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1982 Guidelines for the Preparation of Environmental Documents*

Federal Highway Administration
U.S. Department of Transportation

INTRODUCTION

The purpose of this material is to provide guidance to FHWA field offices and project applicants on National Environmental Policy Act (NEPA) actions and to provide the public with a further explanation of FHWA internal operating procedures in the development of the reports and documentation required by NEPA. This material also provides the guidance required by 23 U.S.C. 109(h) to assure the full consideration of possible adverse economic, social, and environmental effects of proposed FHWA projects. While the material was developed primarily to provide guidance in the development of environmental impact statements (EISs), it is also applicable, to the extent appropriate, for environmental assessments and other environmental studies deemed necessary prior to the advancement of a project with a categorical exclusion determination or a finding of no significant impact. This material is not regulatory, but has been developed to provide uniform and consistent guidance for the development of environmental documents. Each project will need to be carefully evaluated and the appropriate environmental document developed based on each individual situation.

The FHWA fully subscribes to the Council on Environmental Quality (CEQ) philosophy that the goal of the NEPA process is better decisions and not more documentation. As noted in the CEQ regulations, EISs should normally be less than 150 pages for most projects and not more than 300 pages for the most complex projects.

*FHWA Technical Advisory T 6640.8, February 24, 1982.
The FHWA considers the early coordination process to be a valuable tool to assist in identifying and focusing on the significant environmental issues. On April 30, 1981, the CEQ issued a memorandum entitled “Scoping Guidance,” which discusses various techniques that will ensure participation in the scoping process. The CEQ also issued, on March 6, 1981, a memorandum entitled “Questions and Answers about the NEPA Regulations.” Both of the documents are nonregulatory; however, they do provide CEQ views on various issues and are available from the FHWA Office of Environmental Policy (HEV-10).

### A.1 ENVIRONMENTAL ASSESSMENT (EA)

Title 23, Code of Federal Regulations, Part 771, Environmental Impact and Related Procedures, describes those circumstances where the preparation of an EA is appropriate. The CEQ regulations require that an EA is to include the information listed in 40 CFR Part 1508.9. The following format, which assures this coverage, is suggested:

- **a. Cover sheet.** There is no required format for the EA. However, it is recommended the EIS cover sheet format, as shown on page 540, be followed where appropriate. Since the EA is not formally circulated, there is no need to include the “comments due” paragraph on page 541.

- **b. Description of the proposed action.** Describe the locations, length, termini, proposed improvements, etc.

- **c. Need.** Identify and describe the problem which the proposed action is designed to correct. Any of the items discussed under the “Need” section in Section 3 (EIS—Format and Content) may be appropriate.

- **d. Alternatives considered.** Discuss all reasonable alternatives to the proposed action which were considered. The EA may either discuss (1) the preferred alternative and the alternatives considered or (2) if the applicant has not identified a preferred alternative, the alternatives under consideration.

- **e. Impacts.** Discuss the social, economic and environmental impacts of the alternatives considered and describe why these impacts are considered not significant.

- **f. Comments and coordination.** Describe coordination efforts and comments received from government agencies and the public. If the EA includes a Section 4(f) evaluation, the EA and the Section 4(f) evaluation may be circulated to the appropriate agen-
cies for Section 4(f) coordination, or the Section 4(f) evaluation may be supplemented by any additional information necessary to properly explain the project and circulated as a separate document.

g. Appendices (if any). Include only analytical information that substantiates an analysis which is important to the document. Other information should be incorporated by reference only.

A.2 FINDING OF NO SIGNIFICANT IMPACT (FONSI)

771.121 of 23 CFR 771, entitled Environmental Impact and Related Procedures, describes the approval process for a FONSI. Section 1508.13 of the CEQ regulations describes the content of a FONSI. The EA should be modified to reflect all applicable significant environmental comments received as a result of the public hearings or other significant environmental comments received as a result of the public and clearinghouse notification process. The EA, revised as appropriate, including appropriate responses to any comments received, is then submitted to the FHWA Division Administrator along with the applicant’s recommendation. The basis for the applicant’s recommendation should be documented in the EA. After review of the EA and any other appropriate information, the FHWA Division Administrator may determine that the proposed action has no significant impacts. This is documented by attaching to the EA a separate statement (example follows) which clearly sets forth the FHWA analysis of the EA along with any other supporting documentation that has resulted in a FONSI. As appropriate, the FHWA Division Administrator may choose to expand on the discussion in the sample FONSI to identify the basis for the decision. The EA/FONSI should document compliance with the requirements of all applicable environmental laws, Executive Orders, and other related requirements. If full compliance is not possible by the time the FONSI is prepared, it should reflect consultation with the appropriate agencies and provide reasonable assurance that the requirements will be met.

FEDERAL HIGHWAY ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT
FOR
(Title of Proposed Action)

The FHWA has determined that this project will not have any significant impact on the human environment. This finding of no significant impact is based on the attached environmental assessment (reference other environmental documents as appropriate), which has been independently evaluated by the FHWA and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an environmental impact statement is not required. The FHWA takes full responsibility for the accuracy, scope, and content of the attached environmental assessment.

Date                    Responsible Official            Title
A.3 EIS—FORMAT AND CONTENT

Each EIS should have a cover sheet containing:

(EIS number)

(Route, Termini, City or County, and State)
Draft (Final)
Environmental Impact Statement
Submitted Pursuant to 42 U.S.C. 4332(2)(c) (and
where applicable, 49 U.S.C. 1653(f) by the
U.S. Department of Transportation
and
State highway agency (HA)
and
(As applicable, local highway agency (HA))
Cooperating Agencies
List Here

Date of Approval | For FHWA | Title
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The following persons may be contacted for additional information concerning this document:

(Name, address, (Name, address, and telephone
and telephone number of FHWA number of HA contact)
division office contact)

A one-paragraph abstract of the statement.
Comments on this draft EIS are due by (date) and should be sent to (name and address).

The top left-hand corner of the cover sheet of all draft and final EISs contains a number parallel to that in the following example:

FHWA-AZ-EIS-81-01-D(F)(S)

FHWA—name of Federal agency
AZ—name of State (cannot exceed four characters)
EIS—environmental impact statement
81—year draft statement was prepared
01—sequential number of draft statement for each calendar year
D—designates the statement as the draft statement
F—designates the statement as the final statement
S—designates supplemental statement
The EISs should be printed on 8½ × 11-inch paper with all graphics folded for insertion to that size. The wider sheets should open to the right with the title or identification on the right. The use of a standard size will facilitate administrative recordkeeping.

**Summary**

The summary should include:

a. A brief description of the proposed FHWA action indicating route, termini, type of improvement, number of lanes, length, county, city, state, etc., as appropriate.
b. A description of any significant actions proposed by other government agencies in the same geographic area as the proposed FHWA action.
c. A summary of major alternatives considered. (The final EIS should identify the preferred alternative).
d. A summary of significant environmental impacts, both beneficial and adverse.
e. Any areas of controversy (including issues raised by both agencies and the public).
f. Any significant unresolved issues.
g. A list of other federal actions required because of this proposed action (i.e., permit approvals, etc.).

**Table of Contents**

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**Purpose of and Need for Action**

Identify and describe the transportation problem(s) which the proposed action is designed to address. This section should clearly demonstrate that a “need” exists and must define the “need” in terms understandable to the general public. This discussion will form the basis for the “no action” discussion in the “Alternatives” section. The following is a list of items which may assist in the explanation of the need for the proposed action. It is by no means all-inclusive or applicable in every situation and is intended only as a guide.

a. *System linkage*. Is the proposed project a “connecting link”? How does it fit in the system? Is it an “essential gap” in the Interstate System?
b. **Capacity.** Is the capacity of the present facility inadequate for the present traffic? Projected traffic? What capacity is needed? What is the level of service?

c. **Transportation demand.** Includes relationship to any statewide plan or adopted urban transportation plan.

d. **Federal, state, or local governmental authority (legislation) directing the action.**

e. **Social demands or economic development.** New employment, schools, land use plans, recreation, etc. What projected economic development/land use changes indicate the need to improve or add to the highway capacity?

f. **Modal interrelationships.** How will the proposed facility interfere with and serve to complement airports, rail and port facilities, mass transit services, etc.

g. Is the proposed project necessary to correct an existing or potential safety hazard? Is the existing accident rate excessively high? Why? How will the proposed facility improve it?

**Alternatives Including Proposed Action**

The “Alternatives” section of the draft EIS should begin with a concise discussion of how the “reasonable alternatives” were selected for detailed study. It should also describe those “other alternatives” that were eliminated early in project development and the basis for their elimination. The alternatives to be considered in this section will normally include the following:

a. The “no-action” alternative, which would include those usual short-term minor reconstruction types of activities (safety improvements, etc.) that are a part of an ongoing plan for continuing operation of the existing roadway system in the project area.

b. A Transportation System Management (TSM) alternative which would include those types of activities designed to maximize the utilization and energy efficiency of the present system. Possible subject areas to include in this alternative are options such as fringe parking, ridesharing, high-occupancy vehicle (HOV) lanes on existing roadways, and traffic signal timing optimization. This limited construction alternative should be given appropriate consideration when major urbanized area construction activities are proposed. On major new urbanized area highway projects, the option of including and/or designating HOV lanes should be a consideration. Consideration of this alternative may be accomplished by reference to the regional transportation plan, when that plan considers this option. In the case of regional transportation plans which do not reflect consideration of this option, it may be necessary to evaluate the feasibility of this alternative. The effects that reducing the scale of a link in the regional transportation plan will have on the remainder of the system will need to be discussed during the evaluation of this alternative. While this discussion relates primarily to major projects in urbanized areas, the concept of achieving maximum utilization of existing facilities is equally important in rural areas. Before major projects on new location are proposed, it is important to demonstrate that reconstruction and rehabilitation of the existing system will not adequately correct the identified deficiencies. Appendix A of 23 CFR 450 provides additional discussion on the goals and scope of the TSM concept.

c. All other proposed “construction” alternatives discussions should include, where relevant, those reasonable and feasible alternatives (i.e., transit options) which may not
be within the existing funding authority of FHWA. Some urban projects may be multimodal, thus requiring close coordination with the Urban Mass Transportation Administration (UMTA). In these situations, UMTA should be consulted early in the project development process. Depending on the extent of UMTA involvement and the possible use of UMTA funds for portions of the proposal, the need to request UMTA to be either a “lead agency” or a “cooperating agency” should be considered at the earliest stages of project development. Where applicable, cost-effectiveness studies that have been performed should be summarized in the EIS.

The discussion of alternatives in this section can be best accomplished by a brief written description of each alternative, supplemented with maps and other appropriate visual aids such as photographs, drawings, or sketches which would assist the reader in better understanding the various alternatives, impacts, and mitigation measures. In some situations, design level details may be appropriate to evaluate impacts. However, final design details are not normally available at this stage in project development. The material should provide a clear understanding of each alternative’s termini, location, costs, and major design features (number of lanes, right-of-way requirements, median width, etc.) which will contribute to a reader’s better understanding of each alternative’s effects on its surroundings or the community.

Generally, each alternative should be developed to a comparable level of detail in the draft EIS. Normally, the draft EIS should state that all alternatives are under consideration and that a decision will be made only after the public hearing transcript and comments on the draft EIS have been evaluated. However, in those situations where the HA has identified a “preferred” alternative based on its early coordination and environmental studies, the HA may so indicate in the draft EIS. However, the EIS should include a comment to the effect that the final selection will not be made until the results of the EIS circulation and the public involvement process have been fully evaluated. The final EIS must identify the preferred alternative and discuss the basis for the selection.

**Affected Environment**

This section should provide a *concise* description of the existing social, economic, and environmental setting for the area affected by all of the alternative proposals. The description should be a single general description for the area rather than a separate one for each alternative. All environmentally sensitive locations or features should be identified. However, it may be desirable to exclude from environmental documents certain specific location data on archeological sites to prevent vandalism.

To reduce paperwork and eliminate the presentation of extraneous background material, the discussion should focus on significant issues and values. Prudent use of photographs, illustrations, and other graphics within the text can be effective in giving the reviewer an understanding of the area. The statement should describe other related Federal activities in the area, their interrelationships, and any significant cumulative environmental impacts.

Data and analyses in the statement should be in proportion to the significance of the impacts which will be discussed later in the document. Less important material should be summarized or referenced. This section should also describe the scope and status of the planning process for the area. The inclusion of a map of any adopted land use and transportation plan for the area would be helpful in relating the proposed project to the areawide planning process.
Environmental Consequences

This section will discuss the probable social, economic, and environmental effects of the alternatives and the measures to mitigate adverse impacts.

There are several ways of preparing this section. Normally, it is preferable to discuss the impacts and mitigation measures separately for each of the alternatives. However, in some cases (such as where there are few alternatives), it may be advantageous to present this section with the impacts as the headings. Where possible, a subsection should be included which would discuss the general impacts and mitigation measures that are the same regardless of the alternative selected. This would reduce or eliminate repetition under each of the alternative discussions.

When the final EIS is prepared, the impacts and mitigation measures associated with the selected alternative may need to be discussed in more detail than in the draft EIS. In discussing the impacts, both beneficial and adverse, the following should be included in both the draft and final EIS:

a. A summary of studies undertaken and major assumptions made, with enough data or cross referencing to determine the validity of the methodology.

b. Sufficient information to establish the reasonableness of the conclusions concerning impacts.

c. A discussion of mitigation measures. Prior to completion of the final EIS, these measures normally should be investigated in appropriate detail so that a commitment can be included in the final EIS.

Charts, tables, maps, and other graphics illustrating comparisons between the alternatives (i.e., costs, residential displacements, noise impacts, etc.) are useful as a presentation technique.

In addition to normal FHWA program monitoring of design and construction activities, special instances may arise when a formal program for monitoring impacts or mitigation measures will be appropriate. In these instances, the final EIS should describe the monitoring program.

Listed below are examples of the potentially significant impacts of highway projects. These factors should be discussed to the extent applicable for each alternative. This list is by no means all-inclusive and on specific projects there may be other significant impacts that require study.

Social and Economic Impacts

The statement should discuss:

a. Changes in the neighborhoods or community cohesion for various groups as a result of the proposed action. These changes may be beneficial or adverse, and may include splitting neighborhoods, isolating a portion of an ethnic group, new development, changed property values, or separation of residences from community facilities, etc.

b. Changes in travel patterns and accessibility (e.g., vehicular, commuter, bicycle, or pedestrian). If any cross streets are terminated, the EIS should reflect the views of the involved city or county on such street closings.

c. Impacts on school districts, recreation areas, churches, businesses, police and fire protection, etc.
d. The impacts of alternatives on highway and traffic safety as well as on overall public safety.

e. Regional economic impacts, such as the effects of the project on development, tax revenues and public expenditures, employment opportunities, accessibility and retail sales. Any significant impacts on the economic viability of affected municipalities should also be discussed together with a summary of any efforts taken and agreements reached for using the transportation investment to support both public and private development plans. To the extent possible, this discussion should rely upon reviews by affected state, county, and city officials and upon studies performed under 23 U.S.C. 134.

f. For projects that might lead to or support large commercial development, the EIS should provide information on any significant effects the pending action would have on established business districts, and any opportunities for mitigation by the public and/or private sectors.

g. The general social groups specially benefitted or harmed by the proposed action should be identified. Particular effects of a proposal on the elderly, handicapped, non-drivers, transit-dependent, or minorities should be described to the extent these can be reasonably predicted. For example, where minority impacts may be a significant concern, EISs should contain, when applicable, the following information, broken down by race, color, and national origin: the population in the study area, the number of displaced residents, the type and number of displaced businesses, and the type and number of displaced employees. Secondary sources of information such as census data reports can be utilized for obtaining this type of background information. Changes in minority employment opportunities, the relationship of the proposed action to other Federal actions which may serve or affect the minority population, and proposed mitigation measures to reduce or avoid impacts on minority populations should also be discussed.

**Relocation Impacts**

The relocation information necessary for the draft EIS may be included in the draft statement, either in the form of a complete conceptual stage relocation plan, or summarized in sufficient detail to adequately explain the relocation situation along with a resolution of anticipated or known problems. When the relocation information is summarized, the conceptual stage relocation plan should be referenced in the draft EIS.

A discussion of the information listed below is to be included in the draft EIS to the extent appropriate for the project.

a. An estimate of households to be displaced, including the family characteristics (e.g., minorities, handicapped, income levels, the elderly, large families, length of occupancy, and owner/tenant status). Where the project is not complex from a relocation viewpoint and the impact on the community is slight, this information may be obtained by visual inspection and from available secondary sources. On complex relocation projects where the relocation will have a major impact on the community, a survey of affected occupants may be needed. This survey may be accomplished by a sampling process.
b. A discussion of available housing in the area and the ability to provide suitable relocation housing for each type of family to be displaced within the financial capabilities of the relocatees.

c. A description of any special advisory services that will be necessary for unique relocation problems.

d. A discussion of the actions proposed to remedy insufficient relocation housing, including a commitment to housing of last resort, if necessary.

e. An estimate of the number, type, and size of businesses to be displaced. The approximate number of employees for each business should be included along with the general impact on the business dislocation(s) on the economy of the community.

f. A discussion of the results of early consultation with the local government(s) and any early consultation with businesses potentially subject to displacement, including any discussions of potential sources of funding, financing, planning for incentive packaging (e.g., tax abatement, flexible zoning, and building requirements), and advisory assistance which has been or will be furnished along with other appropriate information.

g. Impact on the neighborhood and housing community services where relocation is likely to take place. If there will be extensive residential and/or business displacement, the affected community may want to investigate other sources of funding from local and state entities as well as HUD, the Economic Development Administration, and other federal agencies, to assist in revitalization of the community.

h. The results of discussions with local officials, social agencies, and such groups as the elderly, handicapped, nondriver, transit-dependent, and minorities regarding the relocation impacts.

i. A statement that the housing resources are available to all relocatees without discrimination.

The effects on each group should be described to the extent reasonably predictable. The analysis should discuss how the relocation caused by the proposed project will facilitate or inhibit access to jobs, educational facilities, religious institutions, health and welfare services, recreational facilities, social and cultural facilities, pedestrian facilities, shopping facilities, and public transit services.

**Air Quality Impacts**

The EIS should contain a brief discussion of air quality effects or a summary of the carbon monoxide (CO) analysis if such an analysis is performed. The following provides additional guidance:

a. A microscale CO analysis to determine air quality impacts is probably unnecessary where such impacts are judged to be minimal or insignificant. The judgment on the degree of CO impacts may be based on: (1) previous analyses for similar projects, (2) previous general analyses for various classes of projects, or (3) simplified graphical or “table look-up” analyses.

b. If the impacts of CO are judged to be minimal or insignificant, a brief statement to this effect is sufficient. The basis for the statement should be given in the EIS.
c. If the project CO contribution plus the background level are known to be well below the 1- and 8-hour National Ambient Air Quality Standard or other applicable standard, then the air quality CO impact is judged to be insignificant.

d. For those projects where a CO microscale analysis is performed, then the total CO concentration (project contribution, plus estimated background) at identified reasonable receptor sites for all alternatives should be reported and compared with applicable State and national standards.

e. If a CO analysis is performed, a brief summary of the methodologies and assumptions used should be given in the EIS.

f. In addition to the CO impact assessment, one of the two following statements should be included in the EIS:

1. This project is in an area where the State implementation plan does not contain any transportation control measures. Therefore, the conformity procedures of 23 CFR 770 do not apply to this project.

2. This project is in an air quality nonattainment (or attainment) area which has transportation control measures in the State implementation plan (SIP) which was (conditionally) approved by the Environmental Protection Agency on (date). The FHWA has determined that both the transportation plan and the transportation improvement program conform to the SIP. The Federal Highway Administration has determined that this project is included in the transportation improvement program for the (indicate 3C planning area). Therefore, pursuant to 23 CFR 770, this project conforms to the SIP.

**Noise Impacts**

The EIS should contain a summary of the noise analysis including the following:

a. A brief description of noise sensitive areas, including information on the numbers and types of activities which may be affected. If the project has significant noise impacts, noise contours of the proposed action and alternatives may be appropriate to assist in understanding those impacts.

b. The extent of the impact (in decibels). This should include a comparison of the predicted noise levels with both the FHWA design noise levels and the existing noise levels.

c. Noise-abatement measures which have been considered and those measures that would likely be incorporated into the proposed project.

d. Noise problems for which no prudent solution is reasonably available and the reasons why.

**Energy**

Draft and final EISs should discuss in general terms the energy requirements and conservation potential of various alternatives under consideration. This general discussion might recognize that the energy requirements of various construction alternatives are similar and are generally greater than the energy requirements of the no-build alternative. Additionally, the discussion could point out that the post-construction, operational energy requirements
of the facility should be less with the build alternative as opposed to the no-build alternative. In such a situation, one might then conclude that the savings in operational energy requirements would more than offset construction energy requirements and thus, in the long term, result in a net saving in energy usage. For most projects, a detailed energy analysis including computations of Btu requirements, etc., is not needed, but the discussion should be reasonable and supportable.

For major projects with potentially significant energy impacts (an example would be the Westway project in New York City), both the draft and final EIS should discuss any significant direct and/or indirect energy impacts of the proposed action. Direct energy impacts refer to the energy consumed by vehicles using the facility. Indirect impacts include construction energy and such items as the effects of any changes in automobile usage. The action’s relationship and consistency with any State and/or regional energy plan should also be indicated.

The final EIS should identify any energy conservation measures that will be implemented as a part of the recommended alternative. Measures to conserve energy include the use of high-occupancy vehicle incentives, measures to improve traffic flow, and also pedestrian and bicycle facilities.

**Wild and Scenic Rivers**

If the proposed action could have an adverse effect on a river on the National Wild and Scenic Rivers System or a river listed in the Nationwide Inventory of rivers with potential for inclusion in the National Wild and Scenic Rivers System, there should be early coordination with the National Park Service (NPS) or the Department of Agriculture (USDA). The EIS should identify any potential significant adverse effects on the natural, cultural, and recreational values of the inventory river. Adverse effects include alteration of the free-flowing nature of the river, alteration of the setting, or deterioration of water quality. If it is determined that the proposed action could foreclose options to designate the river under the act, the EIS should reflect consultation with the NPS or USDA on avoiding or mitigating the impacts. The final EIS should indicate measures which will be included in the action to avoid or mitigate impacts. The October 3, 1980, memorandum from the Office of Environmental Policy provides additional information on this subject area.

**Floodplain Impacts**

The draft EIS should contain a summary of the “Location Hydraulic Studies” required by FHPM 6-7-3-2, Location and Hydraulic Design of Encroachments on Floodplains. Exhibits defining the floodplains or regulatory floodway, as appropriate, should be provided whenever possible. When there is no practicable alternative to an action which includes a significant encroachment, the final EIS should contain the finding required by FHPM 6-7-3-2, paragraph 8, in a separate subsection titled “Only Practicable Alternative Finding.” When there is a regulatory floodway affected by the proposed action, the final EIS should contain a discussion of the consistency of the project with the regulatory floodway.

**Coastal Zone Impacts**

Where the proposed action is within, or may affect land or water uses within, the area covered by a State Coastal Zone Management Program (CZMP) approved by the Department
of Commerce, the environmental document should briefly describe the CZMP plan, identify the potential impacts, and include evidence of coordination with the State Coastal Zone Management agency or appropriate local agency. For FHWA assisted activities, the EIS should include the State Coastal Zone Management agency’s determination as to whether the project is consistent with the State CZMP plan. For direct Federal actions, the EIS should include the lead agency’s consistency determination. If it is determined that the proposed action is inconsistent with the state’s approved CZMP, FHWA will not approve the action except upon a finding by the Secretary of Commerce that the proposed action is consistent with the purposes or objectives of the Coastal Zone Management Act or is necessary in the interest of national security. The final environmental document for the proposed action will document all findings.

**Wetlands Impacts**

a. All draft EISs for projects involving new construction in wetlands should include sufficient information to: (1) identify the type of wetlands involved, (2) describe the impacts to the wetlands, (3) evaluate alternatives which would avoid these wetlands, and (4) identify practicable measures to minimize harm to the wetlands. Exhibits showing the wetlands in relation to the alternatives, including the alternatives to avoid construction in the wetlands, should be provided.

b. Executive Order 11990, Protection of Wetlands, requires federal agencies “... to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative....” In evaluating the impact of the proposed project on wetlands, the following two questions should be addressed: (1) what is the importance of the impacted wetlands? and (2) what is the significance of this impact on the wetlands? Merely listing the number of acres taken by the various alternatives of a highway proposal does not provide sufficient information upon which to determine the degree of impact on the wetland’s ecosystem. The wetlands analysis should be sufficiently detailed to allow a meaningful discussion of these two questions.

c. In evaluating the importance of the impacted wetlands, the analysis should consider such factors as: (1) the primary functions of the wetlands (e.g., flood control, wildlife habitat, erosion control, etc.), (2) the relative importance of these functions to the total wetlands resource of the area, and (3) other factors such as uniqueness that may contribute to the wetlands importance.

d. In determining the significance of the highway impact, the analysis should focus on how the project affects the stability and quality of the wetlands. This analysis should consider the short- and long-term effects on the wetlands and the significance of any loss such as: (1) flood control capacity, (2) erosion control potential, (3) water pollution abatement capacity, and (4) wildlife habitat value. Knowing the importance of the wetlands involved and the significance of the impact, the SHA and FHWA will be in a better position to determine what mitigation efforts are necessary to minimize harm to these wetlands.

e. For purposes of analyzing alternatives and the wetlands finding, “located in wetlands” means that the proposed right-of-way or easement limits of the highway are located wholly or partially in wetlands or that the highway is located in the vicinity
of the wetlands and there is evidence that the new construction will directly cause long-term damage or destruction of the wetlands.

f. Mitigation measures which should be considered include enhancement of existing wetlands, creation of new wetlands, and erosion control. It should be noted that any mitigation measure should be related to the actual adverse impact caused by the project and that acquisition of privately owned wetlands for purposes of protection should only be considered as a last resort.

g. When there is no practicable alternative to an action which involves new construction located in wetlands, the final EIS should contain the finding required by Executive Order 11990 and by DOT Order 5660.1A, entitled Preservation of the Nation’s Wetlands, August 24, 1978, in a separate section or exhibit titled “Wetlands Finding.” Approval of the final EIS containing this finding will document compliance with the requirements of Executive Order 11990. The finding should contain in summary form and with reference to the detailed discussions contained elsewhere in the final EIS:

1) a reference to executive Order 11990;
2) a discussion of the basis for the determination that there are no practicable alternatives to the proposed action;
3) a discussion of the basis for the determination that the proposed action includes all practicable measures to minimize harm to wetlands; and
4) a concluding statement as follows: “Based upon the above considerations, it is determined that there is no practicable alternative to the proposed new construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.”

h. A formal wetlands finding is required for all projects processed with EIS’s or FONSI’s that involve new construction in wetlands. In the case of a project processed as a categorical exclusion, the division office’s administrative record should document evaluations of alternatives and measures to minimize harm for these actions.

**Land-Use Impacts**

This discussion should begin with a description of current development trends and the state and/or local government plans and policies with regard to land use and growth in the area. These plans and policies will be reflected in the area’s comprehensive development plan, including land use, transportation, public facilities, housing, community services, and other areas.

The land-use impact analysis should assess the consistency of the alternatives with the comprehensive development plans adopted for the area. The secondary social, economic, and environmental impacts of significant induced development should be presented.

The EIS should note any proposed alternatives which will stimulate low-density, energy-intensive development in outlying areas and will have a significant adverse effect on existing communities. Throughout this discussion, the distinction between planned and unplanned growth should be clearly identified.

**Joint Development**

When applicable, the EIS should discuss how the implementation of joint development projects will preserve or enhance the community’s social, economic, environmental, and visual values. This discussion should be included as part of the land-use impact presentation.
Historic and Archeological Preservation

The draft EIS should contain a discussion demonstrating that a survey meeting the requirements of 36 CFR Part 800.4 has been performed for each alternative under consideration. The discussion should begin by describing the resources and summarizing the impacts that each alternative will have on these resources that might meet the criteria for inclusion on the National Register of Historic Places. There should be a record of coordination with the State Historic Preservation officer concerning the significance of the identified resources, the likelihood of eligibility for the National Register, and an evaluation of the effect of the project on the resources.

The draft EIS can serve as a preliminary case report for Section 106 requirements if the document indicates this and it contains the necessary information (36 CFR 800.13). The transmittal memorandum to the Advisory Council on Historic Preservation should specifically request consultation.

The final EIS should demonstrate that all the requirements of 36 CFR Part 800 have been met. If the selected alternative has an effect on a resource that is on or eligible for inclusion on the National Register, the final EIS should contain (a) a determination of no adverse effect concurred in by the Executive Director of the Advisory Council on Historic Preservation or (b) an executed memorandum of agreement or (c) in the case of a unique situation where FHWA is unable to conclude the memorandum of agreement (MOA), a copy of comments transmitted from the Advisory Council to the Secretary of Transportation. When necessary, the discussion should indicate that archeological recovery will be performed. The proposed use of land from a site on or eligible for inclusion on the National Register will normally require a determination pursuant to Section 4(f) of the DOT Act. The treatment of archeological sites is discussed in 23 CFR 771.135(f). Additional details regarding the type of information needed at the draft EIS and final EIS stages are contained in the May 14, 1980, memorandum from the Office of Environmental Policy to all regional offices.

Water Quality Impacts

This discussion should include summaries of analyses and consultations with the state and/or local agency responsible for water quality. Coordination with the Environmental Protection Agency (EPA) under the Federal Clean Water Act may provide assistance in this area. The EIS should discuss any locations where roadway runoff may have a significant effect on downstream water uses, including existing wells. A 1981 FHWA research report entitled “Constituents of Highway Runoff” contains procedures for estimating pollutant loading from highway runoff.

Section 1424(e) of the Safe Drinking Water Act requires that proposed actions which may impact those areas that have been designated as principal or sole-source aquifers be coordinated with EPA. The EPA will furnish information on whether any of the alternatives affect the aquifer. If none of the alternatives affect the aquifer, the requirements of the Safe Drinking Water Act are satisfied. If an alternative is selected which affects the aquifer, a design must be developed to assure, to the satisfaction of EPA, that it will not contaminate the aquifer.

If a rest area is involved, a Section 402 permit is required for point source discharge. Any potential Section 402 permits should be identified in the EIS. Also, for both the Section 402 and Section 404 permits, a water quality certification from the State agency responsible for water quality is necessary.
The MOA with the Corps of Engineers allows for application for permit as soon as the preferred alternative is identified (i.e., final EIS stage). Use of the procedures in the MOA is encouraged to minimize possible delays in the processing of Section 404 permits later in project development. The final EIS should indicate the general location of the fill or dredged activity, approximate quantities of fill or dredged material, general construction grades, and proposed mitigation measures, and should include evidence of coordination with the corps.

**Threatened or Endangered Species**

The HA shall request from the Departments of the Interior (DOI) and/or Commerce (DOC) information on whether any species listed or proposed as endangered or threatened may be present in the area of the proposed construction project. If those departments advise that there are no such species in the area, the requirements of the Endangered Species Act have been met. If those departments advise that such a species may be present, the FHWA/HA shall undertake a biological assessment to identify any threatened or endangered species which are likely to be affected by the proposed action. This biological assessment should include:

a. An on-site inspection of the area affected by the proposed project.

b. Interviews with recognized experts on the species at issue.

c. A literature review to determine the species distribution, habitat needs, and other biological requirements.

d. An analysis of possible impacts to the species.

e. An analysis of measures to minimize impacts. This biological assessment should be forwarded to DOI/DOC for a biological opinion. The Fish and Wildlife Service (F&WS) is responsible for the protection of terrestrial and fresh-water species and the National Marine Fisheries Service (NMFS) is responsible for the protection of marine species.

Upon completing their review of the biological assessment, the F&WS/NMFS may request additional information and/or a meeting to discuss the project or issue a biological opinion stating that the project: (a) is not likely to jeopardize, or (b) will promote the conservation of or (c) is likely to jeopardize the threatened or endangered species. In selecting a preferred alternative, jeopardy to an endangered or threatened species must be avoided. If either a finding of (a) or (b) is given, the requirements of the Endangered Species act are met. If a detrimental finding is presented, the proposed action may be modified so that the species is no longer jeopardized. In unique circumstances, an exemption may be requested. If an exemption is denied, the action must be halted or modified. The final EIS should document the results of the coordination of the biological assessment with the appropriate agencies.

**Prime and Unique Agricultural Lands**

Information on prime and unique agricultural lands should be solicited through early consultation with the Department of Agriculture (USDA), and the EIS should identify the direct and indirect impacts of the proposed action on these lands, including:

a. An estimate of the number of acres that might be directly affected by right-of-way acquisition.
b. Areas where agricultural operation might be disrupted.
c. Potential indirect effects such as those related to project-induced changes in land use.

The EIS should contain a map showing the location of prime and unique agricultural lands in relation to the project alternatives, summarize the results of consultations with the USDA, and include copies of correspondence with USDA regarding the project. Specific actions to avoid or, if that is not possible, to reduce direct and indirect effects on these lands should be identified.

**Construction Impacts**

The EIS should discuss significant impacts (particularly air, noise, water, detours, safety, visual, etc.) associated with construction of each of the alternatives. Also, where applicable, the impacts of disposal and borrow areas should be discussed along with any proposed measures to minimize these impacts.

**Considerations Relating to Pedestrians and Bicyclists**

Section 682 of the National Energy Policy Act of 1978 recognizes that bicycles are an efficient means of transportation, represent a viable commuting alternative to many people, and deserve consideration in a comprehensive national energy plan. The FHWA recognizes that bicyclists are legitimate highway users and that FHWA has a responsibility to provide for their transportation needs. Section 109(n) of 23 U.S.C. provides that “the Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonable alternate route or such a route exists.” The FHWA policy regarding Bicycle Program Activities is further defined in an August 20, 1981, memorandum from Administrator Barnhart to all regional administrators. Where appropriate, the EIS should consider pedestrian and bicycle use as an integral feature of the project and include a discussion of the relationship of the proposed project to local plans for bicycles and pedestrian facilities and evidence that the project is consistent with 23 U.S.C. 109(n).

**Stream Modification and Wildlife Impacts**

Title 16 U.S.C. 662(a) requires consultation with the Fish and Wildlife Service and the appropriate State agency regarding any federal action which involves impoundment (surface area of 10 acres or more), diversion, channel deepening, or other modification of a stream or body of water. Exhibits should be used to identify stream modifications. The use of the stream or body of water for recreation or other purposes should be identified. It should also discuss any significant impacts on fish and wildlife resources, including direct impact to fish and wildlife, loss or modification of habitat, and degradation of water quality.

**Visual Impacts**

This discussion should include an assessment of the visual impacts of the proposed action, including the “view from the road” and the “view of the road.” Where relevant, the EIS should document the consideration given to design quality, art, and architecture in the project planning. These values may be particularly important for facilities located in sensitive urban settings. Where relevant, the draft EIS should be circulated to officially designated state and
local arts councils and, as appropriate, other organizations with an interest in design, art, and architecture.

**List of Preparers**

This section will include lists of:

a. State (and local agency) personnel, including consultants, who were primarily responsible for preparing the EIS or performing environmental studies, and their qualifications, including educational background or experience

b. The FHWA personnel primarily responsible for preparation or review of the EIS, and their qualifications

c. The areas of EIS responsibility for each preparer

**List of Agencies, Organizations, and Persons to Whom Copies of the Statement are Sent**

List all entities from which comments are being requested (draft EIS) and identify those that submitted comments (final EIS).

**Comments and Coordination**

a. The draft EIS should summarize the early coordination process, including scoping, meetings with community groups and individuals, and the key issues and pertinent information received from the public and government agencies through these efforts.

b. The final EIS should include a copy of all substantive comments received (or summaries thereof, where the response has been exceptionally voluminous), along with a response to each substantive comment. When the EIS is revised as a result of the comments received, a copy of the comments should contain marginal references indicating where revisions were made, or the discussion of the comments should contain such references. The FHWA comment(s) on the draft EIS should not be included in the final EIS. However, the document should include adequate information for the FHWA reviewer to ascertain the disposition of the comment(s). Formal comments by the Department of Transportation should be included in the final EIS along with an appropriate response to each comment.

c. The final EIS should document compliance with requirements of all applicable environmental laws, Executive Orders, and other related requirements. To the extent possible, all environmental issues should be resolved prior to the submission of the final EIS. Where this is not possible, the final EIS should clearly identify any remaining unresolved issues, the change taken to resolve the issues, and the positions of the respective parties.

d. The final EIS should contain a summary and disposition of substantive comments on social, economic, and environmental issues made at any public hearing or other public involvement activity or which were otherwise considered.
Index

The index should include major subjects and areas of significant impacts so that a reviewer need not read the entire EIS to obtain information on a specific subject or impact.

23 CFR 771 requires compliance to the extent possible with other applicable environmental laws, Executive Orders, and other related requirements. This includes the certifications and reports required by 23 U.S.C. 128 relating to public hearings, considerations of social, economic, and environmental (SEE) effects and consistency of the project with urban planning goals promulgated by the community. The certifications normally are made at the time the final EIS or FONSI is submitted to the FHWA Division Administrator. The report of SEE effects required by 23 U.S.C. 128 will normally be satisfied by the final EIS, FONSI, or identification of the project as a categorical exclusion.

Appendices

Material prepared as appendices to the EIS should:

a. consist of material prepared in connection with the EIS (is distinct from material which is not so prepared and which is incorporated by reference)
b. consist of material which substantiates an analysis which is fundamental to the EIS
c. be analytic and relevant to the decision to be made and
d. be circulated with the EIS or be readily available on request. Other reports and studies referred to in the EIS should be readily available for review or for copying at a convenient location.

Alternate Process for Final EISs

Paragraph 1503.4 of the CEQ regulation (40 CFR 1500, et seq.) provides the opportunity for expediting final EIS preparation in those instances when, after receipt of comments resulting from circulation of the draft EIS, it is apparent that the changes in the proposal or in the EIS in response to the comments received are minor and that:

a. all reasonable alternatives were studied and discussed in the draft EIS, and
b. the analyses in the draft EIS adequately identified and quantified the environmental impacts of all reasonable alternatives.

When these two points can be established, the final EIS can consist of the draft EIS and an attachment containing the following:

a. Errata sheets making corrections to the draft EIS, if applicable.
b. A section identifying the preferred alternative and a discussion of the reasons it was selected. The following should also be included in this section, if applicable:
   (1) Final Section 4(f) evaluations containing the information described in Section 6 of these guidelines
   (2) Wetlands finding(s)
   (3) Floodplain finding(s)
   (4) A list of commitments for mitigation measures for the preferred alternative
c. Copies (or summaries) of comments received from circulation of the draft EIS and public hearing and responses thereto.
A.4 DISTRIBUTION OF EISs AND SECTION 4(f) EVALUATIONS

Environmental Impact Statements

a. Copies of all draft EISs should be circulated for comments to all public officials, private interest groups, and members of the public having or expressing an interest in the proposed action or the draft EIS, and to all government agencies expected to have jurisdiction, responsibility, interest, or expertise in the proposed action. Internal FHWA distribution of draft and final EISs is subject to change and is noted in memorandums to the Regional Administrators as requirements change. The FHWA transmittal letter to the Washington Headquarters should include a recommendation regarding the need for the prior concurrence of the Washington Headquarters in accordance with 23 CFR 771(e).

b. Copies of all approved final EISs should be distributed to all cooperating agencies, to all federal, state, and local agencies and private organizations, and members of the public who commented substantively on the draft EIS. A copy of all approved delegated EISs should be forwarded to the FHWA Washington Headquarters (HEV-10) for recordkeeping purposes.

Copies of all draft and final EISs in the categories listed in 23 CFR 771(e) should be provided to the Regional Representative of the Secretary of Transportation at the same time as they are forwarded to the FHWA Washington Headquarters.

c. Copies of all EISs should normally be distributed as follows, unless the agency has indicated to the FHWA offices the need for a different number of copies:

1. The EPA Headquarters: five copies of the draft EIS and five copies of the final EIS (this is the “filing requirement” in Section 1506.9 of the CEQ regulation; the correct address is listed therein).

2. The appropriate EPA regional office responsible for EPA’s review pursuant to Section 309 of the Clean Air Act: five copies of the draft EIS and five copies of the final EIS.

3. The DOI Headquarters:

   a. All States in FHWA Regions 1, 3, 4, and 5, plus Hawaii, Guam, American Samoa, Arkansas, Iowa, Louisiana, Missouri, and Puerto Rico: 12 copies of the draft EIS and 7 copies of the final EIS.

   b. Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas: 13 copies of the draft EIS and 8 copies of the final EIS.

   c. New Mexico and all states in FHWA Regions 8, 9, and 10, except Hawaii, North Dakota, and South Dakota: 14 copies of the draft EIS and 9 copies of the final EIS.

Section 4(f) Evaluation

If the Section 4(f) evaluation is included in an EIS, DOI Headquarters should receive the same number of copies listed above for EISs for consultation in accordance with the requirements of 23 U.S.C. 138. If the Section 4(f) evaluation is processed as a separate document or as part of an EA, the DOI should receive seven copies of the draft Section 4(f) evaluation for coordination and seven copies of the final Section 4(f) statement for information.
In addition, draft Section 4(f) evaluations, whether in a draft EIS, an EA, or a separate document, are required to be coordinated where appropriate with HUD and USDA.

**A.5 RECORD OF DECISION—FORMAT AND CONTENT**

The record of decision (ROD) must set forth the reasons for the project decision, based on the material contained in the environmental documents. While cross referencing and incorporation by reference of other documents is appropriate, the ROD should explain the basis for the project decision as completely as possible.

- **a. Decision.** Identify the selected alternative. Reference to the final EIS may be used to reduce detail and repetition.
- **b. Alternatives considered.** This information can be most clearly organized by briefly describing each alternative (with reference to the final EIS, as above), then explaining and discussing the balancing of values underlying the decision. This discussion must identify the alternative or alternatives which were considered preferable from a strictly environmental point of view. If the selected alternative is other than the environmentally preferable alternative, the ROD should clearly state the reasons for that decision. In addition, if use of Section 4(f) land is involved, the required Section 4(f) approval should be summarized.

  For each individual decision (final EIS), the values (economic, environmental, safety, traffic service, community planning, etc.) which are significant factors in the decision-making process may be different and may be given different levels of relative importance. Accordingly, it is essential that this discussion clearly identifies each significant value and the reasons some values were considered more important than others. While any decision represents a balancing of the values, the ROD should reflect the manner in which these values were considered in arriving at the decision.

  It is also essential that legislation requirements in 23 U.S.C. be given appropriate weight in this decision-making process. The mission of FHWA is to implement the federal-aid highway program to provide safe and efficient transportation. While this mission must be accomplished within the context of all other federal requirements, the beneficial impacts of transportation improvements must be given proper consideration and documentation in this ROD.

- **c. Measures to minimize harm.** Describe all measures to minimize environmental harm which have been adopted for the proposed action. State whether all practicable measures to minimize environmental harm have been incorporated into the decision and, if not, why.
- **d. Monitoring or enforcement program.** Describe any monitoring or enforcement program which has been adopted for specific mitigation measures, as outlined in the final EIS.

**A.6. SECTION 4(f) EVALUATIONS—FORMAT AND CONTENT**

**Draft Evaluation—Format**

- **a.** Describe proposed action (if separate document)
- **b.** Describe Section 4(f) resource
c. Impacts on resource (by alternative)
d. Avoidance alternatives and their impacts
e. Measures to minimize harm
f. Coordination with appropriate agencies
g. Concluding statement (final document only)

In the case of a complex Section 4(f) involvement, it is desirable to include the analysis in a separate section of the draft EIS, EA, or for projects processed as categorical exclusions, in a separate document. A Section 4(f) evaluation should be prepared for each location within the project where the use of Section 4(f) land is being considered.

**Draft Evaluation—Content**

The following information should be included in the Section 4(f) evaluation, as appropriate:

a. A brief description of the project and the need for the project (when the Section 4(f) evaluation is circulated separately).
b. A detailed map or drawing of sufficient scale to identify essential elements of the highway/Section 4(f) land involvement.
c. Size (acres or square feet) and location (maps or other exhibits such as photographs, sketches, etc.) of involvement.
d. Type of property (recreation, historic, etc.).
e. Available activities at the property (fishing, swimming, golfing, etc.).
f. Description and location of all existing and planned facilities (ball diamonds, tennis courts, etc.).
g. Usage (approximate number of users/visitors, etc.).
h. Relationship to other similarly used lands in the vicinity.
i. Access (pedestrian and vehicular).
j. Ownership (city, county, state, etc.).
k. Applicable clauses affecting the title, such as covenants, restrictions, or conditions, including forfeiture.
l. Unusual characteristics of the Section 4(f) land (flooding problems, terrain conditions, or other features that either reduce or enhance the value of portions of the area).
m. The location (using maps or other exhibits such as photographs or sketches) and the amount of land (acres or square feet) to be used by the proposed project including permanent and temporary easements.
n. The probable increase or decrease in environmental impacts (noise, air pollution, visual, etc.) of the alternative locations and designs considered on the Section 4(f) land users.
o. A description of all reasonable and practicable measures which are available to minimize the impacts of the proposed action on the Section 4(f) property. Discussions of alternatives in the draft EIS or EA may be referenced rather than repeated.
p. Sufficient information to evaluate all alternatives which would avoid the Section 4(f) property. Discussions of alternatives in the draft EIS or EA may be referenced rather
than repeated. However, this section should include discussions of design alternatives (to avoid Section 4(f) use) in the immediate area of the Section 4(f) property.

q. The determination that there are no feasible and prudent alternatives is not normally addressed at the draft EIS, EA, or preliminary document stage until the results of the formal coordination have been completed.

r. The results of preliminary coordination with the public official having jurisdiction over the Section 4(f) property and with regional (or local) offices of DOI and, as appropriate, the regional (or local) office of USDA and HUD.

**Section 4(f) Discussion in Final Document**

When the selected alternative involves the use of Section 4(f) land, a Section 4(f) evaluation may be included as a separate section in the final EIS or FONSI or for projects processed as categorical exclusions, in a separate final Section 4(f) evaluation. The final evaluation should contain:

a. All information required above for a draft evaluation.

b. A discussion of the basis for the determination that there are no feasible and prudent alternatives to the use of the Section 4(f) land. The supporting information must demonstrate that there are unique problems or unusual factors involved in the use of alternatives and that the cost, environmental impact, or community disruption resulting from such alternatives reaches extraordinary magnitudes.

c. A discussion of the basis for the determination that the proposed action includes all possible planning to minimize harm to the Section 4(f) property.

d. A summary of the appropriate formal coordination with the Headquarters Offices of DOI, and as appropriate, the Headquarters Offices of USDA and HUD.

e. Copies of all formal coordination comments received and an analysis and response to any questions raised.

f. Concluding statement as follows: “Based upon the above considerations, it is determined that there is no feasible and prudent alternative to the use of land from the (Section 4(f) property) and that the proposed action includes all possible planning to minimize harm to the (Section 4(f) property) resulting from such use.”

A Section 4(f) approval is the written administrative record which documents the approval required by 23 U.S.C. 138. The Section 4(f) approval will be incorporated into either the final EIS or the ROD. When the Section 4(f) approval is contained in the ROD, the information noted in items (a) through (e) above may be incorporated by reference to the EIS. For a project processed as a categorical exclusion, any required Section 4(f) approval will normally be prepared as a separate document.

**A.7 PREDECISION REFERRALS TO CEQ**

a. Any FHWA office receiving a notice of intent of referral from another agency should provide a copy of that intent of referral to the FHWA Washington Headquarters, Office of Environmental Policy (HEV-10), and the involved Regional Office, Division Office,
A notice of intent of referral would generally be received as part of an agency’s comments on the draft EIS. The exception would be when an agency indicates that the draft EIS did not contain adequate information to permit an assessment of the proposal’s environmental acceptability. Every reasonable effort should be made to reach agreement with the agency prior to filing of the final EIS. If agreement cannot be reached, the final EIS should document the attempts to resolve the issues and summarize the remaining differences. Prior concurrence of the Washington Headquarters is necessary in the case of government opposition on environmental grounds.

b. The response to the notice of referral will be prepared by the Washington Headquarters with input from the regional, division, and state offices. The FHWA Washington Headquarters will obtain the concurrence of the Department of Transportation prior to the response to CEQ.

c. Upon reviewing the draft EIS from another federal agency, if the FHWA Regional or Division Office believes a referral will be necessary, it should so advise HEV-1. The Office of Environmental Policy (HEV-1) will review the proposed referral and, if appropriate, will advise the Departmental Office of Environment and Safety (P-20), which will coordinate DOT comments on the draft EIS, including the notice of intended referral. Every reasonable effort should be made to resolve the issues after providing notice of intent to refer and prior to the lead agency’s filing of the final EIS with EPA. In the event that the issues have not been resolved, the appropriate field office should prepare a referral to CEQ to be submitted through HEV to P-20 for a determination as to whether a referral to CEQ is appropriate.

A.8 OTHER AGENCY STATEMENTS

a. The FHWA review of statements prepared by other agencies will consider the environmental impact of the proposal on areas within FHWA’s functional area of responsibility or special expertise.

b. Agencies requesting comments on highway impacts usually forward the draft EIS to the FHWA Washington Headquarters for comment. The FHWA Washington Headquarters will normally distribute these EISs to the appropriate regional office and will indicate where the comments should be sent. The regional office may elect to forward the draft statement to the division office for response.

c. When a field office has received a draft EIS directly from another agency, it may comment directly to that agency if the proposal does not fall within the types indicated in item (d) of this section. If more than one DOT Administration is commenting at the regional level, the comments should be coordinated by the DOT Regional Representative to the Secretary or designee. Copies of the FHWA comments should be distributed as follows:

(1) Requesting agency—original and one copy
(2) P-20—one copy
(3) DOT Secretarial Representative—one copy
(4) HEV-10—one copy

d. The following types of action contained in the draft EIS require FHWA Washington Headquarters review and such EISs should be forwarded to the Associate Adminis-
A.9 PROPOSALS FOR LEGISLATION OR REGULATIONS

Proposals for regulations and legislation will be evaluated by the initiating Washington Headquarters office for compliance with the appropriate NEPA requirements. The proposal may require the development of an EA and FONSI, or an EIS which will be the responsibility of the initiating office in consultation with HEV-10. When a draft EIS for proposed legislation is appropriate, it will be submitted to OST for transmittal to the Office of Management and Budget for circulation in the normal legislative clearance process. Any comments received on the EIS will be transmitted to Congress. Except as provided in 40 CFR Part 1506(b)(2) there need not be a final EIS.