

**Section
2-03 Environmental Process**

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INTRODUCTION

General: The following guidelines represent the environmental process as it relates to a typical reconstruction or widening and overlay project. These guidelines are not intended to address project types such as maintenance, building, and other small projects that require a modified process. It is important to develop the environmental documentation along the same general time line as the project design process.

The National Environmental Policy Act (NEPA) defines the environmental documentation procedures and different levels of analysis to be used to address impact and mitigation needs. WYDOT's Environmental Services Section manages and prepares the necessary NEPA documentation. The critical-path Project Control System (PCS) schedule and the Environmental Process Flowchart are used to schedule and coordinate the NEPA process with the project design process. This chapter and the Environmental Process Flowchart are the basis of these guidelines.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

General: The NEPA process of identifying impact and mitigation needs is an art as much as a science. It is necessary to have an understanding of both the engineering alternatives and the in-place features to fully evaluate the significance, context, and intensity of impact. Close coordination between Environmental Services, Project Development, and the district is important to keep environmentally sensitive projects on schedule. The process for a given project is dynamic, and the actual completion of tasks that are relative to the design process may vary or require adjustment from the typical environmental progression shown in the Environmental Process Flowchart.

The Environmental Process Flowchart provides a linear representation of how the various NEPA processes generally relate to the design process. The NEPA Analysis and Documentation Flowchart provides a graphical representation of the NEPA process. Both of these flowcharts are available in *Chapter 2, Section 2-01 Design and Environmental Flowcharts*.

NEPA History: The creation of the 1969 National Environmental Policy Act (NEPA) dramatically changed the paradigm of transportation design to become better stewards of the environment. Before 1969, transportation design was best characterized as a "design and defend" process, otherwise known as "DAD." The resulting products were characterized as unimaginative with heavy impacts that aroused the ire of many citizens, eventually fueling the formulation of NEPA of 1969 and other environmental laws, such as the Endangered Species Act of 1973 and the Clean Water Act of 1977.

The purpose of NEPA was to create a collaborative environmental process that would utilize the values and input from the project's stakeholders to arrive at an informed decision that best serves the public. This approach is characterized as the "collaborate and decide" process, otherwise known as "CAD." The cornerstone of NEPA is founded on extensive and continual public involvement that facilitates the collaboration. It is imperative that the design process integrate with the environmental process so that the design, construction, maintenance, and operation are ecologically sound in the natural and human environment. This is how transportation decisions can keep current with the latest cultural trends of a nation and a community.

NEPA Process: The NEPA process discloses information to the public by means of documentation that reflects the developmental process of a decision. It discloses information regarding the purpose and need of a project and conveys the alternative selection process used, divulges the effects it has on the surrounding natural and human environments, and imparts the strategies utilized to mitigate the impacts. The NEPA process also facilitates the involvement of outside resource and regulatory agencies to ensure that WYDOT complies with all environmental laws. Environmental Services leads this coordination effort, and the FHWA is the lead federal agency responsible to ensure that WYDOT's actions are NEPA compliant.

NEPA documents are required any time there is a federal action. A federal action is constituted by securing a federal permit or utilizing federal funding for an action. A project may not have a federal action, thereby eliminating the need for a NEPA document; however, the agency must still make sure the action is in compliance with all other federal laws.

NEPA Level of Documentation: NEPA defines different levels of documentation that can be used to address impact and mitigation needs. Projects with "no significant impact" qualify for a Programmatic Categorical Exclusion (CE) or a Categorical Exclusion (CE). Projects that have "possible significant impact" require an Environmental Assessment (EA), and projects with "known significant impact" require an Environmental Impact Statement (EIS) analysis.

Environmental Services assigns the NEPA level to a project. Approximately 95 percent of WYDOT projects are cleared through the Categorical Exclusion (CE) process. Another 3 percent are cleared through the Environmental Assessment (EA) process. The remaining 2 percent are cleared through the Environmental Impact Statement (EIS) process. This breakdown is very similar to the national average.

NEPA Significance, Context, and Intensity: The context and intensity of an action determines the significance, which defines the level of documentation that can be used to address impact and mitigation needs. For example, an EIS probably will be used if a transportation action were to take one city block in downtown Cheyenne, while another transportation action in downtown Chicago could take 50 city blocks utilizing a CE. The different context in each case strongly influences the intensity, even though the actions were both urban projects. The impact in downtown Chicago has a higher quantitative impact than Cheyenne, but in reality the one block taken in Cheyenne has a higher intensity or significant impact because a greater overall percentage of the downtown area is destroyed compared to the smaller percentage experienced in Chicago.

NEPA COORDINATION WITH DESIGN AND CONSTRUCTION

General: The NEPA process almost always results in findings that influence the project design. It's important to have timely integration of the NEPA findings into the design process. Functions that are key to timely integration are identified in the Environmental Process Flowchart where flowchart arrows connect to the design process task nodes. The following are key functions as they relate to the different levels of NEPA documentation and specific nodes of the design process.

Programmatic Categorical Exclusion (CE): There are generally little or no findings that influence the project design. The word "programmatic" in the federal context is normally synonymous with an "abbreviated" or a "streamlined" method for a course of action. The only work required for an official programmatic CE is a brief letter from the Environmental Services Engineer to the FHWA Wyoming Division office stating that the project qualifies for this blanket type of clearance due to the type of work that has already been listed in a federally exempted list or by a Memorandum of Understanding (MOU). Final programmatic CE documents should be completed before issuing the PS&E Plans, as shown in the Environmental Process Flowchart.

Categorical Exclusion (CE): Findings can range from having little to substantial influence on the design process. The process requires review input from public meetings, which generally occur before Grading Plans are issued. The final CE document should be completed in time to allow mitigation requirements to be incorporated into the project design and before the Right-of-Way and Utility Plans are issued. The mitigation requirements are determined through collaborative coordination with outside regulatory agencies due to project impacts. Sometimes federal permits are required to mitigate the impacts even though the impacts were not considered significant.

Environmental Assessment (EA): At a minimum, the EA process requires timely coordination between Environmental Services and Project Development at various stages of the design process, as indicated on the Environmental Process Flowchart and noted below:

- Between the Reconnaissance Inspection and Draft Reconnaissance Report of the design process, identify the need for environmental studies and schedules surveys as needed to support NEPA engineering studies.
- Following the Draft Reconnaissance Report and the completion of the survey, coordinate any special engineering studies needed to support the NEPA alternative analysis.
- Before the Final Reconnaissance Report and Scope Statement are issued, complete the environmental alternative analysis and identify the preferred

- alternative so that they can be included in the Final Reconnaissance Report.
- Before the Grading Plans are issued, a public meeting and post review of the public comments is generally completed. The resultant findings that influence design should be included in the Grading Plans.
- Before the Right-of-Way and Engineering Inspection Plans are issued, Environmental Services finalizes and issues the EA Finding of No Significant Impact (FONSI).

Environmental Impact Statement (EIS): The process is ongoing through design, construction compliance, and construction monitoring. Timely coordination between Environmental Services, Project Development and District Field Office is necessary at various stages of design and construction, as indicated on the Environmental Process Flowchart and as noted below:

- In reference to the design process path of the Environmental Process Flowchart, the Final EIS should be completed in time to coordinate the findings with the Reconnaissance Inspection node. The preferred alternative must be determined before the Reconnaissance Inspection is scheduled.
- Between the Reconnaissance Inspection and Draft Reconnaissance Report of the design process, identify the need for environmental studies and schedule surveys as needed to support NEPA engineering studies.
- In reference to the NEPA path of the Environmental Process Flowchart, the Final EIS is generally made available for public comment in the time frame of the design process between the Reconnaissance Inspection and the issuance of the Draft Reconnaissance Report.
- Following the public comment period and the issuance of the Draft Reconnaissance Report, Environmental Services completes the Record of Decision and makes it available to Project Development so that final engineering studies and mitigation can be incorporated into the design process.
- At this stage of the process, an optional Advisory Team may be appointed to have on-going meetings to coordinate environmental needs through the development of PS&E Plans, contract bidding and award, construction compliance, and construction monitoring.

Public Involvement: The District Engineer has overall responsibility and final authority for the public involvement program which is based on the “Public Involvement Handbook and Resource Guide” and the “National Environmental Policy Act” (NEPA).

Depending on the level of NEPA documentation required, Project Development and Environmental Services will provide the District Engineer with various levels of

support to complete the public involvement process. The level of NEPA documentation required for a specific project is determined during the Reconnaissance Inspection phase and noted in the Reconnaissance Report. Knowing the level of documentation (CE, EA or EIS) determines levels of support available to the District Engineer as follows:

- On projects that require an EA or EIS, Environmental Services is responsible for compliance with NEPA. In this case Environmental Services generally hires a NEPA consultant with the expertise to complete the EA or EIS which includes the assigned public involvement responsibilities to fulfill the NEPA requirements. The NEPA consultant will also have the capability of producing and presenting exhibits at the public meeting for the District Engineer should this service be needed. In any case the public involvement to fulfill the NEPA process for an EA or EIS is coordinated through the District Engineer.
- On smaller projects at a CE level, Environmental Services may not have a NEPA consultant available for public involvement work. In this case Project Development generally provides the District Engineer with public meeting exhibits and assistance with the meetings as needed.

Environmental Services also acts as the general clearing house for summarizing and distribution of all public comments to aid the District Engineer who is responsible for the public involvement program. The District Engineer will provide responses to public comments as needed.

OTHER NEPA AND DESIGN PROCESS CONSIDERATIONS

General: Engineering should consider the following items to ensure compliance with NEPA requirements:

- **Project Purpose/Description** is presented in the NEPA document and should be consistent with the typical section and plan/profile shown in the project plans (Preliminary through PS&E).
- **Project Preferred Alternative** is presented in the NEPA document and should be consistent with the typical section and plan/profile shown in the project plans (Preliminary through PS&E).
- **Alternative Analysis** may be required during the NEPA process to avoid, minimize, or mitigate effects to certain resources, including wetlands, cultural sites, and recreational sites, during the design process. The results of these efforts must be shown on the plan/profile sheets (Preliminary and Grading).
- **Project Mitigation** commitments may be developed and summarized in the NEPA document and must be incorporated in project plans (Grading through PS&E).
- **Project Borrow, Pit, Plant Site, and Material Sources** should be presented in the NEPA document and should be consistent with the design process (Grading through PS&E).

REFERENCE DOCUMENTS

- Chapter 2, Section 2-01 Design and Environmental Flowcharts