

ENVIRONMENTAL DOCUMENT PROCESS

1. Purpose

This work instruction describes the MDT process for ensuring that projects fully comply with applicable Federal and State Environmental Document requirements. For State funded projects, the *Montana Environmental Policy Act* (MCA Title 75, Chapter 1) and associated MDT implementing rules (ARM 18.2.235 through 18.2.261) apply. For projects involving Federal funding, approvals or permits, the *National Environmental Policy Act* (42 USC 4321-4347) and related directives and guidance that govern the Environmental Document Process for Federal actions apply.

In addition to the *National Environmental Policy Act*, other key directives and guidance affecting the Federal Environmental Document Process for transportation projects include 23 USC 139 “Efficient Environmental Reviews for Project Decision Making,” 40 CFR 1500-1508 “Council on Environmental Quality Regulations,” 23 CFR 771 “Environmental Impact and Related Procedures” and FHWA Technical Advisory T 6640.8A “Guidance for Preparing and Processing Environmental and Section 4(f) Documents.” These and other pertinent directives and guidance documents are referenced at appropriate points in the process described herein.

2. Scope

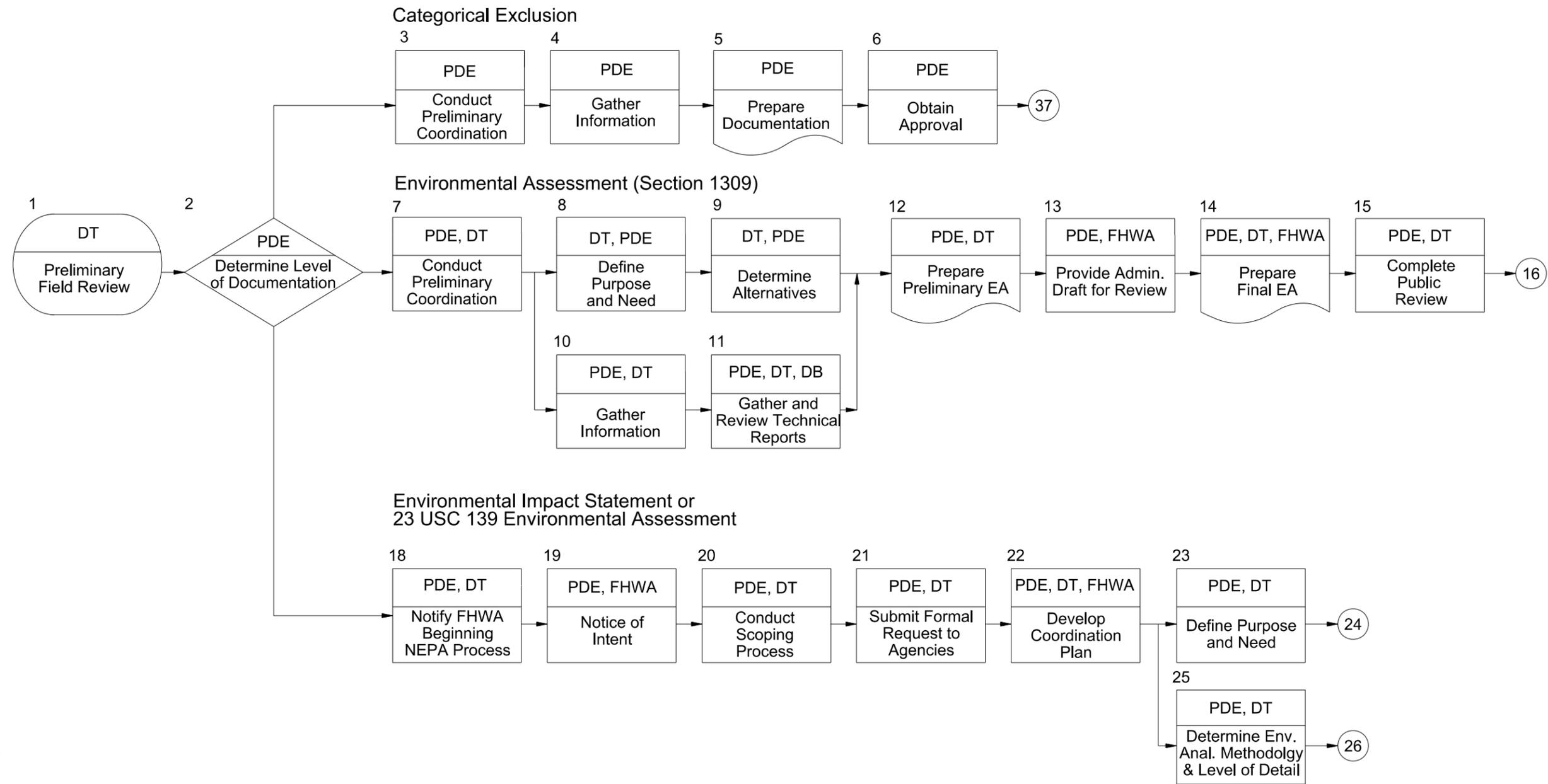
The MDT Environmental Document Process for a proposed project is administered by the Project Development Engineer (PDE) in the Engineering Section of the MDT Environmental Services Bureau (ESB), in coordination with the Design Team (DT) in the MDT Preconstruction Program and the Program Development Team in the Federal Highway Administration (FHWA). In administering the Environmental Document Process, the PDE also seeks input from the Resources and Hazardous Waste Sections within ESB; interested and affected Federal, State and local agencies and organizations; representatives of interested or affected Native American Tribes; and the public. For projects assigned to Consultants, the Consultant is responsible for development of the environmental document and the PDE provides oversight, coordination and review.

The process begins with the Preliminary Field Review and is completed once project implementation is carried out in accordance with the environmental classification/decision document ultimately approved for the project for purposes of compliance with the *Montana Environmental Policy Act*, *National Environmental Policy Act* and associated implementing regulations.

3. Process

[Figure 1](#) presents a flowchart that illustrates the Environmental Document Process. Following the Figure is a description of each process task included within the flowchart.

For environmental documents prepared by Consultants, the Consultant is responsible for conducting the activities shown in [Figure 1](#). The PDE is responsible for reviewing and approving the Consultant's work before it is submitted to FHWA, other agencies, etc.



Legend

DB = District Biologist
 DT = Design Team
 FHWA = Federal Highway Administration
 PDE = Project Development Engineer

Figure 1 — ENVIRONMENTAL DOCUMENT PROCESS

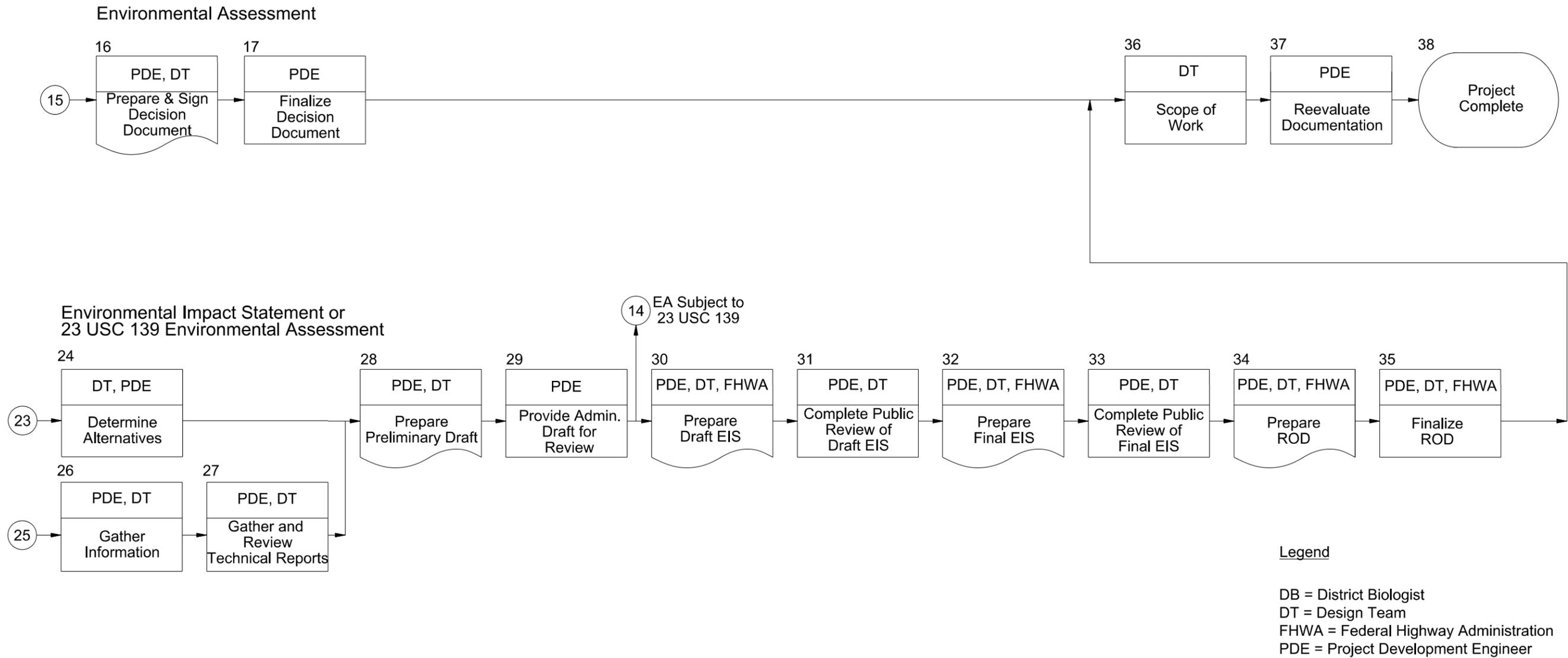


Figure 1 — ENVIRONMENTAL DOCUMENT PROCESS
(Continued)

PROCESS TASK

Task Title: Preliminary Field Review

Task No.: 1

Task Description

The Preliminary Field Review (PFR) is the initial step that begins the Environmental Document Process for a proposed project. The PFR includes preliminary evaluation of the scope of work and the potential for social, economic and environmental impacts. The DT ensures appropriate MDT personnel are notified and invited to participate in the field review. The PDE reviews the list of ESB attendees and includes others as necessary to ensure appropriate ESB personnel are in attendance.

In response to the notification from the DT, the PDE makes a preliminary evaluation of available information on the proposed project scope, location and potentially affected environmental resources to determine the need for participating in the field review. The PDE, as well as other environmental staff, participates in field reviews to ensure identification and consideration of the full range of environmental resource issues associated with the area the project may affect. The PDE and other environmental staff serve as advisors to the DT and others in attendance on matters involving potential environmental impacts associated with the project. The PDE and environmental staff outline areas of environmental issues, concerns and opportunities to be considered for the development of the project design.

Following the field review, the DT prepares a PFR Report summarizing the issues and comments discussed during the field review, including potential issues that may affect the environmental document. The DT distributes the final PFR Report for review and comment. Within ESB, the PDE serves as the document champion to collect and coordinate comments from the other sections. The PDE compiles the comments into a PFR review memorandum for signature by the Environmental Services Bureau Chief (ESBC).

Regulations and Guidance

MDT Road Design Manual, Chapter One, "Road Design Process"

PROCESS TASK

Task Title: Determine Level of Documentation

Task No.: 2

Task Description

Following completion of the PFR and review of the PFR Report, the PDE evaluates the proposed project scope and potential environmental impacts, confers with FHWA and makes a preliminary determination on the level of environmental documentation for the project. Possible levels of environmental documentation for MDT projects include the following:

Categorical Exclusion (CE):

- Class (c) (23 CFR 771.117(c)),
- Class (d) (23 CFR 771.117(d)) Statewide Programmatic (checklist),
- Class (d) (23 CFR 771.117(d)) Individual Programmatic (checklist), or
- Class (d) (23 CFR 771.117(d)) Narrative Report.

Environmental Assessment (EA):

- processed in accordance with 23 USC 109 as amended by Section 1309 (“Environmental Streamlining”) of the *Transportation Equity Act for the 21st Century* (TEA-21) (i.e., not subject to 23 USC 139 “Efficient environmental reviews for transportation decision-making”)*, or
- subject to the requirements of 23 USC 139*.

(*FHWA determines applicability of 23 USC 139 to EAs on a case-by-case basis.)

Environmental Impact Statement (EIS):

- Subject to the requirements of 23 USC 139.

The PDE prepares and signs the Level of Environmental Document Form indicating the determination. If the level of document is a Class (d) Narrative Report CE, the Environmental Engineering Section Supervisor (EESS) or the ESBC also sign the Form. If the level of document is an EA or EIS, the EESS or ESBC and FHWA also sign the Form. After signature, the PDE distributes the Form within MDT and to FHWA.

If, at any point during subsequent project development activities, impacts or issues are identified that may affect the level of environmental document decision, the PDE returns to this Task and confers with FHWA to determine if a change in the level of environmental document is warranted. If so, the PDE proceeds in accordance with the Tasks for the level determined appropriate.

Regulations and Guidance

23 CFR Part 771 “Environmental Impact and Related Procedures”
SAFETEA-LU Environmental Review Process Final Guidance (FHWA Nov. 15, 2006)
 MDT MEPA Rules (ARM 18.2.235 – 18.2.261)

PROCESS TASK

Task Title: Conduct Preliminary Coordination (CE)

Task No.: 3

Task Description

The PDE initiates contacts with potentially interested and/or affected agencies and organizations to request information necessary for identifying and assessing project-related environmental impacts. Depending on the proposed preliminary scope of work, type of project and geographic/jurisdictional location, the PDE sends Request for Environmental Information letters to various organizations and community, county, State, Tribal and Federal agencies. The PDE also coordinates with appropriate offices within MDT to request information to assist in evaluating the project's potential environmental impacts.

Regulations and Guidance

MDT Environmental-Environmental Documents, "Activity 710 Prepare/Review Environmental Info Requests"

PROCESS TASK

Task Title: Gather Information (CE)

Task No.: 4

Task Description

The PDE and the Resources and Hazardous Waste Sections initiate field studies and/or other environmental data gathering (e.g., Montana Cadastral Maps, on-line environmental databases). The scope of the data gathering is based on the proposed preliminary scope of work, type of project, geographic location and information obtained during the PFR and in response to Request for Environmental Information Letters and other preliminary coordination contacts. This data gathering may include, but is not limited to:

- detailed information necessary for evaluating environmental, social and economic resources and concerns in the project area (e.g., land use, businesses, neighborhoods, air quality, noise, water quality, wetlands, threatened and endangered species, floodplains, historic and archaeological resources, hazardous waste sites, visual impacts);
- the project's potential effects on those resources and concerns; and
- the need for accomplishing compliance actions under other applicable laws and regulations associated with resources that may be affected.

The PDE, District Biologist (DB), and other environmental staff coordinate the environmental resource information with the DT for consideration in refining the project design to avoid and minimize adverse environmental effects to the extent practical.

For projects proposed as CEs, the level of information gathering is commensurate with the need to verify whether the project meets the terms of a programmatic CE agreement, if applicable or otherwise does not involve "unusual circumstances" that would preclude the project from CE classification and, thereby, require preparation of an EA or an EIS.

Regulations and Guidance

FHWA Technical Advisory T 6640.8A

PROCESS TASK

Task Title: Prepare Documentation (CE)

Task No.: 5

Task Description

After compiling and analyzing information obtained from [Task 4](#), the PDE prepares the appropriate documentation of the basis for classifying the project as a CE and, as applicable, appropriate documentation for purposes of demonstrating compliance with applicable Section 4(f) regulations. This will include one of the following:

1. CE(c). The PDE prepares a notification memorandum for signature by the EESS or ESBC.
2. Statewide Programmatic CE(d). The PDE reviews the checklist submitted by the DT to ensure the Statewide Programmatic CE is the appropriate level of documentation. The EESS or ESBC signs the checklist.
3. Individual Programmatic CE(d). The PDE completes the CE worksheet and Programmatic Section 4(f) Evaluation or write-up (if applicable) and circulates the CE worksheet and Section 4(f) documentation (if applicable) within ESB for review and comment. The PDE then prepares and signs the Class (d) Individual Programmatic Checklist. The EESS signs the Class (d) Individual Programmatic Checklist and Programmatic Section 4(f) Evaluation(s) or Full Section 4(f) Evaluation (if applicable).
4. Narrative CE(d). The PDE prepares a Narrative CE(d) to document the analyses and results regarding the environmental effects of the proposed project. The PDE coordinates preparation of the documentation with the FHWA Operations Engineer and the DT, as appropriate. This is an iterative process involving review and revision of drafts as necessary to satisfactorily address and resolve comments and concerns. The PDE finalizes the Narrative CE(d) for signature by the EESS or ESBC.

Regulations and Guidance

MDT Environmental-Environmental Documents, "Activity 722 Develop Final Environmental Document"
23 CFR 774 "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites" (Section 4(f)).

PROCESS TASK

Task Title: Obtain Approval (CE)

Task No.: 6

Task Description

The approval process depends on the type of CE; see the following:

1. CE(c). After the notification memorandum is signed by the EESS or ESBC, the PDE sends the memorandum to MDT Fiscal Programming, copying the FHWA and/or Montana Environmental Quality Council (EQC). Unless the FHWA or EQC raise concerns in response to the memorandum, the CE classification is considered effective after signature of the memorandum.
2. Statewide Programmatic CE(d). The CE classification is approved once the checklist is signed by the EESS or ESBC and distributed in accordance with the established distribution list, which includes FHWA.
3. Individual Programmatic CE(d). After the Individual Programmatic CE Checklist and Programmatic Section 4(f) Evaluation(s) or Full Section 4(f) Evaluation are signed by the EESS or ESBC, the PDE sends two original signature copies of the CE Checklist and Section 4(f) Evaluation(s) to FHWA for approval. FHWA signs and returns one set of the forms to indicate approval of the CE classification. Upon receipt of the signed forms, the PDE distributes copies as appropriate.
4. Narrative CE(d). After signature by the EESS or ESBC, the PDE sends two original signature copies of the Narrative Report to FHWA for approval. FHWA signs and returns one copy of the Narrative Report to indicate approval of the CE classification. Upon receipt of the signed Narrative Report, the PDE distributes copies as appropriate.

Regulations and Guidance

23 CFR 771.117 "Categorical Exclusions."

MDT Environmental-Environmental Documents, "Activity 722 Develop Final Environmental Document"

23 CFR 774 "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites" (Section 4(f)).

PROCESS TASK

Task Title: Conduct Preliminary Coordination (EA)

Task No.: 7

Task Description

The PDE coordinates with the DT to initiate contacts with potentially interested and/or affected agencies and organizations to request information necessary for identifying and assessing project-related environmental impacts. Depending on the proposed preliminary scope of work, type of project and geographic/jurisdictional location, the PDE sends Request for Environmental Information Letters to various organizations and community, county, State, Tribal and Federal agencies. The PDE also coordinates with appropriate offices within MDT to request information to assist in evaluating the project's potential environmental impacts.

For EA projects, the PDE prepares a letter for signature by the EESS or ESBC to inform FHWA of the need to initiate the NEPA Process. This letter is signed and sent to FHWA when project development has progressed sufficiently to provide the required information for inclusion in the letter. This includes type of work, termini, length, general location, list of any other Federal approvals (e.g., Section 404 permits), anticipated for the project and the timeframe in which the environmental review process should be started. This letter notifies FHWA that MDT is ready to proceed with the NEPA phase of project development.

The PDE proceeds to [Task 8](#) to define the project purpose and need, and concurrently initiates environmental information gathering ([Task 10](#)).

Regulations and Guidance

23 CFR 771.111 "Early Coordination, Public Involvement and Project Development"
ARM 18.2.237 "General Requirements of the Environmental Review Process."
MDT Environmental-Environmental Documents, "Activity 710 Prepare/Review Environmental Info Requests"

PROCESS TASK

Task Title: Define Purpose and Need (EA)

Task No.: 8

Task Description

The PDE coordinates with the DT, other MDT Sections, FHWA, other interested or affected parties in defining the purpose and need for the project. The objective is to provide a specific, clear and justifiable explanation of identified objectives the proposed project is intended to achieve. The purpose statement should clearly define the fundamental reasons why the project is being proposed. In many cases, a project serves multiple purposes. Where this is the case, it may be helpful to distinguish between primary and secondary purposes. The need discussion should provide the factual foundation for the statement of project purpose (i.e., description of the problems the proposed project is intended to address and, to the extent possible, the underlying causes of those problems).

The PDE documents the decision on purpose and need and the considerations involved in making the decision. The PDE coordinates with FHWA to share the documentation with affected or interested parties to identify issues as early as possible.

Regulations and Guidance

FHWA Technical Advisory T 6640.8A

AASHTO Practitioner's Handbook 07 *Defining the Purpose and Need and Determining the Range of Alternatives for Transportation Projects*, August 2007

PROCESS TASK

Task Title: Determine Alternatives (EA)

Task No.: 9

Task Description

The DT, in coordination with affected and interested parties, determines the range of alternatives to be considered for the project. This may be an iterative process. A preliminary list of alternatives is developed and refined as further evaluations are accomplished. The evaluation of alternatives is sensitive to those environmental resources for which analysis of alternatives for avoidance and minimization of adverse impacts is required (e.g., wetlands, floodplains, threatened and endangered species, Section 4(f) properties). The PDE, in coordination with the FHWA, ensures the alternatives considered are appropriately discussed in the environmental document.

The PDE and DT coordinate to provide opportunities for involvement by affected or interested parties prior to the decision on the range of alternatives evaluated in the EA. The PDE coordinates with the DT to document the decision on range of alternatives and the considerations involved in making that decision. The PDE coordinates with FHWA to share the documentation with interested or affected parties to identify issues as early as practical.

Regulations and Guidance

AASHTO Practitioner's Handbook 07 *Defining the Purpose and Need and Determining the Range of Alternatives for Transportation Projects*, August 2007

PROCESS TASK

Task Title: Gather Information (EA)

Task No.: 10

Task Description

The PDE and the Resources and Hazardous Waste Sections initiate field studies and/or other environmental data gathering (e.g., Montana Cadastral Maps, on-line environmental databases). The scope of the data gathering is based on the proposed preliminary scope of work, type of project, geographic location and information obtained during the PFR and in response to Request for Environmental Information Letters and other preliminary coordination contacts. These studies and/or data gathering provide the necessary detailed information for evaluating environmental, social and economic resources and concerns in the project area; the project alternatives' potential effects on these resources; and the need for accomplishing compliance actions under other applicable laws and regulations associated with resources that may be affected. This is an ongoing process as the purpose and need and range of alternatives are being defined.

The PDE works with the DT, District, Public Information Officer, etc., to coordinate public involvement activities and to obtain input on environmental resource concerns and the project's effects on those concerns.

Regulations and Guidance

FHWA Technical Advisory T6640.8A

PROCESS TASK

Task Title: Gather and Review Technical Reports (EA)

Task No.: 11

Task Description

As environmental resource information is gathered and documented, the PDE, DB and other environmental staff, coordinate the information with the DT for consideration in refining the project design alternatives to avoid and minimize adverse environmental effects to the extent practical. The PDE notifies the Resources and Hazardous Waste Sections to reevaluate the appropriate technical reports as project alternatives are refined. This may be an iterative process.

PROCESS TASK

Task Title: Prepare Preliminary EA

Task No.: 12

Task Description

As environmental information gathering activities and associated coordination for analysis of the project alternatives and compliance with other resource-specific requirements are completed and documented, the PDE initiates preparation of the Preliminary EA in accordance with applicable regulations and guidance. The PDE ensures the necessary information from the Technical Reports is appropriately presented in the document.

The PDE coordinates with the DT, FHWA and appropriate MDT personnel during the preparation of the Preliminary EA. An MDT Legal Sufficiency Review may also be necessary during this task.

Regulations and Guidance

ARM 18.2.239 "Preparation and Content of Environmental Assessments"

40 CFR 1508.9 "Environmental assessment"

23 CFR 771.119 "Environmental assessments"

FHWA Technical Advisory T 6640.8A, Part II, "Environmental Assessment (EA)"

AASHTO/ACEC/FHWA Report, *Improving the Quality of Environmental Documents*, May 2006

MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Provide Administrative Draft for Review (EA)

Task No.: 13

Task Description

Neither the Federal nor the Montana State environmental document directives require MDT to provide an Administrative Draft EA to agencies for review and comment. The following paragraphs describe two of the options MDT uses for accomplishing this Task:

Option 1:

When the PDE, DT and FHWA are satisfied with the content of the Preliminary EA, the PDE coordinates with FHWA in transmitting the document as an Administrative Draft EA to potentially interested and affected Federal, Tribal, State and local agencies for review and comment. The PDE prepares the transmittal correspondence from MDT for signature by the ESBC or higher level position (e.g., the Preconstruction Engineer), as appropriate. The PDE and FHWA also coordinate the Administrative Draft EA for preliminary Legal Sufficiency Review by the FHWA Legal Office, as appropriate. When the Administrative Draft EA includes a Section 4(f) Evaluation, the FHWA Legal Office also conducts a preliminary legal sufficiency review of the Section 4(f) Evaluation.

The correspondence transmitting the Administrative Draft EA for review and comment establishes a reasonable timeframe for return of comments; typically 30 calendar days.

Option 2:

When the PDE, DT and FHWA are satisfied with the content of the Preliminary EA, the PDE coordinates with the FHWA to schedule a public agency coordination meeting that includes a presentation summarizing the information in the EA and that affords agencies the opportunity to comment.

Regulations and Guidance

MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Prepare Final EA

Task No.: 14

Task Description

After all comments on the Administrative Draft EA are received, the PDE coordinates with the DT, FHWA, Resources and Hazardous Waste Sections, other MDT personnel and with the commenting entities to clarify and respond to comments, revise the EA accordingly, and provide a summary of the comments received and the responses thereto.

When all necessary revisions are incorporated in the EA to address the comments and concerns received, the PDE obtains MDT and FHWA signatures for approval to make the document available for public review.

Regulations and Guidance

23 CFR 771.119 "Environmental assessments"
MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Complete Public Review (EA)

Task No.: 15

Task Description

After the EA is approved, the PDE initiates action to make the document available for public inspection.

The PDE sends copies of the EA or a notice of availability of the EA, briefly describing the project and its impacts, to affected agencies of the Federal, Tribal, State and local governments and to State intergovernmental review contacts established under Executive Order 12372 "Intergovernmental Review of Federal Programs." The PDE ensures copies of the EA are distributed to the identified viewing locations, that the EA is placed on the MDT website and that a copy of the completed EA is provided to the Montana Environmental Quality Council (EQC) in accordance with ARM 18.2.240.5. The MDT website provides a comment link for the duration of the comment period. The distribution list for the electronic comments is determined on a project-by-project basis.

Public Notification:

MDT provides a notice of availability to the local media announcing the availability of the EA, where it may be obtained or reviewed and identifies the opening and closing dates of the comment period. If a public hearing is held, the notice identifies the date, time and location of the public hearing. The EA must be available for review for a minimum of 15 days in advance of the public hearing.

The PDE ensures the public notices announcing the availability of the EA for public review invite comments from interested parties and include a timeframe and location(s) for submitting written comments. The minimum timeframe is 30 calendar days from the date of publication. If FHWA and/or MDT determine that a longer period is warranted, the comment period may be extended. When the EA includes a Full Section 4(f) Evaluation, the minimum timeframe is 45 calendar days from the date of publication.

Regulations and Guidance

ARM 18.2.240 "Public Review of Environmental Assessments"

ARM 18.2.257 "Public Hearings"

23 CFR 771.119 "Environmental assessments"

23 CFR 771.135 "Section 4(f)"

FHWA Technical Advisory T 6640.8A, Part IV, "Distribution of EAs and FONSI's"

MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Prepare and Sign Decision Document (EA)

Task No.: 16

Task Description

The PDE and FHWA review all comments received during the public availability period for the EA. After the close of the comment period, the PDE proceeds in accordance with the following steps:

- MDT and FHWA review the EA, any public hearing comments and other comments received regarding the EA. The PDE and FHWA coordinate with appropriate MDT personnel to address issues or concerns.
- If significant impacts are identified during this process, MDT, in coordination with FHWA, either prepares a No-Build FONSI (see below) or moves to an EIS (see [Task 2](#)).
- If no significant impacts are identified or MDT and FHWA select the No-Build Alternative, the PDE prepares a draft Finding of No Significant Impact (FONSI) recommendation for FHWA review. The FONSI will be in the following format:
 - + Signature Page
 - + Table of Contents
 - + Summary and Conclusions
 - + Coordination Process
 - + Corrections and Clarifications to the EA
 - + Public Hearing Transcript (if applicable)
 - + Comments and Responses
 - + Summary of Impacts and Mitigation (in table format)
 - + Final Section 4(f) Evaluation (as an appendix)
 - + EA (as an appendix)

The draft FONSI will clearly set forth the FONSI conclusions and may also identify the basis for the decision and address other issues, as applicable (e.g., final Section 4(f) approval, wetland findings). The PDE coordinates the document for signature by MDT and then FHWA.

If a FONSI is to be issued for a project covered by 23 CFR 771.115(a) "Class I (EISs)", the PDE follows the requirements in 23 CFR 771.119(h).

Regulations and Guidance

- ARM 18.2.240 (6) "Public Review of Environmental Assessments"
- 23 CFR 771.119(h) "Environmental assessments"
- 23 CFR 771.121 "Findings of no significant impact"
- FHWA Technical Advisory T 6640.8A, Part III, "Finding of No Significant Impact (FONSI)"
- MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Finalize Decision Document (EA)

Task No.: 17

Task Description

The PDE prepares a notice of availability for the FONSI and sends the notice to affected agencies of Federal, Tribal, State and local governments. Typically, MDT's practice is to distribute the FONSI to agencies that received a copy of the EA. The PDE ensures copies of the FONSI are distributed to the identified viewing locations and that the FONSI is placed on the MDT website. Generally, the PDE also provides notice of availability of the FONSI to the local media for publication.

MDT and FHWA provide copies of the document upon request by the public. The PDE sends copies of the notice to the State intergovernmental review contacts established under Executive Order 12372 "Intergovernmental Review of Federal Programs."

The PDE proceeds to [Task 36](#).

Regulations and Guidance

23 CFR 771.121 "Findings of no significant impact"

23 CFR 771.129 "Re-evaluations"

FHWA Technical Advisory T 6640.8A, Part IV, "Distribution of EAs and FONSI's"

MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Notify FHWA Beginning NEPA Process

Task No.: 18

Task Description

When the DT notifies the PDE that project development has progressed sufficiently to proceed with the NEPA phase of project development, the PDE prepares a letter for signature by MDT to the FHWA Division Administrator notifying them of the start of the NEPA Process. This letter:

- includes information on the type of work, termini, length and general location of the proposed action;
- lists any other Federal approvals (e.g., Section 404 permits) anticipated to be necessary for the project; and
- indicates the anticipated start date for the environmental review process.

Regulations and Guidance

23 USC 139 "Efficient Environmental Reviews for Project Decision Making"
SAFETEA-LU Environmental Review Process Final Guidance (FHWA Nov. 15, 2006)
AASHTO Practitioner's Handbook 09 – Using the SAFETEA-LU Environmental Review Process (23 USC Section 139), January 2008

PROCESS TASK

Task Title: Notice of Intent (EIS)

Task No.: 19

Task Description

The PDE coordinates with FHWA to develop the required Notice of Intent (NOI) for preparation of an EIS. The NOI is prepared in accordance with the guidance provided in FHWA Technical Advisory T 6640.8A, Appendix B and briefly:

- describes the proposed action and possible alternatives;
- describes the proposed scoping process including whether, when and where any scoping meeting will be held; and
- states the names and addresses of the PDE and the FHWA Program Development Engineer, who can answer questions about the proposed action and the EIS.

FHWA signs the NOI and transmits the signed document to the *Federal Register* for publication. The date of the NOI will be consistent with the date specified in MDT's letter to FHWA notifying them of the initiation of the NEPA process (See [Task 18](#)).

Regulations and Guidance

40 CFR 1508.22 "Notice of intent"
23 CFR 771.123(a) "Draft environmental impact statements"
FHWA Technical Advisory T 6640.8A, Appendix B, "Notice of Intent"

PROCESS TASK

Task Title: Conduct Scoping Process

Task No.: 20

Task Description

The PDE coordinates with the DT, other MDT Sections, FHWA and other interested parties to initiate a scoping process for the proposed project. As part of the scoping process, the PDE, DT and FHWA will:

- identify the involvement of affected Federal, Tribal, State and local agencies as either a participating or cooperating agency;
- determine the scope of issues to be addressed and the significant issues to be analyzed in depth in the document;
- identify and eliminate from detailed study issues that are not significant or that have been covered by prior environmental review;
- identify other environmental review and consultation requirements so that MDT and FHWA can prepare other required analyses concurrent with, and integrated with, the environmental document; and
- indicate the relationship between the timing of the preparation of environmental analyses and the tentative planning and decision-making schedule for the project.

Regulations and Guidance

40 CFR 1501.7 “Scoping”
23 CFR 771.123(b) “Draft environmental impact statements”
SAFETEA-LU Environmental Review Process Final Guidance (FHWA Nov. 15, 2006)
ARM 18.2.241 “Determining the Scope of an EIS”

PROCESS TASK

Task Title: Submit Formal Request to Agencies

Task No.: 21

Task Description

The PDE develops the formal request to agencies letters as discussed in Question 24 of the *SAFETEA-LU Environmental Review Process Final Guidance*. The letters identify MDT and FHWA as lead agencies, as well as other agencies, as appropriate. Each invitation letter sent to an agency:

- requests their involvement as a participating agency,
- states the reasons why the project is expected to be of interest to the agency,
- describes the roles and responsibilities of a participating agency as defined in 23 USC 139, and
- specifies a deadline for responding to the invitation.

The PDE ensures copies of all invitation letters are retained in the project file and public record. Generally, copies of the letters are also included in the environmental document. The PDE distributes the letters in accordance with Question 23 of the *SAFETEA-LU Environmental Review Process Final Guidance*.

Regulations and Guidance

23 USC 139 “Efficient Environmental Reviews for Project Decision Making”
SAFETEA-LU Environmental Review Process Final Guidance (FHWA Nov. 15, 2006),
Questions 23 and 24.
AASHTO Practitioner’s Handbook 09 – *Using the SAFETEA-LU Environmental Review
Process (23 USC Section 139)*, January 2008

PROCESS TASK

Task Title: Develop Coordination Plan

Task No.: 22

Task Description

As early as practical after project initiation (see [Task 18](#)), the PDE, DT and FHWA initiate preparation of the coordination plan required by 23 USC 139 to document and facilitate MDT and FHWA’s structured interaction with the public and other agencies and to inform the public and other agencies how the interaction will be accomplished. MDT and FHWA may change the initial coordination plan as participating agencies are identified or the complexity of issues becomes clearer.

The coordination plan outlines how MDT and FHWA have divided the responsibilities for compliance with the various aspects of the environmental review process (e.g., the issuance of invitations to participating agencies) and how MDT and FHWA will provide the opportunities for input from the public and other agencies, in accordance with applicable laws, regulations and policies. The plan also identifies coordination points including, but not limited to, the following:

- notice of intent publication and scoping activities;
- development of purpose and need;
- identification of the range of alternatives;
- collaboration on environmental analysis methodologies and level of detail;
- identification of a preliminary preferred alternative, if applicable;
- distribution of the administrative draft, if applicable;
- completion of the draft EIS (DEIS), Environmental Assessment (EA) and Section 4(f) Evaluation, if applicable;
- public hearing, if applicable;
- identification of the final preferred alternative and the level of design detail;
- completion of the final EIS (FEIS), EA and Section 4(f) Evaluation, if applicable;
- completion of the Record of Decision (ROD) or Finding of No Significant Impact (FONSI), as appropriate; and
- completion of permits, licenses or approvals after the ROD or FONSI.

PROCESS TASK

Task Title: Develop Coordination Plan
(Continued)

Task No.: 22

Task Description

In addition, the coordination plan may establish a schedule of regular meetings and may identify which persons, organizations or agencies should be included for each coordination point. The plan may set time frames for input by those persons, organizations and agencies.

If the coordination plan includes a project schedule, the PDE, DT and FHWA must prepare the schedule in consultation with each participating agency. However, participating agency concurrence in the schedule is not required. If a project schedule is incorporated, it will include decision-making deadlines for each agency approval (e.g., permits, licenses, final decisions) consistent with statutory and regulatory requirements.

Regulations and Guidance

23 USC 139 “Efficient Environmental Reviews for Project Decision Making”
SAFETEA-LU Environmental Review Process Final Guidance (FHWA Nov. 15, 2006)
AASHTO Practitioner’s Handbook 09 – *Using the SAFETEA-LU Environmental Review Process (23 USC Section 139)*, January 2008

PROCESS TASK

Task Title: Define Purpose and Need

Task No.: 23

Task Description

The PDE coordinates with the DT, other MDT Sections, FHWA, project stakeholders and the public in defining the purpose and need for the project. The objective of the coordination is to provide a specific, clear and justifiable explanation of identified needs the proposed project is intended to address, presented in a format that enables readers of the document to understand technical information (e.g., structural condition, traffic safety, congestion data). The purpose statement should clearly define the fundamental reasons why the project is being proposed. In many cases, a project serves multiple purposes. Where that is the case, it may be helpful to distinguish between primary and secondary purposes. Primary purposes typically would relate to addressing identified needs (e.g., increasing capacity, improving safety, reducing congestion). Secondary purposes may relate to broader goals and objectives (e.g., maintaining community character, minimizing costs, minimizing impacts). The need discussion should provide the factual foundation for the statement of project purpose (i.e., description of the problems the proposed project is intended to address and, to the extent possible, the underlying causes of those problems). FHWA guidance (e.g., Technical Advisory T6640.8A) provides examples of considerations that may determine or affect a project’s purpose and need.

Coordination with project stakeholders and the public is carried out in accordance with the agreed upon coordination plan ([Task 22](#)).

The opportunity for involvement by participating agencies and the public is provided prior to the decision on purpose and need that will be reflected in the environmental document. The PDE documents the decision on purpose and need and the considerations involved in making that decision and coordinates with FHWA to share the documentation with participating agencies to ensure that issues or disagreements are identified as early as possible.

Regulations and Guidance

- FHWA Technical Advisory T 6640.8A*
- SAFETEA-LU Environmental Review Process Final Guidance (FHWA Nov. 15, 2006)*
- AASHTO Practitioner’s Handbook 07 Defining the Purpose and Need and Determining the Range of Alternatives for Transportation Projects, August 2007*
- AASHTO Practitioner’s Handbook 09 Using the SAFETEA-LU Environmental Review Process (23 USC Section 139), January 2008*

PROCESS TASK

Task Title: Determine Alternatives

Task No.: 24

Task Description

The PDE coordinates with the DT, other MDT Sections, FHWA, project stakeholders and the public in determining the range of alternatives for the project. This may be an iterative process. A preliminary list of reasonable alternatives is developed. As additional technical reports are completed, the range of reasonable alternatives may be refined to avoid and/or minimize impacts to resources.

The PDE coordinates with FHWA to provide opportunities for involvement of participating agencies and the public in the development of the range of alternatives and considers input provided by these groups in determining the final range of alternatives for analysis. The PDE ensures this coordination occurs as early as practical. The PDE and FHWA determine the level of involvement on a case-by-case basis, taking into account the overall size and complexity of the project. Coordination with project stakeholders and the public is carried out in accordance with the agreed upon coordination plan ([Task 22](#)).

The PDE coordinates with the DT to document the decision on range of alternatives and the considerations involved in making that decision and coordinates with FHWA to share the documentation with participating agencies to identify issues as early as possible.

Regulations and Guidance

SAFETEA-LU Environmental Review Process Final Guidance (FHWA Nov. 15, 2006)
AASHTO Practitioner's Handbook 07 Defining the Purpose and Need and Determining the Range of Alternatives for Transportation Projects, August 2007
AASHTO Practitioner's Handbook 09 Using the SAFETEA-LU Environmental Review Process (23 USC Section 139), January 2008

PROCESS TASK

Task Title: Determine Environmental Analysis Methodology and Level of Detail

Task No.: 25

Task Description

Prior to the initiation of any environmental field studies or data gathering for the project, the PDE coordinates with FHWA to determine, in collaboration with the participating agencies, the DT and other ESB Sections, the appropriate methodologies to be used and the level of detail required in the analysis of alternatives. The PDE and FHWA work cooperatively and interactively with the relevant participating agencies on methodology and level of detail to be used in a particular analysis. Consensus is not required; however, the PDE and FHWA must consider the views of participating agencies with relevant interests before making a decision on a particular methodology. After collaborating with the participating agencies, the DT and other ESB Sections, the PDE and FHWA decide the methodology and level of detail to be used. The PDE documents the decisions and the considerations in making these decisions and coordinates with FHWA to share the information with the participating agencies to identify issues as early as possible.

Regulations and Guidance

SAFETEA-LU Environmental Review Process Final Guidance (FHWA Nov. 15, 2006)
AASHTO Practitioner's Handbook 09 Using the SAFETEA-LU Environmental Review Process (23 USC Section 139), January 2008

PROCESS TASK

Task Title: Gather Information

Task No.: 26

Task Description

The PDE and the Resources and Hazardous Waste Sections initiate field studies and/or other environmental data gathering (e.g., Montana Cadastral Maps, on-line environmental databases). These studies and/or data gathering provide the necessary detailed information for identifying and evaluating environmental, social and economic resources and concerns in the project area; the project alternatives' potential effects on those resources and concerns; and the need for accomplishing compliance actions under other applicable laws and regulations associated with resources that may be affected.

The PDE works with the DT, District, Public Information Officer, etc. to coordinate public involvement activities, to obtain input on environmental resource concerns and the project's effects on those concerns.

The determination of the environmental studies needed and the nature and scope of these studies is based on:

- the proposed preliminary project scope of work;
- type of project;
- geographic location;
- environmental information obtained during the PFR, preliminary coordination and scoping activities; and
- the decisions made regarding environmental analysis methodologies and level of detail.

This is an ongoing process as the purpose and need and range of alternatives are being defined. The environmental resource information is gathered and documented in technical reports.

PROCESS TASK

Task Title: Gather and Review Technical Reports

Task No.: 27

Task Description

As environmental resource information is gathered and documented, the PDE, DB and other environmental staff coordinate the information with the DT for consideration in modifying and/or refining the project design alternatives to avoid and minimize adverse environmental impacts to the extent practical. The PDE notifies the Resources and Hazardous Waste Sections to reevaluate the appropriate technical reports as project alternatives are refined. This may be an iterative process.

PROCESS TASK

Task Title: Prepare Preliminary Draft

Task No.: 28

Task Description

The PDE coordinates with the DT and FHWA in preparing the Preliminary Draft EIS or EA and coordinates with the Resources and Hazardous Waste Sections to ensure compliance with State and Federal requirements for using an interdisciplinary approach in preparing the document. An MDT Legal Sufficiency Review may also be necessary during this task.

The Preliminary Draft EIS or EA:

- evaluates all reasonable alternatives to the action;
- discusses the reasons why other alternatives that may have been considered were eliminated from detailed study;
- details the avoidance and minimization of impacts and potential mitigation; and
- summarizes the studies, reviews, consultations and coordination required by environmental laws or Executive Orders to the extent appropriate at this stage in the environmental process.

Regulations and Guidance

ARM 18.2.242 "Environmental Impact Statements – General Requirements"

ARM 18.2.243 "Preparation and Contents of Draft Environmental Impact Statements"

40 CFR 1502 "Environmental Impact Statement"

23 CFR 771. 123 "Draft environmental impact statements"

FHWA Technical Advisory T 6640.8A, Part V, "Environmental Impact Statement (EIS) – Format and Content"

AASHTO/ACEC/FHWA Report, *Improving the Quality of Environmental Documents*, May 2006

MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Provide Administrative Draft for Review

Task No.: 29

Task Description

Neither the Federal nor the Montana State environmental document directives require MDT to provide an Administrative Draft EA to agencies for review and comment. The following paragraphs describe two of the options MDT uses for accomplishing this Task:

Option 1:

When the PDE, DT and FHWA are satisfied with the content of the Preliminary EIS or EA, the PDE coordinates with FHWA in transmitting the document as an Administrative Draft, to potentially interested and affected Federal, Tribal, State and local agencies for review and comment. The PDE prepares transmittal correspondence from MDT for signature by the ESBC or higher-level position (e.g., the Preconstruction Engineer), as appropriate. The PDE and FHWA coordinate the Administrative Draft EIS or EA for preliminary legal sufficiency review by the FHWA Legal Office. When the Administrative Draft EIS or EA includes a Section 4(f) Evaluation, the FHWA Legal Office conducts a preliminary Legal Sufficiency Review of the Section 4(f) Evaluation.

The correspondence transmitting the Administrative Draft EIS or EA for review and comment establishes a reasonable timeframe for return of comments; typically 30 calendar days.

Option 2:

When the PDE, DT and FHWA are satisfied with the content of the Administrative Draft EIS or EA, the PDE coordinates with FHWA to schedule a public agency coordination meeting that includes a presentation summarizing the information in the Draft EIS or EA, which affords agencies the opportunity to comment.

For an Administrative Draft EIS, the PDE proceeds to [Task 30](#).

For an Administrative Draft EA, the PDE proceeds to [Task 14](#).

Regulations and Guidance

MDT “Environmental-Environmental Documents” Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Prepare Draft EIS (DEIS)

Task No.: 30

Task Description

After all comments on the Administrative Draft EIS are received, the PDE coordinates with the DT, FHWA, Resources and Hazardous Waste Sections and with the commenting entities to clarify and respond to comments. The PDE provides a summary of the comments received and the responses thereto. The PDE then revises the Administrative Draft EIS accordingly.

Generally, MDT and FHWA identify the preferred alternative in the DEIS, if one is known.

When all necessary revisions in responses to comments and concerns are incorporated in the Administrative Draft EIS, the PDE prepares the correspondence to transmit the document as a Draft EIS for signature by the ESBC and submittal to the FHWA Division Office for approval to circulate the document for public comment.

The FHWA Division, when satisfied that the Draft EIS complies with NEPA requirements, approves the document for circulation by signing and dating the appropriate number of bound documents and signature pages. FHWA retains one bound document for their records. FHWA returns the remaining documents and signature pages to MDT with a cover letter.

Regulations and Guidance

ARM 18.2.242 "Environmental Impact Statements – General Requirements"

ARM 18.2.243 "Preparation and Contents of Draft Environmental Impact Statements"

40 CFR 1502.9 "Draft, final, and supplemental statements"

23 CFR 771. 123 "Draft environmental impact statements"

FHWA Technical Advisory T 6640.8A, Part V, "Environmental Impact Statement (EIS) – Format and Content"

AASHTO/ACEC/FHWA Report, *Improving the Quality of Environmental Documents*, May 2006

MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Complete Public Review of Draft EIS

Task No.: 31

Task Description

After the Draft EIS cover sheets are signed and dated by FHWA, three signed originals are returned to the PDE for use in accomplishing the printing of the Draft EIS. The initial printing of the Draft EIS will be in sufficient quantity to respond to requests for copies that can reasonably be expected from agencies, organizations and individuals.

The PDE prepares the correspondence for signature by the ESBC or higher level position within MDT, as appropriate, to circulate the Draft EIS for comment on behalf of the FHWA and to transmit the appropriate number of copies, typically five, to FHWA for filing with the US Environmental Protection Agency (USEPA) in accordance with 40 CFR 1506.9 "Filing requirements." The Draft EIS is made available to the public and transmitted to agencies for comment no later than the time the document is filed with the USEPA.

The Draft EIS is transmitted to:

- Department of the Interior (DOI) (18 bound copies or one bound copy and 18 CDs). These copies are provided to FHWA who transmits them to DOI;
- FHWA Division Office (five bound copies, seven for projects with prior concurrence);
- public officials (e.g., Governor, Montana EQC), interest groups and members of the public known to have an interest in the proposed action or the Draft EIS;
- participating agencies and other Federal, State, Tribal and local agencies expected to have jurisdiction or responsibility over, or interest or expertise in, the action. Copies are provided directly to appropriate State and local agencies and to all intergovernmental review contacts established under Executive Order 12372 "Intergovernmental Review of Federal Programs"; and
- State and Federal land management entities that may be significantly affected by the proposed action or any of the alternatives. These copies are accompanied by a request that the State or entity respond in writing with any comments, questions or disagreement with the evaluation of impacts in the Draft EIS.

The PDE provides copies of all comments received on the Draft EIS to FHWA. FHWA furnishes a written assessment of any disagreements for incorporation in the Final EIS.

PROCESS TASK

Task Title: Complete Public Review of Draft EIS
(Continued)

Task No.: 31

Task Description

Whenever a public hearing is held, the PDE ensures the Draft EIS is available at the hearing and for a minimum of 15 days in advance of the public hearing. The availability of the Draft EIS is mentioned and public comments requested in any public hearing notice and in any public hearing presentation. If a public hearing will not be held, the PDE initiates action to place a notice in a newspaper similar to a public hearing notice advising where the Draft EIS is available for review, how to obtain copies and where to send comments.

The *Federal Register* public availability notice (40 CFR 1506.10) establishes a period of not less than 45 days or more than 60 days for the return of comments on the Draft EIS. The notice and the Draft EIS transmittal letter identify where comments are to be sent and when the comment period ends.

Regulations and Guidance

ARM 18.2.246 "Time Limits and Distribution of Environmental Impact Statements"
ARM 18.2.257 "Public Hearings"
23 CFR 771.123 "Draft environmental impact statements"
23 CFR 771.129 "Re-evaluations"
23 CFR 771.130 "Supplemental environmental impact statements"
MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Prepare Final EIS

Task No.: 32

Task Description

After circulation of the Draft EIS and consideration of comments received, the PDE coordinates with the DT, FHWA and other appropriate MDT personnel in preparing the Final EIS.

The Final EIS identifies the final preferred alternative and evaluates all reasonable alternatives considered. It also identifies substantive comments received on the Draft EIS and the responses to those comments, summarizes public involvement and describes mitigation measures that are to be incorporated into the proposed action. The PDE coordinates with the DT to ensure that mitigation measures presented as commitments in the Final EIS are incorporated into the project as specified in 23 CFR 771.109(b). The Final EIS also documents compliance, to the extent possible, with all applicable environmental laws and Executive Orders or provides reasonable assurance that their requirements can be met.

The PDE coordinates with the DT and FHWA to make every reasonable effort to resolve interagency disagreements on the project before processing the Final EIS. If significant issues remain unresolved, the PDE identifies these issues in the Final EIS, and the consultations and other efforts made to resolve them.

When the PDE, DT and FHWA are satisfied with the content of the Final EIS, the FHWA Division Office coordinates the Final EIS for Legal Sufficiency Review by the FHWA Legal Office prior to FHWA approval. The PDE prepares the correspondence for signature by the ESBC or higher-level position within MDT, as appropriate, to transmit the Final EIS to FHWA for approval. In addition, for actions in the categories listed in 23 CFR 771.125(c), the FHWA Division Office submits the Final EIS to FHWA Headquarters for prior concurrence. FHWA indicates approval of the Final EIS by signing and dating the cover page.

Regulations and Guidance

- ARM 18.2.242 “Environmental Impact Statements – General Requirements”
- ARM 18.2.244 “Adoption of Draft Environmental Impact Statement as Final”
- ARM 18.2.245 “Preparation and Contents of Final Environmental Impact Statement”
- 40 CFR 1502.9 “Draft, final, and supplemental statements”
- 23 CFR 771. 125 “Final environmental impact statements”
- AASHTO/ACEC/FHWA Report, *Improving the Quality of Environmental Documents*, May 2006
- AASHTO Practitioner’s Handbook 02 *Responding to Comments on an Environmental Impact Statement*, July 2006
- MDT “Environmental-Environmental Documents” Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Complete Public Review of Final EIS

Task No.: 33

Task Description

After the Final EIS cover sheets are signed and dated by FHWA, the DT returns a bound, signed original and two sheets to the PDE for use in accomplishing the printing of the Final EIS. FHWA retains one bound original for their records. For the initial printing of the Final EIS, the PDE ensures sufficient quantities are available to respond to requests for copies that can reasonably be expected from agencies, organizations and individuals.

The PDE prepares correspondence for signature by the ESBC or higher-level position within MDT, as appropriate, and transmits the appropriate number of copies of the Final EIS to FHWA for filing with the USEPA, typically five, in accordance with 40 CFR 1506.9 "Filing requirements." The PDE also ensures copies of the document are sent to the Governor, Montana EQC and any persons, organizations or agencies that made substantive comments on the Draft EIS or that requested a copy. The PDE ensures the transmittal of the Final EIS to the aforementioned entities is completed no later than the time the document is filed with the USEPA. Nine bound copies and one CD or one bound copy and nine CDs are provided to the DOI. When filed with USEPA, the Final EIS is made available for public review at MDT Headquarters and appropriate District Office(s) and the FHWA Division Office. The PDE ensures copies are available for public review at other institutions (e.g., local government offices, libraries, schools) in the project area.

The PDE works with the DT, District, Public Information Officer, etc., to prepare a notice of availability of the Final EIS and transmit the notice for publication in local newspapers in the project area. In addition, the PDE and FHWA make the Final EIS available through the mechanism established pursuant to Executive Order 12372 "Intergovernmental Review of Federal Programs."

Regulations and Guidance

- Executive Order 12372 "Intergovernmental Review of Federal Programs."
- ARM 18.2.246 "Time Limits and Distribution of Environmental Impact Statements"
- 23 CFR 771.125 "Final environmental impact statements"
- 23 CFR 771.129 "Re-evaluations"
- 23 CFR 771.130 "Supplemental environmental impact statements"
- MDT Public Involvement Handbook
- MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Prepare ROD

Task No.: 34

Task Description

The PDE coordinates with the DT and FHWA to initiate preparation of the Record of Decision (ROD) for the project. The ROD explains the reasons for the project decision, summarizes any mitigation measures that will be incorporated into the project and documents any required Section 4(f) approval. The PDE ensures that the ROD addresses the following key items:

1. Decision. Identify the selected alternative and reason for selection.
2. Alternatives Considered. Identify all alternatives considered in reaching the decision, specifying the alternative or alternatives considered environmentally preferable. Where the selected alternative is other than the environmentally preferable alternative, ensure the ROD clearly states the reasons for not selecting the environmentally preferred alternative.
3. Section 4(f). Summarize the basis for any Section 4(f) approval, when applicable.
4. Measures to Minimize Harm. Describe the specific measures adopted to minimize environmental harm and identify those standard measures (e.g., erosion control) appropriate for the proposed action. State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted and, if not, the reasons why they were not.
5. Monitoring or Enforcement Program. Describe any adopted monitoring or enforcement program for specific mitigation measures, as outlined in the EIS.
6. Comments on Final EIS. Identify and provide appropriate responses to all substantive comments received on the Final EIS. Summarize other comments and responses provided, where appropriate.

Regulations and Guidance

ARM 18.2.252 "Record of Decision for Actions Requiring Environmental Impact Statements"
 40 CFR 1505.2 "Record of decision in cases requiring environmental impact statements"
 23 CFR 771.127 "Record of decision"
 FHWA Technical Advisory T 6640.8A, Part VIII, "Record of Decision – Format and Content"
 MDT Public Involvement Handbook
 MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Finalize ROD

Task No.: 35

Task Description

When the PDE, DT and FHWA are satisfied with the content of the ROD, the FHWA Operations Engineer submits the ROD for signature to the FHWA Division Administrator.

FHWA completes and signs a minimum of two original RODs no sooner than 30 days after publication of the Final EIS notice in the *Federal Register* or 90 days after publication of a notice for the Draft EIS, whichever is later.

After signature, FHWA provides the signed originals to the PDE for MDT signature/acceptance. The PDE returns one signed original to FHWA, and has copies made for the project file and distribution, as appropriate. The FHWA Division Office provides a copy of the signed ROD to FHWA Headquarters.

Regulations and Guidance

40 CFR 1506.1 "Limitations on actions during NEPA process"

23 CFR 771.127 "Record of decision"

MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Scope of Work

Task No.: 36

Task Description

As soon as appropriate data is available, the DT prepares the Scope of Work (SOW) Report, which identifies the major design features of the project and provides an overview of the project improvements. In addition to information on various engineering aspects of the proposed project, the Report includes discussion of environmental considerations, including any environmental commitments and concerns identified in the environmental document and descriptions of any environmental, cultural avoidance and mitigation measures taken, as well as treatment of hazardous waste sites. The SOW Report cannot be finalized until the environmental document is approved.

The DT distributes the SOW Report for review and comment by affected MDT bureaus. The PDE reviews the SOW Report and coordinates with the DT to ensure commitments in the environmental document are incorporated in the project design. Within ESB, the PDE serves as the document champion to collect and coordinate comments from the other Sections. The PDE compiles the comments into an SOW review memorandum for signature by the ESBC.

The PDE ensures the environmental document accurately reflects the project as described in the SOW Report.

Regulations and Guidance

MDT Road Design Manual, Chapter 1, Section 1.3 "Road Design Activities"
MDT Road Design Manual, Chapter 3, Section 3.1.3 "Scope of Work Report"
MDT Road Design Manual, Chapter 8, Section 8.7 "FHWA Involvement"

PROCESS TASK

Task Title: Reevaluate Documentation

Task No.: 37

Task Description

After approval of the ROD, FONSI or CE classification, the PDE coordinates with appropriate offices within MDT to initiate consultation with the FHWA Division Office prior to requesting any major approvals to establish whether the approved environmental document or CE classification remains valid for the requested FHWA action. The PDE documents these consultations when determined necessary by the FHWA.

The PDE provides a written evaluation of the Draft EIS in cooperation with FHWA if an acceptable Final EIS is not submitted to FHWA within three years from the date of the Draft EIS circulation. The purpose of this evaluation is to determine whether or not a supplement to the Draft EIS or a new Draft EIS is required.

The PDE provides a written evaluation of the Final EIS before further approvals may be granted if major steps to advance the action (e.g., authority to undertake final design, authority to acquire a significant portion of the right-of-way, approval of the plans, specifications and estimates) do not occur within three years after approval of the Final EIS, Final EIS supplement or the last major FHWA approval.

Regulations and Guidance

23 CFR 771.129 "Re-evaluations"
MDT "Environmental-Environmental Documents" Activity Descriptions (Management Unit 2700)

PROCESS TASK

Task Title: Project Complete

Task No.: 38

Task Description

The Environmental Document process is completed once all major Federal approvals required for the project are obtained and project construction is completed, consistent with the approved Environmental Document or CE classification and, if applicable, any approved Supplemental Environmental Document(s).

The PDE coordinates with the DT to review the final project plans and ensures that environmental commitments and measures for environmental impact avoidance, minimization and mitigation in the approved environmental documentation for the project are accurately reflected.

The District Environmental Engineering Specialist (DEES) monitors project construction to ensure that all measures to minimize harm to environmental resources are implemented in accordance with the provisions of the final environmental decision document approved by FHWA. The PDE provides support to the DEES during construction to meet all commitments.