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## ENVIRONMENTAL IMPACT ASSESSMENT POLICY IN NIGERIA

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### ABSTRACT

Environmental Impact Assessment (EIA) serves as a critical tool for sustainable development, providing a framework for evaluating the potential environmental consequences of proposed projects before implementation. This article examines the evolution, legal underpinnings, institutional framework, and operational challenges of EIA policy in Nigeria. Originating globally from the United States NEPA Act of 1970 and endorsed internationally through Principle 17 of Agenda 21, EIA was formally adopted in Nigeria through the EIA Act No. 86 of 1992. The study highlights Nigeria's multi-layered regulatory framework, involving overlapping mandates from the Federal Ministry of Environment (FMEnv), Department of Petroleum Resources (DPR), and State Environmental Protection Agencies (SEPAs). It further explores classification criteria for EIA application, exemptions, and procedures for assessing inter-state and international environmental impacts. Despite legal advancements, the article identifies major implementation setbacks, including poor inter-agency coordination, inadequate enforcement, and political interference. Drawing from Nigeria's environmental history, particularly the 1988 Koko toxic waste incident, this article underscores the importance of strengthening institutional synergy, capacity building, and public awareness to enhance the efficacy of EIA in promoting environmental sustainability and safeguarding ecological integrity.

**Keywords:** Environment, Impact, Assessment, Protection, Public Awareness, Regulatory Act, Toxic Waste, Nigeria

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## **Introduction**

The EIA was formally introduced to project management with the passage of the United States National Environmental Protection Agency (USNEPA) Act of 1970. It is regarded as the precursor of other EIA legislations that led to the formal introduction of EIA. It was the first legislation for EIA, requiring analysis of the environmental impacts of major federal actions significantly affecting the receiving environment. Other countries have had to tailor their legal, institutional and procedural context to suit their own peculiar situations. The United States approach is quite elaborated and detailed especially when compared to those of Malaysia, South Korea and Brazil. Currently, EIA is practised in over 100 countries in the world.

EIA is proclaimed in Principle 17 of “Agenda 21” of the United Nations Conference on Environment and Development (UNCED) held in Brazil in June 1992. It states that “Environmental Impact Assessment as a national instrument shall be undertaken for proposed activities that are likely to have significant adverse impact on the environment and subject to a decision of a competent authority”.

In Nigeria, the regulatory framework for EIA is the EIA Act No. 86 of 1992 (formerly EIA Decree 86 (1992)). It is the law that governs EIA practice in Nigeria as adopted in 1992. It is the main legal document explaining the system and principles of EIA in Nigeria. In the evolution of the EIA systems in Nigeria there are three independent types in operation. These are the EIA Act 86 of 1992, the Town and Country Planning Decree 88 (1992) and the Petroleum Act (1969). The EIA schemes (the Town and Country Planning Decree) has not evolved satisfactorily but the other two Acts have produced legislations and robust guidelines. The Petroleum Act of 1969 was the first comprehensive legislation introduced in Nigeria applicable to petroleum operation.

There were several sectorial regulations aimed at controlling environmental degradation which were unsuccessful due to the absence of effective sanctions. Economic considerations and fundamental lack of knowledge of interdependent linkages among development processes and environmental factors, as well as human and natural resources, resulted in an unmitigated assault on the environment. However, the environment and the need for its preservation (despite all efforts by United Nations Environment Program [UNEP] and International Conventions which Nigeria ratified), took centre stage after the momentous and singular event of the secret dumping of toxic waste in Koko Port, Bendel State (now Delta State) in May 1988 by foreign parties. This was followed

by the promulgation of the Harmful Wastes (Special Criminal Provisions) Act 1990.

In its wake, international seminars and workshops were held in Abuja and Lagos and the consensus was for appropriate environmental legislation to discourage short-term plans and 'fire brigade' approaches to environmental issues. An institutional framework was set up to deal with the problems of our environment. The Federal Environmental Protection Agency (FEPA), established by Decree 58 of 1988 of the same name and amended by Decree 59 of 1992, was given responsibility for control over our environment and for the development of processes and policies to achieve this. Apart from publishing the National Policy on the Environment (NPE) in 1989, with the policy goal of achieving sustainable development, it published other sectoral regulations including the National Environmental Protection (Pollution Abatement in Industries and Facilities Generating Wastes) Regulation 1991 wherein EIA was made obligatory only when so demanded by FEPA and compliance was within 90 days of such demand. However, in the oil industry, the principal legislation is the Petroleum Act 1969 and all derivative regulations charged DPR among others with pollution abatement. States and Local Government Councils (LG), which comprise the second and third tiers of government, were encouraged under Decree 59 of 1992 to set up their environmental protection agencies. Separate EIA legislation, the EIA Decree 86 of 1992, was promulgated, establishing FEPA as the apex regulator, making EIA mandatory for all developmental purposes (although with some exceptions). Under it FEPA has published various sectoral EIA procedures together with EIA procedural guidelines in 1995. Despite having a comprehensive EIA policy framework, Nigeria continues to face implementation challenges that hinder its effectiveness in achieving sustainable development goals.

### **Study Methodology**

The methodology for this review is a desk-based analysis of relevant literature and legislative documents on Environmental Impact Assessment (EIA). Key sources include academic articles, government publications, and legal documents, examining Nigeria's EIA Act of 1992, its 2004 amendment. The study reviewed several EIA Documents and some publications on Environmental impact assessment in Nigeria.

### **Institutional and Regulatory Framework**

Before the establishment of the FEPA, there were sectoral environmental regulations with various significant responsibilities relating to environmental protection and improvement. Also in existence were commissions with advisory capacity in environmental matters and environmental NGOs. Due to various activities and the complex combination of interdependent operations of the oil industry, it more than any other sector adversely affects the environment.

In the oil industry DPR adopted remedial, though inadequate, enforcement tools which included compliance monitoring and the issuing of permits/licences. Studies indicated the extent of devastation the oil industry has caused to aquatic and terrestrial ecosystems and cultural and historical resources. This, coupled with the community's dissatisfaction and agitation, especially in the Ogoni and Ijaw homelands, reinforced the need for the sector to plan, protect and enhance prudently the environmental resources for a better environment.

The need to control new installations or projects with capacity to degrade the environment was also identified. This compelled DPR to issue updated Environmental Guidelines and Standards (EGAS) in 1991 providing for the first time, together with pollution abatement technology, guidelines and standards and monitoring procedures, a mandatory EIA report as enforcement tool. There are other regulatory bodies within the sector. FEPA, charged with the protection and development of the environment, prepared a comprehensive national policy, including procedures for environmental impact assessment for, amongst others, all development projects. Enforcement powers were also prescribed.

In the National Policy on the Environment (NPE), FEPA adopted a strategy that guarantees an integrated holistic and systemic view of environmental issues that leads to prior environmental assessment of proposed activities. The other regulators including State EPAs (unnecessarily charged with similar and identical responsibilities to those of FEPA) rather than cooperating with FEPA undermine its efforts as they demand a role in the state of the environment within their areas. This occurs particularly where FEPA involves them only at the review stage in the EIA process. This creates a lot of confusion and bureaucratic delays in implementing the EIA process leading to enormous cost and unnecessary waste of time.

### **The Lead Agencies**

The lead agencies for the EIA process in Nigeria are the Federal Ministry of Environment (FMEnv), the competent authority, through its Environmental Assessment Department for EIA and the Department of Petroleum Resources (DPR), an arm of the Ministry of Petroleum Resources, which also has a mandate for the regulatory framework for all activities in the Oil and Gas sectors of the economy. DPR does this through the Petroleum Act of 1969 and the updated Environmental Guidelines and Standards (EGAS, formerly EGASPIN) of 1991 and 1999 and revised in 2002. Also, States and Local Government Councils, which comprise the second and third tiers of government, were encouraged under Decree 59 of 1992 to set up their own environmental protection agencies (SEPAs). In practice, most EIAs are prepared pursuant to FMEnv and DPR guidelines.

### **Category on Mandatory EIA Study in Nigeria**

The FEPA which is now transformed in Federal Ministry of Environment in Nigeria categorizes mandatory study activities into three categories:

- Category **Three (3)** activities have beneficial impacts on the environment.
- For Category **Two (2)** activities (unless within the Environmentally Sensitive Area) full EIA is not mandatory, while
- Category **One (1)** activities require full and mandatory EIA. Either listing or an initial environmental evaluation (IEE) system is used to determine projects requiring full EIA.

### ***Category One Project Type***

- Agriculture/Agro allied industry /manufacturing food, Beverage, Tobacco processing infrastructure: Ports, Housing, Airport, drainage and irrigation, railway. Transportation, resort and recreational development, Power generation, Petroleum, mining, quarries, waste treatment and disposal, water supply, land reclamation, and Brewery.

### ***Category Two Project Type***

- Agricultural /rural development Reforestation/afforestation project, small scale irrigation, small aquaculture, saw milling, logging, rubber processing, fish processing Industry/infrastructure; Mini- hydropower

development, any small-scale industry development e.g. textiles, chemical industry, power transmission, renewable energy development, telecommunication facility, rural water supply, public hospitals, road rehabilitation, Any form of quarry or mining.

**Note:** If the project in category two is located in or close to environmental sensitive area, e.g, coral reefs, mangrove swamps, small inland, Tropical rainforest areas prone to erosion, mountain slope areas prone to erosion, mountain slope areas prone to desertification, natural conservation areas, areas with protected /endangered species, areas of scientific interest. Etc., it may move to category 1.

### ***Category Three Project Type***

- Institutional development, health, family planning, nutritional and educational programmes. If the project involves physical interventions in the environment. Moves to category 2

### **Activities that Do Not Require an Environmental Impact Assessment (EIA)**

In most countries, a designated screening procedure is followed to identify projects subject to EIA and, if appropriate, to assign them to a type of category. In Nigeria, the EIA Act of 1986 states the categories of activities for which an EIA is mandatory. These are listed in Category 1 of the Act, and where it is not required based on the magnitude or scale of operation, are then listed in Category 2 or 3.

For Category 2 activities, full EIA is not required unless within an Environmentally Sensitive Area. Environmentally sensitive areas are areas with unique or critical resources and environmental conditions for example, proximity of a project to a protected area, a wetland, a flood plain or Fadama, or an area rich in cultural resources or they have the potential for cumulative effects in association with other projects taking place or proposed for an area.

Environmental criteria can be used to assist case-by-case screening of projects that may have potentially significant effects or impacts and may require a full EIA or further investigations. The need for EIA is individually assessed on a case-to-case basis in sensitive locations, for example cash crop producing areas, water supplies, hospitals, etc.

Certain proposals require an extended screening process which in effect becomes a preliminary EIA, approximate to a Category 2 study. This is also called initial

environmental evaluation (IEE). This process is used when the requirement for EIA cannot be reasonably determined by the application of the screening procedures described previously. For example, an IEE may be required for a proposal that involves the use of a new technology or the discharge of wastewaters and substances that are hazardous to human health.

The project proponent or an independent EIA consultant acting on behalf of a proponent is required to submit a short description of the project and location to the relevant competent authority/ agency. The description should provide information on the scale or magnitude of the activity, planned use of technologies, hazardous substances, waste generation and handling, probable interaction with other activities within the same area, predicted pollution, accident prevention, etc. The project proponent or an independent EIA consultant acting on behalf of a proponent usually conducts the screening exercise in consultation with the competent/regulatory authority.

The competent or regulatory authority then examines the information provided from the screening exercise, often called the Environmental Screening Summary Note (ESSN) to determine whether the proposal or project is likely to have a significant effect on the environment by the guidelines for the screening procedure.

### **Exemptions Granted in Nigeria**

In Nigeria, apart from an exemption for EIA where the effects are minimal on the environment, a project may be allowed during a national emergency for which temporary measures have been taken by the government. A project may also be carried out in response to circumstances that, in the opinion of the regulator, are in the interest of public health and safety.

### **Inter-State Environmental Effects as enshrined in the EIA ACT**

- 1) Where a project for which an environmental assessment is not required under section 5 of this Act, is to be carried out in a State and the President is of the opinion that the project is likely to have serious environment effects in another State, the Council may establish a review panel, to conduct an assessment of the inter-State environmental effects of the project.
- 2) The Council shall not establish a review panel pursuant to subsection (1) of this section where the President and the governments of all the

interested States have agreed on another panel for conducting an assessment of the inter-State environmental effects of the project.

- 3) A review panel may be established pursuant to subsection (1) of this section on the initiative of the President or at the request of the government of any interested State.
- 4) At least ten days before establishing a review panel under subsection (1) of this section, the President shall give notice of the intention to establish a panel to the proponent of the project and to the State or all interested States.
- 5) For this section and section 49 (3) of this Act, "interested state" means-
  - a. State in which the project is to be carried out; or
  - b. State that claims that serious adverse environmental effects are likely to occur in that State as a result of the project. s

#### **International Environmental Effects as Enshrined in the EIA Act**

- 1) Where a project, for which an environmental assessment is not required under section 5 of this Act, is to be carried out in Nigeria or on Federal lands and the President thinks that the project is likely to cause serious adverse environmental effects outside Nigeria and those Federal lands, the Agency and the Minister for Foreign Affairs may establish a review panel to conduct an assessment of the international environmental effects of the project.
- 2) At least ten days before establishing a review panel under subsection (1) of this section, the Agency, with the approval of the President, shall give notice of the intention to establish a panel to-
  - a. The proponent of the project;
  - b. the government of any State in which the project is to be carried out or that is adjacent to Federal lands on which the project is to be carried out; and
  - c. The government of any foreign State in which, in the opinion of the Minister for Foreign Affairs, serious adverse environmental effects are likely to occur as a result of the project.

#### **Environmental Effects on Federal and Other Lands as Enshrined in the EIA ACT**

- 1) Where a project, for which an environmental assessment is not required under section 15 of this Act, is to be carried out in Nigeria and the

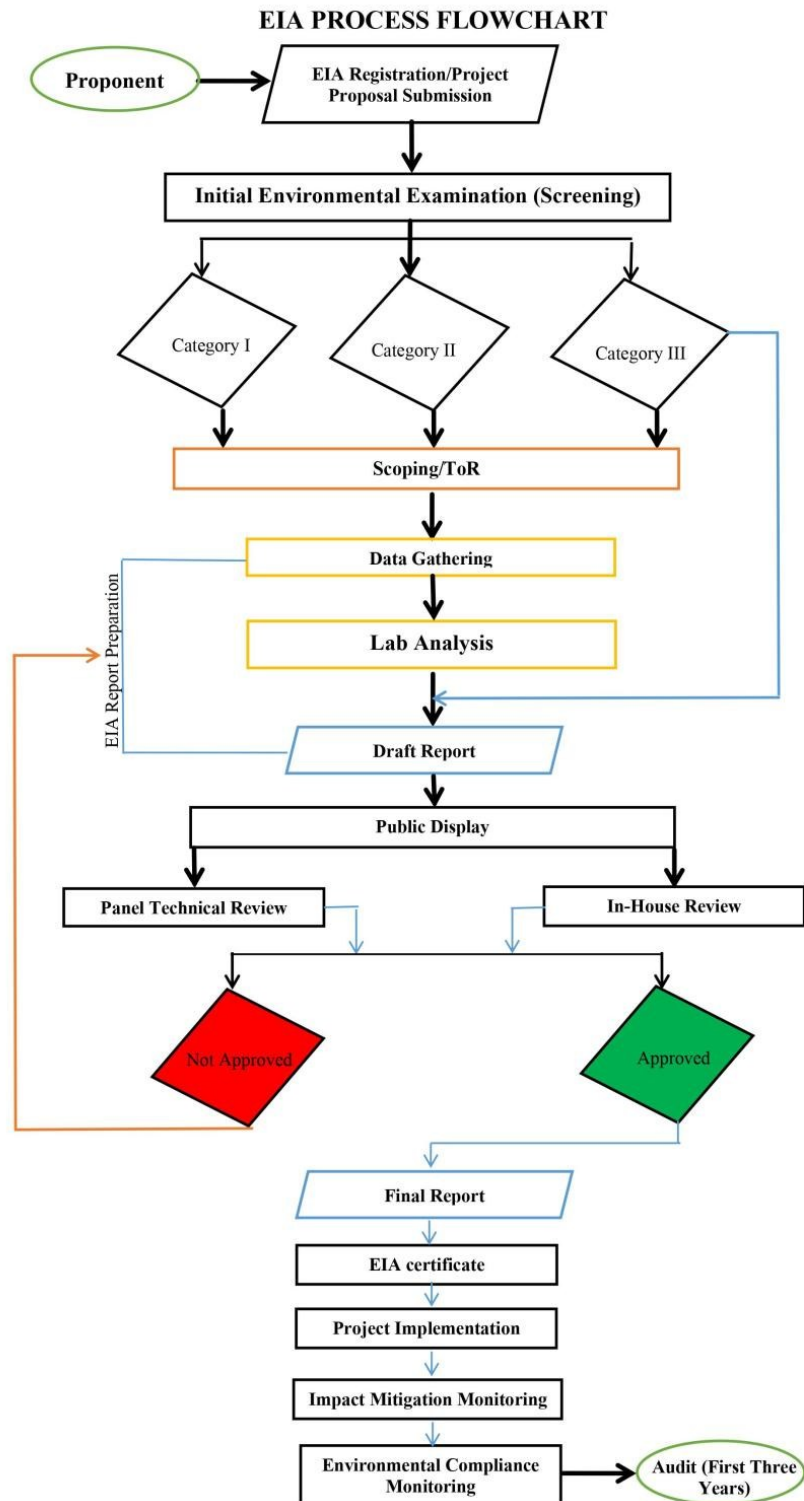


Agency or the President thinks that the project is likely to cause serious adverse environmental effects on Federal lands or on lands in respect of which a State or local government has interests, the Agency or the President may establish a review panel to conduct an assessment of the environmental effect of the project on those lands.

- 2) Where a project for which an environmental assessment is not required under section 5 of this Act, is to be carried out on lands in a local government land or on lands that have been set aside for the use and benefit of certain class of persons according to legislation and the Agency thinks that the project is likely to cause serious adverse environmental effects outside those lands, the Agency may establish a review panel to conduct an assessment of the environmental effects of the project outside those lands.
- 3) At least ten days before a review panel is established pursuant to subsection (1) or (2) of this section; the Agency shall give notice of the intention to establish a panel to the proponent of the project and the governments of all interested states and if, in the case of a project that is to be carried out the Agency thinks that the project;
  - a. is likely to cause or have serious adverse environmental effects on lands in a reserve that is set apart for the use and benefit of a certain class of persons, to that class of persons;
  - b. on settlement lands described in a comprehensive land claims agreement referred to in subsection (2) of this section, to the party to the agreement; and
  - c. On lands that have been set aside for the use and benefit of a certain class of persons, to that class of persons.
- 4) For this Act a reference to any land areas or reserves includes a reference to all waters on and air above those lands, areas or reserves.

### **EIA Process in Nigeria**

Detail EIA Process is presented below as adopted from the Federal Ministry of Environment (2025).



Adopted from Federal Ministry of Environment (2025).

The EIA study commences with an extensive scoping procedure, with the purpose to determine the issues to be analysed in the EIA study and the related report, i.e., to identify all potential impacts and to foresee which of them are likely to be relevant. The agreement on the alternatives to be examined, the direct and indirect effects and their mitigation measures to be analysed, also the structure and specifics of an EIA report and its contents, and the methods used to forecast the effects on certain environmental media must all be analysed and presented in the scoping phase. During this period, the proponent (or independent EIA consultant upon a request by the proponent) is required to prepare so-called "EIA-scope draft report" to be submitted to relevant authorities for consideration and feedback. The feedback might be by way of additions or corrections that will be incorporated in the EIA study (Chris 2013).

### **Successes and Constraint of EIA Process in Nigeria**

Morakinyo (2024) provide a summary of some of the successes and constraint of EIA in Nigeria:

#### ***Successes Recorded***

- a. Introducing Sustainability Reporting and Monitoring.
- b. Review of EIA Process Timeline for mini-grids & telecom projects.
- c. Enhanced web based public disclosure of reports.
- d. Development of Electronic Content Management System (ECMS).
- e. Development of guideline on climate change reporting in the eia preparation.
- f. Development of EIA Procedure and Guideline Regulations.
- g. Development of an application for the review of EIA reports.
- h. Provision of digital facilities and tools to support Virtual EIA reviews and video conferencing.

#### ***Constraint in EIA Process***

- a. Capacity Constraints: Inadequate skilled professionals and expertise in conducting EIAs.
- b. Political & Systemic Interference: Political tussle in Nigeria continues to influence all sectors including the EIA process this has led to bias in assessments.

- c. Reduced interest by NGOs, CBOs and the General Public in the review and provision of comments on Draft EIA reports during Public Disclosure of the document which has led to reduced public participation.
- d. Ensuring that Cumulative Impact Assessment of projects is thoroughly done is of great concern to regulators, stakeholders and consultants.
- e. Data gaps remains a growing issue in the EIA process. Sometimes data is very difficult to collect or when collected may be unreliable or irrelevant.
- f. Financial and budgetary constraints encountered during the EIA process limits the overall functioning of the regulatory bodies involved. The process is currently proponent facilitated.
- g. The revised EIA Act is still yet to be passed into Law by the Nigerian National Parliament since its review in 2010 making it difficult to implement some key aspect. This has affected enforcement and compliance mechanism.

## **Conclusion**

Environmental Impact Assessment (EIA) policy in Nigeria has evolved considerably since its formal institutionalization through the EIA Act No. 86 of 1992. Rooted in global environmental governance principles, it was catalysed by local environmental crises such as the 1988 Koko toxic waste incident. While Nigeria has developed a relatively robust legal and institutional framework, anchored by the Federal Ministry of Environment, the Department of Petroleum Resources, and various state-level agencies, significant challenges continue to impede the effectiveness of EIA implementation.

Notable advancements include the digitization of EIA processes, the development of climate change reporting guidelines, and improvements in public disclosure and stakeholder engagement. However, systemic issues such as poor inter-agency coordination, inadequate enforcement, insufficient public participation, lack of technical capacity, and outdated legislative provisions persist. These constraints undermine the intended role of EIA as a tool for sustainable development and environmental protection.

To strengthen the EIA regime in Nigeria, there is a critical need to update and pass the revised EIA legislation, build institutional capacity, ensure better funding for regulatory agencies, and foster greater collaboration among federal, state, and local authorities. Additionally, raising public awareness and re-

engaging civil society in environmental governance are essential steps toward enhancing accountability and transparency.

Ultimately, for Nigeria to align with global best practices and safeguard its diverse ecological systems, EIA must move beyond a procedural requirement to become a strategic planning tool that genuinely informs decision-making and balances development with environmental sustainability.

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