Review of the Environmental Impact Assessment Guidelines from the Environmental Protection Agency, Guyana. Volume 6 – Offshore Hydrocarbon Exploration and Production

Conservation International
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Executive Summary

Herein, CI provides the following general recommendations and section by section recommendations for better informing the development of Volume 6 – Offshore Hydrocarbon Exploration and Production by the Guyana EPA

In general, CI recommends that the Guidelines better reflect best practice by integrating concepts such as the mitigation hierarchy, residual impact, critical habitat with a more holistic ecosystems services perspective. Also, the guidance could better elaborate on stakeholder engagement expectations with indigenous peoples by advocating for the use of Free Prior and Informed Consent (FPIC). Additional specific recommendations for each section are listed below.

General Comments

In general, CI recommends that the Guidelines better reflect best practice by integrating concepts such as the mitigation hierarchy, residual impact, critical habitat with a more holistic ecosystems services perspective. Also, the guidance could better elaborate on stakeholder engagement expectations with indigenous peoples by advocating for the use of Free Prior and Informed Consent (FPIC). Additional specific recommendations for each section are listed below.

Section by Section Comments

Overview

- The document should clearly state the inclusion of the closure phase (i.e. decommissioning etc.) this phase is omitted from the Overview section

Background and Context

- Scope of the Guidelines
  - The closure phase is poorly worded, lacking an umbrella term prior to the other project terms (closure, progressive rehabilitation). Suggest using "closure (decommissioning and progressive rehabilitation)"

Guiding Principles

- The section would be improved if the principles were listed (e.g. Guyana's Green Economy, sustainability assurance and the precautionary principle). Currently the section only states how developers will need to incorporate the principles but does not provide an introduction to them.
- Guyana's Green Economy
    - With the intent of making this section clearer to any company or project developer, we recommend including more specifics about the vision, goals and targets of the Government's Green State Development Strategy. Additionally, greater clarity might be possible by defining better the "Sustainable Development targets" particularly, if those are aligned with the UN Sustainable Development Goals (SDGs). Also by defining what is meant by "environmental sustainability."
    - Consider altering/deleting this sentence "So now, more than ever before, there is a need to place emphasis on improving the quality of the environment." Achieving sustainability is not synonymous with improving quality. Suggestion for updated wording: If this is guidance, the wording: developers "will want" to review…, should be changed to developers "are expected" to review…
    - We recommend including a focus on securing and enhancing people's livelihoods and well-being within the Green Economy vision, alongside integrity of the natural environment and public health. Also, the mission of the DoE is repeating twice in this section.
    - Lastly, additional specificity on which government initiatives are aimed at achieving the Green Economy, or where a company could find more information. This would help ensure project developers get access to the appropriate information in a timely manner.
- Sustainability Assurance
    - Change "Sustainability is defined as "**to manage** planetary resources…" to "Sustainability is defined **as managing** "planetary resources…"
    - List source for definition of term
    - The use of the mitigation hierarchy concept to minimize environmental and social impacts approach would better structure what is being assured.
    - Also consider including the protection of biodiversity at the "genetic" level. Together with "species" and "ecosystem" as it makes up the three levels of biodiversity.
    - Add to second paragraph: "Developers are expected to" define and describe… This would make clearer which are the expectations for developers with respect to sustainability assurance.
- Precautionary Principle
    - The first statement is phrased in a way that does not get at the intent of the Principle as commonly used.
        - *Delete: "Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation".*
        - *Substitute: "Where there are threats of serious or irreversible damage, the precautionary principle supports postponing development to prevent environmental degradation until such time that the impact can be understood and with a mitigation hierarchy approach be avoided, minimized or offset to acceptable "no-net-loss or "net-positive-impact" levels. The main point here is that*

> *is when there is a is a lack of knowledge the precautionary principle does not advocate to move ahead in a cost-effective manner as the original text states but rather it advocates that you proceed with caution especially in cases of "serious or irreversible damage (i.e. impacts that threat to extinguish a species). There has to be the understanding that in some instances development my not proceed if the threat to species or critical habitat is too great.*

- Mitigation Hierarchy (add this)
  - Avoid, minimize, restore, offset
- Climate Change
  - Consider adding "adaptation and mitigation" aspects of combating climate change
  - In terms of climate change effects, recommend the developer not only evaluate them in terms of risks to their operations, but also to understand risk on those resources upon which operations depend.
- Traditional Knowledge
  - Add human rights-based approach and Free Prior and Informed Consent (FPIC) considerations.
  - The input from stakeholders should be considered continually and integrated within decision-making processes.
- Cultural Awareness
  - Encourage the company and project developer to adopt policies with respect to diversity, inclusion and gender.
    - Consider adding gender equality training also
- Cumulative Effects
  - Good section, well written
- Transboundary Effects
  - The sentence structure is not clear in this section such that the following sentence "The focus of an offshore oil and gas project is on the latter" does not denote what is of importance in the section. Consider rewording to convey meaning and provide guidance with respect to the expectations for the project.
- Public Participation and Engagement
  - CI recommends including an expectation for the project to follow international good practice with respect to engagement with communities, particularly Indigenous peoples, such as the International Finance Corporation (FPIC) Performance Standard 7 and the recently updated World Bank's Environmental and Social Framework (Environmental and Social Standard 7), which moves from Free, Prior, and Informed Consultation, to Free, Prior, and Informed Consent (FPIC). Additionally, companies should be expected to interact with indigenous peoples and communities in a way that respects their history, culture, customs and rights.
  - Bullets 3 and 4 are too similar and overly prescriptive. Consider combining these bullets and adding language the reinforces that the modes of communications should be tailored to be receptive to the stakeholder group (i.e. some may not have phones by which to access social media while others may not know how to read) in these cases social media and print media would not fulfill engagement requirements.
  - Beyond "documentation of issues and concerns"; Suggest a resolution mechanism for issues and concern be added.

- o Recommend early and permanent engagement of communities and Indigenous Peoples, policies for resettlement; and processes for dealing with operational-level grievances.
  - o CI recommends the use of social impact assessments for better identifying community impacts.
- Information Sharing
  - o Describe what "openly available" will entail. What is the expectation of a developer and where can those interested find the information.
  - o Add "social" to "support the environmental and **social** assessment process"
- Timelines

Environmental Permit Application

- Public Awareness
  - o The following language "explain the undertaking" outlines a minimal "explaining" of the plans whereas interactions with stakeholders should seek to involve affected stakeholders to not only be informed about also provide inputs and consent
- Occupations
  - o Consider also the indirect impacts of the project. What might the promise of work do to the surrounding region? Will others be incentivized to move there in the hopes of finding work or supporting the project through ancillary businesses? These are often unaccounted impacts.
- Project Scope and Boundaries
  - o Define Area of Influence: According to IFC PS 1[1]: The area of influence encompasses, as appropriate:
    - ▪ "The area likely to be affected by: (i) the project and the client's activities and facilities that are directly owned, operated or managed (including by contractors) and that are a component of the project;
    - ▪ (ii) impacts from unplanned but predictable developments caused by the project that may occur later or at a different location; or (iii) indirect project impacts on biodiversity or on ecosystem services upon which Affected Communities' livelihoods are dependent.
    - ▪ Associated facilities, which are facilities that are not funded as part of the project and that would not have been constructed or expanded if the project did not exist and without which the project would not be viable.
    - ▪ Cumulative impacts that result from the incremental impact, on areas or resources used or directly impacted by the project, from other existing, planned or reasonably defined developments at the time the risks and impacts identification process is conducted."
- Alternatives
  - o Good section; succinct
- Site Description
  - o This section could be moved up and could be called additional project Scope and Boundaries considerations

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[1] Source: http://www.ifc.org/wps/wcm/connect/b29a4600498009cfa7fcf7336b93d75f/Updated_GN1-2012.pdf?MOD=AJPERES

- Issues Scoping
  - Use "area of influence" throughout current the document has "zone of influence" and "area of influence"

Initiating the EIA Process

- Retaining Qualified Consultants
- Preparation of Terms of Reference
  - Objectives
  - Issues Identification
    - A potential area of concern is having the responsibility of the developer be to plan and execute public scoping exercises, especially since the results of this active public consultation program will set the scope of the EIA. Perhaps include some enforcement mechanism or measure here, or external verification requirements.
    - Spell out EAB
    - Define "active public consultation program"
    - Include also as potential issues to consider:
      - Critical habitat assessment
      - Resettlement
      - Impacts on fishing and shore base communities: reduction in community fishing area and/or access to primary fishing grounds; safety concerns; etc. Construction and operation of ports, resulting in direct physical disturbances to benthic habitats, loss of access to marine resources, chemical disturbances to soils, etc. Presence-related disturbances due to light and noise pollution.
  - The Project
    - Define Area of Influence (see IFC definition above)
  - The Environmental Assessment
    - The Project should consider an assessment and potential conservation plan at the seascape level. Seascape analysis is a fundamental step in determining ecologically-appropriate mitigation options that align with broader conservation efforts in the region, especially important in preventing the degradation and fragmentation of natural habitat, in particular from cumulative impacts.

Impact Assessment
- Define "large EIA". If this is defined in the Environmental Protection Act, then reference the statutory definition in footnotes.
- More clearly distinguish under what conditions an EIA is sufficiently large so as to spur the EIS to become the central document for decision makers and the public, versus when the EIS is a summary of findings.
- Environmental Baseline Study
  - Physical Environment
    - Consider the chemical as well (i.e. Physio-chemical Environment); also could give chemical environment its own category, to include significant environmental conditions such as acidity, hazardous chemicals, inorganic/organic waste, etc.

- o Biological Environment
    - ▪ Include the following fauna under the list of organisms for which "Specific data may be required": Marine mammals, cetaceans, marine turtles, shellfish.
    - ▪ Include after "spawning sites": migration pathways, feeding areas
  - o Socioeconomic Environment
    - ▪ Include impacts to costs of living, property prices, land-purchasing and developing price, trends over time
- Ecosystems services review (propose adding this review)
  - o Includes Provisioning, Regulating, Cultural and Supporting services; can include and encapsulate non-material benefits that are currently excluded from socio-economic environment, such as visual and aesthetic impacts to seascape.
- Environmental Assessment
  - o The Developer
    - ▪ Consider including a category for the Developer to acknowledge responsibilities and roles within the EA process
  - o The Project
    - ▪ On page 23, paragraph 2: Rather than referring back to TOR, clarify that "no action" is a major alternative in the body of the text.
    - ▪ On page 23, paragraph 4: Consider providing a description of chemical changes or physio-chemical changes that will occur as a consequence of the project during all phases.
    - ▪ On page 23, paragraph 5: Clarify language to "Greenhouse gas emissions" rather than "Greenhouse should be quantified"
  - o Issues Identification
    - ▪ Define, or make reference to, the active public consultation program listed in TOR
    - ▪ What would be the role of "information brochures" in such a process?
    - ▪ Consider including language about seeking and leveraging local expertise, which can be used in the consultation and operation process (such as with Marine Mammal Observers).
  - o Effects Predictions
    - ▪ Consider effects on ecosystems services
    - ▪ Consider effects on chemical components of the environment.
    - ▪ Include citation to EPA reference.
  - o Prediction Methods
    - ▪ Consider gaps in knowledge such as the following:
      - available research may not be comprehensive for certain seasons in regard to sensitive habitats and species (i.e. seasonality)
    - ▪ Where gaps in knowledge and baseline data may be overcome or improved in quality or robustness, developers should seek to do so in their monitoring programs.
  - o Mitigation Measures
    - ▪ Follow the mitigation hierarchy when determining the mitigation measures
      - Calculate residual impact and conduct a Critical Habitat Assessment
  - o Assessment Types
    - ▪ Cumulative Effects
    - ▪ Transboundary Effects

- ▪ Climate Change
  - • Encourage to embrace climate change adaptation not only with respect to operations and dependencies, but also to the surrounding communities
- • Environmental Impact Statement (EIS)
  - ○ Further details should be provided to clarify under which circumstances the EIS will be treated by developers as a summary of findings versus the central document for decision makers and the public.
- • Environmental and Social Monitoring and Management Plan

On page 31, paragraph 3: Consider defining "significant" and "adverse" environmental impacts and "acceptable levels". If these terms are defined in the Environmental Protection Act, then reference to the appropriate section of the statute or footnotes with the definitions quoted would be helpful for developers and laypersons.

In describing the preparation of an Environmental Management Plan, consider amending the phrases after the three bulleted points into either complete sentences, or bullet these phrases into its own list of "Additional steps within the preparation process"

- ○ Unplanned Events
- ○ Environmental Effects Monitoring
  - • In addition to its provided rationale for EEM, to "confirm the predictions of environmental effects", what is the other part of the purpose for EEM?
  - • Monitoring to be carried out on three levels: a) in field monitoring of relevant biodiversity values; b) monitoring of implementation and effectiveness of mitigation measures and management controls; and c) monitoring of status of non-project related ongoing threats to biodiversity values in the project's vicinity and the extent to which the project might exacerbate them. Finally, the Project should ensure adaptive management practices to adjust methodologies and practices to the ways ecosystems and biodiversity are being managed and monitored.
  - • On page 36, paragraph 2: The responsibility is on the developers to establish a relationship between observed changes and some feature of the Project. How can situations involving new knowledge and unexpected or unprecedented changes occurring, be included under the umbrella of responsibilities for developers to consider? In addition, what external verifications or systems exist to dis-incentivize exceedingly conservative monitoring in EEM?
  - • On page 36, last paragraph: In the case that there is limited or no data to begin with, how are developers to treat such monitoring programs? Consider including language for instances in which there is a lack of paucity of data available; in which case it would be the responsibility of the developers to fill in knowledge gaps.