

**Forestry Development Authority  
Regulation No. 113-08  
Regulation on Environmental Impact Assessment**

WHEREAS the National Forestry Reform Law of 2006 section 8.1 mandates the Forestry Development Authority in consultation with the Environmental Protection Agency to conduct an Environmental Impact Assessment of all forestry and or related projects with potential adverse impacts on the environment;

WHEREAS a memorandum of understanding has been reached between Forestry Development Authority and Environmental Protection Agency for sustainable management of the environment;

WHEREAS chapter 19, section 19.1, sub-title "Power to Issue" of the National Forestry Reform Law of 2006 the Authority may issue from time to time Regulations as well as standard Agreements and Procedural Manuals and Codes for the efficient implementation of the law. The Authority issue Regulation concerning any matter of this Law including without limitation the following in the context of Environmental Impact Assessment Regulation:

(g) The health, safety and welfare of individuals on forest land, including the safety of Commercial Operation and the reporting of accidents;

(h) The protection of forest land from Fire, Insects and Disease;

(j) The prevention and punishment for waste of Forest Resources or degradation;

(k) The preparation of plans and environmental assessment.

Now, therefore the Forestry Development Authority does hereby rule and regulate as follows:

**PART I: GENERAL PROVISIONS**

**Section 1 : Authority-** These regulations are promulgated and issued by the Environmental Impact Assessment Division, Commercial Forestry Department of the Forestry Development Authority in pursuant to Chapter 19:Titled **Regulations**, Section 19.1-(g),(h),(j),and (k) of the **New Forestry Reform Law of 2006**. These regulations have the force and effect of this Law.

**Section 2: Purpose** – The purpose of these regulations is to implement Chapter 19, section 19.1 (g), (h), (j) and (k) of the Forestry Reform Law of 2006. The environmental Impact Assessment is intended to help the general public and

government official make decisions with the understanding of the environmental consequences of their decisions, and take actions consistent with the goal of protecting, restoring, and enhancing the environment. In addition, these regulations are intended to:

( a ) Integrate the EIA process into the early planning of forestry project to insure timely consideration of environmental factors in order to avoid delays; and

(b) Identify at an early stage the significant environmental issues requiring further study and de-emphasize insignificant issues, thereby defining the Environmental Impact Statement ("EIS").

## **PART II: APPLICATION**

**Section 3: *Applicability*** – These regulations shall apply to all Forestry Projects as defined in ANNEX I

**Section 4: *Citation and Commencement***- These Regulations may be cited as the **Forestry Development Authority Regulation on the Environment** and shall come into force pursuant to section 19.2 of the Forestry Reform Law of 2006, after its approval by the Board of Directors.

**Section 5: *Definition***- As used herein, unless the context otherwise requires, the term:

- (a) "Adverse effect" – Any actual or potential harmful effect on the environment that may in the present or in the future harm the environment or human health or that may lead to an impairment of the ability of people and communities to provide for their health, safety, and cultural and economic well-being; and the risk of an adverse effect occurring shall be deemed to be "significant" if it is reasonably likely that the effect would be serious or irreversible;
- (b) "Affected person" – A person affected by a proposed project;
- (c) "Authority" –The Forestry Development Authority(FDA), created by an Act of Legislature on November 1, 1976;
- (d) "Assessment Documents – Collectively the Environmental Impact Statement referred to in section 6 and the Environmental Mitigation Plan and Implementation Strategy referred to in section 9;
- (e) "Board of Directors –The Board of Directors of the Authority

- (f) Cumulative impact-means the impact on the environment which results from the incremental impact of an activity when added to other past, present, and reasonable foreseeable future activities regardless of what agency or person undertakes such other activities. Cumulative impacts can result from individually minor but collectively significant activities taking place over a period of time.
- (g) "Environmental Impact Assessment"- A systematic examination of a project that may have an adverse effect;
- (h) "Effect" –Direct or indirect results which are responsibly foreseeable, as caused by an activity or occur either close to time and place of the project or manifested at a subsequent time. Effect may include growth inducing effects and other effects related to population density or growth rate, and other natural system including ecosystems. Effect and Impacts as used in these regulations have the same meaning. Effect may be ecological , aesthetic, historic, cultural, economic, social or health, whether direct or indirect or cumulative;
- (i) "Environmental Impact Statement" (EIS) –A comprehensive and detailed document that describes a proposed project, the types of impacts likely to be caused by the proposed projects. The requirements of an EIS are listed under Part III of Regulation 6;
- (j) "Erosion"- The natural/induce process by which surface of the land is worn away by the action of water, wind or chemical action;
- (k) "Environmental Management Plan" – Is both short-term and long – term planning that takes into account environmental issue including the Protection, Conservation and Sustainable use of the various elements or components of the environment and direct activities of persons for sustainability.
- (l) "Feasible" – Capable of being accomplished in a successful manner within a reasonable period of time taking into account economic, environmental social and technological factors;
- (l)"International Best Practice" – International accepted best environmental impact assessment practices, and includes those reflected in the World Bank's Operational Policy on Environmental Assessment, the Asian Development Bank's Environmental Assessment Guidelines and the one developed by donors and implementing agencies such as the United States Agency for International Development(USAID) and other similar International organization;

(m) "Human Environment" –The natural and physical environment and the relationship of people with the environment;

(n) "Mitigation" – The reduction of adverse effect of a proposed action by considering in sequential order:

1. Avoiding the impact altogether by not taking a certain action or parts of an action( i.e. relocation of project )
2. Minimizing impact by limiting the degree or magnitude of the action and its implementation(i.e. scaling down a project size/impact);

(o) "Person" – An individual, partnership, trust, corporation, association, clan lineage, or any other private entity;

(p)"Project"- Projects, activities, plans policies that may have adverse Impact/effect;

(q)"Scope" –The range of actions, alternatives and impacts to be considered in an environmental impact assessment.

(r)"Scoping'-A process whereby the range of impacts and alternatives to be considered in the EIS are defined;

(s)"Screening"-The assessment to determine whether or not there is a likelihood of significant adverse effects that require further investigation or whether a decision can be made based on the information provided through the screening process.

(t)"Sediment"-Soils or other surface materials transported as the result of land erosion or earthmoving activity

(u)"Sedimentation"-The process by which sediment is deposited on the bottom of a body water, including, but not limited to rivers, streams, ponds lakes, the bottom of lagoons or the tops of reefs;

(v)"Significant Impact"-The context of considering the harmful result of the development project on the human and natural environment.

### **PART III: ENVIRONMENTAL MANAGEMENT PLAN**

#### ***Section 6: Submission of Environmental Management Plan***

Any one who intends undertaking a forestry project identified in Annex I must produce a comprehensive Environmental Management Plan which must include but not limited to:

- (a) Initial Environmental Impact Assessment including Scoping and Screening;
- (b) A description of the project including the location of the project;
- (c) An identification of the environmental setting; and
- (d) A discussion of ways to mitigate the significant impacts identified.

### **Section 7: *Consultation and Decision-Making***

I. Within thirty ( 30 ) days of accepting the preliminary documents in term of Section 6, the Authority shall :

( a ) Advise the proponent that further or additional investigation is required before a decision can be reached and instruct the proponent to prepare an Environmental Impact Statement in pursuant to Section 8 and an Environmental Mitigation Plan and Implementation Strategy in term of Section 9;

(b) When the Authority is satisfied that the EMP discloses sufficient mitigation measures to address the anticipated impacts, decide that the information contained in the preliminary document is sufficient to issue a clearance.

II. In reaching a decision in term of Sub-Regulation ( I ), the Authority shall have regard to the preliminary report and comments of EPA and other line Institutions

## **PART IV : ENVIRONMENTAL IMPACT PROCESS**

### **Section 8 : *Environnemental Impact Statement***

The proponent shall in accordance with international best practice, prepare an Environmental Impact Statement which shall contain the information outline below:

(I) **Summary of EIS.** Each statement shall contain a brief summary of the proposed project and its consequences in language sufficiently simple so that the

issue can be understood by the average person. The summary shall stress the conclusions, area of controversy, the issues to be resolved, the choice among alternatives and how to mitigate the unavoidable significant impact in term of Section 8;

(II) **Description of the Purpose, Scope and need for the Project.** This shall include:

- (a) a statement of the goals and objectives sought by the proposed project, including why the project is needed and the expected direct and indirect benefits to society/community;
- (b) a description of the precise location and boundaries of the proposed project and associated facilities shown on a detailed, preferably topographic, map;
- (c) a description of the technology to be used, inputs of capital, labor and forest resources and duration of the construction period and operating life;
- (d) a description of the specific requirements of proposed project for the consumption of power and water, the disposal of sewage and other waste material, roads and other local infrastructure needed; and
- (e) The description of the project shall not supply extensive detail beyond that needed for evaluation and review of the environmental impacts but shall include all portions and phases of the project, including but not limited to planning, acquisition, development and operation.

(III) **Description of the Environmental setting**- shall include:

- (e) a description of the environment, both natural and human, in the vicinity of the project, as it exists before the commencement of the project from both a local and sectoral/regional perspective. Special emphases shall be placed on environmental resources to the sector/region, including historical site, endangered species and socio-cultural resources;
- (f) specific reference to related project in the region/sector, both public and private, both existence and planned, shall also be included for the purposes of examining the possible cumulative impacts of such project; and

- (g) a discussion of any inconsistencies between the proposed project;  
and
- (h) applicable land-use regulations and policies

(IV) **Environmental Impacts of the Proposed Project, Including Alternatives.** The EIS shall present the environmental impact of the proposed project and alternatives in comparative form, thereby defining the issues and providing a clear basis for choice among options for the Authority, EPA and other line Institutions. This shall

- (i) Rigorously explore and objectively evaluate all reasonable alternatives that might reduce environmental degradation or use forest resources more efficiently, including the alternative of no action;
- (j) Describe each alternative in sufficient detail so the Authority, EPA and other line Institutions can evaluate their comparative merits;
- (k) Identify the project proponent's preferred alternative/alternatives;
- (l) Identify any significant environmental impacts, either direct or indirect that cannot not be avoided – including:
  1. Predictions of changes in forest resources, ecological systems, environmental quality and physical processes attributed to the project if implemented
  2. Socio-economic changes resulting from impacts on forest resources and the environment; and
  3. Socio-cultural impacts.
- (m) Include appropriate mitigation measures to minimize the significant environmental impact
- (n) Describe the relationship between the short-term use of the environment and the sustainability and enhancement of long – term productivity; and
- (o) Identify any irreversible or irretrievable commitment of resources from the proposed project.

(V) **Organizations and Persons Consulted**: The EIS shall contain a list of the persons who organized and prepared the report, their qualifications, and a listing of organizations and persons who were consulted

(VI) **Standards of Adequacy of the EIS**. The EIS shall be prepared with a degree of analysis sufficient to enable the Authority to make a decision which takes into account all environmental consequences.

## **Section 9: Environmental Mitigation Plan and Implementation Strategy**

The proponent shall, in accordance with international best practice, prepare an Environmental Mitigation Plan and Implementation Strategy which shall include:

- (a) Objective of the Project
- (b) A description of actions to be carried out by the proponent to mitigate any adverse social and environmental effects;
- (c) The period within which the mitigation measures shall be implemented; and
- (d) An estimate of the cost of carrying out the mitigation measures.

## **PART V : MONITORING**

### **Section 10: *Cost of monitoring***

In accordance with the polluter pays principles the proponent of any Forestry Project as describe in Annex II must bear all cost from complying with Part V of the Regulation.

### **Section 11: *Monitoring compliance***

1. In consultation with the EPA, the Authority shall monitor compliance with:
  - (a) the provisions of the Environmental Mitigation Plan and Implementation Strategy in accordance with Regulation 8;
  - (b) the condition of the EIA permit as provided for by the EPA
2. In accordance with Chapter 19.1 (i) Forest(EIA) Officer may enter any forestry project site to inspect relevant equipment and records, and interview staff for the purposes of enforcing sub-regulation (1)



## **Section 12: *Environmental Audit***

1. The Proponent must within six months (for TSC) and twelve months (for FMC) of implementing the project, and thereafter every one year for TSC and five years for FMC, conduct an Environmental Audit.
2. The Environmental Audit shall be carried out by at least two appropriately qualified persons, preferably who were members of the team that prepared the assessment document and finding be submitted to the Authority and EPA for evaluation.

## **PART VI: MISCELLANEOUS PROVISIONS**

### **Section 13: *Offences and Penalties***


In the implementation of a forestry project, the proponent may be charged for breach of provision of the regulations provided for in Annex II.

## **PART VII EFFECTIVE DATE**

### ***Section 14. Effective Date***

- (a) This regulation is effective on DEC. 1, ....., 2009
- (b) The Authority shall announce this regulation and make it available to the public and the media.

**SIGNED:**



**Mr. John T. Woods  
Managing Director  
Forestry Development Authority**

**ANNEX I: *Forestry Projects to which these Regulations refer are:***

- (a) Timber logging and processing;
- (b) Forestry plantation and Afforestation and introduction of new species;
- (c) Selective removal of single commercial tree species; and
- (c) Pest Management

**ANNEX II: *Duty of the Authority to Consult***

According to section 19.2:

- (a) The Authority shall publish Regulations proposed to be issued for at least 60 days prior their effective date in order to allow for public comments on all such proposed Regulations. The Managing Director shall collect and summarize all comments, and refer them along with the proposed Regulations to the Board of Directors for its comments and advice not later than fourteen days before their effective date.
- (b) The Authority shall by Regulation establish further procedures for the public vetting of Regulations to be issued by the Authority.

**ANNEX III: *Offenses and Penalties.***

1. According to section 20.1 under the sub-title General Enforcement and Offenses:
  - (a) A court may issue an injunction to enforce any provisions of this Law against any person, including the Authority
  - (b) A person who contravenes any of the following provision of this Law, or any Regulation implementing any of these provisions, is guilty of an offense and is liable upon conviction to fines, imprisonment, and other penalties as provided in section 20.7 of this Law:
    - (v) Section 8.1(c) and (d), regarding environmental requirement

2. In pursuant to section 20.7 under sub-title General Penalty, a court may subject a person guilty of an offence under section 20.1 (b) of this Chapter to the following:
  - (a) A fine of up to ten thousand ( \$ 10,000 ) United State dollars or twice the economic benefit that the person obtained through the violation, whichever is greater
  - (b) For knowing violations resulting from gross negligence, one or both of the following:
    - (i) A fine of up to twenty-five thousand ( \$ 25,000 ) United State dollars or three times the economic benefit that the Person obtained through the violation, whichever is greater
    - (ii) Imprisonment of up to twelve months.
  - (c) For violations resulting in damage to Forest Resources or the Environment, an additional fine of twice the reduction in market value of the damaged property, twice the cost of restoring the Forest Resources, or twice the cost of Environmental Restoration, whichever is greatest.