Myanmar’s changing landscape
Environmental project approvals

Current state of play

In 2011, Myanmar embarked on a series of political, economic and regulatory changes, ultimately leading to the formal adoption of a market economy. The European Union and the United States recently eased sanctions affecting Myanmar and many foreign firms are now establishing a local presence. As a result of this, foreign direct investment has increased by 160% in 2013 alone.

The transition to an open economy and in particular, the conditions often attached to foreign investment, has mandated a comprehensive regulatory overhaul. As a result, environmental laws have been revised with the aim of increasing transparency and accountability.

The National Environment Policy of Myanmar 1994 is the basis of Myanmar’s environmental statutory framework. This is supported by the 2008 constitution that empowers Government to conserve Myanmar’s natural environment and enables Parliament to enact environmental laws. Accordingly, the Ministry of Environmental Conservation and Forestry (MOECAF) enacted the Environmental Conservation Law 2012 and is charged with assessing compliance. Since the law was introduced, MOECAF has started drafting subsidiary regulations to enact legislation, including the forthcoming Environmental Impact Assessment Procedure, which is expected to be finalised imminently.

Getting your development proposal approved

Development proposals must be approved by the Myanmar Investment Commission (MIC) and MOECAF. MOECAF is part of the MIC panel and is also involved in Proposal Assessment Team meetings.

In order to have your assessment proposal approved, you must first submit your project proposal to MOECAF. Depending on your project’s type and scale, where it’s located and the potential environmental impact, one of three levels of assessment will be allocated:

- Environmental Impact Assessment (EIA)
- Initial Environmental Examination (IEE)
- Neither an EIA nor an IEE - an environmental assessment is not required

Where an EIA or IEE is required, it must be submitted to the MIC as a component of the permit application. Your company may still be asked to complete an EIA, even if it was initially required to undertake only the less onerous IEE. An environmental management plan (EMP) must also be provided with IEE and EIA submissions. MOECAF provides a list of the project types that automatically trigger an IEE or EIA – this can be found in the EIA Procedures annex.
Working with the EIA Procedures

Registered companies to submit EIA

Consultants must be registered with MOECAF to prepare and submit an IEE or an EIA. The submission to gain registration is assessed based on the profiles of your key personnel, relevant environmental assessment experience, academic credentials, certificates, accreditations and client references. It will also look at your insurance coverage.

The Environmental Conservation Department is currently drafting licensing rules and criteria. As a result, there are currently no registered third parties.

Whilst we expect these guidelines to be completed soon, Coffey is already in the process of gaining our third party registration.

Approval timeframes – are they realistic?

In positive news for companies looking to quickly move projects forward, MOECAF have established a clearly defined assessment timeframe. As part of this, they will determine and communicate within 15 days of receiving a project proposal, the level of assessment required. A final decision will then be announced within the next 60 days of receipt of an IEE report.

Companies with projects requiring an EIA will need to prepare a scoping report and terms of reference (TOR) based on the scoping outcomes. The EIA investigation must then be undertaken in accordance with the TOR, approved by MOECAF. Scoping reports and TOR will then be assessed within 15 days of receipt. Final project approval will be made within 90 days of receipt of the EIA report.

It’s important to note however, that the EIA Procedure allows for this timeline to be extended in the case of “complex projects” or where MOECAF requires the EIA report to be amended. Conversely, the Procedure also allows MOECAF to grant an approval in “special circumstances”, where an IEE or EIA which would otherwise be required, has not been completed.

Despite this commitment to move project development requests forward in a timely way, there is potential for delays. In our experience from working in Myanmar, timeframes are an estimate only and can drag out. It remains to be seen whether these new prescriptive timeframes will actually be met.

Companies also may experience delays from the revision of documents such as the IEE, EIA, TOR or scoping documents. To minimise the risk that one of your documents is rejected, it’s critical you have a sound understanding of the content and the detail required – and you ensure it is done right the first time.

Cost of assessment – companies to pay

If your company is looking to invest in Myanmar, you will also be responsible for the costs incurred through the environmental approval process. The EIA Procedure outlines that all costs incurred in completing the IEE and EIA report, including the public consultation process, will be the responsibility of the proponent. In addition, any costs incurred by the Ministry as part of the inspection and monitoring of the project, will also be borne by the project.
prevent the need for MOECAF to initiate additional studies at your expense, careful scoping of approval documents is required to provide sufficient technical information and public consultation. Similarly, EMPs, including monitoring programs, must be designed to minimise ongoing project costs associated with MOECAF inspections and audits.

**How we can help?**

We have a long history working in Myanmar. We were the first international company to become a registered environmental consultant to the state owned Myanmar Oil and Gas Enterprise. Through our International Development business, we’ve also established strong relationships with MOECAF and other Government departments.

Our team of specialists can help you navigate Myanmar’s new environmental regulations, ensuring your documentation is robust and sufficient, to help you minimise delays and avoid additional costs.

We can help you to find the right balance of approval detail and EMP commitments to manage the costs of both approvals and ongoing project activities.

If you would like more information about how we can help you, please contact Ryan Smyth on +61 429 476 562 or via email at ryan.smyth@coffey.com.