

Environmental Assessment (EA)

Statutes and Rules:

General directions, impact evaluation, content	75-1-201, MCA MEPA Model Rules III, IV, V
Timelines	75-1-208, MCA MEPA Model Rule XXIII
Public review & hearing	MEPA Model Rules VI, XXIII
Appeals	75-1-201 and 208, MCA
Definitions	75-1-220, MCA MEPA Model Rule II

Environmental Impact Statement (EIS)

Statutes and Rules:

General directions, impact evaluation, content	75-1-201, MCA MEPA Model Rules III, IV, VII, VIII, IX, XI, XII
Fees	75-1-202, 203, 205 through 207, MCA MEPA Model Rules XXIV, XXV, XXVI
Timelines	75-1-205 and 208, MCA MEPA Model Rules X, XII, XXIII, XXIV, XXV,
Public Review	MEPA Model Rule XXIII
Appeals	75-1-201 and 208, MCA
Definitions	75-1-220, MCA MEPA Model Rule II

EA vs. EIS: A Substantive Comparison

Rule Requirements	EA	EIS
Describe the proposed action including purpose & need	Yes	Yes
List entities with overlapping jurisdiction	Yes	Yes
Describe current environmental conditions	Yes*	Yes
Describe and evaluate: a) the impacts on the human environment b) growth-inducing or growth-inhibiting impacts c) irreversible and irretrievable commitments of environmental resources d) economic and environmental benefits and costs of proposed action	Yes Yes* No Yes*	Yes Yes Yes Yes
Describe the relationship between local short-term uses of man's environment and long-term productivity of the environment	No	Yes
Describe and analyze reasonable alternatives including the no action alternative that may or may not be within the agency's jurisdiction	Yes**, when alternatives are reasonably available. (EA rules omit jurisdictional language)	Yes**
Explain the tradeoffs among the reasonable alternatives	Yes*	Yes
Identify the agency's preferred alternative and explain the reason for that preference	Yes*	Yes
List an appropriate evaluation of mitigation, stipulations, or other control measures enforceable by the agency or another agency	Yes	Yes
Discuss any compensation related to impacts of the proposed action	No	Yes
List other agencies and groups that have been contacted or contributed to the document	Yes	Yes
List individuals' names who were responsible for preparing the document	Yes	Yes
Include finding of need for an EIS and, if an EIS is not required, a description of the reasons the EA is the appropriate level of review	Yes	No

* Note that these rule requirements aren't explicitly stated in the EA MEPA rules. However, by their very nature, the EA MEPA rules generally require some form of discussion and analysis here. The scope and depth is discretionary.

**75-1-201, MCA, says if the alternatives analysis is conducted for a project that is not a state-sponsored project and alternatives are recommended, the project sponsor may volunteer to implement the alternative. Neither the alternatives analysis nor the resulting recommendations bind the project sponsor to take a recommended course of action, but the project sponsor may agree to a specific course of action.

EA vs. EIS: A Procedural Comparison

Rule Requirements	EA	EIS
Is public comment required?	Discretionary (except for Mitigated EA)	Yes
How long does the public comment period have to be?	Discretionary	30 Days for a Draft EIS; 15 days for a Final EIS
Are draft revisions required?	Discretionary	Yes, Draft EIS and Final EIS
Is a scoping process involving the public required?	Discretionary (note that if the agency initiates the scoping process to determine the scope of the EA, the agency must follow EIS requirements for scoping)	Yes - 60 days to complete
Do the sources and text of written and oral comments have to be included in the document?	Discretionary	Yes, within the Final EIS
Does the agency have to respond to substantive comments it receives?	Discretionary (note that the agency must consider comments that are received)	Yes, within the Final EIS
Can the agency require the applicant or permittee to fund the environmental review process?	No	Yes, if expenses exceed \$2,500

**Statutory timelines apply to both EA and EIS procedures.
They're found in 75-1-208, MCA. (See reverse)**

75-1-208. Environmental review procedure. (1) (a) Except as provided in 75-1-205(4) and subsection (1)(b) of this section, an agency shall comply with this section when completing any environmental review required under this part.

(b) To the extent that the requirements of this section are inconsistent with federal requirements, the requirements of this section do not apply to an environmental review that is being prepared jointly by a state agency pursuant to this part and a federal agency pursuant to the National Environmental Policy Act or to an environmental review that must comply with the requirements of the National Environmental Policy Act.

(2) (a) Except as provided in subsection (2)(b), a project sponsor may, after providing a 30-day notice, appear before the environmental quality council at any regularly scheduled meeting to discuss issues regarding the agency's environmental review of the project. The environmental quality council shall ensure that the appropriate agency personnel are available to answer questions.

(b) If the primary concern of the agency's environmental review of a project is the quality or quantity of water, a project sponsor may, after providing a 30-day notice, appear before the water policy committee established in 5-5-231 at any regularly scheduled meeting to discuss issues regarding the agency's environmental review of the project. The water policy committee shall ensure that the appropriate agency personnel are available to answer questions.

(3) If a project sponsor experiences problems in dealing with the agency or any consultant hired by the agency regarding an environmental review, the project sponsor may submit a written request to the agency director requesting a meeting to discuss the issues. The written request must sufficiently state the issues to allow the agency to prepare for the meeting. If the issues remain unresolved after the meeting with the agency director, the project sponsor may submit a written request to appear before the appropriate board, if any, to discuss the remaining issues. A written request to the appropriate board must sufficiently state the issues to allow the agency and the board to prepare for the meeting.

(4) (a) Subject to the requirements of subsection (5), to ensure a timely completion of the environmental review process, an agency is subject to the time limits listed in this subsection (4) unless other time limits are provided by law. All time limits are measured from the date the agency receives a complete application. An agency has:

(i) 60 days to complete a public scoping process, if any;

(ii) 90 days to complete an environmental review unless a detailed statement pursuant to 75-1-201(1)(b)(iv) or 75-1-205(4) is required; and

(iii) 180 days to complete a detailed statement pursuant to 75-1-201(1)(b)(iv).

(b) The period of time between the request for a review by a board and the completion of a review by a board under 75-1-201(9) or subsection (10) of this section may not be included for the purposes of determining compliance with the time limits established for conducting an environmental review under this subsection or the time limits established for permitting in 75-2-211, 75-2-218, 75-20-216, 75-20-231, 76-4-125, 82-4-122, 82-4-231, 82-4-337, and 82-4-432.

(5) An agency may extend the time limits in subsection (4) by notifying the project sponsor in writing that an extension is necessary and stating the basis for the extension. The agency may extend the time limit one time, and the extension may not exceed 50% of the original time period as listed in subsection (4). After one extension, the agency may not extend the time limit unless the agency and the project sponsor mutually agree to the extension.

(6) If the project sponsor disagrees with the need for the extension, the project sponsor may request that the appropriate board, if any, conduct a review of the agency's decision to extend the time period. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue.

(7) (a) Except as provided in subsection (7)(b), if an agency has not completed the environmental review by the expiration of the original or extended time period, the agency may not withhold a permit or other authority to act unless the agency makes a written finding that there is a likelihood that permit issuance or other approval to act would result in the violation of a statutory or regulatory requirement.

(b) Subsection (7)(a) does not apply to a permit granted under Title 75, chapter 2, or under Title 82, chapter 4, parts 1 and 2.

(8) Under this part, an agency may only request information from the project sponsor that is relevant to the environmental review required under this part.

(9) An agency shall ensure that the notification for any public scoping process associated with an environmental review conducted by the agency is presented in an objective and neutral manner and that the notification does not speculate on the potential impacts of the project.

(10) An agency may not require the project sponsor to provide engineering designs in greater detail than that necessary to fairly evaluate the proposed project. The project sponsor may request that the appropriate board, if any, review an agency's request regarding the level of design detail information that the agency believes is necessary to conduct the environmental review. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue.

(11) An agency shall, when appropriate, evaluate the cumulative impacts of a proposed project. However, related future actions may only be considered when these actions are under concurrent consideration by any agency through preimpact statement studies, separate impact statement evaluations, or permit processing procedures.