

CHIPS for America Overview of NEPA and Environmental Reviews

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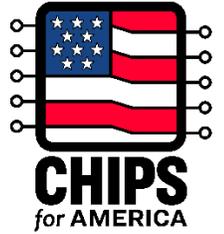
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NIST





KEY OBJECTIVES

THIS PRESENTATION WILL:

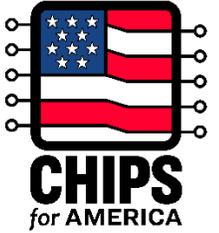
- Share how environmental compliance fits into the CHIPS Incentive Program
- Provide an overview of the NEPA process
- Identify other relevant environmental statutes
- Share next steps for CHIPS Incentives Program applicants to get started

ROLE OF ENVIRONMENTAL COMPLIANCE IN FIRST CHIPS INCENTIVE FUNDING OPPORTUNITY



Environmental Risk is one of four elements of the Technical Feasibility and Readiness program priority

Timely satisfaction of **environmental and permitting requirements is critical to the success** of the CHIPS program.

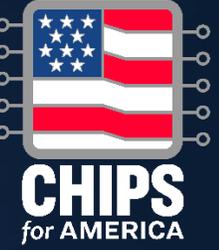


CHIPS ENVIRONMENTAL DIVISION

THE CHIPS ENVIRONMENTAL DIVISION WILL:

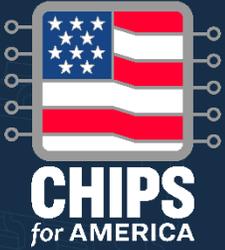
- Focus on the CHIPS program
- Ensure that Department of Commerce satisfies applicable environmental laws and requirements in connection with activities that receive funding through the CHIPS Incentives Program
- Work with federal and state agencies, applicants and contractors in an iterative process to ensure **efficient, effective, and predictable reviews** that result in **informed and environmentally responsible decisions**

Note: The CHIPS Environmental Division sits within the CHIPS Program Office in the National Institute of Standards and Technology (NIST) at the Department of Commerce.

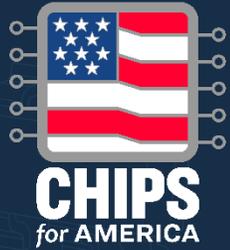


National Environmental Policy Act (NEPA) Overview

HISTORY OF NEPA



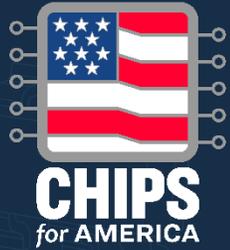
- President Nixon signed NEPA into law on January 1, 1970.
 - 42 U.S.C. 4321 *et seq.*
- NEPA established the country's national environmental policy and set forth a process to implement it.
 - NEPA is a procedural statute
- NEPA is a national policy, which ensures that federal agencies consider the environmental impacts of their decisions.



PURPOSE OF NEPA

- “To declare a national policy that encourages productive and enjoyable harmony between man and his environment;
- to promote efforts that 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.”

Sec. 2 [42 USC § 4321]



PRIMARY OBJECTIVES OF NEPA

- Requires federal agencies to assess the environmental impact of all major Federal actions significantly affecting the quality of the human environment.
- To disclose, analyze, and consider environmental information as a criteria when making decisions
- To inform the public of potential impacts and alternatives and involve the public in decision making.

NEPA is a process, not an event.

WHEN DOES NEPA APPLY?

NEPA requires federal agencies to assess the environmental impact of **all major Federal actions** significantly **affecting** the quality of the **human environment**.

MAJOR FEDERAL ACTIONS

Projects or programs entirely or partially funded by, assisted by, regulated by, conducted by, approved by, and/or permitted by a Federal Agency

MAJOR FEDERAL ACTIONS

Actions with effects that may be major and which are potentially subject to Federal control and responsibility

AFFECTING

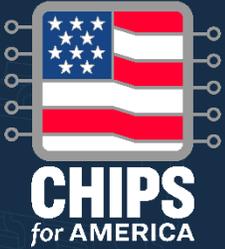
will or may have an effect

HUMAN ENVIRONMENT

the natural and physical environment and the relationship of people to that environment

KEY TERMS IN NEPA AND ITS REGULATIONS

(40 CFR 1508.1)



ENVIRONMENTAL ASSESSMENT (EA)

Concise public document prepared by a Federal agency to aid an agency's compliance with the Act and support its determination of **whether to prepare an environmental impact statement or a finding of no significant impact**

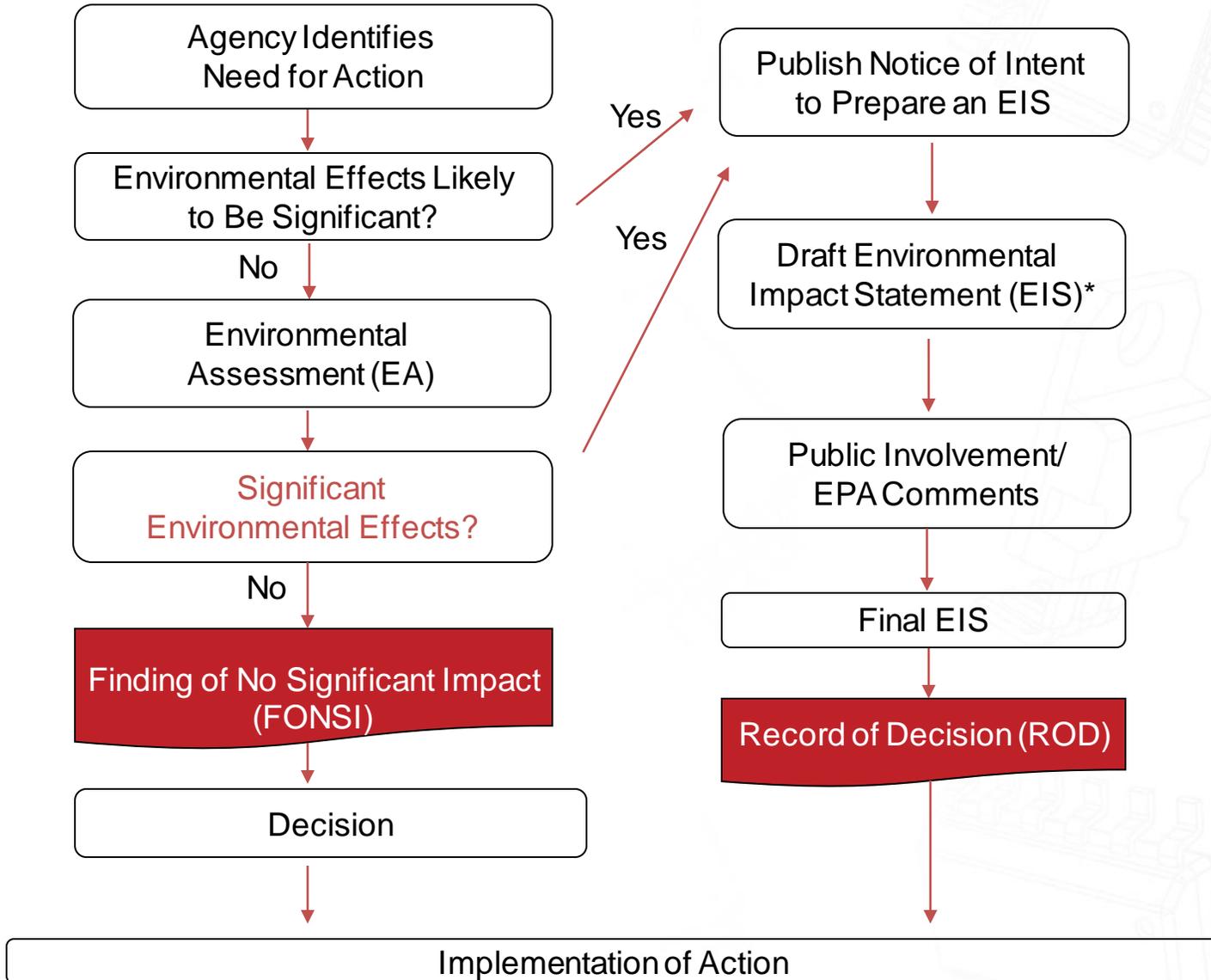
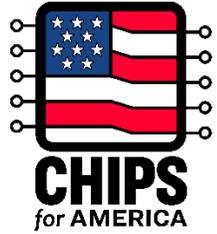
FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Document by a Federal agency briefly presenting the reasons why an action, not otherwise categorically excluded (§ 1501.4 of this chapter), **will not have a significant effect on the human environment** and for which an environmental impact statement therefore will not be prepared

ENVIRONMENTAL IMPACT STATEMENT (EIS)

Detailed written statement as required by NEPA section 102(2)(C)

THE KEY NEPA PROCESS

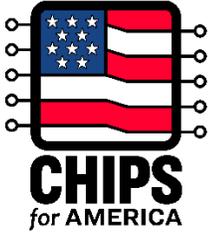


The agency identifies that it is involved in a proposed Major federal action under NEPA. This would include projects or programs entirely or partially funded by, assisted by, regulated by, conducted by, approved by, and permitted by a Federal Agency.

The agency then determines if the environmental effects are likely to be significant. To assist in this determination, the agency prepares the Environmental Assessment (EA).

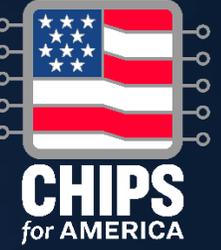
If the EA demonstrates that the proposed action would not have significant effects, a Finding of No Significant Impacts (FONSI) is prepared. If the agency finds there are significant environmental impacts during the process of preparing an EA, the agency prepares a notice of intent (NOI) to prepare an environmental impact statement, EIS.

After the draft EIS is completed, the draft EIS is subject to public comments including the impacted communities and EPA comments. The agency will consider all the comments from EPA and the public to finalize the EIS. Once the EIS is finalized, then the record of decision (ROD) is issued and then the actions can be implemented.

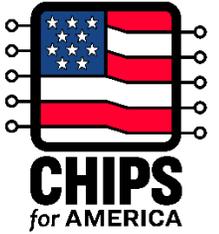


WHO CAN PREPARE NEPA DOCUMENTS FOR THE CHIPS PROGRAM?

- EAs and EISs can be prepared by NIST, the applicant, or a contractor, but the agency is responsible for the documents' contents, and must independently evaluate any material prepared by others
- NIST can also adopt an EA or EIS prepared by another federal agency
- NIST (or a contractor hired by the agency) must draft the FONSI or ROD



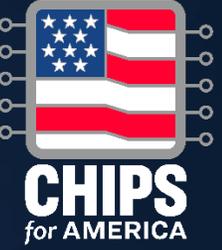
Additional Environmental Authorities



What other laws and executive orders affect the environmental review process?

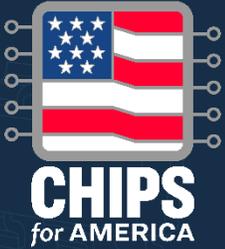
FEDERAL LAWS INCLUDE:

- Section 7 of the Endangered Species Act,
- Section 404 of the Clean Water Act,
- Section 106 of the National Historic Preservation Act,
- the Clean Air Act,
- Executive Order 11988, Floodplain Management, and
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations



CHIPS Environmental Review Process

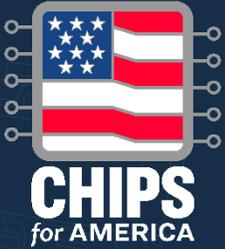
ENVIRONMENTAL REVIEW FOR THE FIRST FUNDING OPPORTUNITY



- 1** Review **Environmental Questionnaire (EQ)**
 - CPO **environmental questionnaire will be mandatory** for all applications
- 2** Attend **upcoming webinar**, which will review EQ in detail
- 3** Submit EQ with pre-application (if pre-application is submitted) or application
 - All applicants are encouraged to submit a pre-application because this gives CPO an opportunity to provide feedback before the applicant submits a full application
- 4** CHIPS Environmental Division will use the EQ to assess **environmental risks and merits of application**
- 5** Information in application will be used to **inform NEPA review** and applicant's **separate environmental permitting obligations**

The Department intends to prioritize applications that demonstrate a clear path to meeting permitting requirements in a timely manner.

OTHER WAYS TO START PREPARING FOR ENVIRONMENTAL REVIEW PROCESS



Prompt completion of the NEPA process depends on the applicant:

- Ensuring **adequate expertise is available**, either in-house or through contractors
- Preparing **information and analysis** as soon as they can (including a **draft EA or EIS**)
- Being **responsive to agency requests** for additional information and analysis to ensure a timely review

Applicants are encouraged to begin **assessing potential environmental impacts as soon as possible.**



ROLES DURING ENVIRONMENTAL REVIEW PROCESS

CHIPS Environmental Division

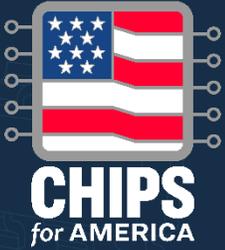
- Responsible for complying with NEPA
- Work with applicant and contractor in an iterative process to ensure smooth and timely completion of the NEPA process
- Will request the applicant prepare required documentation and technical studies, support consultations, and provide other information as requested through the NEPA process, under the supervision of the CHIPS Environmental Division
- Reviews environmental review document prepared by applicant, consulting with relevant Federal, state, Tribal, and local agencies as required or appropriate
- Reviews and assesses applicant's plans for obtaining construction and operation environmental permits
- Oversees public involvement in the environmental review of CHIPS Incentives Program proposed actions

Applicants

Strongly encouraged to:

- Familiarize themselves with NEPA
- Ensure that their project teams have the necessary NEPA expertise, which could include hiring companies or consultants that specialize in NEPA
- Prepare for the environmental review process as early as possible by:
 - gathering data and analysis,
 - engaging experts or outside contractors,
 - drafting materials
- Prepare environmental review documents under the supervision of the CHIPS environmental review team
- Obtain any necessary permits, such as Clean Water Act or Clean Air Act permits.

STATE ENVIRONMENTAL REVIEWS



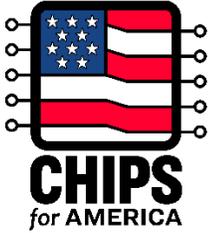
- A number of states require environmental reviews similar to the National Environmental Policy Act (NEPA).
- In some cases, the state review may precede the CHIPS NEPA process, and the CHIPS Environmental Division may rely on information gathered through the state process for the NEPA process.
- In other cases, CHIPS will work with the applicant and the state to prepare a single document that meets both state and Federal requirements.
- While the CHIPS environmental team cannot adopt a non-Federal environmental review document, the CHIPS Environmental Division can incorporate that analysis into its NEPA review.



CHIPS
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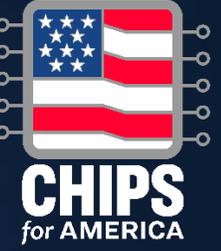


Resources



Resources

- Visit [CHIPS.gov](https://www.chips.gov) for resources, including:
 - Environmental Compliance overview and FAQs
 - Notice of Funding Opportunity
 - Vision for Success paper
 - Applicant guides and templates
 - Webinar schedule (and recordings of prior webinars)
- Join our mailing list
- Contact us
 - askchips@chips.gov – general inquiries and NEPA questions
 - apply@chips.gov – application-related inquiries and NEPA questions



Thank you