

### Chapter 1 : Environmental impact statement - Wikipedia

*An environmental impact statement (EIS), under United States environmental law, is a document required by the National Environmental Policy Act (NEPA) for certain actions "significantly affecting the quality of the human environment".*

History[ edit ] NEPA grew out of the increased public appreciation and concern for the environment that developed during the s, amid increased industrialization, urban and suburban growth, and pollution across the United States. Another major driver for enacting NEPA were the s highway revolts , a series of protests in many American cities that occurred in response to the bulldozing of many communities and ecosystems during the construction of the Interstate Highway System. Court decisions have expanded the requirement for NEPA-related environmental studies to include actions where permits issued by a federal agency are required regardless of whether federal funds are spent to implement the action, to include actions that are entirely funded and managed by private-sector entities where a federal permit is required. This legal interpretation is based on the rationale that obtaining a permit from a federal agency requires one or more federal employees or contractors in some instances to process and approve a permit application, inherently resulting in federal funds being expended to support the proposed action, even if no federal funds are directly allocated to finance the particular action. To declare national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality. The purpose of NEPA is to ensure that environmental factors are weighted equally when compared to other factors in the decision making process undertaken by federal agencies and to establish a national environmental policy. It also established the CEQ to advise the president on environmental policy and the state of the environment. This impact statement is known as an EIS. NEPA is an action-forcing piece of legislation, meaning the act itself does not carry any criminal or civil sanctions, and therefore, all enforcement of NEPA must occur through the court system. In practice, a project is required to meet NEPA guidelines when a federal agency provides any portion of financing for the project. However, review of a project by a federal employee can be viewed as a federal action, and in such a case, it requires NEPA-compliant analysis performance. NEPA covers a vast array of federal agency actions, but the act does not apply to state action where there is a complete absence of federal influence or funding. Exemptions also apply when compliance with other environmental laws require an impact analysis similar to that mandated by NEPA. This process begins when an agency develops a proposal addressing a need to take action. If it is determined that the proposed action is covered under NEPA, there are three levels of analysis that a federal agency must undertake to comply with the law. Extraordinary circumstances include effects on endangered species, protected cultural sites, and wetlands. In this case, the drafted agency procedures are published in the Federal Register and a public comment period is required. Today, categorical exclusions are the most frequently employed method of complying with NEPA, underscoring the need for this guidance on the promulgation and use of categorical exclusions. EAs need to be of sufficient length to ensure that the underlying decision to prepare an EIS is legitimate, but they should not attempt to substitute an EIS. However, the Council on Environmental Quality regulation 40 C. Idaho page This document explains why an action will not have a significant effect on the human environment and includes the EA or a summary of the EA that supports the FONSI determination. The purpose of an EIS is to help public officials make informed decisions based on the relevant environmental consequences and the alternatives available. The drafting of an EIS includes public party, outside party, and other federal agency input concerning its preparation. These groups subsequently comment on the draft EIS. This may happen if the agency believes that the action will have a significant impact on the human or natural environment or if the action is considered an environmentally controversial issue. The responsible decision-maker is required to review the final EIS before reaching a final decision regarding the course of action to be taken. The decision-maker must weigh the potential environmental impacts along with other

pertinent considerations in reaching the final decision. A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. Congress provides for courts to make equitable remedies such as an injunction to compel agency action withheld or to set aside agency actions that are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. *McCormack*, U. Simply stated, a case is moot when the issues presented are no longer "live" or the parties lack a legally cognizable interest in the outcome. Where one of the several issues presented becomes moot, the remaining live issues supply the constitutional requirement of a case or controversy. See *United Public Workers v. Volpe*, F. Nevertheless, by the Ninth Circuit Court of Appeals recognized some projects might proceed with construction in an attempt to evade the requirements of NEPA. Therefore, the court cautioned that even completed projects could be ordered to be removed as stated in *Columbia Basin Land Protection Assoc. Schlesinger*, F. The building of the towers has not made the case hypothetical or abstract "the towers still cross the fields of the Landowners, continually obstructing their irrigation systems" and this Court has the power to decide if they may stay or if they may have to be removed. Such a result is not acceptable. Thus, courts have the equitable power to prevent those who use bad faith construction to evade U. Congress policies such as NEPA. He did not seek remediation; he wanted the interchange stopped. Therefore, there is no justiciable controversy pertaining to Phase I. If stopping construction is the only request for relief in a NEPA complaint then logically construction cannot be stopped after completion. *Marsh*, F. This court in *Sierra Club v. Marsh* on page also found since there is an instinct not to tear down projects, it is appropriate to issue preliminary injunctions early in NEPA cases: The way that harm arises may well have to do with the psychology of decisionmakers, and perhaps a more deeply rooted human psychological instinct not to tear down projects once they are built. But the risk implied by a violation of NEPA is that real environmental harm will occur through inadequate foresight and deliberation. The difficulty of stopping a bureaucratic steam roller, once started, still seems to us, after reading *Village of Gambell*, a perfectly proper factor for a district court to take into account in assessing that risk, on a motion for a preliminary injunction. To have Article III standing to maintain a federal court case at least one individual plaintiff must have an injury caused by the defendant and that injury is likely to be remedied by a favorable decision as stated in *Lujan v. Defenders of Wildlife*, U. Over the years, our cases have established that the irreducible constitutional minimum of standing contains three elements. First, the plaintiff must have suffered an "injury in fact" "an invasion of a legally protected interest which is a concrete and particularized, see *id.* Second, there must be a causal connection between the injury and the conduct complained of "the injury has to be "fairly. Third, it must be "likely," as opposed to merely "speculative," that the injury will be "redressed by a favorable decision. Individual injuries in NEPA cases may likely involve growth-inducing impacts such as air, noise, and water pollution, safety considerations, secondary impacts, and cumulative impacts; for example see *Coalition for Canyon Preservation v. Bowers*, F. US, F. Standing alone, "the fact that a harm is widely shared does not necessarily render it a generalized grievance. In determining whether a Federal court has the authority to decide a case jurisdiction, Federal courts only consider the parts of a complaint supporting the federal issue cited [20]. Parts of a complaint requesting removal of anticipated construction can be ignored by Federal courts since construction was not an actual controversy at the time the complaint was filed. Therefore, if project construction starts after a NEPA complaint is filed, the NEPA complaint will need to be amended or a new complaint filed to include the actual construction. Otherwise after construction is completed, a Federal court may find it no longer has authority jurisdiction to decide the case. The case would therefore be moot. Courts balance the harm an injunction might cause to the defendant against the likelihood of environmental harms occurring and the degree of injury if the environmental harms occur. Supreme Court pointed out the irreparable nature of environmental injuries in *Amoco Production Co. Gambell*, U. Environmental injury, by its nature, can seldom be adequately remedied by money damages and is often permanent or at least of long duration, i. If such injury is sufficiently likely, therefore, the balance of harms will usually favor the issuance of an injunction to protect the environment. *Mineta*, F. We must next balance the irreparable harms we have identified against the harm to defendants if the preliminary injunction is granted. Defendants allege that significant financial penalties will be incurred by UDOT if the Project is

delayed. As we have previously concluded, the state entities involved in this case have "jumped the gun" on the environmental issues by entering into contractual obligations that anticipated a pro forma result. In this sense, the state defendants are largely responsible for their own harm. Columbia Basin Land Protection Assoc. Therefore In order to prevent NEPA cases from automatically becoming moot due to construction, NEPA complaints would need to request removal of bad faith constructions. Council on Environmental Quality[ edit ] This section needs additional citations for verification. Please help improve this article by adding citations to reliable sources. Unsourced material may be challenged and removed. He directed the CEQ to issue guidelines for the proper preparation of an EIS and to assemble and coordinate federal programs related to environmental quality. The Council was placed within the Executive Office of the President of the United States and is composed of three President-appointed members, which are subsequently confirmed by the Senate. Its initial guidelines were issued in , and required each federal department and agency to adopt its own guidelines consistent those established by CEQ. These guidelines did not carry the status of formal agency regulations, but were often held in the court of law as such. Eventually President Jimmy Carter authorized an executive order to adopt regulations rather than simple guidelines on EIS preparation. However, the CEQ had no authority to enforce its regulations. This ensures that all decisions are reflective of environmental values, avoids potential delays, and eliminates potential future conflicts. The bill would establish several requirements and procedures designed to expedite the completion of NEPA-related reviews, including the creation of a "Federal Permitting Improvement Council".

**Chapter 2 : National Environmental Policy Act - Wikipedia**

*General Services Administration NS Enterprise Infrastructure Solutions EIS RFP #QTATHA Volume II: Management 22 February Use or disclosure of data contained on this sheet is subject to the restriction on the.*

The fact sheet shall include the following information in this order: The licenses shall be listed by name and agency; the list shall be as complete and specific as possible. Agencies may indicate that the date is subject to change. The nature or type of final agency action should be stated unless covered in subsection a above. The EIS shall summarize the contents of the statement and shall not merely be an expanded table of contents. The summary need not mention every subject discussed in the EIS, but shall include a summary of the proposal, impacts, alternatives, mitigation measures, and significant adverse impacts that cannot be mitigated. The summary shall state when the EIS is part of a phased review, if known, or the lead agency is relying on prior or future environmental review which should be generally identified. The lead agency shall make the summary sufficiently broad to be useful to the other agencies with jurisdiction. Include the proposed action, including mitigation measures that are part of the proposal. Include a map, street address, if any, and legal description unless long or in metes and bounds. The lead agency should retain any detailed engineering drawings and technical data, that have been submitted, in agency files and make them available on request. The amount of space devoted to each alternative may vary. One alternative including the proposed action may be used as a benchmark for comparing alternatives. The EIS may indicate the main reasons for eliminating alternatives from detailed study. Although graphics may be helpful, a matrix or chart is not required. A range of alternatives or a few representative alternatives, rather than every possible reasonable variation, may be discussed. The agency perspective should be that each generation is, in effect, a trustee of the environment for succeeding generations. Particular attention should be given to the possibility of foreclosing future options by implementing the proposal. This subsection shall not apply when the proposal includes a rezone, unless the rezone is for a use allowed in an existing comprehensive plan that was adopted after review under SEPA. Further, alternative sites may be evaluated if other locations for the type of proposed use have not been included or considered in existing planning or zoning documents. Elements of the environment that are not significantly affected need not be discussed. Separate sections are not required for each subject see WAC 3. Only significant impacts must be discussed; other impacts may be discussed. Inventories of species should be avoided, although rare, threatened, or endangered species should be indicated. The EIS need not analyze mitigation measures in detail unless they involve substantial changes to the proposal causing significant adverse impacts, or new information regarding significant impacts, and those measures will not be subsequently analyzed under SEPA see WAC 2. An EIS may briefly mention nonsignificant impacts or mitigation measures to satisfy other environmental review laws or requirements covered in the same document WAC 8 and Land use and shoreline plans and zoning regulations applicable to the proposal, and how the proposal is consistent and inconsistent with them. This involves impacts upon and the quality of the physical surroundings, whether they are in wild, rural, or urban areas. Discussion of significant impacts shall include the cost of and effects on public services, such as utilities, roads, fire, and police protection, that may result from a proposal. EISs shall also discuss significant environmental impacts upon land and shoreline use, which includes housing, physical blight, and significant impacts of projected population on environmental resources, as specified by RCW Technical reports and supporting documents need not be circulated with an EIS WAC 4 and 2 k , but shall be readily available to agencies and the public during the comment period. The inclusion of such analysis may be based upon comments received during the scoping process. The provision for combining documents may be used WAC The EIS shall comply with the format requirements of this part. The decision whether to include such information and the adequacy of any such additional analysis shall not be used in determining whether an EIS meets the requirements of SEPA.

**Chapter 3 : The Use of EPS E-tender Subsystem for Suppliers (How Suppliers Can Use the E-tender Subsystem)**

*Contents of the EIS report The contents of an EIS are outlined below. The appropriate level of detail required will vary depending on the type of EIS (Scoped or Detailed).*

Purpose[ edit ] The purpose of the NEPA is to promote informed decision-making by federal agencies by making "detailed information concerning significant environmental impacts" available to both agency leaders and the public. It also encourages communication and cooperation between all the actors involved in environmental decisions, including government officials, private businesses, and citizens. An EIS should be created in a timely manner as soon as the agency is planning development or is presented with a proposal for development. The statement should use an interdisciplinary approach so that it accurately assesses both the physical and social impacts of the proposed development. These factors may include actions that receive federal funding, federal licensing or authorization, or that are subject to federal control. If the action may or may not cause a significant impact, the agency can first prepare a smaller, shorter document called an Environmental Assessment EA. If the EA indicates that no significant impact is likely, then the agency can release a finding of no significant impact FONSI and carry on with the proposed action. Otherwise, the agency must then conduct a full-scale EIS. A CATEX is usually permitted when a course of action is identical or very similar to a past course of action and the impacts on the environment from the previous action can be assumed for the proposed action, or for building a structure within the footprint of an existing, larger facility or complex. For example, two proposed sections of Interstate 69 in Kentucky were granted a CATEX from NEPA requirements as these portions of I will be routed over existing freeways requiring little more than minor spot improvements and a change of highway signage. The intent of NEPA is to help key decisionmakers and stakeholders balance the need to implement an action with its impacts on the surrounding human and natural environment, and provide opportunities for mitigating those impacts while keeping the cost and schedule for implementing the action under control. However, many activities require various federal permits to comply with other environmental legislation, such as the Clean Air Act , the Clean Water Act , Endangered Species Act and Section 4 f of the Federal Highway Act to name a few. Similarly, many states and local jurisdictions have enacted environmental laws and ordinances, requiring additional state and local permits before the action can proceed. An EIS typically has four sections: A description of the Affected Environment. A Range of Alternatives to the proposed action. Alternatives are considered the "heart" of the EIS. An analysis of the environmental impacts of each of the possible alternatives. This section covers topics such as: Impacts to threatened or endangered species Air and water quality impacts Impacts to historic and cultural sites, particularly sites of significant importance to Indigenous peoples. Social and Economic impacts to local communities, often including consideration of attributes such as impacts to available housing stock, economic impacts to businesses, property values, aesthetics and noise within the affected area Cost and Schedule Analyses for each alternative, including costs and timeline to mitigate expected impacts, to determine if the proposed action can be completed at a acceptable cost and within a reasonable amount of time While not required in the EIS, the following subjects may be included as part of the EIS or as separate documents based on agency policy. Financial Plan for the proposed action identifying the sources of secured funding for the action. For example, the Federal Highway Administration has started requiring states to include a financial plan showing that funding has been secured for major highway projects before it will approve an EIS and issue a Record of Decision. An Environmental Mitigation Plan is often requested by the Environmental Protection Agency EPA if substantial environmental impacts are expected from the preferred alternative. Additional documentation to comply with state and local environmental policy laws and secure required federal, state, and local permits before the action can proceed. Every EIS is required to analyze a No Action Alternative, in addition to the range of alternatives presented for study. The No Action Alternative identifies the expected environmental impacts in the future if existing conditions were left as is with no action taken by the lead agency. Analysis of the No Action Alternative is used to establish a baseline upon which to compare the proposed "Action" alternatives. NEPA process[ edit ] The NEPA process is designed to involve

the public and gather the best available information in a single place so that decision makers can be fully informed when they make their choices. This is the process of EIS Proposal: In this stage, the needs and objectives of a project have been decided, but the project has not been financed. As discussed above, the government may exempt an agency from the process. The agency can then proceed with the project and skip the remaining steps. The proposal is analyzed in addition to the local environment with the aim to reduce the negative impacts of the development on the area. Occurs when no significant impacts are identified in an EA.

**Environmental Impact Statement Scoping:** The first meetings are held to discuss existing laws, the available information, and the research needed. The tasks are divided up and a lead group is selected. Decision makers and all those involved with the project can attend the meetings. The public is notified that the agency is preparing an EIS. The agency also provides the public with information regarding how they can become involved in the process. Citizens and groups are welcome to send in comments helping the agency identify the issues it must address in the EIS or EA. Based on both agency expertise and issues raised by the public, the agency prepares a Draft EIS with a full description of the affected environment, a reasonable range of alternatives, and an analysis of the impacts of each alternative. Affected individuals then have the opportunity to provide feedback through written and public hearing statements. The public is not invited to comment on this, but if they are still unhappy, or feel that the agency has missed a major issue, they may protest the EIS to the Director of the agency. The Director may either ask the agency to revise the EIS, or explain to the protester why their complaints are not actually taken care of. Prepared following an approved FEIS or ROD when unforeseen changes to the proposed action or its impacts occurs, or when a substantial period of time has passed between approval of an action and the planned start of said action. Based on the significance of the changes, three outcomes may result from a re-evaluation report: Typically prepared after either a Final EIS or Record of Decision has been issued and new environmental impacts that were not considered in the original EIS are discovered, requiring the lead agency to re-evaluate its initial decision and consider new alternatives to avoid or mitigate the new impacts. Supplemental EISs are also prepared when the size and scope of a federal action changes, when a significant period of time has lapsed since the FEIS was completed to account for changes in the surrounding environment during that time, or when all of the proposed alternatives in an EIS are deemed to have unacceptable environmental impacts and new alternatives are proposed.

**Record of Decision ROD:** Once all the protests are resolved the agency issues a Record of Decision which is its final action prior to implementation. If members of the public are still dissatisfied with the outcome, they may sue the agency in Federal court. Often, the agencies responsible for preparing an EA or EIS do not compile the document directly, but outsource this work to private-sector consulting firms with expertise in the proposed action and its anticipated effects on the environment. Because of the intense level of detail required in analyzing the alternatives presented in an EIS or EA, such documents may take years or even decades to compile, and often compose of multiple volumes that can be thousands to tens of thousands of pages in length. To avoid potential conflicts in securing required permits and approvals after the ROD is issued, the lead agency will often coordinate with stakeholders at all levels, and resolve any conflicts to the greatest extent possible during the EIS process. Proceeding in this fashion helps avoid interagency conflicts and potential lawsuits after the lead agency reaches its decision.

**Tiering[ edit ]** On exceptionally large projects, especially proposed highway and railroad corridors that cross long distances, the lead agency may use a two-tiered process prior to implementing the proposed action. In such cases, the Tier I EIS would analyze the potential socio-environmental impacts along a general corridor, but would not identify the exact location of where the action would occur. For example, parts of the proposed Interstate 69 extension in Indiana and Texas are being studied through a two-tiered process

**Strengths[ edit ]** By requiring agencies to complete an EIS, the act encourages them to consider the environmental costs of a project and introduces new information into the decision-making process. The NEPA has increased the influence of environmental analysts and agencies in the federal government by increasing their involvement in the development process. Because an EIS requires expert skill and knowledge, agencies must hire environmental analysts. Unlike agencies who may have other priorities, analysts are often sympathetic to environmental issues. In addition, this feature introduces scientific procedures into the political process. Although analysts are members of the scientific community, they are

affected by the political atmosphere. Analysts do not have the luxury of an unlimited time for research. They are also affected by the different motives behind the research of the EIS and by different perspectives of what constitutes a good analysis. In addition, government officials do not want to reveal an environmental problem from within their own agency. The public does not realize that the process is only meant to gather information relevant to the decision. Even if the statement predicts negative impacts of the project, decision makers can still proceed with the proposal. However, the quality and context of the data, such as the margin of error and the range, is omitted.