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NIGERIA

CHAPTER 19: Nigeria

Table of Contents

19.1	Constitutional requirements for environmental protection in Nigeria	1
19.2	Institutional and administrative structure for EIA in Nigeria	1
19.2.1	Federal Ministry of Environment	1
19.2.2	Environment Assessment Department.....	3
19.2.3	National Environmental Standards and Regulations Enforcement Agency	3
19.2.4	State Environmental Protection Agencies	4
19.3	Policy and legal framework for EIA in Nigeria	4
19.3.1	National Policy on the Environment	4
19.3.2	National Policy on Climate Change.....	4
19.3.3	Environmental Impact Assessment Act No 86 of 1992.....	5
19.3.4	Regulations	5
19.3.5	Permits and licences	6
19.3.6	Offences and penalties	7
19.3.7	Fees	7
19.3.8	Guidelines	8
19.3.9	Environmental standards	9
19.3.10	Certification of environmental consultants	10
19.4	EIA procedural framework in Nigeria.....	10
19.4.1	Initial environmental examination and screening	10
19.4.2	Scoping	11
19.4.3	Environmental Impact Assessment.....	13
19.4.4	Review and decision making.....	13
19.4.5	Monitoring and auditing	14
19.4.6	Appeals	14
19.4.7	Strategic environmental assessment (SEA)	15
19.4.8	Trans-boundary impacts	15
19.5	Other relevant environmental legislation	15
	Appendix 19-1: Screening list (EIA Act).....	21
	Appendix 19-2: Screening list (EIA Procedural Guideline)	24
	Acronyms	25
	List of useful contacts in EIA Ministry/Agency/Department	25

List of Tables

Table 19.1:	FMEEnv Departments and Agencies	1
Table 19.2:	Effluent limitation guidelines in Nigeria for all categories of industries	9
Table 19.3:	Other potentially applicable sectoral requirements	15

List of Figures

Figure 19.1:	Organisational structure of the Federal Ministry of Environment.....	2
Figure 19.2:	Flow diagram of the Nigeria EIA procedure	12

19 NIGERIA

19.1 Constitutional requirements for environmental protection in Nigeria

Since the enactment of the current Constitution of Nigeria in 1999, the Federal Government of Nigeria has adopted policies that promote sustainable development. Most of these have their roots in Article 20 which commits the state to “*protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria*”.

19.2 Institutional and administrative structure for EIA in Nigeria

19.2.1 Federal Ministry of Environment

The Federal Ministry responsible for the environment in Nigeria was formed in 1999. This ministry merged with the housing and urban development ministry for approximately two years (2006-2007) after which it was separated from the housing and urban development ministry and until present is known as the Federal Ministry of Environment (FMEnv).

The FMEnv currently consists of 14 departments and seven other public bodies (see Figure 19.1 and Table 19.1). Six of the 14 departments are technical in nature, while the remaining eight are more support/administrative in nature. The six technical departments and the seven agencies are listed in Table 19.1 below:

Table 19.1: FMEnv Departments and Agencies

Department	Agency
Climate Change	Forestry Research Institute of Nigeria (FRIN);
Drought and Desertification Amelioration	National Park Service
Environmental Assessment (EAD)	National Oil Spill Detection and Response Agency (NOSDRA);
Erosion, Flood and Coastal Zone Management	National Environmental Standards and Regulations Enforcement Agency (NESREA);
Forestry	Environmental Health Officers Registration Council of Nigeria (EHORECON)
Pollution Control and Environmental Health	National Agency for Great Green Wall (GGW)
	National Biosafety Management Agency (NBMA);

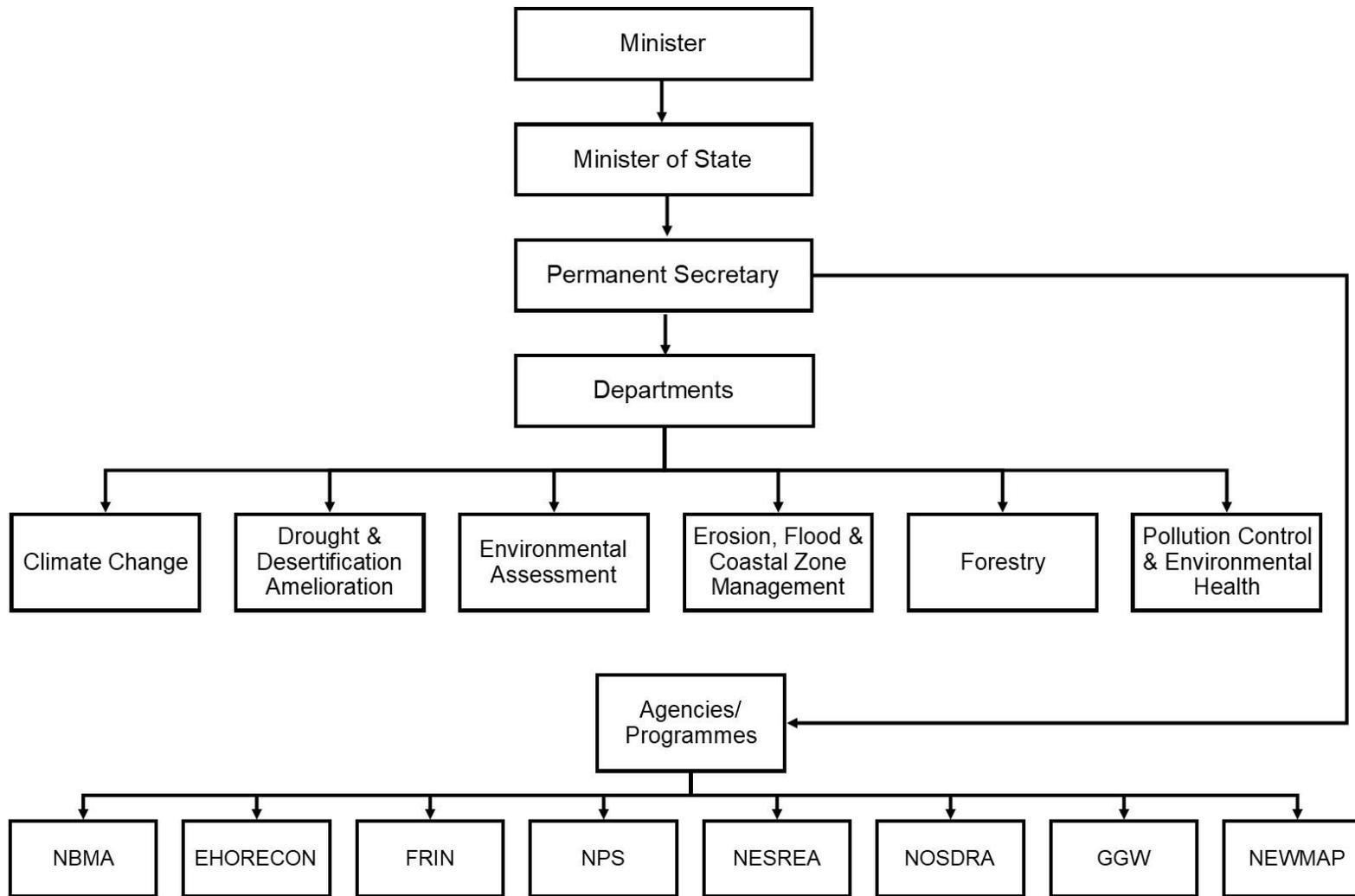


Figure 19.1: Organisational structure of the technical agencies for EIA under the Federal Ministry of Environment

19.2.2 Environment Assessment Department

The Environmental Assessment Department (EAD) is one of the technical departments that was established in the FMEnv at its inception in 1999. This department has the following functions¹:

- Implementation of the provisions of the Environmental Impact Assessment (EIA) Act No. 86 of 1992;
- Ensure environmental sustainability of development projects through regulation of activities within the oil and gas, mining, infrastructure, agriculture, manufacturing sectors, etc.;
- Development of guidelines and standards for environmental quality monitoring, eco-labelling, etc.;
- Accreditation of environmental laboratories;
- Implementation of environmental audits and environmental management systems in Nigeria;
- Implementation of the Federal Government policy on gas flare down;
- Development and review of national environmental guidelines and standards for air, soil and water;
- Review and certification of environmental audit reports received from industries and corporate organisations;
- Monitoring upstream and downstream operations of the oil and gas industry;
- Formulation, issue and review of oil spill contingency plans in consultation with NOSDRA;
- Monitoring of gas gathering, processing and utilisation projects for the oil and gas sector;
- Monitoring of waste management in the oil and gas industry from cradle to grave;
- Accreditation/revalidation of environmental laboratories nationwide;
- Management of the activities in the Nigerian mining sector to ensure environmentally sustainable practices.

The EAD is responsible for reviewing EIAs and issuing decisions with respect to EIAs on behalf of the FMEnv.

19.2.3 National Environmental Standards and Regulations Enforcement Agency

The NESREA was established under the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act of 2007, which repealed the Federal Environmental Protection Agency Act of 1988 (as amended). The Agency is directed by a Governing Council which consists of 13 members from various organs of state and public interest groups.

Through the NESREA Establishment Act, the Agency is responsible for and empowered to enforce “*all environmental laws, guidelines, policies, standards and regulations in Nigeria, as well as enforcing*”

¹ <https://ead.gov.ng/about-us/>

compliance with provisions of international agreements, protocols, conventions and treaties on the environment to which Nigeria is a signatory.”²

The NESREA is responsible for the auditing and enforcement of environmental standards during project operations (see also s. 19.4.5). However, it should be noted that the oil and gas sector is excluded from the NESREA’s jurisdiction.

19.2.4 State Environmental Protection Agencies

Nigeria has a federal form of governance. As such there are state laws and organs of state which require consideration during an EIA process. Each state has its own Environmental Protection Agency, and/or State Ministries of Environment from which input (most likely during public consultation) will be required for each EIA conducted in each state.

19.3 Policy and legal framework for EIA in Nigeria

19.3.1 National Policy on the Environment

The National Policy on the Environment was first drafted in 1989 and revised in 1999. The goal of the policy is to promote more sustainable forms of development in Nigeria. The Policy aims to achieve this goal by:

- Securing a quality environment for Nigerians, which supports health and well-being;
- Conserving and using the environment and natural resources for the benefit of present and future generations;
- Restoring, maintaining and enhancing ecosystems and ecological processes essential for the functioning of the biosphere and for the preservation of biological diversity and adopting the principle of optimum sustainable yield in the management of natural resources;
- Raising public awareness and promoting understanding of essential linkages between environment and development and to encouraging individual and community participation in efforts to enhance the environment; and
- Co-operating with other countries and international organisations to achieve optimal use of trans-boundary natural resources and effective prevention or abatement of trans-boundary environmental pollution.

19.3.2 National Policy on Climate Change

The mission of the National Policy on Climate Change, 2013 is to strengthen national initiatives to adapt to and mitigate climate change and involve all sectors of society, including the poor and other vulnerable groups (women, youth etc.) within the overall context of advancing sustainable socio-economic development. Its main objectives are:

² <https://www.nesrea.gov.ng/about-us/>

- Implement mitigation measures that will promote low carbon as well as sustainable and high economic growth;
- Strengthen national capacity to adapt to climate change;
- Raise climate change-related science, technology, and research and development to a new level that will enable the country to better participate in international scientific and technological co-operation on climate change;
- Significantly increase public awareness and involve the private sector in addressing the challenges of climate change;
- Strengthen national institutions and mechanisms (policy, legislative and economic) to establish a suitable and functional framework for climate change governance.

19.3.3 Environmental Impact Assessment Act No 86 of 1992

The Nigerian EIA Act No. 86 of 1992 makes EIA mandatory for development projects likely to have adverse impacts on the environment prior to implementation.

The objectives of the Act (section 1) are as follows:

“(a) to establish before a decision taken by any person [regarding activities] ... the environmental effects on those activities ... [and ensure that these] first be taken into account.

(b) to promote the implementation of appropriate policy in all Federal Lands (however acquired) States and Local Government Areas, consistent with all laws and decision making processes through which the goal and objective in paragraph (a) of this section may be realised;

(c) to encourage the development of procedures for information exchange, notification and consultation between organs and persons when proposed activities are likely to have significant environmental effects on trans-boundary or trans-state or on the environment of bordering towns and villages.”

The term ‘environment’ is defined in the Act as *“the components of the earth, and includes: (a) land, water and air, including all layers of the atmosphere; (b) all organic and inorganic matter and living organisms; and (c) the interacting natural systems that include components referred to in paragraphs (a) and (b)”*. This definition makes no mention of the social environment of people, economics, health and culture. The term ‘environment’ is therefore narrowly defined as the biophysical environment only.

Note that the EIA Act of 1992 has been revised and a draft EIA Bill has been produced, which was in the process of being reviewed at the time of writing (September 2019).

19.3.4 Regulations

National Environmental Regulations have been promulgated by the Ministry and its agencies. Some of these regulations are listed below:

- Effluent Limitations, 1991, S. I. No. 8
- Pollution Abatement in Industries and Facilities Generation Wastes, S. I. No. 9
- Management of Solid and Hazardous Wastes 1991, S. I. No. 15
- Wetlands, River Banks and Lake Shores, 2009. S. I. No. 26
- Watershed, Mountainous, Hilly and Catchments Areas, 2009. S. I. No. 27
- Sanitation and Wastes Control, 2009. S. I. No. 28
- Permitting and Licensing System, 2009. S. I. No. 29
- Access to Generic Resources and Benefit Sharing, 2009. S. I. No. 30
- Mining and Processing of Coal, Ores and Industrial Minerals, 2009. S. I. No. 31
- Ozone Layer Protection, 2009. S. I. No. 32
- Food, Beverages and Tobacco Sector, 2009. S. I. No. 33
- Textile, Wearing Apparel, Leather and Footwear Industry, 2009. S. I. No. 34
- Noise Standards and Control, 2009. S. I. No. 35
- Chemicals, Pharmaceuticals, Soap and Detergent Manufacturing Industries, 2009. S. I. No. 36
- Standards for Telecommunications/Broadcasting Facilities, 2010. S. I. No. 11
- Soil Erosion and Flood Control, 2010. S. I. No. 12
- Desertification Control and Drought Mitigation, 2010. S. I. No. 13
- Base Metals, Iron and Steel Manufacturing/Recycling Industries, 2010. S. I. No. 14
- Control of Bush/Forest Fire and Open Burning, 2010. S. I. No. 15
- Protection of Endangered Species in International Trade, 2010. S. I. No. 16
- Domestic and Industrial Plastic, Rubber and Foam Sector, 2010. S. I. No. 17
- Coastal and Marine Area Protection, 2010. S. I. No. 18
- Construction Sector, 2010. S. I. No. 19
- Control of Vehicular Emissions from Petrol and Diesel Engines, 2010. S. I. No. 20
- Non-Metallic Minerals Manufacturing Industries Sector, 2010. S. I. No. 21
- Surface and Groundwater Quality Control, 2010. S. I. No. 22
- Electrical/Electronic Sector, 2010. S. I. No. 23
- Quarrying and Blasting Operations, 2013
- Control of Alien and Invasive Species, 2013
- Pulp and Paper, Wood and Wood Products, 2012
- Motor Vehicle and Miscellaneous Assembly, 2012
- Air Quality Control, 2013
- Control of Charcoal Production and Export, 2014
- Dams and Reservoirs, 2013
- Hazardous Chemicals and Pesticides, 2013
- Energy Sector, 2014

19.3.5 Permits and licences

According to section 13 of the EIA Act, no Federal, State or local government or any of their authorities or agencies shall permit an activity listed in the Mandatory Study List in the Schedule to the EIA Act, unless an **EIA Approval** has been issued by the Ministry. After the EIA Approval has been issued, the Ministry issues an **EIA Certificate** in terms of section 42 of the EIA Act.

The Act does not specify a validity period for an EIA Approval or EIA Certificate. However, *in practice* the FMEnv specifies a **five-year validity period**. Section 24 of the Act implies that the approved activity should not change significantly between the issuing of an Approval and the implementation of the approved activity. In this case, permission would need to be sought from the Ministry to use the content of the previously approved EIA report and the extent to which the content of that report may be used.

Only after the issuing of an EIA Approval and EIA Certificate by the Ministry may a project be implemented (e.g. construction and operation). The post-EIA environmental management (such as impact mitigation monitoring, compliance monitoring etc.) is carried out by the Ministry. NESREA takes over environmental auditing after the first audit conducted by the Ministry (see section 19.2.3 above).

Some activities will need other permits/authorisations in addition to the EIA Approval. For example, a mine will require a permit from the Federal Ministry of Mines and Steel Development to operate.

19.3.6 Offences and penalties

The Act clearly specifies what is considered an offence, although this is stated in general terms. According to Section 62 of the EIA Act, any person who fails to comply with the provisions of the Act shall be guilty of an offence under the Act and liable on conviction in the case of an individual to 1,000,000.00 Naira (N) fine or to five years' imprisonment and in the case of a corporation to a fine of not less than N50,000.00 and not more than N1,000,000.00.

19.3.7 Fees

The EIA Procedural Guideline prescribes various fees for the processing and review of EIA Approval applications. The general categories are summarised in Table 19.2 below. In addition to these general EIA charges, the FMEnv specifies sector specific fees³. The list of fees was updated last in April 2018.

Table 19.2: General EIA charges

Activity	Category I & II projects	ESMPs projects	Type of charge remarks	Remarks
Registration	N50,000.00	N50,000.00	Revenue to Government	
Site verification	N500,000.00	Waived	Operational	(Approx. Value)
Scoping workshop	N250,000.00		Operational	Upper Limit
Data gathering witnessing	N250,000.00		Operational	Approx. Value
Laboratory analysis witnessing	N250,000.00		Operational	Upper Limit
In-house technical reviews	N200,000.00	N200,000.00	Operational	
Panel reviews	N1,000,000 to N10,000,000.00		Operational	(Approx. Value)

³ www.ead.gov.ng/public-display/

Activity	Category I & II projects	ESMPs projects	Type of charge remarks	Remarks
New paper & radio adverts where applicable	To be determined according to prevailing rates	Optional	Operational	
Impact mitigation monitoring (first Visit)	500,000.00	N400,000.00	Operational	Approx. Value
Newspaper publication of EIS (where applicable)	To be determined	Waived		
Final assessed charges	See charts in the EIA Procedural Guideline	N200,000.00	Revenue to Government	See charts in the EIA Procedural Guideline
Violation charges	N1 to N1,000,000.00		Revenue to Government	

19.3.8 Guidelines

The EIA Act empowers the FMEnv to publish EIA guidelines. The EAD, which currently fulfils the role of the Ministry, has published several EIA guidelines since the promulgation of the EIA Act in 1992. The following guidelines are currently available for download in digital form⁴.

- National Guidelines for Decommissioning of Facilities in Nigeria
- EIA Guidelines for Oil and Gas
- Guideline Procedures for Biophysical Environmental Impact Assessment
- EIA Procedural Guideline
- Social Impact Assessment Guideline and Standard
- Health Impact Assessment (HIA) Procedural Guideline
- Strategic Environmental Assessment (SEA) Guidelines
- National Guidelines and Requirements on Environmental Audit in Nigeria.
- EIA Guidelines for Renewable Energy
- EIA Guidelines for Urban Development
- EIA Guidelines for Pesticides
- EIA Guidelines for Food and Beverages
- EIA Guidelines for Fertilisers, Phosphates and Urea Plants
- Procedural Guideline for Laboratory Accreditation
- Manufacturing Industries Guidelines

The EIA Procedural Guidelines were first published in 1995 by the then Federal Environmental Protection Agency (FEPA).⁵ The EIA procedure defined in this guideline, despite not having the force of law (i.e. not gazetted but published at www.ead.gov.ng), is nonetheless used for current EIA practice.

⁴ <https://ead.gov.ng/environmental-guidelines-revision/>

⁵ Since replaced by NESREA

19.3.9 Environmental standards

National Environmental Protection (Effluent Limitation) Regulations (S.I. 8 of 1991) stipulate limits for effluent discharge from all industrial activities (see Table 19.3). The National Environmental (Air Quality Control) Regulations, 2013 stipulate air quality standards applicable in Nigeria.

Table 19.3: Effluent limitation guidelines in Nigeria for all categories of industries

Parameter (in mg/l except where indicated)	Limit for discharge into surface water	Limit for discharge into ground water
Temperature	Less than 40°C within 15 m of outfall	Less than 40 °C within 15 m of outfall
Colour (Lovibond Units)	7	-
PH	6-9	6-9
BOD ₅ at 20°C	30 (30)	50 (50)
Total suspended solids	30	-
Total dissolved solids	2,000	2,000
Chloride (as Cl)	600	600
Sulphate (as SO ₄)	500	1,000
Sulphide (as S)	0.2	-
Cyanide (as CN)	0.1	-
Detergents (Linear alkylate sulphonate as methylene blue active substance)	15	15
Oil and grease	10	20 (20)
Nitrate (as NO ₃)	20	-
Phosphate (as PO ₄)	5	10
Arsenic (as As)	0.1	-
Barium (as Ba)	5	5
Tin (as Sn)	10	10
Iron (as Fe)	20	-
Manganese (as Mn)	5	-
Phenolic compounds (as phenol)	0.2	-
Chlorine (free) (as Cl)	1.0	-
Cadmium (as Cd)	<1	-
Chromium (trivalent and hexavalent) (as Cr and Cr ^{vi})	<1	-
Copper (as Cu)	<1	-
Lead (as Pb)	<1	-
Mercury (as Hg)	0.05	-
Nickel (as Ni)	<1	-
Selenium (as Se)	<1	-

Parameter (in mg/l except where indicated)	Limit for discharge into surface water	Limit for discharge into ground water
Silver (as Ag)	0.1	-
Zinc (as Zn)	<1-	-
Total metals	3	-
Calcium (as Ca)	200	-
Magnesium (as Mg)	200	-
Boron (as B)	5	5
Alkyl mercury compounds	Not detectable	Not detectable
Polychlorinated Biphenyl (PCBs)	0.003	0.003
Pesticides (Total)	<0.01	<0.01
Alpha emitters, uc/ml	10-7	-
Beta emitters, uc/ml	10-6	-
Coliforms (daily average)	400 MPN/100ml	500 MPN/100ml
Suspended fibre	-	-

19.3.10 Certification of environmental consultants

The EIA Act does not require, nor provide for the certification of environmental assessment practitioners. The independence of environmental assessment practitioners is also not required by the Act. A voluntary association for impact assessment practitioners in Nigeria – the Association for Environmental Impact Assessment of Nigeria (AEIAN), was registered in 2010. This association is also the Nigerian affiliate of the International Association for Impact Assessment (IAIA). This association promotes EIA best practice in Nigeria.

19.4 EIA procedural framework in Nigeria

The steps required to conduct an EIA are outlined in the following subsections and shown schematically in Figure 19.2.

19.4.1 Initial environmental examination and screening

According to section 13 of the EIA Act, a person who intends to carry out a project specified in the Schedule to the EIA Act (see Appendix 19-1 for the Schedule to the EIA Act and Appendix 19-2 for the amended Schedule according to the EIA Procedural Guideline at the end of this Chapter) is required to carry out an EIA and obtain an EIA Approval from the Ministry before the project is carried out.

As stated in section 19.3 above, the EIA Procedural Guideline prescribes the payment of a fee with the submission of an EIA Notification Form at the start of an EIA process for any activities classified

under Category 1 or 2 according to the project categorisation checklist in the same Procedural Guideline. Annex B of the Procedural Guideline requires the submission of specified project information (referred to as a Project Proposal in the Procedural Guideline) along with the EIA Notification Form. The main information that needs to be included in the submission is as follows:

- A concise description of the project;
- An outline of the planning and implementation programme;
- An outline of the major elements of the surrounding environment which might be affected;
- A comment on the environmental protection measures that have been incorporated into the design and any further environmental implications; and
- Proceedings of consultations and comments with other stakeholders in a public forum.

According to the Procedural Guideline, the Ministry will register the project with the submitted information and after reviewing the submission (referred to as an Initial Environmental Examination in the Procedural Guideline) will classify the project using the three categories described in the project categorisation checklist. Category III projects will be issued with an EIA Approval at this stage. Some Category II projects may not require a full EIA, while Category I projects will require a full EIA. In accordance with section 19 of the Act, the Ministry then prepares a written decision (Screening Report), which according to the Procedural Guideline, will be issued to the proponent within in **10 days**.

19.4.2 Scoping

There is no specific reference to the term ‘scoping’ or related concepts such as ‘development of terms of reference (ToR)’, in the EIA Act but the Procedural Guideline requires scoping and approval of ToRs for Category I and II projects as the steps between receiving a screening decision from the Ministry (i.e. Screening Report) and doing the EIA (Figure 19.2).

According to the Procedural Guideline the proponent is required to submit ToR that sets out the scope of the proposed EIA study. The Ministry may request a preliminary assessment report to assist the Ministry in reviewing the scope and ToR of the proposed EIA study.

The EIA Act does not specifically require public consultation during scoping. The Act does however make provision for the Ministry to hold a public hearing (section 37) if it is of the opinion that a project is likely to cause significant adverse immitigable environmental effects, or public concern regarding a project’s environmental effects warrant such a hearing (section 27). This is reflected in the Procedural Guideline, which also makes provision for a public hearing if the Ministry deems it necessary during scoping.

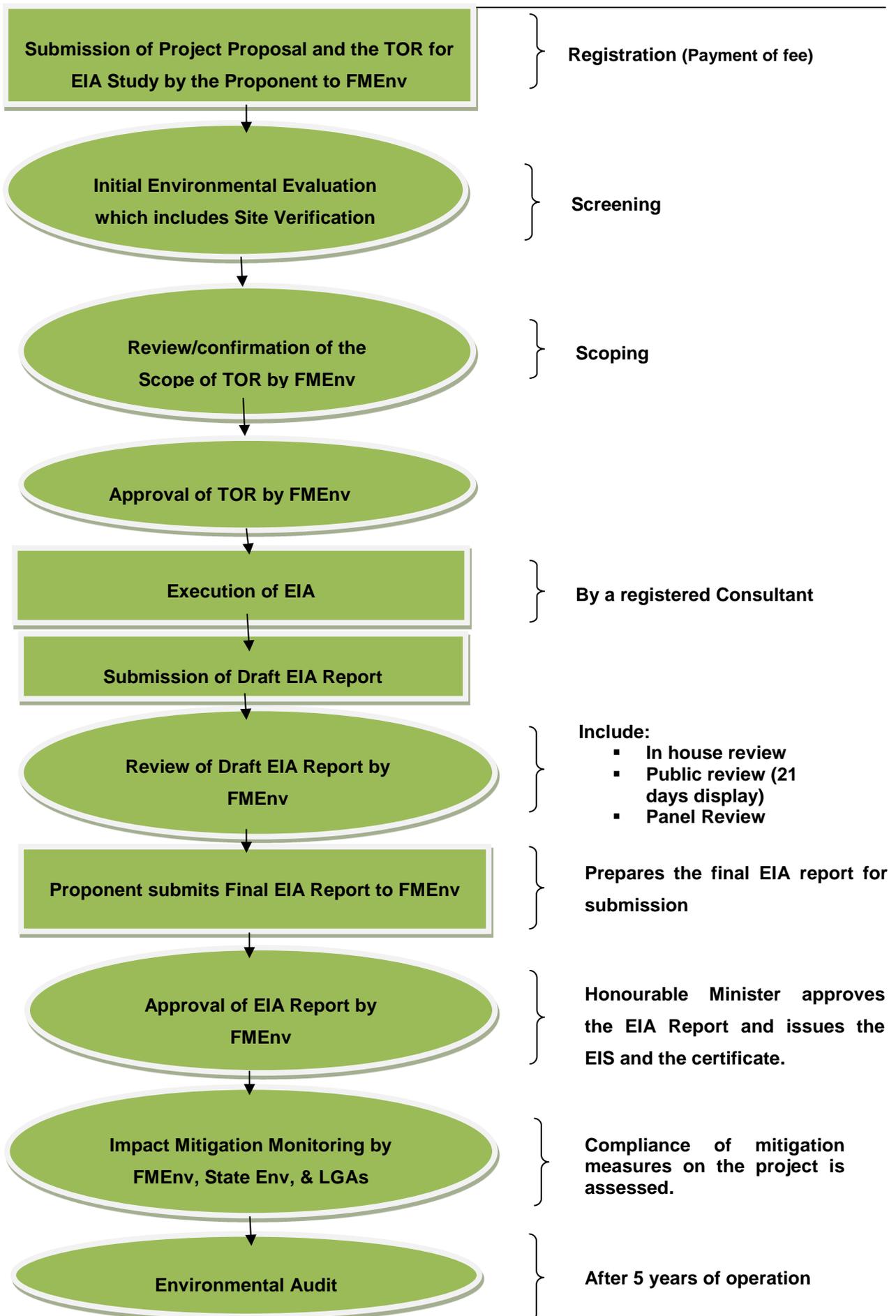


Figure 19.2: Flow diagram of the Nigeria EIA procedure

(Source: FMEnv, 2019)

19.4.3 Environmental Impact Assessment

Section 4 of the EIA Act specifies the minimum content in an EIA report:

- (a) A description of the proposed activities;
- (b) A description of the potentially affected environment including specific information necessary to identify and assess the environmental effects of the proposed activities;
- (c) A description of the project activities, as appropriate;
- (d) An assessment of the likely or potential environmental impacts of the proposed activity and the alternatives, including the direct or indirect, cumulative, short-term and long-term effects;
- (e) An identification and description of measures available to mitigate the adverse environmental impacts of a proposed activity and an assessment of those measures;
- (f) An indication of gaps in knowledge and uncertainty which may be encountered in computing the required information;
- (g) An indication of whether the environment of any other State or Local Government Area or areas outside Nigeria is likely to be affected by the proposed activity or its alternatives;
- (h) A brief and non-technical summary.

The Procedural Guideline requires EIAs to be conducted according to the relevant published sectoral EIA guidelines (see section 19.3.8 above). Furthermore, the Procedural Guideline requires the proceedings of all public consultation to be included as an appendix to the EIA report. Fifteen hard copies are required to be submitted to the FMEnv for review according to the Procedural Guideline.

19.4.4 Review and decision making

Section 26 of the EIA Act requires the Ministry to consider the content of a “*mandatory study report*” (EIA report) before taking an authorisation decision. According to the Procedural Guideline, upon receipt of the draft EIA report, the Ministry shall evaluate the report and within **15 days** inform the proponent in writing of the method of review that will be used to evaluate the report. The following review methods are available to the Ministry:

- In-house Review;
- Panel Review. The sitting may be in public;
- Public Review (public display and review of documents for a period of working days). Venues of display will include, among others, the Local Government Headquarters, the State Ministries of Environment and FMEnv Headquarters. The public shall be invited to participate in this review process through newspaper advertisements; and
- Mediation.

One month is provided for the selected review process, including the submission of comments by the affected public. Thereafter, the Procedural Guideline requires the incorporation of the review

proceedings, including any necessary amendments, into a revised and final EIA report, which should be submitted to the Ministry for final decision making. The Ministry may then:

- Grant an EIA Approval (with or without conditions);
- Disapprove, with conditions for amendment and reconsideration; or
- Reject, with a ‘no project’ implication.

The Procedural Guideline defines an Environmental Impact Statement (EIS) as “*a statement issued by FMEnv stating the project, the review results of an EIA study and the conditions of approval or disapproval of a project*”. A **minimum of one month** is allowed, from the receipt of the final EIA report by the Ministry, for the review of the final EIA report and the issuance of an EIS. A final EIA report is required to be submitted by the proponent within **six months** of receipt of the Ministry’s comments on the draft EIA report.

An EIA Certificate is issued after the EIA Approval (included in the EIS). According to the Procedural Guideline, the proponent may implement a project (e.g. construction and operation) only after receipt of the EIA Certificate. If a project is not implemented within the validity period provided in the EIA Certificate (**five years** according to current practice specified by FMEnv), the proponent will be required to submit a revised EIA report for revalidation if s/he intends to implement the project.

19.4.5 Monitoring and auditing

Section 41 of the EIA Act states that the Ministry is responsible for designing a monitoring programme for the project implementation stage, as well as making arrangements for the implementation of this monitoring programme. The Ministry is also required to inform the public of the outcome of the monitoring conducted.

The Procedural Guideline requires the Ministry to monitor the progress of the project from site preparation to commissioning in order to ensure compliance with stipulated mitigation measures and project specifications. The Ministry conducts the first audit after project commissioning and then hands over to NESREA to continue auditing project operations.

19.4.6 Appeals

The current EIA Act provides a mediation procedure for appeals by persons aggrieved by decisions taken by the Ministry. The Ministry may refer a given project to mediation or an appointed review panel if the Ministry is of the opinion that a project is likely to cause significant adverse, unmanageable environmental effects, or there is public concern regarding a project’s environmental effects to warrant such a hearing.

There is provision in the draft EIA Bill for appeals to be made against decisions.

19.4.7 Strategic environmental assessment (SEA)

Strategic Environmental Assessment (SEA) is not provided for in the current EIA Act. There is however a SEA guideline document published by the EAD available (see section 19.3.8 above) and SEA is provided for in the draft EIA bill.

19.4.8 Trans-boundary impacts

Nigeria is located in West Africa on the Gulf of Guinea. It is bordered by four countries, with Benin to the west, Niger to the north, Chad in the north-east and Cameroon to the east. One of the aims of the National Policy on the Environment is to co-operate with other countries and international organisations to achieve optimal use of trans-boundary natural resources and effective prevention or abatement of trans-boundary environmental pollution. This goal has been translated into practice in the EIA Act, where one of three main objectives is to encourage the development of procedures for information exchange, notification and consultation between organs and persons when proposed activities are likely to have significant environmental effects on trans-boundary or trans-state or on the environment of bordering towns and villages.

One of the specific items to be included in the EIA report (see s. 19.4.3) is an indication of whether the environment of any other State or Local Government Area or area outside Nigeria is likely to be affected by the proposed activity or its alternatives.

19.5 Other relevant environmental legislation

A number of sector laws in Nigeria are relevant to EIA. Table 19.4 provides a summary of the relevant sector legislation.

Table 19.4: Other potentially applicable sectoral requirements

Sector	Primary agency	Title and date of document	Purpose
Water resources	Federal Ministry of Water Resources	Water Resources Act (1993, No. 101), as amended.	Promotes the optimum planning, development and use of the Nigeria's water resources and other matters connected therewith.
	FMEnv NESREA	National Environmental (Surface and Groundwater Quality Control) Regulations, 2010. S. I. No. 22	Provides for the restoration, enhancement and preservation of the physical, chemical and biological integrity of the nation's surface waters, and to maintain existing water uses.
		National Environmental (Dams and Reservoirs) Regulations, 2013	Provides for the control of the effects of dams and reservoirs on the environment and human health as well as for the reduction or minimisation of environmental hazards and disasters such as dam break, sediment load and dam water releases causing downstream flooding

Sector	Primary agency	Title and date of document	Purpose
			and erosion.
Waste and pollution control	FMEnv NESREA	National Environmental Protection (Effluent Limitations) Regulations of 1991, S. I. No. 8	Provides water quality limits for effluent discharge.
		National Environmental Protection (Pollution Abatement in Industries and Facilities Generation Wastes), S. I. No. 9	Provides for control of discharge by industries in Nigeria.
		National Environmental Protection (Management of Solid and Hazardous Wastes) Regulations of 1991, S. I. No. 15	Provides for the control of the handling and management of solid, radioactive and (infectious) hazardous waste.
		National Environmental (Sanitation and Wastes Control) Regulations, 2009. S. I. No. 28	Provides the legal framework for the adoption of sustainable and environment friendly practices in environmental sanitation and waste management to minimize pollution.
		National Environmental (Textile, Wearing Apparel, Leather and Footwear Industry) Regulations, 2009. S. I. No. 34	Provides for the prevention and minimisation of pollution from all operations and ancillary activities from this sector to the Nigeria environment
		National Environmental (Chemicals, Pharmaceuticals, Soap and Detergent Manufacturing Industries) Regulations, 2009. S. I. No. 36.	Provides for the prevention and minimisation of pollution from all operations and ancillary activities from this sector to the Nigeria environment.
		National Environmental (Base Metals, Iron and Steel Manufacturing/Recycling Industries) Regulations, 2010. S. I. No. 14	Provides for the prevention and minimisation of pollution from all operations and ancillary activities from this sector to the Nigeria environment.
		National Environmental (Domestic and Industrial Plastic, Rubber and Foam Sector) Regulations, 2010. S. I. No. 17.	Provides for the prevention and minimisation of pollution from all operations and ancillary activities from this sector to the Nigeria environment.
		National Environmental (Non-Metallic Minerals Manufacturing Industries Sector) Regulations, 2010. S. I. No. 21	Provides for the prevention and minimisation of pollution from all operations and ancillary activities from this sector to the Nigeria environment.
		National Environmental (Hazardous Chemicals and Pesticides) Regulations, 2013	Provides for the protection of human health and the environment from the harmful effects of hazardous chemicals and pesticides, and other agro-chemicals. It also contributes to the sustainable development of agriculture and the conservation of the environment.

Sector	Primary agency	Title and date of document	Purpose
		National Environmental (Energy Sector) Regulations, 2014	Provides for the prevention and minimisation of pollution from all operations and ancillary activities from this sector to the Nigeria environment.
Forestry	FMEEnv FRIN	Forest Law Cap. 55, 1956 Forest Regulations, 1956 National Forest Policy, 2006	Provides for the preservation and control of forests
	FMEEnv NESREA	National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations, 2010. S. I. No. 15	Provides for the prevention and minimisation of the destruction of ecosystems through fire outbreak and burning of any material that may affect the health of ecosystems through the emission of hazardous air pollutants.
		National Environmental (Control of Charcoal Production and Export) Regulations, 2014	Provides for the protection of Nigerian ecosystems from further depletion arising from charcoal production and handling, including its export, and in particular to regulate felling of trees for charcoal production.
Conservation and wildlife	FMEEnv NESREA	Wild Animals Law, No. 8 of 1965	Provides for the control, conservation and management of wild animals.
		National Environmental (Wetlands, River Banks and Lake Shores) Regulations, 2009. S. I. No. 26.	Provides for the conservation and wise use of wetlands and their resources in Nigeria. Provides for the sustainable use of wetlands for ecological and tourism purposes and to protect wetland habitats for species of fauna and flora.
		National Environmental (Watershed, Mountainous, Hilly and Catchments Areas) Regulations, 2009. S. I. No. 27.	Makes provision for the protection of water catchment areas.
		National Environmental (Protection of Endangered Species in International Trade) Regulations, 2010. S. I. No. 16	Provides for the protection of species of endangered wildlife from extinction through the prohibition of trade, importation, etc.
		National Environmental (Coastal and Marine Area Protection) Regulations, 2010. S. I. No 18	Provides for the regulatory framework for the application of preventive, precautionary and anticipatory approaches so as to avoid degradation of the coastal and marine environment.
Fisheries	Federal Ministry of Agriculture and Rural Development	The Sea Fisheries Act of 1971, as amended The Sea Licencing Regulations of 1971 The Sea Fisheries (Fishing) Regulations of 1972	Provides for the control, regulation and protection of sea fisheries in the territorial waters of Nigeria

Sector	Primary agency	Title and date of document	Purpose
		The exclusive Economic Zone Act of 1978	Provides for the delimitation of the Exclusive Economic Zone of Nigeria. Provides for the sovereign rights especially in relation to the conservation or exploitation of natural resources (minerals, living species, etc.) of the seabed, its subsoil and supra-adjacent waters and the right to regulate by law the establishment of artificial structures' and installations and marine scientific research.
Tourism	Federal Ministry of Foreign Affairs Nigerian Tourism Development Corporation	Nigerian Tourism Development Corporation Act No. 81 of 1992	Establishes the Nigerian Tourism Development Corporation
Health	Federal Ministry of Health	Public Health Act No. 47 of 1974, as amended	Provides for the securing and maintaining of health in Nigeria.
		National Health Act No. 8 of 2014	Provides a framework for the regulation, development and management of a national health system and set standards for rendering health services in Nigeria.
	FMEnv NESREA	National Environmental (Standards for Telecommunications/Broadcasting Facilities) Regulations, 2010. S. I. No. 11	Provides for the protection of the environment and human health. Ensures safety and general welfare and eliminates or minimizes public and private losses due to activities of the telecommunications and broadcasting industry.
		National Environmental (Control of Vehicular Emissions from Petrol and Diesel Engines) Regulations, 2010. S. I. No. 20	Provides for the restoration, preservation and improvement of the quality of air. The standards contained herein provide for the protection of the air from pollutants from vehicular emission.
		National Environmental (Air Quality Control) Regulations, 2013	Provides for improved control of the nation's air quality to such an extent that would enhance the protection of flora and fauna, human health and other resources affected by air quality deteriorations.
Noise	FMEnv NESREA	National Environmental (Noise Standards and Control) Regulations, 2009. S. I. No. 35	Makes provision for the control and reduction of noise in Nigeria.
Planning and zoning	FMEnv Town and Country Planning Department	Nigerian Urban and Regional Planning CAP No. 138 LFN 2004	Provides for land use and spatial planning.

Sector	Primary agency	Title and date of document	Purpose
Mining and mineral resources	Federal Ministry of Mines and Steel Development	Nigerian Minerals and Mining Act, 2007 Nigerian Minerals and Mining Regulations, 2011	Repeals the Minerals and Mining Act, No. 34 of 1999. Provides for the regulation of all aspects of the exploration and exploitation of solid minerals in Nigeria
	FMEnv NESREA	National Environmental (Mining and Processing of Coal, Ores and Industrial Minerals) Regulations, 2009. S. I. No. 31	Seeks to minimize pollution from mining and processing of coal, ores and industrial minerals.
Energy	Federal Ministry of Power Nigeria Electricity Regulatory Commission	Electric Power Sector Reform (EPSR) Act, 2004	Provides for the formation of companies to take over the functions, assets, liabilities and staff of the national electric power authority, to develop competitive electricity markets, to establish the Nigeria Electricity Regulatory Commission; provides for the licensing and regulation of the generation, transmission, distribution and supply of electricity; enforces such matters as performance standards, consumer rights and obligations; provides for the determination of tariffs.
Land and agriculture	Federal Ministry of Works and Housing	Land Use Act Cap 202, 1990	Provides for the vesting of all Land in the territory of each State (except land vested in the Federal government or its agencies) solely in the Governor of the State, who would hold such Land in trust for the people and would henceforth be responsible for allocation of land in all urban areas to individuals resident in the State and to organisations for residential, agriculture, commercial and other purposes while similar powers with respect to non-urban areas are conferred on Local Governments.
	FMEnv NESREA	National Environmental (Food, Beverages and Tobacco Sector) Regulations, 2009. S. I. No. 33	Provides for the prevention and minimisation of pollution from all operations and ancillary activities of this sector to the Nigerian environment.
		National Environmental (Soil Erosion and Flood Control) Regulations, 2010. S. I. No. 12	Provides for the inspection of all earth-disturbing activities, practices or developments for non-agricultural, commercial, industrial and residential purposes.
		National Environmental (Desertification Control and Drought Mitigation) Regulations, 2010. S. I. No. 13	Provides an effective and pragmatic regulatory framework for the sustainable use of all areas already affected by desertification and the protection of vulnerable lands.
Labour	Federal Ministry of	Labour Act Chapter 198, 1990	Repeals and replaces the Labour

Sector	Primary agency	Title and date of document	Purpose
employment and occupational health	Labour and Employment		Code Act and consolidates the law relating to labour in Nigeria

Appendix 19-1: Screening list (EIA Act)

Mandatory (EIA) Study Activities

1. Agriculture

- (a) Land development schemes covering an area of 500 hectares or more to bring forest and into agricultural production.
- (b) Agricultural programmes necessitating the resettlement of 100 families or more.
- (c) Development of agricultural estates covering an area of 500 hectares or more involving changes in the type of agricultural use.

2. Airport

- (a) Construction of airports (having an airstrip of 2,500 metres or more)
- (b) Airstrip development in State and national parks.

3. Drainage and Irrigation

- (a) Construction of dams and man-made lakes and artificial enlargement of lakes with surface areas of 200 hectares or more.
- (b) Drainage of wetland, conversion of wildlife habitat or conversion of virgin forest covering an area of 100 hectares or more.
- (c) Irrigation schemes covering an area of 5,000 hectares or more.

4. Land Reclamation

- (a) Coastal reclamation involving an area of 50 hectares or more.

5. Fisheries

- (a) Construction of fishing harbours.
- (b) Harbour expansion involving an increase of 50 per cent or more in fish landing capacity per annum.
- (c) Land based aquaculture projects accompanied by clearing of mangrove swamp forests covering an area of 50 hectares or more.

6. Forestry

- (a) Conversion of hill forest land to other land use covering an area of 50 hectares or more.
- (b) Logging or conversion of forest land to other land use within the catchment area of reservoirs used for municipal water supply, irrigation or hydro power generation or in areas adjacent to state and national parks and national marine parks.
- (c) Logging covering an area of 500 hectares or more.
- (d) Conversion of mangrove swamps for industrial, housing or agricultural use covering an area of 50 hectares or more.
- (e) Clearing of mangrove swamps on islands adjacent to national marine parks.

7. Housing

8. Industry

- (a) Chemical
 - Where production capacity of each product or of combined products is greater than 100 tonnes/day,
- (b) Petrochemicals all sizes.
- (c) Non-ferrous primary smelting

Aluminium - all sizes

Copper - all sizes

Others - producing 50 tonnes/day and above of product

(d) Non-metallic

- Cement - for clinker throughput of 30 tonnes/hour and above

- Lime - 100 tonnes/day and above of burnt lime in a rotary kiln or 50 tonnes/day and above in a vertical kiln.

(e) Iron and steel

- Requires iron ore as the raw material for production greater than 100 tonnes/day;

- Using scrap iron as the raw material for production greater than 200 tonnes per day.

(f) Shipyards

- Dead Weight Tonnage greater than 5000 tonnes.

(g) Pulp and paper industry

- Production capacity greater than 50 tonnes/day

9. Infrastructure

(a) Construction of hospitals with outfall into beachfronts used for recreational purposes.

(b) Industrial estate development for medium and heavy industry covering an area of 50 hectares or more.

(c) Construction of expressways.

(d) Construction of national highway.

(e) Construction of new townships.

10. Ports

(a) Construction of ports.

(b) Port expansion involving an increase of 50 percent or more in handling capacity per annum.

11. Mining

(a) Mining of materials in new areas where the mining lease covers a total area in excess of 250 hectares.

(b) Ore processing, including concentrating for aluminium, copper, gold or tantalum.

(c) Sand dredging involving an area of 50 hectares or more.

12. Petroleum

(a) Oil and gas fields development.

(b) Construction of off-shore pipelines in excess of 50 kilometres in length.

(c) Construction of oil and gas separation, processing, handling, and storage facilities.

(d) Construction of oil refineries.

(e) Construction of product depots for the storage of petrol, gas or diesel (excluding service stations) which are located within 3 kilometres of any commercial, industrial or residential areas and which have a combined storage capacity of 60,000 barrels or more.

13. Power Generation and Transmission

(a) Construction of steam generated power stations burning fossil fuels and having a capacity of more than 10 megawatts.

(b) Dams and hydroelectric power schemes with either or both of the following.

- (i) dams over 15 metres high and ancillary structures covering a total area in excess of 40 hectares;
- (ii) reservoirs with a surface area in excess of 400 hectares;
- (c) Construction of combined cycle power stations.
- (d) Construction of nuclear-fuelled power stations.

14. Quarries

Proposed quarrying of aggregate, limestone, silica, quartzite, sandstone marble and decorative building stone within 3 kilometers of any existing residential, commercial or industrial areas, or any area for which a licence, permit or approval has been granted for residential, commercial or industrial development.

15. Railways

- (a) Construction of new routes.
- (b) Construction of branch lines.

16. Transportation

17. Resort and Recreational Development

- (a) Construction of coastal resort facilities or hotels with more than 80 rooms.
- (b) Hill station resort or hotel development covering an area of 50 hectares or more.
- (c) Development of tourist or recreational facilities in national parks.
- (d) Development of tourist or recreational facilities, on islands in surrounding waters which may be declared as national marine parks.

18. Waste Treatment and Disposal

- (a) Toxic and Hazardous Waste
 - (i) Construction of incineration plants.
 - (ii) Construction of waste recovery plants (off-site)
 - (iii) Construction of wastewater treatment plants (off-site).
 - (iv) Construction of secure landfill facilities.
 - (v) Construction of waste storage facilities (off-site).
- (b) Municipal Solid Waste
 - (i) Construction of incineration plants.
 - (ii). Construction of composting plants.
 - (iii) Construction of recovery/recycling plants.
 - (iv) Construction of municipal solid waste landfill facilities.
- (c) Municipal Sewage
 - (i) Construction of wastewater treatment plants.
 - (ii) Construction of marine outfalls.

19. Water Supply

- (a) Construction of dams, impounding reservoir with a surface area of 200 hectares or more.
- (b) Groundwater development for industrial, agricultural or urban water supply of greater than 4,500 cubic metres per day.

Appendix 19-2: Screening list (EIA Procedural Guideline)

Mandatory (EIA) Study Activities (in addition to those listed in the Act as shown in Appendix 19-1)

Category 1 Projects⁶

1. Agriculture

5. Food, Beverages and Tobacco Processing⁷

Construction of food processing plants

1. Forestry

Wood/Timber processing⁸

Saw milling⁹

7. Ports

Port expansion involving an increase of 50 percent or more in handling¹⁰.

8. Housing

Housing development covering an area of 50 hectares or more.¹¹

12. Transportation

Construction of Mass Rapid Transport projects.¹²

15. Petroleum

Petroleum refining.¹³

20. Land Reclamation¹⁴

Coastal reclamation involving an area of 50 hectares or more

21. Brewery¹⁵

Construction of Brewery Plant

⁶ Not included the Schedule to the EIA Decree

⁷ Not included the Schedule to the EIA Decree

⁸ Not included the Schedule to the EIA Decree

⁹ Not included the Schedule to the EIA Decree

¹⁰ the Schedule to the EIA Decree includes "*capacity per annum*" after "... *handling*"

¹¹ Not included the Schedule to the EIA Decree

¹² Not included the Schedule to the EIA Decree

¹³ Not included the Schedule to the EIA Decree

¹⁴ Not included the Schedule to the EIA Decree

¹⁵ Not included the Schedule to the EIA Decree

Acronyms

EAD	Environmental Assessment Department
EHORECON	Environmental Health Officers Registration Council of Nigeria
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
FEPA	Federal Environmental Protection Agency
FME_{env}	Federal Ministry of Environment
FRIN	Forestry Research Institute of Nigeria
GGW	National Agency for Great Green Wall
HRM	Human Resource Management
N	Naira
NBMA	National Biosafety Management Agency
NESREA	National Environmental Standards and Regulations Enforcement Agency
NEWMAP	Nigeria Erosion and Watershed Management Project
NOSDRA	National Oil Spill Detection and Response Agency
SEA	Strategic environmental assessment
S.I.	Statutory Instrument

List of useful contacts in EIA

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