

Legal Indicators for Public Participation in the Environmental Impact Statement System in the Philippines

Rose-Liza Eisma-Osorio

Outline of Presentation

- ✦ Introduction
- ✦ Philippine EIA Law, Regulations and Guidelines
- ✦ Public Participation in EIA in the Philippines
- ✦ Judicial and Non-Judicial Remedies for complaints
- ✦ Environmental Management Fund

Introduction

- ✦ The 1998 Aarhus Convention established rules for public participation, appeals and access to justice measures.
- ✦ State's policies of full public disclosure and transparency vis-a-vis right to information and right to environment.

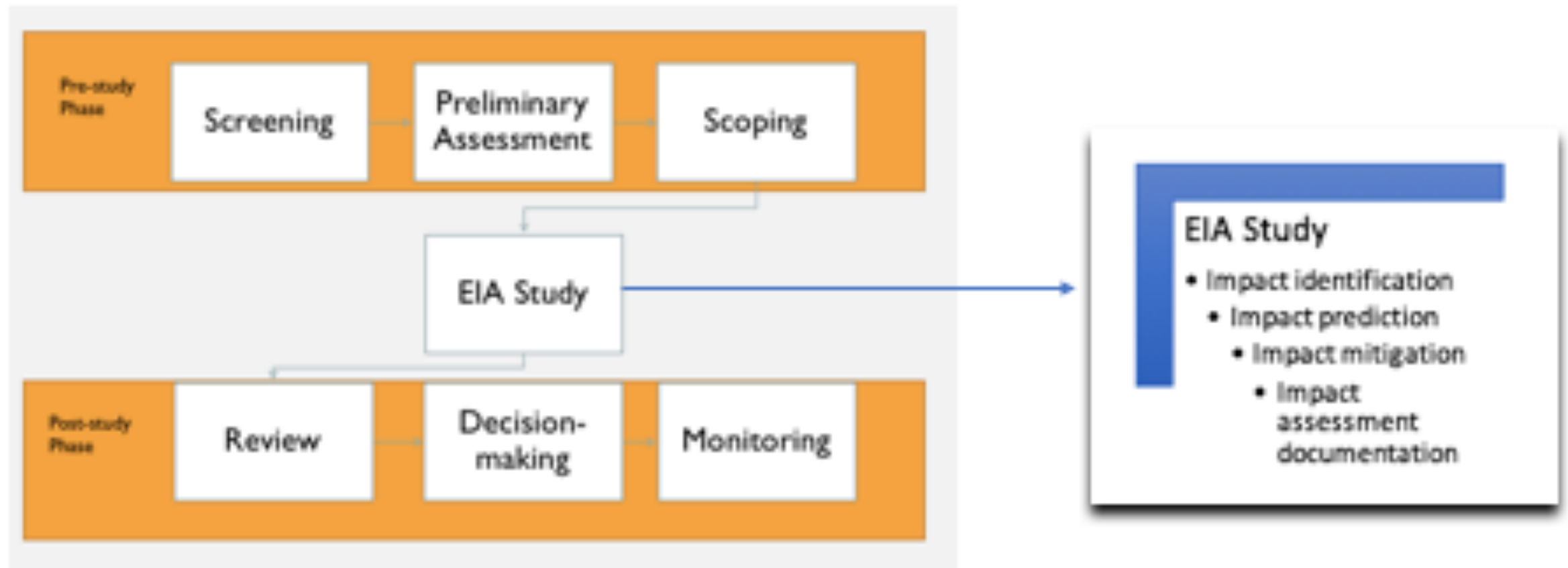
Philippine EIA Law, Regulations and Guidelines

- ✦ The Philippine Environment Policy (Presidential Decree 1151) launched a comprehensive program of environmental protection and management.
- ✦ The Philippine Environment Code (Presidential Decree 1152) required public hearing on issues of environmental significance.
- ✦ The Philippine EIS System (Presidential Decree 1586) institutionalized EIA as a planning tool for sustainable development that seeks to reconcile the exigencies of socioeconomic undertaking with environmental quality.

Scope of EIS System

- ✦ All proposed government and private projects and undertakings which significantly affects the quality of the environment.
- ✦ These are environmentally critical projects or areas which have been declared pursuant to a Presidential Proclamation No. 2146.
- ✦ These include, in general, heavy industries, resource extractive industries, infrastructure projects as environmentally critical projects. Important enterprises, such as nuclear power plants, reclamation projects, mining and quarrying projects, among others, are included.

EIA Process



3 General Criteria for review of EIS

- ✦ (1) that environmental considerations are integrated into the overall project planning,
- ✦ (2) that the assessment is technically sound and proposed mitigation measures are effective, and
- ✦ (3) that social acceptability is based on informed public participation.

Public Participation in EIA in the Philippines

- ✦ Public participation is defined under the administrative guidelines as an open, transparent, gender sensitive, and community-based process aimed at ensuring social acceptability of a project or undertaking, involving the broadest range of stakeholders, commencing at the earliest possible state of project design and development and continuing until post-assessment monitoring.
- ✦ Stakeholders mean all entities who may be directly and significantly affected by the project or undertaking.

Opportunities for participation

- ✦ Revised Procedural Manual for DENR Administrative Order No. 30 Series of 2003(DAO 03-30) provides three (3) opportunities for participation:
 - ✦ Scoping,
 - ✦ EIA Review stage after the completion of EIA report
 - ✦ Monitoring stage after the issuing of environmental permits.

DENR Memorandum

Circular 2010-14

- ✦ This involves the standardization of requirements and enhancement of public participation in the streamlined implementation of the Philippine EIA System.
- ✦ The notification procedure is aimed at involving all relevant or affected residents in the community. But the engagement procedure is also limited by the fact that those who are notified and invited to the public consultations are those only identified by the local government unit concerned.

Notification Procedure

- ✦ Notification Method
 - ✦ Pre-consultation stage - 'adequate announcement or invitation of relevant member of the public'.
 - ✦ Public hearing - '...open, without need for a formal invitation, to all interested groups.'; announcements of hearing may also utilize popular form
- ✦ Note that procedure for conducting a public consultation is similar to that of a public hearing -- except that a public hearing is a formal process whereas public consultation does not have any mandated formats and can be informal. There are no specific guidelines on how the public consultation is to be conducted.

Notification Procedure

- ✦ Notification Period
 - ✦ published once a week for 2 consecutive weeks in any newspaper of general circulation with the 2nd publication undertaken at least 15 days prior to the scheduled hearing.
 - ✦ Notices posted in conspicuous places in the municipality and barangay where the project is proposed to be located shall be at least 15 days prior to the scheduled hearing.

Range of Participants

- ✦ Stakeholders are persons or groups who may be significantly affected by the project or undertaking, directly or indirectly.
- ✦ They may include: (1) persons living or working within the identified impact (direct and secondary) areas; (2) persons with properties in the impact areas; (3) persons living or working within the boundaries of the impact areas; (4) organized interest groups (such as NGOs and POs) operating in the impact areas; (5) industry representatives in the impact areas; (6) local government units (LGUs); (7) indigenous cultural communities (ICCs) in the impact areas; (8) local institutions (church, school) in the areas; and (9) concerned national agencies, e.g., HLURB, DOE, DOT, DTI, PCTT, PAMBs, DAR, DA, etc.

Judicial and Non-judicial procedure for complaints

- ✦ DENR AO 2003-30 provides for an appeal by any aggrieved party by the final decision on the ECC/CNC applications within 15 days from receipt of the decision based on the following grounds: grave abuse of discretion on the part of the deciding authority and serious errors in the review findings (Section 6).
- ✦ Also, the Rules of Procedure for Environmental Cases allows for citizen suit against any person who violates any environmental law, including public officials who are guilty thereof in the implementation of any environmental law.

Environmental Monitoring Fund

- ✦ A fund established by the proponent as required after an ECC is issued for its project or undertaking
- ✦ Used to support the activities of the multi-partite monitoring team formed for environmentally critical projects (ECPs).
- ✦ Amount is based on the annual work and financial plan approved by the EMB.
- ✦ Fund Administrator opens an account with a government accredited bank
- ✦ It shall be immediately accessible and easily disbursable.
- ✦ MMT members esp those who lose their opportunity to earn while participating in MMT activities shall receive an honoraria for their participation charged to the EMF. Other allowed expenses are emergency meetings, capability building, etc.

✿ Questions?