Chapter One

INTRODUCTION

The 1987 Philippine Constitution lays down the basic framework for our policy on the environment. Section 16, Article II states that “The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.” Section 15 of the same Article also mandates the State “to protect and promote the people’s right to health.”

To implement this policy, Executive Order No. 192 designated the Department of Environment and Natural Resources (DENR) as the “primary government agency responsible for the conservation, management, development and proper use of the country’s environment and natural resources.” Its Environmental Management Bureau (EMB) is specifically tasked “to recommend rules and regulations for environmental impact assessments and provide technical assistance for their implementation and monitoring.”

The Philippine Environmental Impact Statement (EIS) System

Presidential Decree No. 1151, otherwise known as the “Philippine Environmental Policy,” is the first policy issuance on Environmental Impact Statement (EIS) System in the Philippines. Effective since 1977, section 4 thereof explicitly requires “all agencies and instrumentalities of the national government, including government-owned and controlled corporations, as well as private corporations, firms and entities to prepare an environmental impact system (EIS) for every action, project or undertaking which significantly affects the quality of the environment.”

The Philippine Environmental Impact Statement (EIS) System was formally established in 1978 by virtue of Presidential Decree (PD) No. 1586. Reitering the policy statement under PD 1151, it declared environmentally critical projects (ECPs) and projects within environmentally critical areas (ECAs) as projects which require the submission of an environmental impact statement (EIS). Section 4 thereof provides that “no person, partnership or corporation shall undertake or operate any in part such declared ECP or project within an ECA without first securing an Environmental Compliance Certificate (ECC).” PD 1586 also identified the lead agency for the implementation of the EIS System and provided sanctions for its violation.

The major categories of ECPs and ECAs were identified through Presidential Proclamation No. 2146, series of 1981. The categories were given technical definitions by EMB’s predecessor agency, the National Environmental Protection Council (NEPC), through NEPC Office Circular No. 3, series of 1983.

Since the issuance of the foregoing, the EIS system has undergone several refinements to make it a more effective planning, management, and regulatory tool in addressing environmental problems in the country. The DENR has consistently endeavored to strengthen and tighten the system, by continuously introducing new features and requirements in response to changing economic realities and the growing environmental consciousness of the Philippine populace.
The latest of this effort is DENR Administrative Order (DAO) No. 37, series of 1996 or DAO 96-37, which expressly supersedes DAO 21, series of 1992. DAO 96-37 is an attempt to further streamline the EIS system and to strengthen the processes for its implementation.

The basic DENR policy governing the implementation of the Philippine EIS system is articulated in Section 1.0, Article I of DAO 96-37, to wit:

“It is the policy of the DENR to attain and maintain a rational and orderly balance between socio-economic growth and environmental protection through the sustainable use, development, management, renewal and conservation of the country’s natural resources, including the protection and enhancement of the quality of the environment, not only for the present generation but for the future generations as well.”

In consonance with this basic policy, DAO 96-37 seeks to address the following objectives:

a) Ensure that environmental considerations are incorporated at the earliest possible stage of project development.

b) Further streamline the current procedures in the conduct of the Environmental Impact Assessment (EIA) in order to improve its effectiveness as a planning, regulatory and management tool.

c) Enhance maximum public participation in the EIA process to validate the social acceptability of the project or undertaking so as to ensure the fullest consideration of the environmental impact of such project or undertaking. (Section 2.0, Article I)

Procedural Manual for DAO 96-37

This Procedural Manual is designed to serve as a primary reference for the DENR staff or personnel, project proponents, EIA preparers and practitioners, environmental units of government agencies, local government officials, non-governmental or people’s organization, and other stakeholders in the smooth implementation of the EIS system. It aims to clarify the steps and procedures required to implement the various provisions and sections of the new DAO. The Manual focuses on the processes rather than the technical aspects of the EIA.

The Procedural Manual is intended to clarify provisions of DAO 96-37, PD 1586 and other applicable laws. Therefore, in case of conflict, the provision of DAO 96-37, PD 1586 and other applicable laws shall prevail.

The Manual is organized following essentially the order of presentation in DAO 96-37. All the provisions are cited, along with the implementing procedures.

It should be noted however, that the issuance of an Environmental Compliance Certificate (ECC) pursuant to DAO 96-37 does not preclude a project proponent from securing related permits, such as sanitary, conversion, water, and building permits, from concerned government agencies under other existing laws, rules and regulations.

The Procedural Manual for DAO 96-37 is prepared in the context of the planning, regulatory, and management perspective of the entire EIS system. As will be explained in the following
chapters, issuance of the ECC is not the end of the story. After obtaining an ECC, the proponent must continue taking responsibility for further initiating project compliance and monitoring activities.

Among the main features of DAO 96-37 discussed in the Procedural Manual are the following:

- **Scoping as a new requirement.** In an effort to strengthen the system as a planning tool, proponents are now required to initiate formal scoping prior to the submission of its environmental impact statement (EIS). This is undertaken by the proponent with the DENR and other stakeholders in order to define the range of issues, actions, alternatives, and impacts that should be included in the EIS. It is hoped that at this earliest stage of project development, all environmental considerations will be incorporated to facilitate a thorough but time-bound review process.

- **Environmental Impact Statements (EISs) and Initial Environmental Examinations (IEEs).** Proponents of ECPs are required to submit an EIS with the EMB. On the other hand, proponents of projects within ECAs are generally required to submit an IEE to the concerned Regional Office. However, at the option of the proponent in certain cases, or upon order of the Regional Executive Director, an EIS may be prepared in lieu of an IEE for proposed projects within ECAs.

It should be clarified that an Initial Environmental Examination (IEE) is a form of Environmental Impact Statements (EIS). The basic differences between the two submissions are the depth and extent of data requirement. An IEE is prepared and submitted to enable DENR to make a decision on whether to issue or not to issue an ECC. Or, to require the preparation and submission of an EIS if a decision cannot be made on the basis of the information contained in the IEE.

- **Timetable for review of EIS/IEE.** In fulfillment of its objective to streamline the EIS System, DAO 96-37 sets forth specific periods for review of an EIS and IEE. The appropriate review process is expected to be completed within 120 and 75 days after acceptance of the EISs and IEEs, respectively. Unless circumstances warrant a longer period of time, proponents can now expect a decision from the Secretary or the Regional Executive Director, as the case may be, within the same period.

- **Accreditation of preparers.** In order to maintain the integrity of the EIS system, EISs and IEEs can only be prepared by individuals or groups accredited by the DENR.

- **Accountability of proponents and preparers.** As an accompanying measure of accreditation and to strengthen the regulatory aspect of the EIS system, the new DAO ensures that all data or information submitted by proponents are true, and that all proposed projects are objectively and thoroughly assessed by its preparers. It thus requires both proponents and preparers to attach accountability statements binding themselves jointly and solidarily liable for any misrepresentation or failure to state material information in the EIS or IEE.

- **Public participation and social acceptability.** Considering that the review of the environmental impact of a proposed project is not limited to the bio-physical elements, but likewise includes the socio-economic environment, the role and concerns of the affected communities in the EIA process are given primary consideration. DAO 96-37 expressly gives importance to meaningful public participation and transparency of the EIS process as a gauge to fully determine the acceptability of the proposed project. In
various ways and in different phases of the EIS process, the new DAO ensures that the concerns of the stakeholders, particularly the affected communities, are fully considered. Special focus or emphasis is given for impacts of the proposed project on women, indigenous people, and population issues.

- **Environmental Monitoring and Guarantee Fund.** In order to strengthen the effectivity of the EIS System as a management tool, DAO 96-37 requires proponents to establish certain funds. The Environmental Monitoring Fund (EMF) shall be used primarily to monitor the operation of the project after ECC issuance. The Environmental Guarantee Fund (EGF), on the other hand, will be used for rehabilitation and compensation for damages caused by projects that pose significant public risk. EGF is not limited for this purpose only but may include research work, environmental education, programs to promote social equity, and other related activities. In both cases, multi-sectoral committees will be formed to specifically accomplish the purposes of the funds.

- **Review Cost.** In order to provide the DENR with the requisite resources in implementing the fast-tracked review process, the proponent is required to shoulder the additional review cost under DAO 96-37. However, safeguards have been provided to insure that the system retains its impartiality and objectivity. The concept and process are described in detail in Chapter 11.
Chapter Two

SCOPE OF THE EIS SYSTEM

SECTION 1.0, ARTICLE II: COVERAGE

The following projects and undertakings are covered by the EIS System:

a. Environmentally Critical Projects (ECPs)

b. Projects Located in Environmentally Critical Areas (ECAs)

No person shall undertake or operate any such declared ECP or project within an ECA without first securing an Environmental Compliance Certificate (ECC).

Section 3.0 (v), Article I Project or Undertaking, defined.

(v) Project or Undertaking - any activity, regardless of scale or magnitude, which may have significant impact on the environment.

The EIS system covers projects and undertakings categorized as Environmentally Critical Projects (ECPs) and projects located in Environmentally Critical Areas (ECAs). These projects cannot proceed unless the Department of Environment and Natural Resources (DENR) issue an Environmental Compliance Certificate (ECC).

To ensure that only projects or undertakings with significant environmental impacts are covered by the Environmental Impact Statement (EIS) System, a two-step procedure shall be observed. The EMB or DENR RO shall first determine if the proposed activity is "project" as defined under DAO 96-37. If it is determined that the proposed activity is a project, the EMB or DENR RO shall then determine whether the project is environmentally critical (ECP) or located within an environmentally critical area (ECA).

I. The following criteria shall be used to determine if the proposed activity falls within the definition of "Projects" or "Undertakings" of the Philippine EIS System:

A. location criteria - the activity must conform with existing & duly approved land use plan of the area;

B. technology criteria - the activity must employ the use of appropriate technology that will not require the use of toxic and hazardous materials; will not produce or require the disposal of waste materials that can pose serious health hazards; or, will not generate significant amount of organic or solid wastes;

C. size criteria - the activity/structure must not occupy a lot area of more than 1,000 square meters in an urban area or 1.0 hectare in a rural area. If the
activity will involve construction, the structure must not have a height exceeding a three (3) storey-building including basement;

D. emission and effluent criteria - the effluents or discharges of the activity must conform with emission and effluent standards established by the DENR (e.g. DENR DAO Nos. 14 & 14-A, Series of 1993; DAO 34 & 35, Series of 1990), regardless of quantity, volume or amount;

E. community acceptability criteria - no serious complaints are expected from neighboring establishments or facilities; and

F. the nature of the activity shall not pose significant environmental impact as determined by the EMB or DENR Regional Offices.

An activity that passes ALL criteria shall be considered as outside the purview of the Philippine EIS System, and shall be issued Certificate of Non-Coverage upon request by the proponent. Examples of such activities that may be issued Certificates of Non-Coverage are:

- butterfly farming covering an area of not more than one thousand (1,000) square meters;
- rice or corn mills not exceeding 1.0 tonne/hour input capacity;
- flowers/ornamentals production and sale, including landscaping;
- backyard animal farms not exceeding 5,000 heads of birds, or 2 sows with 20 pigs;
- individual residential houses or commercial buildings/structures;
- sari-sari stores;
- garment manufacturing (without dyeing, and only involving spinning, cutting and sewing);
- organic compost/fertilizer making not exceeding 10,000 bags (50 Kg)/annum in capacity;
- pedestrian overpass
- cottage industry (e.g., stuffed toys, handicrafts, giftwares); and
- importation or purchase of equipment (e.g., tractors, haulers, sprayers, dryers, shellers, fishing gear and equipment, vessels, vehicles, planes). However, the operation of such equipment shall be subject to applicable permit or licensing requirements.

An activity that does not satisfy ANY of the criteria shall be considered as “Projects” or “ Undertakings” under the Philippine EIS System, and shall then be screened to determine if the project or undertaking is an ECP or located in an ECA.
II. The next screening shall be the determination if the project or undertaking is classified as an “environmentally critical project” (ECP) or not. If so, an environmental impact statement (EIS) shall be prepared by the project proponent for submission to EMB.

III. The next screening shall be the determination if the project or undertaking is located in an “environmentally critical area” (ECA). If so, an Initial Environmental Examination (IEE) shall be prepared by the project proponent for submission to the concerned DENR RO.

IV. All other projects, including those operating prior to 1982 or registered as Kalakalan 20 and meeting the criteria set forth in Sec. 2 Article II of DAO 96-37, are considered not covered by the Philippine EIS System. A Certificate of Non-Coverage shall be issued upon request of the proponent.
Section 3.0(h), Article I: Environmentally Critical Project (ECP)

(h) Environmentally Critical Project (ECP) - a project that has high potential for significant impact and is listed as such under Presidential Proclamation No. 2146, series of 1981 and Presidential Proclamation No. 803, series of 1996, as well as other projects which may be proclaimed as environmentally critical in accordance with Section 4 of PD 1586.

Section 1.0(a) Environmentally Critical Projects (ECPs)

i. Heavy Industries
   1. Non-ferrous metal industries
   2. Iron and steel mills
   3. Petroleum and petro-chemical industries, including oil and gas
   4. Smelting plants

ii. Resource Extractive Industries
   1. Major mining and quarrying industries
   2. Forestry projects
      a. Logging
      b. Major wood processing projects
      c. Introduction of fauna (exotic animals) in public/private forests
      d. Forest occupancy
      e. Extraction of mangrove products
      f. Grazing
   3. Fishery projects
      a. Dikes for/and fishpond development projects

iii. Infrastructure projects
   1. Major dams
   2. Major power plants (fossil-fueled, nuclear-fueled, hydro-electric, or geothermal)
   3. Major reclamation projects
   4. Major roads and bridges

iv. Golf course projects

Under DAO 96-37, the four (4) main categories of ECPs are (1) heavy industries; (2) resource extractive industries; (3) infrastructure projects and (4) golf course projects.

Under each category, there is a sub-category of ECPs. This sub-category is, however, not exclusive and may be further re-defined by the DENR from time to time. Rapid technological advancement makes it impossible to name all potential projects that may have significant negative impact on the environment. In exercising its sound judgement and discretion, the DENR shall apply a liberal interpretation of the law on coverage. Taking into consideration the rationale of the EIS System, it shall use the “significant impact on the quality of the environment” test as stated in PD 1152 and PD 1586.
NEPC Memorandum Circular No. 3 is effectively superseded in its entirety by the provisions of this Procedural Manual.

In order to guide project proponents, the following sub-category of projects and undertakings shall be considered as an ECP:

A. **Heavy Industries**

   1. **Non-Ferrous Metal Industries**

      “Non-ferrous metal industries” shall refer to the organized and coordinated arrangement of manufacturing processes designed to prepare, smelt, process or recycle non-ferrous metals into marketable products.

      This classification shall include projects characterized by any of the following specifications:

      (a) Having a designated annual rated capacity equal to or exceeding 30,000 metric tons product; or

      (b) Will involve handling or processing of toxic materials or impurities such as cadmium, mercury, cyanide, chromium and lead in excess of 10.0 kg per month.

   2. **Iron and Steel Mills**

      “Iron and steel mill projects” shall refer to the organized and coordinated arrangement of manufacturing processes designed to prepare or smelt or process iron ores, steel scraps or primary iron and steel mill products into marketable products except when the process involves reheating or resizing only.

      This classification shall include projects characterized as having a designed annual rated capacity equal to or exceeding 30,000 metric ton products.

3. **Petroleum and Petrochemical Industries**

   “Petroleum and Petrochemical Industries” shall refer to the organized and coordinated arrangement of manufacturing processes designed to physically and/or chemically transform petroleum and its derivatives into marketable products.

   This classification shall include projects falling under any of the following specifications:

   (a) Refineries with designed capacities equal to or exceeding 30,000 barrels of petroleum per year; or

   (b) Petrochemical industry projects with designed annual rated capacities of 30,000 tons.

4. **Smelting Plants**

   “Smelting plant projects” shall refer to the organized and coordinated arrangement of manufacturing processes designed to smelt metals or alloys and cast the same into some special form.

   For the capacity criteria, refer to sub-category 1 and 2.
B. Resource Extractive Industries

1. Major Mining and Quarrying Projects

Major mining and quarrying projects shall refer to projects involving the extraction and processing of metals, metalliferous ores, fuel, precious stones, clays, fertilizers and other earth-based materials on a commercial scale and are characterized by any or a combination of the following:

(a) Ore-processing by cyanidization, flotation, mechanized grinding, crushing, magnetic separation and/or mechanized gravity concentration;

(b) Mineral processing involving the establishment of a manufacturing plant (e.g. cement plant);

(c) Utilization of the open-pit method with mechanical operations, blasting, or both;

(d) Underground mining using blasting, mechanized extraction or both;

(e) Marine off-shore mining; or

(f) Extraction of oil and gas.

Without prejudice to the supplemental guidelines that may be issued by the DENR Secretary pursuant to Section 3(1), Article VII of DAO 96-37, it is noted that the New Mining Act of 1995 (Republic Act No. 7942) and DENR Administrative Order 96-40 implementing the New Mining Law specifically provides for projects or project phases that require the issuance of an ECC.

Section 70 of Rep. Act No. 7942 clearly states that, “Except during the exploratory period of a mineral agreement, or Financial or Technical Assistance Agreement, or exploratory permit, an Environmental Compliance Certificate is required based on the EIA system and the Local Government Code.”

The Implementing Rules and Regulations of the New Mining Act (DAO 96-40) further clarified that an ECC is no longer required during the exploratory phase of major mining projects. In lieu thereof, mining proponents are required to submit before the Mines and Geo-Sciences Bureau (MGB) an Environmental Work Program (EWP). Furthermore, coal exploration is not covered by this provision of DAO 96-40.

In all other phases and prior to the development, construction and utilization of resources covered by applications for mineral agreements and financial or technical assistance agreements (FTAA), the issuance of an ECC is required. The ECC shall be the basis for the consequent preparation of the project’s Environmental Protection and Enhancement Program (EPEP) under DAO 96-40. For purposes of DAO 96-37, these types of applications are considered as ECPs.

An ECC is similarly required before any quarrying activity, or any extraction, removal and disposition of sand and gravel, or guano and gemstone resources may be undertaken by its applicants. For purposes of coverage as an ECP, these activities must be undertaken within an area that exceeds 10.0 hectares, or the volume of extraction exceeds 100,000 cubic meters per year. Otherwise, these projects may be considered as projects within an Environmentally Critical Area (ECA).
Proponents of projects that require the use of sand (e.g., beach sand, white sand, coral sand, etc.) such as golf courses, theme parks, malls are required to show proof that the suppliers of such sand have the necessary ECCs to cover their operations. Furthermore, proponents must also certify that the sources of sand are duly designated areas for sand quarrying.

2. Forestry Projects

Supplemental guidelines for major forestry projects, such as those involving applications for Industrial Forestry Management Agreements (IFMAs), Socialized Industrial Forestry Management Agreements (SIFMAs), and other community-based forestry projects are currently being drafted to address the peculiar aspects of the forestry sector. Existing forestry-related policies expressly require the issuance of an ECC prior to commencement of these projects.

(a) Logging Projects
Logging projects shall refer to the cutting and harvesting of timber on a commercial scale.

(b) Major Wood Processing Projects
Major Wood Processing shall refer to the processing of logs and other forest raw materials into finished or semi-finished products.

This classification shall include, among others:

(i) sawmills

(ii) wood manufacturing/processing plants producing veneer, plywood, wall board, blackboard, crates, etc.

(iii) pulp and paper mills.

(c) Introduction of Fauna in Public/Private Forests
This shall refer to the introduction of exotic species of flora and fauna to private or public forests.

(d) Forests Occupancy
This shall refer to tenure-related, livelihood projects, and associated management projects located inside public forest lands as defined under PD 705 and will involve activities having direct impact/s on an area of 5.0 hectares or more. However, the occupancy of indigenous communities within areas claimed as ancestral lands or domains or areas certified as such (CALC/CADC) pursuant to DENR Administrative Order No. 2, series of 1993, shall not be considered as forest occupancy projects provided they will not involve activities or undertakings that are defined as environmentally critical (such as logging, mining, major dam construction).

(e) Extraction of Mangrove Products
This shall refer to the cutting and gathering of mangrove timber and its products for commercial purposes. It should be noted that cutting of mangrove is prohibited under the law.

(f) Grazing Projects
This shall refer to the management of forest range resources for forage productivity needed to support livestock production.

Grazing projects shall be considered critical if such will exceed the natural grazing capacities of the areas involved (1 head per hectare).

3. Dikes for/and Fishpond Development Projects

This refers to natural or artificial water impoundment involving dike construction for purposes of raising fries (milkfish, prawns, crabs, etc.) or salt production, and harvesting the same at marketable size and quantities.

Fishpond development projects shall be considered critical if such will involve utilization of areas equal to or greater than 25 hectares. Otherwise, it shall be considered as projects located in ECA - subject to the requirement of an IEE.

C. Infrastructure Projects

1. Major Dams

This shall refer to all impoundment structures and appurtenances with storage volumes equal to or exceeding 20 million cubic meters.

2. Major Power Plants

This refers to power generating plants, transmission and distribution systems (substations) utilizing, or run by, fossil fuels, geothermal resources, natural river discharge, pondage or pump storage.

This classification shall include all geothermal plants, waste-to-energy facilities, thermal power plants with rated capacities equal to or exceeding 10 megawatts or hydroelectric power plants or any non-conventional power projects with rated capacities equal to or exceeding 6 megawatts. This classification also includes power barge/s with total rated capacity in excess of 32 megawatts.

Power barge/s with total rated capacity less than or equal to 32 megawatts shall submit the appropriate IEE Report/s to the concerned DENR Regional Office.

3. Major Reclamation Projects

This refers to projects which involve the filling or draining of areas (foreshore, marshes, swamps, lakes, rivers, etc.) equal to or exceeding twenty-five (25) hectares.

4. Major Roads and Bridges

This refers to the construction of all national roads, railroads/railways, expressways, tunnels, and bridges.

D. Golf Course Projects

This refers to all golf course projects, whether established as a single component or as part of a recreation or other facilities.

It should be noted that projects or portions thereof, although with separate EIS submissions, will be evaluated as an integrated project for the purpose of determining or categorizing as ECP. For example, a hotel complex with an 18-hole golf course shall be treated as “one” ECP.
Section 3.0 (g), Article I: Environmentally Critical Area (ECA)

(g) Environmentally Critical Area - an area that is environmentally sensitive and is so listed under Presidential Proclamation No. 2146, series of 1981 as well as other areas which the President may proclaim as environmentally critical in accordance with Section 4 of PD 1586

Section 1.0(b), Article II Projects located in Environmentally Critical Areas (ECAs)

i. All areas declared by law as national parks, watershed reserves, wildlife preserves, and sanctuaries;

ii. Areas set aside as aesthetic potential tourist spots;

iii. Areas which constitute the habitat for any endangered or threatened species of indigenous Philippine wildlife (flora and fauna)

iv. Areas of unique historic, archeological or scientific interest

v. Areas which are traditionally occupied by cultural communities or tribes (indigenous cultural communities)

vi. Areas frequently visited and/or hard-hit by natural calamities (geologic hazards, floods, typhoons, volcanic activity, etc.)

vii. Areas with critical slopes

viii. Areas classified as prime agricultural lands

ix. Recharged areas of aquifers

x. Water bodies characterized by one or any combination of the following conditions:
   1. tapped for domestic purposes
   2. within the controlled and/or protected areas declared by appropriate authorities
   3. which support wildlife and fishery activities

xi. Mangrove areas characterized by one or any combination of the following conditions:
   1. with primary pristine and dense young growth
   2. adjoining mouth of major river systems
   3. near or adjacent to traditional productive fry or fishing grounds
   4. which act as natural buffers against shore erosion, strong winds and storm floods
   5. on which people are dependent for their livelihood

xii. Coral reefs characterized by one or any combination of the following conditions:
   1. with fifty percent (50%) and above live coraline cover
   2. spawning and nursery grounds for fish
   3. which act as natural breakwater of coastlines.

As in the case of ECPs, the DENR is also expected to exercise its sound judgment and sound discretion in determining which projects are located within ECAs. In exercising such function, the DENR shall apply a liberal interpretation of the law on coverage, taking into consideration the rationale of the EIS system, and shall use the “significant impact on the quality of the environment” test under PD 1152 and PD 1586.

An area is environmentally critical under Section 1.0 (b), Article II of DAO 96-37 if it exhibits any of the following characteristics:
A. Areas declared by law as national parks, watershed reserves, wildlife preserves, and sanctuaries

The laws referred to by this provisions are Pres. Decree No. 705, as amended, otherwise called as the “Revised Forestry Code”, Republic Act No. 7586 or the National Integrated Protected Areas System (NIPAS) Act, and other issuances including international commitments and declarations.

A “national park” is defined under Section 4(c) of the NIPAS Act as “a forest reservation essentially of natural wilderness character which has been withdrawn from settlement, occupancy or any form of exploitation except in conformity with approved management plan and set aside as such exclusively to conserve the area or preserve the scenery, the natural and historic objects, wild animals and plants therein and to provide enjoyment of these features in such area.”

A “wildlife sanctuary” is defined under Section 4(m) of the NIPAS Act as “an area which assures the natural conditions necessary to protect nationally significant species, groups of species, biotic communities or physical features of the environment where these may require specific human manipulations for their perpetuation.”

All other protected areas covered by NIPAS shall likewise be included in this category.

B. Areas set aside as aesthetic, potential tourist spots

Aesthetic potential tourist spots shall refer to areas declared and reserved by the Department of Tourism or other appropriate authorities for tourism development.

C. Areas which constitute the habitat for any endangered or threatened species of indigenous Philippine wildlife (flora and fauna)

This refers to wilderness areas and areas such as Mt. Bako, Mt. Apo, etc., which are natural habitats of endangered or threatened, rare and indeterminate species of flora and fauna.

1. Indeterminate species shall refer to plant or animal species which are apparently endangered but where insufficient data are currently available for a reliable assessment.

2. Threatened species shall refer to any plant or animal species which is likely to become endangered species within the foreseeable future throughout all or just a significant portion of its range.

3. Rare species shall refer to plant or animal species which are not under immediate threat of extinction but occurs in small numbers.

4. Endangered species shall refer to plant or animal species which are actively threatened with extinction and whose survival are unlikely without protective measures.

D. Areas of unique historic, archeological, geological, or scientific interests
Areas of unique historic, archeological, or scientific interest refer to military and non-military shrines which are of cultural, historical, and scientific significance to the nation.

This classification includes national historical landmarks, geological monuments, and paleontological and anthropological reservations as may be designated or determined by the National Historical Institute, National Museum, National Commission for Culture and the Arts, National Commission on Geological Sciences, and other appropriate authorities.

E. Areas which are traditionally occupied by cultural communities or tribes

This refers to all ancestral lands of National Cultural Communities identified in Sec. 1 of P.D. No. 410 and settlements designed, implemented and maintained by the PANAMIN for national minorities (non-Muslim hill tribes referred to in P.D. No. 719) as may be amended by Republic Act No. 8371 the Indigenous Peoples Rights Act of 1997 (IPRA) and its IRR.

This also refers to all areas that are occupied or claimed as ancestral lands or ancestral domains by indigenous communities, or certified as such (CAD/CALC) pursuant to DENR Admin. Order No. 2, series of 1993 regarding identification and delineation of ancestral land or domain claims.

F. Areas frequently visited and or hard-hit by natural calamities (geologic hazards, floods, typhoons, volcanic activity, etc.)

The area shall be so characterized if any of the following conditions exist:

1. **Areas frequently visited or hard-hit by typhoons**

This shall refer to all areas where typhoon signal no. 3 was hoisted for at least twice a year during the last five (5) years prior to the year of reckoning. For example, a determination made in July 1997 will consider the weather records from 1992 to 1996.

2. **Areas frequently visited or hard-hit by tsunamis**

This shall refer to all coastal zones and offshore areas subjected to an earthquake of at least intensity VII in the Rossi-Forel scale and hit by tsunamis during the period 1638 until year of reckoning. For example, a determination made in December 1997 will consider records from 1638 to 1997.

3. **Areas frequently visited or hard hit by earthquakes**

This shall refer to all areas subjected to earthquakes of at least intensity VII in the Rossi-Forel scale during the period 1949 until the year of reckoning.

4. **Storm surge-prone areas**

This refers to all areas identified as such by the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA).

5. **Flood-prone areas**
This shall refer to low-lying areas usually adjacent to large active water bodies experiencing regular or seasonal inundation as a result of changes in mean water level of these water bodies.

6. **Areas prone to volcanic activities**

This refers to all areas identified as such by Philippine Institute of Volcanology and Seismology (PHIVOLCS).

7. **Areas located along fault lines or within fault zones**

This refers to all areas identified as such by Philippine Institute of Volcanology and Seismology (PHIVOLCS).

8. **Drought-prone areas**

This refers to all areas identified as such by the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA).

For purposes of accuracy, the areas referred to in (F) shall be identified and/or declared as such by appropriate national government agencies such as PAGASA, PHIVOLCS, etc.

G. **Areas with critical slope**

This shall refer to all lands with slope of 50% or more not classified in this listing as environmentally critical.

This classification shall also cover alienable and disposable forest lands and unclassified forests.

H. **Areas classified as prime agricultural lands**

Prime agricultural lands shall refer to all irrigated and irrigable areas and other areas mapped under the Network of Protected Areas for Agriculture (NPAA) of the Bureau of Soils and Water Management (BSWM). The NPAA Guide covers all regions of the country and available in a 1:50,000 scale at the Agricultural Land Management and Evaluation Division (ALMED), BSWM.

I. **Recharged areas of aquifers**

Recharged areas of aquifers shall refer to sources of water replenishment where rainwater or seepage actually enters the aquifers.

Areas under this classification shall be limited to all local or non-national watersheds and geothermal reservations.

J. **Waterbodies**

Waterbodies shall refer to waters that are tapped for domestic purposes, within the controlled or protected areas declared by the appropriate authorities or which support wildlife and fishery activities.

K. **Mangrove Areas**

Mangrove areas are tidal areas covered by salt-tolerant, intertidal tree species.
This classification shall refer to areas declared as mangrove swamp forest reserves by Proclamation No. 2152 and mangrove forests declared as wilderness areas by Proclamation No. 2151.

L. Coral Reefs

Coral reefs shall refer to areas characterized by the assemblage of different types of marine plants and organisms.

This classification shall include all areas identified by local sources such as the UP-Marine Sciences Institute, DENR-Coastal Environment Program, etc. to be rich in corals.

Section 3.0, Article II: EIS/IEE for Covered Projects or Undertakings

If a project is considered an ECP, the proponent shall be required to prepare an Environmental Impact Statement (EIS). If the project is located within an ECA, the proponent shall be required to submit an Initial Environmental Examination (IEE), without prejudice to the submission of an EIS as may be further required by the Regional Executive Director. In the alternative, the proponent of a project within an ECA may, at its option, submit an EIS as provided in Section 29, Article III.

Section 3.0(m), Article I: Environmental Impact Statement (EIS)

(m) Environmental Impact Statement (EIS) - the document(s) of studies of the environmental impacts of a project including the discussions on direct and indirect consequences upon human welfare and ecological and environmental integrity. The EIS may vary from project to project but shall contain in every case all relevant information and details about the proposed project or undertaking, including the environmental impacts of the project and the appropriate mitigating and enhancement measures.

Section 3.0(r), Article I: Initial Environmental Examination (IEE)

(r) Initial Environmental Examination (IEE) - the document required of proponents describing the environmental impact of, and mitigation and enhancement measures for, projects or undertakings located in an ECA. The IEE shall replace the Project Description required under DAO 21, series of 1992.

Proponents who wish to undertake a project that is considered as an ECP, regardless of location, must prepare an Environmental Impact Statement (EIS). The EIS is submitted to the Environmental Management Bureau (EMB) as the primary basis for the review and eventual issuance or denial of an ECC by the DENR Secretary. In general, it is the Environmental Management Bureau (EMB) that is responsible for implementing the EIS system for ECPs.

On the other hand, proponents whose projects are located within ECAs are generally required to submit an Initial Environmental Examination (IEE) to the Environmental Management and Protected Areas Sector (EMPAS) of the DENR Regional Office where the ECA and the project are proposed to be situated.
The submission of an IEE does not preclude the Regional Executive Director (RED) from further requiring the proponent to submit an EIS pursuant to Section 23(b) of DAO 96-37. The RED may eventually order the proponent to submit an EIS if the proposed project has high potential to cause significant negative environmental impact/s or is of such scale and magnitude that an EIS becomes a more appropriate document to submit.

Further, proponents of projects within ECAs, for the same reasons as above, may immediately opt to prepare and submit an EIS in lieu of an IEE. In both cases, the IEE or EIS, as the case may be, will be the primary basis for the review and issuance or denial of ECC by the Regional Executive Director.

The following criteria, among others, shall guide proponents and the DENR RO in determining whether a project in an ECA will be required to submit an EIS instead of an IEE:

- significant environmental impacts have not been adequately addressed by proposed mitigation and enhancement measures;
- strong public opposition or low social acceptability;
- high risk to public safety, welfare, and health;
- use of significant amount of highly pollutive substances;
- production of toxic or hazardous wastes; or
- significant socio-cultural impacts.

The following indicative list provides examples of projects or activities whose proponents are required to submit an EIS instead of IEE:

- **heavy industries**: chemical industries, food processing industries, rubber and other resin processing industries, sugar and coconut milling (except modular oil mills), distilleries and fermentation industries, refineries, and textile industries whose annual rated capacities are equal to or exceeds 10,000 metric tons.

- transport of oil, gas and other earth-based materials through submarine/off-shore pipeline/s or on-shore pipeline/s exceeding 20.0 kilometers in length;

- **petrochemical or oil depots**: storage facilities for petrochemicals, fuel oils and other such related products with storage capacities exceeding 10,000 cubic meters.

- **infrastructure projects**: new provincial/municipal/city/ barangay roads and bridges with lengths exceeding 5 kilometers that will traverse an area with critical slope, or with lengths exceeding 20 kilometers if not traversing areas with critical slopes. Also covered are bridges of 4 spans or longer than 80 meters. Flyover structures servicing an intersection (e.g., EDSA-Ortigas flyover) are also covered in this category. Flyover structures servicing one road/street only (e.g., Nagtahan flyover) are not covered in this category.

- **major ports and harbors**: construction, significant extension, expansion, widening or improvement of all national, international and commercial airports, seaports, and harbors.
• reclamation projects: filling or draining of areas (foreshore, marshes, swamps, lakes, rivers, etc.) between five (5) to twenty-five (25) hectares.

• waste management projects (non toxic): waste handling, transport and disposal services including but not limited to sanitary landfill, urban sewerage systems, centralized waste treatment facilities, landfills or disposal. Incinerators with annual rated capacity in excess of 100,000 metric tons are also covered in this category.

• waste management projects (toxic): landfills, sludge treatment or disposal sites, wastes disposal/treatment sites, transfer stations and other similar project or activities for or which will involve handling of toxic and hazardous waste materials. Hospital incinerators with rated capacity in excess of 2.0 tons/day shall likewise be included in this category.

• major flood control projects: construction or expansion of structural measures to provide sufficient flood control and/or mitigate flood damages that shall, among others: involve construction/modification of major dams with storage volume in excess of 20.0 million cubic meters; construction of dikes which cover or will affect an area equal to or more than 25.0 hectares; or, construction of drainage canals, concrete floodwalls and other hydraulic structures designed for a flood event with longer than 5-year cycle or an area in excess of 25.0 hectares.

• industrial estates, large commercial buildings and real estate projects: Industrial estates refer to industrial parks, industrial estates, special economic zones, regional industrial centers and other such areas or projects regardless of area. Large commercial buildings refer to condominiums, malls, hotels, condotels, and other such structure whose total floor area exceeds 10,000 square meters or with a height of more than ten (10) stories. Real estates projects refer to subdivision, housing projects, theme parks, cemetery or memorial parks, mixed use projects and other such project or activities which covers a land area in excess of ten (10) hectares.

Proponents of such projects are advised to proceed directly to the preparation of EIS instead of IEE and submit the same to the DENR Regional Office concerned. However, the DENR RO may request assistance from the EMB in the evaluation or assessment of the EIS. In such case, the DENR RO should involve the EMB in the entire process (e.g., from scoping to review).
Section 2.0 Non-Coverage

The following projects and undertakings are not covered by the EIS system:

a. Projects which are not considered as environmentally critical or located within an ECA;

b. ECPs or projects within ECAs which were operational prior to 1982 except in cases where their operations are expanded in terms of daily production or area, or the process is modified;

c. Countryside business and barangay entities (CBBEs) covered by Republic Act No. 6810, otherwise known as the Magna Carta for Countryside and Barangay Business Enterprises (Kalakalan 20), and registered with the Department of Trade and Industry between 1991 to 1994, inclusive. Provided that, unless otherwise amended by law, non-coverance of such CBBEs shall only subsist for a five (5)-year period beginning from its date of registration.

Non-coverance within the EIS System means that proponents of projects cited under the foregoing provision are no longer expected to go through the process outlined in DAO 96-37 and this Procedural Manual.

Projects that are not covered by the EIS system may be issued a Certificate of Non-Coverage (CNC) by the Environmental Management Bureau (EMB) or the DENR Regional Office, as the case may be, upon request made by a proponent.

The EMB Director or DENR Regional Executive Director (RED), in appropriate cases, may issue a CNC following the procedures outlined below:

1. The proponent goes to the EMB office or appropriate DENR Regional Office and fills out ENFORM 1 (see Annex 2-A). In addition, the proponent should submit the following documentation requirements:
   - a detailed location map of the project site showing the relevant features of the site (e.g. slope, topography, boundaries, vicinity) on a scale of 1:50,000;
   - a brief project description which provides information on the raw materials to be used, a description of the process or manufacturing technology, project capacity, type and volume of products and discharges, capitalization, project area, manpower requirement, among others; and
   - if appropriate, a certification from the CENRO that the project is not located in an ECA.

2. The EMB or the DENR Regional Office through the EMPAS will review the documents submitted and will recommend to the EMB Director or RED the issuance or non-issuance of a CNC. This process shall be accomplished within a maximum of 7 workings days from date of receipt.

However, if the EMB or the EMPAS sees the need to validate the documents submitted or verify certain information by conducting an ocular inspection of the site, consulting experts, or other methods, then the certificate may be issued within 15 working days.
3. Once the proponent completes and submits all the requirements, the EMB or the Regional Office shall issue the certificate. Such certificate must indicate the reason(s) for non-coverage and, if appropriate, shall contain a statement requiring the proponent to provide additional environmental safeguards for its project or undertaking.

4. In cases when the EMB or the Regional Office, upon review of the application, decides that the project does not qualify at all for non-coverage, the EMB or the Regional Office should immediately inform the proponent that its project is subject to the EIS system and advice the proponent of the requirements and procedures.

**For projects which were operational prior to 1982**, the following guidelines shall be applicable:

- The existing process or operation prior to 1982 was **not expanded** in terms of production capacity (volume of output; number of product lines) or area (the area of expansion is located in an environmentally critical area). *For example*, an old sugar mill deciding to put up a sugar refinery plant or an alcohol distillery plant as part of its expansion program shall no longer be considered as not covered by the EIS System.

- The project had **not stopped operation** for a continuous period of at least two (2) years since 1982. *For example*, a fruit processing plant, which was operational in 1982, was closed in 1985, its resumption of services or operations in 1990 shall be covered by the EIS System.

- The technology/production method or manufacturing process/operation used prior to 1982 was **not modified**. *For example*, a gold mining company deciding to change its mining method from underground mining to the block caving method shall now be covered by the EIS system.

Proponent/s of project/s with process modification shall initially submit an IEE to the DENR RO concerned. This does not preclude DENR from requiring the submission of an EIS if the modification will have significant adverse impact on the environment.

- The existing project facilities or structures prior to 1982 were **not changed or added** to. It must be noted, however, that the addition or change in facilities or structures will not have significant adverse impact on the environment.

In case of expansion in terms of daily production or area, proponent/s of project/s classified as ECP shall be required to submit an EIS to EMB. If the project is not an ECP but is located in an ECA, the proponent/s shall submit an IEE (or EIS, as the case may be) to the DENR RO concerned.

**For projects under Kalakalan 20**, the following guidelines shall apply in the issuance of a CNC:

- The project has been duly approved by and/or properly registered with the local government unit concerned between 1991 and 1994. It should be noted that registration of Kalakalan 20 projects has been devolved from the Department of Trade and Industry (DTI) to the local government units.

- The project or undertaking as approved or registered was **not expanded in terms of production capacity, area, capitalization and number of employees**, which no longer qualifies it as a Kalakalan 20 project.
Section 4.0, Article II Environmental Safeguards for Projects or Undertakings Not Covered by the EIS System

Projects or undertakings not covered by the EIS System may proceed without further environmental impact assessment studies. The RED may, however, require the proponent to provide additional environmental safeguards for its project or undertaking.

Proponents of projects or undertakings, which are among those considered as not covered by the EIS System, may proceed without need of preparing any EIS or IEE, or securing an ECC from the DENR. Nonetheless, in the issuance of the Certificate of Non-Coverage, proponents of non-covered projects may be required by the EMB Director or Regional Executive Director to provide additional environmental safeguards for its project.

In addition to the environmental safeguards, the CNC should include provisions committing the proponent to comply with existing pollution standards and other related environmental laws, rules and regulations. The CNC should specify details, whenever necessary, of how the proponent should formulate, undertake or implement proper mitigation and enhancement measures.

Chapter Three

SCOPING

Section 3.0 (aa) of Article 1 Scoping defined.

(aa) Scoping - the stage in the EIS System where information and assessment requirements are established to provide the proponent with the scope of work for the EIS.

Scoping is the first and most critical step in the EIS process where most of the key issues and concerns are IDENTIFIED, DISCUSSED, CLARIFIED and AGREED UPON by the key actors (like the proponent, preparer, EMB, DENR Regional Office, PENRO, CENRO, LGUs, other national government agencies (NGAs), EIARC and stakeholders) in the EIS system. Scoping is part of the process of assessing social acceptability of the project and the EIA review process. It helps the proponent in handling social acceptability, which is a critical requirement in the ECC application. Likewise, it provides a focus for the review process through the agreed scope.

Scoping sets the tone of the EIA process. With scoping, a proponent can determine whether the project will encounter any difficulty in getting the approval or support of the local community. It determines the coverage, focus, depth and extent of environmental assessment to be undertaken and the basis of review. It is initiated by the proponent at the earliest stage of project development in order to define and agree on the range of actions and alternatives to be undertaken and impacts to be examined by the various stakeholders.

What are the objectives of scoping?

The scoping process shall be undertaken to:

- provide an early link between the DENR and the proponent to ensure that the EIA addresses relevant issues and presents results in a form consistent with the EIA review requirements;
allow stakeholders to make their concerns known to ensure that the EIA adequately addresses the relevant issues;

- establish an agreement at the outset of the EIA between the proponent, the DENR and the stakeholders on the issues and alternatives to be examined;

- address issues on carrying or assimilative capacity of the environment and identify possible legal constraints or requirements regarding the project proposal;

- determine whether the project or undertaking requires the conduct of environmental risk assessment; and

- determine and agree on the process of dealing with issues relating to social acceptability.

Scoping provides the project proponent an idea of prioritizing and coordinating data sourcing in order to avoid work and data overlaps. It seeks to minimize the need for additional information (AIs) during the review process as the requirements are already determined consistent with the procedural review criteria.

Lastly, it is in the scoping process where the proponent signifies willingness to shoulder the additional costs relative to the review process and to estimate the amount involved.

**What is the importance of public participation in scoping?**

Community feedback is critical in scoping. The stakeholders and other interested parties must be able to participate and share their views, ideas, and perceptions on the likely environmental impacts and community issues that could result from the project.

It is to the proponent’s advantage that a broad segment of the stakeholders be represented in the scoping session to capture at this early stage the diversity of local concerns and socio-political dynamics. More so, the affected communities should be involved in scoping because it is their right to be informed of proposed changes that will affect them and to participate in decisions that will affect their lives.

The values and benefits of public participation in scoping include the following:

- helps to identify and address valid concerns
- focuses planning on valid issues of concern
- provides alternatives for consideration in planning
- provides further sources of expertise
- reduces level of misinformation and distrust
- defines parameters or methods for conflict resolution
- improves decision making
- promotes social acceptability of the project

**Social Preparation Process**
Social preparation is a preliminary activity carried out when there is a need to involve the community in any program, project or undertaking. It involves awareness building concerning the project or activity in terms of its goals, rationale, objectives, components, and activities. Social preparation is undertaken by means of public information campaigns, barangay fora and consultations, informal dialogues with community leaders and other similar activities. It aims to inform and consult the public about their participation, roles, and responsibilities in the proposed project or activity.

In the context of the EIA process, social preparation is necessary prior to the conduct of actual scoping, especially in cases when the project is controversial, large-scale or covers a huge area and may therefore cause significant environmental impacts if not properly mitigated. Among others, the purposes of such an activity are the following:

- to avoid having a misinformed public or wrong public perception about the project;
- to identify legitimate stakeholders of the project; and
- to determine or establish the preliminary issues and concerns of the stakeholders.

The period to be allocated for social preparation will depend on a number of factors, such as the total area to be impacted by the project, the population of the impact area and the socio-cultural milieu of the project area. In cases when a project has already undergone rigorous community consultations even prior to the preparation of the feasibility study and finalization, the level of social preparation may no longer be that extensive.

**How do you inform the stakeholders about the project?**

Information about the project can be disseminated through the following means:

- Conduct information campaign to let people know about the project, the proponent, the scoping process and the expected outputs. The proponent is strongly urged to engage the services of a communication expert to lead in the design and delivery of the information education communication (IEC) program.

- Information dissemination program may consist of field visits to the project site, meetings with traditional and political leaders, informal dialogues with community members and community meetings or “talakayang barangay.”

- Actual visits should be complemented with a selection of information and education campaign materials such as film or video showing, printed media or local radio. Other forms of information dissemination include streamers, exhibits and leaflets/flyers containing language that can be easily understood by the stakeholders.

Information materials (including project briefs) and activities should focus on the following:
Who initiates scoping?
The proponent initiates and organizes the scoping process in coordination with DENR. The proponent is strongly urged to hire a facilitator or communication expert to organize the scoping activities, especially if the project is large scale and controversial at the very start. This person should be credible, unbiased and generally known to the stakeholders. Moreover, the person should possess the following qualifications:

- skilled in community organizing
- experienced in facilitating community meetings and interactions including handling negotiations
- possesses the skills in coordinating multi-sectoral fora
- preferably from the affected locality.

Who needs to attend the scoping sessions?
Scoping sessions should involve a cross-section of stakeholders whether they are for or against the project. Ideally, it should be attended by the following:

- DENR representative preferably from EMB or Regional Office (EMPAS)
- at least 1 member of the selected EIARC
- project proponent
- EIS preparer
- Representative of concerned LGUs [province, municipality(ies), barangay(s)]
- representative of concerned NGA(s), whenever applicable
- Representative(s) from the concerned PENRO or CENRO representatives from would be affected communities or people’s organizations and other stakeholders

A representative from the province is necessary if the project encompasses several municipalities and the undertaking is a major project, such as commercial mining, international port or harbor, international airport, manufacturing or processing plant, power plants or any project, and that the provincial government has signified their willingness to participate in the EIS process. Otherwise, representatives from the municipal or city government and barangay councils would suffice in the scoping.
The presence of at least 1 representative from the EIARC in the scoping session is encouraged. DENR shall identify during the scoping stage prospective members of the EIARC who shall be invited to participate, even as the EIARC has not yet been formally convened. The purpose of their early participation is to ensure that they are involved at the earliest stage in reviewing the agreed-upon scope of the EIS, which will be the basis for the EIARC review.

Who are the stakeholders?

Stakeholders are persons or groups who may be significantly affected by the project or undertaking, directly or indirectly. They may include:

- persons living or working within the identified impact (direct and secondary) area;
- persons with properties in the impact area;
- persons living or working within the boundaries of the impact area;
- organized interest groups (such as NGOs and POs) operating in the impact area;
- industry representatives in the impact area;
- local government units (LGUs);
- indigenous cultural communities (ICCs) in the impact area;
- local institutions (church, school) in the area
- concerned national agencies, e.g., HLURB, DOE, DOT, DTI, PCTT, PAMBs, DAR, DA, etc.
- persons representing future generations to be impacted by the project

What is an impact area or zone?

The impact zone of a project are the areas which are most likely to be directly or indirectly affected by the proposed project or undertaking. It comprises of the direct or primary impact area and the secondary impact area. The regional impact zone is also determined in general.

How do you identify the impact zones of a project?

Impact zones are identified and delineated on the map based on the type of project and knowledge of the biophysical and social environment of the project. Specific impact areas delineated based on the biophysical and socioeconomic parameters include the following:

**Direct Impact Area/Zone**

The primary impact zone or direct impact area generally refers to areas where the project facilities or infrastructures will be located or traversed such as buildings or structures, irrigation, drainage and other utility areas, quarry sites, access roads and others to be set up during the construction and operation phases. The zone or area could include, among others, the following:

- areas where there will be displacement of settlements or livelihood
- areas directly vulnerable to potential flooding or inundation that may be caused by the project
• areas along main tributary downstream of the river system that will be the receiver of waste discharges.
• areas where there will be disturbance of habitat of endangered species
• catchment area of river system or watersheds
• ancestral domain of indigenous communities that may be affected by the project

Secondary or Indirect Impact Area/Zone

The secondary impact zone, on the other hand, generally refers to the influence area of the project that could be indirectly affected by the proposed development. This could include areas in the vicinity of the direct impact zone. Examples of these may include the following:
• communities or settlements outside the direct impact area which can also be benefited by the employment opportunities created by the project
• sub-tributaries of the river system which can be indirectly affected by pollution
• areas where water sources will be indirectly affected by drawdown in the direct impact area

The determination of the primary and secondary impact zones varies according to the type of project and the siting.

The regional impact zone (RIZ) pertains more to the general area where the impact of the project would be felt, such as the entire municipality, province or region. They can be generally identified and described without necessarily delineating them on the map.

The delineation of the impact zone serves as the primary basis for identifying the stakeholders of the project.

How do you identify the stakeholders?

The proponent through the following procedures can identify stakeholders of a particular project:
• The EIA preparer first establishes or delineates the direct or primary impact zone of the project as well as the secondary impact zone.
• The preparer identifies the individuals, sectors and communities who will be affected by the project within these zones.
• The preparer may consult with the concerned LGU (from the barangay to the municipal level), DENR PENRO/CENRO and NGAs if they have any knowledge of other stakeholders within the project area.
• The preparer may interview stakeholders already identified to identify other stakeholders or use key persons and groups, e.g. local NGOs and POs operating within the area in identifying the stakeholders.
Individuals, groups or organizations who are residing within the impact zones are given priority as primary stakeholders. Others who will not be affected directly or indirectly by the project are still welcome to participate in public consultations and during the public hearing as discussed in Chapter 7.

The representations of stakeholders should be gender balanced. In the spirit of openness and full disclosure, the interests and affiliation of all stakeholders must be made public.

**Who are the representatives of stakeholders?**

Prior to the formal scoping session, local communities and other groups of stakeholders shall select their representatives. It is presumed that during the social preparation process, information campaign and discussions among affected stakeholders have already been conducted and that they have chosen their official representative in the EIA process. The list of official or authorized representatives will have to be prepared and completed by the preparer in no case later than the formal scoping session.

**How many scoping sessions should be conducted?**

The number of formal scoping sessions to be conducted is determined by the proponent. Ideally, there should only be one (1) formal scoping session in the project site, where all identified participants can effectively interact and share their views, concerns and knowledge on the project. However, in cases where the project area is large, stakeholders are widely dispersed, or if conflict in schedules and cost considerations make the conduct of only one (1) formal scoping session difficult, the proponent has the flexibility to decide and organize several formal scoping sessions to ensure broader participation of concerned stakeholders.

**What are the administrative support and logistical needs for scoping?**

*The proponent and the preparer need to:*

- prepare the venue for the session
- send invitations and confirm attendance of the stakeholders
- provide for meals
- provide for workshop materials (pens, brown paper, colored pens, map of the area)

*Tasking for different activities should be clarified at the start. This includes, among others, the following tasks:*

- Determining who will handle the facilitation of the scoping process. The facilitator plays a very critical role in managing the entire process. The facilitator can either be from DENR, the EIA team or an independent professional facilitator commissioned by the proponent for this purpose. S/he is expected to manage the formal scoping session and provide synthesis of the proceedings.

  Other agencies with MOA with DENR can also take the lead in the scoping.

- Process documentation can be prepared by the commissioned EIA preparer.
• Administrative support for food, preparation of the venue, accommodation of the resource persons and participants whenever necessary, and needed equipment is provided by the proponent.

• The scoping report shall be prepared by the EIA preparer in collaboration with the facilitator.

**In what manner can scoping be conducted?**

Scoping sessions can take any of the following suggested forms:

• **Community meetings**
  
  This is held in the project site and may last for a day. The proceedings should as much as possible be conducted in the local dialect. If the facilitator is not familiar with the dialect, a local interpreter must be designated. The interpreter assists in the translation for some local community members as well as assists the process documentor to avoid misinterpretations.

  Presentations should be complemented with appropriate visual aids.

• **Technical meetings**
  
  A meeting of the proponent, preparers, and EMB/DENR Regional Office may be undertaken to discuss the minimum requirements for the EIA based on available scoping guidelines. The result of this should be communicated in the formal scoping activity. Technical meeting/s may also be held to finalized the Review Work and Financial Plan to determine the appropriate review cost to be provided by the proponent.

• **Public meetings**
  
  Meeting of this type represents the consensus of all affected parties. The proponent receives oral and written inquiries from groups who wish to express their stand, apprehensions and concerns. These meetings are held in the project site. All scoping sessions should be properly documented and the report duly signed by the proponent, preparer, DENR representative, LGUs, EIARC representative(s), and representative(s) of the stakeholders.

**What are the steps in the conduct of the entire scoping activity?**

The scoping is divided into three (3) general phases: **pre-scoping, scoping and post-scoping**. Based on the considerations given above, the steps in the scoping process are as follows:

**Pre-Scoping**

The proponent undertakes social preparation to inform concerned stakeholders about the project. The social preparation process may be started by the proponent even before the formal notice to EMB or DENR RO about its intention to initiate the scoping process.

**Step 1.** The proponent sends an official written communication addressed to EMB or DENR RO concerned about its intention to initiate the scoping process.
The letter should provide a brief description and/or background information of the project together with a map of the project area (scale 1:50,000) as well as the list of direct impact stakeholders. The proponent shall also suggest a possible date for the 1st Level Meeting and Formal Scoping Session.

If the proponent or preparer/s have not yet undertaken social preparation, the activity may be initiated during this period. The Formal Scoping Session shall be held, at the earliest, fifteen (15) days after the 1st Level Scoping.

The proponent should furnish a copy to the concerned DENR Regional Office and PENRO or CENRO of this request.

Step 2. Within five (5) working days of the receipt of the letter, DENR shall schedule a meeting (1st Level Scoping) with the proponent and/or preparers to:

- identify DENR representative to the scoping and prospective member(s) of the EIARC/experts; and
- confirm the list of identified stakeholders, or if necessary, suggest additional stakeholders or sectoral representatives to be invited to the scoping meeting.

In case EMB or DENR RO fails to act within the prescribed period of five (5) working days, the proposal of the proponent/preparer to conduct a Formal Scoping Session shall be deemed approved.

Step 3. 1st Level Scoping. The technical and substantive scope of the EIA study shall be agreed upon during the first level scoping meeting by the EMB/DENR RO, Project Proponent, EIS Preparer/s and invited experts prospective EIARC members based on duly approved scoping guidelines. The Project Proponent and Preparer shall be required to prepare the scope of work for the EIA study for discussion during the first level meeting. EMB or DENR RO shall confirm the proposed schedule or suggest another date for the formal scoping session.

It should be noted that experiences show that the conduct of another scoping (technical) meeting after the Formal Scoping Session is very effective in terms of refining the scope of the EIA.

Step 4. The proponent identifies and invites representatives from the key stakeholders of the project to the scheduled Formal Scoping Session. The proponent prepares and distributes the invitation/public notices, the materials to be presented during the session including project description, site development map, map of the project area and impact zones and a matrix of possible issues and concerns of the project based on available scoping guidelines or the result of the 1st level scoping done with EMB/DENR RO. During the scoping, the
contents of this matrix will be validated along with other concerns/issues, which will be raised by the stakeholders.

**Scoping**

**Step 5.** The Formal Scoping Session(s) shall be conducted in accordance with the recommendation of the proponent as affirmed by EMB or DENR RO concerned during the 1st level scoping. Preferably, the meeting or session shall be held at the proposed project site.

A series of scoping sessions may be conducted based on the results of the first session or as planned by the proponent. This can be done in cases when some of the major stakeholders are not able to attend the first session or when additional stakeholders surface which were not initially identified or invited to the first scoping session.

Whenever possible, summary matrices of results of the scoping should be signed by those present during the scoping activity itself. This is an alternative to having the scoping report signed by the designated stakeholders' signatories after the scoping report has been completed.

As a guide, a typical Formal Scoping Session may have the following format or programme of activities:

- Registration
- National Anthem
- Invocation
- Welcome/Opening Remarks
- Introduction of Participants
- Leveling off of Expectations
  - Objectives of the Session
  - Mechanics of the Session
- Brief Presentation of the Proposed Project
- Presentation of the 1st Level Scoping
  - Scoping guidelines
  - Matrix 1 (Environmental Parameters to be Considered)
  - Matrix 2 (Issues/Impacts/Mitigation Measures)
- Plenary/Open Forum
- Workshop
- Presentation of Workshop Outputs
- Synthesis and Integration
- Closing Remarks

The program and management of a Formal Scoping Session should take into consideration the culture, beliefs and social norms of the stakeholders.

**Post Scoping**
Step 6. The proponent, through the preparer, submits a formal scoping report to EMB or DENR RO concerned based on the results of the scoping process within thirty (30) days from the conduct of the last formal scoping session or activity. In case of ECP, a copy of the report should simultaneously be provided to the DENR-RO. If the summary results of the scoping have not been endorsed during the formal scoping, the entire scoping report should be signed by the agreed upon representatives of the various stakeholders in attendance during the formal scoping.

Based on the results of Formal Scoping Session, EMB or DENR RO may require the proponent and preparer/s to conduct additional Formal Scoping Session/s as may deemed necessary.

Step 7. EMB or the DENR RO concerned, preferably together with representative(s) from the EIARC, reviews the formal scoping report in terms of the appropriateness of the process, accuracy, and substantive results.

In case the report is to be reviewed at EMB, the DENR-RO will be asked to comment within 5 days to incorporate their concerns in the approval process. Absence of reply within the prescribed period will imply approval of the DENR-RO.

EMB or the DENR RO concerned, in the course of its review, shall consult with the proponent and shall take into account the concerns and recommendations of stakeholders. DENR cannot delete what has been agreed upon as the scope of the EIA. DENR can only add to what has already been submitted.

After the review, the EMB or the DENR RO concerned informs the proponent in writing of the approval including the necessary revisions. Once approved, the scoping will serve as the AGREED SCOPE, which will become the basis for the conduct and review of the EIS.

The representatives of the various stakeholders who signed the scoping report shall be furnished copies of the approved Formal Scoping Report.

The review of the scoping report should not take more than 15 working days. Lack of action by EMB or DENR RO within the prescribed period shall imply approval of the formal scoping report as submitted by the proponent/preparer.

In case there is a need for changes in the agreed scope TO TAKE INTO ACCOUNT NEW INFORMATION AND CHANGING CONDITIONS during the course of the study, the proponent, through the preparer, shall obtain the approval of EMB or the DENR RO concerned in writing for an ADJUSTMENT OF SCOPE

While the scoping report is under review, the proponent can already initiate some of the basic studies required in the EIS such as soil testing, water quality, and others.
**Step 8.** After the approval of the scoping report, EMB or DENR RO concerned will meet with the proponent to discuss the timetable and associated additional cost of the review process. This shall be contained in a Review Work and Financial Plan (RWFP) which shall be mutually agreed upon. (see chapter 12 for more details)

**What are the general procedures for managing the formal scoping session?**

The formal scoping session should be managed based on the following general procedures.

1. Open the session with the singing of the national anthem/invocation and introduction of participants.

2. Set the proper atmosphere for the session and conduct a leveling of expectations of the participants as to what the scoping aims to achieve from their own perspective. The Facilitator should handle the leveling activity and summarize all expectations raised by the various stakeholders.

3. The Facilitator will then discuss the EIA process in general and the objectives of the scoping session in relation to the EIA process.

4. A DENR representative or the Facilitator will explain the rules and procedures to be observed during the scoping. This will include, among others, the following:
   - all participants can comment, make clarification or raise questions, issues and concerns pertinent to the project
   - comments, issues or concerns should be relevant to the project being scoped
   - there should be no interruptions during the presentation of the project description, except to clarify information which is not clear
   - comments, issues or concerns should be raised at the appropriate time.
   - the participant raising an issues or concern should properly identify the sector he is representing
   - a friendly atmosphere and orderly discussion should be maintained during the entire session (ex. no cat calls)
   - agree on how to agree (in cases of conflict)

5. The first part of the scoping would be the presentation of the project description by the proponent. The presentation should be as detailed as possible for the participants to be able to visualize the project and identify possible impacts. The proponent should use maps and other presentation materials as reference for better understanding and appreciation of the project.

6. After the presentation of the project description, a representative from the EIA preparer will present the map showing the various impact zones of the project and the minimum scope of the EIA based on the scoping guidelines
for such project. If a scoping has been previously done with EMB, the result of this should be presented to the body for validation.

7. The second part of the scoping would be the discussions on questions, issues/concerns and perceived impacts of the project. For orderly discussion, the Facilitator together with the representative from the EIA preparer, will tackle the discussions by major environmental components to be impacted as follows:
   - physical environment (e.g. geology, soils, topography, water, air, etc.)
   - biological environment (terrestrial flora/fauna; aquatic ecology, etc.)
   - socioeconomic environment (health, culture, employment, livelihood, displacement, etc.)

All issues/concerns and questions raised will be recorded.

8. After all concerns have been raised, the Facilitator will then summarize the issues or concerns raised and reconfirm their validity. The proponent and the EIA preparers will be asked to comment on the issues or concerns raised and the body will agree by consensus on the final issues or concerns to be included by the EIA study.

9. Based on the agreed upon issues or concerns, the Facilitator will direct the discussion to the scope and methodology of the various studies to be undertaken to address the issues/concerns raised. The EIA preparer will be asked to present their plan subject to validation, comments, refinement and affirmation by the body.

10. In the area of public participation, the group should already discuss and agree on the manner and mechanics by which the various stakeholders will participate in the EIA process. There are no set rules or procedures for this. It can vary per project depending on several factors, such as the level of commitment and interest of the stakeholders, the culture of the project area, and others. Hence, this can be done in several ways, some of which are the following:
   - The stakeholders can choose to act as observers during the EIA process, especially during primary data gathering (e.g. sampling, field surveys and assessment) and just document the process.
   - The stakeholders can decide to hire another group of experts to review the work of the preparer.
   - The stakeholders can choose to participate in the different stages of the EIS preparation until the submission of the final EIS to EMB or EMPAS.

11. The results of the agreed upon scope of the EIA will be summarized by the Facilitator for the final affirmation of the body.
12. Through the Facilitator, the body will agree on who will sign the scoping report representing a certain sector, if the summary results cannot be prepared during the scoping activity itself. The Facilitator should emphasize that the scoping report will be prepared by the proponent containing the agreed scope of the project that should be signed by representatives of the various stakeholders.

Agree on the completion of the scoping report and routing for signature of agreed upon signatories to the report.

13. Agree on who will be given copies of the approved scoping report by EMB or DENR RO.

**When does the scoping end?**

The formal scoping activity ends once the Formal Scoping Report has been approved by EMB or DENR RO. In cases when a particular sector in the community requests for additional scoping after the agreed scope has already been approved, such request should now be cours ed through EMB or DENR RO, who will then evaluate the request, including issues raised, and decide whether there is a need for additional scoping. If the issues or concerns raised have already been covered by the agreed scope, DENR may just communicate to the concerned stakeholder that such concerns have already been covered in the approved scoping report. Otherwise, DENR will evaluate the validity of the issues or concerns raised and decide whether to consider them as additional scope or not. In any case, the proponent will be informed of whatever decision made. In the same manner, the proponent may still consider additional issues or concerns arising from the study. In such instances, the proponent will inform EMB of the additional scope to the EIS.

**What are the contents of a Scoping Report?**

The *scoping report* forms part of the final EIS and serves as the primary reference of the EIA and the review process. At the minimum, it should contain the following:

- the issues and impacts outlined in the scoping guidelines prepared by DENR. Other available scoping guidelines by the World Bank, Asian Development Bank, and other international organizations may also be used as a reference; and
- data and information requirement of the project identified based on the procedural review checklist.

The Scoping Report should generally follow the outline format as provided below:

1. Project Name or Title
2. Name and Address of Proponent
3. Project Description
   A. Goals and Objectives
   B. Rationale
   C. Project Area and Location
   D. Project Components
E. Project Activities
   a) Pre-Construction Phase
   b) Construction Phase
   c) Operation and Maintenance Phase
   d) Abandonment Phase (if applicable)

4. Pre-Scoping Activity (summary documentation of social preparation activities)

5. Scoping Process (process documentation of the actual scoping activity)

6. Summary of Agreed Upon Scope (see sample summary Matrix 1 of Issues or Impacts) including a brief description of issues or impacts identified or perceived during the various phases of project development categorized into physical, biological and socioeconomic environment.

7. Summary of agreed upon studies to be undertaken and methodology (see sample summary matrix 2)

8. Agreed Upon Scope of Participation of Stakeholders (see sample summary matrix 3)

Signatures:
PROPONENT PREPARER (Team Leader)
DENR Representative EIARC Representative
Stakeholder Representatives LGU
Community NGO/PO
NGA Other Sectors

Annexes:
- Checklist of data requirements as accomplished in the procedural review criteria form
- Minutes of the Scoping session(s)
- Attendance Sheet (per session) with signatures of participants for all scoping meetings
- Maps/Pictures

If there are several scoping sessions conducted, the results will be summarized based on the above format. The details of the scoping activity per site would be included as part of the annexes.

In order to facilitate the review process, the revised Procedural and Substantive Review Screening Forms should be included in the Formal Scoping Report. The revision should reflect the agreed-upon scope. This will avoid unnecessary delays in the review of the EIS submissions.
In the identification of information requirement that must be included in the EIS submissions, the proponent and DENR shall be guided by the following categorization of information:

- **Critical information** - this information must be included in the EIS to serve as basis for decision in the granting or denial of ECC
- **Essential information** - this information will allow reviewer to formulate ECC conditions
- **Added-value information** - this information, while not critical nor essential in the EE decision, are nonetheless indicators of the seriousness and commitment of the proponent with regards to environmental issues.

The inclusion of such categorization in the Formal Scoping Report would minimize delays during the procedural and substantive review of the submitted EIS documents. The categorization will serve as a major basis in determining the completeness of the EIS document. It will also provide focus in the assessment and evaluation of the EIARC.

In summary, it is reiterated that the scoping is intended to facilitate and expedite the review process. Scoping should not be considered as another layer or bureaucratic step but as a tool to establish the parameters or criteria of the review process. A scoping process that is undertaken properly will enable the proponent and preparer/s to save on time and effort, which in turn will redound to financial savings.