Netherlands Commission for Environmental Assessment

Ghana

EIA profile

Updated to: 20 August 2019

Contact & history

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source

http://www.epa.gov.gh/epa/contacts/our-offices

History of ESIA

In 1973, the Environmental Protection Council was established in Ghana. It was the first governing body on environmental management in Africa. In 1985 the Investment Code included a requirement for EIA. In the following years, EIAs were conducted voluntarily. In 1994, Ghana enacted the Environmental Protection Agency (EPA) Act, which established EIA legally. The EPA then became the main EIA authority. The EPA published and formally launched the EIA procedures of Ghana in July 1995. These regulations were amended in 1999 and 2002. As part of the Ghana Environmental Assessment Capacity Development Programme, environmental assessment sector-specific guidelines have been developed for eight sectors.

Legal framework

Framework/Enabling law

Environmental Protection Act

source

- Ghana EPA website on environmental assessment.
- Ghana Legal environmental information (GHANALEX)
- Environmental Protection Agency Act (1994)

National detailed regulation for ESIA

Environmental Assessment Regulations (LI 1652), 1999.

In 2002, the regulations have been amended (LI 1703) on fees and charges for processing the EIA applications. These again were amended in 2015 (LI 2228).

source

- Environmental Assessment Regulations (1999)
- http://www.epa.gov.gh/epa/sites/default/files/downloads/Approved%20Fees%20and%20Charges_LI%202228_.pdf

Guidelines

- The EPA web-site contains guidelines for obtaining environmental permits for large scale and significantly impacting undertakings, as wel as similar guidelines for small and medium scale activities.
- Ghana EIA procedures issued by the EPA in 1995 provide guidance for project types, holding of public forums, EIA review, permits and post certification monitoring
- The EPA has issued: EIA in Ghana; a guide, 1996.
- Ghana's mining and environment guidelines, 1994, also contain instructions for EIA
- Forestry and wood sector EIA guidelines have been issued in 2002.
- In 2012, 7 sector specific EA guidelines have been developed to facilitate the conduct of EIA for the following sectors: tourism, energy (volume 1 and volume 2), health, manufacturing industry, transportation industry, agriculture and general construction. EIA guidelines have been drafted for the mining sector. They still need to be accepted by stakeholders before they will also be published.
- Public consultation guidance has been drafted in 2013.

source

http://www.epa.gov.gh/epa/regulations/permits-large-scale

http://www.epa.gov.gh/epa/regulations/permits-small-medium-scale

Scope of ESIA application

EPA may request a full EIA for any activity which has the potential to cause significant impacts on the environment. This applies to governmental and private projects, as well as to national and foreign

projects.

Schedule 1 and 2 of the Environmental Assessment Regulations provides a list of projects requiring some form/level of assessment. Schedule 1 projects are required to register and obtain an environmental permit. Schedule 2 projects are required to undertake a full EIA before an environmental permit is issued by the EPA.

In addition, the EPA makes use of a tool which is not prescribed by the Environmental Assessment regulation. This is the Environmental and Social Management Framework (ESMF). The EPA may require an ESMF, particularly for projects with activities at different sites, whereby the specific sites are not determined and where the activities are small and of minimal impact.

source

http://www.epa.gov.gh/epa/sites/default/files/u26/LI%201652.pdf

Exemptions from ESIA application

Not specified

Institutional setting

Central ESIA authority

The Environmental Protection Agency (EPA) regulates both EIA and environmental permitting. The function of the EPA with respect to EIA is, as determined in the Environmental Protection Agency Act 490 i of 1994: 'To ensure compliance with any laid down environmental impact assessment procedures in the planning and execution of development projects, including compliance in respect of existing projects'.

The EPA head quarter in Accra consists of several divisions, which are further sub-divided into departments. The Environmental Assessment and Audit Department of the Environmental Compliance and Enforcement division is mainly responsible for those EIA ? related functions.

Other key (governmental) parties involved in ESIA, and their roles

Cross-sectoral EIA Technical Review Committees are set up at national level and in all the 10 regions to support the EPA in the EIA process.

(De)centralisation of ESIA mandates

EPA has 12 regional EPA offices which serve as field operators of the Agency. In relation to EIA, they have the mandate at regional level for screening and regional review of EIA's (eg. Accra municipal EPA receives around 250 applications per year of which around 10% require full EIA). There are cross-sectoral EIA Technical Review Committees set up in all regions to support the EPA offices in screening and reviewing of EA applications and reports. The committees make recommendations after the review and submit it to the headquarters for quality assurance and approval. Permit schedules are prepared and approved at national level. Regional EPAs also have a role in compliance monitoring, approval of annual environmental reports and verification of environmental management plans. EIAs for

large-scale projects and high priority projects are under the responsibility of the Environmental Assessment and Audit Department of the EPA though. Regional EPA offices are then mainly involved in the EIA process through public participation and monitoring activities.

For several sectors, the Environmental Assessment and Audit department discharges its functions by liaising with other divisions within the EPA.

The decentralization process is still continuing, meaning that the decision-making processes regarding smaller projects (Schedule 1) are left to the regional offices.

source

http://www.epa.gov.gh/epa/contacts/our-offices

Payment system

The Environmental Assessment Regulations LI 1652 (1999) stipulate that the proponent should pay for the application for the environmental permit and for the environmental certificate. Amendment 1703 presents the details of the payment system for EIA. These again were amended in 2015 (LI 2228).

Proponents are required to pay non refundable processing fees upon submission of environmental assessment applications. Upon approval of the application the proponent is then invoiced to pay a permit fee.

source

http://www.epa.gov.gh/epa/sites/default/files/downloads/Approved%20Fees%20and%20Charges_LI%202228_.pdf

ESIA procedure

Overview ESIA procedure

LI 1652 requires that undertakings likely to have significant impacts on the environment must register with the EPA and obtain environmental permits before commencement of construction and operations.

As a first step, a screening decision has to be taken on whether no environmental assessment, a preliminary environmental assessment of a full environmental assessment is necessary to obtain an environmental permit. Thereafter, scoping is required which results in a scoping report. The assessment process, the review of the draft of the EIA report and the decision-making process on the issuance of the environmental permit follow. Compliance monitoring is being conducted after the permit has been issued. 24 months after the issuance of the permit the provisional environmental permit is replaced by an environmental certificate, if the permit conditions have been complied with. Public participation is required during the screening, scoping, assessment and the review stage.

Documents that play an important role during the EIA process are the following: EIA registration document (screening), screening report, possibly Preliminary Environmental Report (screening), scoping report (incl. Terms of Reference), EIS, review report, environmental permit, EMP, Annual Environmental Report(s), Environmental Certificate.

source

http://www.epa.gov.gh/epa/sites/default/files/u26/EA%20flowchart.pdf

Screening

Screening process

Screening is a required step in the Ghanaian EIA procedures. The EPA makes the screening decision.

The Environmental Assessment Regulations (1999) contain positive lists that specify the projects subject to EIA. Schedule I of the regulation lists the activities that require registration and an environmental permit, and may also require a preliminary or a full EIA. The list specifies minimum thresholds. Schedule II lists the activities that require a full EIA, this list also specifies minimum thresholds. EPA can also request a full EIA for any activity that is not listed.

A proponent has to submit a registration form or environmental screening form to the EPA for all activities listed in Schedule I and II. The EPA then decides on the need for further study of the activities and on the level of detail of the study. For Schedule I activities, EPA may request a preliminary or full EIA, it may also request a full EIA after review of the preliminary EIA. For all activities in Schedule II the EPA will require a full EIA. Furthermore, the EPA may accept the proposed activities directly if no EIA is deemed necessary, or reject proposed activities outright. The screening decision is issued in a report.

Sensitive areas

Schedule V of the EIA regulation defines environmentally sensitive areas. This list has been substituted in 2006 by a list of 8 types of Environmentally Sensitive Areas. All activities in these areas require an EIA.

source

EIA regulations, 1999

Contents of the starting document

The EPA has developed an online system for proponents to submit application for EIAs. The screening documentation submitted by the proponent should contain information on:

- Details on the proposed activity (including a description of waste generation);
- The proposed location (location, zoning, site description, land cover and topography);
- Infrastructure and utilities;
- Environmental impacts (air quality, biological resources, cultural resources, water quality and hydrology, noise, other impacts);
- Health and safety impacts;
- Management of impacts (air quality, biological resources, cultural resources, water quality and hydrology, noise others);
- Alternatives to the establishment of the activity;
- List of stakeholders consulted (including evidence).

For large scale projects with significant impacts: Upon submission of the Registration Form, EPA would within 25 days request the proponent to conduct a detailed Environmental Impact Assessment (EIA) study in order to understand fully the environmental impacts of the proposal and how they would be

mitigated.

For small and medium scale activities: Upon submission of the Registration Form, EPA would conduct an inspection of the proposed site and issue a report (screening report) which would be presented to a cross-sectoral technical committee (the EIA Technical Review Committee) for a decision on the application within 25 working days from the date of registration.

The preliminary EIA should complement the information already submitted in the screening document, in particular, it should contain a more detailed description of the effects on the environment.

source

http://www.epa.gov.gh/epa/regulations

Timeline Screening

EPA makes the screening decision within a maximum of 25 days.

source

http://www.epa.gov.gh/epa/regulations

Scoping

Scoping process

Scoping is a required step, resulting in an approved Terms of Reference for the EIA.

The proponent has to produce a scoping report, which includes a Terms of Reference for the EIA and has to submit 10 copies of the report to EPA for review and acceptance.

During scoping, the proponent should consult with affected parties. Furthermore, the proponent should give notice of the proposed undertaking to the relevant Ministries, government departments and organisations and the relevant Metropolitan, Municipal or District Assembly. The scoping report is made available for the general public. The EPA reviews the Scoping report with the help of a Technical Review Committee and has to approve the report before the EIA can proceed.

source

http://www.epa.gov.gh/epa/regulations/permits-large-scale

Contents of the scoping document

The scoping report contains a description of any issues raised during the consultation process, and how these will be addressed in the EIA. The scoping document should contain a draft Terms of Reference. The EIA regulation stipulates that this ToR contain:

- a description of the activity;

- the need for the activity;
- alternatives (including a 'no-build' alternative, and site-alternatives);
- site selection;
- the current environmental, social and economic situation;
- potential impacts;
- the potential impact on health;
- mitigation measures;
- monitoring;
- contingency plans;
- public consultation;
- illustrative materials;
- an Environmental Management Plan;
- financial compensation for possible damage; and
- transboundary impacts.

source

EIA regulations 1999, Article 12

Timeline scoping

The EPA reviews the Terms of Reference within 25 days.

source

EIA regulations 1999, Article 13

Assessment

Assessment process

There are no methodological requirements, but the regulation does require that the assessment covers potential positive and negative impacts on environmental, social, economic and cultural aspects and in relation to the different phases of development of the activity and transboundary impacts.

Contents of the EIA report

The EIA report has to contain information on direct and indirect impacts of the undertaking on the environment at the pre-construction, construction, operation, decommissioning and post-decommissioning phases, including:

- Concentrations of pollutants in the environment;

- Direct ecological changes;
- Alteration in the ecological processes;
- Consequences such as direct destruction of existing habitats;
- Noise and vibration levels;
- Odour;
- Traffic generation and potential increase of road accidents;
- Changes in social, cultural and economic patterns;
- Health impact;
- If relevant, reclamation plans (for extractive industry and mining)

The Environmental Assessment reports (both preliminary EIA and EIA report) are required to be easily understandable and must contain a non-technical summary.

The proponent needs to submit 12 copies of a draft Environmental Impact Assessment Report (called Environmental Impact Statement) to the EPA for review.

source

EIA regulations, 1999, article 14

http://www.epa.gov.gh/epa/regulations/permits-large-scale

Accreditation of consultants

There is no accredicted system to certify consultants. The EPA has a list of all consultants trained by the Agency.

There is the so-called Akoben initiative, which refers to an initiative which aims to improve the monitoring system following the EIA, rating companies on their environmental performance to implement the environmental management system (EMS) and making this information available on a publicly available website. This innovative approach is expected to improve compliance. The software has been developed by a consultant and has been subject of a public review. It is now being installed by EPA for wide application.

source

More info on the Akoben initiative https://www.ncbi.nlm.nih.gov/pubmed/31304413

Review

Review process

The EIS draft report is reviewed by the EPA, assisted by cross-sectoral technical committees at the regional and at the national level. EPA uses an 'instructions for reviewing EIA reports' document. The review should result in a summary of strengths and weaknesses of the report, needs for further study (if any), any impact monitoring required and any terms and conditions that should apply if approval is granted.

The EPA and Committee make the decision whether a revision of the EIA report is required or whether approval can be issued by the EPA. Then the EIA report may be finalized.

Where an environmental impact statement is acceptable to the Agency this shall be communicated in writing to the applicant and the requisite environmental permits hall be issued to the applicant upon the submission of 8 hard copies of the approved environmental impact statement and a digital copy.

source

ESIA regulations 1999, article 18 and 19

Review expertise

Through the review committee relevant expertise from within government (e.g. officials of the Ministry of Environment, Science, Technology and Innovation and other government agencies) can be involved in review. In certain cases the EPA may request for review support from external/international accredited EIA institutions in the review of EIA reports.

Timeline Review

The draft EIA report is reviewed in a maximum of 50 days.

source

http://www.epa.gov.gh/epa/regulations/permits-large-scale

Decision making

Integration of ESIA into decision-making

In Ghana, EIA is linked to the environmental permitting system. The decision on the environmental permit is made by the EPA and should be based on the preliminary EIA or full EIA. There is no detailed information available in the regulations on the considerations/criteria on which this environmental permit decision is based. There are, however, specific criteria for reviewing EIA reports, which can lead to three decisions: EIS is acceptable and permit is recommended, revision required or additional information required. There is thus limited separation between the EIA report approval decision and the decision on the issuance of the environmental permit.

To ensure compliance with the environmental permit, the permit is linked to an environmental certificate. The environmental permit is seen as a provisional license, which needs to be replaced by an environmental certificate.

EIA is also linked to the planning permit process, water abstraction and use permits, Energy Commission Permits and National Petroleum Licenses, Mining licenses etc.

The EPA is the competent authority for all consent decisions in the EIA process. The Agency takes the decision on the EIA report approval, but also on the environmental permit decision. In general, the Executive Director of the EPA is responsible for the decision on the environmental permit and its conditions. He can, however, delegate his mandate to the director of the Environmental Assessment and Audit department. Finally, the decision on the issuance of an environmental certificate is also taken by

the EPA.

The environmental permit comes with conditions. These are strongly based on the statements made in the EIA report and the EMP.

source

EIA regulations, 1999, articles 21 and 22

Decision justification

The EPA publishes a notice for every environmental permit that has been issued. This is done within 3 months of the date of the issuance of the permit.

Timeline decision-making

After finalization of the EIA report the Environmental Permit should be issued within a maximum of 15 days. The whole application process should not take more than 90 days (at the responsible agencies' part). This timeline does not apply when public hearings are held or where only a preliminary EIA is required. Nor does it apply to the period taken to prepare and submit an EIA report.

source

EIA regulations, 1999, article 20

Follow up

Compliance monitoring

Monitoring is required. The EPA has established Field Offices and headoffice departments that undertake compliance monitoring, evaluation and enforcement of conditions.

The monitoring regimes and parameters are defined in permitting schedules on a case by case basis. Firstly self-compliance is expected from the proponent. In general, the proponent is required to submit a (provisional) Environmental Management Plan to the EPA within 18 months of the commencement of the activities and thereafter every three years. The Environmental Management Plan shall set out steps that are intended to manage any significant impacts that may result from the operation of the undertaking. Moreover, an Annual Environmental Report should be submitted to the EPA after 12 months and every 12 months thereafter. These deliverables have to be approved by the EPA.

Within 24 months after commencing the activity, the proponent should send evidence to the EPA that the activity is in line with the conditions written in the EIA. The proponent then obtains an Environmental Certificate, if the first Annual Environmental Report has been submitted.

source

EIA regulations, articles 24 and 25

Non-compliance penalties

The EPA may revoke an environmental permit / environmental certificate if the holder of the environmental permit / environmental certificate

- fails to obtain any other required authorization in relation to his undertaking before the commencement of operation;
- is in breach of any provision of any regulations relating to EIA;
- fails to make the required payments addressed in the EIA regulations on the due date;
- acts in breach of any conditions to which his environmental permit or environmental certificate is subject; or
- fails to comply with the mitigations commitments in his EIS or Environmental Management Plan

Furthermore, the EPA may suspend an environmental permit or environmental certificate if fundamental changes in the environment occur due to natural causes before or during the project implementation. Complaints of aggrieved people can further trigger the suspension of an environmental permit or environmental certificate.

Stakeholder engagement

Public participation requirements for ESIA process stages

Public concerns are key criteria for the screening decision (LI 1652). For a full EIA, the affected and interested parties should be consulted at every stage of the EIA process. The public may make comments on the scoping report, make field visits, may comment on the draft EIA report and, if a public hearing is deemed necessary, be involved in the public hearing.

During scoping, the Proponent is directed to advertise the project in at least one national newspaper and a local newspaper. The proponent should consult with affected parties. The public may also express their view to the managing director of the proposed activity and the executive director of EPA.

In the course of gathering data for the assessment, a public information program has to be initiated by the proponent aiming to fully inform the local residents about the potential impacts of the undertaking.

The draft EIS is has to be published for 21 days so that the public can express their concerns. During the review process, EPA can decide to hold a public hearing in the following cases:

- The expected environmental impacts are considered extensive and far reaching;
- There is great adverse public reaction to a proposal; and/or
- There will be relocation or dislocation of communities.

The EPA will then appoint a panel of three to five persons to gather information on the public concerns and how these could be addressed. At least two-thirds of the panel members must be residents of the geographic area where the activity will be undertaken.

The stakeholders to be involved are: the general public, relevant public agencies, organizations, NGOs, Metropolitan, Municipal and District Assemblies and local communities.

A draft for public consultation guidance has been completed in 2013.

source

EIA regulations 1999, articles 15-17

Timeline for public comments

A 21 day period for public disclosure is required. In case a public hearing is held, the panel shall make recommendations in writing to the EPA within a period of not less than 15 days from the date it starts hearing representations.

Access to information

The intention of the proponent to initiate the proposed activity, the scoping report, the (draft) EIA and the decision of the EPA on the environmental permit, should all be available to the public.

When a full EIA report has been prepared, the proponent publishes a notice for at least 21 days in at least a national and a local newspaper. No specific language requirements are made in the regulations for reporting but consultation is conducted in the local language.

The decision on the environmental permit is published in the Gazette and through mass media.

Appeal

Possibilities for appeal

A person aggrieved by a decision or action of the EPA may submit a complaint in writing to the Minister within 14 days. As an "aggrieved person" is not further defined in the regulations LI 1652, this could mean the proponent, the public/non-governmental organizations or private parties. This implies that:

- When a proponent is dissatisfied with an unfavorable decision by the EPA at any stage of the process, there is a right of appeal. The Minister responsible for environment appoints a board to hear the appeal and take a final decision on the proposed undertaking.
- In cases where a public hearing is held because adverse public reaction appeared upon a notice of the draft EIA, the public also has the right to submit a complaint against the decision by the EPA to issue an Environmental Permit.

source

EIA regulations, 1999, article 27

ESIA practice

Annual no. of ESIAs

Applications for permits and certificates increased from 515 in 2002 to 1555 in 2005 and to 2105 in 2008. Estimated no of full EIAs per year is about 50.

Central ESIA database

There is no EIA database, but first steps have been taken in the framework of the decentralization to

have on-line application forms, computerization of the EIA permitting system in every region.

Copies of all EISs are kept in the EPA library. EPA makes an effort to publish the big ESIAs on their website.

source

personal information by EPA

Professional bodies

The local affiliate of the International Association of Impact Assessment was formed in 1997 and formally registered in 1999. Is has a membership of over 80 with 25 members actively involved with its activities.

source

https://www.iaia.org/affiliates.php

Relevant links

- EPA online system for submitting EIA applications
- EPA Ghana Akoben programme