

Jeff Civins Authors Blog on ESG Decision-Making for American College of Environmental Lawyers

November 17, 2021 Jeff Civins

PRACTICES Environmental Due Diligence, Environmental

ESG—environmental, social, and [corporate] governance—is the focus of socially responsible investing, reflecting the notion that corporations should serve the interests of not only their shareholders, but of all their stakeholders. This blog describes how NEPA’s EIS process can be used by corporate decision-makers to ensure that their ESG policies consider the big picture—the cons as well as the pros of those policies.

The NEPA process begins when an agency proposes to take action. The agency’s next step is to determine the significance of that action’s environmental effects and to look at alternative means for achieving the agency’s objectives. NEPA requires the agency to analyze the full range of direct, indirect, and cumulative effects of its preferred action and any reasonable alternatives. The information provided by this process enables the agency to make an informed decision, but that decision need not be the environmentally preferred one.

Applying the NEPA EIS model requires corporate decision-makers to ask a series of questions. Focusing on the “E” of ESG, they might ask:

- What aspects of sustainability should be addressed, e.g., waste generation or carbon production?
- What are the desired objectives, e.g., zero landfill or net zero carbon?
- What activities produce the environmental and social impacts of concern, e.g., what activities are necessary to produce the products or goods and services that result in landfill wastes or carbon?
- What is the scope of activities to be addressed, e.g., only product generation or the entire life cycle of a product or service provided, including the activities of suppliers and end users?
- What is the magnitude of each impact?
- What alternatives would achieve the desired objectives?
- What are the environmental and social impacts of each alternative?
- What is the monetary value of each of those impacts?

Excerpted from the American College of Environmental Lawyers (ACOEL) blog. To read the full blog, click [here](#).