall comply with the terms and conditions of the approval certificate issued pursuant to Rule 16, sub-rule (c) including the specific obligations under the Environmental Management and Monitoring Plan; and
  - (c) Failure to comply with the terms and conditions of the approval certificate shall be an offence under the Law and the Ministry of Environmental Conservation and Forestry shall have the authority to assess penalties as may be prescribed or to order the project to suspend construction or operation until such time as the project complies with the provisions of the Environmental Management and Monitoring Plan and provide necessary compensation for the environment or project-affected people damaged by non-compliance with the terms and conditions of the approval certificate.
19. (a) If, after approval has been granted for a project, there are proposals for any alterations, extensions, or modifications to the project which either cause or are likely to cause significant environmental impacts or require modification of the Environmental Management and Monitoring Plan, the project proponent shall notify the Ministry of Environmental Conservation and Forestry of such changes, within the timeframe as may be prescribed. The Ministry of Environmental Conservation and Forestry shall review the alterations, extensions, or modifications and send them with its comments and recommendations to the Environmental Impact Assessment Committee for its consideration;
- (b) The Environmental Impact Assessment Committee shall determine the scope and format of any supplemental documentation that may be necessary before such changes can be implemented; and
  - (c) The Environmental Impact Assessment Committee shall, upon consideration of the application and any supplemental documentation, if any, make a decision on the alteration, extension or modification proposed by the project proponent.
20. (a) The Ministry of Environmental Conservation and Forestry, if deemed necessary, may establish an independent panel of experts in the field of environmental impact assessment who shall conduct an audit of the Environmental Impact Assessment process in a manner and time prescribed that shall focus on:-
- (i) the effectiveness of Environmental Impact Assessment as a decision making and planning tool;
  - (ii) the environmental changes arising from project implementation;
  - (iii) the accuracy and utility of predictive techniques by comparing predicted against actual impacts;
  - (iv) the methods and approach adopted during the Environmental Impact Assessment study; and
  - (v) any other matters prescribed by the Ministry of Environmental Conservation and Forestry.
- (b) The panel of experts shall prepare a report on their findings and submit it to the Minister of Environmental Conservation and Forestry and the Environmental Impact Assessment Committee for their consideration for the purpose of effecting any



necessary changes to the current Environmental Impact Assessment process as necessary to make it more effective.

21. All costs incurred by the designated authorities in the performance of functions pursuant to these Rules and directives made hereunder shall be borne by the project proponent and shall be provided to the Ministry of Environmental Conservation and Forestry before the commencement of project implementation, or such other times as may be prescribed by the Ministry of Environmental Conservation and Forestry.

22. The Ministry of Environmental Conservation and Forestry shall have the authority to make regulations and to issue notifications, orders, directives and instructions prescribing:-

- (a) any activities that may require an Environmental Impact Assessment not covered by these Rules;
- (b) the format of the Statement of No Significant Impact to the Environment, the Initial Environmental Examination Report and the Environmental Impact Assessment Report;
- (c) the format of the Environmental Management and Monitoring Plan; and
- (d) any other matters as may be necessary in implementing the provisions of these Rules.

---

Minister responsible for Environmental Conservation and Forestry