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Administrative Guidelines for the Preparation of Environmental Impact Assessments

Issued by the Director-General in terms of Executive Order No.
1/87 dated 3 June 2008

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Foreword

The following public information guidelines have been issued in terms of the Environmental Law of the Islamic Republic of Afghanistan (Official Gazette No. 912, dated 25 January 2007).

These guidelines have been prepared as a companion to the Environmental Impact Assessment Regulations (Official Gazette No. 939, dated 10 March 2008). The guidelines are provided to assist those undertaking development projects that may have a potential impact on the environment, and will guide proponents on the various aspects of dealing with the National Environmental Protection Agency as the competent environmental authority in Afghanistan. It will also provide guidance on how the public should be consulted and the roles and responsibilities of the various stakeholders in the process.

These guidelines should be read in conjunction with:

- The Environment Law, 1385 (Official Gazette No. 912, dated 25 January 2007)
- The Environmental Impact Assessment Regulations, 1386 (Official Gazette No. 939, dated 10 March 2008)
- The National Environmental Impact Assessment Policy – “An Integrated Approach to Environmental Impact Assessment in Afghanistan” (issued in terms of Executive Order No. 1/86, dated 25 November 2007).

The role of environmental impact assessment is also described in the abovementioned documents and provides the basis for deciding what kind of projects should be subject to an EIA, who has responsibility for undertaking the EIA process, and what role the proponents are expected to play in this process.

To date EIA in Afghanistan has been mainly undertaken by development agencies and alike with occasional reference to the National Environmental Protection Agency. With the promulgation of the Environment Law and the EIA regulations and the issuing of the EIA policy, it is now expected that donors and their contractors, United Nations organizations and non-governmental organizations will make concerted efforts to follow these guidelines and implement the laws and regulations of the Islamic Republic of Afghanistan.

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1 The Vision and Benefits of Environmental Impact Assessment

The vision for adoption of environmental impact assessment (EIA) has been established in the final policy of the National Environmental Protection Agency (NEPA) and states the following:

The use of EIA shall be implemented by the Government to protect the environment and community well-being in Afghanistan thereby assisting the progress of sustainable development.

The benefits of implementing EIA include:

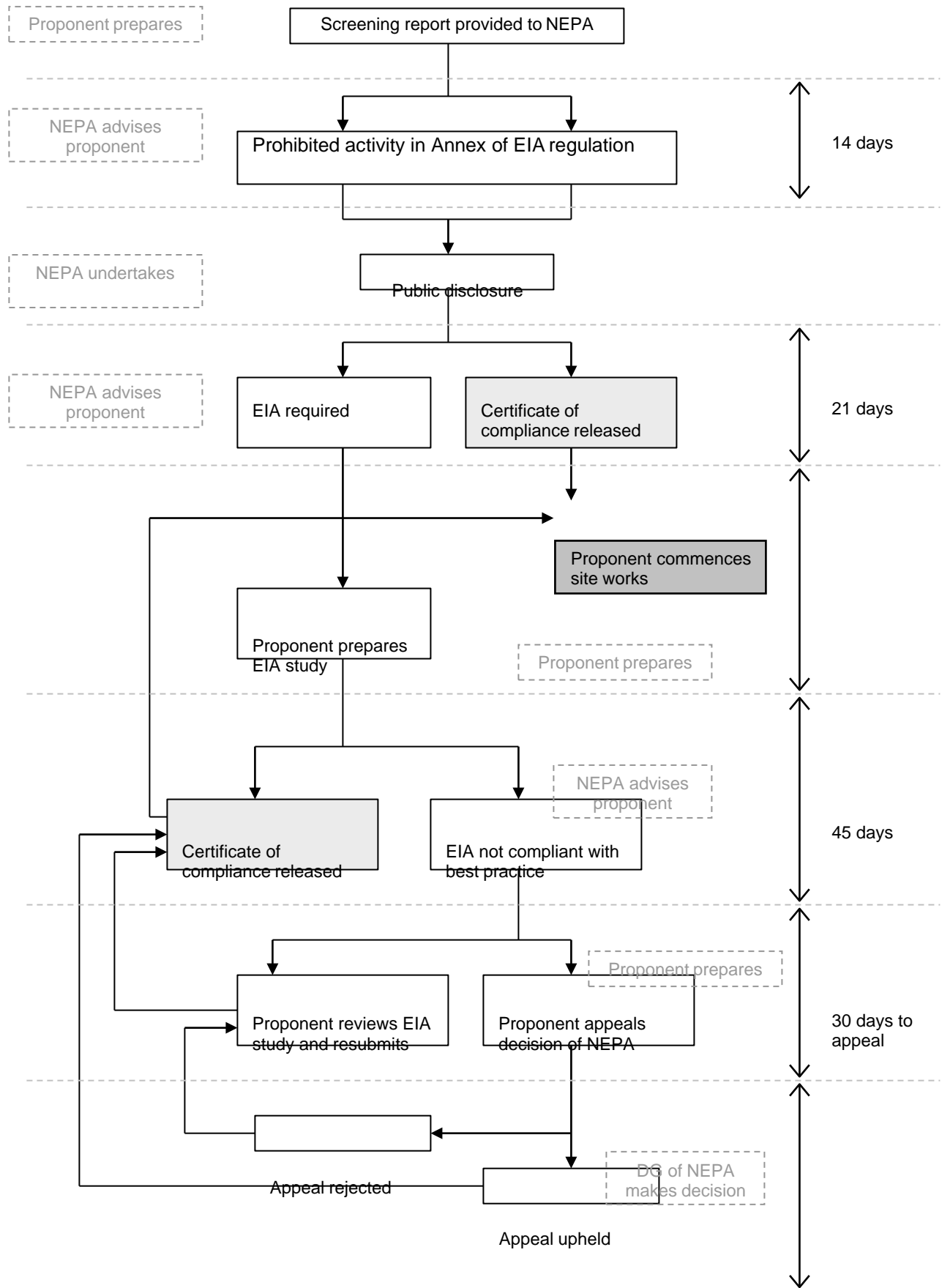
- To ensure that environmental considerations are explicitly addressed and incorporated into the development decision making process;
- To anticipate and avoid, minimize or offset the adverse significant biophysical, social and other relevant effects of development proposals;
- To protect the productivity and capacity of natural systems and the ecological processes which maintain their functions; and
- To promote development that is sustainable and optimizes resource use and management opportunities.

2 The EIA Interim Procedure

While EIA systems have been developed and implemented in many developed and developing countries, its role in Afghanistan is new and as such NEPA is introducing an interim process. This interim process, while containing as many best practice principles as possible, recognizes that development needs in Afghanistan are substantial and therefore EIA should not be too onerous a burden on the development agenda. This interim process is designed with flexibility to allow development to proceed while avoiding undue delays thus preventing a common complaint that EIA will hinder the implementation of projects. It seeks to balance the needs of the international community and Government within a framework of sustainability.

The interim process is described in the following sections.

3 The Interim EIA Process



4 The Screening Report

The Screening Report is a document which should be provided to NEPA when a proponent decides that they wish to undertake a project within Afghanistan. The suitability of providing a screening report will depend on the type of project to be undertaken. To provide guidance, projects have been categorized based on the potential to cause damage to the environment.

The following categories apply:

Category 1

A proposed project is classified category 1 if it is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, and affects an area broader than the sites or facilities subject to physical works.

Category 2

A project is classified as Category 2 if its potential adverse environmental impacts on human populations or environmentally sensitive areas (eg wetlands, forests, grasslands and other natural habitats) are less adverse than those of Category 1 projects. These impacts are site specific, and few are irreversible.

In the event that a number of projects are to be undertaken by the same proponent in a given area as part of a development proposal then it is **not** suitable to classify each project individually. The projects must be combined and categorized based on their collective potential to impact on the environment. It is preferable that all projects are included in one screening report.

Note: Lists of projects under each category are contained in the Interim EIA Regulations.

The screening report should be considered a preliminary environmental investigation and should include sufficient information to allow NEPA to determine the need for a full EIA study to be conducted or not.

Note: The relevant information that should be included in a Screening Report is contained in Appendix 1.

Once a Screening Report has been submitted, NEPA has 14 days to determine the suitability of the report and if it is included in the list of prohibited activities requiring a certificate of compliance from NEPA. NEPA reserves the right to refer the Screening Report back to the proponent should they consider the information contained in the Screening Report insufficient or lacking relevant information.

Note: While the list of prohibited activities provides guidance in the types of projects requiring an EIA, proponents should be aware that location issues will be considered in development applications. That is, if the project is located near to an environmentally sensitive area, e.g. wetland, forest, cultural site, the potential impacts on these sites will need to be considered as potentially more significant.

5 Public Disclosure

Public disclosure is a process of informing communities and the public in the location of the project area about the proposed project. It is designed to provide opportunities for consulting the public about the benefits and potential environmental impacts on the livelihoods of these communities. It is an abbreviated public consultation process that will be undertaken by NEPA.

NEPA will reserve the right to undertake a public disclosure process that may include the following:

- Displaying public information concerning the project scope and activities at one of its Provincial offices;
- Undertaking public meetings with community members who will be affected by the project;
- Providing copies of the Screening Report to interested members of the public;
- Providing written communication on the project scope and activities, should it be deemed possible to do so.

NEPA reserves the right to undertake any public consultation activities within the period of 21 days stipulated in the interim procedure. However, if it is considered that this is not necessary for any reason (e.g. previous consultation by the proponent) then the public disclosure period may be waived.

If public disclosure is undertaken, any member of the public or affected communities may make a public submission prior to any decision being made by NEPA within the time limit stipulated (i.e. 35 days).

If in the event that significant concerns are raised by the public during the public disclosure period, then NEPA will have the right to determine a full EIA is required despite any previous project classification assumed by the project lists provided.

6 Decision Making

Once a screening report has been submitted and the public disclosure period completed, NEPA will make a decision on whether the proponent can proceed with the project with the release of a certificate of compliance or whether the proponent is required to complete an EIA study.

In the instance that a certificate of compliance is provided under the Interim EIA Regulations, the proponent may be required to prepare an environmental management plan and undertake any environmental management activities as outlined in the certificate of compliance conditions.

In the instance that an EIA study is required NEPA will provide written guidance to the proponent on the scope of the EIA study and the expected areas that will need to be covered in the EIA study.

The decision making undertaken by NEPA, at this stage, will remain the sole responsibility of the Executive Deputy Director General - Technical. The proponent will not undertake any activities until written communication has been received from this official representative of NEPA. It is reasonable for the proponent to expect such a decision to be made within 35 days from submission of the accepted screening report.

7 Preparation of an EIA Study

The decision made by the NEPA on the need for an EIA is not subject to appeal by the proponent. It is however expected that the need for an EIA will most likely be limited to Category 1 projects or those deemed to have potential irreversible impacts.

If a full EIA study is required the proponent is expected to abide by best practices for EIA and undertake the study with due recognition of all laws and policies in place in the Islamic Republic of Afghanistan. As it is expected that most proponents will be from donor organizations and development agencies, use of best practices from respective institutions will be recognized as acceptable according to Article 23 of the Environment Law. This does not however, replace the need to consult with NEPA according to the Interim EIA Regulations and these Administrative Guidelines.

8 Submission of EIA Report and Decision Making

All EIA studies and reports will need to be submitted to NEPA in accordance with the Environment Law. This report/s will be reviewed by NEPA and a decision made on whether the project can proceed under release of an appropriate certificate of compliance. If in the event the EIA report is unsatisfactory then NEPA reserves the right to recommend changes that are required to the report before an appropriate decision can be made by NEPA. In this case the proponent will need to make the relevant changes and resubmit the EIA study to NEPA.

The decision to approve or reject any EIA study will be the responsibility of the Executive Deputy Director General – Technical. Expected period of decision making will be 45 days.

The proponent under Article 17 of the Environment Law has the right to appeal any decision made by the NEPA in respect to the submission of an EIA report.

9 Appeals Process

If in the event the proponent is not satisfied with the decision of the Executive Deputy Director General – Technical an appeal may be lodged within 30 days to NEPA stating the grounds under which the appeal is lodged. The appeal must contain sufficient grounds and supporting information as to why the proponent is not satisfied with the decision. These grounds for appeal will need to be based on fact that the EIA study has adequately dealt with the issues at hand with supporting evidence as to why it meets best practice and all laws and policies of the Islamic Republic of Afghanistan.

In the event that an appeal is upheld the proponent will be provided with an amended certificate of compliance outlining the conditions under which the project can proceed. If the appeal is rejected then the proponent will need to abide by the original decision made by the Executive Deputy Director General – Technical.

All appeals will be lodged to the office of the Director General of NEPA and a decision made by the Director General under letterhead of NEPA and communicated with the proponent and other relevant affected stakeholders.

10 Relationship to Pollution Management and Control

If in the event that any prohibited activity will give rise to pollution it will need to be licensed according to Chapter 4 of the Environment Law. The need for a license has also been classified according to the potential of any proposed facility to pollute. The potential to pollute has been classified based on two main categories; the red or orange list (see Annex 2 of the EIA policy). If a proposed facility falls within these categories then it may be subject to an EIA study. In most instances this is unlikely as it is expected that most facilities will be below relevant thresholds. However, it is still expected that for new facilities proponents will need to lodge a Screening Report with NEPA. NEPA will then determine if a certificate of compliance will be required for development of the facility under the Interim EIA Regulations as well as the Pollution Control Regulations (under development at the time of issuing of these guidelines).

11 Relationship to Other Laws and Policies

The need for an EIA does not replace the need to gain approval from any other Government agency. It is expected that the approval for any project given from NEPA will combine to form a range of project approvals required from the Government of the Islamic Republic of Afghanistan.

Appendix 1 – Information to be supplied by Proponents in Screening Report

The following is guidance on the information that should be provided by proponents to NEPA. Proponents may choose to submit more information dependent on the project type. However, if insufficient information is provided then the EIA process cannot be commenced by NEPA. Therefore adherence to this guidance would be advisable.

The Proponent: Name, address, telephone, email and contact point for further queries, for the individual or organisation proposing the project

The Project: Brief description of the nature and purpose of the project. Outline plans or drawings. Size of the project in terms of, for example, site area, size of structures, throughput, input and output, cost, duration. Programme for implementation including construction, commissioning, operation, decommissioning, restoration, after-use. Scale of construction activities required.

The Location: A map and brief description of the site and its surrounding area showing physical, natural and man-made features such as topography, land cover and land use (including sensitive areas such as housing, schools, recreation areas); physical/spatial planning policies or zoning; areas or features designated for their nature conservation, landscape, historic, cultural or agricultural importance; water features including groundwater and flood protection zones; planned future developments.

Potential Sources of Impact: Completion of a Rapid Environmental Assessment¹ should provide insight into the potential sources of impact. Any further information which provides detail on the following factors would be useful; emissions to air land or water or any residues that may arise from construction and operation activities and the proposed methods of discharge or disposal, any noise, vibration or heat generated from the project, hazardous or raw materials to be used or stored at the site and procedures for safe management and requirements for raw materials and energy and their likely sources.

Mitigation: Brief description of any measures the developer proposes to use to reduce, avoid or offset significant adverse effects would be useful.

Other information which may be useful:

- identification of other permits required for the project;
- relationship of the project to other existing or planned activities;
- other activities which may be required or may occur as a consequence of the project (e.g. extraction of minerals, new water supply, generation or transmission of power, road construction, housing, economic development)
- planned future developments on or around the site;
- additional demand for services such as sewage treatment or waste collection and disposal generated by the project;
- photographs of the site and its surroundings.
- alternative sites, processes or environmental mitigation measures considered by the developer.

¹ An REA is a checklist of potential impacts arising from a project. Checklists are developed for specific sectors and will be available at NEPA.