



## FDM 21-10-1 NEPA Process (Flowchart)

June 15, 2001

Following the determination of the appropriate action type (see [FDM 21-5-1](#) and [FDM 21-5-5](#)) the development of the subsequent environmental document follows a review and approval process prescribed by federal and state environmental regulations. The process for each action type is illustrated by the following flow chart in [Attachment 1.1](#). The chart basically shows the National Environmental Policy Act (NEPA) process, as well as the flow of the Wisconsin Environmental Policy Act (WEPA) process, required of each state agency from initiation through approval of a facilities development project. The individual steps in the process are described in detail on the following pages of this section. Also refer to [FDM 3-1 Attachment 1.1](#), for an illustration of how the environmental evaluation process fits into the facilities development process.

### LIST OF ATTACHMENTS

[Attachment 1.1](#) National Environmental Policy Act (NEPA) Process

## FDM 21-10-5 Determination of Lead and Cooperating Agencies

April 21, 2010

### 5.1 Lead Agency

When federal funding is used on a project, USDOT-Federal Highway Administration (FHWA) must serve as the Federal lead agency and the direct recipient of Federal funds, the Wisconsin Department of Transportation (WisDOT), must serve as a joint lead agency. In some instances, a local project sponsor may be a "Local Lead Agency." As "Joint Lead Agencies" their responsibilities include managing the environmental review and documentation process; preparing the EIS, and providing opportunities for public and participating/ cooperating agency involvement.

As the Federal Lead Agency, FHWA will invite other affected or interested federal agencies and Native American Tribes to participate in the project's environmental review process. The State Lead Agency or the Local Lead Agency will invite other affected or interested state and local agencies to participate in the process. WisDOT or the Local Lead Agency is responsible for investigating project alternatives, implementing the environmental review process and preparing the environmental document. FHWA must oversee the environmental review process and concur that the process, as implemented by WisDOT or the Local Lead Agency, satisfies applicable federal laws and guidance.

### 5.2 Cooperating Agency

A cooperating agency is any federal, state, or local agency, other than a lead agency, which has special expertise or regulatory authority with respect to any environmental impact, and which is requested by a lead agency to be a cooperating agency.

Any federal or state agency having or expected to have permit approval or concurrence authority on an action should be requested to be a cooperating agency for an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). The views of cooperating agencies shall be solicited and coordination with them will continue throughout all stages of the environmental document preparation. Agencies such as the Department of Natural Resources, the U.S. Army Corps of Engineers, the Environmental Protection Agency, and the U.S. Fish and Wildlife Service, could serve as cooperating agencies. When project effects are on lands of tribal interest, a Native American Tribe may, by agreement with the lead agencies, also become a Cooperating Agency.

The administrative record should include documentation of agencies declining an invitation to be a cooperating agency.

### Participating Agency

Participating Agencies are those with an interest in the project, but do not possess either special expertise or regulatory authority with respect to any environmental impact. These agencies agree to identify issues of concern regarding the project's potential impacts, and provide meaningful and timely input on purpose and need, alternatives analysis methodologies, and range of alternatives.

The standard for Participating Agency status is more encompassing than the standard for Cooperating Agency status. Therefore, Cooperating Agencies are, by definition, Participating Agencies, but not all Participating

Agencies are Cooperating Agencies. Lead Agencies should consider the distinctions noted above, as well as those contained in FHWA guidance, in deciding whether to invite an agency to serve as a Cooperating Agency or as a Participating Agency.

## **FDM 21-10-10 Notice of Intent to Prepare an Environmental Impact Statement**

June 15, 2001

### **10.1 Purpose and Timing**

It is a requirement that a Notice of Intent to Prepare an Environmental Impact Statement shall be published for both State and federally funded projects.

#### **10.1.1 State Notice of Intent to Prepare an EIS**

When a decision is made that an EIS is to be prepared for a project that will use only State funds, the public and agencies shall be informed by publishing a Notice of Intent to Prepare an EIS in the Wisconsin Administrative Register and a local newspaper of general circulation in the general area of the project. Projects of regional or statewide character shall have a Notice of Intent to Prepare an EIS in the Wisconsin Administrative Register and a newspaper having regional or statewide coverage. The State Notice of Intent to Prepare an EIS shall include:

1. A statement that an EIS will be prepared.
2. A brief description of the proposed action.
3. A preliminary list of possible alternatives.
4. A brief discussion of the proposed scoping process.
5. The intent of Title VI of the Civil Rights Act and of Executive Order 12898 (*i.e.*, "Federal law prohibits discrimination on the basis of race, color, age, sex, or country of national origin in the implementation of this action. It is also Federal and State policy that no group of people bears the negative consequences of this action in a disproportionately high and adverse manner without adequate mitigation").
6. Names and addresses of the contact persons at the federal and state review agencies.

The Region shall send the notice to the address below for publication in the Wisconsin Administrative Register.

Deputy Revisor of Statutes  
131 W. Wilson Street  
Suite 800  
(INTERDEPARTMENTAL MAIL)

The notice should be provided as both a paper copy and as a Word 7.0 electronic file on a 3½ inch diskette. For consultant-designed projects the consultant shall prepare the notice and submit both paper and electronic copies to the appropriate Region for processing.

#### **10.1.2 Federal Notice of Intent to Prepare an EIS**

As soon as practicable after the decision has been made to prepare a federally funded Environmental Impact Statement (EIS), and prior to scoping, the Region Office, in conjunction with the Bureau of Environment (BOE) and the Federal Highway Administration (FHWA), shall prepare a Notice of Intent to Prepare an EIS. Notices for federally funded projects are published in the Federal Register and initiate the EIS and the scoping process.

This notice shall briefly:

1. Describe the proposed action and alternatives.
2. Describe the intent of Title VI of the Civil Rights Act and of Executive Order 12898 (*i.e.*, "Federal law prohibits discrimination on the basis of race, color, age, sex, or country of national origin in the implementation of this action. It is also Federal policy that no group of people bears the negative consequences of this action in a disproportionately high and adverse manner without adequate mitigation").
3. Describe the proposed scoping process including, if known, any scheduled scoping or public information meetings.
4. State the name, address, and phone number of a contact person who can provide information about the project and document.

The notice for the Federal Register shall be prepared in the format shown below and shall be sent to the Director, Bureau of Environment, for transmittal to FHWA. Announcement of the intent to prepare an EIS at the

local level is encouraged and can be accomplished by means of a notice in local newspapers. A Federal Register notice is not prepared for state-only funded projects.

### EXAMPLE FORMAT FOR FEDERAL REGISTER NOTICE

NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT

ON ( Project Name )

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT)

ACTION: Notice of Intent to Prepare an Environmental Impact Statement

SUMMARY: Provide a short summary of the proposed action and alternatives being considered. Include a statement that the EIS is being prepared in conformance with 40 CFR Part 1500 and the FHWA regulations. A statement should also be included which describes the proposed scoping process and any meetings to be offered.

FOR FURTHER INFORMATION, CONTACT: (FHWA contact person, address and telephone number, and BOE contact person, address and telephone number.

### FDM 21-10-13 Scoping Process

April 21, 2010

#### 13.1 Coordination Plans

The project's environmental review process must ensure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. All projects subject to the EIS process must prepare a "Coordination Plan for Agency and Public Involvement." The Coordination Plan is prepared to conform to requirements of the National Environmental Policy Act (NEPA), and specifically to comply with Section 6002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (known as "SAFETEA-LU") of 2005.

Coordination plans are developed early in the environmental review process after project initiation through collaboration between the joint lead agencies, typically FHWA and WisDOT. The coordination plan is initiated by WisDOT and provided to FHWA for review and concurrence before the scoping process begins. (See [Exhibit 13.1](#) for a recommended outline and content requirements of a coordination plan)

The purposes of the coordination plan are to facilitate and document the lead agencies' structured interaction with the public and other agencies, including Indian tribal governments, and to inform the public and other agencies of how the coordination will be accomplished. The coordination plan has the potential to expedite and improve the environmental review process by clearly establishing interactions and expectations, but its success will depend on the lead agencies exercising common sense and good faith to make it work.

The coordination plan should outline (1) how the lead agencies will or have divided the responsibilities for compliance with the various aspects of the environmental review process, such as the issuance of invitations to participating agencies, and (2) how the lead agencies will provide the opportunities for input from the public and other agencies, in accordance with applicable laws, regulations, and policies. The plan also should identify coordination points, such as:

- Notice of intent publication and project scoping activities
- Development of purpose and need
- Identification of the range of alternatives
- Collaboration on methodologies
- Completion of the DEIS
- Identification of the preferred alternative and the level of design detail
- Mitigation strategies
- Completion of the final environmental impact statement (FEIS)
- Completion of the ROD

#### 13.2 Schedule

The coordination plan may establish a schedule of regular meetings and may identify which persons, organizations, or agencies should be included for each coordination point. Consultation with the participating agencies on the project schedule is required whenever a coordination plan includes a project schedule. The

plan may set timeframes for input by those persons, organizations, and agencies.

The schedule should include decision-making deadlines for each agency approval, such as permits, licenses, and other final decisions, consistent with statutory and regulatory requirements, in order to encompass the full environmental review process. Section 6002 of SAFETEA LU allows the lead agencies to decide how detailed the schedule should be, and whether to use specific dates or durations. In deciding the level of detail of the schedule, the lead agencies should keep in mind the objective of expediting the process by communicating expectations and forcing discipline on themselves and others.

The initial coordination plan may be changed by the lead agencies as additional participating agencies are identified or the complexity of issues becomes clearer during initial scoping. The coordination plan must be shared with the public and with participating agencies at initial scoping so that they know what to expect and so that any disputes are surfaced as early as possible.

The lead agencies may modify the schedule during development of the environmental documentation. The lead agencies may lengthen the schedule for good cause, and the good cause for the change should be documented in the administrative record. For example, the initial schedule may not take into account the sensitivity of affected resources, the level of public controversy, and other complexities that become clear as the environmental review process progresses. The schedule may be shortened only with the concurrence of the affected cooperating agencies, and evidence of these concurrences should be included in the administrative record. Only the affected cooperating agencies, not all of the participating agencies, must concur in the shortened schedule, but consultation with the other participating agencies on the shortened schedule should be considered. The modified schedule must be shared with the public and other participants.

### 13.3 Comment Deadlines

A federal requirement (SAFETEA-LU) mandates that the DEIS comment period not exceed 60 days, unless a different comment period is established by agreement of the lead agencies and all participating agencies. The DEIS comment period begins on the date that EPA publishes the notice of availability of the DEIS in the *Federal Register*.

For any other point within the environmental review process at which the lead agencies seek comment by the public or participating agencies, the lead agencies shall establish a deadline for comment of not more than 30 days, unless a different comment period is established by agreement of the lead agencies, the project sponsor, and all participating agencies. At these points, although the 30-day maximum period applies, a shorter period commensurate with the volume and complexity of the materials to be reviewed may be appropriate. The comment period is measured, in these cases, from the date of availability of the materials on which comment is requested. All comment periods should be specified in the coordination plan and the lead agencies must provide participating agencies and the public with notice of comment periods.

In both cases, the lead agency has the authority to extend the deadlines for good cause.

### 13.4 Distribution

The Plan must be shared with the Federal, State, and local agencies, local units of government, and Indian Tribes who have expressed interest in the proposed project. Copies of the draft Coordination Plan may also be sent to interested parties for review and comment. A copy of the completed Coordination Plan should be shared with the public. The Plan must be updated as necessary to reflect significant changes to information contained in the Plan.

## **LIST OF EXHIBITS**

### [Exhibit 13.1](#)

Coordination Plan for Agency and Public Involvement

## **FDM 21-10-15 Scoping Process**

February 10, 2006

Scoping is an early and open process of communication required by the Council on Environmental Quality (CEQ) and the Federal Highway Administration (FHWA) regulations. The purpose of scoping is to identify significant issues and the range of alternatives to be addressed during environmental analyses very early in the process. Scoping is required for all actions for which a decision to prepare an Environmental Impact Statement (EIS), has been made and is encouraged for Environmental Assessments (EA). While not required for Environmental Reports (ER), scoping and the public involvement process provide a good means of meeting the documentation and concurrence requirements of ER actions. Because scoping is a good source of early information and is a useful coordination tool, it is recommended for all action types.

Scoping is accomplished largely through meetings, field interviews, telephone conversations, community outreach and written communication. The innovative approach to scoping in the regulations is that the process

is open to the public and state and local governments, as well as to affected federal agencies. This open process gives rise to important new opportunities for better and more efficient National Environmental Policy Act (NEPA) analyses, and simultaneously places new responsibilities on public and agency participants alike to express their concerns early. Scoping helps ensure that real problems are identified early and properly studied; that issues that are of no concern do not consume time and effort; that the draft EIS is balanced and thorough; and that the delays occasioned by redoing an inadequate draft EIS are avoided. Scoping does not create problems that did not already exist; it ensures that problems that would have been raised anyway are identified early in the process.

During the scoping process, related environmental requirements, such as Section 404 permits, Section 10, Section 4(f) evaluations, Section 6(f) determinations, noise study reports, Section 106 Documentation for Consultation, and Section 7 Endangered Species Consultation requirements shall be identified so that required analyses and studies can be undertaken concurrently and integrated into the environmental document. Environmental justice concerns may also be identified during this process.

It is important to identify potential stakeholders when determining whom to invite to a scoping meeting. Examples of potential stakeholders include but are not limited to:

- Federal, state, and local agencies,
- Other local interest groups,
- Minority and low-income populations

Invite these groups to the scoping meeting when applicable. Notification by personal letter helps to assure maximum participation.

**Native American Notification**

The tribal chairperson and the historic preservation person for the Native American tribes should be contacted regarding WisDOT administered projects. A letter notifying the tribes of a project administered by WisDOT should be sent as part of the scoping process. The letter format can be obtained from the Bureau of Equity & Environmental Services or the region’s Environmental Coordinator. Updated names of the tribal chair and the historic preservation office and the addresses of the Native American Tribes may be found on the internet. Go to (<http://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrces/environment/Resources0122-5068.aspx>) and click on “Lists: Native American Tribal Addresses.”

**FDM 21-10-20 Review and Approval Process**

June 15, 2001

**20.1 Review Agencies**

For all transportation facilities development projects involving federal funding or federal aid assistance, the appropriate federal agency will be a joint lead and approving agency. All cooperating agencies, such as the Wisconsin Department of Natural Resources or the Department of Administration, shall also review and comment on the document.

Public officials, private interest groups, and members of the public, including minority populations and low-income populations that are potentially affected by or expressing an interest in the proposed action shall be given the opportunity to review Environmental Impact Statements (EIS's) and Environmental Assessments (EA's). Environmental Reports (ER's) are also available for public examination (refer to [FDM 21-10-25](#)).

The appropriate regional clearinghouse will act as a local review agency, pursuant to the President's Executive Order 12372. The Governor's Executive Order 29 appointed the Department of Administration as the agency responsible for coordinating the requirements under Executive Order 12372. A list of state clearinghouses and the counties they serve is found in [FDM 5-1-5](#).

Those agencies which have jurisdiction over an area, or which have a responsibility to a particular interest or area of concern, may be considered a review agency. Those agencies include, but are not limited to, the following:

State Agencies	Federal Agencies
Department of Natural Resources	U.S. Department of Agriculture, Natural Resources Conservation Service
Department of Agriculture, Trade & Consumer Protection	U.S. Forest Service
Department of Workforce Development	U.S. Department of Housing and Urban Development
Department of Administration	U. S. Environmental Protection Agency
WisDOT Bureau of Aeronautics	U. S. Army Corps of Engineers
State Historical Society, State Historic Preservation Officer	

	U. S. Department of the Interior, Office of Environmental Project Review U. S. Fish & Wildlife Service National Park Service
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## 20.2 Approval and Timing

The timing of the review process will vary with the complexity of the project, the controversy associated with the impacts, and the number of reviewers. Regions are encouraged to submit a preliminary draft of the environmental document to the Bureau of Environment for early review (by BOE and FHWA) to avoid subsequent delays and to avoid changes in methods, format and content. Based on comments obtained from the preliminary review, the Region will complete the draft document and submit it to BOE for final review and approval and for circulation to cooperating and affected agencies for concurrent review. Prior to transmittal, contact BOE for the appropriate number of review copies needed. Usually, BOE requires three copies of an ER, but the number of copies of an EIS or an EA will vary depending on the interest and demand (see [FDM 21-10-45](#)).

### FDM 21-10-25 Availability of Document and Provisions for Comment

June 15, 2001

#### 25.1 Notice of Availability of Document and Notice of Public Hearing

Following review and approval of federally funded draft and final EIS's a Notice of Availability is published in the Federal Register. The Notice of Availability shall also be published in appropriate local newspapers. Distribution to identified community outreach organizations such as religious organizations, schools, public libraries, neighborhood houses, minority business associations etc. (see [FDM 21-15-1](#)) is highly recommended for both EIS's and EA's. The Bureau of Environment (BOE) is compiling a list of such organizations on a county-by-county basis. The Notice of Availability in the local newspapers and other appropriate media shall advise the public where the document is available for review, how copies may be obtained, and to whom comments should be sent. The full participation of all publics, including minority populations and low-income population should be encouraged to avoid any perception of discrimination in the decision-making process.

The comments received will be given consideration and appropriate responses will be prepared for inclusion in the final document. The final document is then submitted to the BOE and the FHWA, if federal, for final approval.

The public Notice of Availability shall establish a period for the return of comments of not less than 45 days for a DEIS or 30 days for an EA. When a public hearing is required, both a Draft EIS (DEIS) and an EA must be made available to the public a minimum of 15 days before the hearing and a minimum of 15 days after the hearing.

In addition to a Notice of Availability, a Notice of Public Hearing is published, when appropriate (see [FDM 6-10-10](#)).

Regardless of whether a public hearing is conducted, the Notice of Availability of an environmental document must be published in the area newspaper. It should also be distributed to as many community outreach organizations as possible, announcing the availability of a DEIS, a Final EIS (FEIS), an EA, or a Supplemental EIS. [Attachment 25.1](#) contains an example of a Notice of Availability and Public Hearing.

In accordance with TRANS 400.11 (6) a Notice of Availability is not required for a Finding Of No Significant Impact (FONSI). Neither a Notice of Availability nor a public hearing are required for Environmental Reports.

#### 25.2 Public Hearing

A public hearing is required for a DEIS. The requirements for a public hearing on an EA may be satisfied by either conducting the hearing or publishing two notices of opportunity for a public hearing and holding one if substantial requests are received. The deadline for submitting a request may not be less than 21 days after publication of the first notice of opportunity and not less than 14 days after publication of the second notice of opportunity for a hearing.

Refer to [FDM 6-10-1](#) through [FDM 6-10-20](#) for a discussion of state requirements for public hearings.

##### 25.2.1 Public Comment Period

The public shall be provided a period of not less than 45 days in which to submit oral or written comments on the DEIS (or 30 days for an EA). The public will be informed in writing on the cover of the DEIS and by announcement at the hearing as to whom to send their comments and the deadline for submission of the comments.

Draft and Final EISs and EAs shall be made available for public inspection at the initiating WisDOT Region office and BOE. When appropriate, EISs and EAs shall be made available for public inspection at the FHWA office in Madison. They may also be made available at public or community center locations. The Categorical Exclusions and FONSI's are public documents that may be inspected at the BOE office in Madison and at the appropriate Region Office.

## **LIST OF ATTACHMENTS**

[Attachment 25.1](#) Notice of Availability

### **FDM 21-10-30 Record of Decision**

June 15, 2001

The Record of Decision (ROD) is the final approval needed before an action analyzed in an Environmental Impact Statement (EIS) may be implemented.

#### **30.1 ROD for State Funded Projects**

The Department of Transportation shall complete and sign a ROD no sooner than 30 days after the date of the publication of the Notice of Availability of the Final Environmental Impact Statement (FEIS).

The Region shall prepare a draft of the ROD and transmit it to the Bureau of Environment (BOE) at the same time as it publishes the Notice of Availability of the FEIS. BOE shall review the ROD and upon completion of the public availability period of the FEIS, shall render its recommendation for approval to the Administration of the Department. The Draft ROD shall contain the following information:

1. A statement of the decision.
2. Identification of all alternatives considered by the department in reaching its decision, specifying which one is considered environmentally preferable.
3. A statement on the intent of Title VI of the Civil Rights Act and of EO 12898 (i.e., *"Federal law prohibits discrimination on the basis of race, color, age, sex, or country of national origin in the implementation of this action. It is also Federal and State policy that no group of people bears the negative consequences of this action in a disproportionately high and adverse manner without adequate mitigation"*), and the conclusions of the environmental justice analysis.
4. A statement indicating that all practicable means to avoid or mitigate environmental harm have been adopted, and if not so adopted, a statement specifying the reasons for not adopting such means.

If the Department of Transportation subsequently wishes to take an action which was not identified as the proposed action in the FEIS, or proposes to make substantial changes to the mitigation measures or findings discussed in the ROD, a revised ROD shall be processed.

##### **30.1.1 Record of Decision for Federal-aid Projects**

No federal-aid project shall proceed until the following actions have been completed.

1. The FHWA Division Administrator has received and accepted the public hearing transcripts and certifications required by 23 USC 128. (Applies to all environmental documents for which a hearing has been held.)
2. Either the action has been classified as a Categorical Exclusion, a Finding of No Significant Impact (FONSI) has been adopted, or a final Environmental Impact Statement (FEIS) has been published and made available for the prescribed length of time and a Record of Decision for an EIS action has been signed by an FHWA official.

#### **30.2 Timing**

No formal decision on a proposed federal action requiring an EIS shall be made or recorded by a federal agency until the later of the following dates:

1. Ninety (90) days after publication of the Notice of Availability of a draft EIS (described in [FDM 21-10-25](#))
2. Thirty (30) days after publication of the Notice of Availability of an FEIS described in the preceding procedure.

#### **30.3 Record of Decision**

A Record of Decision is prepared by FHWA in conjunction with WisDOT on federally funded projects. The ROD should document any requirements, such as Section 4(f) and Section 106 approvals. The ROD is the final

approval necessary before the proposed action can begin. However, administrative actions taken to secure further project funding and other actions can be initiated before the ROD is signed.

In cases where an EIS has been prepared, the ROD must identify all alternatives that were considered, ". . . specifying the alternative or alternatives which were considered to be environmentally preferable." The environmentally preferable alternative is the alternative that will promote the national environmental policy as expressed in the National Environmental Policy Act (NEPA), Section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources.

If the FHWA subsequently wishes to take an action which was not identified as the proposed action in the FEIS, or proposes to make substantial changes to the mitigation measures or findings discussed in the ROD, a revised ROD shall be processed.

### **30.4 Mitigation and Monitoring**

Federal agencies may provide for monitoring to assure that their decisions are carried out. Mitigation and other conditions established in the environmental document or during its review, and committed as part of the decision, will be implemented by the lead agency or other appropriate consenting agency. The lead agency will:

1. Include appropriate conditions, grants, permits, or other approvals;
2. Condition funding of actions on mitigation;
3. Inform cooperating or commenting agencies about the implementation of those mitigation measures they proposed and which were adopted by the agency making the decision; and,
4. Make the results of monitoring available to the public.

## **FDM 21-10-35 Validity and reevaluation of Old Documents**

*June 15, 2001*

### **35.1 Draft Environmental Impact Statement Reevaluation- State or Federal**

A Draft Environmental Impact Statement (DEIS) is considered valid for three years [23 CFR 771.129 and TRANS 400.14 (1)(a)]. If an acceptable Final Environmental Impact Statement (FEIS) is not submitted to the approving official within three years from the date that the draft was circulated, a written evaluation of the draft shall be prepared by the Region, in cooperation with the Bureau of Environment (BOE), and FHWA if the project will use federal funds, prior to submission of the FEIS. This evaluation must demonstrate that there have not been significant changes in the proposed action; the alternatives considered; the affected environment, including the human environment; the anticipated impacts; or the proposed mitigation measures. If there have been changes in these factors which would be considered significant, a supplement to the draft EIS or a new draft EIS shall be prepared and circulated. Refer to [FDM 21-10-40](#) for a discussion of Supplemental EIS's.

### **35.2 Final Environmental Impact Statement Reevaluation- State**

For projects that use only state funds, the Region or their consultant shall prepare a reevaluation of an FEIS whenever there have been significant changes in the proposed action; the affected environment (including the human environment) the anticipated environmental impacts; or the proposed mitigation measures. This reevaluation shall be done in consultation with BOE. If the reevaluation confirms any such significant changes, a supplemental state funded FEIS shall be prepared.

The supplemental FEIS shall be prepared and processed in the same manner as a FEIS. Preparation of the supplemental FEIS shall not require withdrawal of previous approvals for those aspects of the proposed action not directly affected by the changed condition or information.

An Environmental Assessment (EA) may be used to assess the need to prepare a supplemental FEIS whenever it is uncertain that significant changes in the proposed action, the affected environment, the anticipated environmental impacts or proposed mitigation measures will result in significant environmental impacts which could be identified from preparing a reevaluation of the FEIS. The EA shall be prepared and processed in accordance with the requirements of [FDM 21-15-5](#) and [FDM 21-15-10](#). Preparation of the EA shall not require withdrawal of previous approvals for those aspects of the proposed action not directly affected by the changed condition or new information.

### **35.3 Final Environmental Impact Statement Reevaluation- Federal**

FEISs three or more years old shall be re-evaluated by the FHWA, in conjunction with BOE and the Region, before proceeding with approvals or authorizations. This should be done before approval of the relocation plan, and again prior to approval of the Plans, Specifications, and Estimates (PS&E) to determine whether there have been substantial changes in the project or the environmental conditions.

If major steps to advance the action have not occurred within five years from the date the FEIS or FEIS supplement was approved, or within the timeframe specified in the FEIS, a written re-evaluation will be prepared and forwarded for review and action to the same offices that approved the original FEIS.

The following questions should be addressed during a re-evaluation of an old federal document:

1. Are there any changes in the proposed project from the action as proposed in the EIS?
2. Are there any changes in the existing setting in the vicinity of the project from that described in the EIS (for example, has previously undeveloped land become developed and to what extent)?
3. If there are changes, are these changes likely to result in different social, economic, and environmental effects from those described in the EIS?
4. Have there been any changes in legislation since the EIS was prepared that will have an effect on the proposed project?
5. Have there been any changes in federal or State policies, procedures, or regulations that warrant updating the EIS (for example, was EO12898 on Environmental Justice issued within the timeframe for the reevaluation of the FEIS)?
6. Has the mitigation specified in the EIS been changed?

Note that new legislation, policies, procedures, or regulations would not necessarily require a new EIS for a particular project, but should be an important part of a re-evaluation of the EIS or, in special cases, a supplemental EIS.

If any changes are made to the proposed action and if it is uncertain if a reevaluation of the EIS or a supplemental EIS is required, appropriate environmental studies may be necessary. If necessary, an Environmental Assessment (EA) can be used as a reevaluation tool to assess whether the impacts of such changes, are significant.

If it is determined that the changes result in significant environmental impacts which could not be identified from reviewing the initial EIS, a supplemental EIS will be prepared. (Refer to [FDM 21-10-40](#).) If no supplemental EIS is required after the studies or the EA has been completed, the findings will be indicated in the project file. Close coordination between BOE, FHWA, and the Region is essential in expediting this determination.

### **35.4 Reevaluation of an EA or Finding Of No Significant Impact (FONSI)**

Reevaluation requirements shall apply to EA's that have not been approved or which have not progressed to the EIS or FONSI stage. Reevaluation requirements shall also apply to FONSI's for which major activities have not commenced. It is recommended, but not required, that the Region re-evaluate an ER project before approval is sought for major actions.

See [Attachment 35.1](#) for an example of the format to be used for a re-evaluation.

### **LIST OF ATTACHMENTS**

[Attachment 35.1](#) Example Format for Re-Evaluation of Old Documents

### **FDM 21-10-40 Supplemental Environmental Impact Statement**

*June 15, 2001*

Wisconsin Administrative Rule TRANS 400.14 and FHWA regulation 23 CFR 771.130 require preparation of a supplemental Environmental Impact Statement (EIS) if a substantial change in a proposed action that is relevant to environmental concerns has occurred, or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. However, a supplemental EIS will not be necessary if the project is an alternative adequately covered in the Final EIS (FEIS), but not identified as the proposed action. The decision to prepare a supplement to the FEIS shall not require withdrawal of the previous approvals for those aspects of the proposed action not directly affected by the changed condition or new information. A supplemental EIS shall be prepared for either a draft or a final EIS if at any time:

1. There are substantial changes in the proposed action that are relevant to environmental concerns.
2. There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

The supplement shall be developed using the same process and format, (that is, draft EIS, final EIS, and ROD) as an original EIS with the exception that scoping is not required. A new or amended Record of Decision will also be prepared. Refer to [FDM 21-15-1](#) for the content and format of an EIS and [FDM 21-10-35](#) for a discussion on re-evaluation of old documents. A supplemental EIS shall not be necessary where:

1. The changes to the proposed action, new information, or new circumstances result in a lessening of adverse environmental impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS.
2. The decision is made to approve an alternative fully evaluated in an approved EIS but not identified as the preferred alternative. In such a case, a revised Record of Decision (ROD) shall be prepared in accordance with [FDM 21-10-30](#).

## **FDM 21-10-45 Transmittal and Circulation of Environmental Documents**

*June 15, 2001*

### **45.1 Transmittal**

When the DEIS or FEIS has been printed, the Region or their consultant shall send the BOE and FHWA the number of copies indicated in [Table 45.1](#). The Region or their consultant shall circulate the document to the agencies and individuals in the quantities indicated in [Attachment 45.1](#). When sending copies to the FHWA Wisconsin Division office, a cover letter should accompany the documents and a courtesy copy of the letter sent to BOE. FHWA will distribute copies of the DEIS and FEIS within their own organization and to the Washington Office of the EPA.

#### **45.1.1 Address Information**

Updated addresses for state and federal agencies and interested parties receiving copies of the DEIS and/or FEIS can be obtained from the BOE page on the dotnet. From here click on "Lists." Consultants should request a copy of this information from the Region.

If the need arises, BOE may also be consulted for the addresses of the federal and state agencies and legislators receiving the EIS.

**Table 45.1 DEIS and FEIS List**

Type of Document	Approval Needed	Number Copies Needed*	Special Instructions
pER	Region	Region*	Region approves and sends approved copies to Region Files and Central Office Files
ER	Region FHWA	Region* 2 for federal project	2 copies of Region approved ER sent directly to FHWA for concurrence. FHWA returns 1 copy to Region. Region sends copies to Region Files and Central Office Files
EA	Region BOE FHWA	Region* 3 **  ** Send 4 copies of Dane County Projects	Region approved copies sent to BOE. BOE retains one copy and sends approved copies to FHWA. FHWA retains one fully approved copy and sends remaining two fully approved copies to BOE. BOE retains one fully approved copy for Design/Central Office Files and sends remaining copy to originating Region.
FONSI	Region BOE FHWA	Region* 3 **  ** Send 4 copies of Dane County Projects	Region approved copies sent to BOE. BOE retains one copy and sends approved copies to FHWA. FHWA retains one fully approved copy and sends remaining two copies to BOE. BOE retains one fully approved copy for Design/Central Office Files and sends remaining copy to originating Region.
Preliminary Draft EIS	Region BOE FHWA	Region* 2 for state project 4 for federal project	BOE will send review copies to the FHWA.
Camera Ready Draft EIS with 2 Unsigned Cover Pages	Region BOE FHWA	Region* 2 for state or federal project	BOE will send one camera ready DEIS to FHWA and both coversheets after signing them
Printed Draft EIS	<i>DEIS already approved and signed</i>	Region* 6 to BOE 17 to FHWA	Region shall transmit copies directly to BOE and FHWA. BOE and FHWA will circulate copies to their internal mailing list.
Preliminary Final EIS	Region BOE FHWA	Region* 2 for state project 4 for federal project	BOE will send copies to FHWA
Camera Ready Final EIS with 2 Unsigned Cover Pages	Region BOE FHWA	Region * 1 for state project 8-10 *** for federal project  *** additional copies needed if signature authority is retained in FHWA Washington D.C. Headquarters	BOE will retain one copy and send remaining copies to FHWA.
Printed Final EIS	<i>FEIS already approved and signed</i>	Region* 6**** to BOE 8 to FHWA  **** Send 7 copies of Dane County Projects	Region shall transmit copies directly to BOE and FHWA. BOE and FHWA will circulate copies to their internal mailing list

\* Each Region shall establish the number of copies needed for their review of each type document. Projects using only state funds do not require environmental documents to be sent to FHWA.

**LIST OF ATTACHMENTS**

[Attachment 45.1](#) EIS Distribution List