ENVIRONMENTAL POLICIES AND LEGISLATION

INTRODUCTION

- Effective project planning requires not only good technical expertise but also proper understanding of government policies relevant to environmental protection and management.

- An understanding of these policies is useful to ensure that development projects are undertaken in a manner that does not conflict with stated policies but ideally to complement them.

- Additionally, the legal and administrative requirements and procedures that affect a project are important considerations, especially during the stage of planning approval.

INTRODUCTION

- Various national policies and legislations that are prescribed in the country are of relevance to environmental protection and management.
- Those are of direct relevance to environmental pollution control, many of the other policies and legislations relate to resource protection and conservation, and these include forest, fisheries, land, mineral resources, community and occupational safety & health, and others.
- Although these environment and social related legislations fall within the responsibilities of other agencies and authorities, they nevertheless need to be understood as EIA requires a holistic approach be adopted in order that a comprehensive assessment is achieved.

INTRODUCTION

- It is good EIA practice to make it a point to review statutory and non-statutory requirements for a project, as this will provide a clear understanding of how best an EIA can proceed.

- Clearing the legal and administrative requirements of authorities is as important in project planning as does clearing the technical and financial concerns.

- A summary of the legal and administrative requirements for the project within an EIA report will assist the Project Proponent and the authorities to keep into focus environmental objectives during the EIA review process.

Due attention to Environmental Policies and Legislations while preparing EIA is a prerequisite

NATIONAL ENVIRONMENT POLICY AND LEGISLATION

- The National Environment Policy of 1992 and the associated legislation on environmental protection and conservation represent the most important documents that relate to environmental protection and management in Bangladesh.
- The policy aims at ensuring a sound management of resources and the environment and will attempt to avoid any exploitation of these resources which would cause a permanent damage to the environment.
- The requirement of EIA for projects is described in these documents.

National Environment Policy-1992

- In 1992 the Bangladesh Government developed the National Environmental Policy (NEP) which defines the overall environmental framework and assigns responsibility for regulatory development, administration and enforcement.
- Bangladesh National Environment Policy approved in May 1992, sets out the basic outline for environmental action, together with a set of broad sectoral action strategies
- This responsibility has been given to the Department of Environment (DOE) which is under the Ministry of Environment and Forest.
- The National Environment Council, with the head of the government as chairperson, provides the overall policy direction.

Coverage of Environment Policy-1992

Environment policy of Bangladesh addressed 15 broad sectors to address overall environmental issues. These sectors are:

1) Agriculture
2) Industry
3) Health
4) Energy
5) Land
6) Food
7) Population
8) Housing and Urbanization
9) Fisheries and Livestock
10) Education and public Awareness
11) Forest, Wildlife & Biodiversity
12) Science, Technology & Research
13) Coastal and Marine Environment
14) Communication & Transportation
15) Water Development, Flood Control & Irrigation

For each of the sectors some goals and targets are mentioned. Then the necessary action plan to achieve these goals and targets are also mentioned.

National Environment Policy-1992

✓ In 30 years since adoption of Environment Policy, 1992, the nature and level of environment and ecological degradation have been changed.

✓ Environment policy of Bangladesh missed some of the major sectoral issues which should be addressed to protect the environment from pollution and degradation.

✓ The guidelines which are provided for each sector are not enough to address the technical issues like environmental pollution.

✓ There should be an official English version of Environment policy of Bangladesh (only Bengali version is available).

✓ In order to address all those changes and with a view to protect and conserve environment and ecosystem in a rigorous, pragmatic and sustainable manner as well as to bring the climate change to the mainstream of the environment and development, the government has revised the National Environment Policy, 1992 and adopted the revised National Environment Policy, 2018.

The National Environment Policy, 2018

- The National Environment Policy (NEP) 2018 of Bangladesh provides a comprehensive framework for sustainable development, focusing on pollution control, resource management, biodiversity conservation, and climate change adaptation.
- It emphasizes the “polluter pays” principle, eco-friendly economic growth, and integration of environmental concerns into all sectors of national planning.

Key Objectives are:

- **Sustainable Development:** Ensure environmentally friendly economic growth and balance between development and conservation.
- **Pollution Control:** Reduce air, water, and soil pollution through stricter regulations.
- **Resource Management:** Promote efficient use of land, water, energy, and mineral resources.
- **Climate Change Preparedness:** Strengthen adaptation and disaster management strategies.
- **Public Awareness:** Enhance education and mass awareness on environmental issues.

The National Environment Policy, 2018

Focus Area are:

- **Land & Water Resources:** Sustainable management of agricultural land and water bodies.
- **Air Pollution Control:** Nationwide measures to reduce emissions from industry and transport.
- **Food & Public Health:** Ensure safe food and drinking water, improve health services.
- **Forests & Biodiversity:** Protect wildlife, conserve ecosystems, and promote biosafety.
- **Urbanization:** Encourage eco-friendly housing and urban planning.
- **Energy & Industry:** Promote renewable energy and cleaner industrial practices.
- **Coastal & Marine Ecosystems:** Safeguard fisheries, coastal zones, and marine biodiversity.
- **Disaster Management:** Strengthen resilience against floods, cyclones, and other hazards.

The National Environment Policy, 2018

Key Subject Matters :

- Ensuring sustainable development through reducing human pressure on nature and natural resources.
- Considering environment protection as integral part of the development programs planned to meet the need of the present and future generation.
- Making natural resources extraction, use, environmental conservation etc. to be based on science.
- Considering environmental impacts and risks in extracting and using natural resources.
- Evaluating economic contribution of ecosystem services simultaneously to that of natural resources.

The National Environment Policy, 2018

Key Subject Matters :

- Giving priority to poor and under privileged group of people in order to ensure their participation, equity, justice, accessibility to the use of natural resources and getting ecosystem services on which, they are dependent
- Taking initiatives to prevent misuse and ensure optimum of water, land, natural gas and other natural resources in the production process as well as day-to-day purposes
- Encouraging sustainable use of new and renewable resources
- Enhancing long term poverty alleviation and food security through conserving biological diversity
- Realizing compensation from persons and institutes those who are liable to environmental pollution through applying polluter pay principle

The National Environment Policy, 2018

Key Subject Matters :

- Including environmental conservation and preservation in all national policies and ensuring implementation of the environment policy at both government and nongovernment level.
- Giving priority to preventive measures over curative measures in environmental conservation.
- Including adaptation and mitigation program in all development projects in order to address adverse impacts of climate change.
- Ensure sustainable utilization of ecosystem goods and services.
- Implementation of 3R principle in utilization of resources.

The National Environment Policy, 2018

Key Subject Matters :

- Strengthening institutional and legal capacity of institution (Government, local, private and technical) relevant to the enforcing and implementation of rules and regulation relating to environment policy and environment conservation.
- Ensuring considerations of climate change and challenges of calamities in all kind of infrastructure projects.
- Reducing of all SLCP (Short-Lived climate pollutants) which are harmful to health and environment.
- Taking development programs considering sustainable production and consumption as integral part of environmental conservation to meet the need of present and future generation.
- Allocating necessary funds to all areas of environmental conservation, preservation and control.

List of other National Plans, Policies Guidelines that confirm, compliment and support the National Environmental Policy

- National Bio-safety Strategy & Action Plan 1995- Framework for safe handling of biotechnology
- National Biodiversity Strategy & Action Plan of Bangladesh 2016-2021- Roadmap to conserve biodiversity and ecosystems.
- A Roadmap for Clean Fuels and Vehicles in Bangladesh, 2011 -Strategy to reduce vehicular emissions and promote cleaner fuels.
- National Action Programme on Desertification, Land Degradation and Drought (DLDD) 2016-2024 -Plan to combat desertification, land degradation, and drought.
- Ecologically Critical Area Management Rules, 2016- Regulations for protecting ecologically sensitive zones.
- Medical Waste (Management and Processing) Rules, 2008- Guidelines for safe disposal of hospital and clinical waste.
- Hazardous Waste and Ship Breaking Waste Management Rules, 2011-Rules for managing hazardous and ship-breaking waste.
- Bangladesh Biosafety Rules, 2012- Legal framework for biosafety in research, agriculture, and industry.

- Bangladesh Biological Diversity Act 2017-Legal framework to conserve and sustainably use biological diversity.
- Natural Water Reservoir Conservation Act, 2000- Law to protect and conserve natural water bodies.
- National Forestry Policy 2016- Policy to expand forest cover and promote sustainable forest management.
- National Conservation Strategy 1998 and Draft Update 2013- Guideline for integrating conservation into national development planning.
- National 3R (Reduce, Reuse & Recycle) Strategy 2010- Framework to promote waste reduction, reuse, and recycling.
- Bangladesh Climate Change Strategy & Action Plan 2009- National plan to address climate change adaptation and mitigation.
- Bangladesh Delta Plan 2100- Long-term integrated plan for sustainable water, land, and climate management up to 2100.
- National Disaster Management Plan 2010- Comprehensive plan for disaster risk reduction and emergency response.
- Nationally Determined Contributions (NDCs)- Bangladesh's climate commitments under the Paris Agreement to reduce emissions and enhance resilience.

- Five-Year Plan
- Sustainable Development Goals (SDGs)
- National Adaptation Program of Action (NAPA) 2005 and Update 2009
- Other Sectoral Policies/Strategies like Industry, Agriculture, Energy, Water, Health, etc.
- National Bio-safety Framework and Guidelines
- Guidelines on Environmental Management, Waste Treatment and Workers' Occupational Health and Safety for Ship Breaking Yard in Bangladesh
- Establishing National Land use and Land Degradation Profile 2018 (proposed)

The Bangladesh Environment Conservation Act, 1995 (as amended in 2000, 2002 & 2010)

- The Bangladesh Environmental Conservation Act (BECA), 1995 is the main legislation for conservation of the environment, improvement of environmental standards, and control and mitigation of environmental pollution. The enabling powers of the BECA are wide ranging. Wide-ranging powers (Section 4) are given to the DG to take various actions or measures to enforce the BECA

Section	Provision Under Section
Section 4	Powers of the DG to enforce various provisions of the Act including setting rules and regulations for environmental conservation and protection.
Section 4A	Powers given to the DG to seek the assistance of other enforcement authority (or authorities) in its enforcement. Done indirectly by way of disconnecting power, gas, or water supply to the user.
Section 7	Allows the DG to seek compensation in cases of damage to the ecosystem or injury to person(s), whether directly or indirectly caused by a person or persons. He may also require that corrective or remedial action be taken to mitigate or ameliorate the situation.
Section 8	Allows any person affected or likely to be affected as a result of pollution or degradation of the environment to apply to the DG for remedy of the damage or apprehended damage.
Section 9	DG can require person responsible and the person in charge of the place of occurrence of an accidental pollution take measures to control or mitigate the environmental pollution.
Section 12	Requires that an Environmental Clearance Certificate be obtained before an industrial unit or project can be established or undertaken.
Section 13	Formulate and publish environmental guidelines relating to the control and mitigation of environmental pollution, conservation and improvement of the environment.
Section 14	Allows appeal against grievances to the Appellate Authority. [Note: The Appellate Authority was constituted by MoEFCC by a notification dated 03/11/1997].
Section 15	Allows the imposition of penalties for various offences.
Section 20	Power to make rules for various purposes including the setting of EIA procedures.

The Environment Conservation Rules, 1997(as amended in 2002 & 2003)

- The Environment Conservation Rules (ECR), 1997 is the main subsidiary legislation of the BECA which outlines various procedures or measures that need to be taken for compliance with the related provisions of the BECA.
- The ECR provides specific rules and procedures for various categories of projects in relation to their approval prior to construction and operation.
- For projects and activities listed within the Red category, the ECR requires that an Initial Environmental Evaluation (IEE) be first submitted for approval and this can be accompanied with the terms of reference (TOR) for an EIA, which is to follow the IEE.

Table 2.2: Principal Provisions of the ECR, 1997

Rule	Provision Under Rule
Rule 3	Outlines factors (such as human habitat, archaeological site, ancient monument, national park, mangrove, etc) that the Government will take into account to declare an area as Ecologically Critical Area (ECA) and specify the activities or processes that cannot be continued or initiated in an ECA.
Rule 5	Outlines procedures for any person affected or likely to be affected as a result of pollution or degradation of the environment to apply to the DG for remedy of the damage or apprehended damage.
Rule 7	Outlines procedures for obtaining an Environmental Clearance Certificate (ECC).
Rule 7(1)	Classification of industrial units and projects for purpose of issuance of into four categories:- (a) Green; (b) Orange – A; (c) Orange – B; and (d) Red.
Rule 7(4)	For Orange-A, Orange-B, and Red categories, require a Site Clearance Certificate (SCC) and thereafter an ECC to be obtained.
Rule 7(5)	Prescribed form for application of SCC or ECC.
Rule 7(6)	Outlines documents for various categories of industrial units and projects.Those within Orange-B and Red categories require submission of an Initial

Rule	Provision Under Rule
	Environmental Evaluation (IEE), while an Environmental Impact Assessment (EIA) report is required for the latter category.
Rule 7(9)	Specifies type of activities that may be undertaken with approval of SCC.
Rule 8	Indicates period of validity of ECC for Green projects (3 year), and for others (5 year). Renewal is to be made at least 30 days before expiry of certificate.
Rule 9	Sets procedures for appeal against any notice, order or directive to the Appellate Authority.
Rule 12 & 13	Prescribed emission and environmental standards to be complied with are outlined in various schedules.
Rule 14	Schedule 13 - prescribes fees for issuance or renewal of ECC.
Rule 16	Outline of procedures for payment of fees.
Rule 17	Require any accident that poses serious threat to the environment to be informed to the DG.

Noise Pollution (control) Rules, 2006

- This rule has been promulgated under the provision of clause 20 of BECA, 1995. The rules provide for standard limits of noise level of vehicles and designated areas.
- According to the Rules, motor honking within a 100 meter radius of a hospital, school and office is prohibited.
- The rules also do not allow use of brick crushers and cement mixers within 500 meter radius of a residential area.
- Besides, prior permission is mandatory for using loudspeakers or megaphones.
- The rules stipulate safety and precautionary measures in work places, designated authorities for allowing noise generating appliances.

Resources Protection and Conservation Policies and Legislation

- Besides the main environmental protection laws mentioned above, various other national policies and legislations need to be considered because of their relevance to environmental protection and conservation.
- These are mostly those that relate to natural resources protection and conservation, and include matters such as forest, fisheries, wild flora and fauna, water, and coastal zone protection and management.

Forestry Protection

- The National Forestry Policy (NFP) provides the framework for the protection of the remaining forests in the country and the restoration of about 20% of the country's land under the afforestation programs
- The priority protection areas are the habitats which encompass representative flora and fauna in the core area of national parks, wildlife sanctuaries and game reserves.
- Multiple-use of forest, water and fish of the Sundarbans through sustained management will be ensured, keeping the bio-environment of the area intact.

Fisheries Protection and Conservation

- The coastal wetlands and estuarine rivers of the Bay of Bengal southwest of Bangladesh are rich in biodiversity and highly productive ecosystems for many marine species, especially fish and shrimps.
- These resources have been identified as the principal source of animal protein for the people of Bangladesh and future dependency on this protein source requires strong action to protect these resources.
- The National Fisheries Policy provides the framework for the conservation and management of fisheries resources to ensure supply and enhance production.
- All the water bodies suitable for fisheries production and their fisheries resources conservation, development and management are addressed under this policy.
- These include rivers and canals, haor and baor, floodplains, open and coastal water systems.

Wildlife Conservation

- Although there is no established wildlife conservation policy, the Bangladesh National Conservation Strategy has identified critical terrestrial and aquatic ecosystems for protection and conservation.
- These include mangroves, coral reefs, tidal wetlands sea grass beds, barrier islands, estuaries and closed water bodies.
- The Bangladesh Wildlife (Conservation and Security) Act 2012, has been promulgated for the conservation and protection of wildlife. The legislation is within the purview of the Forestry Department.