

3. ENVIRONMENTAL REVIEW PROCESSES

3.1 Overview of Environmental Review Processes

Chapter 3 describes the processes implemented by South Dakota Department of Transportation (SDDOT) to effectively comply with Federal and State laws during the planning, construction, and operations and maintenance of transportation projects. The regulatory and legal authorities and requirements are rooted in National Environmental Policy Act (NEPA), providing the context for the environmental reviews and complying with Federal, State, and local laws. Federal Highway Administration (FHWA) adopted the policy of managing NEPA as an “umbrella,” under which all applicable environmental laws, executive orders, and regulations are considered and addressed before the final project decision and document approval.

The class of action determination, NEPA documentation, early coordination, public involvement, and Tribal coordination are a suite of actions required to proceed with a transportation project to ensure that it will be built in full compliance with the law and with an understanding of its impact on the environment.

3.2 Defining the Project

Before determining the class of action and type of environmental document required, the project subject to environmental review must

be sufficiently defined in terms of project limits and scope. In developing a project concept that can be advanced through the stages of



planning, environment, design, and construction. SDDOT’s project scope process is described in Chapter 2, Scope Process and Project Management, of the Road Design Manual.

Projects should satisfy an identified need (e.g., safety, condition, capacity, roadway deficiencies, transportation demand, system linkage, etc.) and should be considered in the context of the local area socioeconomic and topography, the future travel demand, and

The project scope process in Chapter 2 of the Road Design Manual is available at: <https://dot.sd.gov/doing-business/engineering-design-services/forms-manuals/road-design-manual/Chapter2-ScopeProcessAndProjectManagement>

other infrastructure improvements in the area. Without framing a project in this way, proposed improvements may miss the mark by only peripherally satisfying the need or by causing unexpected side effects that require additional corrective action.

FHWA regulations outline three general principles in 23 Code of Federal Regulations (CFR) 771.111(f) to frame a highway project (regardless of the NEPA Class of Action):

1. Connect logical termini and be of sufficient length to address environmental matters on a broad scope.
2. Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made.
3. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

Logical termini for project development are defined as (1) rational end points for a transportation improvement and (2) rational end points for a review of the environmental impacts, and the specific determination of logical termini depends on the type of project. The following should be considered when determining the project's logical termini:

- For projects related to the relief of traffic congestion, the most common termini are the beginning and end points of major traffic generation, particularly intersecting highways, because traffic generators usually determine the size and type of facility being proposed. An example would be widening a two-lane roadway between two four-lane sections of highway.
- Geographic boundaries are typically not suitable as logical termini. For example, ending a project at a county line is not logical when the substandard roadway continues beyond the county line to an adjacent town or city.

However, jurisdictional boundaries between local and state routes are a factor.

- For projects not primarily related to congestion, the determination of the logical termini would be less based on traffic generators and more likely based on locations

FHWA guidance on the development of logical termini for a project is available at:
https://www.environment.fhwa.dot.gov/legislation/nepa/guidance_project_termini.aspx

of physical roadway conditions, safety concerns, or other issues related to the need of the project.

- Logical termini may not be necessary for site-specific improvements, such as a local intersection improvement or a bridge replacement.
- The termini selected should encompass an entire project to avoid segmentation. If the project addresses capacity needs which extends throughout an entire corridor but only a segment of that corridor is proposed for federal funding, appropriate termini need to be established to prevent restricting alternatives for reasonably foreseeable transportation improvement needs along the corridor.

Projects in the State Transportation Improvement Plan (STIP) will have independent utility and are generally reviewed and processed as separate NEPA actions. Independent utility is reviewed through the project scoping process. If multiple projects are programmed to meet transportation improvement needs in the same geographic area, such as to address capacity of an interstate corridor in multiple phases, all projects will be reviewed in a single environmental document as a single NEPA action.

Common Definitions:

Classes of Action prescribe the level of documentation required in the NEPA process, including Class I, Class II, and Class III.

Class I Environmental Impact Statements (EIS) are prepared when FHWA determines that the action is likely to cause significant impacts on the environment.

Class II Categorical Exclusions (CE) are actions that, based on experience with similar actions, do not individually or cumulatively have a significant effect on the environment. These projects are categorically excluded from the requirement to prepare an EA or an EIS under NEPA.

Class III Environmental Assessments (EA) are prepared when an action is not a CE and does not clearly require the preparation of an EIS, or where SDDOT or FHWA believes an EA would assist in determining the significance of impacts and the need for an EIS.

Emergency relief funds from FHWA are for the repair or reconstruction of Federal-aid highways and roads on Federal lands that have suffered serious damage as a result of (1) natural disasters or (2) catastrophic failures from an external cause. Refer to 23 United States Code (USC) 125.

Authorization:

FHWA uses class of action to prescribe the level of documentation under the NEPA process (23 CFR 771.115).

During a scope review, the Environmental Manager or their designee considers the project extent, location, and potential for environmental impact. Once the review is complete, a class of action determination is made and documented. If the class of action falls into the limits of the Programmatic Agreement between FHWA and SDDOT *Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-Aid Highway Projects* (PCE) (FHWA and SDDOT, 2026), then coordination proceeds per **Section 3.4.3**, which describes the CE process. When the class of action is anticipated to be an EA or an EIS, and for activities that are not clearly PCE actions or when unusual circumstances are identified, the class of action is recommended to FHWA. FHWA then concurs or recommends changes to the class of action determination. The class of action made on the project determines the level of environmental review required: Class I EIS, Class II CE, or Class III EA. As more information is gathered about the project, the class of action may be revised if impacts are different from those originally anticipated.

Overview of the SDDOT Class of Action Process

Most SDDOT transportation projects fall into Class II (CE) and are prepared according to the PCE Agreement. This agreement, between SDDOT and FHWA, streamlines the decision-making process by “establishing procedures to expeditiously and efficiently process actions that are excluded from the requirements to prepare either an EIS or an EA.” The discussion of NEPA procedures that follows is tailored for projects for which FHWA is serving as the lead Federal agency (as is the case for most SDDOT projects involving FHWA funding or approvals). For projects with a different U.S. Department of Transportation (USDOT) Modal Administration as the lead agency (such as Federal Railroad

3.3 Class of Action Determination

This section defines key terms in determining an environmental class of action and describes the legal and regulatory considerations and the actions required to fulfill environmental commitments with appropriate NEPA documentation.

Administration [FRA], Federal Transit Administration [FTA], or Federal Aviation Administration [FAA]), different procedures apply, and the user should refer to the applicable laws and regulations of the lead agency. For example, although FTA and FRA NEPA regulations are also contained in 23 CFR 771, FTA and FRA are not parties to the FHWA-SDDOT PCE Agreement; thus, the PCE procedures cannot be used for an FTA or FRA project.

This section further describes the procedures for the SDDOT class of action determination, illustrated on **Figure 5** and summarized in **Table 4**.

The FHWA and SDDOT *Programmatic Agreement Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-Aid Highway Projects* is available at:
https://dot.sd.gov/media/a857daaf/PAgreement_CategoricalExclusions.pdf

Figure 5. Class of Action Determination

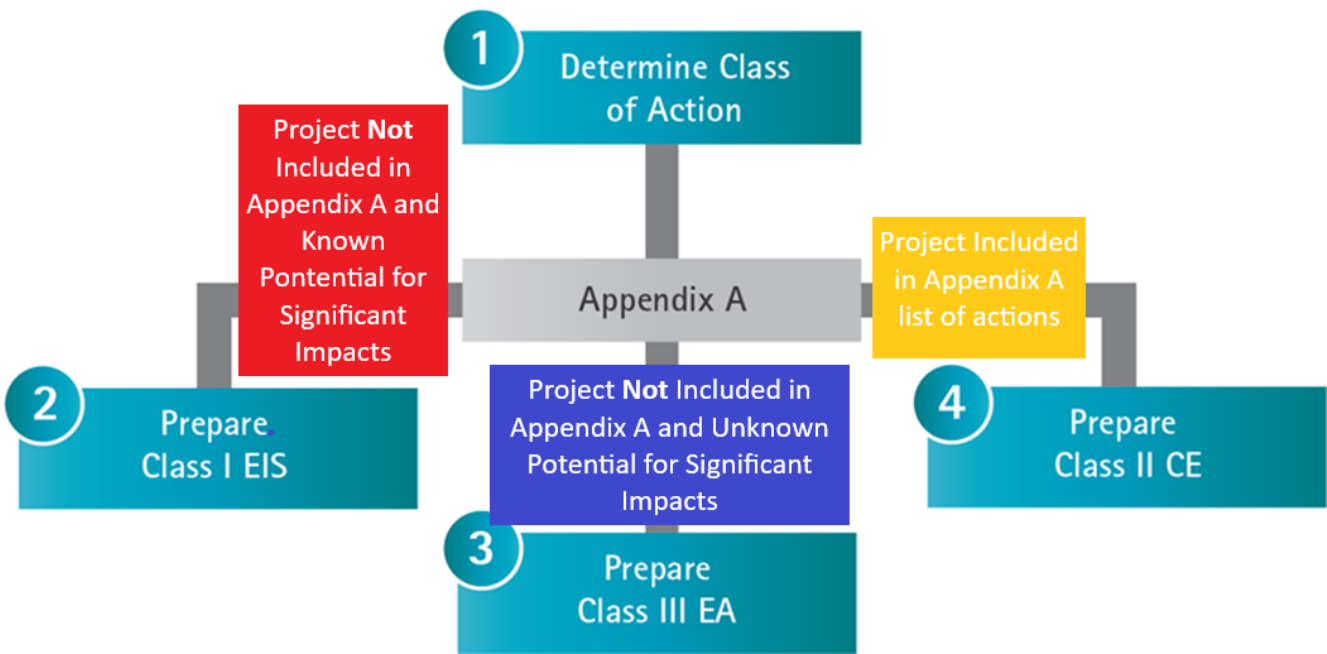


Table 4. Steps in the Class of Action Determination Process

Step	Participant(s)	Result(s)
1. Determine Class of Action	Environmental Manager/Environmental Engineer, FHWA (as required)	Determination of level of documentation required for NEPA process
2. Prepare Class I EIS	EPC, FHWA, and Consultants (as required)	Draft EIS, Final EIS, Record of Decision
3. Prepare Class III EA	EPC, FHWA, and Consultants (as required)	EA, FONSI or if there is a significant impact, prepare an EIS
4. Prepare Class II CE	EPC, FHWA (as required)	Designation of CE1, CE2, or CE3

Notes: CE – Categorical Exclusion, EA – Environmental Assessment, EIS – Environmental Impact Statement, EPC – Environmental Project Coordinator, FHWA – Federal Highway Administration, FONSI – Finding of No Significant Impact, NEPA – National Environmental Policy Act

Class of Action Process Description

1. Determine Class of Action

The primary determining factor in deciding the type of environmental document and process to use for a project is whether the proposed transportation project is a Federal action that would significantly affect the quality of the

human environment. The Environmental Manager, Environmental Engineer, or their designee evaluates the available information to determine the type of required NEPA documentation, or in other words, the class of action and its associated documentation.

- ▶ Class I actions significantly affect the environment and require an EIS. Examples of Class I actions that may require an EIS include a new controlled access freeway and a highway project with four or more lanes on a new location (23 CFR 771.115).
- ▶ Class II actions (CEs) that do not individually or cumulatively have a significant environmental effect are excluded from the requirement to prepare an EA or an EIS. 23 CFR 771.117 and the PCE Agreement list categorically excluded actions and requirements/exceptions associated with their use. If the proposed project falls into the category of a CE, the EPC makes a further determination on the type of CE, in accordance with the PCE. This class of action determination is recommended to FHWA and is ultimately approved by the environmental engineer early in scoping and planning.
- ▶ All actions that are not Class I or Class II are Class III and require an EA. If while preparing the EA, it is determined that significant impacts will result, an EIS is prepared. A FONSI is prepared when the identified impacts are not found to be significant.

2. Prepare Environmental Impact Statement

An EIS is prepared when a significant impact to the quality of the human environment is anticipated from the proposed transportation project that is a Federal action. An EIS is a full disclosure document that details the process through which a transportation project was developed, considers a range of reasonable alternatives, analyzes the potential impacts resulting from the alternatives, and demonstrates compliance with other applicable environmental laws and executive orders.

Section 3.4.2 describes the process and components of an EIS.

3. Prepare Environmental Assessment

An EA is prepared if the significance of an impact is uncertain. If an action is not a Class I EIS or a Class II CE, then it is deemed a Class III EA. SDDOT, in coordination with FHWA, will proceed with the preparation of an EA. If it is found that significant impacts will result, the preparation of an EIS will commence.

Section 3.4.4 describes the process and components of an EA.



4. Prepare Categorical Exclusion

A CE is prepared if there are no significant impacts, either individually or cumulatively, on the human environment. In accordance with the PCE between SDDOT and FHWA, SDDOT prepares the required documentation. Further determination on the type of CE results in an identification as a CE1, CE2, or FHWA CE3.

Section 3.4.3 describes the process and components of a CE.

3.4 National Environmental Policy Act Documentation

To effectively carry out the NEPA process, complete and relevant environmental documentation promoting public involvement and interagency coordination is essential in evaluating projects. The results of the analysis and the effects of project implementation on the environment must be disclosed and comments solicited on the proposals from interested and affected parties. The conclusion of the NEPA process results in a decision that addresses all concerns identified under the NEPA umbrella, which includes all legal and regulatory requirements.

A NEPA document must be prepared in a manner that is understandable by SDDOT, FHWA, other agencies, and the public to have a fully informed decision-making process. In 2006, American Association of State Highway and Transportation Officials (AASHTO) and American Council of Engineering Companies (ACEC), in cooperation with FHWA, published a joint report titled *Improving the Quality of Environmental Documents*. This report offers three core principles for quality NEPA documents: (1) tell the story of the project so that the reader can easily understand what the purpose and need of the project is and describe the strengths and weaknesses of alternatives; (2) keep the document as brief as possible by using clear, concise writing, an easy-to-use format, effective graphics and visual elements, and discussion of issues and impacts in proportion to their relative importance; and (3) ensure that the document meets all legal requirements in a way that is easy for regulators and technical reviewers to follow.

Common Definitions:

Lead agency is the Federal agency responsible for approving the environmental document under NEPA. 23 U.S.C 139(c)(3) or 42 U.S.C 4336a(1)(B) provides considerations in identifying the lead agency where multiple Federal agencies are involved in an action. For FHWA projects, SDDOT or a local governmental entity applicant that is expected to be a direct recipient of funds under Title 23 USC or chapter 53 of Title 49 USC for the action must serve as a joint lead agency with FHWA in accordance with 23 USC 139 and may prepare environmental review documents if FHWA furnishes guidance and independently evaluates the documents.

Cooperating agency refers to another agency with jurisdiction by law or special expertise on the proposed action invited by the lead agency. Cooperating agencies may assist in writing sections of the documents used in project decision making 23 CFR part 771. Cooperating agencies may adopt the lead agency's environmental document to satisfy NEPA compliance for their approval of the project (such as issuance of a permit).

Participating agency refers to a Federal, State, local, or Federally recognized Indian Tribal governmental unit that may have an interest in the proposed project and has accepted an invitation to be a participating agency or, in the case of a Federal agency, has not declined the invitation in accordance with 23 USC 139(d)(3). These agencies may provide review and comment on the project (23 CFR 771.107).

As discussed in **Section 3.3**, the first step in the NEPA process is to determine the class of action of a proposed project. Once it is determined, SDDOT prepares the NEPA document as described in this section. **Table 5** presents an overview of the classes of action, examples of projects in each, and the corresponding decision document.

The AASHTO, ACEC, and FHWA report, entitled *Improving the Quality of Environmental Documents*, is available at:
https://environment.transportation.org/wp-content/uploads/2021/05/IQED-1_for_CEE.pdf

Table 5. Overview of the NEPA Process

CLASS I Environmental Impact Statement 23 CFR 771.123-127	CLASS II Categorical Exclusion 23 CFR 771.117 and PCE Agreement	CLASS III Environmental Assessment 23 CFR 771.119-121
Description		
An EIS is prepared for projects where it is known that the action will have a significant effect on the environment.	A CE is issued for actions that do not individually or cumulatively have a significant impact on the environment.	An EA is prepared for actions in which the significance of the environmental impact is not clearly established.
Examples		
➤ A new, controlled access freeway ➤ A highway project of four or more lanes on a new location ➤ Construction or extension of a fixed transit facility that will not be located within an existing transportation ROW ➤ New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing highway facility	➤ Reconstruction, restoration, and resurfacing activities within the previously disturbed ROW ➤ Routine maintenance of bridges and culverts, including bridge repairs, deck replacement or repairs, overlays, railing repair, painting, and berm repairs	➤ Actions that are not clearly Class II (CE) ➤ Actions that are not clearly Class I (EIS) ➤ New construction of a highway interchange ➤ Urban construction with ROW needs ➤ Projects that are deemed controversial
Decision		
ROD, signed by FHWA, and includes a summary of any mitigation measures	➤ CE1 signed by SDDOT ➤ CE2 signed by SDDOT and FHWA	FONSI signed by FHWA or, if a significant impact is found, a decision to prepare an EIS

Notes: CE – Categorical Exclusion, CFR – Code of Federal Regulations, EA – Environmental Assessment; EIS – Environmental Impact Statement, FONSI – Finding of No Significant Impact, FHWA – Federal Highway Administration, ROD – Record of Decision, ROW – Right-of-Way, SDDOT – South Dakota Department of Transportation

The following subsections provide information on the basic components of preparing a Class I EIS, Class II CE, and Class III EA.

3.4.1 Emergency Relief

Roads and bridges on Federal-aid highways that are damaged as a direct result of a natural

disaster or catastrophic failure from an external cause are eligible for emergency relief funds. SDDOT’s Emergency Relief Program generally provides funding to repair and restore highway facilities to pre-disaster conditions. Emergency relief funds are not intended to replace other Federal-aid, State, or local funds for new

construction, to correct non-disaster-related deficiencies, or to otherwise improve highway facilities.

SDDOT Emergency Relief Program information is available at: <https://dot.sd.gov/doing-business/local-governments/emergency-relief-er>

3.4.2 Class I Environmental Impact Statement

EISs are known as Class I actions and are required for transportation projects that significantly affect the environment. This section defines what constitutes the need for an EIS and provides an overview of the process of completing an EIS and the contents of an EIS, including the decision document.

EISs are prepared less often because most projects do not have a significant impact on the environment. As appropriate, a consultant qualified in the preparation of NEPA documents may be engaged to support the department and FHWA throughout the NEPA process. Generally, FHWA will be the lead agency with SDDOT being a joint lead agency. All other agencies that will be part of the review process are designated at two levels: participating or cooperating.

The following are the major components and steps of an EIS.

Environmental Impact Statement Process

The EIS process is set forth in the implementing regulations of NEPA (23 CFR 771.123-127). The primary purpose of an EIS is to serve as an action-forcing device to ensure that the policies and goals defined in NEPA are infused into the ongoing programs and actions of the Federal government.

The major steps in the EIS process include the Notice of Intent (NOI), scoping, draft EIS (including preliminary draft, draft, and final draft), public comment, final EIS, and ROD.

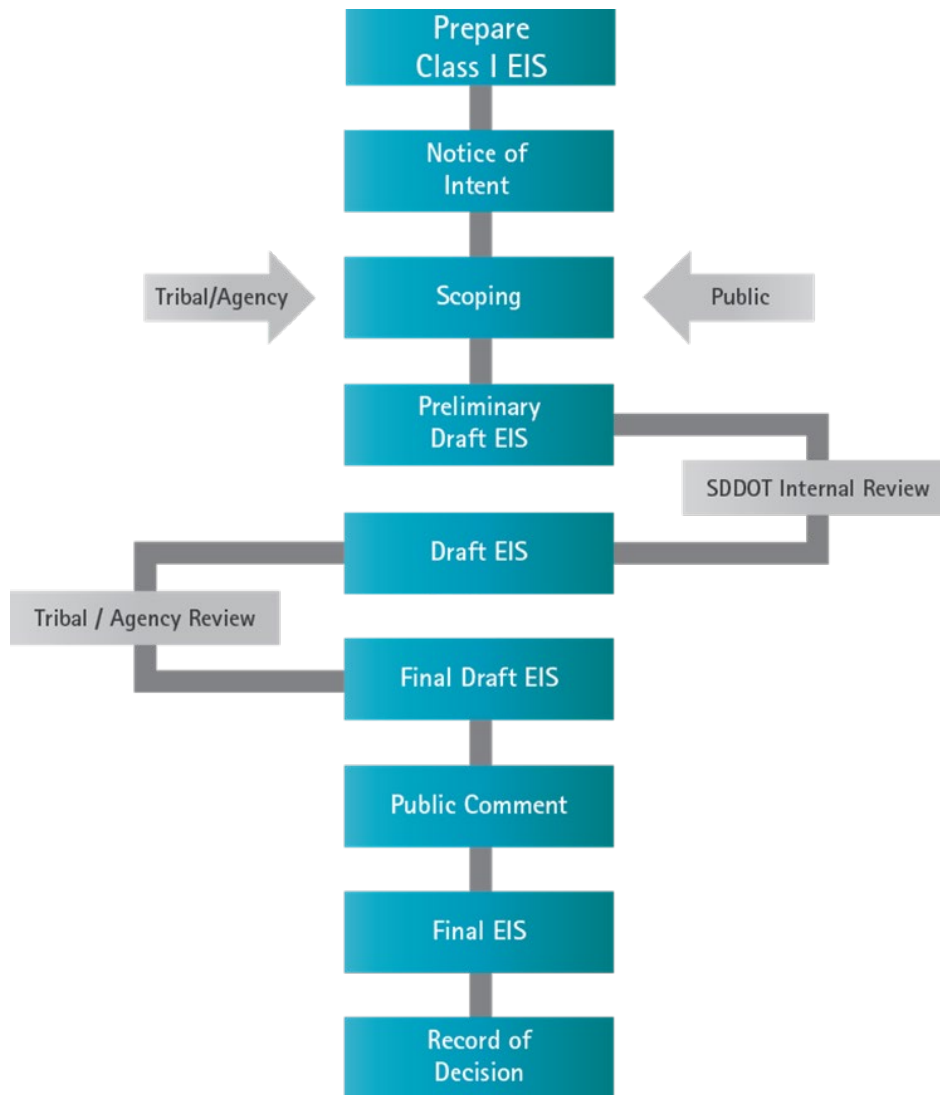
Figure 6 illustrates the EIS preparation process. The environmental process description below incorporates the changes to 23 U.S. Code (USC) 139 enacted under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for User (SAFETEA-LU); Moving Ahead for Progress in the 21st Century Act; the Fixing America's Surface Transportation Act; and the Final Rulemaking on changes to FHWA's environmental regulations at 23 CFR 771

AASHTO's Practitioner's Handbook 9 and 15: (<https://environment.transportation.org/resources/practitioners-handbooks/>), and

FHWA's Environmental Review Toolkit: Guidance for Preparing and Processing Environmental and Section 4(f) Documents: (<https://www.environment.fhwa.dot.gov/>).

(effective November 28, 2018). Note that the 23 USC 139 environmental review process is only required for EISs.

Figure 6. EIS Preparation Process



Project Initiation Letter

Per 23 USC 139(e), SDDOT or the local project sponsor must notify FHWA of the project and request FHWA to initiate the environmental review process. The minimum requirements for a project initiation letter include type of work, termini, length and general location of the proposed project, together with a statement of any Federal approvals anticipated to be necessary for the proposed project. SDDOT may include the draft NOI in the project initiation letter package. FHWA has 45 days to respond to the project initiation letter by initiating the

EIS process, denying the request, or requesting additional information.

Notice of Intent

An EIS is initiated with the publication of an NOI. A draft NOI is submitted to FHWA or the lead Federal agency, which is responsible for publishing it in the Federal Register. The NOI will be used as a tool to officially begin the EIS process. At a minimum, the NOI will briefly describe the proposed project and possible alternatives, provide a brief purpose and need, note any proposed scoping meetings, and provide a contact person with the lead agencies.

Coordination Plan

Within 90 days after the publication of an NOI, the lead agency (or agencies) is required to establish a Coordination Plan for agency participation and comment (23 USC 139(g)). A key objective of the Coordination Plan and related requirements is to identify and resolve environmental issues early in the process to prevent project delays.

The Coordination Plan should contain the following information:

- ▶ **Identification of Cooperating and Participating Agencies.** The Coordination Plan should identify the cooperating and participating agencies, as well as the process by which agencies were identified and invited. Participating agency refers to a State, Federal, local or tribal organization with an interest in the project. The lead agency must identify participating agencies no later than 45 days after the date of publication of an NOI.

Cooperating agencies reflect a higher level of involvement (jurisdiction by law or special expertise). By definition, all cooperating agencies are also participating agencies; however, not all participating agencies are cooperating agencies.

For example, U.S. Army Corps of Engineers (USACE) may be a cooperating agency because of its jurisdiction over a Section 404 permit required for a project and would also function as a participating agency. A county government where the project is located may be interested in the project, but if it does not have any legal jurisdiction over the project (and thus could not be a cooperating agency), it could still be involved in the process as a participating agency.

- ▶ **Environmental process schedule** (requires consultation and concurrence of participating agencies). The schedule must be made available to all participating agencies, the State Department of Transportation (DOT), and the project sponsor, and it must be made available to the public.
- ▶ **Comment deadlines.** Most comment periods (such as agency review of initial technical reports or administrative drafts of the EIS) are limited to a maximum of 30 days. The maximum comment period allowed for a published Draft EIS is 60 days. These deadlines can be extended if certain conditions are met, such as through agreement among the lead agency, project sponsor, and participating agencies.

An overview of the environmental review process for major projects is available at: [Overview of Environmental Review Process for Major Project EIS](#)

- ▶ **Public involvement plans.** While not required by statute, it is a good practice to include information on the approach to public outreach for the project in the Coordination Plan (such as public information meetings, project website, mailings, and other outreach activities).

The SDDOT *Public Involvement Plan (PIP)* (SDDOT, 2022a) provides:

- ▶ An explanation of the Department's mission and the goods and services provided
- ▶ Activities and opportunities for public involvement
- ▶ Legal requirements for public involvement
- ▶ A guide for staff to develop effective public communication strategies for all activities
- ▶ A step-by-step public involvement process for some key processes and special considerations for more in-depth public involvement processes
- ▶ A process to track and improve communication and engagement between SDDOT and the public

The SDDOT *PIP* is available at

<https://dot.sd.gov/media/1ea866a8/SDDOT%20Public%20Involvement%20Plan%20Final%20Draft%20021222.pdf>.

Scoping

The scoping process is used to identify the purpose and need, the range of alternatives and impacts, and the significant issues to be addressed in the EIS. Scoping is normally achieved through public and agency involvement procedures required by 23 CFR 771.111. If a scoping meeting is to be held, it should be announced in the NOI and by appropriate means at the State or local level. Scoping is the first major public outreach effort inviting public and governmental agency participation and should clearly be defined as part of the project PIP and/or Coordination Plan.

Draft Environmental Impact Statement

The draft EIS documents the results of studies conducted on the social, economic, and environmental impacts of all alternatives under consideration. Thus, all reasonable alternatives must be identified and analyzed, and compliance with applicable State and local environmental regulations must be demonstrated in accordance with NEPA. The analysis for each alternative should identify the type and severity of anticipated environmental impacts, how adverse impacts have been avoided, and the measures to minimize and/or mitigate unavoidable impacts.

SDDOT employs intermediate steps in the draft EIS to ensure a full review by Environmental Office (EO) staff, agencies, and Tribes:

- ▶ Preliminary draft—for SDDOT internal review
- ▶ Draft—for agency and Tribal review
- ▶ Final draft—for public comment

Final Environmental Impact Statement/Record of Decision

The final EIS identifies the preferred alternative (if the draft did not) and summarizes and responds to all substantive comments received during the draft EIS circulation period and public hearing(s). It must demonstrate compliance with all applicable environmental laws and Executive Orders and the mitigation measures incorporated in the proposed action. The document also will note where the EIS was changed in response to comments, as well as any other changes or corrections. The final EIS may take the form of an errata sheet pursuant to 23 USC 139(n)(1).

Unless there are substantial changes to the project relevant to environmental or safety concerns, or significant new circumstances relevant to environmental concerns since the

draft EIS was prepared, a combined final EIS and ROD must be issued (23 CFR 771.124). The ROD identifies the selected alternative; presents the basis for the decision; identifies all the alternatives considered; specifies the “environmentally preferable alternative;” and provides information on the adopted means to avoid, minimize, and compensate for environmental impacts.

Environmental Impact Statement Contents

The standard EIS format includes the major chapters listed below, prefaced by a cover sheet, summary, and table of contents. The layout provided is intended as informational. The EPC should use the best information available to lay out the EIS document to fit the project in question.

Chapter 1: Purpose and Need

The purpose and need section of an EIS is one of the most important and should, therefore, be clear and well documented. The purpose and need drives the development of the range of alternatives. Some of the common needs include transportation demand, safety, legislative direction, urban transportation plan consistency, modal interrelationships, system linkage, and the condition of an existing facility.

Chapter 2: Alternatives

The alternatives section describes the process that was used to develop, evaluate, and eliminate potential alternatives based on the purpose and need of the project. The discussion should include how alternatives were selected for detailed study, the reasons why some alternatives were eliminated from consideration, and how the alternatives meet the need for the project and avoid or minimize environmental harm. In developing alternatives, it is important to consider the

requirements of 23 CFR 771.111(f), which states that projects must connect logical termini, have independent utility, and not restrict the consideration of future transportation alternatives.

In the draft EIS, all reasonable alternatives should be discussed at a comparable level of detail. There is no requirement at this stage to have a “preferred” alternative.

Chapter 3: Affected Environment

The affected environment section provides information on the existing resources and the condition of the environment. Generally, this section should focus on the important issues to provide an understanding of the project area relative to the impacts of the alternatives. The affected environment should discuss, commensurate with the importance of the potential impacts, the existing social, economic, and environmental settings surrounding the project. It should also identify environmentally sensitive features in the project corridor.

Chapter 4: Environmental Consequences

The environmental consequences section describes the impacts of project alternatives on the environment and documents the methodologies used in evaluating these impacts. Information in this section is used to compare project alternatives and their impacts, indirectly, directly, and cumulatively. This section should describe in detail both the impacts of the proposed action and the potential measures that could be taken to mitigate these impacts. Mitigation must be considered for all impacts, regardless of their significance. Environmental impacts should be discussed in terms of their context and intensity.

Other Environmental Impact Statement Content Requirements

Comments and Coordination—The EIS must summarize the scoping process, the results of any meetings that have been held, and any comments received during preliminary coordination. Between the draft and final EIS, the State DOT and FHWA must consider and respond to all substantive comments received on the draft EIS, including those from public hearings. The final EIS must include copies of the comments received and the agencies' responses. If comments are voluminous, they may be summarized. If the EIS was changed in response to comments, changes should be referenced in the responses.

List of Preparers—This section includes a list of the individuals primarily responsible for preparing the EIS or technical reports. Preparers are identified by name, qualifications, expertise, experience, and professional discipline.

3.4.3 Class II Categorical Exclusion (CE)

CEs are known as Class II actions, a category of actions that do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations and for which, therefore, neither an EA nor an EIS is required. This section defines CEs and the types of CEs and provides an

overview of the Programmatic Agreement with FHWA for determining CEs.

CEs are actions that meet the definition contained in 23 CFR 771.117, and based on experience with similar actions, do not involve significant environmental impacts, as defined in the previous section. They are actions that do not (1) induce significant impacts to planned growth or land use for the area; (2) require the relocation of significant numbers of people; (3) have a significant impact on any natural, cultural, recreational, historic or other resource; (4) involve significant air, noise, or water quality impacts; (5) have significant impacts on travel patterns; and (6) otherwise, either individually or cumulatively, have any significant environmental impacts (23 CFR 771.117[a]).

The procedures for the SDDOT Class II CE are illustrated on **Figure 7**, summarized in **Table 6**, and described in further detail below.

Any action that normally would be classified as a CE, but involves unusual circumstances as described in Step 2, will require SDDOT in cooperation with the applicant to conduct appropriate environmental studies to determine if the CE classification is proper.

Instructions for the Categorical Exclusion Checklist and Section A Environmental Commitments provide the preparer of a CE and its accompanying Environmental Commitments as a step-by-step guide. **Chapter 4** provides guidance on consideration of resources.

Figure 7. Class II Categorical Exclusion

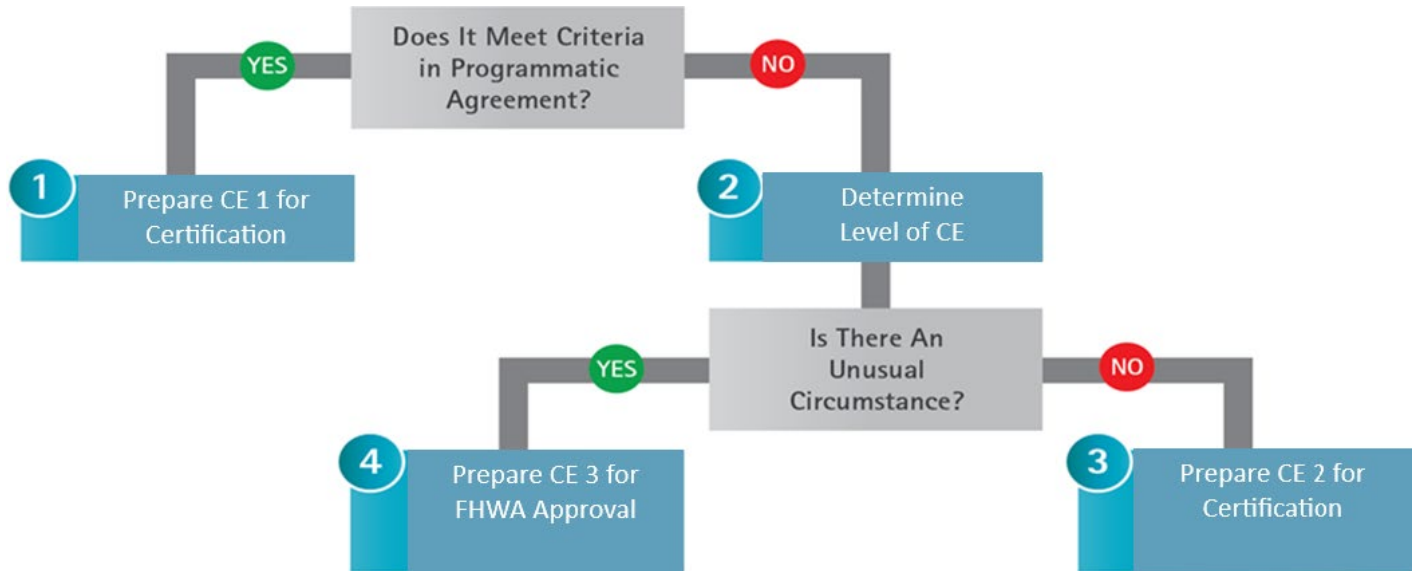


Table 6. Steps in the Class II Categorical Exclusion

Step	Participant(s)	Result(s)
1. Prepare CE1 for Certification	EPC	Documentation in project file, SDDOT Sign Checklist
2. Determine level of CE	EPC, resource agencies, other environmental specialists	Determination of unusual circumstance and CE approval threshold
3. Prepare CE2	EPC, Environmental Engineer	SDDOT signs the CE, documentation in ECC and CE Checklist
4. Prepare CE3 for FHWA approval	EPC, FHWA Environmental Engineer	Certification of CE, documentation for FHWA review, FHWA approval

Notes:

CE – Categorical Exclusion,
 ECC – Environmental Commitments Checklist,
 EPC – Environmental Project Coordinator,
 FHWA – Federal Highway Administration,
 SDDOT – South Dakota Department of Transportation

Class II Categorical Exclusion Description

1. Categorical Exclusions (CE) 1

Approved CEs (or CE1) do not require FHWA approval. CE1 (ground disturbing or non-ground disturbing activities) designation occurs when the type of transportation project is identified in Appendix A of the PCE, which is based on a

subset of actions listed in 23 CFR 771.117(c) and (d). If an action or a project is in Appendix A and meets the following administrative conditions, the CE can be approved by SDDOT. The administrative conditions are as follows:

- ▶ Undertaking is on an existing transportation facility
- ▶ Undertaking is within previously disturbed ROW and all disturbance to previously placed fill material will not exceed the depth of the previously placed fill material

- ▶ Undertaking may involve waters of the U.S., but is limited to those approved under a Nationwide Permit
- ▶ Undertaking has no known public controversy
- ▶ Undertaking is limited to the activities (in the appendix) and not part of a larger project
- ▶ Undertaking will not require tree clearing

2. Determine Level of Categorical Exclusion

If the CE does not fall into a CE1 designation, the proposed transportation project must be evaluated further to determine if CE2 or SDDOT-approval is applicable. CE2 status requires confirmation that there are no unusual circumstances and the “CE Approval Threshold” is not exceeded by completing the CE Checklist. Additional information is gathered during the completion of the CE Checklist, described further in **Chapter 4**. If the CE meets the PCE CE approval threshold and there are no unusual circumstances, SDDOT will prepare and sign the CE as a CE2. If the CE does not meet the PCE CE approval threshold or there are unusual circumstances, SDDOT will prepare and sign the CE as a CE3 and then forward it to FHWA for review and approval.

Consideration of unusual circumstances includes whether the action or project might result in:

- ▶ Significant environmental impacts
- ▶ Substantial controversy on environmental concerns
- ▶ Significant impacts on properties protected by Section 4(f) of the USDOT Act (23 USC 138 and 49 USC 303) or Section 106 of the NHPA (National Historic Preservation Act)
- ▶ Inconsistencies with any Federal, State, or local law, requirement, or administrative

determination relating to the environmental aspects of the action

The CE approval thresholds are described in the CE Checklist (an exceedance of any of the thresholds means the project does not qualify for CE2).

3. Prepare Categorical Exclusion 2

As described in Step 2, if there are no circumstances requiring further study, SDDOT will prepare and have the CE2 signed by the Environmental Manager or Environmental Engineer, using the CE Checklist.

4. Prepare Categorical Exclusion 3 for Federal Highway Administration Approval

As described in Step 2, if an unusual circumstance occurs, or the CE does not meet the PCE approval threshold, SDDOT will prepare and send the CE Checklist to the Environmental Manager or Environmental Engineer for signature of the CE3, at which point the document will be sent to FHWA for review and approval.

According to the PCE Agreement, at the beginning of each quarter (January, April, July, and October), SDDOT will publish the Quarterly Environmental Status Report. The report will include approval dates for all CEs that have been completed for projects in the current 4-year Statewide Transportation Improvement Program (STIP). The report will also include contact information for agencies and the public to request additional information.

3.4.4 Class III Environmental Assessment

EAs are known as Class III actions and are the environmental documentation required for transportation projects when it is unclear if a project should be processed as an EIS or a CE. This section defines what constitutes the need

for an EA and provides an overview of NEPA requirements for an EA, including its decision document.

When the significance of the impacts of a transportation project proposal are uncertain, an EA is prepared. If it is found that significant impacts will result, the preparation of an EIS and ROD should be completed. When impacts are found to not be significant, a FONSI will be prepared.

The EA:

- a) Means a concise public document for which a Federal agency is responsible that serves to:
 1. Briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or a finding of no significant impact.
 2. Aid an agency's compliance with the Act when no EIS is necessary.
 3. Facilitate preparation of a statement when one is necessary.
- b) Shall include brief discussions of the need for the proposal, of alternatives as required by Section 102(2)(E) of NEPA, of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

FHWA must approve an EA before it is made available to the public. EAs do not need to be

circulated, but they must be made available to the public through notices of availability in local, State, or regional clearinghouses, newspapers, and other means. Depending on FHWA-approved State public involvement procedures, a public meeting may or may not be required. A 30-day review period is required but may be reduced in rare circumstances.

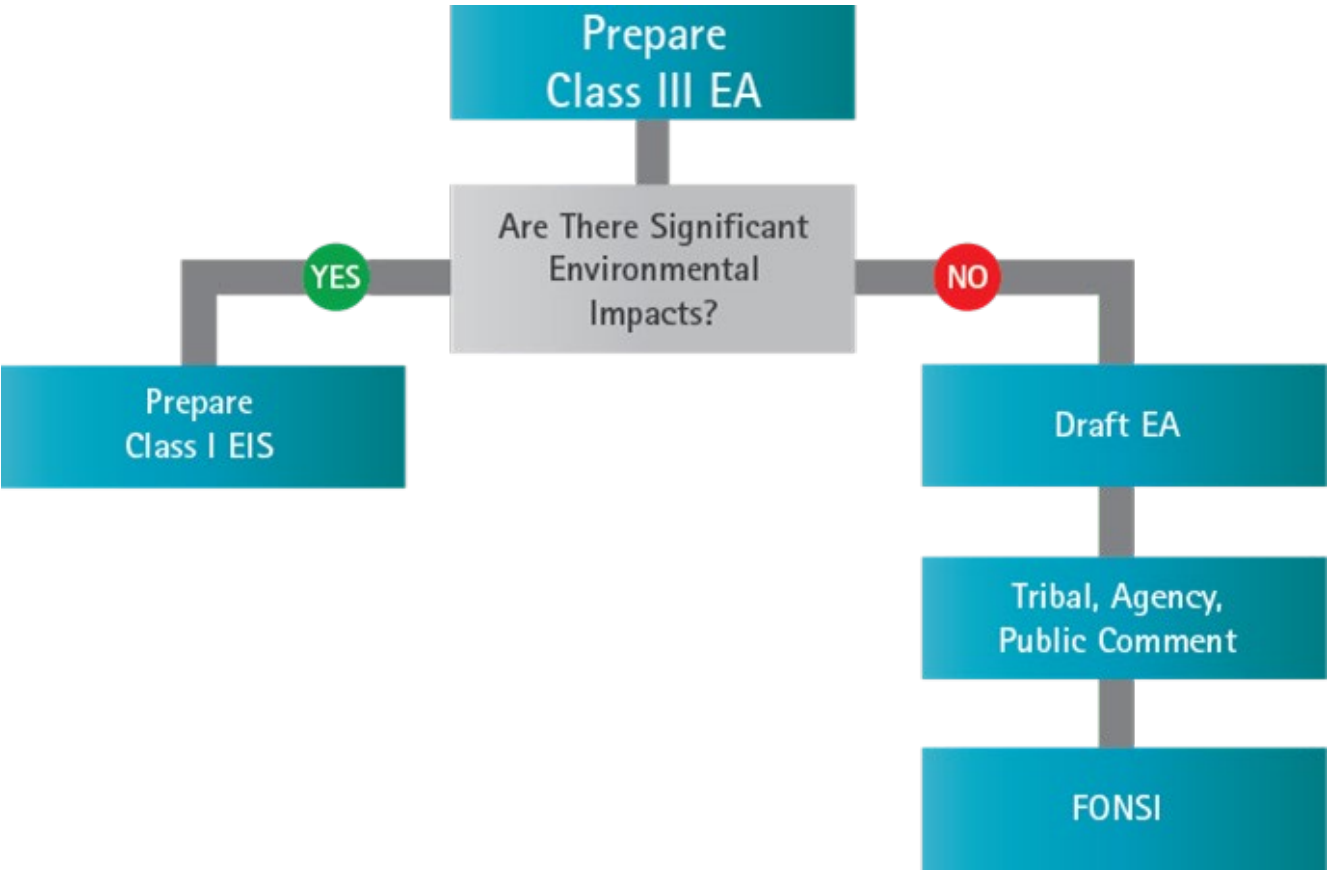
SDDOT or the local project sponsor must notify FHWA of the project and request FHWA to initiate the environmental review process. The minimum requirements for a project initiation letter include type of work, termini, length and general location of the proposed project, together with a statement of any Federal approvals anticipated to be necessary for the proposed project.

Figure 8 illustrates the process for preparing an EA.

After public comments are received and considered, a determination of the significance of the impacts is made:

- ▶ If at any point in the process of preparing an EA it is discovered that the project would result in significant impacts, an EIS must be prepared.
- ▶ If, after completing the EA, it is evident that there are no significant impacts associated with the project, a FONSI may be prepared.

Figure 8. EA Preparation Process



Finding of No Significant Impact

If it is determined that there will be no significant impacts, a FONSI will be prepared to conclude the process and document the decision. A FONSI is issued when environmental analysis and interagency review during the EA process finds a project to have no significant impacts on the quality of the environment. The FONSI document is the EA modified to reflect all applicable comments and responses. If it was not done in the EA, the FONSI must include the selected alternative. No formal public circulation of the FONSI is required, but the FONSI is made available on the SDDOT website. In addition, FHWA recommends that the public be notified through notices in local newspapers.

3.4.5 NEPA Reevaluation

When a project that previously received NEPA approval proceeds to the next major approval or action, SDDOT must consult with FHWA before requesting any major approvals to establish whether the previously approved NEPA documentation remains valid. If circumstances have changed (such as laws, guidelines, design, environmental setting, impacts, or mitigation), then FHWA may require a Reevaluation to determine what changes have occurred and whether new documentation or supplemental NEPA documentation is necessary.

The Reevaluation is for the entire document or project (i.e., same limits as the original environmental document). The Reevaluation should consider the entire project but focus on the validity of the NEPA documentation and/or project decision as related to the current phase or work, major approval, or action to be taken by FHWA to advance the project. If documentation of the Reevaluation is

necessary, previous phases would be referenced as previous actions and summarized as background information. The current phase would be discussed in more detail, but only to the extent that there have been changes to the project or Affected Environment. Future phases could be mentioned and discussed, but the detail could be delayed until approval is needed to proceed with the future phase. There is no requirement to modify phases already built or to reconsider previous designs when the next phase is being built.

If the Reevaluation process determines that the approved environmental document is no longer adequate, then supplemental environmental documentation is needed to fully analyze the changes that have occurred. If the project decision, the Affected Environment, mitigation or other environmental commitments, or the environmental requirements have not changed (or if the changes examined do not result in the determination by FHWA that the environmental document is no longer valid), then the Reevaluation process is completed.

A Reevaluation is prepared with the purpose to determine whether or not a supplement to the NEPA Documentation is needed, due to changes in scope, work limits, laws, guidelines, design, environmental setting, impacts, or mitigation.

3.5 Early Coordination, Public Involvement, and Tribal Coordination

SDDOT strives to ensure all Federally funded transportation projects comply with NEPA, including provisions for an interdisciplinary approach in the preparation of a NEPA

document and public involvement. Early coordination and public involvement efforts are designed to streamline environmental processes and develop public and agency confidence in the process to develop the proposed transportation projects.

The EO works closely with other SDDOT offices in providing relevant environmental information for other public meetings associated with project planning and engineering.

This section addresses SDDOT processes involved in meeting the letter and spirit of NEPA to improve the efficiency in decision making for transportation projects. It addresses early coordination, public involvement, scoping, and Tribal coordination.

3.5.1 Early Coordination

Early coordination efforts are determined once the class of action is determined. If the project is a Class II CE, SDDOT takes the lead in early coordination. One of the first tasks in a CE is for the EPC to contact various agencies to inquire about potential issues that might arise from the proposed project. If the CE is an Approved CE3, then the EPC alerts FHWA because the project will ultimately require FHWA approval. If the project is a Class I EIS or Class III EA, SDDOT works closely with FHWA to develop a plan for coordination with other agencies. FHWA and SDDOT represent joint lead agencies in most cases, but there are circumstances in which other Federal agencies can be the lead agency. Other Federal agencies or local or Tribal governments may request to become a cooperating agency to participate more fully in the NEPA process. The lead agency may also request other agencies or governments to become a cooperating agency.

For any class of action, early coordination is most effective when the EPC identifies potential issues and brings the appropriate parties to the table for resolving concerns as soon as possible. NEPA regulations address early coordination for EIS preparation, stating that “agencies shall reduce delay by integrating the NEPA process into early planning and by emphasizing interagency cooperation before the EIS is prepared, rather than waiting for the submission of adversarial comments on a completed document.”

“Environmental streamlining” requires transportation and natural, cultural, and historic resource agencies to establish realistic timeframes for projects and then to work cooperatively to adhere to those timeframes.

Several resource agencies have developed their own policies and procedures to assure the protection of resources. For example, the finding of effects under NHPA may require agency, Tribal, and public participation, along with research and field studies. Depending on the location of the project, either the State Historic Preservation Office (SHPO) or the Tribal Historic Preservation Office (THPO) would be engaged to discuss the proposed project. SDDOT and FHWA work closely with

To assist agencies in efficiently managing environmental commitments, these resources are available:

NHPA: A Handbook for Integrating NEPA and 106 is available here: <https://www.achp.gov/digital-library-section-106-landing/nepa-and-nhpa-handbook-integrating-nepa-and-section-106>

AASHTO Practitioners Handbook 06: Consulting Under Section 106 of the National Historic Preservation Act is available here: <https://environment.transportation.org/wp-content/uploads/2021/05/ph06-2.pdf>

the SHPO and THPO to coordinate all efforts that might be required under both NEPA and NHPA.

“Our study found that the most successful programs involve tribes at the earliest stages and continue that involvement through project delivery. Participants operate with respect, promote relationship building, understand the government-to-government trust relationship, and are knowledgeable in tribal culture and history.”

*Successful Practices for Effective Tribal Consultation
(National Cooperative Highway Research Program)*

3.5.2 Public Involvement

NEPA regulations require agencies to make diligent efforts to involve the public in preparing and implementing their NEPA procedures. In its effort to implement the spirit and letter of NEPA, SDDOT follows its *PIP* (SDDOT, 2022a), which provides guidance for effective public involvement for many transportation project types and stages. Depending on the project activity, specific suggestions and requirements are recommended.

The *PIP* includes information for public meetings required for (1) the adoption of the STIP; (2) various stages of a project, including project development, design and ROW; and (3) Tribal coordination. While each meeting is designed to inform the outcome of the subject of that meeting, SDDOT considers all the public input from all meetings as a body of knowledge that assists in making informed decisions.

Public Hearings and Public Meetings

Public hearings and public meetings offer the public an opportunity to comment on a proposed project. SDDOT evaluates the

The SDDOT *PIP* (2022a) is available at:

<https://dot.sd.gov/media/1ea866a8/SDDOT%20Public%20Involvement%20Plan%20Final%20Draft%20021222.pdf>.

potential interest in a project and determines the type of meeting that would be most appropriate. In evaluating the type of meeting, consideration is given to potential controversy about the proposed project, level of interest, or a request by another agency with jurisdiction in the project. For SDDOT projects, public meetings are the most common form of collecting comments. Public hearings are much less common but are required in relation to a draft EIS.

When SDDOT or FHWA determine the potential for public controversy to be minimal or non-existent, a Notice of Opportunity for a Public Hearing may be used rather than directly scheduling a hearing. Individual meetings with affected parties may be held to explain the project and answer any questions. Criteria are also given in the *PIP* when a public hearing or meeting can be waived.

Public Hearing – A structured meeting between SDDOT and the “public” audience. A project team of experts explain the project to the audience. The audience, one at a time, responds with comments and questions. The hearing activities are formally recorded and entered into a hearing record.

Public Meeting – An informal public hearing/open house is conducted that may include a map showing or project briefing. The public may arrive at various times, be given a brief explanation of the project, and then directed to project design team members for one-on-one explanations and discussions about specific questions and concerns.

The *PIP* provides information to the EPC on the logistics and framework for holding a public meeting including:

- ▶ Required for both public hearing and public meeting:
 - ◆ Publication requirements
 - ◆ Notification recommendations
 - ◆ Locations for posting
 - ◆ Notice contents, including type of meeting, date and time, location, and Americans with Disabilities Act provisions
 - ◆ Press releases and/or paid advertising
 - ◆ Notification of public officials
 - ◆ Information to provide at the public hearing/meeting
 - ◆ Procedures for oral and written comments, including comment forms and comment periods
 - ◆ Registration
- ▶ Additional requirements for a public hearing:
 - ◆ Legal notice of availability of the document and where it could be obtained
 - ◆ Third party hearing officer
 - ◆ Official transcript
 - ◆ Public meeting records

If a public meeting is warranted, SDDOT and FHWA make a further decision on the type of meeting to be held.

3.5.3 Tribal Coordination

Tribal coordination is conducted for all transportation projects that may be of interest to a Tribe in South Dakota and with Tribes with aboriginal ties to lands in South Dakota, particularly the Black Hills. Because many of

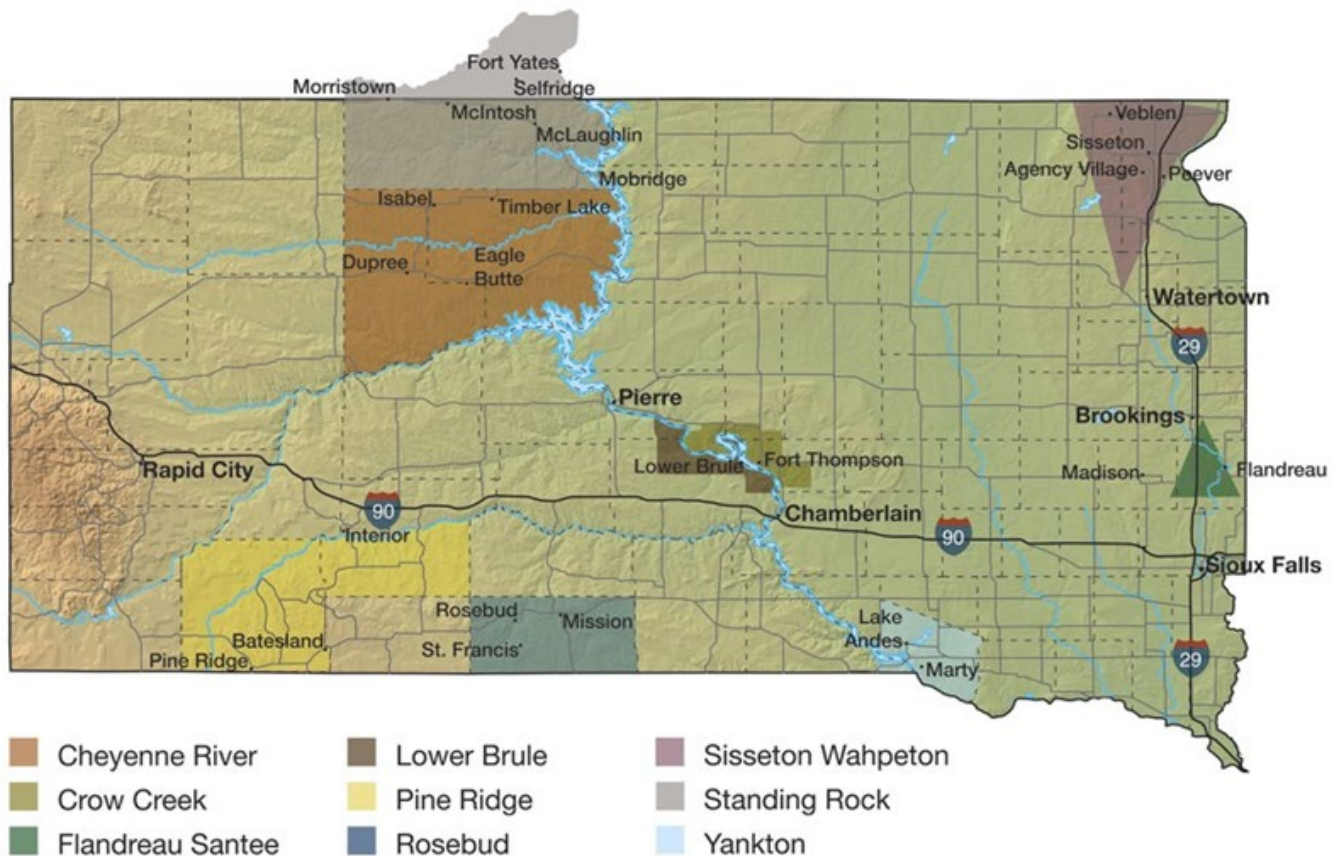
the projects involve Federal funding, FHWA works closely with SDDOT to conduct regular and meaningful consultation with Tribes, in accordance with Executive Order 13175 on Tribal Consultation. This order mandates agency consultation with Indian Tribes regarding Federal policies that have Tribal implications and requires each Federal agency to prepare its own plan for carrying out consultation. The USDOT issued its own *Tribal Consultation Plan*, which guides all projects within USDOT operating administrations, including FHWA. Working with FHWA, SDDOT developed Tribal coordination procedures that are included in SDDOT's *PIP* and Stewardship Agreement.

The USDOT *Tribal Consultation Plan* is available at <https://www.transportation.gov/policy-initiatives/tribal/dot-tribal-consultation-plan>

Figure 9 shows the nine Tribes located in South Dakota—Cheyenne River Sioux Tribe, Crow Creek Sioux Tribe, Flandreau Santee Sioux Tribe, Lower Brule Sioux Tribe, Oglala Sioux Tribe (Pine Ridge Reservation), Rosebud Sioux Tribe, Sisseton Wahpeton Oyate (Lake Traverse Reservation), Standing Rock Sioux Tribe, and Yankton Sioux Tribe.

SDDOT implements its policy on Tribal coordination through annual coordination meetings. SDDOT also consults on a project-by-project basis. This ongoing and project-specific coordination process keeps communication between SDDOT and the Tribes open and enhances the opportunity for meaningful communications and coordination on transportation projects.

Figure 9. Map of Indian Reservations in South Dakota



Source: South Dakota Department of Tribal Relations

Annual Coordination Meetings

SDDOT has recognized the importance of meeting with South Dakota Tribes on an ongoing basis to discuss current and upcoming projects and to listen to any concerns regarding transportation issues. Each year, SDDOT and FHWA schedule meetings with each Tribe in South Dakota at the Tribal headquarters or their choice of venue on the reservation. Typical topics of discussion include:

- ▶ Current STIP projects
- ▶ Coordination procedures
- ▶ Discussion of EIS/EA projects individually
- ▶ Review of CE projects
- ▶ Projects with Tribal construction monitors

If a Tribe wants to enter into formal consultation, it may request a government-to-government meeting with FHWA. During the annual consultation meeting, a Tribe may raise issues for further study. Generally, the Environmental Manager leads the SDDOT team, and FHWA joins the delegation for the annual meeting.

Project-specific Tribal Coordination

When a specific transportation project is under consideration, SDDOT and FHWA use a list developed and maintained by FHWA to notify interested Tribes through formal written contact about the upcoming project, as shown in **Table 7**. In some cases, an ethnographic profile of associated tribes (historic context) helps determine “the who” in any project. Other agencies, such as the U.S. Department

of Agriculture or Forest Service maintain lists of Tribes with interests in given geographic areas. These efforts help ensure that the appropriate Tribes are notified about transportation projects. However, if a Tribe provides information about ties to the project area not discovered during the historical research, SDDOT may add them as an interested Tribe. FHWA also maintains a list of Tribal chairmen/chairwomen, presidents, and THPOs for notifications.

As part of the early coordination and scoping of a project, a written notification is sent to the Tribes with a potential interest in a transportation project. If a response is not received from the Tribe(s) within 30 days, SDDOT will proceed with advancing the project. This information will be included in the NEPA document, environmental project tracking database, and project file.

In addition to notification at the start of a project, SDDOT or FHWA notifies Tribal officials about public meetings regarding projects in counties of interest to Tribes. Tribal officials may initiate discussion when they identify a property of Tribal spiritual or cultural significance during any stage of a project. If significant issues are identified for a project, consultation under Section 106 is conducted. NEPA and NHPA requirements may be considered together as part of the early considerations and environmental streamlining discussed previously. Tribal officials are notified immediately of any disturbances that affect sensitive properties of interest to them.

Table 7. Counties of Interest for Tribes in and near South Dakota

Tribe	Counties of Interest
Cheyenne River Sioux Tribe	All counties west of the Missouri River
Chippewa Cree Tribe	All counties
Crow Creek Sioux Tribe	Beadle, Brown, Buffalo, Clark, Codington, Faulk, Hand, Hughes, Hyde, and Spink
Flandreau Santee Sioux Tribe	Brookings, Lake, Lincoln, Minnehaha, Moody, and Union
Lower Brule Sioux Tribe	All counties
Northern Arapaho Tribe of Wyoming	Butte, Custer, Lawrence, Meade, Pennington
Oglala Sioux Tribe	All counties west of the Missouri River
Rosebud Sioux Tribe	Gregory, Mellette, Todd, and Tripp
Sisseton-Wahpeton Oyate	All counties
Standing Rock Sioux Tribe	All counties
Yankton Sioux	All counties
Iowa Tribe of Oklahoma	Clay, Lincoln, Turner, Union
Three Affiliated Tribes	All counties
Ponca Tribe of Nebraska	Bon Homme, Charles Mix, Clay, Custer, Douglas, Fall River, Gregory, Lawrence, Lincoln, Minnehaha, Pennington, Union, and Yankton

On-reservation Projects—SDDOT and FHWA work with the THPO and other appropriate Tribal officials when a transportation project is wholly or in part within the exterior boundaries of a reservation. All requirements under NEPA and NHPA will be coordinated with the Tribe as part of the Tribal coordination process, early coordination, and scoping.

Off-reservation Projects—SDDOT will work with the SHPO when there is a potential to disturb a property of Tribal spiritual or cultural

significance. Through the consultation processes, SDDOT, FHWA, and SHPO may develop a plan for working with Tribes for addressing and resolving issues under NEPA and NHPA. The plan may include additional studies to further understand the resource of cultural significance.

3.6 Administrative Record

Should the NEPA decision be challenged in court, the project file provides a starting point for preparing the administrative record. When a project faces litigation, the administrative record must be prepared, which includes all materials that are submitted to the court.

Under the Administrative Procedure Act, a court reviews an agency's action to determine if it was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" (5 USC § 706[2][A]). In making this determination, a court evaluates the agency's administrative record. The administrative record is the paper trail that documents the agency's decision-making process and the basis for the agency's decision.

The administrative record for each project will be drawn from the project file as needed. Not all material in the project file will necessarily become part of the administrative record; however, any information that supports the final decision should be part of it. As established by case law, the general rule is that the administrative record should contain "all documents and materials directly or indirectly considered by the agency" in making its decision.

Although not all-inclusive, this list summarizes the types of records that should be included in an administrative record.

- ▶ Documents vital to the "decision," such as the Draft EIS, Final EIS, or ROD
- ▶ Federal register notices (for example, the NOI)
- ▶ Agency and public comments and responses
- ▶ Public transcripts, handouts, sign-in sheets, and exhibits from public meetings
- ▶ Final versions of discipline reports/technical reports, modeling inputs, preliminary reports, studies, site evaluations, screening documents, memos, and any other documents showing the basis and reasoning for conclusions/decisions
- ▶ Planning documents, such as the Long Range Transportation Plan and the STIP
- ▶ Emails documenting process and smaller and larger decisions throughout the NEPA process
- ▶ Evidence of compliance with other laws, e.g., Section 4(f), National Historic Preservation Act (Section 106), Section 404 Permit, and Endangered Species Act
- ▶ Guidance relied on during the NEPA process (for example, the Section 4(f) Policy Paper)
- ▶ Anything the agency used in the decision-making process, even if not specifically mentioned by the final decision-maker
- ▶ Files by SDDOT and its consultants that relate to the final decision
- ▶ Memorandum to the File memorializing a decision

An administrative record most likely will not include:

- ▶ Personal notes taken by an individual unless they are transmitted to someone or if they are in the agency file for a specific purpose

- ▶ Privileged documents such as attorney-client privileged communication, attorney work product and deliberative product documents.
- ▶ Internal “working” draft documents—but sometimes these can be included if relevant to an important decision or shows process
- ▶ Non-“relevant” information, including emails containing irrelevant information such as lunch plans or chit-chat between people working on the project—if this is mixed in with information relevant to a decision, it might be included anyway or segregated or redacted
- ▶ Pre-decisional documents made prior to a final decision being made; often these take the form of emails. This is a complicated category and should be dealt with on a case-by-case basis
- ▶ Duplicates of documents already in the record
- ▶ Documents made after the decision (ROD, FONSI, etc.) was completed

An administrative record can be in electronic, hard copy, or a combination format. It is ultimately up to the court to decide which format is preferred. It is important to note that if electronic documents are converted to PDF format, the original source files must also be available.

For projects where litigation is expected, it is a good practice to prepare the administrative record before the ROD/FONSI is signed. Some general guidance for organizing an administrative record includes ensuring all items have a date, an author, and a version number (preferably on each page if multi-page), that items are organized in a logical and an accessible way (for example, chronological or by topic), and an index completed. The

index should list documents in chronological order, assign unique page numbers to documents, include brief descriptions of each document, and include the author of each document.

FHWA is ultimately responsible for the administrative record as the decision-maker. Therefore, it is important to work closely with FHWA staff when preparing an administrative record to ensure that it contains the appropriate information and is in the appropriate format(s).