

## Brazil

**Country:** [Brazil](#) [1]

**EIA Law:** Brazilian Constitution, Art. 225 sec. 1(IV); Supplementary Law No. 140 of 2011; Federal Law 6938 of 1981, Decree 99.274/1990; Federal Law 9.985/2000, Decree 4340/2002, Federal Law 10.650/2003

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

**EIA Regulations:** Resolutions of the National Environment Council - CONAMA 01/1986; 06/1987; 09/1987; 01/1988; 237/1997; 279/2001

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

**EIA Guidelines or Other Guidance:** General and Sectoral Guides

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

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

**Abridged Assessments:** Yes

**Assessment Detail:** The national EIA system does not allow for abridged assessments, but several states use simplified environmental studies such as: Simplified Environmental Report; Environmental Feasibility Report; Environmental Assessment Report; Environmental Control Report; and Environmental Feasibility Study.

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

**Who Conducts Screening:** Government

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

Proposed project or activity may cause significant environmental impact

**Criteria for Screening Detail:** "In order to ensure the effectiveness of this right [to an ecologically balanced environment], it is incumbent upon the Government to. . . demand in the manner prescribed by law, for the installation of works and activities which may potentially cause significant degradation of the environment, a prior environmental impact study, which shall be made public[.]" Federal Constitution Chapter VI, Article 225, para. 1(4). Lists and appendices of project types are located in Annex I of the National Environment Council's (CONAMA) Resolution 237/97 and in other State's Regulatory Instructions and Ordinances.

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

**Who Prepares EIA Detail:** Studies required for the licensing process should be conducted by professionals legally qualified at the expense of the project proponent. Project proponents and professionals that subscribe to the studies referred shall be responsible for the information submitted, subject to administrative sanctions, civil and criminal. CONAMA Resolution 237/87, Art. 11

**Who Pays for EIA:** Project Proponent

**Who Pays for EIA Detail:** The Project Proponent is responsible for all costs and expenses related to the completion of the environmental impact assessment. CONAMA Resolution 01/86, Art. 8

**EIA Contractor Qualifications:** Yes

**EIA Contractor Qualification Detail:** Studies required for the licensing process should be conducted by professionals legally qualified at the expense of the project proponent. Project proponents and professionals that subscribe to the studies referred shall be responsible for the information submitted, subject to administrative sanctions, civil and criminal. CONAMA Resolution 237/87, Art. 11

**Conflict of Interest:** No

**Terms of Reference:** Yes

**Terms of Reference Detail:** The project proponent drafts the terms of reference based on the Terms of Reference Standard for the specific type of project, posted on the website of IBAMA. The TOR must be resolved within 60 days from the start of the process. Regulatory Instruction 184, Articles 8, 11

**Days for Decision Maker Review:** 60+

**Automatic Approval:** No

**Written Decision:** Yes

**Written Decision Detail:** The Brazilian Institute on the Environment and Renewable Resources (IBAMA) will issue a Conclusive Technical Opinion on the environmental feasibility of the project and send this to the President of IBAMA. The technical opinion will be made available on the IBAMA's website. The last step of the licensing process is the Approval or rejection of the license application, giving appropriate publicity to the decision. CONAMA Resolution 237/97, Section VII, Art. 10

**Authority to Impose Conditions:** Yes

**Authority to Impose Conditions Details:** One of three types of licenses (preliminary, installation, operational) may be issued. In each instance, the government has authority to include conditions or environmental control measures with the decision. CONAMA Resolution 237/97, Art. 8

**Expiry of Decision:** Variable (depending on type of authorization)

**Expiry of Decision Detail:** Preliminary License (LP): maximum 5 years; Installation License (LI): maximum 6 years; Operating License (LO): 4-10 years. CONAMA Resolution 237/97, Art. 18

**Financial Assurances or Bond:** No

**Interdisciplinary Team:** Yes

**Range of Alternatives:** Yes

**No Action Alternative:** Yes

**No Action Alternative Detail:** Although the law requires evaluation of a no action alternative, it is not implemented well in practice.

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

Cumulative environmental impacts

Social impacts

Cultural impacts

Health impacts

Economic impacts

Other

**Mitigation:** Yes

**Mitigation Detail:** The environmental impact study will develop at least the following technical activities: \* \* \*

Definition of mitigation measures aimed to reduce the negative impacts, including control equipment and systems for treating sewage, evaluating the efficiency of each. CONAMA Resolution 237/97, Article 6(III)

**Monitoring Plans:** Yes

**Monitoring Plans Detail:** The EIA must include a program to monitor and track of positive and negative impacts, indicating the factors and parameters to be evaluated. CONAMA Resolution 237/97, Article 6(IV)

**Public Notice of Draft EIA:** Yes

**Draft EIA Available:** Yes

**Draft EIA Locations:** Internet

Library

Agency or ministry office

Local government office

**Final EIA Available:** Yes

**Final EIA Locations:** Internet

Library

Agency or ministry office

Local government office

**Fee to View EIA Documents:** No

**Fee to Obtain EIA Documents:** No

**Availability of Reference Studies:** No

**Public Notice of Final Decision:** No

**Public Scoping:** Yes

**Public Review of TOR:** Yes

**Public Participation Opportunities:** Scoping

Terms of reference

Review of draft EIA

Public Meetings and/or public hearings

Review of final EIA

**Public Meetings:** Sometimes

**Public Input at Meeting:** Yes

**Criteria to Hold Public Meeting:** Ministry or agency has discretion to decide whether to hold a meeting and/or hearing

Other

**Public Comments on Draft EIA:** Yes

**Public Comments on Final EIA:** Yes

**Response to Public Comments:** Yes

**Response to Public Comments Detail:** In the decision to grant or deny the environmental permit, the environmental agency should take into consideration the observations made by the public during the process of impact assessment. There is the possibility, based on the comments made, that further studies may be required of the project proponent.

**Facilitation of Public Participation:** Yes

**Citizen Administrative Review:** No

**Citizen Judicial Review:** Yes

**Citizen Judicial Review Detail:** Generally the courts analyze formal aspects, not going into the merits of the decision.

**Project Monitoring:** Yes

**Project Monitoring Detail:** Monitoring is conducted by the environmental agency, which generally has few financial conditions and materials to implement it appropriately. Typically the environmental agency relies on information submitted by the project developer, which is a problem.

**Enforceability of EIA:** Yes

**Enforceability of EIA Detail:** Although the option of private enforcement of the license or the EIA requirements exists, it is costly and would likely not be effective.

**Enforceability of Permit:** Yes

**Enforceability of Permit Detail:** Although the option of private enforcement of the license or the EIA requirements exists, it is costly and would likely not be effective.

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**Source URL:** <https://elaw.org/eialaw/brazil>

### Links

[1] <https://elaw.org/countries-and-regions/brazil>

[2] [http://www.planalto.gov.br/ccivil\\_03/LEIS/L9985.htm](http://www.planalto.gov.br/ccivil_03/LEIS/L9985.htm)

[3] <http://www.mma.gov.br/port/conama/processos/61AA3835/LivroConama.pdf>

[4] <http://ibama.gov.br/empreendimentos-e-projetos/licenciamento-ambiental-processo-de-licenciamento#FCA>