

## Chapter 14

# ENVIRONMENTAL IMPACT STATEMENT/ROD

**MDT ENVIRONMENTAL MANUAL**

*October 2010*



## Table of Contents

<u>Section</u>	<u>Page</u>
14.1 OVERVIEW.....	14-1
14.2 LAWS, REGULATIONS AND GUIDANCE.....	14-2
14.2.1 USC 139 “Efficient Environmental Reviews for Project Decision-making”.....	14-2
14.2.2 40 CFR 1500 through 1508 <i>CEQ Regulations</i> .....	14-2
14.2.3 23 CFR 771 “Environmental Impact and Related Procedures” .....	14-2
14.2.4 Executive Order 11988 “Floodplain Management” .....	14-3
14.2.5 Executive Order 11990 “Protection of Wetlands” .....	14-3
14.2.6 MCA 75-1-101, et seq. “ <i>Montana Environmental Policy Act</i> ” .....	14-3
14.2.7 ARM 18.2.235 through 18.2.261 Transportation Rules Implementing the <i>Montana Environmental Policy Act</i> .....	14-3
14.2.8 <i>A Guide to the Montana Environmental Policy Act</i> .....	14-4
14.2.9 MDT “Environmental-Environmental Documents” Activity Descriptions...	14-4
14.2.10 FHWA Technical Advisory T 6640.8A .....	14-5
14.2.11 FHWA “SAFETEA-LU Environmental Review Process Final Guidance” .	14-5
14.2.12 FHWA “SAFETEA-LU Environmental Review Process Toolkit” .....	14-5
14.2.13 “Forty Most Asked Questions Concerning CEQ’s NEPA Regulations” ....	14-5
14.2.14 “The Importance of Purpose and Need in Environmental Documents” ....	14-5
14.2.15 “Considering Cumulative Effects Under the <i>National Environmental     Policy Act</i> ”.....	14-6
14.2.16 “Consideration of Cumulative Impacts in EPA Review of NEPA Documents” .....	14-6
14.2.17 <i>Montana Business Process to Link Planning Studies and NEPA/MEPA     Reviews</i> .....	14-6
14.2.18 <i>Improving the Quality of Environmental Documents</i> .....	14-6
14.2.19 <i>Reader-Friendly Document Tool Kit</i> .....	14-6
14.2.20 AASHTO Practitioner’s Handbooks.....	14-7
14.3 PREPARING AN EIS .....	14-8
14.3.1 Preliminary Requirements .....	14-8
14.3.1.1 Notification to FHWA .....	14-8
14.3.1.2 Coordination Plan .....	14-8
14.3.1.3 Notice of Intent.....	14-8
14.3.1.4 Scoping.....	14-8
14.3.2 Information Gathering.....	14-9
14.3.3 EIS Format/Content.....	14-9
14.3.3.1 General .....	14-9
14.3.3.2 Standard Format.....	14-10

**Table of Contents**

(Continued)

<b><u>Section</u></b>	<b><u>Page</u></b>
14.3.3.3 Cover Sheet.....	14-10
14.3.3.4 Table of Contents .....	14-12
14.3.3.5 Conversion Factors.....	14-12
14.3.3.6 List of Acronyms and Abbreviations.....	14-12
14.3.3.7 Summary .....	14-12
14.3.3.8 Chapter 1 – Purpose of and Need for the Proposed Action....	14-13
14.3.3.9 Chapter 2 Alternatives .....	14-14
14.3.3.10 Chapter 3 Affected Environment, Impacts and Mitigation.....	14-16
14.3.3.11 Chapter 4 Permits and Authorizations .....	14-35
14.3.3.12 Chapter 5 Comments and Coordination .....	14-35
14.3.3.13 Chapter 6 List of Preparers.....	14-36
14.3.3.14 Chapter 7 Distribution List.....	14-37
14.3.3.15 Chapter 8 List of Sources/Documents .....	14-37
14.3.3.16 Appendices .....	14-37
 14.4 OPTIONS FOR PREPARING FEIS .....	 14-38
14.4.1 Traditional Approach .....	14-38
14.4.2 Condensed FEIS .....	14-38
14.4.3 Abbreviated FEIS .....	14-39
14.4.4 Adopting the DEIS as the FEIS .....	14-39
 14.5 RECORD OF DECISION .....	 14-41
 14.6 REEVALUATIONS .....	 14-42
14.6.1 DEIS Reevaluation .....	14-42
14.6.2 FEIS Reevaluation.....	14-42
 14.7 SUPPLEMENTAL EIS.....	 14-43

**List of Figures**

Figure 14-1 – EIS Cover Sheet.....14-11



# Chapter 14

## ENVIRONMENTAL IMPACT STATEMENT/ROD

### 14.1 OVERVIEW

The decision to prepare an environmental impact statement (EIS) for an MDT project or approval is generally based on the class of action determination process (see [Chapter 10 “Class of Action Determination”](#)). The *National Environmental Policy Act* (NEPA) and the *Montana Environmental Policy Act* (MEPA) require preparation of an EIS for proposed actions that will significantly affect the human environment. The purpose of an EIS is to ensure that environmental values are considered in the decision-making process for those projects. In accordance with Section 1502.1 of the Council on Environmental Quality (CEQ) Regulations, an EIS must provide “full and fair discussion of significant environmental impacts.” It also must inform decision-makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment.

Implementing regulations for NEPA and MEPA require preparation of EIS documents in conformance with the following principles:

- Use a systematic, interdisciplinary approach and effective public involvement (see [Chapter 16 “Public Involvement”](#)) to identify and analyze the social, economic and environmental effects of project alternatives.
- Prepare EISs that are analytic rather than encyclopedic, concentrating on the issues that are truly important to the action in question and discussing only briefly issues other than important ones.
- Make EISs concise, clear and to the point and ensure that they are supported by evidence of necessary environmental analyses (e.g., summarize technical reports and analyses and incorporate them by reference).
- Use EISs to document compliance with other applicable environmental laws, regulations and executive orders.
- Prepare EISs that will help MDT and Federal Highway Administration (FHWA) make decisions that are based on understanding of environmental consequences.

As provided in the implementing regulations for NEPA and MEPA, after completing the processing of an EIS for a proposed project, when MDT/FHWA make the decision on the project (i.e., regarding project approval, preferred alternative) a concise Record of Decision (ROD) must be prepared and published. This record provides public notice of the final decision, the reasons for the decision and any special conditions associated with the decision or its implementation.

See the “[Environmental Document Process](#),” in Appendix C of this *Manual*, for guidance on the steps for development and processing of an EIS and ROD. [Chapter 14](#) provides guidance on the preparation of EIS and ROD documents.

## 14.2 LAWS, REGULATIONS AND GUIDANCE

### 14.2.1 23 USC 139 “Efficient Environmental Reviews for Project Decision-Making”

This part of the *United States Code* (USC), enacted as Section 6002 of the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU), implements a number of changes in the environmental review process for Federally-funded/approved transportation projects. All projects requiring an EIS for which the original Notice of Intent was/is published in the *Federal Register* after August 10, 2005 must comply with the environmental review process requirements in 23 USC 139. The following are some of the key changes:

- The lead agency must invite any Federal or non-Federal agencies that may have an interest in the project to become participating agencies in the environmental review process. SAFETEA-LU thus defines a new category of “participating agencies.”
- The lead agency must prepare a coordination plan for the project, which may include a schedule with deadlines and the coordination plan must be shared with participating agencies and the public (e.g., through a public meeting, on a website).
- The lead agency determines the purpose and need and range of alternatives after opportunity for involvement by participating agencies and the public.
- The lead agency must collaborate with participating agencies in determining the methodologies to be used and level of detail for the analyses of alternatives.

### 14.2.2 40 CFR 1500 through 1508 CEQ Regulations

These parts of the *Code of Federal Regulations* (CFR) establish the policy and procedural framework for compliance with NEPA. The regulations provide direction on a broad range of topics regarding EISs. These include whether to prepare an EIS (Section 1501.4), lead agencies (Section 1501.5), cooperating agencies (Section 1501.6), scoping (Section 1501.7), EIS purpose, format and content (Part 1502). The regulations also include definitions and guidance for key terms. These terms include “Effects” (Section 1508.8), “Environmental Impact Statement” (Section 1508.11) and “Significantly” (Section 1508.27). For the word “Significantly,” the regulations provide guidance on its meaning as used in NEPA and the factors that must be considered when applying it for evaluation of the effects of specific actions.

### 14.2.3 23 CFR 771 “Environmental Impact and Related Procedures”

These regulations prescribe the policies and procedures of FHWA for compliance with NEPA, the *CEQ Regulations* and Federal requirements for public involvement. They address the responsibility and timing for the class of action determination on projects involving funding or approvals from FHWA (Section 771.111). They also discuss requirements and procedures applicable to projects determined to be “Class I” (EIS) actions (i.e., actions that significantly affect the environment). All actions in this class require preparation of an EIS. Specific requirements and procedures for EISs are in Section 771.123 “Draft Environmental Impact Statements,” Section 771.125 “Final Environmental Impact Statements” and Section 771.130

“Supplemental Environmental Impact Statements.” For requirements and procedures for RODs, see Section 771.127 “Record of Decision.” Requirements for the reevaluations of an EIS are addressed in Section 771.129, “Re-evaluations.” Requirements for supplemental EISs are discussed in Section 771.130 “Supplemental Environmental Impact Statements.”

#### **14.2.4 Executive Order 11988 “Floodplain Management”**

Section 2(a)(4) of this Executive Order states:

*Each [Federal] agency shall also provide opportunity for early public review of any plans or proposals for actions in floodplains, in accordance with Section 2(b) of Executive Order No. 11514 [Protection and Enhancement of Environmental Quality], as amended.*

#### **14.2.5 Executive Order 11990 “Protection of Wetlands”**

Section 2(b) of this Executive Order states:

*Each [Federal] agency shall also provide opportunity for early public review of any plans or proposals for new construction in wetlands, in accordance with Section 2(b) of Executive Order No. 11514, as amended.*

#### **14.2.6 MCA 75-1-101, et seq. Montana Environmental Policy Act**

These parts of the *Montana Code Annotated* (MCA) establish State environmental policy and include provisions to “...provide for the adequate review of State actions in order to ensure that environmental attributes are fully considered.” Part 2 of the statute (MCA 75-1-201 through 220) addresses requirements for “Environmental Impact Statements.”

#### **14.2.7 ARM 18.2.235 through 18.2.261 Transportation Rules Implementing the Montana Environmental Policy Act**

Rule number 18.2.236 in the *Administrative Rules of Montana* (ARM) includes definitions associated with the MEPA process, including the definition for “Environmental Impact Statement.” ARM 18.2.237 addresses “General Requirements of the Environmental Review Process” and ARM 18.2.238 describes criteria to be considered in determining the significance of impacts on the human environment. Note that there are some differences between MEPA and NEPA. For example, under MEPA, public controversy that a proposed action will generate is not considered in determining significance. However, it is considered under the *CEQ Regulations* for NEPA. In addition, under MEPA, an agency may prepare a generic EA when a proposed action has significant impacts, but agency statutory requirements do not allow sufficient time to prepare an EIS. In addition, MEPA includes provisions for the preparation of a mitigated EA when mitigation is incorporated into a project to eliminate impacts that otherwise might be deemed significant. These exceptions are not authorized by the *CEQ Regulations* for NEPA.

The ARM address specific requirements for EISs in the following rules:

- 18.2.241 “Determining the Scope of an EIS,”
- 18.2.242 “Environmental Impact Statements – General Requirements,”
- 18.2.243 “Preparation and Contents of Draft Environmental Impact Statements,”
- 18.2.244 “Adoption of Draft Environmental Statement as Final,”
- 18.2.245 “Preparation and Contents of Final Environmental Impact Statement,”
- 18.2.246 “Time Limits and Distribution of Environmental Impact Statements,”
- 18.2.247 “Supplements to Environmental Impact Statements,”
- 18.2.248 “Adoption of an Existing EIS,”
- 18.2.249 “Interagency Cooperation,”
- 18.2.250 “Joint Environmental Impact Statements and EAs,” and
- 18.2.252 “Record of Decision for Actions Requiring Environmental Impact Statements.”

#### **14.2.8 A Guide to the Montana Environmental Policy Act**

The Legislative Environmental Policy Office of the Montana Environmental Quality Council publishes this *Guide*. It includes a broad range of information on the *Montana Environmental Policy Act* (MEPA) including the purpose and history of the *Act*, the purpose and makeup of the Montana Environmental Quality Council, the role of public participation in the MEPA process and the relationship of the *Act* to the *National Environmental Policy Act* (NEPA) and other statutes. The *Guide* includes information on the following subjects:

- Montana Environmental Policy Act,
- Environmental Quality Council,
- when an environmental review is required,
- type of review an agency is required to perform,
- elements of an environmental review,
- public participation,
- final analysis and action,
- relationship between MEPA and other statutes,
- comparison of NEPA and MEPA,
- information sources and agency references,
- glossary and index to definitions of MEPA terms,
- model statutes, and
- model rules.

#### **14.2.9 MDT “Environmental-Environmental Documents” Activity Descriptions**

These activity descriptions are for Management Unit 2700 “Environmental – Environmental Documents.” They are a part of MDT’s OPX2 project management system. They describe the various tasks, timeframes and procedures for preparing and processing environmental documentation. The activity descriptions apply to environmental documentation prepared by consultants or by the Environmental Services Bureau (ESB).

**14.2.10 FHWA Technical Advisory T 6640.8A**

The Technical Advisory, dated October 30, 1987, provides guidance for the preparation of NEPA compliance documentation. It includes the following Sections with information pertaining to EISs:

- Section V. “Environmental Impact Statement (EIS) – Format and Content,”
- Section VI. “Options for Preparing Final EISs,”
- Section VII. “Distribution of EISs and Section 4(f) Evaluations,”
- Section VIII. “Record of Decision – Format and Content,”
- Section XI. “Reevaluations,” and
- Section XII. “Supplemental EISs.”

**14.2.11 FHWA “SAFETEA-LU Environmental Review Process Final Guidance”**

This guidance addresses changes in the environmental review process for transportation projects as required by Section 6002 of the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU), codified in 23 USC 139. The changes in the environmental review process apply to projects involving preparation of an EIS for which the original Notice of Intent was/is published in the *Federal Register* after August 10, 2005. The purpose of the guidance is to provide explanations of new and changed aspects of the environmental review process. This guidance supplements the *CEQ Regulations* and the FHWA “Environmental Impact and Related Procedures.”

**14.2.12 FHWA “SAFETEA-LU Environmental Review Process Toolkit”**

This Toolkit, accessible through the FHWA website, provides information on implementation and updates of the SAFETEA-LU environmental review process. It includes frequently asked questions (FAQs) about the environmental review process, an environmental review process checklist and examples of implementation.

**14.2.13 “Forty Most Asked Questions Concerning CEQ’s NEPA Regulations”**

These questions are accessible via the CEQ website. CEQ compiled the questions (and answers) and issued them in a March 1981 memorandum to Federal agencies after holding meetings with Federal, State and local officials to discuss administration of the regulations for implementing NEPA.

**14.2.14 “The Importance of Purpose and Need in Environmental Documents”**

This September 1990 FHWA guidance, accessible through the FHWA website, discusses the importance of the purpose and need information in an environmental document, recommended content and how to use purpose and need in decision-making.

**14.2.15 “Considering Cumulative Effects Under the *National Environmental Policy Act*”**

This January 1997 CEQ guidance, accessible through the CEQ website, provides detailed information on the analysis of cumulative effects. It includes the following sections:

- Introduction to Cumulative Effects Analysis;
- Scoping for Cumulative Effects;
- Describing the Affected Environment;
- Determining the Environmental Consequences of Cumulative Effects; and
- Methods, Techniques and Tools for Analyzing Cumulative Effects.

**14.2.16 “Consideration of Cumulative Impacts in EPA Review of NEPA Documents”**

This May 1999 publication, accessible through the Environmental Protection Agency (EPA) website, provides guidance to assist EPA reviewers of NEPA documents in providing accurate, realistic and consistent comments on the assessment of cumulative impacts. The guidance focuses on specific critical issues in EPA’s review of NEPA documents under Section 309 of the *Clean Air Act*.

**14.2.17 Montana Business Process to Link Planning Studies and NEPA/MEPA Reviews**

This May 2009 document provides guidance on linking MDT transportation planning processes and NEPA/MEPA processes as provided for in SAFETEA-LU and 23 CFR 450, Appendix A “Linking the Transportation Planning and NEPA Processes.” The Business Process presents a strengthened corridor planning process that feeds directly into the NEPA/MEPA processes, helps advance viable alternatives into NEPA/MEPA and provides the opportunity for partner involvement at all stages.

**14.2.18 Improving the Quality of Environmental Documents**

This May 2006 Report was prepared and issued by a joint committee of the American Association of State Highway and Transportation Officials (AASHTO) and the American Council of Engineering Companies (ACEC), in cooperation with FHWA. It documents the results of an initiative of transportation practitioners nationwide to improve the quality of EIS and EA documents. The Report addresses quality and clarity of NEPA documents and offers recommendations on ways to make the documents more effective, engaging and useful. The Report also provides guidance on legal sufficiency that is intended to provide a better understanding of the FHWA legal sufficiency review.

**14.2.19 Reader-Friendly Document Tool Kit**

The Tool Kit, prepared by the Washington State Department of Transportation (WSDOT), provides tips and tools for creating reader-friendly environmental documents (i.e., that are easier for the public and reviewers to read and understand). The *Reader-Friendly Document Tool Kit* is a companion document to WSDOT’s *Environmental Procedures Manual*.

**14.2.20 AASHTO Practitioner's Handbooks**

The following AASHTO Practitioner's Handbooks provide guidance and information that may be useful in conjunction with EIS preparation and processing and NEPA compliance:

- Practitioner's Handbook 01 *Maintaining a Project File and Preparing an Administrative Record for a NEPA Study*, July 2006.
- Practitioner's Handbook 09 *Using the SAFETEA-LU Environmental Review Process (23 U.S.C. 139)*, January 2008.
- Practitioner's Handbook 10 *Using the Transportation Planning Process to Support the NEPA Process*, February 2008.
- Practitioner's Handbook 11 *Complying with Section 4(f) of the U.S. DOT Act*, May 2009.

## 14.3 PREPARING AN EIS

### 14.3.1 Preliminary Requirements

#### 14.3.1.1 Notification to FHWA

For projects requiring an EIS, after the Preliminary Field Review (PFR) and the class of action determination for preparing an EIS, MDT notifies FHWA of the initiation of the NEPA process. The notification is required by 23 USC 139 “Efficient Environmental Reviews for Project Decision-Making.” MDT addresses this requirement as soon as practicable after the decision to prepare an EIS. The Design Team (DT) notifies the Project Development Engineer (PDE) in ESB when project development has progressed sufficiently to initiate the NEPA process. After receiving this notification, the PDE prepares a letter for MDT signature to advise the FHWA Division Administrator of the project and the anticipated start date for the environmental process. For projects managed by the Consultant Design Bureau, the Project Manager or consultant drafts the notification letter for ESB review prior to transmitting it to FHWA.

See [Section 8.3.4.2](#) and the “[Environmental Document Process](#)” in [Appendix C](#) of this *Manual* for further details regarding compliance with this notification requirement.

#### 14.3.1.2 Coordination Plan

As soon as practical after notifying FHWA of the initiation of the environmental process, the PDE, DT and FHWA begin preparation of the coordination plan required for EIS projects in accordance with 23 USC 139. The plan documents and facilitates structured interaction of MDT and FHWA with the public and other agencies during preparation of the EIS.

See [Section 8.3.4.3](#) and the “[Environmental Document Process](#)” in [Appendix C](#) of this *Manual* for further details.

#### 14.3.1.3 Notice of Intent

After MDT notifies FHWA of the initiation of the environmental process, the PDE coordinates with FHWA to develop and publish the required Notice of Intent (NOI) for an EIS. The PDE and FHWA prepare and process the NOI in accordance with the guidance in FHWA Technical Advisory T 6640.8A, Appendix B.

See [Section 8.3.4.4](#) and the “[Environmental Document Process](#)” in [Appendix C](#) of this *Manual* for further details.

#### 14.3.1.4 Scoping

In accordance with NEPA and MEPA, for projects requiring an EIS, MDT conducts a process for determining the scope of issues to be addressed and to identify significant issues. The PDE coordinates with the DT, other MDT Sections, FHWA and other interested parties to initiate scoping after publication of the NOI. In accordance with 23 USC 139, a key part of the scoping process is the identification of Federal, State, Tribal, regional and local government agencies that should be invited to be participating agencies in the environmental process. Note that the

participating agency requirements of 23 USC 139 do not alter the requirements under the *CEQ Regulations* for consulting with Federal agencies qualifying to be cooperating agencies. If a Federal agency qualifies as a cooperating agency, it should be invited to serve in that capacity in addition to the participating agency capacity. A non-Federal agency or Native American Tribe that qualifies under the *CEQ Regulations* to serve as a cooperating agency may be invited to serve in that capacity or as a participating agency, at the discretion of the lead agency.

For those agencies identified as potentially interested or affected and/or that have jurisdiction by law or special expertise (e.g., US Army Corps of Engineers (COE), US Fish and Wildlife Service (USFWS), Montana Department of Environmental Quality (DEQ), Montana Department of Fish, Wildlife, and Parks (FWP)) the PDE prepares letters in accordance with the FHWA “SAFETEA-LU Environmental Review Process Final Guidance” inviting their participation. Participating agencies and the public must be afforded an opportunity for involvement in developing the project purpose and need and determining the range of alternatives for study. In addition, the lead agencies must collaborate with participating agencies in determining the methodologies to be used and the level of detail for the environmental analyses of project alternatives.

See [Sections 8.3.4.5, 8.3.4.6 and 8.3.4.7](#) and the “[Environmental Document Process](#)” in [Appendix C](#) of this *Manual* for further details on the scoping process and involvement of participating agencies.

### **14.3.2 Information Gathering**

The PDE coordinates with the DT to initiate contacts with potentially interested and/or affected agencies and organizations to request information 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 and the Resources and Hazardous Waste Sections in ESB initiate field studies and/or other environmental data gathering. These studies and/or data gathering provide detailed information for identifying and evaluating social, economic and environmental resources and concerns in the project area, the project alternatives’ potential effects on those resources and concerns and the need for avoidance, minimization and mitigation measures associated with affected resources and concerns. The PDE also coordinates with appropriate offices within MDT to request information to assist in evaluating the project’s potential environmental impacts.

The PDE works with the DT, District, Public Information Officer, etc., to coordinate public involvement activities to obtain citizen input.

See the “[Environmental Document Process](#)” in [Appendix C](#) of this *Manual* for further details on information gathering for preparing a draft EIS (DEIS). See [Chapter 16 “Public Involvement”](#) for additional information on public involvement activities.

### **14.3.3 EIS Format/Content**

#### **14.3.3.1 General**

The *CEQ Regulations* include the following key principles for preparing EISs:

- make the documents analytic rather than encyclopedic;
- focus on significant environmental issues and discuss impacts in proportion to their significance, with only brief discussion of other than significant issues (e.g., to show why more study is not warranted); and
- make the documents concise, clear and to the point and ensure they are supported by evidence of the necessary environmental analyses.

To minimize volume, make effective use of maps and exhibits, summarize and incorporate by reference background data and technical analyses to support the impact discussions for the proposed alternatives. When the EIS is circulated for review and made available for public inspection, also make available for review separate technical reports associated with the EIS.

#### **14.3.3.2 Standard Format**

Organize EISs for MDT projects using the following standard format:

- Cover Sheet
- Table of Contents
- Conversion Factors (for an EIS that uses both English and metric units)
- List of Acronyms and Abbreviations
- Summary (including a Summary Table of impacts and mitigation)
- Chapter 1 – Purpose of and Need for the Proposed Action
- Chapter 2 – Alternatives Including the Proposed Action
- Chapter 3 – Affected Environment, Impacts and Mitigation
- Chapter 4 – Permits and Authorizations
- Chapter 5 – Comments and Coordination
- Chapter 6 – List of Preparers
- Chapter 7 – Distribution List
- Chapter 8 – List of Sources/Documents (when appropriate)
- Appendices (including a Section 404(b)(1) analysis and Section 4(f) documentation, when applicable)

The following sections provide further guidance and details for each of the EIS components.

#### **14.3.3.3 Cover Sheet**

Figure 14-1 shows the basic format and content for the EIS cover sheet. For documents that include a Full Section 4(f) Evaluation or documentation for a Programmatic Section 4(f) Evaluation, add wording to that effect in the title (e.g., “Draft Environmental Impact Statement and Section 4(f) Evaluation”). For projects involving Cooperating Agencies, list the agency names in the location indicated. If Cooperating Agencies are not involved, delete the “Cooperating Agencies:” wording from the cover sheet.

The top left-hand corner of all draft, final and supplemental EISs contains an identification number assigned by FHWA.

FHWA EIS Identification Number

**Project Name  
Project Number  
Control Number ##  
County, Montana**

**Draft/Final/Supplemental Environmental Impact Statement  
and Section 4(f) Evaluation**

Submitted pursuant to 42 USC 4332(c) (and, where applicable, 49 USC 303, 23 CFR 774), Sections 2-3-104 and 75-1-201 MCA, 23 CFR 771 and Executive Orders 11990, 11988 and 12898

By the

US Department of Transportation  
Federal Highway Administration

Montana Department of Transportation

and

Cooperating Agencies:  
*(List Agency Names)*

\_\_\_\_\_  
Date Reviewed and Approved

\_\_\_\_\_  
Federal Highway Administration

\_\_\_\_\_  
Date Reviewed and Approved

\_\_\_\_\_  
Montana Department of Transportation

The following persons may be contacted for additional information concerning this document:

*(Name)*  
Federal Highway Administration  
585 Shepard Way  
Helena, Montana 59601  
(406) 449-5302

*(Name)*  
Montana Department of Transportation  
Environmental Services  
2701 Prospect Avenue  
Helena, Montana 50620-1001  
(406) 444-7228

**ABSTRACT:** Provide a one-paragraph abstract of the EIS.

Comments on this Environmental Impact Statement are due by *[Date]*, and should be sent to *[Name of MDT contact]*, at the address above. This document may also be viewed and comments may be submitted on the MDT Web site at [www.mdt.gov/pubinvolve/eis\\_ea.shtml](http://www.mdt.gov/pubinvolve/eis_ea.shtml). MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Department. Alternative accessible formats of this information will be provided upon request. For further information call (406) 444-6331 or TTY (800) 335-7592, or Montana Relay at 711.

**Figure 14-1 – EIS Cover Sheet**

#### 14.3.3.4 Table of Contents

In the table of contents, list the names and page numbers for the main parts and subparts of the EIS, as discussed in the following sections. Also, include separate listings of figures, tables, maps and exhibits, as applicable. Provide sufficient detail in the table of contents to allow readers to easily navigate the document.

#### 14.3.3.5 Conversion Factors

When an EIS uses both English and metric units of measurement, include a table of conversion factors. Show the conversion factor for a single unit of each metric value used in the document (e.g., 1 meter = 3.281 feet, 1 meter<sup>2</sup> = 10.764 feet<sup>2</sup>, 1 kilometer = 0.621 mile, 1 hectare = 2.471 acres, 1 kilogram = 2.205 pounds) and the conversion factor for a single unit of each English value used in the document (e.g., 1 foot = 0.305 meter, 1 foot<sup>2</sup> = 0.093 meter<sup>2</sup>, 1 mile = 1.609 kilometers, 1 acre = 0.405 hectares, 1 pound = 0.454 kilograms). For area measures used in the EIS, also indicate the value of a single unit in the corresponding metric or English subunit (e.g., 1 hectare = 10,000 meters<sup>2</sup>, 1 acre = 43,560 feet<sup>2</sup>).

#### 14.3.3.6 List of Acronyms and Abbreviations

Include a section in the EIS that lists and explains the meaning of acronyms and abbreviations used in the document.

#### 14.3.3.7 Summary

At a minimum, include the following information in the Summary section of the EIS:

- A brief description of the proposed project indicating route, termini, type of improvement, number of lanes, length, county, city and other information, as appropriate.
- A brief description of the project purpose and need.
- A description of any major actions proposed by other governmental agencies in the same geographic area as the proposed project.
- A summary of all reasonable alternatives considered, including the no-build alternative. The draft EIS (DEIS) may identify a preferred alternative or alternatives as determined by MDT. The final EIS (FEIS) must identify the preferred alternative and explain the basis for its selection.
- A summary comparison of the anticipated potential impacts and proposed mitigation measures for the alternatives in a tabulated format.
- Any areas of controversy, including issues raised by agencies and the public.
- Any major unresolved issues with other agencies.

- A brief discussion of permits or other authorizations expected to be required for the proposed action.

### 14.3.3.8 Chapter 1 – Purpose of and Need for the Proposed Action

The discussion of a project's purpose and need is a key component of an EIS. It establishes the type of improvement the project will provide and why it is being proposed, based on the needs it will address and the objectives it will fulfill. Those needs and objectives provide the criteria used for developing and analyzing proposed alternatives and for selecting a preferred alternative.

The following sections discuss the topics to address in this part of the EIS. In accordance with 23 USC 139 "Efficient Environmental Reviews for Project Decision-Making," MDT, in cooperation with FHWA, must afford participating agencies and the public an opportunity for involvement in determining the purpose and need. Reflect consideration of input received from participating agencies and the public in the discussions of the various aspects of the action's purpose and need.

#### 14.3.3.8.1 Project Description and Background

Provide a brief description of the scope of the proposed project, including the location (e.g., county, township, range, section(s), nearby communities), length, termini, proposed improvements, planned timing, etc. Address the range of potential design and construction activities for the project and related actions that will be involved. Include maps, tables, charts and other illustrations (e.g., typical cross-section, photographs) as appropriate, to aid in describing the proposed action. For projects that are regionally significant<sup>1</sup> or that are within metropolitan areas, provide a brief summary of anticipated funding sources.

Briefly describe the project history and how it came about. Include discussion of how the project originated, actions taken to date, other agencies and governmental units involved, actions pending, etc.

List and briefly describe planning, environmental and other documents that have implications for the proposed project and/or project area. Examples include zoning regulations; State, county and/or city planning documents; environmental documents for other proposed actions in the project area; and scientific studies for resources or concerns in the project area. For each

---

<sup>1</sup> The *Montana Business Process to Link Planning Studies and NEPA/MEPA Reviews* defines "Regionally Significant" as a transportation project on a transportation facility that serves regional transportation needs and would normally be included in the modeling of the metropolitan area's transportation network. In Montana's rural areas, regionally significant projects include all projects on principal arterial highways that add potential capacity or significantly change the highway's operational characteristics.

The Federal *Clean Air Act* conformity regulations in 40 CFR 93.101 define "Regionally significant project" as a transportation project (other than an exempt project) that is on a facility that serves regional transportation needs (e.g., access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network including, at a minimum, all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel.

document listed, provide its title, date of issuance/approval and a description of the type of document, how it affects the proposed project and how the project's effect(s) will be addressed. If a planning study will be used for decision-making in the NEPA/MEPA process, briefly explain how the planning process complied with the provisions of Appendix A to 23 CFR 450 "Linking the Transportation Planning and NEPA Processes" and the *Montana Business Process to Link Planning Studies and NEPA/MEPA Reviews*.

Provide a brief overview of the key decision points for MDT/FHWA in the NEPA/MEPA process for an EIS (e.g., approval of DEIS for circulation/public availability, consideration and disposition of comments received on DEIS, selection of final preferred alternative, approval of FEIS for review, consideration and disposition of comments received on FEIS, final project decision and approval of ROD).

#### 14.3.3.8.2 Purpose of the Project

Describe the desired outcomes and/or desired future conditions associated with the proposed project. Base these desired outcomes/future conditions (purposes) on addressing identified transportation needs. Discuss each project purpose as a separate topic. The purposes guide the determination of the range of alternatives for the proposed project. Ensure that they are clearly stated, but not so narrowly defined that they unreasonably restrict the range of possible alternatives.

#### 14.3.3.8.3 Need for the Project

Describe specific undesirable conditions related to transportation features (e.g., inadequate capacity, safety concerns, operational deficiencies, structural deficiencies) and/or other transportation-related needs and opportunities. Discuss each need issue as a separate topic. Explain why it is a problem that requires action and include summaries of data and analyses that support that determination. These discussions should clearly establish the need for the project and the basis for its location, scope and timing. See [Chapter 7 "Purpose and Need"](#) for further guidance.

On projects where a law, Executive Order or regulation (e.g., Section 4(f), Executive Order 11990, Executive Order 11988) mandates an evaluation of avoidance alternatives, make the explanation of the project need more specific so that avoidance alternatives that do not meet the stated project need can be readily dismissed.

#### 14.3.3.9 Chapter 2 Alternatives

This chapter of a DEIS must discuss a range of alternatives, including all reasonable alternatives under consideration, and those other alternatives that were eliminated from detailed study. For alternatives that were eliminated from detailed study, briefly describe the rationale for that decision. This chapter of a FEIS must identify the preferred alternative and discuss the basis for its selection. If the preferred alternative is modified after the DEIS, the FEIS should clearly identify the changes and discuss the reasons why any new impacts are not significant.

In this chapter, address the topics discussed in the following sections. In accordance with 23 USC 139 "Efficient Environmental Reviews for Project Decision-Making," MDT, in cooperation

with FHWA, must afford participating agencies and the public an opportunity for involvement in determining the range of alternatives. Reflect consideration of input received from participating agencies and the public in the discussions of the project alternatives.

#### 14.3.3.9.1 Development of Alternatives

Discuss how the alternatives were developed; results of collaboration with participating agencies, stakeholders, affected communities and the public; and how the initial screenings were carried out, including applicable design criteria, goals and recommendations of local plans, access and capacity requirements, etc., that shaped the field of alternatives.

#### 14.3.3.9.2 Description of Alternatives

In this part, include subheadings for each of the proposed reasonable alternatives, including the no-build alternative. For each alternative, indicate its specific name and describe the principal actions it will involve. Use maps and other illustrations (e.g., typical cross-section, photographs) as appropriate, to aid in describing the alternatives. Ensure that the information for each alternative provides a clear understanding of its location, termini, cost and the project concept. When MDT knows that land has been or will be reserved or dedicated by local government(s), donated by individuals or acquired through advance or hardship acquisition for use as highway right-of-way for an alternative under consideration, identify the extent and status of the property and the alternative(s) involved. When MDT is aware that lands are reserved, include a statement in the DEIS that the reserved lands will not influence the selection of a final alternative for approval.

#### 14.3.3.9.3 Summary Comparison of Alternatives

Provide summary comparisons of the project alternatives (e.g., scope, anticipated impacts, mitigation and each alternative's predicted achievement of the project objectives). The information may be presented in tabular or narrative format. Also, use this section to identify the preferred alternative, as applicable, and briefly explain the basis for its selection over the other alternatives (e.g., achievement of project objectives, consideration of potential impacts and/or consideration of input from stakeholders). The DEIS may identify a preferred alternative; however, the FEIS must identify the preferred alternative. If the DEIS identifies a preferred alternative, include a statement indicating that the final selection of an alternative will not be made until the alternatives' impacts and comments on the DEIS and from the public hearing, if held, have been fully evaluated. When the DEIS does not identify a preferred alternative, include a statement indicating that all reasonable alternatives are under consideration and the decision on a preferred alternative will be made after the alternatives' impacts and comments on the DEIS and from the public hearing, if held, have been fully evaluated.

#### 14.3.3.9.4 Alternatives Eliminated from Detailed Study

List the alternatives that were considered, but eliminated from detailed study. Indicate the name of each of these alternatives. Explain the factors that were considered and the basis for the decision to eliminate it from detailed study. Be as specific as practicable in describing the

criteria used and the parties involved in establishing and applying the criteria. Note the point in the process when the decision was made to eliminate the alternative. If an alternative is eliminated because it does not meet the project purpose and need, provide an adequate explanation of how and/or why it does not meet the purpose and need.

#### 14.3.3.9.5 Other Relevant Actions

This part should include a discussion of past, present and reasonably foreseeable future actions that are not part of the proposed project, but may have a bearing on the proposed project alternatives. Related actions can include public or private actions (e.g., other State or local highway projects, city or county planning and zoning decisions, subdivision development, construction of a new industrial facility).

### 14.3.3.10 Chapter 3 Affected Environment, Impacts and Mitigation

#### 14.3.3.10.1 Introduction

In the introduction to this part of the EIS, explain that the primary purpose of the chapter is to present the results of the analyses of potential social, economic and environmental impacts for the proposed project alternatives.

As a part of the Introduction, list environmental resource/issue areas that were not studied in detail and indicate that the reasons are explained in the applicable subsections that address those resources/issues. Also, explain the approach to be used for presenting the information in the applicable subsections for each of the resource/issue areas that were studied in detail. This may include a brief discussion of the affected environment for the particular environmental resource/issue and, for each alternative, discussion of direct, indirect and cumulative effects on the resource/issue and proposed mitigation measures for addressing the effects.

Include in the Introduction a general comment that for each environmental issue area involving commitments (e.g., for mitigation) associated with the alternative that is ultimately selected, the commitments will be incorporated in the construction contract documents to ensure appropriate implementation. Also, include in the general comment a statement that, to the extent possible, the DT will prepare the contract documents using the *MDT Standard Specifications* to minimize the need for special provisions to address the environmental commitments.

#### 14.3.3.10.2 Social, Economic and Environmental Resources/Issues

In this part, include subsections for each social, economic and environmental resource/issue area (see [Chapters 19 through 44](#)). For resource/issue areas not studied in detail, briefly explain the reason(s) why they were not studied (e.g., the resource/issue is not applicable to any of the project alternatives). For each resource/issue area studied in detail, provide a brief description of the affected environment for that resource/issue. Where possible, provide a single description for the general project area rather than a separate description for each alternative. To eliminate extraneous background material, limit the discussion to data, information, issues and values that have a bearing on possible impacts, mitigation measures and on the selection of an alternative.

After the description of the affected environment for a resource issue/area studied in detail, list each alternative, using its specific name and the resource being discussed (e.g., “Impacts of Alternative A: [*specific name*] on Resource #1: [*specific name*]”). For each alternative, describe the nature and extent of its potential impacts on the resource/issue area, including direct effects, indirect (secondary) effects and cumulative effects. The level of analysis and discussion should be sufficient to adequately identify impacts and appropriate mitigation measures and address known and foreseeable public and agency concerns. It should also address impact avoidance and minimization efforts. For each alternative, also include brief discussion of proposed mitigation for addressing adverse impacts on the resource/issue.

For each alternative, discuss unavoidable adverse impacts, the relationship between local short-term uses of the environment and long-term productivity (see [Chapter 26 “Short-Term Uses and Long-Term Productivity”](#)) and irreversible and irretrievable commitments of resources (see [Chapter 27 “Irreversible and Irretrievable Commitment of Resources”](#)). In accordance with the guidance in FHWA Technical Advisory T 6640.8A, the discussion of potential impacts should not use the term “significant” in describing the level of impacts.

The following topics provide guidance on the types of information to include in the discussions of each of the various environmental resource/issue areas when they are determined to be relevant for a specific project.

#### 14.3.3.10.3 Social Impacts

Briefly describe the key requirements for consideration of social impacts; see [Sections 19.1 and 19.2](#). Use information from the social impacts analysis (see [Chapter 19 “Social Impacts”](#)) to briefly explain the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the social aspects that one or more of the project alternatives potentially will impact. Possible examples include community/neighborhood characteristics, population trends, existing public services and facilities, existing circulation patterns and access, and existing safety issues. As appropriate, depict the information (e.g., locations of potentially affected neighborhoods, public facilities, areas where access may be affected) on maps or other exhibits showing the project location/alternatives. For aspects that none of the proposed alternatives are expected to impact, include a statement to that effect, identifying the aspect(s) and briefly explaining the basis for the determination.

For each alternative, briefly describe the results of the social impacts analysis regarding the nature and extent of the anticipated impacts for each aspect of the social environment that one or more of the alternatives potentially will impact. Include a discussion of the results of coordination with agencies, organizations and individuals for identification and assessment of potential social impacts and impact avoidance and minimization measures. Examples of possible social impacts include:

- impacts on community cohesion, interaction, social values and quality of life;
- changes in growth patterns or planned growth patterns;
- impacts on public properties (e.g., compromised access, construction noise and dust, loss of parking, project noise, traffic safety issues);

- impacts on access to public services and facilities; and
- public safety issues associated with potential impacts on neighborhoods, pedestrians, bicyclists and surrounding land uses.

For each alternative, briefly describe proposed measures to avoid, minimize and/or mitigate anticipated adverse social impacts, as documented in the results of the social impacts analysis. In the FEIS, identify proposed mitigation measures for social impacts associated with the preferred alternative.

Where alternatives involve use of land from publicly owned parks or recreation areas that are subject to Section 4(f), include a cross-reference to the Section 4(f) documentation in the EIS Appendices.

#### 14.3.3.10.4 Economic Impacts

Briefly describe the key requirements for consideration of economic impacts; see [Sections 20.1](#) and [20.2](#). Use information from the economic impacts analysis (see [Chapter 20 “Economic Impacts”](#)) to briefly explain the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the economic aspects that one or more of the project alternatives potentially will impact. Possible examples include economic base/businesses, planned growth, employment status and income levels, property values, tax base/tax revenues and tourism. Depict information on maps of the project area, as appropriate (e.g., the locations of affected businesses and/or developments). For aspects that none of the proposed alternatives are expected to impact, include a statement to that effect, identifying the aspect(s) and briefly explaining the basis for the determination.

For each alternative, briefly describe the results of the economic impacts analysis regarding the nature and extent of the anticipated impacts for each aspect of the economic environment that one or more of the alternatives potentially will affect. Include a discussion of the results of coordination with agencies, organizations and individuals for identification and assessment of potential economic impacts and impact avoidance and minimization measures. Examples of possible economic impacts include:

- encouraging new development;
- affecting the tax base/tax revenues, through removal of taxable property from the tax base, changes in property values, changes in business activity, etc.;
- encouraging businesses to move into an area, relocate to other locations within the area, close or move outside the area;
- altering business visibility for traffic-based businesses; and
- generating construction-related jobs.

For each alternative, briefly describe proposed measures to avoid, minimize and/or mitigate anticipated adverse economic impacts, as documented in the results of the economic impacts

analysis. In the FEIS, identify proposed mitigation measures for economic impacts associated with the preferred alternative.

#### 14.3.3.10.5 Right-of-Way and Relocations

Briefly describe the key requirements for consideration of relocation impacts; see [Sections 21.1](#) and [21.2](#). Use information from the right-of-way and relocations analysis (see [Chapter 21 "Right-of-Way and Relocations"](#)) to briefly describe the methodologies use to evaluate the affected environment. Describe the affected environment in terms of the number of residences, businesses and farm operations that may be subject to displacement for one or more of the project alternatives. Identify the locations and types of potentially affected properties on maps or other exhibits showing the project location/alternatives. For residences, include information on the types (e.g., multi-unit homes, single family, rural residential), the estimated numbers of residents that could be affected and any potentially affected residents with special needs (e.g., disabled, minority, elderly). For businesses and farm operations, include information on the type(s) and whether they have unique characteristics (e.g., specialty products, unique customer base).

Include the following language as a part of the discussion of the affected environment:

*Acquisition of land, and improvements, for highway construction is governed by State and Federal laws and regulations that are designed to protect both the landowners and the taxpaying public. Landowners affected are entitled to receive just compensation for any land or improvements acquired and for any depreciation in value of the remaining land due to the effects of highway construction pursuant to Montana law. Acquisition will be accomplished in accordance with applicable laws; specifically, Title 60, Chapter 4 and Title 70, Chapter 30, Montana Code Annotated; and Title 42, USC, Chapter 61, "Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally-Assisted Programs."*

For each alternative, briefly describe the estimated number and type(s) of potential displacements it would involve. Ensure the discussion clearly indicates that the information represents estimates of potential displacements and, as applicable, that potential displacements discussed may be avoided and/or minimized as project design details are finalized.

For residential displacements, include an estimate of the number of households affected, including family characteristics (subject to privacy considerations where the number of households displaced is very small) and a discussion of the availability of decent, safe and sanitary housing in the area compared to the housing needs of the persons to be displaced. Include information on price ranges, sizes and occupancy status (owner/tenant) of the available housing.

For business/farm operation displacements, provide an estimate of the number of displacements and include descriptions indicating the type(s) of business/farm operation(s), the types of occupancy (owner/tenant) and sizes (number of employees). Also, discuss the availability of sites in the area where affected businesses may relocate, the likelihood of relocation and potential impacts on individual businesses and farms caused by displacement, or proximity to the project if not displaced.

For each alternative, discuss affected neighborhoods, public facilities, non-profit organizations, and families having special composition (e.g., ethnic, minority, elderly, disabled, other factors) that may require special relocation considerations. Also, discuss the measures proposed to resolve these relocation concerns. Prepare a discussion of affected neighborhoods and families having special composition in a manner that balances the level of disclosure with the need to respect the privacy of those affected (i.e., keep descriptions general and ensure they are sensitive to the values and sensibilities of those being described). Discuss the measures taken when the existing housing inventory is insufficient, does not meet relocation standards or is not within the financial capability of the households to be displaced. Include a commitment to last resort housing where sufficient comparable replacement housing may not be available. Summarize the results of contacts with local governments, organizations, groups and individuals regarding residential and business relocation impacts, including any measures or coordination needed to reduce general and/or specific impacts.

In the FEIS, identify proposed mitigation measures for right-of-way and relocation impacts associated with the preferred alternative.

#### 14.3.3.10.6 Visual Resources/Aesthetics

Briefly describe the key requirements for consideration of visual resources/aesthetics impacts; see [Sections 22.1](#) and [22.2](#). Use information from the visual resources/aesthetics analysis (see [Chapter 22 "Visual Resources/Aesthetics"](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the general visual character and locations sensitive to visual impacts that one or more of the project alternatives potentially will affect. Possible examples include residential areas, areas of recognized beauty, geological features (e.g., the Rims in Billings), parks and recreation areas, historic or other culturally important resources (e.g., Pompey's Pillar), water bodies, public facilities (e.g., hospitals, colleges and universities, hiking trails, scenic byways). Depict the location of important visual/aesthetic resources on maps or other exhibits showing the project location/alternatives.

For each alternative, describe direct impacts (e.g., removal or alteration of an important visual resource), compatibility of the alternative with the visual setting, effects on the viewshed (e.g., blocking the view of important visual features, introducing elements that are out of character with the scenic qualities of the viewshed, screening undesirable views) and the relationship of the impacts to potential views of and from the project alternative. Also, summarize the results of coordination with the public, appropriate local officials and State, Tribal and Federal agencies regarding potential visual/aesthetic impacts of the alternative and impact avoidance and minimization measures. Include a discussion of any initiatives for using the principles of Context Sensitive Solutions (CSS); see [Chapter 9 "Context Sensitive Solutions."](#)

For each alternative, briefly describe proposed measures to avoid, minimize and/or mitigate anticipated adverse visual resource/aesthetics impacts, as documented in the results of the visual resources/aesthetics analysis. As applicable, also include a discussion of aesthetic enhancements to be implemented for CSS. In the FEIS, identify proposed mitigation measures for visual/aesthetic impacts associated with the preferred alternative.

#### 14.3.3.10.7 Energy

Briefly describe the requirements for consideration of energy impacts; see [Sections 23.1](#) and [23.2](#). Use information from the energy analysis (see [Chapter 23 “Energy”](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the existing highway facility characteristics that have energy implications that the proposed project alternatives could affect (e.g., traffic volumes, average speeds, level of service, horizontal and vertical alignment, number and width of travel lanes).

For each alternative, discuss the anticipated construction and operational energy requirements and energy conservation potential. Also, discuss proposed energy conservation measures for each alternative, as documented in the results of the energy analysis. In the FEIS, identify proposed energy conservation measures for the preferred alternative.

#### 14.3.3.10.8 Environmental Justice

Briefly describe the key requirements for consideration of Environmental Justice; see [Sections 24.1](#) and [24.2](#). Use information from the Environmental Justice analysis (see [Chapter 24 “Environmental Justice”](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of minority and/or low-income populations that one or more of the project alternatives potentially will impact. Discuss the geographic distribution of the potentially affected populations in the study area by race, ethnicity, national origin and income level.

For each alternative, discuss any disproportionately high and adverse impacts (e.g., economic, social, human health effects) to minority and/or low-income populations identified for the alternative. Describe the affected population(s) and the nature of the adverse impacts. Document the results of public involvement and other coordination/consultation with the affected community or communities for identifying and evaluating potential impacts and mitigation measures.

For each alternative, describe proposed measures to avoid, minimize and/or mitigate disproportionately high and adverse impacts on minority and/or low-income populations, as documented in the results of the Environmental Justice analysis. In the FEIS, identify proposed mitigation measures for disproportionately high and adverse impacts on minority and/or low-income populations associated with the preferred alternative.

#### 14.3.3.10.9 Construction Impacts

Briefly describe the key requirements for consideration of construction impacts; see [Sections 28.1](#) and [28.2](#). Include a statement indicating that impacts associated with project construction are discussed separately in the EIS to clearly distinguish them from other longer-term impacts resulting from the project. Use information from the construction impacts analysis (see [Chapter 28 “Construction Impacts”](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of land uses (e.g., residential, commercial, outdoor recreation) and/or environmental resources (e.g., water bodies, threatened and endangered species, spawning fish, nesting birds) present that would be sensitive to anticipated short-term construction impacts from one or more of the project alternatives.

For each alternative, briefly describe the nature and anticipated duration of construction impacts of concern and the land use(s) and/or environmental resource(s) potentially affected (e.g., noise and/or vibration affecting residences and/or wildlife; dust affecting residences and/or businesses; air quality impacts of crushers, hot-mix asphalt plants, etc.; in-stream work affecting wildlife and/or recreation; and detours, bypasses and/or lane closures affecting businesses, residential areas and/or public facilities/services). Also, briefly discuss any construction-related temporary permits required for each alternative, including the name of the permit, the actions to which it applies and how it affects the conduct of the work. Include a discussion of the results of coordination with agencies, organizations and individuals for identification and assessment of potential construction impacts and impact avoidance and minimization measures.

For each alternative, reference and briefly describe provisions in the *MDT Standard Specifications* that address identified potential construction impacts (e.g., 107.10 "Protection and Restoration of Property and Landscape," 107.11.3 "Air Quality," 107.11.4 "Noise Pollution," 107.22 "Protection of Archeological and Historical Findings," 208.03.2 "Water Pollution Control," 208.03.4 "Stream Protection"). Discuss the extent to which the specifications will adequately address the temporary construction impacts. Where additional measures are necessary to avoid or minimize the impacts, briefly describe the measures for each alternative and the impacts they will address, as documented in the results of the construction impacts analysis. In the FEIS, identify proposed mitigation measures for construction impacts associated with the preferred alternative.

#### 14.3.3.10.10 Historic and Archaeological Resources

Briefly describe the key requirements for consideration of historic and archaeological resources; see [Sections 30.1](#) and [30.2](#). Use information from the historic and archaeological resources analysis (see [Chapter 30 "Historic and Archaeological Resources"](#)) to briefly describe the methodologies use to evaluate the affected environment. Describe the affected environment in terms of the presence of important historic and archaeological resources that one or more of the project alternatives may affect. Important resources include those subject to protection under Section 106 of the *National Historic Preservation Act* (NHPA) (i.e., resources on or eligible for inclusion on the National Register of Historic Places (NRHP)) and/or subject to the *Native American Graves Protection and Repatriation Act* (NAGPRA), the *Archaeological Resources Protection Act* (ARPA), the *Montana Antiquities Act* or the *Montana Human Skeletal Remains and Burial Site Protection Act*. Describe the methodologies used in identifying historic, archaeological and cultural resources and briefly describe each resource and the basis for its NRHP eligibility and/or eligibility for protection under another of the aforementioned statutes. Identify the locations of historic sites/structures on maps or other exhibits showing the project location/alternatives. To discourage looting or other damage to archaeological sites, do not include their locations on the maps. For historic and/or archaeological resources that are subject to Section 4(f), include a cross-reference to the Section 4(f) Evaluation documentation in the EIS Appendices. For resources on Tribal land or that have traditional religious and cultural significance to Tribes, include a cross-reference to the part of the document that discusses Tribal lands/issues.

As a part of the discussion of the affected environment, briefly describe any paleontological sites that may be affected by one or more of the project alternatives.

For each alternative, briefly discuss the results of the Section 106 process regarding determination of effects on NRHP or eligible sites, sites affected, identification of adverse effects and proposed mitigation to respond to the adverse effects. Include documentation of coordination with the State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO), other consulting parties and interested persons and, if applicable, the Advisory Council on Historic Preservation regarding assessment and resolution of adverse effects. As applicable, also describe and include documentation of coordination and consultation for compliance with the *Montana Antiquities Act*, including proposed mitigation for any unavoidable impacts to paleontological resources, and the *Montana Human Skeletal Remains and Burial Site Protection Act*. For potential impacts to resources on Tribal land or that have traditional religious and cultural significance to Tribes, reference the part of the document that addresses Tribal Lands/Issues for the discussion of compliance with the aforementioned directives and NAGPRA and ARPA, as applicable, for each alternative.

To the fullest extent possible, the FEIS needs to demonstrate that all Section 106 requirements, in accordance with 36 CFR 800, have been met.

#### 14.3.3.10.11 Tribal Lands/Issues

Briefly describe the key requirements associated with Tribal lands/issues; see [Sections 31.1](#) and [31.2](#). Use information from the analysis of Tribal lands/issues (see [Chapter 31 "Tribal Lands/Issues"](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the presence of Tribal reservations and/or properties of traditional religious and cultural significance to Tribes that may be affected by one or more of the project alternatives. Identify each potentially affected Tribal property and the Tribe(s) with which it is associated. For reservation land and other properties that are not subject to confidentiality concerns for protection of the sites, depict the location/boundaries of the properties on maps or other exhibits showing the project location/alternatives. For properties that are subject to protection under the NHPA, NAGPRA, ARPA, the *Montana Antiquities Act* or the *Montana Human Skeletal Remains and Burial Site Protection Act*, include a cross-reference to the part of the document that discusses Historic and Archaeological Resources.

For each alternative, briefly discuss anticipated impacts on Tribal properties. Describe each Tribal property the alternative may affect, indicate the nature and extent of the potential impacts and discuss any compliance requirements associated with the impacts.

When one or more alternative affects waters on Tribal lands, compliance requirements could include Tribal permits and/or water quality certification. For each alternative, identify Tribal water(s) affected and the specific applicable permitting and/or certification requirements. Include documentation of the results of coordination with Tribal officials regarding the assessment of each alternative's aquatic resource impacts.

Where one or more alternative affects properties of religious or cultural significance to Tribes, compliance requirements could include NHPA, NAGPRA, ARPA, the *Montana Antiquities Act* and/or the *Montana Human Skeletal Remains and Burial Site Protection Act*. For each alternative, identify properties affected and the project's potential impacts on each property. Discuss the results of coordination/consultation for compliance with applicable directives, including coordination/consultation with the THPO and/or other Tribal officials, and include

documentation of the coordination/consultation contacts. Include a discussion of the proposed measures to avoid, minimize and mitigate adverse impacts on Tribal properties, as discussed in the results of the Tribal lands/issues analysis. In the FEIS, identify proposed mitigation measures for adverse impacts on Tribal properties associated with the preferred alternative.

#### 14.3.3.10.12 Section 6(f)

Briefly describe the key requirements associated with Section 6(f) lands; see [Sections 32.1 and 32.2](#). Use information from the Section 6(f) analysis (see [Chapter 32 "Section 6\(f\)"](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the presence of properties acquired or developed with *Land and Water Conservation Fund Act* (LWCF) assistance that may be affected by one or more of the project alternatives. Describe each property (e.g., location, size, recreational resources and opportunities it provides) and indicate its location/boundaries on maps or other exhibits showing the project location/alternatives.

For each alternative, describe potential unavoidable conversion of Section 6(f) land that the alternative would involve. Indicate the amount of land that would be converted and the recreational functions and uses that would be affected. Discuss the availability of potentially suitable replacement property for the land that would be converted. Describe the replacement property and include information (e.g., results of coordination with FWP and the Section 6(f) property owner/manager) to support the preliminary determination that it would meet the requirements in the Section 6(f) regulations (36 CFR 59.3) regarding fair market value, usefulness and location, and eligibility for LWCF-assisted acquisition. For each alternative that would convert Section 6(f) land, show the replacement property on a map indicating its size and location in relation to the property involving the proposed conversion. Include documentation of the results of coordination with FWP, the Section 6(f) property owner/manager and the National Park Service regarding the proposed Section 6(f) property conversion and replacement land.

#### 14.3.3.10.13 Farmland Impacts

Briefly describe the key requirements for consideration of farmland impacts; see [Sections 33.1 and 33.2](#). Use information from the farmland analysis (see [Chapter 33 "Farmland Impacts"](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the presence of farmland classified as prime, prime if irrigated, unique or of State or local importance that may be affected by one or more of the project alternatives. Depict farmland areas on maps or other exhibits showing the project location/alternatives and indicate the respective classification of each area.

Include a copy of the completed Form AD-1006 or Form NRCS-CPA-106 in the EIS. For each alternative, describe the potential impacts to farmland from direct conversion, indirect conversion (e.g., due to reasonably foreseeable induced development), impacts to farm operations (e.g., creation of uneconomical remnants) and impacts to farm support services. Identify the preferred alternative and the reason for its selection. Include documentation of the results of coordination with Natural Resources Conservation Service (NRCS) for evaluation of farmland impact avoidance and minimization measures for the preferred alternative. Briefly describe the farmland impact avoidance and minimization measures to be implemented for the preferred alternative, as described in the results of the farmland impacts analysis.

#### 14.3.3.10.14 Land Use Impacts

Briefly describe the key requirements for consideration of land use impacts; see [Sections 34.1](#) and [34.2](#). Use information from the land use analysis (see [Chapter 34 “Land Use Impacts”](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the existing and planned major land uses (e.g., residential, commercial, industrial, agricultural, parkland, open space) in the area the project alternatives would affect. Depict the current and planned land uses on maps or other exhibits showing the project location/alternatives. Discuss policies in place for all or part of the project area regarding land use controls and community growth management.

For each alternative, summarize information from the land use impacts analysis concerning potential direct land use changes (i.e., from acquisition of right-of-way), potential indirect/secondary land use changes the alternative may induce and the consistency of the alternative with local and regional planning and/or local zoning. For direct land use changes, describe the estimated amount of right-of-way to be acquired and the current uses of the land that would be acquired and discuss the anticipated effects of converting the land to transportation use. For indirect (secondary) land use changes, discuss the nature of the potential changes and the anticipated social, economic and environmental impacts that could result from substantial, foreseeable induced development. For alternatives that are inconsistent with planning and/or zoning aspects, identify and discuss the elements that are not consistent. Discuss the alternative’s potential impacts on development trends in the project area. Include documentation of the results of coordination with regional, local and/or Tribal planning agencies regarding identification and assessment of the alternative’s potential land use impacts and potential impact avoidance and minimization measures.

Discuss proposed measures for mitigating adverse impacts resulting from direct and/or indirect (secondary) land use changes caused by the alternative, as described in the results of the land use impacts analysis. In the FEIS, identify proposed mitigation measures for adverse land use impacts associated with the preferred alternative.

#### 14.3.3.10.15 Wild and Scenic Rivers

Briefly describe the key requirements applicable to Wild and Scenic Rivers; see [Sections 35.1](#) and [35.2](#). Use information from the Wild and Scenic Rivers analysis (see [Chapter 35 “Wild and Scenic Rivers”](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the presence of designated Wild and Scenic River segments or Study River segments that one or more of the project alternatives may affect. Depict the location and boundaries of the river(s) on maps or other exhibits showing the project location/alternatives. For designated Wild and Scenic Rivers, indicate the designated reach, the classification and the administering agency. For Study Rivers, indicate the administering agency and the status of the study. If the potentially affected river corridor(s) include parks, recreation areas, wildlife and waterfowl refuges and/or historic sites that may be subject to Section 4(f) and that would be affected by one or more project alternative, describe the affected properties and indicate their locations on the maps of the project area. Include a cross-reference to the Section 4(f) Evaluation information in the EIS Appendices for further discussion regarding the potential “use” of land from those sites.

For each alternative, describe potential adverse impacts on the natural, cultural or recreational values of the river segment(s). Include documentation of the results of coordination with the administering agency of each potentially affected river segment regarding assessment of the alternative's potential impacts and evaluation of measures for avoiding, minimizing or mitigating adverse effects. Describe proposed measures for avoiding, minimize or mitigating adverse impacts as documented in the results of the Wild and Scenic Rivers analysis. In the FEIS, identify proposed mitigation measures for adverse impacts to Wild and Scenic Rivers associated with the preferred alternative.

For the preferred alternative, include documentation of consent for project approval from the Secretary of the Interior or the Secretary of Agriculture, as applicable.

#### 14.3.3.10.16 Plant Communities/Vegetation

Briefly describe the key requirements for consideration of plant communities/vegetation; see [Sections 36.1](#) and [36.2](#). Use information from the plant communities/vegetation analysis as documented in the Biological Resource Report (BRR) (see [Chapter 36 "Plant Communities/Vegetation"](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the characteristics of the plant communities and vegetation that the project alternatives would affect. Summarize information from the BRR on the baseline conditions/general vegetation, noxious weeds/invasive species and plant species of concern. For noxious weeds/invasive species, identify species present, their distribution and the degree of infestation. For sensitive plant species of special concern, discuss important plant communities and sensitive species present and their distribution. Depict the location/distribution of noxious weeds/invasive species and sensitive plant species of special concern on maps or other exhibits showing the project location/alternatives. As appropriate, include cross-references to the parts of the EIS that address threatened and endangered species and wetlands for further discussion of sensitive plant species of special concern.

For each alternative, discuss the potential effects on plant communities and vegetation including the following, as appropriate:

- general vegetation impacts (e.g., effects of removal or disturbance of plant communities/vegetation);
- invasive species/noxious weed impacts (e.g., potential for encouraging the spread of objectionable species); and
- impacts to sensitive species of special concern (e.g., effects of removal or disturbance of plant species of special concern).

For each alternative, discuss measures for avoidance and minimization of potential adverse impacts, as documented in the BRR. In the FEIS, identify proposed mitigation measures for adverse plant community/vegetation impacts associated with the preferred alternative.

#### 14.3.3.10.17 Terrestrial Wildlife Impacts

Briefly describe the key requirements for consideration of terrestrial wildlife impacts; see [Sections 37.1](#) and [37.2](#). Use information from the terrestrial wildlife Impacts analysis as documented in the BRR (see [Chapter 37 “Terrestrial Wildlife Impacts”](#)) to briefly describe the methodologies used to evaluate the affected environment (e.g., field surveys, published information, contacts with State, Federal and Tribal agencies). Discuss the general ecological setting of the area the project alternatives would affect and describe the general wildlife species and sensitive terrestrial species of special concern. Identify the wildlife species, their distribution and their potential to occur in the area the project alternatives would affect.

For each alternative, discuss potential impacts to terrestrial wildlife species and their habitat, both for general wildlife species and sensitive species of special concern. For potential impacts to listed or candidate threatened or endangered species and/or for potential impacts to designated or proposed critical habitat for threatened and endangered species, include a cross-reference to the part of the EIS that discusses threatened and endangered species. For potential wildlife impacts that are subject to additional specific legal requirements (e.g., *Migratory Bird Treaty Act*, *Fish and Wildlife Coordination Act*, *Bald and Golden Eagle Protection Act*), discuss and include documentation of the results of coordination with appropriate regulatory and resource agencies regarding the assessment of impacts and actions for compliance with applicable requirements. For potential impacts to listed or proposed Montana Species of Concern, discuss and include documentation of the results of coordination with appropriate resource agencies regarding assessment of effects and identification and evaluation of measures to avoid and minimize impacts to the species.

For each alternative, discuss proposed measures for avoidance and minimization of adverse project impacts to wildlife as documented in the BRR. Also, include a discussion of the proposed conservation measures for potentially affected species as documented in the BRR. In the FEIS, identify proposed mitigation and conservation measures for adverse wildlife impacts associated with the preferred alternative.

Where alternatives involve use of land from publicly owned wildlife and waterfowl refuges that are subject to Section 4(f), include a cross-reference to the Section 4(f) documentation in the EIS Appendices.

#### 14.3.3.10.18 Threatened and Endangered Species

Briefly describe the key requirements applicable to threatened and endangered species; see [Sections 38.1](#) and [38.2](#). Use information from the threatened and endangered species analysis as documented in the BRR (see [Chapter 38 “Threatened and Endangered Species”](#)) to briefly describe the methodologies used to evaluate the affected environment (e.g., field surveys, published information, coordination with State and Federal agencies). Discuss the presence of Federally listed, proposed and candidate threatened and endangered species and critical habitats that one or more of the project alternatives may affect. Identify each potentially affected species, its status, distribution, habitat needs and occurrence in the project area. Identify and describe each designated or proposed critical habitat site. Depict the locations of the species/critical habitats on maps or other exhibits showing the project location/alternatives. For candidate species, include a cross-reference to the parts of the EIS that address sensitive plant species of concern and sensitive wildlife species of concern.

For each alternative, briefly describe the potential impact to listed and/or proposed threatened and endangered species and/or critical habitat. Discuss and include documentation of the results of informal consultation with the USFWS and the resulting effect determination(s). If a Biological Assessment (BA) was prepared, summarize information from the document in describing the potential impacts. If informal consultation with USFWS resulted in a finding that the alternative may be likely to adversely affect listed or proposed threatened or endangered species or designated or proposed critical habitat, discuss and include documentation of the results of formal consultation with USFWS (for listed species/designated critical habitat) or a conference with USFWS (for proposed species/proposed critical habitat). For formal consultation, include a copy of the Biological Opinion from USFWS in the EIS. For a conference, include the documentation of the results provided by USFWS. Describe the proposed measures for avoiding and minimizing impacts to threatened and endangered species and critical habitat and proposed measures for promoting conservation of the species and habitat as documented in the BRR/BA. In the FEIS, identify the proposed mitigation and conservation measures for the preferred alternative.

#### 14.3.3.10.19 Water Resource Impacts

Briefly describe the key requirements for consideration of water resource impacts; see [Sections 39.1](#) and [39.2](#). Use information from the water resource impacts analysis (see [Chapter 39 "Water Resource Impacts"](#)) to briefly describe the methodologies used to evaluate the affected environment. Identify drainage basins/watersheds for the area the project alternatives will affect. Show the boundaries of drainage basins, sub-basins and watersheds on maps or other exhibits showing the project location/alternatives and discuss their drainage characteristics, topography, elevations and current and planned development. On the project area maps/exhibits, identify the name and location of natural and constructed surface water resources the project alternatives may affect. For each surface water resource, provide information on:

- its type (e.g., river, perennial or intermittent stream/tributary, lake, pond, reservoir, irrigation system, slough);
- water quality classification;
- whether it is a community water supply (and, if so, the entity or entities with jurisdiction); and
- applicability and conditions of any Total Maximum Daily Load (TMDL) provisions for impaired waters.

On the project area maps, identify the name and location of major groundwater aquifers for the area the project alternatives may affect. For each aquifer, provide information on:

- depth below ground level and well yield data;
- aquifer composition, groundwater transmissibility and topography;
- sources of recharge and discharge;
- uses;
- whether it is designated as a sole source aquifer; and

- presence and boundaries of wellhead protection areas/certified source water protection areas and/or controlled groundwater areas.

Where project alternatives may involve water quality impacts, include available monitoring data for surface/groundwater resources in the discussion of the affected environment. Describe other water quality requirements affecting the project area (e.g., local water quality district, Tribal).

Where project alternatives may involve water resource/water body modification impacts include information in the affected environment discussion on the following:

- jurisdictional status for permitting with respect to the various agencies (e.g., COE, FWP, EPA, DEQ, Tribal agencies);
- description of streams and irrigation systems;
- identification of potentially affected Wild and Scenic Rivers and/or candidate rivers;
- location and description of Public Water Supplies; and
- number and location of domestic water wells.

Where project alternatives involve storm water impacts, include information in the affected environment discussion on potential involvement with areas covered by a Montana Pollutant Discharge Elimination System (MPDES) or National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit. Also, discuss current storm water drainage associated with existing highway facilities.

For each alternative, discuss potential impacts on water resources under subsections for water quality impact, water resource/water body modification impact and storm water impact. For each heading, discuss both construction-related impacts and post-construction impacts. Include the following information for the subsections:

1. Water Quality Impact. Discuss potential impacts, including identification of the affected water resources and the nature and extent of the effects. Also, discuss other compliance requirements associated with the impacts (e.g., TMDLs, Tribal, local water quality ordinances and/or standards). Describe proposed impact avoidance and minimization measures as documented in the results of the water resource impacts analysis. Summarize and include documentation of the results of coordination with affected water quality agencies. The coordination may address assessment of impacts, evaluation of impact avoidance and/or minimization measures and compliance with special requirements. In the FEIS, identify proposed impact avoidance and minimization measures for the preferred alternative.
2. Water Resource/Water Body Modification Impact. Discuss potential impacts, including identification of the affected water resources and the nature and extent of the effects. Also, discuss permits or other compliance requirements associated with the impacts (e.g., *Fish and Wildlife Coordination Act*, COE Section 404 Permit or Section 10 Permit, US Coast Guard Section 9 Permit, Tribal Permits, SPA 124 Notification, 318 Authorization). Describe proposed impact avoidance and minimization measures as

documented in the results of the water resource impacts analysis. Summarize and include documentation of the results of coordination with appropriate agencies. The coordination may address assessment of impacts, evaluation of impact avoidance and minimization measures and/or compliance with special requirements. In the FEIS, identify proposed impact avoidance and minimization measures for the preferred alternative.

3. Storm Water Impact. Discuss potential impacts, including identification of the affected water resources and the nature and extent of the effects. Discuss whether an increase in impervious area will result from the project and whether that increase in impervious area will have a negligible or measurable impact on storm water runoff. Also, discuss permits or other compliance requirements associated with the impacts (e.g., NPDES or MPDES construction permit or MS4 permit, TMDLs). Describe proposed impact avoidance and minimization measures as documented in the results of the water resource impacts analysis. Summarize and include documentation of the results of coordination with appropriate agencies. The coordination may address assessment of impacts, evaluation of impact avoidance and minimization measures and/or compliance with special requirements. In the FEIS, identify proposed impact avoidance and minimization measures for the preferred alternative.

#### 14.3.3.10.20 Wetland Impacts

Briefly describe the key requirements for consideration of impacts to wetlands; see [Sections 40.1](#) and [40.2](#). Use information from the wetland impacts analysis (see [Chapter 40 "Wetland Impacts"](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the presence of wetlands that one or more of the project alternatives may affect. Identify the location and delineated boundaries of the wetlands on maps or other exhibits showing the project location/alternatives. For each wetland, indicate the wetlands classification and summarize the results of the wetlands functional assessment, including discussion of the relative importance of the functions to the area and any unique characteristics that increase the importance of particular wetlands.

For each alternative, describe unavoidable direct and indirect adverse impacts to wetlands. Include an indication of the size of the wetlands area(s) impacted, the effects on the functions of the wetlands and the importance of any loss or impairment of those functions.

For each alternative that affects wetlands, describe proposed measures for minimizing adverse impacts and providing mitigation for unavoidable adverse impacts as documented in the BRR/Wetland Findings Report. For proposed mitigation, include information on the following:

- amount(s), location(s) and type(s) of wetlands to be provided for mitigation;
- explanation of applicable mitigation ratios;
- whether the mitigation will be on-site and/or off-site;
- whether, and to what extent, it will involve use/purchase of credits from a wetland bank; and

- whether, and to what extent, it will involve wetland restoration, wetland creation, wetland enhancement and/or wetland preservation.

Also, identify and discuss applicable permit requirements for unavoidable adverse wetland impacts (e.g., Section 404).

If the preferred alternative involves unavoidable adverse wetland impacts, the FEIS needs to include a separate section entitled “Only Practicable Alternative Finding” that will contain the following supporting information for the finding, as required by Executive Order 11990:

- a reference to Executive Order 11990,
- an explanation why there are no practicable alternatives to the proposed action,
- an explanation why the proposed action includes all practicable measures to minimize harm to wetlands, and
- a concluding statement similar to the following:

*Note: Based upon the above considerations, it is determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands that may result.*

#### 14.3.3.10.21 Floodplains

Briefly describe the key requirements applicable to floodplains; see the FHWA “Environmental Guidebook” website and the Montana Department of Natural Resources and Conservation “Floodplain Management” website. Use information from the Location Hydraulic Study Report, prepared by the MDT Hydraulics Section, to describe the affected environment. Depict the locations and limits of base (100-year) floodplains and, as applicable, regulatory floodways on maps or other exhibits showing the project location/alternatives. Briefly discuss current uses and functions of the floodplain(s) (e.g., flood control, habitat and ground water recharge) and include cross-references to other parts of the EIS, as appropriate (e.g., sections discussing plant communities/vegetation, terrestrial wildlife and water resources). Also, discuss development and proposed actions in the affected watersheds. Summarize information from the Location Hydraulic Study Report regarding the hydrologic factors affecting the floodplain(s) in the project area.

For each alternative, identify the number and location of floodplain encroachments and discuss potential direct and indirect (secondary) floodplain impacts including the following, as applicable:

- flooding risks associated with the alternative, including the potential for property loss and hazard to life;
- impacts to natural and beneficial floodplain values (e.g., fisheries, wetlands, plants, threatened/endangered species, water quality, public access or boat passage, potential to increase upstream flooding, scour); and

- support of probable incompatible floodplain development (i.e., development that is not consistent with local floodplain development plans).

Summarize the results of consultation with local, State and Federal water resource and floodplain management agencies for determining consistency of the project alternatives with existing watershed and floodplain management programs. Also, discuss applicable permit requirements for floodplain encroachments.

For each alternative, include a discussion of measures to minimize floodplain impacts (e.g., avoidance of longitudinal encroachments) and measures to restore and preserve natural and beneficial floodplain values (e.g., flood storage volume, habitat). For each alternative encroaching on a designated or proposed regulatory floodway, indicate whether the encroachment would be consistent with or require a revision to the regulatory floodway. Summarize the results of coordination with the Federal Emergency Management Agency (FEMA) and appropriate State and local government agencies regarding encroachments in floodways.

If the preferred alternative includes a “significant encroachment” as defined in 23 CFR 650.105(q), the FEIS must include a separate section entitled “Only Practicable Alternative Finding” that will contain the following supporting information for the finding, as required by Executive Order 11988 and 23 CFR 650.113:

- the reasons why the proposed action must be located in the floodplain,
- the alternatives considered and why they were not practicable, and
- a statement indicating whether the action conforms to applicable State or local floodplain protection standards.

If the preferred alternative encroaches on a regulatory floodway, the FEIS should discuss the consistency of the action with the regulatory floodway. If a floodway revision is necessary, include evidence from FEMA and appropriate State or local agencies indicating the revision would be acceptable.

#### 14.3.3.10.22 Pedestrian and Bicycle Facilities

Briefly describe the key requirements for consideration of project effects on pedestrian and bicycle facilities; see [Sections 41.1](#) and [41.2](#). Use information from the pedestrian and bicycle facilities analysis (see [Chapter 41 “Pedestrian and Bicycle Facilities”](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of existing and planned pedestrian/bicycle facilities in the project area. Depict the locations of existing sidewalks, pedestrian bridges, footpaths, bike routes and/or designated trails on maps or other exhibits showing the project location/alternatives. Summarize the results of coordination with local officials and/or review of planning documents to identify locally proposed pedestrian/bicycle facilities. Identify the location and type of proposed facilities on maps/exhibits of the project area. Discuss the current and anticipated extent and type(s) of use of existing and proposed pedestrian and bicycle facilities.

For each alternative, describe potential impacts to existing pedestrian and/or bicycle facilities (e.g., physical destruction or relocation of facilities, temporary disruption during construction)

and discuss the consistency of the alternative with planned pedestrian/bicycle facilities. Summarize the results of public involvement activities concerning pedestrian/bicycle facilities.

For each alternative that includes proposed new pedestrian/bicycle facilities, describe the proposed facilities and their intended use, identify their location and explain the basis for providing the facilities.

For each alternative that impacts pedestrian and/or bicycle facilities, discuss proposed measures for avoiding or reducing adverse impacts to the facilities and their users, as documented in the results of the pedestrian and bicycle facilities analysis. In the FEIS, identify proposed impact avoidance and minimization measures for the preferred alternative.

If the preferred alternative will sever an existing major route for non-motorized transportation traffic, in accordance with 23 USC 109(n), the project must provide a reasonable alternative route or demonstrate that a route exists. Document compliance with this requirement in the FEIS.

#### 14.3.3.10.23 Air Quality Impacts

Briefly describe the key requirements for consideration of project effects on air quality; see [Sections 42.1](#) and [42.2](#). Use information from the air quality analysis (see [Chapter 42 "Air Quality Impacts"](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the general characteristics associated with air quality (e.g., urban versus rural setting, light industry area versus heavy industry area, major sources of emissions affecting air quality). Use the results of the air quality impacts analysis to identify the location and boundaries of air quality non-attainment and/or maintenance areas that one or more of the project alternatives are totally or partially within. Identify the criteria air pollutant(s) associated with the non-attainment or maintenance classification for each area.

For each alternative, indicate the extent to which it is located within an air quality non-attainment or maintenance area. For alternatives located totally or partially within a non-attainment or maintenance area, identify the area and the criteria pollutant(s) involved and indicate the results of the conformity analysis as documented in the Air Quality Impacts Analysis Report. Include information on the results of Carbon Monoxide (CO) and/or Particulate Matter (PM) hot-spot analyses and follow-up coordination conducted for conformity purposes.

For each alternative, use the information in the air quality impact analysis report to document whether it has the potential for meaningful impacts on Mobile Source Air Toxics (MSAT) emissions. For alternatives determined to have potential for MSAT impacts, summarize information from the Air Quality Impacts Analysis Report on the results of the qualitative analysis or quantitative analysis.

For alternatives outside of non-attainment or maintenance areas where CO may be a concern, summarize the results of the CO hot-spot analysis, as documented in the Air Quality Impacts Analysis Report.

For each alternative involving potential air quality impacts, discuss proposed mitigation measures as documented in the Air Quality Impacts Analysis Report. Examples include:

- inclusion of special provisions for dust suppression in contract plans,
- increasing intersection capacity by adding traffic lanes,
- optimizing signal timing for air quality purposes, and
- diverting traffic to other locations.

To the extent that the proposed mitigation measures may involve other impacts, include discussion of the impacts with the description of the proposed measures.

In the FEIS, identify proposed mitigation measures for air quality impacts associated with the preferred alternative.

#### 14.3.3.10.24 Noise Impacts

Briefly describe the key requirements for consideration of noise impacts; see [Sections 43.1 and 43.2](#). For “Type I” projects, as defined in 23 CFR 772.5, and for projects that otherwise have the potential for creating a traffic noise impact, use information from the noise analysis (see [Chapter 43 “Noise Impacts”](#)) to briefly describe the methodologies used to evaluate the affected environment. Describe the affected environment in terms of the presence of noise sensitive areas that one or more of the project alternatives may affect. Examples include residences, businesses, schools and parks. Discuss the number and types of activities that may be affected and identify their locations on maps or other exhibits showing the project location/alternatives. Include potentially affected activities on developed lands and undeveloped lands where development is planned, designed and programmed.

For each alternative, as applicable, discuss the results of the detailed noise analysis conducted in accordance with the *MDT Noise Manual*, including the following:

- identification of traffic noise impacts, including extent of impact in dBA and comparison of predicted noise levels with the FHWA Noise Abatement Criteria and existing noise levels;
- discussion of impact avoidance and minimization measures and the reasonableness and feasibility of noise abatement measures considered; and
- description of any noise abatement measures proposed for inclusion in the project (e.g., dimensions, estimated costs, decibel reductions).

For traffic noise abatement measures proposed for inclusion in the project, summarize information from the Noise Abatement Recommendation Worksheet or include a copy of the Worksheet and reference it in the description of the abatement measures.

As applicable, discuss potential construction noise impacts of each alternative and measures for avoiding and/or minimizing those impacts, as documented in the Detailed Noise Analysis Report.

#### 14.3.3.10.25 Hazardous Materials/Substances

Briefly describe the key requirements for consideration of hazardous materials/substances; see [Sections 44.1](#) and [44.2](#). Use information from the hazardous materials/substances analysis (see [Chapter 44 “Hazardous Materials/Substances”](#)) to briefly describe the methods used to identify and evaluate contaminated sites in the project area. Describe the affected environment in terms of the presence of contamination that may affect one or more of the project alternatives. Depict potential sites of concern on maps or other exhibits showing the project location/alternatives. For each site, include descriptive summary information from the results of the hazardous materials/substance analysis (e.g., type of contamination, magnitude and physical extent of the contamination).

For each alternative, describe potential involvements with contaminated sites. For each potential involvement, as documented in the results of the hazardous materials/substances analysis, identify the:

- site,
- contaminant(s),
- nature of the project-related work that could disturb the contamination,
- estimated quantities of contaminated material to be handled,
- proposed cleanup and/or monitoring plans, and
- proposed groundwater and/or soil remediation options and methods.

Also, summarize the results of coordination with Federal and State regulatory agencies regarding the development of cleanup and monitoring plans and groundwater and soil remediation options and methods.

#### 14.3.3.11 Chapter 4 Permits and Authorizations

Include subsections for “Permits,” “Licenses/Entitlements” and “Coordination Requirements,” as applicable. Under each subsection, list the names and provide a brief description of each potentially applicable requirement. List each type of Federal, Tribal, State or local permit or authorization that may be required for the preferred build alternative. For each permit or authorization, indicate the administering entity for the permit/authorization and briefly describe the associated applicability criteria (e.g., the type of work requiring the permit/authorization). See [Chapter 29 “Permits Required”](#) for further information on the various permits and authorizations that may apply. Examples of potentially applicable permits include SPA 124 Notification, Section 404 Permit, Tribal permits, Section 401 Certifications, NPDES or MPDES Construction Permit and/or MS4 Permit, Floodplain Permit, etc. Examples of potentially applicable coordination requirements include Section 7 of the *Endangered Species Act*, Section 106 of the *National Historic Preservation Act* and coordination with Tribal governments for projects affecting Tribal lands or interests.

#### 14.3.3.12 Chapter 5 Comments and Coordination

Describe early and ongoing coordination efforts. Summarize the key issues and pertinent information received from the public and government agencies through these efforts and list the agencies and members of the public consulted.

List all agencies (e.g., Federal, Tribal, State, local), organizations and persons that will be provided a copy of the DEIS and/or that will be specifically contacted for comments on the document.

The DEIS appendices should contain copies of pertinent correspondence with each cooperating and participating agency, other agencies and the public. The DEIS should summarize the following:

- the early coordination process, including scoping;
- meetings with community groups, including minority and non-minority interests, and individuals; and
- the key issues and pertinent information received from the public and governmental agencies through these efforts.

The FEIS appendices should include a copy of substantive comments (e.g., from cooperating agencies, other commenters) on the DEIS. Where comments are exceptionally voluminous, they may be summarized. The FEIS should include an appropriate response to each substantive comment. When the EIS text is revised as a result of comments received, include marginal references on the copy of the comments indicating where revisions were made, or include the references in the responses to the comments. The FEIS should:

- summarize substantive comments on social, economic, environmental and engineering issues from the public hearing, if one is held, from other public involvement activities, or that were otherwise considered; and
- discuss the consideration given to substantive issues raised and provide sufficient information to support the position taken on the issues.

The FEIS should document compliance with all applicable environmental laws, regulations, Executive Orders, etc. To the extent practical, all environmental issues should be resolved prior to the submission of the FEIS. When there is disagreement on project issues with another agency, initiate coordination to resolve the issues. Where the issues cannot be resolved, the FEIS should identify remaining unresolved issues, steps taken to resolve the issues and the positions of the parties involved. Where issues are resolved through the coordination efforts, the FEIS should document resolution of the concerns.

#### **14.3.3.13 Chapter 6 List of Preparers**

List the names of MDT and/or consultant personnel who were primarily responsible for preparing the EIS or performing associated environmental studies. Include technical editors and graphic support personnel, as applicable. For each preparer, provide a brief summary of their qualifications, including education, experience and professional disciplines, and indicate their area(s) of responsibility in preparing the EIS.

Also, include the names and qualifications of FHWA personnel primarily responsible for preparation or review of the EIS.

#### 14.3.3.14 Chapter 7 Distribution List

For the DEIS, include the agency name, mailing address and contact person's name for each Federal, Tribal, State and local agency from which comments on the DEIS are being requested. Organize the information under headings for Federal Agencies, Tribal Agencies, State Agencies and Local Agencies, as applicable.

For the FEIS, identify the agencies that submitted comments on the DEIS and those that will receive a copy of the FEIS.

#### 14.3.3.15 Chapter 8 List of Sources/Documents

List the technical studies used to substantiate analyses and conclusions in the EIS and other relevant information sources used in preparing the EIS (e.g., local or regional planning documents, pertinent scientific studies, impaired waters lists/TMDLs). Include materials prepared by other agencies in compliance with applicable regulatory processes (e.g., a biological opinion for threatened or endangered species).

#### 14.3.3.16 Appendices

Appendices to an EIS should contain analytical information that substantiates an analysis important to the findings presented in the document. Examples include:

- Section 4(f) compliance documentation (i.e., *De Minimis* Impact Determination, Programmatic Section 4(f) Evaluation documentation or Full Section 4(f) Evaluation), see [Chapter 15 "Section 4\(f\) Evaluations"](#);
- biological assessment for threatened or endangered species, see [Chapter 38 "Threatened and Endangered Species"](#);
- Section 106 effect findings and concurrence documentation, see [Chapter 30 "Historic and Archaeological Resources"](#); and
- 404(b)(1) analysis for an Individual Section 404 Permit, see [Chapter 45 "404\(b\)\(1\) Analysis."](#)

The appendices also may include copies of correspondence associated with coordination of technical analyses or other information for compliance with applicable requirements.

The public involvement materials, including notices, presentation information, comments received and the associated responses also may be included as an appendix to the EIS.

## 14.4 OPTIONS FOR PREPARING FEIS

Section VI of FHWA Technical Advisory T 6640.8A presents three options for preparing FEIS documents in compliance with NEPA and the *CEQ Regulations*. These three options also may be used for compliance with MEPA, provided the FEIS meets the requirements of ARM 18.2.245 "Preparation and Contents of Final Environmental Impact Statement." ARM 18.2.245 requires the FEIS to include the following:

- a summary of major conclusions and supporting information from the DEIS and the responses to substantive comments received on the DEIS, stating specifically where the conclusions and information were changed from those that appeared in the DEIS;
- a list of all sources of written and oral comments on the DEIS, including those obtained at public hearings, and, unless impractical, the text of comments received by MDT (in all cases, a representative sample of comments must be included);
- MDT's response to substantive comments, including an evaluation of the comments received and disposition of the issues involved;
- data, information and explanations obtained subsequent to circulation of the DEIS; and
- MDT's recommendation, preferred alternative or proposed decision, together with an explanation of the reasons for the recommendation, alternative or decision.

Sections 14.4.1, 14.4.2 and 14.4.3 address the three options discussed in the FHWA Technical Advisory. See the Technical Advisory for additional guidance on these options. Section 14.4.4 addresses another option that is available for MEPA compliance, in accordance with ARM 18.2.244 "Adoption of Draft Environmental Impact Statement as Final."

### 14.4.1 Traditional Approach

Under this approach, the FEIS incorporates the DEIS content with changes to reflect items such as the following:

- selection of an alternative,
- modifications to the project,
- updated information on the affected environment,
- changes in the assessment of impacts,
- selection of mitigation measures,
- wetland and floodplain findings,
- results of coordination, and
- comments received on the DEIS and responses to those comments, etc.

### 14.4.2 Condensed FEIS

This approach incorporates the DEIS by reference, refers to and briefly summarizes information from the DEIS that has not changed, and focuses the FEIS discussion on changes (i.e., in the project, its setting, impacts, technical analyses and mitigation) that have occurred after

circulation of the DEIS. The condensed FEIS must identify the preferred alternative and explain the basis for its selection. It also must describe coordination efforts and include agency and public comments, responses to the comments and any required findings or determinations (e.g., wetland finding, floodplain finding).

The FEIS format should parallel that of the DEIS. Each major section of the FEIS should briefly summarize important information from the corresponding section of the DEIS, reference the section of the DEIS that provides more detailed information and discuss any noteworthy changes that have occurred since circulation of the DEIS.

When the FEIS is circulated, parties that received a copy of the DEIS when it was circulated do not need to receive an additional copy of the DEIS unless it is likely they have disposed of their original copy, due to the passage of time or other reasons. Both the condensed FEIS and the DEIS must be filed with EPA under a single FEIS cover sheet.

#### **14.4.3 Abbreviated FEIS**

This option may be used where the only changes needed are minor and consist of factual corrections and/or explanation of why comments received on the DEIS do not warrant further response. Under this option, the FEIS consists of the DEIS and an attachment containing the following:

- errata sheets making necessary corrections to the DEIS;
- a section identifying the preferred alternative and discussing the basis for its selection and including the following, where applicable:
  - + final Section 4(f) Evaluation(s),
  - + wetland finding(s),
  - + floodplain finding(s),
  - + a list of commitments for mitigation measures for the preferred alternative; and
- copies or summaries of comments received from DEIS circulation and public hearing, if held, and responses to the comments.

Only provide the attachment to parties that received a copy of the DEIS, unless it is likely they have disposed of their original copy. In this case, provide both the attachment and a copy of the DEIS. Both the attachment and the DEIS must be filed with EPA under a single FEIS cover sheet.

#### **14.4.4 Adopting the DEIS as the FEIS**

In accordance with ARM 18.2.244, depending upon the substantive comments received in response to a DEIS, the DEIS may suffice as the FEIS for MEPA compliance. MDT must determine whether to adopt the DEIS within 30 days of the close of the DEIS comment period.

If MDT determines that it will adopt a DEIS as the FEIS, it must provide notification of the decision and a statement describing the proposed course of action to the governor, the Environmental Quality Council and all entities that submitted comments on the DEIS. The

notification must be accompanied by a copy of all comments or a summary of a representative sample of comments received in response to the DEIS together with, at a minimum, an explanation of why the issues raised do not warrant preparation of a FEIS. MDT also must provide public notice of the decision to adopt the DEIS as the FEIS.

If MDT adopts a DEIS as the FEIS for MEPA compliance, it may make a final decision on the proposed action no sooner than 15 days after complying with the notification requirements described above.

## 14.5 RECORD OF DECISION

After circulation of the FEIS and consideration of all comments received, the PDE coordinates with the DT and FHWA to initiate preparation of the Record of Decision (ROD) for the project. The ROD presents the basis for the project decision, summarizes 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. The ROD may reference the FEIS to reduce detail and repetition.
2. Alternatives Considered. Briefly describe each alternative and explain the balancing of values that formed the basis for the decision for that alternative. Identify all alternatives considered in reaching the project decision, and the environmentally preferred alternative(s) (i.e., the alternative(s) that causes the least damage to the biological and physical environment). 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. If lands protected by Section 4(f) were a factor in the selection of the preferred alternative, explain how the Section 4(f) lands influenced the selection.

Clearly identify the values (e.g., social, economic, environmental, cost effectiveness, safety, traffic, service, community planning) that were important factors in the decision-making process. Also, explain the reasons why some values were considered more important than others.

3. Section 4(f). Summarize the basis for any Section 4(f) approval, when applicable, including key information supporting the approval. Where appropriate, the information may be included in the section on alternatives considered and referenced in the Section 4(f) discussion to reduce repetition.
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 FEIS.
6. Comments on FEIS. Identify and provide appropriate responses to all substantive comments received on the FEIS. Summarize other comments and responses provided, where appropriate.

## 14.6 REEVALUATIONS

### 14.6.1 DEIS Reevaluation

In accordance with paragraph (a) of 23 CFR 771.129 “Reevaluations,” if an acceptable FEIS is not submitted to FHWA within three years from the date of DEIS circulation, the PDE, in cooperation with FHWA, prepares a written evaluation of the DEIS. The purpose of this evaluation is to determine if a supplement to the DEIS or a new DEIS is required.

There is no required format for the written evaluation. The PDE prepares the evaluation to address all current environmental requirements and to focus on changes in the project, its surroundings and impacts, and any new issues identified since the DEIS. The PDE incorporates the results of field reviews, additional studies and coordination with other agencies in the written evaluation, if applicable.

If, after reviewing the written evaluation, FHWA concludes that a supplemental EIS or a new DEIS is not required, the determination, along with supporting information, may be briefly summarized in the Summary Section of the FEIS.

### 14.6.2 FEIS Reevaluation

In accordance with paragraph (b) of 23 CFR 771.129, 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, estimates) do not occur within three years after approval of the FEIS, FEIS supplement or the last major FHWA approval, the PDE prepares a written evaluation of the FEIS. The written evaluation of the FEIS must be submitted to FHWA before further approvals may be granted

There is no required format for the written evaluation. The PDE prepares the evaluation to address all current environmental requirements and to focus on changes in the project, its surroundings and impacts, and any new issues identified since the FEIS. The PDE incorporates the results of field reviews, additional studies and coordination with other agencies in the written evaluation, if applicable.

If, after reviewing the written evaluation, FHWA concludes that a Supplemental EIS (SEIS) is not required, the PDE ensures the determination is appropriately documented in the project files.

In addition to the requirements regarding written evaluation of a FEIS, after approval of a ROD, the PDE coordinates with appropriate offices within MDT to initiate consultation with the FHWA Division Office prior to requesting any major approvals. The purpose of this consultation is to establish whether the approved environmental documentation remains valid for the requested FHWA action. The PDE documents these consultations when determined necessary by FHWA.

## 14.7 SUPPLEMENTAL EIS

Whenever there are changes, new information or further developments on a project that result in significant environmental impacts not addressed in the most recently distributed version of the DEIS or FEIS, preparation of a SEIS is necessary. A SEIS is reviewed and distributed in the same manner as a DEIS and FEIS.

There is no required format for a SEIS. The PDE ensures that the SEIS provide sufficient information to briefly describe the proposed action, the reason(s) why a SEIS is being prepared and the status of the previous DEIS or FEIS. The PDE prepares the SEIS to address only those changes or new information that were not addressed in the previous EIS and that are the basis for preparing a SEIS. The PDE references and summarizes parts of the previous EIS that are unchanged and that remain valid. The PDE ensures the SEIS addresses new environmental requirements that have taken effect since the previous EIS, to the extent that those requirements apply for the part of the project covered in the SEIS. The PDE also ensures that the SEIS summarize the results of any reevaluations that have been performed for portions of the project or for the entire project. When a SEIS references a previous EIS, the letter transmitting the SEIS to interested parties indicates that copies of the original DEIS or FEIS are available and will be provided to all requesting parties.

