

## United States

**Country:** [United States of America](#) [1]

**EIA Law:** National Environmental Policy Act (NEPA) 42 U.S.C. 4321-4347

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

**EIA Regulations:** Council on Environmental Quality Regulations (CEQ Regulations), 40 C.F.R. Part 1500

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

**EIA Guidelines or Other Guidance:** Council on Environmental Quality, Forty Most Asked Questions & other guidance

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

**Projects Requiring EIA:** Government projects  
Private Projects

**Abridged Assessments:** Yes

**Assessment Detail:** "Environmental assessment": (a) Means a concise public document for which a Federal agency is responsible that serves to: 1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact. 2) Aid an agency's compliance with the Act when no environmental impact statement is necessary. 3) Facilitate preparation of a statement when one is necessary. 40 C.F.R. sec. 1508.9

**Best Practices in Lieu of EIA:** No

**Who Conducts Screening:** Government

**Who Conducts Screening Detail:** 40 C.F.R. sec. 1501.4

**Criteria for Screening:** Proposed project or activity may cause significant environmental impact

**Criteria for Screening Detail:** An environmental impact statement must be prepared for any major Federal action "significantly affecting the quality of the human environment." 42 U.S.C. sec. 4332(C)

**Who Prepares EIA:** Government (with or without contractor)

**Who Prepares EIA Detail:** "An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal . . . so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal." 40 C.F.R. sec. 1502.5

**Who Pays for EIA:** Government

**EIA Contractor Qualifications:** No

**Conflict of Interest:** Yes

**Conflict of Interest Detail:** Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents. 40 C.F.R. sec. 1506.5(c)

**Terms of Reference:** No

**Days for Decision Maker Review:** 30

**Automatic Approval:** No

**Written Decision:** Yes

**Written Decision Detail:** Agency must prepare a "record of decision." 40 C.F.R. sec. 1505.2

**Authority to Impose Conditions:** Yes

**Authority to Impose Conditions Details:** The agency shall include appropriate conditions in grants, permits or other approvals. 40 C.F.R. sec. 1505.3

**Expiry of Decision:** Indefinite

**Expiry of Decision Detail:** The law and regulations do not specify the length of time that a record of decision is to remain valid. There are court decisions on the matter, but no consistent rule has been laid down.

**Financial Assurances or Bond:** Sometimes

**Financial Assurances Detail:** Bonds are not mandatory under NEPA and implementing regulations. In certain circumstances, other laws or regulations require financial assurances to be provided prior to commencing a project (e.g. mining projects).

**Interdisciplinary Team:** Yes

**Interdisciplinary Team Detail:** "Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues

identified in the scoping process. 40 C.F.R. sec. 1502.6

**Range of Alternatives:** Yes

**Range of Alternatives Detail:** Agencies shall rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated. 40 C.F.R. sec. 1502.14

**No Action Alternative:** Yes

**No Action Alternative Detail:** 40 C.F.R. 1502.14(d)

**Type(s) of Impact Analysis:** Direct environmental impacts

Cumulative environmental impacts

Social impacts

Cultural impacts

Health impacts

Economic impacts

**Mitigation:** Yes

**Mitigation Detail:** An EIS must "[i]nclude appropriate mitigation measures not already included in the proposed action or alternatives." 40 C.F.R. 1502.14(f)

**Monitoring Plans:** Sometimes

**Monitoring Plans Detail:** Not required. Agencies "may" provide for monitoring to assure that their decisions are carried out and should do so in important cases. 40 C.F.R. sec. 1505.3

**Public Notice of Draft EIA:** Yes

**Draft EIA Available:** Yes

**Draft EIA Available Detail:** Agencies shall "circulate" the draft environmental impact assessment. 40 C.F.R. sec. 1502.19

**Draft EIA Locations:** Internet

Agency or ministry office

**Public Notice of Final EIA:** Yes

**Public Notice of Final EIA Detail:** Agencies shall "circulate" the final environmental impact assessment. 40 C.F.R. sec. 1502.19

**Final EIA Available:** Yes

**Final EIA Locations:** Internet

Agency or ministry office

**Fee to View EIA Documents:** No

**Fee to Obtain EIA Documents:** No

**Availability of Reference Studies:** Yes

**Availability of Reference Studies Detail:** "No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference." 40 C.F.R. sec. 1502.21

**Public Notice of Final Decision:** Yes

**Public Notice of Final Decision Detail:** Agency must release a concise public record of decision. 40 C.F.R. sec. 1505.2

**Public Scoping:** Yes

**Public Scoping Detail:** "There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping." 40 C.F.R. sec. 1501.7

**Public Participation Opportunities:** Scoping

Review of draft EIA

Public Meetings and/or public hearings

Review of final EIA

**Public Meetings:** Sometimes

**Public Meetings Detail:** Public meetings are held at the discretion of the agency overseeing the EIS process. Factors considered in determining whether to hold a hearing are 1) whether the project is controversial or 2) if there is significant public interest in the project. 40 C.F.R. sec. 1506.6(c)

**Public Input at Meeting:** Yes

**Public Input at Meeting Detail:** Agencies are required to "[r]equest comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected." 40 C.F.R. sec. 1503.1(4).

**Days for Public to Review Final EIA:** 30

**Public Comments on Draft EIA:** Yes

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**Public Comments on Draft EIA Detail:** 40 C.F.R. sec. 1503.1

**Public Comments on Final EIA:** Yes

**Public Comments on Final EIA Detail:** "An agency may request comments on a final environmental impact statement before the decision is finally made. In any case other agencies or persons may make comments before the final decision unless a different time is provided . . . ." 40 C.F.R. sec. 1503.1(b)

**Response to Public Comments:** Yes

**Response to Public Comments Detail:** Comments must be addressed in the following manner: modify alternatives in EIA; develop and evaluate new alternatives; supplement/improve analysis in the EIA; make factual corrections in EIA; or explain why the comment does not warrant a response. 40 C.F.R. sec. 1503.4

**Facilitation of Public Participation:** No

**Citizen Administrative Review:** Yes

**Citizen Administrative Review Detail:** Administrative Procedure Act (5 U.S.C. sec. 551-559) allows administrative appeal of final agency actions. Most agencies have individual regulations that govern this process.

**Citizen Judicial Review:** Yes

**Citizen Judicial Review Detail:** Yes. Administrative Procedure Act.

**Project Monitoring:** Sometimes

**Project Monitoring Detail:** Agencies "may" provide for monitoring to assure that their decisions are carried out and should do so in important cases. 40 C.F.R. sec. 1505.2

**Enforceability of EIA:** No

**Enforceability of Permit:** No

**Days for Public to Review Draft EIA:** 30

Modified: June 8th, 2020

**Source URL:** <https://elaw.org/eialaw/united-states>

#### **Links**

[1] <https://elaw.org/countries-and-regions/united-states-america>

[2] <https://www.energy.gov/nepa/downloads/national-environmental-policy-act-1969>

[3] [https://www.energy.gov/sites/prod/files/NEPA-40CFR1500\\_1508.pdf](https://www.energy.gov/sites/prod/files/NEPA-40CFR1500_1508.pdf)

[4] <https://www.energy.gov/nepa/guidance-and-requirements-table>