

Panel Discussion and Question & Answer Session.

Moderated by : Ir. Lee Heng Keng, ENSEARCH.

Panelist : Pn. Halimah Hassan
Mr. Kiu Jia Yaw
Dr. Norlinda Mohd. Zawawi
Ms. Marina Yong
Mr. Roger Chan Weng Keng

No.	Question/Comment	Responses
1. a)	Under Section 24A of the EQA consultants have to be 'qualified'. Hence Insurance is needed to cover professional indemnity. Who can issue this?	Law firms can provide for profession indemnity in contracts. The purpose of the provision is to protect the consultant and public and prevent fly-by-night consultants. Some big companies are already including this. There is therefore a possible need to create a market – chicken and egg situation.
b)	Regarding liability - how to assess the liability for engineers as this is subject to the knowledge and experience? How to determine it in terms of legal aspects?	Multinational companies request profession indemnity arising from liability. The criteria to determine liability has to be carefully considered. Most insurance company take EIA as solid criteria for assessment. However premiums have to be negotiated. Need criteria to determine liability values. This should be developed by DOE with the consultants. Maybe ENSEARCH could take up the cause of lobbying for professional indemnity.
c)	MARPOL agreement has been signed by Malaysia. It presumes pollution by bilge and bunker oil. However, it is difficult to go after the dumping of bunker oil from ships. Could MARPOL be used by DOE for prosecution?	The designated agency for MARPOL is Marine Department under Ministry of Transport. If violating EQA such as oil dumping into sea, DOE conducts enforcement with the Marine Department. It was noted that not all the facilities at the ports are adequate for oil pollution control and treatment..
d)	One of the worst offenders for oil pollution is the fishing industry. There is little engagement currently. It needs proactive work in dealing with oil disposal in sea. Each fishing boat dumps about 10 litres of oil into the sea every month.	DOE will take note regarding the fishing industry.

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2a)	With reference to EQ (Amendment) Act 2012 Section 34A subsection 4, he agreed with it but pointed out that it was just for the sake of the Government project and did not seem to make jobs easier for private sector projects. For example, why it is so difficult to degazette forest reserve compared with Government projects. It was inquired as to whether DOE was taking over the jurisdiction from JPBD.	It was clarified that DOE does not take over either JPBD or state government's role. Land use planning is most important for DOE to make decisions on the suitability of site locations. However land is a state matter. Therefore the state government should know very clearly the purpose for land use. If not planned carefully, the land value will be affected due to the mixture of incompatible land use.
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3a)	Comments to Paper 3 presentation by Marina Yong	<p>AQI (Air Quality Index) should be Air Pollution Index (API)</p> <p>Currently PM10 is enough to measure ambient air quality.</p> <p>It was informed that DOE is reviewing PM 2.5 according to WHO standards. Now, some interim standards including PM2.5 are under review with the help of local professional bodies and NGO. It is targeted to be tabled in 2020. Nevertheless, any new policy will be put in the DOE website.</p>
No.	Question/Comment	Responses
4a)	In Sabah and Sarawak, certain EIA projects which are related to land and forestry are subject to local state jurisdiction while industrial prescribed activities are under DOE Federal. Is it possible for similar state legislation to be implemented in Peninsular Malaysia?	According to personal opinion, the state government should take the responsibility for its natural resources instead of putting the responsibility on the Federal DOE. At present, however, none of the states in Peninsular Malaysia want to take it up.

b)	If there is a situation when the approval for earthworks activities have been given by local authorities, could DOE take action under EQ (Amendment) Act 2012 to issue stop work order if it is a prescribed activity?	From the DOE viewpoint if the activities are in the list of prescribed activities, then DOE will take action on it. As consultant however, the question was reverted as to what would be the point to have EIA if the earthworks activities had already been initiated.
No.	Question/Comment	Responses
5a)	Under Section 34A, the objective of DOE to get competent person is to prevent pollution. However, the fee to get the person to attend EiMAS courses such as scheduled waste or effluent treatment competency is very costly and is a burden to the industrial sector.	DOE does not make any money from the courses. The main purpose to prevent pollution with proper competent persons. If the fee is considered to be too expensive, DOE will look into this matter. Nevertheless, industry stakeholders could claim back the money through the Human Resources Fund. When the person is competent and the system is there, the responsible party can do their own reporting and monitoring, which is known as a self-regulating system. It is now applicable for new amended regulations such as Environmental Quality (Industrial Effluents) Regulations 2009, Environmental Quality (Clean Air) Regulations 2012, Environmental Quality (Control of Pollution From Solid Waste Transfer Station And Landfill) Regulations 2009. DOE would support the system with enforcement.
No.	Question/Comment	Responses
6a)	If the development projects in local plans are for high density, it will be difficult to control sediment with massive earthworks. Does DOE play any role with the development planning agency?	The layout plan for the project is planned by planners and is under the jurisdiction of local authority. It has guidelines for the development density. DOE concern is on the ESCP implementation during the earthworks' activities. In terms of layout, DOE will comment on the buffer zone for the sensitive area. If the ESCP is not well taken care of, the river will be polluted. It will be addressed in the EIA report. Now, CEPESC certification is required when preparing the ESCP report.

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7a)	<p>The monitoring for air quality emission from the point source is stated in Environmental Quality (Clean Air) Regulations 1978. However, the ambient air quality is not stated in the regulation.</p>	<p>Ambient air standard is not legal standard while the point source is legal standard. DOE will refer to the baseline data mentioned in the EIA report. If you do not meet the ambient air standard, it will need to meet the ambient air standard apart from the point source standard.</p> <p>Environmental Quality (Clean Air) Act 1974 state that if mixed industrial with more than 3 industries which do not meet ambient air standards, Director General has the right to impose stringent standards to meet the ambient air standard.</p> <p>Seven (7) amendments are in the EQA provision. Among them are: -</p> <ul style="list-style-type: none"> - “You are guilty until you are proven innocent” - Mandatory jail sentence for any disposal or transport of scheduled wastes. - CEO can be named, or who is liable for offence, to be charged to court.