

Environmental Impact Statements



An Underground Storage Tank (UST) site on Maple Street in Holyoke, Massachusetts – prior to construction of the Multimodal Transportation Center. Photo courtesy of flickr user Massachusetts Dept. Of Environmental Protection

What are the objectives of environmental impact statements?

Environmental impact statements (EIS) are a procedural requirement of the National Environmental Policy Act (NEPA). An environmental impact statement is intended to detail the impacts of any proposed action by a federal agency on the environment. Environmental impact statements detail any detrimental impacts that could not be avoided in the event that the proposal is implemented, as well as any reasonable alternatives to the proposal. Additionally, an EIS demonstrates the relationship between the local short-term uses of a proposal and any long-term effects or irreversible commitments of resources involved in a proposal.

Massachusetts passed the Massachusetts Environmental Policy Act (MEPA) as a supplement to NEPA in 1972. The MEPA review is a state version of the NEPA review process. This process is designed to evaluate the impacts of proposed developments upon the environment. However, the term “environment” is a broad term that includes things beyond air, water and wildlife habitats to include things like historic preservation, traffic generation, and quality-of-life issues.

Why do we need to encourage environmental impact statements in our communities?

While environmental impact statements in the state of Massachusetts do not result in whether a project may go forward or not, the issuance of a certificate is instrumental for other agencies in determining whether funding or permits should be issued for the proposal. Unique to Massachusetts and Minnesota, citizens can petition the government for an environmental assessment - the stepping stone to an EIS - and thereby have a greater say in the development process. Environmental impact statements provide a

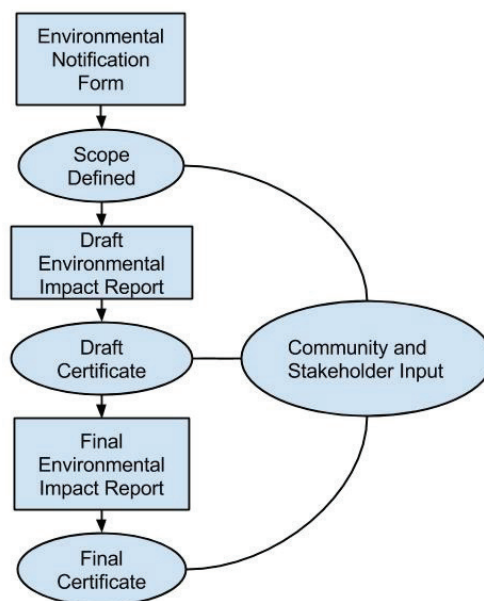


range of possible alternatives to any one proposal and are therefore a valuable tool in assessing the outcomes of any proposed development.

How do environmental impact statements work?

The NEPA and MEPA processes are not a strict regulatory process and do not result in an issuance of a permit or a final sign-off. Instead, MEPA and NEPA issue a “certificate” instead of a permit, and that certificate is used to guide other permitting processes. The certificate can condition an approval based upon what sorts of mitigation measures are taken to minimize the impact on the environment, however it is up to the agency that actually issues a permit to enforce those conditions. The NEPA, MEPA, and other state processes are all generally similar, however only Massachusetts, Montana, South Dakota, and Wisconsin limit this review to state permitting actions only.

When a project is initiated, the proponent – which is usually a public agency – submits an initial report referred to as an Environmental Assessment or an Environmental Notification Form to the appropriate national or state Environmental Protection Agency office. Those forms serve as a formal notification that the proponent aims to implement the proposal, and allows the proponent to seek a waiver from the full EIS process if it believes it to be unnecessary. Comments are taken on that form, and NEPA or the state EPA then determines whether a waiver should be granted, and if not the specific environmental impacts that the proposal needs to address in a more detailed stage of review. This decision is referred to as the ‘scope’, which is based upon a previous ‘scoping session’ held by NEPA, the state EPA, or other state equivalents which may include site visits open to the public, presentations of the proposal, and a community dialogue to elicit feedback on the proposal.



MEPA Planning Process¹

Following the scope, a Draft Environmental Impact Statement or Report is created by the proponent to address the issues outlined in the scope. Following public comments



regarding the draft report, NEPA or the state EPA evaluates those comments and then tells the proponent what additional steps need to be taken in order to create a final draft.

The final draft produced is referred to as the Final Environmental Impact Statement, or Final Environmental Impact Report. After public comments are taken on this version, and if the EPA deems this report satisfactory, it will issue a final 'certificate' stating that the EIS is complete and that the proponent has agreed to make changes to the project to minimize environmental impacts. The certificate is then used by other agencies in determining whether any funding or permits that the proponent is considering for the proposal should be issued.

MEPA establishes three tiers of jurisdiction over projects: complete, broad, and limited. MEPA has full jurisdiction over any project that is undertaken by an Agency, those aspects of a project within the subject matter of any required permit, projects involving financial assistance, and any aspects of a project which are within the area of any land transfer. MEPA has broad jurisdiction over any project undertaken by an Agency or any project that involves financial assistance. Broad jurisdiction in this case means that the scope, if an EIR is required, shall extend to all aspects of a project that are likely, either directly or indirectly, to cause damage to the environment. MEPA jurisdiction is limited when a project is undertaken by a person and requires land transfers or permits but does not involve financial assistance.²

The MEPA law (301 CMR 11:00) includes mandatory thresholds for conducting EAs and EISs with the provision of agency discretion regarding the significance of determinations. Massachusetts is unique with MEPA compared with other SEPA states in that the threshold for preparing an EIS is not a finding of significant environmental impact, but rather a finding that the proposal may "damage" the environment. Also unique to Massachusetts and Minnesota is the fact that citizens can petition the government to require the preparation of an EA for a project.

At the local level cities and towns may require proposals to undertake an EIS within their subdivision regulations or site plan review process. Should the planning board deem it necessary, a proposed development may be required to submit an EIS or a development impact statement in order to obtain a permit for a proposal.

DID YOU KNOW...

That since 1970 dozens of other nations have established their own versions of EISs? The 17th principle of the Rio Declaration on Environment and Development (1992) is devoted to the creation of environmental impact statements by countries around the world.

¹ Adapted from: Hamin, Elisabeth M., Linda Silka, and Priscilla Geigis. Preserving and Enhancing Communities: A Guide for Citizens, Planners, and Policymakers. Amherst: University of Massachusetts. 2007

² For more information see: 301 CMR 11.00: MEPA REGULATIONS. <http://www.env.state.ma.us/mepa/regs/11-01.aspx>



A model bylaw or strategy is included in the Pioneer Valley Sustainability Toolkit.

FOR MORE INFORMATION, PLEASE CONTACT

Pioneer Valley Planning Commission
413-781-6045

60 Congress Street, Floor 1
Springfield, MA 01104-3419

www.pvpc.org