

Title: Managing Content, Review, and Distribution of Environmental Impact Statements
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Issued by the Office of Planning and Environment (TPE)

1. Purpose

This document provides guidance on the drafting and processing of environmental impact statements (EISs).

2. Applicability/Scope

This guidance applies to draft EIS (DEIS), final EISs (FEIS), and combined FEIS/record of decision (ROD) documents. The National Environmental Policy Act (NEPA) requires Federal agencies to prepare an EIS for a major Federal action that significantly affects the quality of the human environment, and 23 U.S.C. § 139 contains certain requirements that apply specifically when an EIS is prepared. The typical process for preparing an EIS includes: (1) publishing a notice of intent (NOI); (2) preparing an annotated outline with input from the scoping process; (3) preparing a DEIS, followed by a 45-day review and comment period; and, (4) preparing a combined FEIS/ROD or a separate FEIS, followed by a ROD.

3. Responsibilities

FTA Regional staff is responsible for managing the environmental review process, including for projects that require an EIS. Managing the review process includes providing guidance to the project sponsor throughout the typical process for preparing an EIS. FTA Regional staff is also responsible for entering project information on the Federal Permitting Dashboard.¹

The FTA Office of Chief Counsel (TCC) is responsible for reviewing the FEIS or combined FEIS/ROD for legal sufficiency; this is usually assigned to the Regional Counsel.

The FTA Regional Administrator or designee must approve the EIS when satisfied that it complies with NEPA prior to its public distribution. Approval will be made by signing and dating the cover sheet.

4. Standard Procedures for Environmental Impact Statements

4.1. Annotated outline. After the scoping process, Regional staff should direct project sponsors to prepare an annotated outline of the EIS for FTA review and approval. The annotated outline should reflect input from scoping and establish the framework for the EIS.

4.2. Preliminary/internal versions. The preliminary or internal version (may also be referred to as the administrative draft, review draft, screen check, etc.) of the DEIS, FEIS, combined FEIS/ROD, or supplemental EA/EIS is a version of the document that FTA reviews before approving the EIS for public review. FTA may request a cooperating agency to review part or all of the preliminary version, depending on the cooperating agency's jurisdiction by law, special expertise, and any agreement made on timing and coordination of reviews from the project coordination plan.

¹ <https://www.permits.performance.gov>

FTA's Office of Environmental Programs (TPE-30) recommends that all preliminary versions be labeled as "preliminary," and include the date, to avoid confusion.

4.3. Standards for length and format of the EIS.

4.3.1. Length. Council on Environmental Quality (CEQ) regulations implementing NEPA state that an EIS should normally be less than 150 pages, and proposals of unusual scope or complexity should normally be less than 300 pages (40 CFR 1502.7). The analysis for any given impact area, though, should be proportional to the complexity and importance of the issue. Additional data or information should be included in appended technical reports.

4.3.2. Format. Regional staff should use a format for an EIS that encourages sound analysis and clear presentation of the alternatives, including the proposed action. The format should be consistent with CEQ's recommended format (40 CFR 1502.10) and contain the following:

- Cover Sheet²
- Summary
- Table of Contents
- Purpose of and need for the action
- Alternatives
- Affected environment
- Environmental consequences
- List of preparers
- List of agencies, organizations, and persons to whom copies are sent
- Index
- Appendices

This format can be modified, but it must reflect all components found in the list, per 40 CFR 1502.10. For example, Regional staff may encourage the project sponsor to combine the "affected environment" and "environmental consequences" chapters in an effort to make the environment discussion more succinct. In addition to the components listed above, an EIS may include public involvement and agency coordination summaries and sections for an environmental justice analysis and/or a Section 4(f) evaluation, as appropriate. For an EIS that is prepared under joint Federal and State environmental laws, every effort should be made to give greater deference to the Federal format, and State-required determinations not relevant to NEPA considerations (such as the significance of any particular impact) should be labeled clearly as being included for purposes of State law.

4.4. Alternatives. The EIS should adequately describe the consideration of a range of reasonable alternatives, including documentation of alternatives withdrawn from consideration. Any prior planning work leading to the development and selection of alternatives for detailed study should be incorporated by reference. Alternatives evaluated should be described in sufficient detail that

² A DEIS should include a notice in the cover sheet abstract (40 CFR 1502.11) stating that FTA will prepare a combined FEIS/ROD unless conditions are present (such as practicability issues) that preclude the use of the combined FEIS/ROD.

their impacts can be evaluated and that mitigation measures can be designed into the project where appropriate.

Whenever possible, FTA should work with project sponsor and appropriate participating agencies to identify the preferred alternative prior to issuing the DEIS. The CEQ regulations state that FTA must identify the preferred alternative in the DEIS if it is known at the time and identify such alternative in the FEIS (40 CFR 1502.14(e)). Identification of the preferred alternative in the DEIS helps determine whether it is practicable to use a combined FEIS/ROD process for the project.

4.5. Affected environment and impacts. The EIS must disclose the direct and indirect impacts of the alternatives on the human and natural environment (40 CFR 1502.16). The EIS should focus on the resources identified through scoping and agency consultation that are most relevant to the proposed action. Affected environmental resources and considerations may include, but are not limited to: air quality, climate change, endangered species, environmental justice, hazardous materials/contamination, historic resources,³ noise and vibration, parks, safety, transportation, floodplains, and jurisdictional waters of the U.S. (wetlands, streams, etc.). More details on these affected environmental resources can be found in other SOPs and/or on the FTA website. The DEIS must list all Federal permits, licenses, and other entitlements that are anticipated to be needed to implement the proposed project, or if uncertain, the DEIS must state that uncertainty (40 CFR 1502.25(b)). FTA strongly encourages sufficient progress in coordination for all impact areas determined relevant for evaluation by the time the DEIS is published, especially for those impacts requiring permits or other approvals, in order to support publication of a combined FEIS/ROD later.

4.6. Mitigation. FTA encourages its project sponsors to avoid, minimize, and mitigate adverse environmental impacts. Regional staff should also be aware of potential impacts caused by mitigation measures (e.g., visual adverse effects to historic properties from noise walls). The DEIS should include mitigation proposals while the combined FEIS/ROD or ROD should commit to mitigation measures. If the EIS discusses mitigation options for a particular type of environmental impact (e.g., mitigation options for impacts to historic resources or mitigation options for impacts to jurisdictional waters of the United States), any comments received on this impact and its mitigation should be considered before one of the mitigation options is selected as a commitment in the combined FEIS/ROD or ROD.

4.7. Project funding. A chapter on financial concerns is not required for an EIS, but the source of local funds for the project should be included somewhere in the document (e.g., purpose and need chapter or alternatives chapter). Additionally, the type of Federal funding anticipated should be noted in the EIS, with an explanation that the approval of Federal funding is a Federal action which requires compliance with NEPA. Any supporting documentation regarding the financial feasibility of the project should be available for public review, typically in an appendix to the EIS or as a technical report/memo.

³ While not required, FTA strongly encourages state historic preservation officer (SHPO) concurrences on National Register of Historic Places eligibility and effects determinations prior to DEIS approval and publication to facilitate use of a combined FEIS/ROD later (SHPO concurrence is required prior to a combined FEIS/ROD or FEIS). If there is an adverse effect finding, the Region should include an executed Section 106 agreement (i.e., Memorandum of Agreement or Programmatic Agreement) before distribution of the combined FEIS/ROD or FEIS.

4.8. Technical studies. Technical reports and memos contain the detailed technical analyses that support the summary information and analyses presented in the EIS. Regional staff should encourage the use of technical reports (e.g., hazardous materials studies, traffic studies, noise and vibration studies, biological assessments, Section 106 reports) rather than including detailed technical information in the body of the EIS itself. Technical reports can be appendices to the EIS or stand-alone reference documents that are incorporated by reference. Technical reports should be reviewed by the Region and made available to the public (e.g., on project sponsor websites and at locations where the public can review the EIS) no later than circulation of the EIS they support.

4.9. Review, approval, and signature.

4.9.1. FTA regional review. Prior to approval and publication of an EIS, Regional staff should ensure sufficient analysis and consultation has been completed to disclose potential impacts and reasonable mitigation measures on which the public may comment. While a formal legal sufficiency review is not required for DEIS documents, consultation with the Regional Counsel assigned to the project is recommended.

4.9.2. Headquarters review. For most projects, FTA Headquarters does not need to review/concur on an EIS unless the Region requests assistance. In rare cases, as specified in 23 CFR 771.125(c), Headquarters may request formal review and concurrence on an FEIS (or the FEIS components in the combined FEIS/ROD) prior to the Regional signature of the document.

4.9.3. Signature page. When FTA, the project sponsor, and other lead agencies (if any) are satisfied with the content of the EIS or combined FEIS/ROD, the project sponsor arranges for the cover page of the document to be signed by: (a) the authorized official of the project sponsor; (b) the FTA Regional Administrator; and (c) other Federal, State, or local joint lead agencies, if there are any (e.g., FHWA, the State DOT). The EIS signature date must be recorded in the Federal Permitting Dashboard within 10 days of signature, pursuant to USDOT's *Federal Permitting Dashboard Reporting Standard* (Dec. 2018) (internal only).

4.10. Production of hard copy/electronic copy. The initial printing of the EIS must take into account the number of agencies, organizations, and individuals that can be reasonably expected to request a hard copy (see 23 CFR 771.123(f)). To assist in determining the number of copies for publication, whether hard copy or CD/DVD, Regional staff should direct the project sponsor to ask whether cooperating and participating agencies prefer a printed hard copy of the EIS, a printed summary accompanied by a CD/DVD, or only an electronic copy. FTA recommends all others receive a hard copy of the summary and an electronic copy of the full document, though other organizations or the public may request the entire EIS in hard copy and that should be considered when determining print quantity. For projects with an extremely large distribution list, it may be acceptable for the project sponsor to notify the distribution list (see 23 CFR 771.111(i)) where the EIS can be found (e.g., project website, libraries, regional offices, etc.).

Regional staff should work with the project sponsor to ensure the size of the electronic copy is reasonable for downloading (e.g., consider different Internet speeds) and that a clear and descriptive file-naming protocol has been followed.

4.11. Distribution and filing of the DEIS. The DEIS must be filed with the U.S. Environmental Protection Agency (EPA) and transmitted to Federal, State, and local government agencies with jurisdiction over or interest in the action, public officials, interest groups, and members of the public known to have an interest in the proposed action. See 23 CFR 771.123(g) for the complete distribution list. The distribution and filing steps to be taken are as follows:

- First, Regional staff should ensure that the DEIS is transmitted to cooperating and participating agencies and made available to the public (including placing the DEIS in public viewing areas and on the project website) by the time the document is submitted to EPA and publication of the notice of availability (NOA) in the *Federal Register*. This allows for the full minimum review periods prescribed in 40 CFR 1506.10(a). Note that EISs with a NOI date in the *Federal Register* after October 12, 2015 must be listed on the Federal Permitting Dashboard, per CEQ and OMB guidance.
- Second, Regional staff should file the DEIS with EPA via its *e-NEPA* electronic filing system.⁴ EPA headquarters no longer accepts hard copies or copies of an EIS on CD/DVD. In addition to the DEIS filed with EPA headquarters, FTA Regional staff should provide a hard copy of the EIS and/or electronic copy, if requested, directly to the appropriate EPA Regional Office (see [EPA contact information](#)).
- Lastly, EPA, not FTA, drafts the NOA from the abstract on the signed cover page of the filed DEIS. The NOA will appear in the *Federal Register* on Friday of the week following the week in which FTA electronically files the EIS with EPA. The project sponsor must also publish an NOA of the DEIS in local newspapers along with public hearing information.

4.11.1. U.S. Department of the Interior (DOI). DOI recently updated its guidance on environmental document submission requirements for its review. Depending on the type of document, DOI's review is either conducted by its bureaus and offices at the field level or by its Office of Environmental Policy and Compliance (OEPC) at the headquarters level. DOI's guidance outlines which level will review an environmental document. DEISs, FEISs, and Section 4(f) evaluations should be sent to the OEPC headquarters office for interagency review. For information on DOI's review period, FTA Regional staff should refer to the Section 4(f) SOP (No. 18). In addition, Regional staff should reference DOI's [Guidance on Environmental Document Submission Requirements](#) to determine whom to contact and how to contact them, and should visit the [DOI OEPC website](#) to check for future updated guidance.

4.11.2. FTA copies of EIS. Regional staff directs the project sponsor to print and send sufficient copies to the Regional Office and FTA headquarters office for FTA's files. The Office of Environmental Programs at FTA Headquarters requests one hard copy and one electronic copy (CD/DVD or thumb drive) of each EIS.

4.12. DEIS comment period and public hearing. The project sponsor must circulate the DEIS for public comment on behalf of FTA (23 CFR 771.123(g)), and a public hearing is required during the circulation period of all DEISs (23 CFR 771.123(h)). The DEIS must be available at least 15 days prior to the public hearing (23 CFR 771.123(h)). The comment period for a DEIS must be at least 45 days from publication of the NOA, but no more than 60 days, unless (1) the lead agency, the

⁴ View EPA's [Environmental Impact Statement Filing Guidance](#) for submittal instructions, such as file naming (e.g., chapter/subchapter number followed by its name, or use the EIS title if just submitting one file) and file size limits (e.g., no greater than 50 MB). Note, the e-NEPA site requires page numbers for each file you upload.

project sponsor, and all participating agencies agree to a different comment period, or (2) the lead agency extends the comment deadline for good cause (23 U.S.C. § 139(g)(2)).

4.13. Consider comments. After circulation of the DEIS, FTA and the project sponsor consider the comments received. The combined FEIS/ROD or FEIS must discuss the substantive comments received on the DEIS and supply responses to those comments, such as modifying the alternatives, supplementing or modifying the analyses, making factual corrections, or explaining why the comments do not warrant further agency response, with the substantive comments attached to the combined FEIS/ROD or FEIS. (See 40 CFR 1503.4 and 23 CFR 771.125(a)(1)).

4.14. Completing the EIS. After considering comments on the DEIS, Regional staff and the project sponsor complete the combined FEIS/ROD or FEIS.

4.14.1. Combined FEIS/ROD. Per 23 U.S.C. § 139(n)(2), FTA must prepare a combined FEIS/ROD, to the maximum extent possible, unless (1) the FEIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or (2) there have been significant new circumstances or information relevant to environmental concerns and that bear on the proposed action or the impacts of the proposed action. As applicable, the combined FEIS/ROD includes:

- Definitive mitigation commitments;
- Section 106 determination and any agreements (i.e., Memorandum of Agreement or Programmatic Agreement);
- Section 4(f) finding;
- Project-level air quality conformity;
- Concurrence under Section 7 consultation
- Discussion of wetland impacts and commitment to mitigation to obtain and comply with conditions of a Section 404 permit and Protection of Wetlands Executive Order 11990 finding; and,
- Floodplain finding.

In addition to these determinations and findings, the combined FEIS/ROD must include:

- Responses to substantive comments from the public and agencies;
- Summary of changes since the DEIS;
- Clear identification of the preferred alternative. The preferred alternative includes not only the alignment but also the locations of all the stations, maintenance facilities, and associated structures.

4.14.2. Separate FEIS, followed by a ROD. If a combined FEIS/ROD is not practicable, Regional staff must follow the traditional approach of preparing a separate FEIS, followed by a ROD (23 CFR 771.125(a)). In this scenario, FTA cannot issue the ROD until 30 days after publication of the FEIS (40 CFR 1506.10(b)(2)) The FEIS should document compliance, to the extent possible, with all applicable environmental laws and Executive Orders, or provide reasonable assurance that their requirements can be met. Every reasonable effort shall be made to resolve interagency disagreements on actions before processing the FEIS. If significant issues remain unresolved,

the FEIS must identify those issues and the consultations and other efforts made to resolve them.

4.14.3. FEIS errata sheet approach. If changes to the DEIS are minor (e.g., response to comments involves factual corrections or an explanation that the comment does not warrant additional consideration), CEQ regulations allow for an abbreviated FEIS through the use of errata sheets attached to a DEIS (see 40 CFR 1503.4(c) and 23 U.S.C. § 139(n)(1)). This approach can be used with the combined FEIS/ROD or the traditional FEIS documents. Regional staff are encouraged to consult with Headquarters before planning to use this approach as FTA has not used it frequently in the past.

4.14.4. Legal sufficiency. For combined FEIS/ROD or FEIS documents that are prepared under joint Federal and State environmental laws, the project sponsor's legal counsel will attest to the legal sufficiency of the document under State environmental laws, prior to requesting signature from FTA. FTA legal counsel reviews the combined FEIS/ROD or FEIS for legal sufficiency with CEQ and FTA environmental regulations, and other environmental requirements.

4.14.5. Production, distribution, and notice. The information found in sections 4.10 and 4.11 applies to combined FEIS/ROD and FEIS documents with two exceptions.

- First, the combined FEIS/ROD or FEIS must be transmitted to any persons, organizations, or agencies that made substantive comments on the DEIS or requested a copy, no later than the time the document is filed with EPA.
- Second, the NOA for a combined FEIS/ROD or FEIS should note that the document is available to the public and where the document can be accessed, but the notice should not include a request for comments or a review period. See 23 CFR 771.125(g).

Note that as the combined FEIS/ROD is not widely used across the Federal Government, EPA does not yet have a "combined FEIS/ROD" option available on e-NEPA. Therefore, Regional staff should contact EPA regarding the NOA for the combined FEIS/ROD by sending an email to the e-NEPA contact that includes (1) the EIS number; (2) document type (i.e., FEIS); (3) Agency (FTA) and Agency contact; and (4) the following statement:

"Under 23 U.S.C. § 139(n)(2), FTA has issued a single document that consists of a final environmental impact statement and record of decision. Therefore, the 30-day wait/review period under NEPA does not apply to this action."

5. Recordkeeping

FTA Regional Offices must maintain at least one copy (hard copy or electronic version), including technical reports and studies. Preliminary versions of documents should be maintained in the environmental project file to demonstrate coordination among FTA, the project sponsor, and cooperating agencies.

6. References

- Efficient environmental reviews for project decisionmaking, [23 U.S.C. § 139](#)
- [Guidance Establishing Metrics for the Permitting and Environmental Review of Infrastructure Projects](#) (CEQ & OMB, September 22, 2015)
- CEQ Regulations Implementing NEPA, [40 CFR parts 1500-1508](#)
- [Department of the Interior \(DOI\) Requirements for DOI Review of External Agencies Environmental Documents](#) (February 2016)
- FTA's Environmental Impact and Related Procedures, [23 CFR part 771](#)
- [Interim Guidance on MAP-21 Section 1319 Accelerated Decisionmaking in Environmental Reviews.](#) (FHWA/FTA, 2013)
- [Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations](#) (CEQ, 1981)
- Section 4(f) regulations, [23 CFR part 774](#)
- Section 404(b)(1) guidelines, [40 CFR part 230](#)
- USDOT Federal Permitting Dashboard Reporting Standard (2018), internal—FTA only

APPROVAL:



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DATE:

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