

Research Protocol for Health Impact Assessment (HIA) Laws

Prepared by the Center for Public Health Law Research Staff

DECEMBER 2016

Health Impact Assessment (HIA) Laws

- I. **Date of Protocol:** December 2016

- II. **Scope:** Compiled state-level statutes and regulations implementing health impact assessment (HIA) legislation. This longitudinal dataset includes coding questions on how HIAs are included in the law, the sectors to which the HIAs apply, and details on who must conduct the HIAs. The dataset also covers HIA methods, the timing of the HIAs, and requirements for inclusion of recommendations or mitigation measures identified through the HIAs.
 - a. **Initial Returns and Additional Inclusion or Exclusion Criteria:** Included laws that explicitly referred to HIAs or met the necessary steps for consideration as an HIA – screening of the usefulness of an HIA, scoping and creation of objectives for the HIA, assessment of the HIA, inclusion of recommendations within the HIA, reporting of the findings of the HIA, and the monitoring and evaluation of the HIA and its results. Excluded areas of law include:
 - i. Laws requiring forms of public health analysis that did not meet the criteria of HIAs, including but not limited to, health risk assessments and community health needs assessments.
 - ii. Laws that included vague directions to examine the potential impact of a specific issue or project on public health, but did not provide details to suggest that an HIA would be the mechanism.

- III. **Project Team:** Policy Surveillance Program staff - Lindsay Cloud, J.D., Andrew Campbell, J.D., Joshua Waimberg, J.D., Benjamin Hartung, J.D.

- IV. **Primary Data Collection**
 - a. **Project Dates:** Legal research was conducted between September 1, 2016 and December 31, 2016.

 - b. **Dates Covered in the Dataset:** This dataset is a longitudinal dataset that covers state statutes and regulation that have been enacted or have been amended between January 1, 2012 and December 31, 2016. The effective date listed for each record reflects the effective date of that statute or regulation following its passage or amendment. The valid-through date listed for each record reflects the last date the statute or regulation was in effect, or it is our default date of December 31, 2016, the date through which our research is valid.

 - c. **Data Collection Methods:** The Policy Surveillance Program Team (“Team”) building this dataset consisted primarily of one Supervisor and two legal Researchers. One additional Researcher and one Legal Intern assisted with collecting, coding, and

redundantly coding HIA laws. The Researchers began by writing a background memorandum to understand the essential policy components of HIA legislation and by reading secondary sources on HIA legislation.

- i. **Databases Used:** Searches were conducted using WestlawNext. Full text versions of the laws were collected and pulled from state legislature websites.
- ii. **Search Terms Used:** The following searches were used in the current law libraries of WestlawNext:
 1. adv: TE(health /5 (assessment or impact or review))
 2. adv: “health and impact and assessment”
 3. adv: “health and impact and review”

Key word searches were supplemented by reviewing secondary sources on HIA laws and related health assessment initiatives. Discrepancies were reviewed by a supervising Researcher and resolved by further research.

V. Coding

- a. **Development of Coding Questions:** The Team worked in collaboration with Ruth Lindberg, an officer with the Health Impact Project, a collaboration of the Robert Wood Johnson Foundation and The Pew Charitable Trusts, and Dr. Keshia Pollack, a consultant with the Health Impact Project, to determine the focus of the research and the key questions to be coded.

A Supervisor conceptualized coding questions and circulated them to the Team. The Team then worked with a group of key informants to polish the final coding questions, including James Hodge, Jr., Professor of Public Health Law and Ethics at the Sandra Day O’Connor College of Law, Arizona State University (ASU), Leila Barraza, JD, MPH (ASU), Kim Weidenaar, JD (ASU), New Mexico State Auditor Timothy Keller, Christy Hoff of the Washington State Board of Health, Nancy Goff of the Society of Practitioners of Health Impact Assessment, Peter Jacobson, Professor of Health Law and Policy at the University of Michigan School of Public Health, and Katrina Korfmacher of the University of Rochester. When the questions were finalized, a Researcher entered the questions into the MonQcle, a software coding platform.

- b. **Coding Methods:** The Team frequently met as a group to narrow the scope of the dataset to meet the requirements of the HIA definition. As necessary, the coding scheme was altered to accommodate newly identified features of the data, and completed states were recoded accordingly.

Below are specific rules used when coding certain questions and answer choices in the dataset. Note that questions marked with an asterisk do not display on the map or table but can be found in the excel data file highlighted in gray.

- o **Question: Has a health impact assessment (HIA) law been enacted or amended in the jurisdiction?**
 - States were coded as “Yes” wherever the law had been enacted or amended after January 1, 2012.

- States were coded as “No” if HIA laws had been enacted or amended prior to January 1, 2012, but no further statutes or amendments had been passed.
- **Question: How many HIA laws were enacted or amended in the jurisdiction during the year?***
 - The numerical coding for this question was based on the number of HIA laws coded within the jurisdiction at issue during the year in which the law contained in the particular record was enacted or amended.
- **Question: How many HIA laws were enacted or amended in the jurisdiction from 1/1/2012 through 12/31/2016?***
 - The numerical coding for this question was based on the number of HIA laws coded within the jurisdiction at issue throughout the longitudinal dataset.
- **Question: Does the law require an HIA?**
 - This question captures whether the law requires that an HIA be conducted, encourages or recommends that an HIA be conducted, or sets aside specific funds for the purpose of conducting an HIA. Responses were coded, conceptualized and/or consolidated as follows:
 - “Yes, an HIA is required” was coded when a law required an HIA to be conducted on a one-time basis, or required an HIA in response to a specific event or activity. This response was coded even if the law allowed for exemptions to be granted to the requirement that an HIA be conducted.
 - “Yes, an HIA is required on a recurring basis” was coded when a law required HIAs to be conducted on a set, recurring timeframe.
 - “No, but an HIA is encouraged or allowed” was coded when the law did not require that an HIA be conducted, but allowed an HIA to be conducted at the discretion of another body.
 - “No, but specific funds are established to conduct HIAs” was coded when the law did not require an HIA, but required specific funds to be set aside for HIAs. If a law required that both an HIA be conducted and specific funds were to be set aside to conduct HIAs, then “Yes, an HIA is required” was coded.
- **Question: What sector(s) does the HIA apply to?**
 - The coding options for this question were adapted from the North American Industry Classification Systems (NAICS) code list to fit the dataset’s coding requirements.
 - Multiple responses were coded if an HIA applied to multiple sectors.
- **Question: What organization or agency must conduct the HIA?**
 - This question captures which specific institution must conduct the HIA according to the law. Specific responses were coded, conceptualized and/or consolidated as follows:
 - “Private, non-government contractor” was coded whenever the law required that the HIA be conducted by a third-party.

- “Local government” was coded for any non-state governmental actor.
- “Private entity” was coded when the law required that the specific non- governmental entity that triggered the HIA conduct the HIA themselves.
- **Question: Must the HIA be conducted before the issue, action, project, or process is allowed?**
 - “Yes” was coded when the requirement was explicitly stated in the law.
- **Question: What methods must be used in conducting the HIA?**
 - This question captures the requirements for an HIA process as described in the law. Responses were coded for this question when the method was explicitly mentioned in the law, or if the procedures described met the threshold to be considered as a specific type of method as determined by the Team. Specific responses were coded, conceptualized and/or consolidated as follows:
 - “Risk assessment” was coded when the law required a systematic process of evaluating the potential health risks for an individual that may be affected by a project.
 - “Literature reviews” was coded when the law required a report of information found in the academic literature related to the sector of the project.
 - “Population analysis” was coded when the law required a statistical analysis of the critical factors that define a target population.
 - “Expert opinion” was coded when the law described the consultation or participation in the HIA of a person who is a specialist in a subject.
 - “Original research and data collection” was coded when the law required a procedure where the entity conducting the HIA used their own research and analysis on the issue.
 - “Stakeholder engagement” was coded when the law required the participation in the HIA of individuals affected by the issue or project.
 - “Secondary data analysis” was coded when the law required the analysis of data that had already been gathered by another entity.
- **Question: Must the HIA be completed within a specific timeframe?**
 - “Yes” was coded if the law required an HIA to be conducted and completed by a specific date.
 - “No” was coded if the law only required an HIA to be completed prior to a specific event. “No” was also coded if the only date requirement in a law was the date on which a report on the HIA was due.
- **Question: Must the HIA consider alternatives?**

- “Yes” was coded when the law required that an HIA provide consideration of alternative actions that would meet the same purpose and need as the action at issue.

VI. Quality Control

a. Quality Control – Background Research: States were redundantly researched for HIA laws to ensure that all relevant statutes and regulations were collected for coding purposes. All redundant research was reviewed by the Supervisor and any missing laws were added to the collection of laws used to complete the coding. Following the completion of research and coding for all HIA laws for the valid through date of December 1, 2016, further research and coding was completed to extend the valid through date to December 31, 2016. All quality control methods were followed by the team for this update.

b. Quality Control – Coding: 100% of records from jurisdictions that introduced or amended HIA laws were redundantly coded by the Team throughout the development of the dataset (3 of 3 records with HIA laws, with 51 “No” records). The Supervisor first assigned 100% redundant coding of the first 10 jurisdictions (Batch 1), and the divergence rate was 14.40%. The Supervisor then assigned 100% redundant coding of the next 10 jurisdictions (Batch 2), and the divergence rate was 8.57%. The Supervisor then assigned 100% redundant coding of the next 10 jurisdictions (Batch 3), and the divergence rate was 12.63%. The Supervisor then assigned 100% redundant coding of the next 10 jurisdictions (Batch 4), and the divergence rate was 6.52%. The Supervisor then assigned 100% redundant coding of the next 11 jurisdictions (Batch 5), and the divergence rate was 11.96%.

The Supervisor also performed quality control by downloading all coding data into Microsoft Excel and examined the data for any missing answers, incorrect citations, and caution notes. The divergences and caution notes were discussed and resolved by the Supervisor and Researchers in a coding review meeting. Divergences were then recoded to the agreed upon response.