

Kenya

SEA profile

Updated to: 27 January 2015

Establishing context

Screening process

Strictly speaking, screening is not a requirement for SEA, since the document advising it (EIA guidelines and administrative procedures, 2003) is not legally binding. There are no screening prescriptions in the regulation. The EIA guidelines suggest that SEA screening follow the EIA screening process, meaning that an initial assessment of the environmental consequences be prepared. On the basis of this report, it can then be decided if a full SEA is required.

Timeline Screening

Not specified

Identification of stakeholders

There are no prescribed approaches for identifying stakeholders at the screening stage. The guidelines do suggest that plan objectives are determined here, in consultation with the public.

Setting SEA objectives

The guideline addresses plan objectives, and states that these should be set in consultation with the government authority under which the policy, program or plans falls as well as with the public. Additionally, the EIA guidelines suggest that the objectives of the plan should be reviewed against the relevant national, regional, or local environmental action plans. SEA objectives are not separately mentioned.

Implementing SEA

Scoping process

There are no scoping requirements in the regulation. The EIA guidelines, however, suggest that scoping take place, following logically from the initial assessment during the screening stage. The lead agency is responsible for this process. It should prepare a scoping document, consult on this document, and submit the final version to NEMA.

Participation in scoping

The EIA guidelines advise that the public should be widely consulted during scoping for an SEA. The lead agency is advised to undertake this consultation.

The scoping report is supposed to:

- identify key environmental issues;
- identify the scale/ level of SEA based on the nature of proposal;
- define spatial and temporal boundaries;
- identify agencies to be consulted including the various decision-making authorities;
- contain a Terms of Reference for the SEA.

Baseline data

The EIA guidelines prescribe that SEA baseline data on the physical environment, biological conditions, social economic conditions and health should be collected.

Alternatives

Both the EIA regulation and EIA guidelines prescribe that alternatives should be addressed in an SEA.

Assessment/mitigation of effects

The EIA guidelines suggest that impacts should be assessed by determining the magnitude and significance of the potential impacts both qualitatively and quantitatively. It is also suggested that the sensitivity of the affected environment and the carrying capacity of the area should be considered.

Content of SEA report

The prescriptions for the content of the SEA differ between the regulations and the guideline.

The EIA regulation (43 (1)) prescribes the content of the SEA report as follows:

- (a) the title of the report;
- (b) a summary of the potential significant impacts of a proposed policy, programme or plan;
- (c) potential opportunities to promote or enhance environmental conditions;
- (d) recommendations for mitigating measures; and
- (e) alternative policy, programme or plan options to ensure compliance with the Act.

In addition, the regulation gives content prescriptions for the proposed policy, plan or programme document. The plan documents have to include the SEA as outlined above, *as well as* additional environmental assessment aspects, including:

- (a) the purpose and rationale of the policy, programme or plan taking into consideration socio-economic, environmental and cultural issues;
- (b) alternatives and strategies of the policy, programme or plans;
- (c) areas and sectors affected by the policy, programme, plan, or proposed activities;
- (d) an environmental analysis covering:
 - (i) baseline information focusing on areas potentially affected;
 - (ii) relevant legislative framework and related policy documents;
 - (iii) summary of views of key stakeholders consulted;
 - (iv) predicted impacts of the policy, programme or plan;
 - (v) alternative policy options and comparison against environmental indicators;
 - (vi) ongoing projects and how they fit in the proposed policy, programme or plan;
- (e) recommendations outlining -
 - (i) suggested policy changes;
 - (ii) proposed mitigation measures;
 - (iii) strategic environment assessment; and
- (f) relevant technical appendices such as stakeholders meetings referred to in the assessment.

Finally, the EIA guidelines advise an SEA report that combines these elements, and adds an environmental management plan, as well as an explanation of how the SEA was undertaken.

Review process

The regulation does not set out how review should take place. The guideline suggests that SEAs are reviewed by NEMA. NEMA will distribute the SEA to relevant agencies and other stakeholders, and collect their comments. NEMA will also set up a special review committee for this purpose.

Participation in review

According to the guideline relevant stakeholders and agencies can be asked by NEMA to comment on the SEA.

Timeline review

There is no timeline provided in the regulation, the guideline states that within three months of receiving the SEA report NEMA shall give her decision on the SEA. It is possible to extend this timeline, if mutually agreed with the party involved.

Informing decision making

SEA and planning decision-making

Recommendations are presented as part of the final SEA report and plan and include:
Recommendations for policy changes, identification of mitigation measures.

There are no clear provisions for integrating SEA results into the planning and decision making process. The EIA regulation does instruct that SEA is used to determine which policies, plans and programmes are the most environmental friendly and cost effective when implemented individually or in combination with others.

It is not clear if an SEA approval is required before a plan is adopted.

source

Onyango, V and M Schmidt 2007. Towards a strategic environment assessment framework in Kenya: Highlighting areas for further scrutiny. *Journal of Management of Environmental Quality*, Volume: 18 Issue: 3 Page: 309 – 328

Follow-up

Monitoring and evaluation

There are no specifically binding provisions requiring monitoring of implementation of the proposed policy, program or plan. The EIA guidelines mention that an Environmental Management Plan should be included in the SEA report as part of the recommendations to decision makers.

SEA practice

Central SEA database

NEMA maintains a register of all SEA reports.

Professional bodies

[East African Network for Environmental Compliance and Enforcement \(EANECE\)](#): Regional network of governmental agencies which have in their mandate environmental management, compliance and enforcement responsibilities in the East African nations of Kenya, Uganda, Tanzania, Rwanda and Burundi.

Relevant links on SEA

- [Summary chapter on SEA in Kenya by Vincent Onyango and Saul Namango.](#)

Background information

History of SEA

The Kenyan SEA framework was legislated in 2000, with the enactment of the Environmental Management and Co-ordination Act (EMCA). The Kenyan SEA framework is said to have been guided by principles of early application, accountability and open participation. The requirements for SEA are laid out in the EIA and Audit Regulations 2003, and concern the content of the assessment more so than the procedure. The EIA guidelines provide more detailed instructions on the SEA steps to follow, but it should

be borne in mind that this is not a legally binding document. Practice has been slow to follow, as per the count of April 2006 about four SEAs had been undertaken. This number is now on the rise.

Legal framework

Enabling law

The Environmental Management and Co-ordination Act (EMCA).

National detailed regulation

The Environmental Impact Assessment and Audit Regulations (2002) set supplementing requirements for the SEA procedure, responsibilities and the contents of the SEA report.

The [Environmental \(Impact Assessment and Audit\) Regulations](#) have been revised in 2003. They further have been amended in 2007 and in 2009.

source

- Environmental regulations and laws on the NEMA website.
- Environmental Management and Coordination Act, 1999
- Revised Environmental (Impact Assessment and Audit) Regulations, 2003
- [Amendment to Environmental \(Impact Assessment and Audit\) Regulation, 2007](#)
- [Amendment to Environmental \(Impact Assessment and Audit\) Regulation, 2009](#)

Guidelines

The Environment Impact Assessment guidelines and administrative procedures (2003) outline the SEA process and content requirements of the SEA report.

In 2011 NEMA has issued [National Guidelines for Strategic Environmental Assessment in Kenya](#).

Scope of application

The EIA regulation prescribes that all public policies, plans and programs be subjected to SEA.

SEA approach

The SEA approach is largely based on the Kenyan EIA approach.

SEA tiering with ESIA

The framework requires that linkages between proposed policies, programs and plans and other ongoing activities be assessed and SEA is stated to provide baseline data usable at project initiation. However, the framework neither makes it a requirement nor defines a specific tiering approach between SEA and EIA.

Institutional setting

Central SEA authority

NEMA is the central authority on SEA, in consultation with the lead agencies for planning.

(De)centralisation of SEA mandates

The lead agency (presumably for the plan) is responsible for conducting the SEA. NEMA, at national level, has to be consulted.

Initiator of the SEA

The guideline states that the plan owner initiates and undertakes the SEA.

Contact

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