

EPA

## Programme

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# ENVIRONMENTAL PROTECTION AGENCY

## GUIDELINES ON THE INFORMATION TO BE CONTAINED IN ENVIRONMENTAL IMPACT STATEMENTS

### Overview

A review of the Draft Guidelines 1994 in light of experience and comments received indicates that its core sections (2-5) have been frequently used to provide a clear and comprehensive framework and methodology for EIS preparation.

The sources of criticism and disagreement which now occur principally arise from the broader issues of overlapping jurisdiction, screening, scoping, consultation and the integration of EIA into the design process. The latter being an issue which creates problems from the earliest stages of alternatives sites and designs through design review to monitoring and compliance issues.

In light of these issues it is proposed that the Guidelines should be amended to provide significantly greater assistance and direction on these 'systemic'<sup>1</sup> themes.

The attached 'Content of Guidelines' sets out the material, issues and approach which it is proposed to adopt for this revision.

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<sup>1</sup> "systemic" referring to the overall system and not any individual section or topic.

## **PART 1 INTRODUCTION AND BACKGROUND**

These sections are intended to provide a generalised overview of EIA in Ireland – sufficient to give a non specialist or a non national a context for the later detail. The sections covers legal, administrative, procedural and practical matters. It highlights, from the outset, issues which have proven to be difficult or controversial in Irish EIA.

### **1.1 EIA in Ireland**

- Legislation (statutes and jurisdiction)
- Applications (Planning, IPC, Mining, Foreshore etc.)
- Experiences (major cases)

This section is intended to provide a general context and introduction for those unfamiliar with EIA. The purpose of describing the relevant legislation is to indicate a range of activities for which EIA may be a consideration. It is *not* intended to provide either summaries or references to any specific Regulations.

The applications of EIA are included to advise, in general terms, on the existence of jurisdictional overlap between ‘competent activities’ in EIA.

Some significant interpretations of legislation have emerged from legal cases and the key principals arising from these will be included to ‘round off’ a comprehensive overview of the topic.

### **1.2 EIA Issues**

- Screening
- Scoping
- Alternatives
- Consultation
- Impartiality
- Structure, size, cost and availability

Notwithstanding the need to provide comprehensive guidance on each aspect of EIA it is important from the outset to highlight the six most significant EIA issues which give rise to controversy and complaint.

Each of these issues is *systemic* - i.e. it affects the whole EIA process and no specific section of the final EIS - and should therefore be addressed from the outset.

*Screening* is a crucial issue because of the divergences of views which can exist on the same topic. An authoritative statement on the need to avoid unnecessary EIA will be included together with advice on the existence of other forms of appropriate evaluation.

While *Scoping* now has a specific regulatory framework there is still a need for guidance on the critical function of determining what to include or exclude. Attention will be drawn to the need to concentrate upon *likely* and *significant* effects.

*Consultation* can quickly become controversial if carried out inexpertly or without a clear focus and method. Guidance will be offered on how to distinguish between EIA related information gathering and the consensus building which may accompany applications for permission.

*Considerations of Alternatives* is an integral part of scoping, impact amelioration and consultation (see also section 2.1 below). However, it can also become a source of frustration and controversy because of unrealistic expectations or intransigent promoters. Guidance criteria for the adequacy of such considerations will be provided.

*Impartiality* in EIA is a recurrent concern. The Guidelines could be of major assistance in this matter by emphasising how the structure of EIA promotes transparency - making it difficult to conceal environmental vulnerabilities. The Guidelines should simultaneously acknowledge the more limited area of subjectivity in impact evaluations. Cross referencing to the glossary of impacts (see Part IV) will be an important reassurance in this matter.

*Structure, Size, Cost and Availability* are all barriers to accessibility of information. Guidance on good practice to minimising such obstacles will be included.

## PART II PRINCIPLE AND PRACTICE

**Clear guidance is required to maintain Environmental Impact Assessment as a practical application of technical and specialist knowledge. It provides environmental information and guidance to decision-making processes, it is a means to an end. This section gives prominence to this practical aspect of EIA so that all participants in the process are oriented towards the goal of environmental improvement through project development.**

### 2.1 Method and Principles

- Considerations of alternatives
- Design review
- Impact avoidance and amelioration

In light of experience there still appears to be excessive emphasis on EIA as a document to justify a project rather than as a process to improve it. This section highlights the three principal techniques and topics by which impact avoidance and amelioration is achieved .

*Consideration of Alternatives* is widely regarded as the single most effective form of impact avoidance. It will be emphasised that the selection, from the outset, of a suitable site, process or design can dramatically alter the final impact.

*Design Review* will be highlighted to reinforce the concept of EIA as an integrated process where environmental data is used throughout the design development to mitigate impacts.

*Impact Avoidance* – where successfully practised – can often lead to an EIS which predicts ‘no significant adverse effects’. Unfortunately this conclusion can often be wilfully misinterpreted to ‘prove’ that EIA is a white wash. The Guidelines must anticipate and explain this common misunderstanding – while providing clear criteria which can be used to distinguish a successful EIA from an biased or overly optimistic EIS

## 2.2 Roles

- Applicant
- Designers
- Specialists
- Agencies
- Competent Authority
- N.G.O's
- The Public

The process of EIA requires specific and different roles from a number of players. It is important to designate the fundamental roles and responsibility of each.

*Applicants* need to be informed, aware and agree to the mitigation undertakings that are being made on their behalf within the EIA.

*Designers* have to be prepared to provide assistance, advice and descriptions in different formats, to different deadlines and in different levels of detail than might previously have been the case. Most significantly the design process must be capable of assimilating environmental factors at appropriate stages.

*Specialists* in scientific and/or environmental disciplines need to take responsibility for understanding and anticipating the procedures and practices of the development process from permitting, through construction to operation.

*Agencies* which are responsible for environmental data and advice have special responsibilities within the EIA process to recognise and acknowledge the procedural and programmatic demands of EIA.

*Competent Authorities* have been identified by the Courts as the final arbiter as to the adequacy of EIA contents and scope.

*Non Governmental Organisations* have special rights and responsibilities which can interact with the EIA process at a number of stages and levels. Early open and constructive engagement has frequently proven to be beneficial to both the environment and to the quality of development projects.

*Informing the Public* individually, as communities and through their representatives are the reason for the existence of EIA. Guidance is offered on how to participate at a number of stages.

## PART III GUIDELINES

These sections provide the core 'how to' of the Guidelines. The first part 'Stages' is new material offering guidance on EIA as a dynamic procedure where EIS preparation is closely integrated with both consultation and design development. The second part 'EIS preparation' will reuse substantial parts of the existing text (sections 2 - 6)

### 3.1 Stages

- Screening
- Scoping
- Design Review
- Draft EIS
- Additional Information
- Conditions and Monitoring

These sections describe the process of EIA providing the appropriate guidance and criteria at each stage.

#### *Screening*

While avoiding providing interpretations of thresholds or other specific regulatory issues, this section will provide common-sense guidance on criteria for deciding when EIA is the most appropriate form of evaluation.

#### *Scoping*

Administrative guidance will be provided on how to use the criteria of 'likelihood' and 'significance' to determine the scope of topics for inclusion or exclusion. General guidance will also be provided on a transparent and replicable method for determining a reasonable level of minimal investigation.

#### *Design Review*

The timely exchange of information between environmental specialists and the design team is crucial to the effectiveness of EIA in practice. An indicative method (probably a checklist) will be set out demonstrating the need for key information exchanges and decisions on the critical path of a project.

#### *Draft EIS*

It is recognised that legal considerations place certain inflexibilities for updating documentation once it has been formally submitted with an application for consent. Experience has shown that the appropriate

circulation of a Draft EIS can provide significant savings of time and avoid unnecessary confrontation. Guidance is offered on the information and circulation of such drafts.

#### *Additional Information*

The size, complexity and integration of contemporary Environmental Impact Statements means that the provision of Additional Information may require changes in a number of interacting topics and sections. Guidance is offered on how such information should be included.

#### *Conditions and Monitoring*

Undertakings to mitigate impacts - which are provided in an EIS - constitute part of the application for consent. Guidance is offered on the content and description of such undertakings to ensure transparency and practicality during and after development.

### **3.2 EIS Preparation**

- Preambles (including screening and scoping)
- Alternatives
- Project Description
- Existing Environment
- Impacts
- Mitigation
- N.T.S

These sections will substantially comprise the text from sections 2 - 6 of the existing draft guidelines - modified to take account of changes in the foregoing sections and some changes in legislation (particularly project description).

## **PART IV GLOSSARIES AND STANDARDS**

**The most frequently quoted sections of the Draft Guidelines were the glossaries of sections 7 and 8. These will be amended and improved.**

- Impact descriptions
- Technical terms
- EIS formats (including formats for '*appropriate evaluation*')

These sections will be based upon text in the existing Draft Guidelines with expansions based upon consultation and experience to date.