
APPENDIX C:

**Transportation Planning Requirements and
Their Relationship to National Environmental
Policy Act (NEPA) Approvals
(July 17, 2008 Letter from FHWA)**



U.S. Department
of Transportation
**Federal Highway
Administration**

Montana Division

July 17, 2008

585 Shepard Way
Helena, MT 59601

Jim Lynch, Director
Montana Department of Transportation
2701 Prospect Avenue
Helena, MT 59620

In Reply Refer To:
HDA-MT

**Subject: Transportation Planning Requirements and Their Relationship to National
Environmental Policy Act (NEPA) Approvals**

Dear Mr. Lynch:

Enclosed is guidance on the relationship between planning requirements and NEPA approvals, issued on January 28, 2008, by FHWA. This guidance, originally transmitted electronically, has generated extensive conversations between MDT and our office. We have spent considerable time reaching agreement with your staff on the following procedures to implement this guidance, both in rural/non-Metropolitan Planning Organization (MPO) areas and within the three MPO areas.

I. Rural/non-MPO Area Projects

Regionally Significant Projects in Rural Areas

23 CFR §450.104 defines: "*Regionally significant project* means a transportation project ... that is on a facility which serves regional transportation needs ... and would normally be included in the modeling of the metropolitan area's transportation network. At a minimum, this includes all principal arterial highways and all fixed guideway transit facilities that offer a significant alternative to regional highway travel."

In Montana's rural areas, outside MPO planning boundaries, regionally significant projects will include all projects on principal arterial highways that add potential capacity or significantly change the highway's operational characteristics. Examples of these are projects that:

- introduce new and independent roadway alignment for a substantial proportion of the project while not obliterating the existing roadway;
- add thru-lanes for a substantial portion of the project, exclusive of truck climbing lanes; or
- introduce a new interchange.

Examples of projects in rural areas that would not meet the regionally significant definition are:

- pavement preservation projects;
- minor/major rehabilitation;

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- reconstruction projects generally on or paralleling existing alignment that only bring a facility up to current standards without adding lanes (i.e., two-lane highway with a 28' top changing to a two-lane highway with a 40' top, generally following existing alignment);
- safety projects; and
- new or revised intersection control or configuration.

The majority of projects in rural Montana will not be considered regionally significant, and hence, the January 28, 2008, guidance will not change the MDT/FHWA procedures.

Non-Regionally Significant Projects

The current Statewide Transportation Improvement Program (STIP) will describe the Preliminary Engineering (PE) project and show funds necessary for full PE from nomination through Plans, Specifications & Estimate (PS&E). The original Federal-aid project will be authorized based on this STIP and full amount obligated for PE through PS&E. The NEPA document will typically be a Categorical Exclusion (CE) but may occasionally be an Environmental Assessment (EA). There will be no further action needed at time of CE or final NEPA decision document approval.

Regionally Significant Projects:

Option 1: The STIP will describe the PE project and show funds necessary for full PE from nomination through PS&E. The original Federal-aid project will be authorized based on this STIP and the full amount obligated for PE through PS&E for the entire corridor. The NEPA document may be a CE, an EA or Environmental Impact Statement (EIS) depending upon significance of potential impacts. A funding plan will be developed for the project either in a pre-NEPA planning process or in conjunction with the NEPA process. In either case the environmental document will disclose the project funding and phasing. Prior to approving the final NEPA decision document, [i.e., CE, Finding of No Significant Impact (FONSI) or Record of Decision (ROD)], the next phase (Right-of-Way, Incidental Construction, or Construction) for the corridor or a portion of the corridor with operational independence* and meeting the project Purpose and Need, will be included in the current STIP for informational purposes.

Option 2: The STIP will describe the PE project and show funds necessary for PE from nomination through the NEPA decision document. The original Federal-aid project will be authorized based on this STIP and full amount obligated for PE through NEPA document/Scope of Work Report for the entire corridor. The NEPA document may be a CE, an EA or EIS depending upon significance of potential impacts. A funding plan will be developed for the project either in a pre-NEPA planning process or in conjunction with the NEPA process. In either case the environmental document will disclose the project funding and phasing. Prior to approving the final NEPA decision document (i.e., CE, FONSI or ROD) the next phase (final design, ROW, Incidental Construction, or Construction) for a portion of the corridor with operational independence* and meeting the project Purpose and Need, will be included in the fiscally-constrained current STIP as a new Federal-aid project or a program modification to the original Federal-aid project.

II. MPO Area Projects

The process for projects in MPO areas shall be similar to Option 1 or 2 above for regionally significant projects. The differences are primarily related to fiscal constraint requirements in MPO areas. The PE project shall come from an approved, fiscally-constrained Metropolitan Transportation Plan (MTP) and STIP before authorization. The NEPA document will disclose the project funding and phasing. Prior to signing the NEPA decision document, the entire project must be in the MTP and one subsequent phase must be in the current TIP. If only a segment of a project is planned within the MTP, the NEPA document may cover the entire project but the NEPA decision document will only cover the planned segment. The planned segment must be operationally independent* and meet the project Purpose and Need, must be included in the fiscally-constrained MTP, and at least one subsequent phase must be in the current TIP.

**What is an operationally independent phase of work?*

An operationally independent phase of work is a portion of the work described in the environmental document that can be built and function as a viable transportation facility even if the rest of the work described in the environmental document is never built. Environmental commitments associated with the phase of work to be built must be implemented as part of the project. Multiple contracts developed for bidding by the Owner for contract administration purposes or due to funding shortfalls are generally not considered to be operationally independent.

On a case-by-case basis, the scope of work described by the ROD, FONSI or CE can be divided into multiple projects that correspond to operationally independent phases of work which will be built non-concurrently. The FHWA Division Office in cooperation with MDT will make this determination.

Also enclosed is a list of regionally significant projects that are currently being developed that do not have the NEPA document approved as of July 2008.

We appreciate the time and effort that has gone into developing these procedures. Please let us know if you have any questions.

Sincerely,

Kevin L. McLaury, P.E.
Division Administrator

Enclosure

cc: Sandy Straehl, MDT Planning Division Administrator (w/enclosures)
Loran Frazier, MDT Engineering Division Administrator (w/enclosures)

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