



## **FACT SHEET: DOT Notice of Proposed Rulemaking to Implement the National Environmental Policy Act**

The U.S. Department of Transportation (DOT) published a Notice of Proposed Rulemaking to implement the National Environmental Policy Act (NEPA) in the Federal Register on November 23, 2020. NEPA requires Federal agencies to consider the environmental effects of proposed actions in their decision-making and prepare detailed environmental statements on recommendations or reports on major Federal actions significantly affecting the quality of the human environment. 42 U.S.C. § 4332(2)(C). In July 2020, the Council on Environmental Quality (CEQ) issued updated regulations, 40 CFR 1500–1508, which became effective on September 15, 2020.

The draft proposed rule would expand on the CEQ regulations and give direction to DOT Operating Administrations (OAs) on environmental review policies and procedures. The DOT NEPA procedures were last updated in 1985 (DOT Order 5610.1C). The proposed regulation would codify DOT's NEPA procedures and modernize DOT NEPA practices to provide consistency across the Department. The proposed regulation would direct each OA to update or create new NEPA procedures. This approach also would provide flexibility to implement OA-specific measures that ensure efficiencies within their individual programs.

These revisions would incorporate streamlining measures authorized by recent surface transportation legislation and the updated CEQ regulations. The revisions reflect current agency practice and modern technology and would eliminate obsolete provisions and information. The proposed regulation would emphasize coordination among the Federal agencies, utilization of modern tools, focused analysis, and early resolution of conflicts. This would promote more efficient, effective, and timely environmental reviews.

The proposed rule would incorporate:

### **Streamlining Measures:**

- ✓ Encouraging early efforts to identify the purpose and need, reasonable alternatives, environmental impacts, and measures to avoid, minimize, or mitigate adverse environmental impacts, as appropriate.
- ✓ Promoting coordination with other agencies, including adoption of coordination tools to accelerate the NEPA process.
- ✓ Encouraging use of the combined Final Environmental Impact Statement (FEIS)/Record of decision (ROD) authorities recognized as an exception to CEQ's required 30-day waiting period between the two documents.

### **Updates to Align Procedures with New CEQ Regulations:**

- ✓ Incorporating time frames for completion of EISs within 2 years, and within 1 year for environmental assessments (EAs).
- ✓ Broadening the availability of categorical exclusions (CEs) and providing additional information about EAs.
- ✓ Expanding authority to adopt environmental documents prepared by other Federal agencies to include CEs.
- ✓ Incorporating One Federal Decision requirements contained within Executive Order (EO) 13807.
- ✓ Implementing new CEQ provisions requiring agencies to include in an EIS a summary of alternatives, and information and analyses submitted by the public for consideration.
- ✓ Recognizing DOT statutory authorities to issue a combined final EIS and ROD, including the ability of cooperating agencies to join the single ROD consistent with the direction in EO 13807.

**Additional Efficiencies and Clarifications:**

- ✓ Incorporating environmental analysis into the planning process.
- ✓ Highlighting the responsibilities of the lead agency.
- ✓ Emphasizing use of efficiency tools, such as tiering, adoption, and incorporating by reference.
- ✓ Directing OAs to identify commitments in the ROD and FONSI that would mitigate environmental impacts and the authority for any mitigation that the OA adopts.
- ✓ Modernizing public involvement by endorsing electronic means of holding meetings and hearings, publishing documents, and submitting comments while ensuring the impacted public has access to the documents and meetings, and may submit comments.
- ✓ Increasing the timeframe for reevaluating the validity of environmental documents from 3 years to 5 years.
- ✓ Adding 11 new CEs and modifying 5 existing CEs.

For more information about the DOT NEPA Regulation,  
contact April Marchese at (202) 366-2074 or [april.marchese@dot.gov](mailto:april.marchese@dot.gov)