



Oversight Procedure 32B — NEPA and Design Document Comparison

1.0 PURPOSE

This Oversight Procedure (OP) describes the review, analysis, recommended procedures, and reporting requirements that the Federal Transit Administration (FTA) expects from the Project Management Oversight Contractors (PMOC) regarding the extent to which the scope and requirements found in the NEPA document have been addressed in project design documents.

While this OP focuses on Capital Investment Grant (CIG) projects, which have specific requirements by law, it also applies to all capital projects. FTA will issue Implementation Plans (IPs) to clarify the specific reviews and expected deliverables based on the project types.

2.0 BACKGROUND

2.1. The National Environmental Policy Act

The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. NEPA's purpose is to foster excellent action; it is to help public officials make decisions that are based on understanding the environmental consequences, and take actions that protect, restore, and enhance the environment. The NEPA statute is found in 42 U.S.C. Part 4321-4347.

NEPA's policy calls for Federal agencies to:

- Implement procedures to make the NEPA process useful to decision makers through clear documents that emphasize real environmental impacts and alternatives;
- Integrate the requirements of NEPA with other planning and environmental review procedures;
- Facilitate public involvement;
- Use NEPA to identify alternatives that will avoid or minimize adverse effects upon the quality of the human environment; and
- Restore and enhance the quality of the human environment and avoid or minimize adverse effects of their actions upon the quality of the human environment.

The general process for complying with NEPA is set forth in the Federal Highway Administration (FHWA) / FTA regulations, "Environmental Impact and Related Procedures" (23 CFR Part 771 and 49 CFR Part 622) and "Efficient Environmental Reviews for Project Decisionmaking and One Federal Decision" (23 U.S.C. Section 139).

The project sponsor's coordination with FTA planning and environmental specialists to develop and carry out the scoping process, outlined in [40 CFR Section 1501.7](#) of the Council on Environmental Quality (CEQ) Regulations, before the NEPA process formally begins, ensures that all necessary environmental issues are addressed early in the planning process. Related to the proposed action, NEPA requires an early and open process to identify the scope of issues to be addressed and develop appropriate mitigation measures.

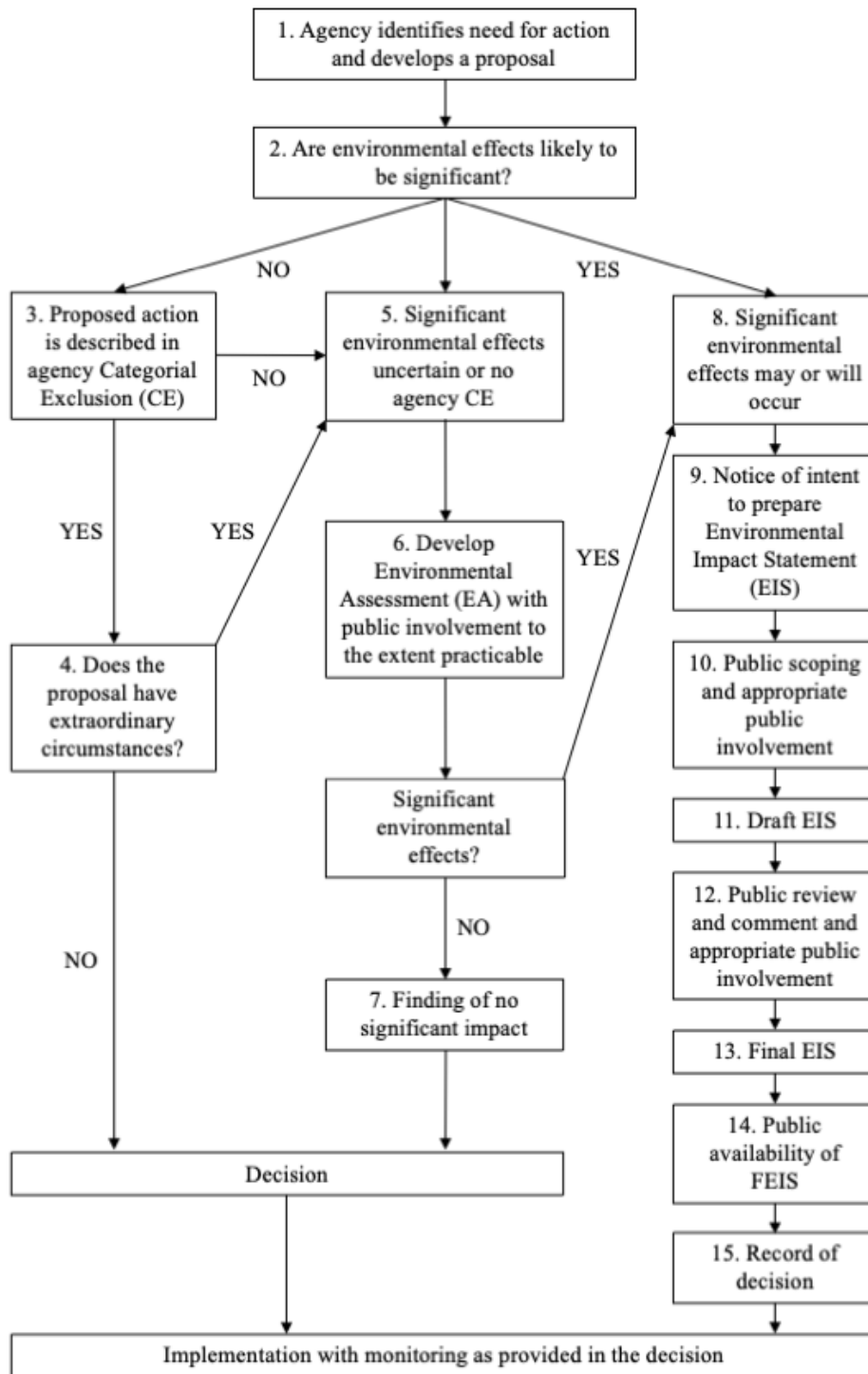
Agencies are encouraged to integrate the NEPA process with other planning requirements (such as those related to historic preservation and protection of public lands) at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts. In air quality non-attainment or maintenance areas, transportation plans must contain enough information to allow conformity findings as defined by U.S. Environmental Protection Agency in [40 CFR Part 51](#).

Within the NEPA document, the agency discusses the factors that are considered in its decision to proceed with the proposed action. If a project is not categorically excluded (CE) under NEPA, the NEPA process is concluded with a Record of Decision (ROD) for an Environmental Impact Statement (EIS) level action; or a Finding of No Significant Impact (FONSI) for an Environmental Assessment (EA) level action. Note that an EA could result in preparation of an EIS, in which case the process would be concluded with a ROD.

The ROD or FONSI states the decision, identifies the alternatives considered (including the preferred alternative) and discusses mitigation measures. The final environmental determination details all practical means of avoiding or minimizing environmental harm, including enforcement and monitoring commitments, and explains why other means were not adopted.

A project sponsor must initiate the NEPA process before FTA can approve its project for entry into the project development (PD) phase. The NEPA process must be concluded before a project can be approved for entry into the engineering phase. The graphic below is from the Council on Environmental Quality, Executive Office of the President, A Citizen's Guide to the NEPA, Dec. 2007, pg. 8.

Figure 1: The NEPA Process



Note: Significant new circumstances or information relevant to environmental concerns or substantial changes in the proposed action that are relevant to environmental concerns may necessitate preparation of a supplemental EIS following either the draft or final EIS or the Record of Decision (CEQ NEPA Regulations, 40 CFR Part 1502.9(c)).

3.0 OBJECTIVE

The objective of this review is for the PMOC to characterize the level to which the project design documents reflect the NEPA findings and recommendations. The PMOC should compare for consistency, the project design documents, cost estimate and schedule with the impacts and mitigation requirements identified through NEPA and found in the NEPA decision document.

4.0 REFERENCES

The PMOC shall become familiar with the following references to Federal legislation, regulation, and guidance before reviewing the project sponsor's work. These are the principal references, but this list is not exhaustive:

4.1. Statutes and Legislation

- [Infrastructure and Investment Jobs Act \(IIJA\), Public Law 117-58](#), effective November 15, 2021 (also known as the “Bipartisan Infrastructure Law”)
- [23 U.S.C. Section 139](#), Efficient Environmental Reviews for Project Decisionmaking
- 42 U.S.C. Sections 4321–4347, National Environmental Policy Act of 1969 (NEPA), as amended
- [49 U.S.C. Section 303](#), Policy on lands, wildlife and waterfowl refuges, and historic sites
- [49 U.S.C. Section 5309](#), Fixed Guideway Capital Investment Grants

4.2. Executive Orders

- Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, 80 Federal Register 6425, February 4, 2015

4.3. Regulations

- [23 CFR Part 450](#), Planning Assistance and Standards
- [23 CFR Part 771](#), Environmental Impact and Related Procedures
- [23 CFR Part 774](#), Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(F))
- [40 CFR Part 51](#), Requirements for Preparation, Adoption, and Submittal of Implementation Plans
- [40 CFR Parts 1500–1508](#), Council on Environmental Quality
- [49 CFR Part 602](#), Emergency Relief
- [49 CFR Part 611](#), Major Capital Investment Projects
- [49 CFR Part 622](#), Environmental Impact and Related Procedures

4.4. Agency Guidance

- FTA Policy and Procedures for FY 2013 Grants, 77 Federal Register 200, Section V(B), [pages 63701-63703](#), October 16, 2012
- [Capital Investment Grants Program Guidance](#) (2023)

5.0 PROJECT SPONSOR SUBMITTALS

The PMOC will obtain from the project sponsor the most current versions of the following:

- Alternatives Analysis Report (prior to Entry to Engineering);
- MPO-adopted LRTP (prior to Entry to Engineering);
- NEPA documents (CE, EA, Draft Environmental Impact Statement [DEIS], Final Environmental Impact Statement (FEIS), NEPA Re-evaluations, Supplemental EIS, etc.);
- Applicable Memoranda of Understanding (MOU), Memoranda of Agreement (MOA), Biological Opinions (BO) or other specific documents executed for the proposed action;
- Locally Preferred Alternative (LPA) and decision-making documentation (when available);
- Operating cost estimate for project;
- Capital cost estimate for project (or as defined in the LPA, if available);
- Project master schedule (inclusive of additional planning, design phases, procurement and construction, through to Revenue Service Date);
- New Starts submittals;
- Project drawings, project narratives, design criteria, specifications;
- Information on third-party interfaces (including especially freight railroads), description of interface and status of negotiations/agreements;
- Project Management Plan and associated subplans;
- Real Estate Acquisition and Management Plan (RAMP);
- Public Involvement Plan/Agency Coordination Plan; and
- Permit/Approval Tracking Table (when available).

6.0 SCOPE OF WORK

The PMOC should review for adequacy and timing the project sponsor's approach to incorporating the environmental requirements, including restrictions, contained in the project's NEPA documents, into its project design documents and the project sponsor's plan to check, review, and update the design documents for changes in environmental requirements. Checks may include peer reviews or independent reviews to ensure that the two document sets are consistent and the project scope definition is adequate to avoid or mitigate impacts identified under NEPA.

Verify the preferred alternative's fit with local conditions. Ensure that the project sponsor has identified required cooperating agreements and permits and has listed the impacted stakeholders. Assess the level to which environmental impacts and avoidance or mitigation measures are reflected in project design documents. Focus on the constructability, cost, and time effects of implementing the mitigation measures.

Coordinate this review with a review from OP 32A (Project Transit Capacity Review) to ensure the project scope documentation matches the project LPA (or currently identified preferred alternative if the LPA has not yet been decided) analyzed in the environmental documents.

Verify that impacts to third parties, especially to those in the railroad environment (freight carriers, Amtrak, high speed corridors, etc.), are identified in the environmental document. Where there are impacts, verify that impacted third parties at their current addresses have received the environmental document for review. Confirm that comments, if any, have been received by the project sponsor from such third parties. As a possible further step, prior to the Record of Decision, encourage the project sponsor to produce a plan or drawing showing impacts and mitigations within the railroad environment, and to obtain approval from affected parties on this drawing.

During construction, the PMOC should verify that the contract documents or interagency or public-private partnership agreements are being followed and that the project and its related mitigation measures are being implemented as called for in the NEPA document, and the Full Funding Grant Agreement or Small Starts Grant Agreement.

7.0 REPORTS, PAPERS, PRESENTATIONS

The PMOC shall provide the COR/ACOR with a written report, formatted in compliance with OP 01, of their findings, analyses, recommendations, professional opinions, and description of the review activities undertaken, as well as other supporting information.

After the COR/ACOR has transmitted formal acceptance of the report, the PMOC should share the report with the project sponsor. If there are differences of opinion between the PMOC and the project sponsor regarding the PMOC's findings, the COR/ACOR may direct the PMOC to reconcile their findings with the project sponsor and provide the COR/ACOR with a report addendum covering the modifications agreed upon by the project sponsor and PMOC.

When directed by the COR/ACOR, the PMOC shall perform data analysis and develop data models that meet FTA requirements using Microsoft Office products, such as Excel and Word, and use FTA templates when provided.

Upon approval by the COR/ACOR, the PMOC may add other software as required, but they should provide the COR/ACOR with documentation and report data when complete.



APPENDIX A: ACCEPTABLE QUALITY LEVEL

PLACEHOLDER



APPENDIX B: ACRONYMS

Acronym	Term
ACOR	Alternate Contracting Officer's Representative
ADA	The Americans with Disabilities Act
AGC	Associated General Contractors of America
ATC	Alternative Technical Concepts
AVS	Associate Value Specialist
BEA	Bureau of Economic Analysis
BLS	Bureau of Labor and Statistics
BRF	Beta Range Factor
BY	Base Year
CATEX or CE or CX or Exclusion	Categorical Exclusion
CCIP	Contractor Controlled Insurance Program
CE	Categorical Exclusion
CER	Cost Estimating Relationship
CFR	Code of Federal Regulations
CIG	Capital Investment Grant
CLIN	Contract Line Item Number
CM	Construction Manager

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Project Management Oversight**

Acronym	Term
CM/GC	Construction Manager/General Contractor
CMAR	Construction Manager at Risk
COR	Contracting Officer's Representative
CPM	Critical Path Method
CPTED	Crime Prevention Through Environmental Design
CR	Constructability Review
CVS	Certified Value Specialists
DB	Design-Build
DBB	Design-Bid-Build
DBE	Disadvantaged Business Enterprise
DBF	Design-Build-Finance
DBFOM	Design-Build-Finance-Operate and Maintain
DBOM	Design-Build-Operate and Maintain
DEIS	Draft Environmental Impact Statement
DF	Designated Function
DHS	Department of Homeland Security
DTS	Department of Transportation Services
EA	Environmental Assessment
EIS	Environmental Impact Statement

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Acronym	Term
EMP	Emergency Management Plan
ENR	Engineering News-Record
EPCM	Engineering/Procurement/Construction Management
ESWA	Early Systems Work Agreement
FEIS	Final Environmental Impact Statement
FEMA	Federal Emergency Management Agency
FFGA	Full Funding Grant Agreement
FHWA	Federal Highway Administration
FLSSC	Fire/Life Safety and Security Committee
FONSI	Finding of No Significant Impact
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
GAO	Government Accountability Office
GC	General Contractor
GC/CM	General Contractor/Construction Manager
GMP	Guaranteed Maximum Price
HAZMAT	Hazardous Materials
IP	Implementation Plan
LONP	Letter of No Prejudice

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Acronym	Term
LPA	Locally Preferred Alternative
MBE	Minority Business Enterprise
MCC	Management Capacity and Capability
MDBF	Mean Distance Between Failures
MPO	Metropolitan Planning Organization
NEPA	National Environmental Policy Act
NTE	Not-to-Exceed
NTP	Notice to Proceed
O&M	Operation and Maintenance
OCIP	Owner Controlled Insurance Program
ODCs	Other Direct Costs
OHA	Operational Hazard Analysis
OIG	Office of Inspector General
OMP	Operations and Management Plan
OP	Oversight Procedure
P3	Public Private Partnership
PCMG	Project and Construction Management Guidelines
PD	Project Development
PDM	Project Delivery Method

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Project Management Oversight**

Acronym	Term
PHA	Preliminary Hazard Analysis
PMO	Project Management Oversight
PMOC	Project Management Oversight Contractor
PMP	Project Management Plan
POP	Project Oversight Plan
PTASP	Public Transportation Agency Safety Plan
QA/QC	Quality Assurance/Quality Control
R&D	Research and Development
RAMP	Real Estate Acquisition Management Plan
RAP	Rail Activation Plan
RCMP	Risk and Contingency Management Plan
RET	Risk Evaluation Tool
RFI	Request for Information
RFP	Request for Proposal
RFQ	Request for Qualifications
ROD	Record of Decision
ROW	Right-of-Way
RSD	Revenue Service Date
S/DBE	Small/Disadvantaged Business Enterprises

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Acronym	Term
SABCE	Stripped and Adjusted Base Cost Estimate
SABS	Stripped and Adjusted Base Schedule
SAVE	Society of American Value Engineers
SCC	Standard Cost Category
SCIL	Safety Certifiable Items List
SGR	State of Good Repair
SIT	System Integration Testing
SITP	Systems Integration Test Plan
SOP	Standard Operating Procedure
SOW	Scope of Work
SSCVR	Safety Certification Verification Report
SSGA	Small Starts Grant Agreement
SSI	Sensitive Security Information
SSMP	Safety and Security Management Plan
STIP	Statewide Transportation Improvement Program
SYGA	Single Year Grant Agreement
TAR	Travel Authorization Request
TBM	Tunnel Boring Machine
TCC	FTA Office of the Chief Counsel

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Acronym	Term
TCRP	Transit Cooperative Research Program
TIFIA	Transportation Infrastructure Finance and Innovation Act
TIGER	Transportation Investment Generating Economic Recovery
TIP	Transportation Improvement Program
TOD	Transit-Oriented Development
TPE	FTA Office of Planning and Environment
TPM	FTA Office of Program Management
TRB	Transportation Research Board
TSA	Transportation Security Administration
TVA	Threat and Vulnerability Assessment
URA	Uniform Relocation Assistance and Real Property Acquisition Act
U.S.C.	United States Code
VE	Value Engineering
VECP	Value Engineering Change Proposals
WBE	Women Business Enterprise
WBS	Work Breakdown Structure
YOE	Year of Expenditure