

60.10 ENVIRONMENTAL AND CULTURAL CLEARANCE

60.20 ENVIRONMENTAL CLASSIFICATION

60.30 NEPA PROCESS OUTLINE

60.40 WATERWAYS

60.50 LANDS

60.60 ADDITIONAL IMPACTS

## 60.10 ENVIRONMENTAL AND CULTURAL CLEARANCE

All projects receiving federal-aid funding must undergo reviews for environmental and cultural impacts. Assistance in determining these impacts and requirements for mitigation are outlined in this section. Items that may need to be addressed include historic and archeological resources, wetlands, public parkland, wildlife refuges, conversion of farmland, air and noise impacts, and crossing of Corps of Engineers controlled waterways, etc.

**Note:** *Environmental and cultural issues must be resolved to the satisfaction of the state and the FHWA before Right-of-Way appraisals can be started.*

## 60.20 ENVIRONMENTAL CLASSIFICATION

Proposals developed as federal-aid projects must be in compliance with the National Environmental Policy Act (NEPA). Road and street projects are developed through the FHWA with coordination occurring through the NDOR. Federal regulations divide all projects into three classes of actions. Each class requires a different level of documentation. All environmental issues/documentation must be coordinated with NDOR's Environmental Unit. Please contact Leonard Sand at (402) 479-4411 to coordinate the NEPA process.

The anticipated class of your project will be determined during project programming by the NDOR and the FHWA. The three classes are:

1. **Class 1 – Environmental Impact Statement (EIS)**. Class 1 projects require preparation of an EIS because they significantly affect the environment. The statement shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts. An EIS will be required for projects such as a new controlled access freeway or a highway project of four or more lanes in a new location.
2. **Class 2 – Categorical Exclusions (CE)**. A Class 2 project is an action that, based on past experience with similar actions, does not involve significant environmental impacts. These projects do not require extensive documentation. However, a CE does not constitute clearance of all environmental matters such as those associated with the Clean Water Act, the Historic Preservation Act, the Endangered Species Act, or Section 4(f). An example would be most mill and

overlay projects. The LPA shall submit to NDOR a justification letter to document this classification.

3. **Class 3 – Environmental Assessment (EA)**. Class 3 projects are those where the significance of the effect must be determined. An EA will be required for Class 3 projects and must result in a Finding of No Significant Impact (FONSI). Projects such as a 2-lane relocation or adding of additional lanes to an existing highway corridor will require an EA. FHWA will review the EA and any public hearing comments or other comments received regarding the EA. If FHWA agrees with the LPA's recommendations, it will make a separate written FONSI incorporating by reference the EA.

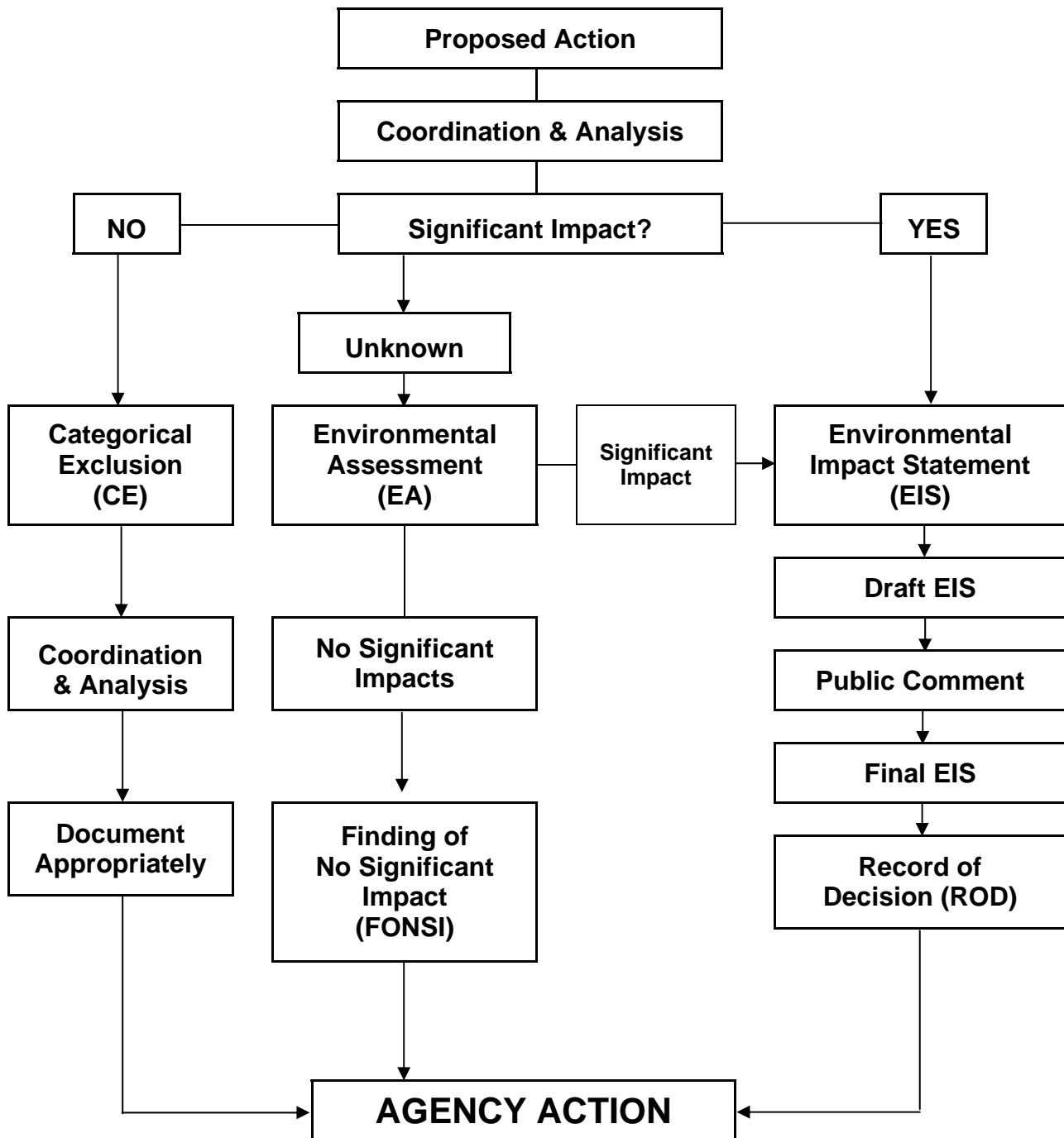
If an EA or EIS is required, these documents will be developed in accordance with 23 CFR 771 and 772, and when appropriate, will follow the procedures detailed in the "Nebraska Local Operating Procedures for Integrating NEPA/404". (For additional assistance, reference T 6640.8A). If a consultant is used to complete the required documents, the consultant should be selected from the qualified list available at NDOR.

All projects must have an environmental determination prior to final design, property acquisition, purchase of construction materials, or project construction.



60.30 NEPA PROCESS OPTIONS

(Classes of Action)



## 60.40 WATERWAYS

All projects must be reviewed to determine if the project has an impact (temporary or permanent) on wetlands, stream or river channels, storm water runoff, or is located in a floodplain. This includes not only the project site but also construction staging areas and access drives.

### ***401 and 404 Permits***

A wetlands delineator must conduct a wetlands determination for all federal-aid projects. Wetlands delineators are biologists trained to recognize wetlands. Wetlands are determined by the presence of specific plant, water, and soil conditions and often are not identifiable to the untrained eye. Federal regulations allow for fines up to \$50,000 and jail sentences for failure to secure proper wetlands permits.

The LPA may request a free wetlands delineation by contacting the Army Corps of Engineers at 1430 Central Avenue, Kearney, NE 68847 or (308) 234-1403. A review letter indicating the results of the wetland evaluation must be submitted before ROW can be acquired or the project can be let to contract.

If a wetlands permit or channel permit is required, the Nebraska Department of Environmental Quality (NDEQ) must first issue a 401 Permit to the LPA. Contact NDEQ at (402) 471-2186 for more information. After the 401 Permit has been issued, contact the Army Corps of Engineers for the 404 Permit. 404 Permits are required anytime wetlands will be affected by a project, any waterway of the United States is affected, or if any material is placed in wetlands outside the limits of the stream ordinary high water lines.

Wetland impacts or channelization often require a longer review process and more strict permit conditions. They may also result in denial of a permit. Therefore, review of the presence of wetlands and required mitigation should be discussed with the Army Corps of Engineers before final design.

### ***Storm Water Runoff***

If the project involves grading an area greater than one acre, a storm water runoff permit is required. The LPA should direct questions about storm water runoff permits to the Permits and Compliance Section at the Department of Environmental Quality, 1200 N Street, Suite 400, Lincoln, NE 68509-8922 or (402) 471-2186.

***Floodplain Permit***

If a floodplain permit is required, the LPA should contact the appropriate local agency handling floodplain management. If technical assistance is needed, the LPA should contact the Floodplain Management Section at the Nebraska Department of Natural Resources at 301 Centennial Mall South, P.O. Box 94676, Lincoln, NE 68509 or (402) 471-0589.

**60.50 LANDS*****Public Land***

Section 4(f) lands are lands that are publicly owned, such as public parks, recreation area, wildlife and waterfowl refuges, or any significant public or private historical site. Projects must be evaluated to see if they require the use of these lands. A Section 4(f) Statement must be prepared to document the efforts to avoid this usage and result in a finding that there is no feasible or prudent alternative to the encroachment on the 4(f) resource. If the impact is minor, a programmatic 4(f) statement may be used. This evaluation is separate from the NEPA classes. However, if Section 4(f) lands are to be significantly impacted by a project, the Section 4(f) evaluation must be included in the EA or EIS.

***Section 106 Review – Archeological Sites & Historic Structures***

To be in compliance with the Historic Preservation Act, the LPA must coordinate with the Nebraska State Historic Preservation Office (SHPO) to determine the presence or absence of historic or archeological resources. A letter from the SHPO must document this determination. If the project has an affect on a resource **on** or **eligible** for the National Register of Historic Places, a Memorandum of Agreement (MOA) may need to be developed between FHWA, SHPO, and the LPA. The MOA will identify required mitigation for impacting the historic resource. If land is taken from a historic resource, a Section 4(f) Statement is required.



LPA's must conduct a cursory review and survey of the entire project area to determine if historical property, structures or archeological sites will be impacted along with the potential affects. The LPA must submit this document to SHPO for approval. SHPO will then respond with a letter stating whether or not they concur with the LPA's findings and if a further action is needed. For more information, contact SHPO at (402) 471-4787.

## 60.60 ADDITIONAL IMPACTS

### ***Noise Impacts***

Detailed noise studies will need to be conducted as part of the environmental analyses when a project has a significant existing change to the vertical or horizontal alignment, when a project is in a new location, or when lanes are being added. If a noise study is requested by NDOR or FHWA, this study will be completed consistent with NDOR's "Noise Analysis and Abatement Policy". For a copy of this policy, contact the NDOR Environmental Section at (402) 479-4410.

### ***Air Quality Requirements***

If an air study is requested by NDOR or FHWA, this study will be completed consistent with the Air Quality Analysis Agreement signed by NDOR, DEQ, and FHWA.

### ***Threatened and Endangered Species***

To be in compliance with the Endangered Species Act, the LPA must coordinate with the Fish and Wildlife Service (FWS) and Nebraska Game and Parks Commission (NGPC) to determine the presence or absence of listed species. If there are no species or critical habitat in the proposed project area, this should be documented. If species or critical habitat are present in the project area, further consultation with FWS and NGPC will occur to establish if there will be an impact and if mitigation will be required. Results of this consultation should be documented. For more information, contact the NDOR Environmental Section at (402) 479-4410.

### ***Hazardous Waste Sites***

The Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) regulate hazardous waste sites. During early planning, the location of permitted and non-regulated hazardous waste sites should be identified.

***Environmental Justice***

Any LPA cannot exclude from participation or deny the benefits of a federal-aid project to populations based on the grounds of race, color, national origin or low income.

Environmental Justice requires identification and addressing of disproportionately high and adverse human health or environmental effects of programs, policies, and activities on minority populations and low income populations.