

Kenya

Country: [Kenya](#) [1]

EIA Law: Environmental Management and Co-Ordination Act, 1999 ("EMCA"), as amended (see "Guidance" for 2015 Amendments)

Law Link: [Link](#) [2]

EIA Regulations: The Environmental (Impact Assessment and Audit) Regulations, 2003 (revised 2012)

Regulations Link: [Link](#) [3]

EIA Guidelines or Other Guidance: Environmental Management and Co-ordination (Amendment) Act, 2015

Guidance Link: [Link](#) [4]

Projects Requiring EIA: Government projects

Private Projects

Abridged Assessments: Yes

Assessment Detail: Project proponent must submit a report that includes information about: the nature of the project; design and activities; the potential environmental impacts and mitigation measures to be taken during and after implementation; an action plan for prevention and management of possible accidents; a plan to ensure health and safety of workers and nearby communities. The report must be prepared by a registered EIA expert. The Authority has 45 days to review the report and determine whether an EIA is warranted. EIA Regulations secs. 7-10.

Best Practices in Lieu of EIA: No

Who Conducts Screening: Government

Who Conducts Screening Detail: Project proponent submits a project report to the Authority. Within 45 days the Authority must decide whether the proponent must prepare an EIA study. EIA Regulations (2003) secs. 7-10

Criteria for Screening: List or appendix of project or activity types

Proposed project or activity may cause significant environmental impact

Other

Criteria for Screening Detail: EMCA sec. 58(1) + Second Schedule; EIA required for any activity that "may introduce exotic species" or "lead to unsustainable use of any ecosystem." EMCA Regulations (2006) sec. 4; see also EIA Regulations (2003) sec. 4

Who Prepares EIA: Project Proponent (with or without contractor)

Who Prepares EIA Detail: The proponent of a project shall undertake or cause to be undertaken at his own expense an environmental impact assessment study" EMCA sec. 58(2)

Who Pays for EIA: Project Proponent

Who Pays for EIA Detail: The proponent of a project shall undertake or cause to be undertaken at his own expense an environmental impact assessment study" EMCA sec. 58(2)

EIA Contractor Qualifications: Yes

EIA Contractor Qualification Detail: EIA shall be conducted by "individual experts or a firm of experts authorised in that behalf by the Authority." EMCA Act sec. 58(5); EIA Regulations (2003) sec. 14 + Fourth Schedule

Conflict of Interest: Yes

Conflict of Interest Detail: An EIA expert may be de-registered for contravening the code of practice issued by the Authority. EIA Regulations (2003) sec. 14(5)

Terms of Reference: Yes

Terms of Reference Detail: An EIA "shall be conducted in accordance with terms of reference developed during the scoping exercise by the proponent and approved by the Authority." EIA Regulations (2003) sec. 11(1).

Days for Decision Maker Review: 90

Automatic Approval: Yes

Automatic Approval Detail: Any person who upon submitting his application does not receive any communication from the Director-General within the stipulated time may within nine months of such submission start his undertaking. EMCA sec. 58(9)

Written Decision: Yes

Written Decision Detail: EIA Regulations (2003) sec. 23(2)

Authority to Impose Conditions: Yes

Authority to Impose Conditions Details: The Authority issues an environmental impact assessment license "on such terms and conditions as may be appropriate and necessary to facilitate sustainable development and sound environmental management." EMCA sec. 63, see also EIA Regulations (2003) sec. 24

Expiry of Decision: Indefinite

Expiry of Decision Detail: The Authority may request a fresh EIA if the project changes, the project poses a new environmental threat, or it is established that the EIA was false, inaccurate or intended to mislead. EMCA sec. 64(1)

Financial Assurances Detail: A bond is not automatically required. The Minister responsible for finance may, on the recommendations of the Council, prescribe that persons engaged in activities or operating industrial plants and other undertakings . . . pays such deposit bonds as may constitute appropriate security for good environmental practices." EMCA sec. 28(2)

Interdisciplinary Team: No

Range of Alternatives: Yes

Range of Alternatives Detail: EIA study must identify and analyze alternatives to the proposed project. EIA Regulations (2003) sec. 16(b)

No Action Alternative: No

No Action Alternative Detail: Not mentioned in the Law or Regulations. May be referred to in general/sectoral guidelines.

Type(s) of Impact Analysis: Direct environmental impacts

Cumulative environmental impacts

Social impacts

Cultural impacts

Health impacts

Economic impacts

Mitigation: Yes

Mitigation Detail: The EIA report shall propose mitigation measures to be taken during and after implementation of the project. EIA Regulations (2003) sec. 16(d)

Monitoring Plans: Yes

Monitoring Plans Detail: The EIA "shall develop an environmental management plan with mechanisms for monitoring compliance and environmental performance . . .". EIA Regulations (2003) sec. 16(d)

Draft EIA Available: No

Draft EIA Locations: Other

Public Notice of Final EIA: Yes

Public Notice of Final EIA Detail: Upon receipt of environmental impact assessment study report the Authority must publish notice for two successive weeks in the Gazette and in a newspaper circulating in the area of the proposed project. An announcement must be made via radio in official and local languages at least once a week for two successive weeks. EMCA sec. 59(1); EIA Regulations (2003) sec. 21(2)

Final EIA Available: Yes

Final EIA Available Detail: EIA study must include times & place where the full report can be inspected. EIA Regulations (2003) sec. 21(3)(d)

Final EIA Locations: Agency or ministry office

Fee to View EIA Documents: No

Fee to Obtain EIA Documents: No

Availability of Reference Studies: Yes

Availability of Reference Studies Detail: "Information or documents submitted to the Authority by any person in connection with an environmental impact assessment . . . shall be made available to the public on such terms and conditions as the Authority may prescribe." EIA Regulations (2003) sec. 29

Public Notice of Final Decision: Yes

Public Notice of Final Decision Detail: "Information or documents submitted to the Authority in connection with an environmental impact assessment together with the Authority's decision and the reasons thereof shall be made available to the public on such terms and conditions as the Authority may prescribe." EIA Regulations (2003) sec. 29

Public Scoping: Yes

Public Scoping Detail: During preparation of the EIA report (not beforehand), the project proponent shall hold at least three public meetings with the affected parties and communities to explain the project and its effects, and to receive their oral or written comments. EIA Re

Public Review of TOR: No

Public Participation Opportunities: Scoping

Public Meetings and/or public hearings

Review of final EIA

Public Meetings: Yes

Public Meetings Detail:: Public meetings are held during preparation of the EIA report (see "Scoping") as well as after the proponent submits the EIA report to the Authority. The public meeting held by the Authority is

discretionary. EIA Regulations (2003) sec. 22(1)

Public Input at Meeting: Yes

Public Input at Meeting Detail: EIA Regulations (2003) sec. 17

Criteria to Hold Public Meeting: Public meeting and/or hearing is automatically required

Days for Public to Review Final EIA: 90

Public Comments on Draft EIA: No

Public Comments on Final EIA: Yes

Public Comments on Final EIA Detail: The public has 90 days from the date that notice of the availability of the EIA is published to submit oral or written comments on the EIA study. EMCA sec. 59(1)(d)

Response to Public Comments: Yes

Response to Public Comments Detail: In making a decision, the Authority shall consider interested parties' comments. EIA Regulations (2003) sec. 23(3)(b). There is no requirement that the Authority or project proponent respond to public comments.

Facilitation of Public Participation: Yes

Facilitation of Public Participation Detail: Proponent shall ensure that a qualified coordinator is appointed to receive and record public comments and any translations thereof. EIA Regulations (2003) sec. 17(2)(d). Radio notice must be in the local language of the community. 2003 Reg 22(3)(b).

Citizen Administrative Review: No

Citizen Judicial Review: Yes

Citizen Judicial Review Detail: "Any person aggrieved by a decision or order of [the] Authority of an environmental impact assessment licence, may within 60 days of such a decision or order, appeal against such decision or order to the High Court." EIA Regulations (2003) sec. 46(2)

Project Monitoring: Yes

Project Monitoring Detail: The Authority is required to carry out an environmental audit of all activities that are likely to have a significant effect on the environment. EMCA sec. 68(1). Owner or operator of project shall prepare and submit an environmental audit report to the Authority annually (or more frequently if the Authority requires). EMCA sec. 68(3). See also Part V of EIA Regulations (2003) ("Environmental Audit and Monitoring")

Enforceability of EIA: No

Enforceability of Permit: Yes

Enforceability of Permit Detail: A person can bring suit in the High Court when her or his right to a clean environment is being or is likely to be contravened, regardless of whether she or he can show personal injury. EMCA Part II.

Days for Public to Review Draft EIA: 0

Modified: June 8th, 2020

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