

**POLICIES AND PROCEDURES  
FOR ENVIRONMENTAL  
REVIEW OF NET RMA PROJECTS**

**TABLE OF CONTENTS**

SECTION		PAGE
1.	Purpose	1
2.	Definitions	1
3.	Review of Non-NEPA Authority Projects	2
4.	Public Involvement Process and Procedures	2
5.	Categorical Exclusions	6
6.	Environmental Assessments	8
7.	Environmental Impact Statements	9

# **POLICIES AND PROCEDURES FOR ENVIRONMENTAL REVIEW OF NET RMA PROJECTS**

## **SECTION 1. PURPOSE.**

These procedures are adopted pursuant to Transportation Code §370.188 and are applicable only to transportation projects that are not otherwise subject to review under (1) the National Environmental Policy Act (NEPA) (42 U.S.C. Section 4321, *et seq.*); or (2) environmental review and approval conducted by the Texas Department of Transportation (“TxDOT”) or the Texas Transportation Commission (the “Commission”). The policies and procedures are intended to be consistent with the spirit and intent of NEPA.

## **SECTION 2. DEFINITIONS.**

The following words and terms, when used in these policies, shall have the following meanings, unless the context clearly indicates otherwise.

1. **Authority:** The North East Texas Regional Mobility Authority.
2. **Authority Project:** For purposes of these policies and procedures, authority projects which are not subject to review under NEPA or the procedures for environmental review and approval adopted and administered by TxDOT or the Commission.
3. **Board:** The board of directors of the authority.
4. **Environmental Document:** A decision making document which incorporates environmental studies, coordination, and consultation efforts, and engineering elements. Documents may include categorical exclusion assessments, environmental assessments, and environmental impact statements.
5. **Environmental Studies:** The investigation of potential environmental impacts of an authority project.
6. **Public Hearing:** A hearing held after public notice is provided to solicit public input in determining a preferred alternative for an authority project. All testimony given at a public hearing will be made part of the public hearing record.
7. **Public Involvement:** An ongoing phase of the project planning process which encourages and solicits public input, and provides the public the opportunity to become fully informed regarding development of an authority project.

8. Public Meeting: Informal discussions intended to assist in the preparation of environmental documents. These may be held with local public officials, interested citizens or the general public, and local, neighborhood, or special interest groups for the purpose of exchanging ideas, and collecting input on the need for, and possible alternatives to, a given authority project. Notice of a public meeting will depend upon anticipated audience attendance.
9. Significantly: This term shall have the same meaning as is used, and has been interpreted, under 42 U.S.C. § 4332 of NEPA.

### SECTION 3. REVIEW OF NON-NEPA AUTHORITY PROJECTS

Environmental studies for authority projects which are not subject to review under NEPA or are not subject to review and approval through processes administered by TxDOT or the Commission will be accomplished in accordance with these policies and procedures and other applicable state and federal laws including, but not limited to, the Endangered Species Act of 1973, as amended, 16 USC §§ 1531 *et seq.*; the Rivers and Harbors Act of 1899, as amended, 42 USC §§ 401 *et seq.*; the Federal Water Pollution Act, as amended, 33 USC § 1251 *et seq.*, 33 CFR Parts 114 through 115; the Safe Drinking Water Act, as amended, 42 USC § 300f *et seq.*; Texas Transportation Code, Chapter 370. In addition, the authority will coordinate with the Texas Commission on Environmental Quality and the Texas Parks and Wildlife Department in conducting environmental studies under these policies and procedures.

These policies and procedures are intended to establish the minimum guidelines to be followed for environmental review of the authority projects to which they apply. In addition, the authority anticipates utilizing forms of public involvement when feasible, including, without limitation, processes implementing context sensitive design and other processes intended to encourage public involvement.

### SECTION 4. PUBLIC INVOLVEMENT PROCESS AND PROCEDURES

Public involvement shall be encouraged as an important element of authority project planning. It shall be initiated by the authority staff and will depend on, and be consistent with, the type and complexity of each authority project. Authority staff shall use its best efforts to maintain a list of individuals and groups interested in authority project development, and shall provide notification of public hearing activities to these individuals and groups. Public involvement shall include:

#### A. INFORMAL MEETINGS

Informal meetings, as one form of public involvement, will be held with affected property owners, residents, any known neighborhood associations within the area of the authority project and which have notified the authority in writing of their interest in the project, and affected local governments and public officials, when such projects require:

1. detours and/or a minimal amount of right-of-way acquisition, or use of temporary construction easements; and
2. a minor location or design revision after an environmental document for an authority project has been approved and public involvement requirements have previously been completed, provided that if a location or design revision is deemed by the authority to be significant an additional opportunity for a public hearing will be provided.

Notice of informal meetings, and the time and location of such meetings, will depend upon the nature of the authority project and the number of individuals or entities directly affected by the project.

B. PUBLIC MEETINGS

Public meetings, as a form of public involvement, will be held:

1. at any time during project planning and development that the board directs in order to keep the public informed;
2. during the drafting of the draft environmental impact statement, as discussed in Section 8 below;
3. as early as the authority staff determines feasible to encourage beneficial public input to project planning and consideration of project alternatives;
4. at a time and place convenient to the public in the vicinity of the authority project; and
5. pursuant to notice provided by such means as the authority deems appropriate given the scope and magnitude of the project, provided that at a minimum the notice shall be posted on the authority's website. Mailed notice (or email notice in lieu of mailing) shall also be provided to persons or organizations included on any lists of interested parties maintained by the authority for the project, any known neighborhood associations within the area of the authority project and which have notified the authority in writing of their interest in the project, and affected local governments and public officials.

C. PUBLIC HEARINGS

1. Permissive Public Hearings.
  - (a) An opportunity for public hearings shall be afforded for authority projects which require or result in:
    - (i) the acquisition of significant amounts of rights-of-way;

- (ii) a substantial change in the layout or function of the connecting roadways or of the facility being improved;
  - (iii) a measurable adverse impact on abutting real property;
  - (iv) there is otherwise a substantial social, economic, or environmental effect which may result from the authority project; or
  - (v) a finding of no significant impact (FONSI), as discussed in Section 7 below, with such hearing to be afforded at such time as the environmental assessment is considered technically complete and is initially approved by the Board to proceed with public involvement.
- (b) The following procedures will be followed for providing notice of an opportunity for a public hearing:
- (i) Two notices of the opportunity for public hearing shall be published in local newspaper(s) having general circulation. The first notice shall be published approximately 30 days in advance of the deadline set by the authority for submittal of written requests for holding of public hearings; and the second notice shall be published approximately 10 days prior to the deadline date. In the event an authority project is expected to directly affect an area that is predominantly Spanish-speaking, the notices required herein shall be published in a Spanish language newspaper of general circulation in the area of the project, if available.
  - (ii) Notices of the opportunity for public hearing shall also be mailed to landowners abutting the roadway as identified by tax rolls, known neighborhood associations whose boundaries encompass all or part of the authority project and which have notified the authority, in writing, of their interest in the project, and to affected local governments and public officials.

No further action will be taken to hold a public hearing if at the end of the time set for affording an opportunity for a public hearing no requests are received.

## 2. Mandatory Public Hearings.

- (a) For projects with substantial public interest, such as authority projects requiring an environmental impact statement or high profile FONSI authority projects, or when a request for hearing is received as discussed in the preceding paragraph, or when the authority project requires the taking of public land designated as a park, recreation areas, wildlife

refuge, historic site, or scientific area (as covered in the Parks and Wildlife Code, § 26.001 *et seq.*), a public hearing will be held to receive suggestions as to project alternatives; to present project alternatives already considered; and to solicit public comment, and shall be held at such time as location and design studies have been developed and when the public can be given a feasible proposal with appropriate environmental studies. The hearing notice for a public hearing under this provision shall at a minimum contain the following information:

- (i) time, date, and location of the hearing;
  - (ii) description of the project termini, improvements, and right-of-way needs;
  - (iii) reference to maps, drawings, and environmental studies and/or documents, and other information about the project, that are available for public inspection at a designated location;
  - (iv) reference to the potential for relocation of residences and businesses and the availability of relocation assistance for displacements;
  - (v) a statement that verbal and written comments may be presented for a period of 10 days after the hearing;
  - (vi) the address where written comments may be submitted; and
  - (vii) the existence of any floodplain, wetland encroachment, taking of endangered species habitat; or encroachment on a sole source aquifer recharge zone by an authority project.
- (b) Except for authority projects requiring the taking of public land designated as a park, recreation area, wildlife refuge, historic site, or scientific area, notice of the public hearing must be given by the publication of two notices in local newspapers having general circulation, with the first notice published approximately 30 days before the hearing, and the second notice published approximately 10 days before the hearing. In the event an authority project is expected to directly affect an area that is predominantly Spanish-speaking, the notices required herein shall be published in a Spanish language newspaper of general circulation in the area of the project, if available. Notices of the public hearing shall also be mailed to landowners abutting the roadway as identified by tax rolls, known neighborhood associations whose boundaries encompass all or part of the authority project and which have notified the authority, in writing, of their interest in the project, and affected local governments and public officials. For authority projects requiring the taking of public land

designated as a park, recreation area, wildlife refuge, historic site, or scientific area, notice of the public hearing shall be given in accordance with Texas Parks and Wildlife Code § 26.002.

3. Public Hearing Record. The public shall have 10 days after the close of a public hearing to submit written comments to the authority office regarding a proposed authority project. Public hearings shall be considered complete at the time and date designated by the authority staff after receipt of a verbatim transcript of the public hearing. As another method of public involvement, there shall be published in a local newspaper of general circulation the notice of the availability of the environmental assessment in order to inform the public of its availability and advising where to obtain information concerning the authority project, and that any written comments should be furnished within a 30-day period of the date of the notice in order to be included within the public hearing record.

#### SECTION 5. CATEGORICAL EXCLUSIONS (CE).

- A. An authority project will be classified as a categorical exclusion (CE) if it does not:
  1. involve significant environmental impacts;
  2. induce significant impacts to planned growth or land use of the authority project area;
  3. require the relocation of significant numbers of people;
  4. have a significant impact on any natural, cultural, recreational, historic, or other resource;
  5. involve significant air, noise, or water quality impacts;
  6. significantly impact travel patterns; or
  7. either individually or cumulatively, have any significant environmental impacts.
- B. The following actions are examples of authority projects which meet the criteria of a CE as found in paragraph A. of this subsection and will not in most cases require further environmental review or approval by the authority:
  1. those which do not involve or lead directly to construction, such as planning and technical studies, grants or training and research programs, engineering feasibility studies that either define the elements of a proposed project or identify alternatives so that social, economic, and environmental effects can be assessed for potential impact;
  2. approval of utility installations along or across an authority project;

3. construction of bicycle and pedestrian lanes, paths, and facilities;
  4. landscaping;
  5. installation of fencing, signs, pavement markings, small passenger shelters, and traffic signals, when no substantial land acquisition or traffic disruption will occur;
  6. emergency repairs as defined in 23 USC § 125;
  7. acquisition of scenic easement; and
  8. alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
- C. For any authority project not of a type described in paragraph B, the authority may conduct appropriate environmental studies to determine if the CE classification is proper. Any other actions meeting the criteria for a CE as found in paragraph A. of this subsection will require board review and approval.
1. Board approval will be based on staff submitting a brief environmental overview which demonstrates that the specific conditions or criteria for classification of a CE as found in paragraph A. of this Section is satisfied and that significant environmental impacts will not result, including the results of any coordination effected with resource agencies.
  2. Examples may include, but are not limited to, the following:
    - (a) modernization of a roadway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes such as parking, weaving, turning, climbing, and correcting substandard curves and intersections with only minor amounts of additional right-of-way required;
    - (b) highway safety or traffic operation improvement projects including the installation of ramp metering control devices and lighting;
    - (c) bridge rehabilitation, reconstruction, or replacement, or the construction of grade separation to replace existing at-grade railroad crossings;
    - (d) transportation corridor fringe parking facilities;
    - (e) approvals for changes in access control; and



- (f) approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.

D. The authority may classify other authority projects as a CE if, from the documentation required to be submitted, a determination is made that the project meets the CE classification. Classification as a CE means that no further environmental review is required. Board approval is required for any CE classification under this provision.

## SECTION 6. ENVIRONMENTAL ASSESSMENTS (EA).

- A. Preparation. For authority projects for which the extent of impacts is not readily discerned, an EA will be prepared to determine the nature and extent of environmental impacts, with either a finding of no significant impact anticipated or a finding that an environmental impact statement is required. An EA is not required for any project which is the subject of an Environmental Impact Statement.
- B. Coordination and consultation. For authority projects that require an EA, the interested agencies, local political subdivisions and others to achieve the following objectives:
  - 1. definition of the scope of the project;
  - 2. identification of any alternatives to the proposed actions including different modes of transportation;
  - 3. determination as to which aspects of the proposed actions have potential for environmental impact;
  - 4. identification of measures and alternatives which might mitigate adverse environmental impacts; and
  - 5. identification of other environmental review and consultation requirements which should be prepared concurrently.
- C. Notice. As required in Section 4.C., the notice of the public hearing or of opportunity for a public hearing will announce the availability of the EA and where it may be obtained or reviewed.
- D. Revised determination. If, at any point in the EA process, the authority staff determines that the project may have a significant impact on the environment, the preparation of an Environmental Impact Statement (EIS) as discussed in Section 7 of these policies will be required.
- E. Finding of no significant impact. The board, after its review of the EA, proposed mitigation measures, and any public hearing statement or comments received regarding the EA, and if in agreement with the staff recommendations, will make a separate written

finding of no significant impact (FONSI), incorporating the EA and any other appropriate environmental documents and agency consultations and coordinations. The FONSI completes the environmental studies and public involvement process for an authority project.

- F. Notification of FONSI. After issuance of the FONSI, a notice of the availability of the FONSI shall be published by the authority. Notification will also be given to the local media through a press release.

SECTION 7. ENVIRONMENTAL IMPACT STATEMENTS (EIS).

- A. Required. An EIS will be required for authority projects in which there are likely to be significant environmental impacts. The preparation of the EIS will occur in two stages:
1. the draft EIS (DEIS); and
  2. the final EIS (FEIS).
- B. Not required. If the analyses or review comments indicate that significant impacts to the human environment will not occur, an EIS should not be prepared.
- C. Notice of intent. Prior to the preparation of an EIS there shall be prepared a notice of intent (NOI) to prepare an EIS.
1. The NOI should:
    - (a) briefly detail the project;
    - (b) identify significant impacts on the human environment; and
    - (c) identify any preliminary alternatives under consideration by the authority.
  2. The NOI shall be sent to applicable agencies for their early review and comment. Any comments received will be used as the basis for the DEIS, as described in paragraph D of this Section.
  3. A summary of the NOI shall also be published in the *Texas Register*, on the authority's website, and in a local newspaper of general circulation.
- D. Draft environmental impact statement. The DEIS shall identify and evaluate all reasonable alternatives to the authority project; discuss the elimination of other alternatives, if applicable; summarize the studies, reviews, consultations, and coordination required by law to the extent appropriate; and designate a preferred alternative if appropriate.

1. When the staff determines that the DEIS complies with these and other requirements, the DEIS will be approved for circulation by signing and dating the cover sheet.
  2. The DEIS will be circulated for comment after a notice is published in the *Texas Register*, on the authority's website, and in a local newspaper of general circulation which describes a circulation and comment period of no less than 45 days, and identifies where comments are to be sent.
  3. The DEIS shall be transmitted to state and applicable federal agencies.
  4. The DEIS will be made available to interested public officials, interest groups, and members of the public at the request of any such group or individuals. Notice of availability of the DEIS will be mailed to affected local governments and public officials.
  5. A fee which is not more than the actual cost of reproduction of the DEIS and administrative costs of the reproduction may be charged for any written request received for a copy of the DEIS.
  6. The DEIS may also be reviewed at designated public locations.
  7. Either an opportunity for public hearing shall be afforded or a public hearing shall be held for a DEIS authority project.
  8. The DEIS will be made available at the authority for the general public at a minimum of 30 days in advance of the public hearing for authority projects.
- E. Final Environmental Impact Statement. After the DEIS is circulated and comments reviewed, a FEIS shall be prepared by the authority.
1. The FEIS shall:
    - (a) identify the preferred alternative and evaluate all reasonable alternatives considered;
    - (b) discuss substantive comments received on the DEIS and responses to those comments;
    - (c) summarize public involvement that has been afforded for the project;
    - (d) describe the mitigation measures that are to be incorporated into the authority project;

- (e) document compliance, to the extent possible, with all applicable environmental laws, or provide reasonable assurance that requirements can be met; and
  - (f) identify those issues and the consultations and all reasonable efforts made to resolve interagency disagreements.
- 2. The authority will indicate approval of the FEIS by signing and dating the cover page.
- 3. The initial printing of the FEIS shall be in sufficient quantities to meet the request for copies which can be reasonably expected from agencies, organizations, and individuals.
- 4. A fee which is not more than the actual cost of reproduction and administrative costs associated with the reproduction of the FEIS may be charged for purchase of the document.
- 5. Copies of the FEIS may also be placed in appropriate public locations, such as local governmental offices, libraries, or other public institutions.
- 6. Notice detailing the availability of the FEIS shall be published in the *Texas Register*, on the authority's website, and in a local newspaper of general circulation.
  - (a) The notice shall include information on obtaining copies.
  - (b) The public and interested organizations will have 30 days following publication of the notice in the *Texas Register* to submit comments.
- 7. Following the approval of the FEIS, it will be made available to agencies which made substantive comments on the DEIS; however, in the event the FEIS is voluminous, the authority may provide for alternative circulation such as notifying agencies of the availability of the FEIS, and by providing a method for these agencies to request a copy.
- 8. The authority will complete and sign a record of decision (ROD) no sooner than 30 days after publication of the availability of the FEIS notice in the *Texas Register*. Until any required ROD has been signed, no further approvals may be taken except for administrative activities taken to secure further project funding. The ROD will:
  - (a) present the basis for the decision and summarize any mitigation measures; and
  - (b) be published in the *Texas Register*.

- F. Re-evaluations. An evaluation to determine whether a supplement to the DEIS or a new DEIS is needed shall be prepared by the authority if an acceptable FEIS is not submitted within three years from the date of circulation of the DEIS. The re-evaluation will:
1. not be circulated for agency review, although resource agency coordination may be required;
  2. be required before further approvals may be granted if major steps to advance the action such as authority to undertake final design or acquire significant portions of right-of-way, or approval of the plans, specifications, and estimates have not occurred within three years after the approval of the FEIS, supplemental FEIS, or the last major departmental approval.
- G. Supplemental environmental impact statements. A DEIS or FEIS may be supplemented at any time.
1. An EIS will be supplemented whenever the authority determines that:
    - (a) changes to the project would result in significant environmental impacts that were not evaluated in the EIS; or
    - (b) new information or circumstances relevant to environmental concerns bearing on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.
  2. A supplemental EIS will not be necessary when:
    - (a) changes to the project, new information, or new circumstances result in a lessening of adverse impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS; or
    - (b) the authority decides to approve an alternative fully evaluated in the approved FEIS but not identified as the preferred alternative.
  3. When there is an uncertainty of the significance of new impacts, the authority will develop appropriate environmental studies, or if deemed appropriate, an EA to assess the impacts of the changes, new information, or new circumstances.
  4. If the authority determines, based on studies, that a supplemental EIS is not necessary, it shall so indicate in the project record.
  5. A supplemental EIS shall be developed using the same process and format as an original EIS, except that early coordination shall not be required.

6. A supplemental EIS may be required to address issues of limited scope, such as the extent of proposed mitigation, or the evaluation of location or design variations for a limited portion of an overall project. In this situation the preparation of the supplemental EIS shall not necessarily:
  - (a) prevent the granting of new approvals;
  - (b) require the withdrawal of previous approvals; or
  - (c) require the suspension of project activities for any activity not directly affected by the supplement.