

Eswatini (formerly Swaziland)

Country: [Swaziland](#) [1]

EIA Law: The Environment Management Act, 2002

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

EIA Regulations: The Environmental Audit, Assessment and Review Regulations, 2000

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

EIA Guidelines or Other Guidance: Eswatini Environment Authority (available under "Environmental Impact Assessment" tab)

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

Projects Requiring EIA: Government projects

Private Projects

Abridged Assessments: Yes

Assessment Detail: For category 2 projects, the project proponent prepares an Initial Environmental Evaluation (IEE) and comprehensive mitigation plan (CMP). EAAR Regulations, sec. 8 & Schedule 2.A. "The term 'Initial Environmental Evaluation' refers to a limited environmental study which describes a proposed project, the environment surrounding that project, and identifies and evaluates any likely impacts on that environment. It is accompanied by a Comprehensive Mitigation Plan which describes the arrangements for implementing mitigation measures to reduce those impacts." SEA Guidelines, Annex 3. A category 2 project is a "proposed project whose environmental impacts may be easily determined and for which there are appropriate, well known and tested mitigation measures." EAAR Regulations, sec.

Best Practices in Lieu of EIA: No

Who Conducts Screening: Government

Who Conducts Screening Detail: "A person proposing to undertake a project [that may have an impact on the environment] shall submit a project brief to the Authority containing sufficient information to enable the Authority to determine the potential impacts of the project on the environment." EM Act, sec. 32(4); see also EAAR Regulations, sec. 6(1)

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

Proposed project or activity may cause significant environmental impact

Other

Criteria for Screening Detail: EAAR Regulations, sec. 6(1) & First Schedule. OTHER: During the screening process, "the authorising agency shall take into consideration all relevant factors including the scale of the proposed project and its location in relation to environmentally sensitive areas." EAAR Regulations, sec. 6(2)

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

Who Prepares EIA Detail: "If after reviewing the project brief the Authority is satisfied that...the potential effect on the environment is likely to be more than minimal or insignificant, it may require the applicant...to conduct an environmental impact assessment in relation to the project..." EM Act, sec. 32(5); see also EAAR Regulations, sec. 9

Who Pays for EIA: Project Proponent

Who Pays for EIA Detail: "The proponent shall be responsible for all expenses incurred including expenses for the preparation of an IEE, EIA reports and the CMP. . . ." EAAR Regulations, sec. 11(8)

EIA Contractor Qualifications: No

EIA Contractor Qualification Detail: Not addressed in the law or regulations

Conflict of Interest: No

Conflict of Interest Detail: Not addressed in the law or regulations

Terms of Reference: Yes

Terms of Reference Detail: The project proponent conducts a scoping process and submits a draft terms of reference to the Authority. Within five days of receiving the draft TOR, that Authority shall "determine whether or not it is acceptable and where the draft is not acceptable, the proponent with the assistance of the Authority shall prepare and submit to the Authority acceptable and final terms of reference." EAAR Regulations, secs. 9(1), (2), (3); see also SEA Guidelines, Annex 2 (Preparing the Scoping Report).

Days for Decision Maker Review: 20 days (after close of public review period/public hearing)

Automatic Approval: No

Written Decision: Yes

Written Decision Detail: EAAR Regulations, sec. 15(6)

Authority to Impose Conditions: Yes

Authority to Impose Conditions Details: The Authority "shall issue an environmental compliance certificate subject to whatever terms and conditions the Authority considers appropriate to ensure that the adverse environmental impacts of the undertaking or project are satisfactorily mitigated, if the Authority considers that all the environmental concerns or impacts are adequately addressed by the EA, IEE or EIA report and the accompanying CMP." EAAR Regulations, sec. 15(2); see also EM Act, sec. 32(12)

Expiry of Decision: 3 years

Expiry of Decision Detail: "An environmental compliance certificate shall expire after three (3) years from the date of its issue if by that date, no substantial progress has been made in implementing the project such as earthworks or construction work, or if the project has been abandoned or postponed." EAAR Regulations, sec. 17.

Financial Assurances or Bond: No

Financial Assurances Detail: A bond or financial security is not required, but left to the discretion of the project proponent. The proponent shall "[d]emonstrate that provision has been made for decommissioning/rehabilitation costs associated with any residual damage arising from the project." For larger projects the proponent should "consider the provision of a contingency fund to finance mitigation measures for unforeseen impacts and liabilities arising from inaccuracies in impact prediction." SEA Guidelines, Annex 5

Interdisciplinary Team: No

Interdisciplinary Team Detail: Not addressed in the law or regulations.

Range of Alternatives: Yes

Range of Alternatives Detail: The EIA must contain a description of "alternative means of carrying out the project." EM Act, sec. 32(7); see also SEA Guidelines, Annex 4.

No Action Alternative Detail: The EIA should include "a description of the affected environment as it could be expected to develop without the project - the 'zero option.'" SEA Guidelines, Annex 4.3.3.

Type(s) of Impact Analysis: Direct environmental impacts

Social impacts

Cultural impacts

Health impacts

Other

Mitigation: Yes

Mitigation Detail: The EIA must include "identification, description and assessment of... all relevant measures that could be undertaken to avoid, remedy or mitigate any adverse effects that could be caused by the project..." EM Act, sec. 32(7)(b)(ii). The project proponent must prepare a comprehensive mitigation plan (CMP). EAAR sec. 9(4) & Second Schedule; see also SEA Guidelines, Annex 5

Monitoring Plans: Yes

Monitoring Plans Detail: Monitoring plans are included in the Comprehensive Mitigation Plan (CMP). The CMP identifies "monitoring programmes to track project related impacts and implementation of mitigation measures." EAAR Regulations, Second Schedule (Part D)

Draft EIA Available: No

Draft EIA Available Detail: Draft EIAs are not prepared as part of the EIA process.

Draft EIA Locations: Not available

Public Notice of Final EIA: Yes

Public Notice of Final EIA Detail: Public notice of the availability of the EIA is published in the Government Gazette, on the Swaziland Broadcasting Service, and in a newspaper circulating in Swaziland twice a week and for two consecutive weeks. EAAR Regulations, sec. 11(1)

Final EIA Available: Yes

Final EIA Available Detail: The Authority must distribute copies of the EIA and CMP to concerned and affected ministries, local authorities, parastatals, and non-governmental organizations. EAAR Regulations, sec. 11(1). See also EM Act, sec. 50 (access to information)

Final EIA Locations: Agency or ministry office

Local government office

Other

Fee to View EIA Documents: No

Availability of Reference Studies: Yes

Availability of Reference Studies Detail: "Any person may request from the Minister, the Authority or any other organ of Government any information relating to the environment that is not available in the registry but that could reasonably assist that person in contributing to the enhancement, protection and conservation of the environment and the sustainable management of natural resources." EM Act, sec. 51

Public Notice of Final Decision: Yes

Public Notice of Final Decision Detail: The Authority shall publish "a detailed statement of the decision for public inspection." EAAR Regulations, sec. (15)(6)(c)

Public Scoping: Yes

Public Scoping Detail: The scoping process must "include concerned or affected Government agencies, local authorities, non-governmental organizations and any other interested and affected persons to help determine the scope and effect of the project or work to be carried out."

Public Review of TOR: No**Public Participation Opportunities:** Scoping

Public Meetings and/or public hearings

Review of final EIA

Public Meetings: Sometimes

Public Meetings Detail: "The Authority shall hold a public hearing, where - (a) after examining the IEE and/or EIA report and accompanying CMP for the proposed project, it is of the opinion that the project is of such a sensitive or significant nature that the public should have the opportunity to make submissions or comments at a public hearing; or (b) the public concern over the project is great and the number of written and substantiated objections exceeds ten." EAAR Regulations, sec. 12(1)

Public Input at Meeting: Yes

Public Input at Meeting Detail: The Authority shall "call upon any party who has an interest in the outcome of the public hearing, including the project proponent, the authorising agency, the commenting agency and any other person, to attend the public hearing or solicit in writing comments from other government agencies or offices with expertise or regulatory power over the proposed project." EAAR Regulations, sec. 12(2)

Criteria to Hold Public Meeting: The proposed project is controversial

Ministry or agency has discretion to decide whether to hold a meeting and/or hearing

Days for Public to Review Final EIA: 20 (may be extended 10 days)**Public Comments on Draft EIA:** No**Public Comments on Final EIA:** Yes

Public Comments on Final EIA Detail: The Authority shall "invit[e] objections, comments or submissions from interested and affected persons. . . ." EAAR Regulations, sec. 11(1)

Response to Public Comments: Yes

Response to Public Comments Detail: "[T]he Authority shall not decide whether or not to grant an approval until the period for comments has expired without any comments being received, or if comments are received, without considering those comments." EM Act, sec. 32(10)

Facilitation of Public Participation: No**Citizen Administrative Review:** Yes

Citizen Administrative Review Detail: Any person may file a review application with the Director within 60 days of the decision approving or rejecting the project. EM Act, sec. 32(14); see also EM Act, sec. 82 (process for filing review application).

Citizen Judicial Review: Yes

Citizen Judicial Review Detail: "The Board shall notify the applicant in writing of the reasons for dismissing a review application and the applicant may appeal against the decision to any competent court." EM Act, sec. 82(8)

Project Monitoring: Yes

Project Monitoring Detail: "The person to whom an environmental compliance certificate is issued shall be responsible for implementing the CMP which forms part of the environmental compliance certificate, and for monitoring the environmental impacts of the project and the implementation of the CMP." EAAR Regulations, sec. 16(1). The Authority "shall monitor the undertaking to ensure that the operator is complying with the CMP." EAAR Regulations, sec. 16(2)

Enforceability of EIA: No

Enforceability of EIA Detail: There is no formal mechanism for citizens or NGOs to enforce the EIA or environmental compliance certificate. However, if the Authority becomes aware (for instance by citizen complaint) "that the implementation of the project or the continued operation of the undertaking is causing, or is reasonably likely to cause, danger to the environment or to the public," it may suspend the environmental clearance certificate. See EAAR Regulations, sec. 18

Enforceability of Permit: No

Enforceability of Permit Detail: There is no formal mechanism for citizens or NGOs to enforce the EIA or environmental compliance certificate. However, if the Authority becomes aware (for instance by citizen complaint) "that the implementation of the project or the continued operation of the undertaking is causing, or is reasonably likely to cause, danger to the environment or to the public," it may suspend the environmental clearance certificate. See EAAR Regulations, sec. 18

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