

Title: Notice of Intent
Date: March 2019
SOP No.: 6
Issued by the Office of Planning and Environment (TPE)

1. Purpose

This document provides guidance on the preparation of a notice of intent (NOI), which announces that FTA and other lead agencies intend to prepare an environmental impact statement (EIS). The NOI, published in the *Federal Register*, also formally starts the 30-day scoping comment period for EISs (23 U.S.C § 139 (g)(2)(B)).

2. Applicability/Scope

This guidance applies to all EISs. The NOI is published at the start of the environmental review process for projects requiring an EIS (NOIs are not required or issued for environmental assessments or categorical exclusions). A project sponsor may initiate the environmental review process by providing FTA Regional staff with a draft NOI.

3. Responsibilities

FTA Regional staff and the Regional Counsel are responsible for preparing and reviewing the NOI, respectively, and having it published. Regional staff or the Regional Counsel transmits the NOI to the *Federal Register* liaison in FTA Headquarters' Office of Chief Counsel for publication. The liaison will send the NOI to the Office of the Federal Register (OFR) for publication.

4. Standard Procedures

4.1. FTA Regional Office publishes the NOI. Regional staff should coordinate with TCC regarding publication requirements for *Federal Register* notices as specified in FTA Order 1334.1, *Federal Register Documents; Standard Operating Procedures (SOP)*. Project sponsors may prepare the draft NOI for the Region, but the Region is ultimately responsible for the content and coordinating with TCC on an accurate and timely publication.

4.2. Required content for an NOI. The NOI should follow an outline consistent with previous FTA NOIs or examples available from headquarters. Per 40 CFR 1508.22, the NOI must briefly:

- Describe the proposed action and possible National Environmental Policy Act (NEPA) alternatives;
- Describe FTA and the project sponsor's proposed scoping process, and include the time, date, and location of scoping meetings, if scoping meetings are held; and
- Provide the contact information (e.g., name, mailing address, email, and telephone number) of the Regional staff who will be managing the environmental review process. FTA's policy is to include contact information for the project sponsor in the NOI, as well.

4.3. Other content for NOI. The NOI, in addition to meeting the informational needs of 40 CFR 1508.22, should include:

- A concise statement of the purpose of and need for the proposed action;
- Identification of the reasonable NEPA alternatives that meet the purpose and need;

- A list of potentially significant environmental impacts;¹
- Identification of any joint lead agencies, including the project sponsor, and any cooperating agencies already identified;
- A description of FTA's Federal action – the likely Federal funding source for the project (e.g., FTA may provide Federal funding for a proposed project through the Capital Investment Grants program);
- Identification of State or local planning documentation that preceded publication of the NOI and supports project elements (e.g., purpose and need, range of alternatives, mitigation sites);²
- The project sponsor's general website or project-specific website, if applicable.³
- The following statement regarding the distribution of the EIS:
The Paperwork Reduction Act seeks, in part, to minimize the cost to the taxpayer of the creation, collection, maintenance, use, dissemination, and disposition of information. Consistent with this goal and with principles of economy and efficiency in government, it is FTA policy to limit insofar as possible distribution of complete printed sets of environmental documents. Accordingly, unless a specific request for a complete printed set of the environmental document is received before the document is printed, FTA and its project sponsors will distribute only electronic copies of the environmental document. At a minimum, a complete printed set of the environmental document will be available for review at the project sponsor's offices; an electronic copy of the complete environmental document will be available on the project sponsor's website [insert web address].
- Notice that FTA is considering combining the FEIS and ROD pursuant to 23 U.S.C. § 139(n)(2);⁴ and,
- Notice that the NOI provides an opportunity to comment on the purpose and need, the lists of potentially significant environmental impacts, and the alternatives.

4.4. Tone of NOI. Regional staff should review the language and tone of the NOI, in addition to the content, to ensure it is objective and neutral. The NOI should not promote the project, any of the individual project elements, or the project sponsor.

4.5. Other considerations. Prior to publication, Regional staff should advise the project sponsor that:

- TCC will not submit an NOI to the OFR unless it conforms to specific formatting rules.

¹ The project sponsor, its consultant, or Regional staff should conduct a survey of the project/study area and the proposed project alternatives to identify potentially significant environmental impacts; a laundry list of resources that *may* be present is unacceptable.

² While the FAST Act created a new planning and environmental linkages process in 23 U.S.C. § 168 and 23 U.S.C. § 139(f)(4)(E), project sponsors are instead encouraged to apply the simpler planning and environmental linkages concepts in 23 CFR 450.318 (a)-(c), using Appendix A of 23 CFR part 450 as guidance on that approach.

³ Regional staff should strongly encourage project sponsors to create a public website for projects requiring EISs and EAs, or to post environmental documents on the project sponsor's general website (see 23 CFR 771.111(i)). Materials that may be posted include maps of a proposed project, the draft purpose and need, descriptions of NEPA alternatives, and any prior planning studies or technical documents relevant to the proposed project.

⁴ This allows interested parties to provide input regarding the use of a combined FEIS/ROD for the proposed action. This will assist FTA in making a determination whether a single document is practicable or whether it is appropriate to issue the documents separately.

- Publication of an NOI triggers public scoping requirements (see SOP No. 7-Scoping) and accelerated project delivery requirements per 23 U.S.C. § 139(m) (see next section for more details).
- The comment period can be extended for good cause (e.g., to account for the project sponsor's or State's public involvement procedures).
- FTA encourages notice of the project through mailings, flyers, bulletin board announcements, websites, and other means, as appropriate.

4.6. Next steps. Following publication of the NOI, the project sponsor and Regional staff will work together to draft a coordination plan, identify participating agencies and prepare an annotated outline for the EIS reflecting information obtained during the scoping process. Regional staff and the project sponsor will also need to collect information to post on the Federal Permitting Dashboard (Dashboard). The following statutory or guidance deadlines must be met:

- No later than 45 days after the publication of the NOI, FTA must identify participating agencies; and,
- No later than 90 days after the publication of the NOI, FTA must:
 - Develop a coordination plan, and
 - Post the project name, descriptive information, and anticipated schedule on the Dashboard.

4.7. Rescission of an NOI. There are a variety of reasons why a Region would rescind an NOI. For example, the project may have dramatically changed from its original scope, the project may not have advanced toward a FEIS or combined FEIS/ROD, or the project may no longer anticipate needing a Federal action. The notice to rescind the NOI should be prepared similarly to the original NOI and published in the *Federal Register*. The notice to rescind should include:

- A summary of the action;
- Brief project background;
- A clear explanation for why the NOI is being rescinded; and
- Anticipated next steps with the project, if any.

FTA does not seek comment on the notice to rescind. However, if FTA receives comments, Regional staff should respond, with the response being similar to any other project-related inquiries.

5. References

- CEQ regulations implementing NEPA, [40 CFR 1508.22](#)
- [Guidance Establishing Metrics for Permitting and Environmental Review of Infrastructure Projects](#) (OMB, 2015)
- Efficient environmental reviews for project decisionmaking, [23 U.S.C. § 139](#)
- [Federal Permitting Dashboard](#)

APPROVAL:



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DATE:

3/29/2019