FRA's Environmental Review Process

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U.S. Department of Transportation
Federal Railroad Administration

AGENDA

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Introduction

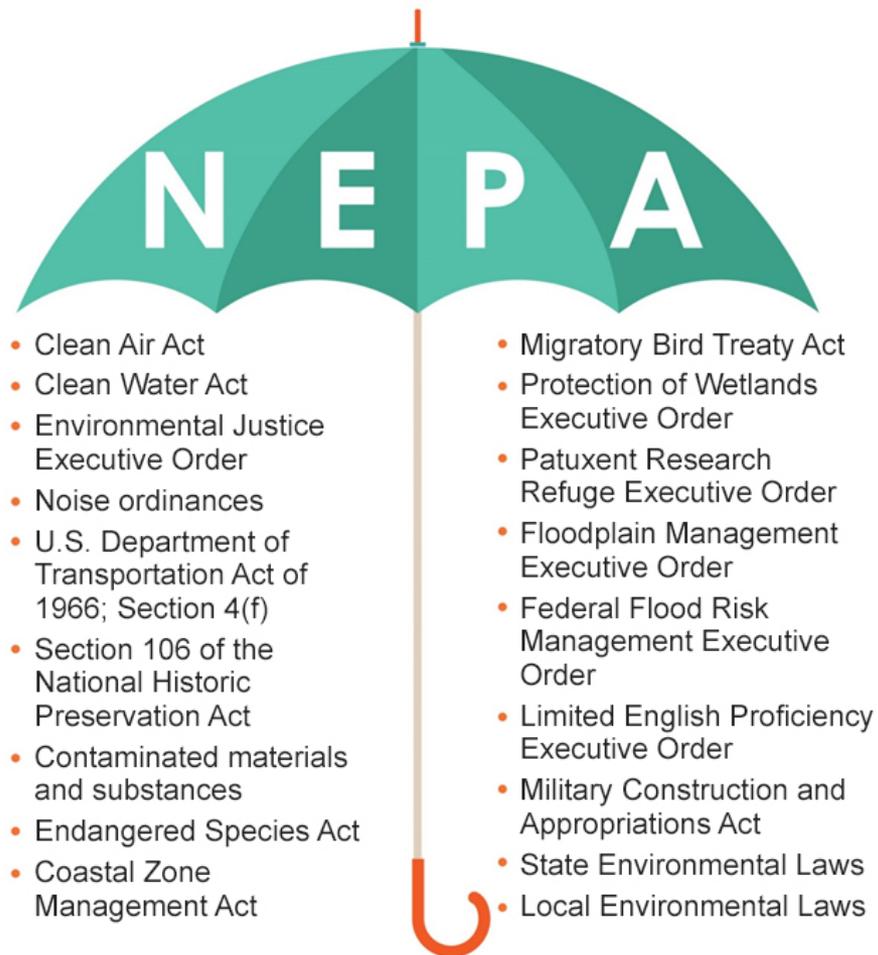**U.S. Department of Transportation**
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Introduction

- The **National Environmental Policy Act** (NEPA) of 1969 establishes a basic framework for encouraging environmental protection in the United States.
- There are two primary objectives of NEPA:
  - 1. Ensure that agencies consider every significant aspect of a proposed project's environmental impact.
  - 2. Inform and involve the public of potential impacts and alternatives.
- The NEPA process is a set of activities to gather information on, analyze, and document the potential environmental effects of the proposed project.

NEPA Basics: What It Is, When It Applies & What An 'Action' Is

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NEPA Basics: What it is

▶ NEPA is required when a Federal action is taken that may have impacts on the human and natural environment. Federal actions are those that require Federal funding, permits, policy decisions, facilities, equipment, or employees.

▶ The NEPA Process or "Umbrella" covers dozens of additional statutes, regulations, executive orders and requirements.

N E P A

- Clean Air Act
- Clean Water Act
- Environmental Justice Executive Order
- Noise ordinances
- U.S. Department of Transportation Act of 1966; Section 4(f)
- Section 106 of the National Historic Preservation Act
- Contaminated materials and substances
- Endangered Species Act
- Coastal Zone Management Act

- Migratory Bird Treaty Act
- Protection of Wetlands Executive Order
- Patuxent Research Refuge Executive Order
- Floodplain Management Executive Order
- Federal Flood Risk Management Executive Order
- Limited English Proficiency Executive Order
- Military Construction and Appropriations Act
- State Environmental Laws
- Local Environmental Laws

NEPA Basics: What it is

▶ There are three Federal agencies that oversee the NEPA law:

- ▶ **Council on Environmental Quality** established by Congress to ensure that Federal agencies meet their responsibilities under NEPA;

- ▶ **Environmental Protection Agency (EPA)** reviews and rates Federal Environmental Impact Statement (EIS) and the EPA comments are intended to assist Federal agencies in improving their NEPA analyses and decisions;

- ▶ **U.S. Institute for Environmental Conflict Resolution** works with all groups involved in a project's environmental process to overcome conflict to reach a common ground and resolution.

NEPA Basics: What an Action is and When It Applies

▶ At FRA, our **actions/undertakings** are broad, and include:
  - ▶ Funding, (i.e. grants and loans)
  - ▶ Issuing regulations, (i.e. horn noise, safety)
  - ▶ Making Federal land management decisions, (i.e. planning) and overseeing the construction of publicly-owned facilities and infrastructure (i.e. stations, track)

▶ Other Federal agency **actions/undertakings** may also include:
  - ▶ Providing permits, (i.e. use of waters of the U.S. Army Corps of Engineers Section 404 permit)

NEPA Basics: What An Action Is And When It Applies

▶ NEPA is used as a tool that requires decision-makers to be informed of the environmental consequences of their actions.

▶ Through NEPA, agencies determine if their proposed actions will have significant environmental and related social and economic effects.

▶ If there are significant impacts, agencies are required to mitigate those impacts.

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FRA NEPA Class of Action

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Types of Environmental Documents

▶Three types of NEPA documents project sponsors may prepare for FRA:

1. Categorical Exclusion (CE)
2. Environmental Assessment / Finding of No Significant Impact (EA/FONSI)
3. Environmental Impact Statement & Record of Decision (EIS/ROD)

Types of Environmental Documents

▶ Categorical Exclusion (CE)
  ▶ Types of actions that have been determined to have no significant impacts and do not require an EA or EIS

  ▶ FRA CE Worksheet

Types of Environmental Documents

▶ Environmental Assessment / Finding of No Significant Impact (EA/FONSI)

    ▶ Used to determine if an EIS is needed or to document that there are no significant impacts leading to a FONSI

Types of Environmental Documents

▶ Environmental Impact Statement & Record of Decision (EIS/ROD)

- ▶ Most extensive and in-depth environmental review
- ▶ Involved public participation

- ▶ [FRA Rail Program Delivery Video on Environmental Review](#)

Types of Environmental Documents

▶Tiered Environmental Documents
  ▶For large corridor projects requiring extensive coordination and planning
  ▶Allows for flexibility and coordination with planning
  ▶Initial corridor-level document (Tier 1) is broad while subsequent project-specific (Tier 2) documents are more detailed and focused on construction

Common Steps in FRA NEPA Process

	Purpose and Need	Scoping	Agency Coordination	Public Involvement	Identification of Reasonable Alternatives	Environmental Analysis	Selecting a Preferred Alternative
CE	✓	✓	✓			✓	
EA	✓	✓	✓	✓	✓	✓	✓
EIS	✓	✓	✓	✓	✓	✓	✓

Types of Environmental Documents

▶A Project's construction starts <u>after</u> the ROD, FONSI or CE is complete and all necessary permits have been acquired.

▶The NEPA process is flexible – changes can be made during construction by revisiting NEPA *<u>BEFORE</u>* action takes place.

▶Changes may require additional analysis (i.e. re-evaluation, additional CE, etc.)

Best Practices & Helpful Hints

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Know Your Project's Scope

▶ Project purpose and need
  ▶ The purpose is the problem, and the need is how the proposed project solves the problem.
▶ Project function (i.e. grade separation, rail upgrades/track and tie, bridge updates)
▶ Are there more than one improvement or alignment needed?
▶ Project location (is your project in a floodplain or historic district?)
▶ If your project scope changes, let FRA know, because your NEPA or grant might change.

Ask Questions

▶ Will NEPA be needed for my project?
▶ When does it start?
▶ Is your project impacted by other plans?

Early Integration

▶ Integrate NEPA into overall project planning and management to the fullest extent possible.

▶ Use NEPA to develop the most environmentally sound project.

    ▶ Focus on significant environmental issues within your project area and deemphasize insignificant issues.

▶ NEPA is NOT after-the-fact process to justify decisions already made.

Collaboration

▶ Plan collaboration early in project development, assign responsibilities, and develop a realistic schedule.

▶ Rely on agency experience and expertise to determine the type of NEPA and level of documentation and coordination that is appropriate for your project.

Collaboration (cont.)

▶ Be consistent with approved State or local plans and laws.

   ▶ Identify early in project development any State, tribal, and local environmental review.

   ▶ Collaborate with State, tribal, and local governments to the fullest extent possible to reduce duplication.

Realistic Schedule

► Set a realistic schedule and responsibilities. Incorporate statutory time-frames into review time-line.

► Keep to your schedule.

   ► Prepare NEPA documents and studies for your project in time to inform both the public and the decision-maker

Outreach

▶ Conduct early and well-defined outreach.

▶ Are all possible resource areas and parties/agencies interested in the project identified?

  ▶ Identify opportunities to coordinate reviews, related surveys and studies required by other laws that fall under the NEPA umbrella.

▶ Coordinate with all groups that have a review or interest in the project.

Prioritize Significant Impacts

▶ Prioritize impacts, focus on the significant ones that might affect the agency's final decision.

  ▶ Does the NEPA document address and identify significant impacts from the project?

Concise and Readable Documents

▶ Make NEPA documents readable, concise and straightforward.

▶ Use plain language and appropriate maps/diagrams.

▶ Limit the length of NEPA documents, include only information that is essential to making a reasoned choice among alternatives.

Build Upon Existing Documentation

▶ Incorporate past NEPA documentation if you can, or supplement an existing NEPA document to reflect new project.

Things to Remember

1. Make NEPA documents readable, concise and straightforward.
2. Use plain language and appropriate maps/diagrams.
3. Integrate NEPA early into project planning efforts. (know the scope of the project)
4. Set a realistic schedule and responsibilities. Incorporate statutory time-frames into review time-line.
5. Prioritize impacts, focus on the significant ones that might affect project outcomes.

Things to Remember

6. Limit the length of NEPA documents, include only information that is essential to making a reasoned choice among alternatives.
7. Conduct early and well-defined outreach with the public, and/or agency stakeholders.
8. Coordinate with all groups that have a review or interest in the project.
9. Respond to public, agency or FRA comments on the NEPA document in a timely manner.
10. Incorporate past NEPA documentation if you can, or supplement an existing NEPA document to reflect project changes.

Division Developments and Initiatives

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Division Developments and Initiatives

FAST Act Changes (NEW)

► FRA joining FHWA and FTA's NEPA and Section 4(f) regulations in 23 CFR 771 and 774

- ► New Categorical Exclusions
- ► Final Rulemaking expected in 2018
- ► Creates consistency in the environmental process between surface transportation modes
- ► Requires new SOPs for staff and FRA customers

► Section 1309

- ► Pilot program – Joint FHWA/FTA/FRA rulemaking
    - ► For States with NEPA Assignment

Streamlining Efforts

Current Administration Effort (forthcoming guidance)

▶ Executive Order 13807 and One Federal Decision / Memorandum of Understanding

▶ Re-Evaluation Process Q&As

▶ Page & Time Limits for EISs and EAs

▶ Section 106 Exemption

Further Information

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Further Information

▶ FRA NEPA Procedures Web Page
https://www.fra.dot.gov/Page/P0215

▶ U.S. DOT NEPA Resources Web Page
https://www.transportation.gov/tiger/nepa-resources

▶ Council on Environmental Quality Website
https://ceq.doe.gov/index.html

▶ A Citizen's Guide to the NEPA
https://www.energy.gov/nepa/downloads/citizens-guide-nepa-having-your-voice-heard-ceq-2007

▶ AASHTO Center for Environmental Excellence Practitioners' Handbooks
https://environment.transportation.org/center/products_programs/practitioners_handbooks.aspx

Thank you!

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Q&A

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