

Myanmar

Country: [Myanmar](#) [1]

EIA Law: Environmental Conservation Law, No. 9/2012

Law Link: [Link](#) [2]

EIA Regulations: Environmental Conservation Rules, Notification No. 50/2014

Regulations Link: [Link](#) [3]

EIA Guidelines or Other Guidance: Environmental Impact Assessment Procedure, Notification No. 616 / 2015

Guidance Link: [Link](#) [4]

Projects Requiring EIA: Government projects

Private Projects

Abridged Assessments: Yes

Assessment Detail: Certain projects will be subject to a less-detailed analysis in an Initial Environmental Examination (IEE). EIA Procedure, secs. 2(c). According to the Procedure, IEE-type projects "have some Adverse Impacts, but of lesser degree and/or significance than those for EIA Type Projects." EIA Procedure, sec. 2(c). Appendix 2 to the EIA Procedure contains a flowchart describing the levels of assessment.

Best Practices in Lieu of EIA: No

Who Conducts Screening: Government

Who Conducts Screening Detail: "The Project Proponent shall submit the Project Proposal to the Ministry for Screening." EIA Procedure, sec. 23(a). Sections 23-30 EIA Procedure describe the screening process.

Criteria for Screening: List or appendix of project or activity types

Proposed project or activity may cause significant environmental impact

Possible impact to, or adjacent to, a protected area

Other

Criteria for Screening Detail: EIA Procedure, secs. 25-28; EIA Procedure, Annex I

Who Prepares EIA: Project Proponent (with or without contractor)

Who Prepares EIA Detail: "The Project Proponent must appoint a registered Third Person or Organization to carry out the EIA investigation and reporting. Prior to commencement of the EIA, the Project Proponent shall inform the Department in writing as to the identity of the duly registered person(s) and/or organization it has selected to undertake the EIA investigation and reporting." EIA Procedure, sec. 45.

Who Pays for EIA: Project Proponent

Who Pays for EIA Detail: "All costs incurred in completing the EIA Report disclosure and review, including the public consultation process, shall be borne by the Project Proponent." EIA Procedure, sec. 69

EIA Contractor Qualifications: Yes

EIA Contractor Qualification Detail: An applicant who intends to develop a project, business, service, or activity "shall manage to conduct environmental impact assessment by a third party or an organization with suitable qualifications by the Ministry." Environmental Conservation Rules, Chapter XI, sec. 56. "[A]ny Third Person or Organization, whether foreign or domestic, who wishes to prepare an IEE and EIA shall first apply to the Department together with the information and supporting evidence indicated below, to complete such registration." EIA Procedure, sec. 17. The application must include: the applicant's information, their relevant experience, and, for key personnel, an outline of each person's experience in the field of environmental assessment, academic credentials, relevant certificates and accreditations. Id. Once the applicant has submitted its intent to have a third party conduct the EIA, the Ministry shall "determine and decide . . . whether or not it is a suitable third party." Environmental Conservation Rules, Chapter XI, sec. 57.

Conflict of Interest: Yes

Conflict of Interest Detail: "[T]he Department may suspend or cancel the registration of any organization or person who has been registered in accordance with Article 18 or any prior requirements, and may impose such other corrective or punitive measures as may be lawfully available to it, . . . if the Department determines that such person or organization has violated any provision of Republic of the Union of Myanmar law, or if the assessments of such person or organization contain significant errors or are materially misleading or have not been prepared in accordance with recognized standards generally applicable to such work and services and/or relevant provisions of the Law, the Rules, this Procedure or other applicable Republic of the Union of Myanmar laws." EIA Procedure, sec. 20.

Terms of Reference: Yes

Terms of Reference Detail: "Based on the Scoping, the Project Proponent shall prepare the TOR for the EIA investigations in accordance with applicable guidelines issued or adopted by the Ministry." EIA Procedure, sec. 52.

Days for Decision Maker Review: 90 days (may be extended)

Automatic Approval: No

Automatic Approval Detail: There are no provisions in the EIA system allowing automatic approval. If the project is complex, the Ministry may extend the time to review the EIA and other documentation. See EIA Procedure, sec. 68

Written Decision: Yes

Written Decision Detail: There are no provisions specifically stating that a decision must be in writing, but it is assumed from context. "Upon completion of its review of the EIA Report, the Ministry shall; . . . publicly and timely disclose its decision by appropriate means." EIA Procedure, sec. 70.

Authority to Impose Conditions: Yes

Authority to Impose Conditions Details: "The Ministry may, in issuing the prior permission, stipulate terms and conditions relating to environmental conservation." Environmental Conservation Law, sec. 24. "Upon completion of its review of the EIA Report, the Ministry shall; a) approve the EIA Report with the guidance of the Committee, subject to any conditions as may be prescribed, and issue an ECC" EIA Procedure, sec. 70.

Expiry of Decision: 5 years (may be renewed)

Expiry of Decision Detail: "An ECC issued by the Ministry shall be valid for a period of five (5) years from the date of issuance. Six (6) months prior to expiration of an ECC issued by the Ministry, the Project Proponent may apply to the Ministry for an extension." EIA Procedure, sec. 93.

Financial Assurances or Bond: Sometimes

Financial Assurances Detail: Financial assurances are discretionary. "The Ministry may prescribe conditions of an ECC. Such conditions may encompass any or all of: . . . n) Financial guarantee: (i) type of guarantee, (ii) amount, (iii) timing, (iv) application, (v) type and financial capacity of guarantor;" EIA Procedure, sec. 91(n).

Interdisciplinary Team: No

Interdisciplinary Team Detail: This issue is not addressed in the EIA law or procedure.

Range of Alternatives: Yes

Range of Alternatives Detail: The EIA shall include "an analysis of Alternatives. Such analysis shall include a description of each Alternative, and an assessment and comparison of the Adverse Impacts, required mitigation measures and Residual Impacts of the Alternatives." EIA Procedure, sec. 58; see also sec. 2 (defining "alternatives"). Specifically, the EIA shall contain a "[d]escription of the selected Alternative(s) by Project phase (preconstruction, construction, operation, decommissioning, closure and postclosure)." EIA Procedure, sec. 63, (4.5).

No Action Alternative: No

No Action Alternative Detail: "No action" is not included in the definition of alternatives. See EIA Procedure, sec. 2

Type(s) of Impact Analysis: Direct environmental impacts

Cumulative environmental impacts

Social impacts

Cultural impacts

Health impacts

Economic impacts

Mitigation: Yes

Mitigation Detail: According to the EIA Procedure, the EIA investigation requires an analysis of alternatives and mitigation measures. EIA Procedure, sec. 58. Further, according to EIA Procedure sec. 63, the EIA Report shall include impact and risk assessment and mitigation measures. EIA Procedure, sec. 63 (6.0).

Monitoring Plans: Yes

Monitoring Plans Detail: "The Project Proponent is responsible for the preparation of an EIA Report which shall contain the following: . . . a comprehensive monitoring plan" EIA Procedure, sec. 63.

Public Notice of Draft EIA: No

Draft EIA Available: No

Draft EIA Available Detail: Members of the public are not permitted to review a draft version of the EIA

Draft EIA Locations: Not available

Public Notice of Final EIA: Yes

Public Notice of Final EIA Detail: "Not later than fifteen (15) days after submission of the EIA Report to the Department, the Project Proponent shall disclose the EIA Report to civil society, PAPs, local communities and other concerned stakeholders: (i) by means of national media (i.e. newspapers); (ii) the website(s) of the Project or Project Proponent; (iii) at public meeting places (e.g. libraries, community halls); and (iv) at the offices of the Project Proponent. EIA Procedure sec. 65. "Upon receipt of the EIA Report, the Ministry will make the EIA Report publicly available." EIA Procedure, sec. 66

Final EIA Available: Yes

Final EIA Available Detail: ". . . the Project Proponent shall disclose the EIA Report to civil society, PAPs, local communities and other concerned stakeholders: (i) by means of national media (i.e. newspapers); (ii) the website(s) of the Project or Project Proponent; (iii) at public meeting places (e.g. libraries, community halls); and (iv) at the offices of the Project Proponent." EIA Procedure, sec. 65.

Final EIA Locations: Internet

Library

Agency or ministry office

Other

Fee to Obtain EIA Documents: Yes

Availability of Reference Studies: Yes

Availability of Reference Studies Detail: The EIA Procedure requires the Project Proponent to provide timely disclosure of all "relevant" information about the proposed project. EIA investigations must "include all necessary data collection, technical studies, modeling, field surveys, field sampling, laboratory analysis, engineering designs and calculations, and consultations to determine and document that all feasible measures are taken to ensure that all Residual Impacts are within applicable limits and are acceptable to the Ministry and interested and affected persons." EIA Procedure, secs. 57, 61.

Public Notice of Final Decision: Yes

Public Notice of Final Decision Detail: "Upon completion of its review of the EIA Report, the Ministry shall;. . . c) publicly and timely disclose its decision by appropriate means." EIA Procedure, sec. 70.

Public Scoping: Yes

Public Scoping Detail: "All EIA Type Projects shall undergo Scoping." EIA Procedure, sec. 47.

Public Review of TOR: No

Public Review of TOR Detail: Although members of the public participate in scoping, they do not have an opportunity to review the TOR before it is made final.

Public Participation Opportunities: Scoping

Public Meetings and/or public hearings

Review of final EIA

Public Meetings: Yes

Public Meetings Detail: Public meetings are held during the EIA investigations by the Project Proponent. EIA Procedure, sec. 50. "Upon receipt of the EIA Report from the Project Proponent, the Department shall: . . . d) arrange public consultation meetings at national, regional, state, Nay Pyi Taw Union Territory and local levels where the Project Proponent shall present the EIA Report. . . ." EIA Procedure, sec. 67.

Public Input at Meeting: Yes

Public Input at Meeting Detail: Neither the Law nor the Procedures explicitly permit the public to speak or provide information at public meetings or hearings. However, according to EIA Procedure, sec. 67 (d) and (e), the Department shall "arrange public consultation meetings" and "collect and review all comments and recommendations received." EIA Procedure, sec. 67.

Criteria to Hold Public Meeting: Public meeting and/or hearing is automatically required

Days for Public to Review Final EIA: Not specified

Public Comments on Draft EIA: No

Public Comments on Draft EIA Detail: A draft EIA is not made available to the public.

Public Comments on Final EIA: Yes

Public Comments on Final EIA Detail: "Upon receipt of the EIA Report from the Project Proponent, the Ministry shall . . . b) invite comments and suggestions on the EIA Report from all relevant parties including involved government organizations, institutions, civil society organizations, and PAPs, as appropriate[.]" EIA Procedure, sec. 67

Response to Public Comments: Yes

Response to Public Comments Detail: "Upon receipt of the EIA Report from the Project Proponent, the Department shall . . . Collect and review all comments and recommendations received, including those of the EIA Report Review Body, and forward the same to the Ministry to enable it to make a final decision on approval of the EIA Report." EIA Procedure, sec. 67.

Facilitation of Public Participation: No

Citizen Administrative Review: Yes

Citizen Administrative Review Detail: "Within thirty (30) days of public disclosure that the EIA Report has been approved or rejected by the Ministry, any Project Proponent, person or organization which submitted the EIA Report in accordance with this Procedure, and any other person or organization potentially affected by any Adverse Impacts of the Project, shall have the right to file an appeal to the Committee through the Ministry with respect to the Ministry decision to reject or approve such EIA Report. . . ." EIA Procedure, sec. 71

Citizen Judicial Review: Yes

Citizen Judicial Review Detail: According to the Myanmar Constitution, judicial review may be available through writ to the Supreme Court. Constitution of the Republic of the Union of Myanmar (2008), Art. 296. Further, judicial review in the High Court is available due to the Court's jurisdiction over "adjudicating on matters prescribed by any law." Constitution of the Republic of the Union of Myanmar (2008), Art. 306(d).

Project Monitoring: Yes

Project Monitoring Detail: "The Project Owner shall submit monitoring reports to the Ministry not less frequently than every six (6) months as provided in a schedule in the EMP, or periodically as prescribed by the Ministry." EIA Procedure, sec. 108. Within ten (10) days of completing a monitoring report . . . the Project Proponent shall make such report (except as may relate to National Security concerns) publicly available on the Project's website, at public meeting places (e.g. libraries, community halls) and at the Project offices. Any organization or person may request a digital copy of a monitoring report and the Project shall, within ten (10) days of receiving such request, submit a digital copy via email or as may otherwise be agreed upon with the requestor." EIA Procedure, sec. 110.

Enforceability of EIA: No

Enforceability of Permit: No

Modified: October 25th, 2019

Source URL: <https://elaw.org/eialaw/myanmar>

Links

[1] <https://elaw.org/countries-and-regions/myanmar>

[2] http://www.burmalibrary.org/docs15/2012-environmental_conservation_law-PH_law-09-2012-en.pdf

[3] http://www.burmalibrary.org/docs21/2014-06-Environmental_Conservation_Rules-en.pdf

[4] <http://www.myanmar-responsiblebusiness.org/resources/environmental-impact-assessment-procedures.html>