

US EPA ARCHIVE DOCUMENT



XII. National Environmental Policy Act (NEPA)

Before beginning any construction project associated with a federal agency, you must determine the NEPA requirements that apply to your project. NEPA requires federal agencies to incorporate environmental considerations in their planning and decision making through a systematic interdisciplinary approach. Specifically, all federal agencies must prepare detailed statements assessing the environmental impact of, and alternatives to, major federal actions significantly affecting the environment. These statements are commonly referred to as environmental impact statements (EISs).

NEPA ensures that federal agencies consider environmental impacts in federal planning and decision making, and covers both construction and post-construction activities. NEPA covers the full range of potential impacts, including but not limited to water quality impacts, wetlands impacts, air quality impacts, endangered species impacts, and historic resources impacts.

NEPA applies to your construction project only if your project is considered a “federal action.” Note that some states (e.g., North Carolina, Massachusetts, Washington) have requirements that are similar to the requirements established for federal agencies by NEPA. Therefore, if your construction project is entirely or partly financed, assisted, conducted, regulated, or approved by a state agency in one of these states, you should consult with state agency officials to ensure that these requirements have been met. This document addresses federal environmental requirements and does not address state requirements.

The federal agency taking the action is responsible for complying with NEPA’s requirements. If NEPA requirements are applicable to your project, these requirements must be met before and during construction activities. NEPA establishes good procedural and planning practices for federal agencies and does not replace or conflict with other substantive environmental laws addressed in this document (e.g., Clean Air Act, Clean Water Act, Endangered Species Act).

The NEPA process consists of evaluating the environmental effects of a federal action including its alternatives. There are three levels of analysis depending on whether or not the construction activity or project

could significantly affect the environment. These three levels are: categorical exclusion determination; preparation of an environmental assessment/finding of no significant impact (EA/FONSI); and preparation of an EIS.

At the first level, a project may be categorically excluded from a detailed environmental analysis if it meets certain criteria that a federal agency has previously determined as having no significant environmental impact. A number of agencies have developed lists of actions that are normally categorically excluded from environmental evaluation under their NEPA regulations.

At the second level of analysis, a federal agency prepares a written EA to determine whether or not a federal undertaking would significantly affect the environment. If the answer is no, the agency issues a FONSI. The FONSI may address measures that an agency will take to reduce (mitigate) potentially significant impacts.

If the EA determines that the environmental consequences of a proposed federal action may be significant, the federal agency prepares an EIS. An EIS is a more detailed evaluation of the proposed action and alternatives. The public, other federal agencies, and outside parties may provide input into the preparation of an EIS and then comment on the draft EIS when it is completed. If a federal agency anticipates that an action may significantly impact the environment, or if a project is environmentally controversial, the agency may choose to prepare an EIS without having to first prepare an EA.

After a final EIS is prepared, a federal agency will prepare a public record of its decision addressing how the findings of the EIS, including consideration of alternatives, were incorporated into the agency's decision-making process. If you perform these activities prior to the start of construction, it will help to avoid significant project delays and possible project cancellation.

You can get additional information on NEPA requirements from the following sources.

- The Council on Environmental Quality's NEPanet web page provides the most comprehensive information about NEPA requirements: (<http://ceq.eh.doe.gov/nepa/nepanet.htm>);
- The Construction Industry Compliance Assistance Center provides plain language explanations of environmental rules for the construction industry, including tools to identify state-specific requirements: <http://www.cicacenter.org>; and
- The National Environmental Compliance Assistance Clearinghouse contains a search engine to help in finding compliance assistance tools, contacts, and EPA-sponsored programs: <http://cfpub.epa.gov/clearinghouse/>.