

2. Overview of the EIA Process



2.1 WHAT IS THE PURPOSE OF THE EIA PROCESS?

The environmental impact assessment (EIA) process is an interdisciplinary and multi-step procedure to ensure that environmental considerations are included in decisions regarding projects that may impact the environment. Simply defined, the EIA process helps identify the possible environmental effects of a proposed activity and how those impacts can be mitigated.

The purpose of the EIA process is to inform decision-makers and the public of the environmental consequences of implementing a proposed project. The EIA document itself is a technical tool that identifies, predicts, and analyzes impacts on the physical environment, as well as social, cultural, and health impacts. If the EIA process is successful, it identifies alternatives and

mitigation measures to reduce the environmental impact of a proposed project. The EIA process also serves an important procedural role in the overall decision-making process by promoting transparency and public involvement.

It is important to note that the EIA process does not guarantee that a project will be modified or rejected if the process reveals that there will be serious environmental impacts. In some countries, a decision-maker may, in fact, choose the most environmentally-harmful alternative, as long as the consequences are disclosed in the EIA. In other words, the EIA process ensures an informed decision, but not necessarily an environmentally-beneficial decision.

BENEFITS OF THE EIA PROCESS

- Potentially screens out environmentally-unsound projects
- Proposes modified designs to reduce environmental impacts
- Identifies feasible alternatives
- Predicts significant adverse impacts
- Identifies mitigation measures to reduce, offset, or eliminate major impacts
- Engages and informs potentially affected communities and individuals
- Influences decision-making and the development of terms and conditions

2.2 WHO PREPARES AN EIA?

Depending on the EIA system, responsibility for producing an EIA will be assigned to one of two parties: (1) the government agency or ministry, or (2) the project proponent. If EIA laws permit, either party may opt to hire a consultant to prepare the EIA or handle specific portions of the EIA process, such as public participation or technical studies.

Some EIA laws recognize the inherent conflict of interest produced when a mining company or other project proponent hires a consultant to prepare an EIA. Using a consultant carries the risk that the document will be biased in favor of proceeding with the project. If a consultant is hired by the mining company, conflicts may arise

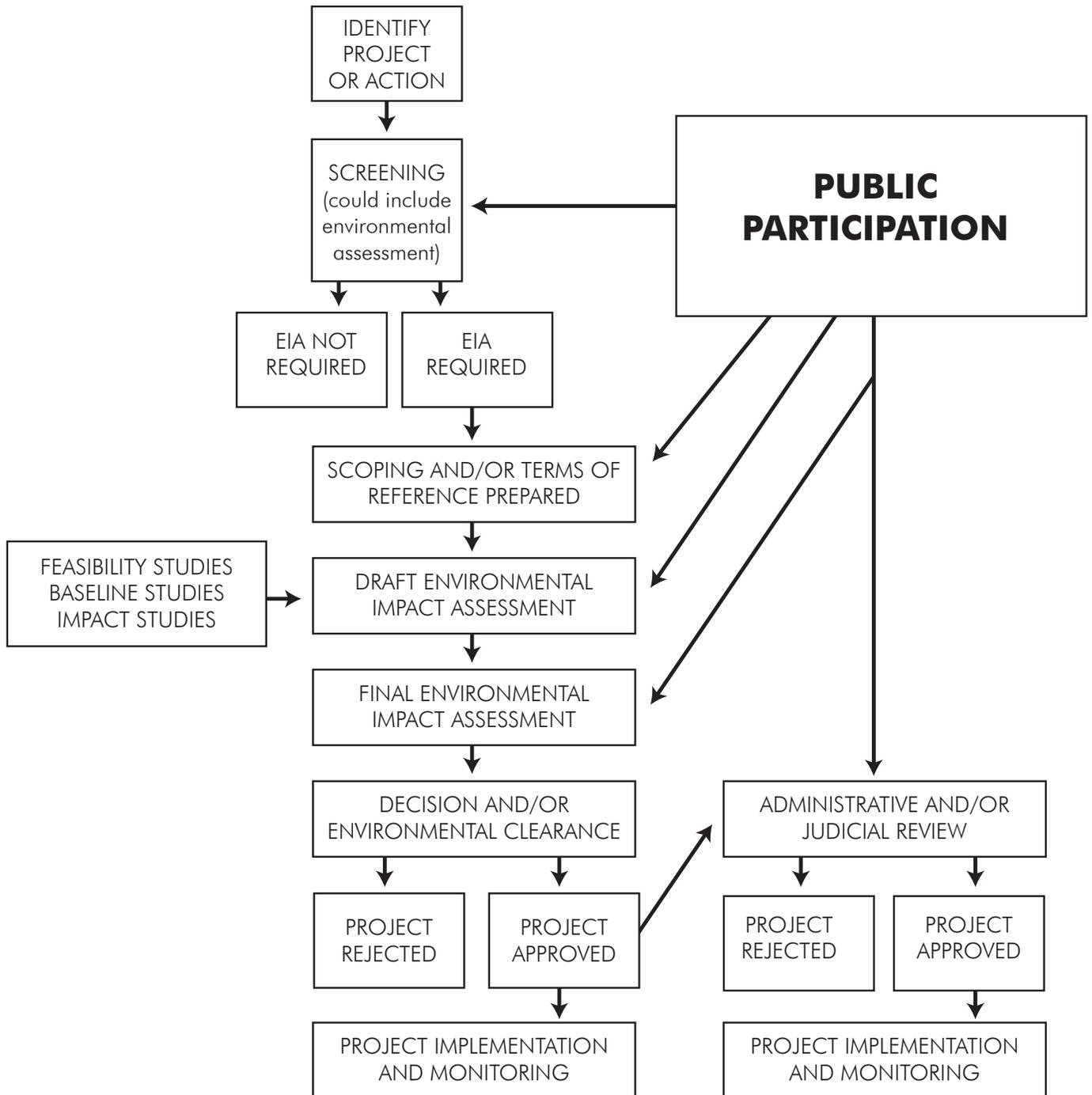
if the consultant believes it will receive future work if the project is approved, or even indirect benefits from related activities (e.g., consulting work for a port where ore will be exported). Some laws require consultants to be registered with the government and/or professionally accredited in EIA preparation. In some instances, a consultant may be required to file a statement disclosing any financial or other interest in the outcome of the project.¹⁴

¹⁴ For example, in the Rosemont Copper Project on the Coronado National Forest in the United States, the U.S. Forest Service prepared a statement outlining its rationale for selecting a particular contractor to prepare an environmental impact statement (EIS) for the project. The agency and the mining company also executed a memorandum of understanding that defined each party's respective role in preparing the EIS. The document is available at www.fs.fed.us/r3/coronado/rosemont/documents/swca-selection-reply-061308.pdf.

2.3 STAGES OF THE EIA PROCESS

The EIA process, while not uniform from country to country, generally consists of a set of procedural steps culminating in a written impact assessment report that will inform the decision-maker whether to approve or reject a proposed project.

THE FLOWCHART BELOW DEPICTS THE BASIC ELEMENTS OF GOOD EIA PRACTICE:



Identifying and Defining the Project or Activity:

Although this step may seem relatively simple, defining a “project” for the purposes of an EIA can become complex and even controversial if a mining project is large, has several phases, or involves multiple sites. The goal of this step is to define the project with enough specificity to accurately determine the zone of possible impacts and to include activities that are closely connected with the proposal so that the entire scope of environmental impacts is evaluated.

Screening: The screening process determines whether a particular project warrants preparation of an EIA. The threshold requirements for an EIA vary from country to country – some laws provide a list of the types of activities or projects that will require an EIA, others require an EIA for any project that may have a significant impact on the environment or for projects that exceed a certain monetary value. In some cases, particularly if the possible impacts of a project are not known, a preliminary environmental assessment will be prepared to determine whether the project warrants an EIA.

Scoping: Scoping is a stage, usually involving the public and other interested parties, that identifies the key environmental issues that should be addressed in an EIA. This step provides one of the first opportunities for members of the public or NGOs to learn about a proposed project and to voice their opinions. Scoping may also reveal similar or connected activities that may be occurring in the vicinity of a project, or identify problems that need to be mitigated or that may cause the project to be canceled.

Preparing Terms of Reference: The Terms of Reference serve as a roadmap for EIA preparation and should ideally encompass the issues and impacts that have been identified during the scoping process.

GENERALLY THE TERMS OF REFERENCE WILL INCLUDE THE FOLLOWING:

- A description of the project
- A list of the agencies or ministries responsible for overseeing the EIA process and making decisions
- The geographic area to be studied (also called the ‘impact zone’)
- EIA requirements in applicable laws or regulations
- Impacts and issues to be studied
- Mitigation and/or monitoring systems to be designed
- Provisions for public involvement
- Key stakeholders
- Timeframe for completing the EIA process
- Expected work product and deliverables
- Budget for the EIA

A draft Terms of Reference may be made available for public review and comment. Public review at this early stage of the process provides a key opportunity to ensure that the EIA is properly framed and will address issues of community concern.

Preparing Draft EIA: A draft EIA is prepared in accordance with the Terms of Reference and/or the range of issues identified during the scoping process. The draft EIA must also meet the content requirements of the overarching EIA law or regulations. This step will ideally engage a wide range of technical specialists to evaluate baseline conditions, predict the likely impacts of the project, and design mitigation measures.

Public Participation: Best EIA practice involves and engages the public at numerous points throughout the process with a two-way exchange of information and views. Public participation may consist of informational meetings, public hearings, and opportunities to provide written comments about a proposed project. However, there are no consistent rules for public participation among current EIA systems. Even within a particular country, there can be variations in the quality and extent of public involvement in the EIA process, depending on the type of project being

considered, the communities that may be affected, or government agencies that are overseeing the project.

Preparing Final EIA: This step produces a final impact assessment report that addresses the viewpoints and comments of the parties that reviewed the draft EIA. These comments may prompt revisions or additions to the text of the draft EIA. In some cases, the final EIA will contain an appendix summarizing all of the comments received from the public and other interested parties and provide responses to those comments.

Decision: A decision to approve or reject a mining project is generally based on the final EIA, but in some instances, an environmental clearance may be just one step in the mine permitting process. The decision may be accompanied by certain conditions that must be fulfilled, such as posting a reclamation bond or filing an Environmental Management Plan.

Administrative or Judicial Review:

Depending on the jurisdiction, there may be opportunities for a party to seek administrative and/or judicial review of the final decision and the EIA process. An appeal may address procedural flaws in the EIA process, such as a failure to hold any required public hearings, or may point

to substantive issues that the decision-maker failed to consider. A country's judicial review or administrative procedure act, or sometimes the EIA law itself, will usually identify the kinds of issues that can be raised in an appeal and the type of relief that may be granted.

Project Implementation: Provided all regulatory requirements are met and permits are obtained, mine development will proceed following the project decision and once opportunities for administrative and/or judicial review are exhausted.

Monitoring: Monitoring is an important part of project implementation. Monitoring serves three purposes: (1) ensuring that required mitigation measures are being implemented; (2) evaluating whether mitigation measures are working effectively; and (3) validating the accuracy of models or projections that were used during the impact assessment process.