



# NEPA for ODOT Subrecipients of FTA Funds

# NEPA Process Steps for ODOT Subrecipients



- 1) Determine if NEPA applies to project
- 2) Determine the scope of project for NEPA review purposes
- 3) Consider NEPA class of action
- 4) Determine NEPA documentation requirements
- 5) Work with ODOT to complete NEPA documentation and obtain NEPA concurrence from FTA
- 6) Conduct re-evaluations (as needed)

## Does NEPA apply?

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- NEPA applies to projects that receive federal funds or involve federal decision



Regardless of project type or scope, if it involves FTA funding, FTA's NEPA requirements apply!

# Determining full scope of a project for NEPA review process

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- Questions to help determine how to define project for NEPA review:
  - Would the project require additional improvements (including improvements considered part of another project) to be usable or to be considered a reasonable expenditure?
  - Does the project involve acquisition of property or equipment that will be developed or installed as part of a separate project (or vice versa)?
- If YES to either, the NEPA review will likely need to include additional components

NEPA prohibits dividing a project into smaller or separate projects to avoid appearance of significance or to avoid NEPA requirements (i.e., segmentation)

Full scope of project for NEPA review may include local- or state-funded components and/or components from multiple different grants

# Determining full scope of a project –examples

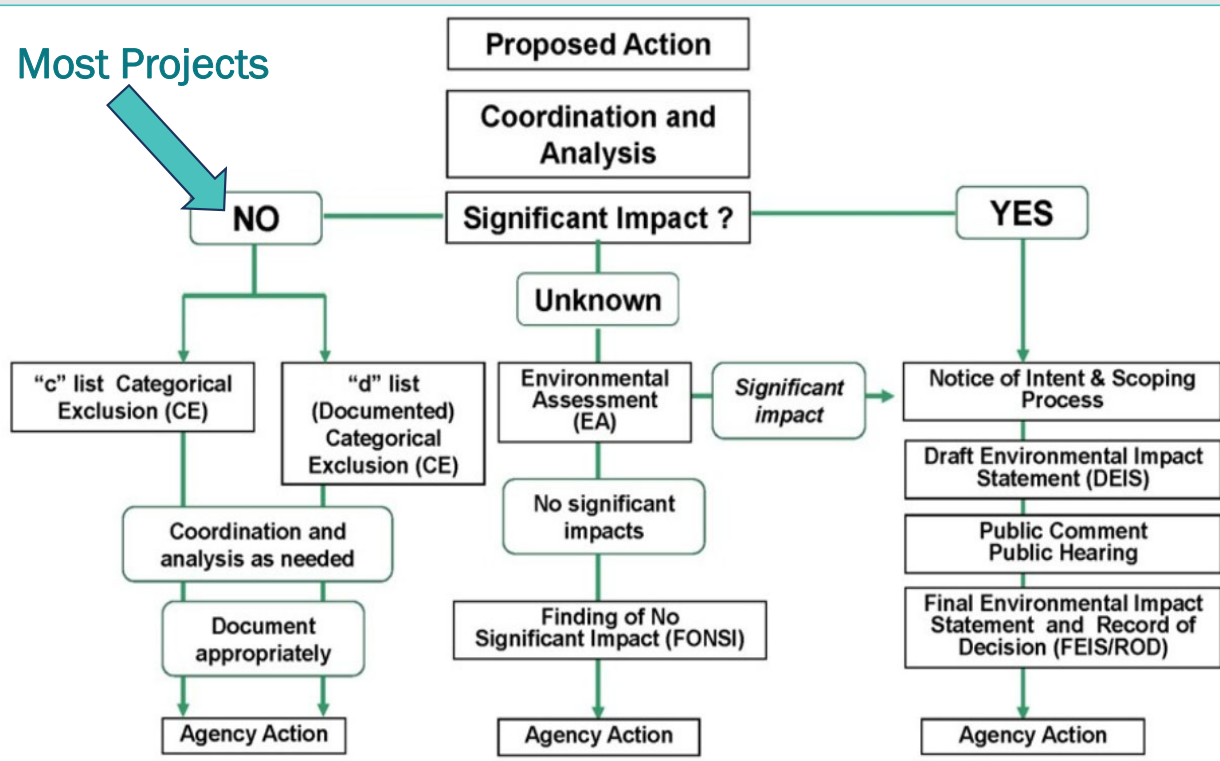
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- Purchase of a property with state funds, planning to use FTA funds to develop a transit use in the future
- Using FTA funds to purchase bus shelters that will be installed as part of a separate project
- Purchasing electric buses that require installation of EV chargers and/or upgraded electrical capacity to be put in service
- Using state funds to maintain an existing facility developed with FTA funds



# NEPA Class of Action

- 23 CFR 771.118
- Refer to “Guidance for Implementation of FTA's Categorical Exclusions”



# Determining NEPA documentation requirements for CEs

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- Always start by discussing NEPA documentation requirements with your RTC!
- NEPA documentation requirements for CEs vary
  - Information in grant application
  - ODOT [Purchase of Rolling Stock Environmental Review Information \(ERI\) form](#)
  - FTA Region 10 [CE/DCE Worksheet](#) with site map/plan and technical studies as needed

# Activities that do not require written NEPA concurrence/ Additional NEPA documentation not required

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- Operating assistance
- Planning activities
- Engineering, design, drafting environmental documents and completing environmental studies that do not require ground disturbance
- Preventative maintenance that involves NO physical changes and/or alterations to facilities or properties
- Purchase of equipment that is not an interdependent part of a larger project and can be accommodated in existing building(s) or facility(-ies) with NO physical changes, alterations, or installation required



# Activities that require written NEPA concurrence/ NEPA documentation required

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- **Final design activities** – includes design beyond 30%
- **Property acquisition** - includes purchase discussions with property owners that imply or are explicitly binding
- **Purchase of construction materials** – includes, but is not limited to, purchase of any materials used for the activities listed under the definition of project construction below
- **Purchase of rolling stock** - "purchase" occurs when any funds are spent or when a commitment to purchase is made such that funds must be expended should the purchase be cancelled/modified
- **Project construction** – FTA definition includes construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property; excludes the assembly, alteration, or repair of vessels or other kinds of personal property.



Conducting any of these activities (even with state/local funds) prior to receiving written NEPA concurrence will prevent FTA from being able to fund the project.

# Completing the Rolling Stock ERI Form

- Required for purchase of transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats, as well as vehicles used for support services
- Fillable pdf with simple prompts and drop-downs alerts to contact RTC where purchase may trigger additional requirements
- Multiple vehicle purchases can be included on one form



## ODOT Public Transit Division Purchase of Rolling Stock

### Environmental Review Information

The requirements of the National Environmental Policy Act (NEPA) apply to all projects that receive federal funding, including the purchase of rolling stock. Per 23 CFR 771.113(a)(1), the purchase of rolling stock (or making a purchase commitment that would require expenditure of funds) cannot proceed until the FTA completes the environmental review process.

This form is intended to assist ODOT in providing the FTA with information required for the environmental review process. Submission of this form does not satisfy NEPA requirements or complete the environmental review process.

**Please complete this form and return to your RTC within 7 days of receipt.**

Date:

Provider Name:

Regional Transit Coordinator:

Grant Number:	Funding Type:
Number of vehicles purchased with this funding:	
Fuel Type	<input type="checkbox"/> Gasoline/Diesel: [INSERT # of Gasoline/Diesel Vehicles] <input type="checkbox"/> Electric: [INSERT # of Electric Vehicles] <input type="checkbox"/> Other: [INSERT Type and # of Other Vehicles]
Number of Replacements Vehicle(s):	
Number of Expansion Vehicle(s):	
Do existing storage and maintenance facilities have capacity to accommodate the purchased vehicles without the need for new or expanded facilities or equipment?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Physical address where the vehicle(s) will be stored/maintained:	
Provider Signature	Date

# Completing the CE/DCE Worksheet

FTA Region 10 uses the CE/DCE Worksheet to assess potential project impacts to the environment and determine the need for additional information and studies.

## Project Description

- Explain all components of project such that a person with no prior knowledge could understand what is being proposed
- Describe previous NEPA concurrences obtained for projects on site

## Purpose and Need

- Brief statement of problem that the project is addressing (need) and positive outcome that is expected (purpose)
- Do not describe proposed project

## Subject Areas (Traffic, Air Quality, etc)

- Provide evidence or explanation for areas you mark N/A or for areas with a “no impact” statement
- Describe any previous studies or clearances

## Examples of additional information/studies that may be needed *(illustrative, not exhaustive list)*

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- Historic/archaeological investigations (Section 106)
- Biological studies (wetlands, endangered species)
- Land use, park impacts (Section 4(f) properties)
- Water resources (coastal zones, floodplains, wetlands)
- Hazmat study (Phase I/II Environmental Site Assessment)
- Noise study
- Traffic analysis



More details later in this training!

# Working with ODOT and FTA to complete NEPA environmental review process

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## FTA

- Completes NEPA process
- Makes NEPA decision
- Overall NEPA compliance, including any NEPA interpretations

## ODOT

- Supports subrecipient in understanding project NEPA scope and schedule
- Provides NEPA guidance and expertise
- Point-of-contact with FTA

## Subrecipient

- Provides all information /documentation necessary for FTA to complete NEPA process
- Procures and manages consultants (as needed)

# NEPA/Environmental Review Process – Provider Overview



Providers coordinate with ODOT to determine NEPA documentation requirements

Providers prepare NEPA documentation

Providers submit NEPA documentation to ODOT

Comments & Edits

ODOT reviews for quality and completeness

ODOT submits NEPA documentation to FTA

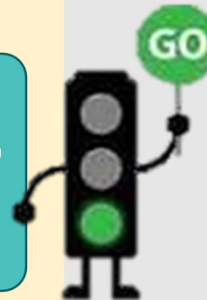
FTA responds with any questions, additional information needed

Additional Info & Studies

When all required info has been submitted, FTA conducts environmental review process

FTA provides written NEPA concurrence to ODOT and ODOT notifies provider

GO



6 to 12 months



# Purchase of Rolling Stock NEPA/Environmental Review Process– Provider Overview



RTC sends Rolling  
Stock ERI form to  
providers after award  
of FTA grant funds



Providers return  
completed forms  
within 7 days



RTCs return form to  
ODOT NEPA Team



RFP can  
proceed

NEPA team notify  
RTCs; RTCs notify  
providers



FTA responds via  
email with NEPA  
concurrence



NEPA team review  
completed forms,  
compile purchases,  
send to FTA for NEPA  
concurrence

2 – 5 days

## Re-evaluation after NEPA Concurrence

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- NEPA concurrence is for the specific project described in the NEPA documentation, not for an entire property or for a different project than described
- Changes to project scope or affected resources require FTA to re-evaluate the NEPA concurrence
- Contact RTC/ODOT NEPA team if a NEPA re-evaluation is required

# Considering NEPA Requirements BEFORE Applying for Funds

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- Before applying for federal funds, consider the cost, timeline, and consultant needs associated with NEPA requirements
- For projects that will require a CE/DCE worksheet, consider likely NEPA review requirements, and ask:
  - Does it make sense to use federal funds for this project, considering cost of the project, amount of federal funding, and cost of environmental review?
  - Can the project timeline accommodate the anticipated length of the NEPA process?
  - Is your agency prepared to procure and manage multiple qualified environmental consultants?

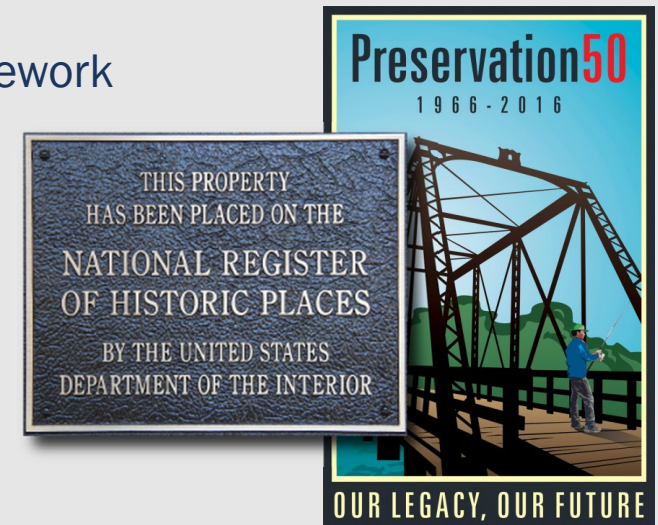


# NEPA and SECTION 106

For FTA Grant Recipients

# National Historic Preservation Act of 1966 (NHPA)

- Legislation intended to preserve historic and archaeological sites in the U.S.
  - Policy Signed: October 15, 1966
  - Created National Register and other preservation framework
  - Section 106 of NHPA
    - Required system of “procedural” steps that encourage protection of certain cultural resources
    - Three basic concepts:
      - Consultation
      - Identification
      - Effects
- Historic = 50+ years old (Historic ≠ Eligible)







## Resources that your Grant Projects Might Encounter

- Bridges & Culverts
- 19<sup>th</sup> & 20<sup>th</sup> Century Built Resources
- Historic Districts (Built & Archaeological)
- 19<sup>th</sup> & 20<sup>th</sup> Century Archaeological Sites
- Prehistoric Archaeological Sites
- Everything in between (like linear resources, TCPs, etc.)



# Built Resources



Buildings



Objects



Districts



Sites



Structures

# Additional Built Resources – Linear Resources



Railroad Lines



Historic Roads



Canals and Ditches



Telephone Lines

These resources are considered ineligible, or eligible with contributing and non-contributing sections.



## Section 106 Process

### *Professional Standards:*

The NHPA requires each Federal Agency to ensure that all actions taken by employees or contractors of the agency shall meet professional standards under regulations developed by the Secretary.

To successfully complete Section 106 review, agencies (or their grant recipients) must complete the following:

- gather information to decide which properties in the area that may be affected by the project are listed, or are eligible for listing, in the National Register of Historic Places (NRHP) - Determination of Eligibility (DOE);
- determine how those historic properties might be affected by your project - Finding of Effect (FOE);
- explore measures to avoid or reduce harm (“adverse effect”) to historic properties; and
- reach agreement with the SHPO/THPO on such measures to resolve any adverse effects.

## Finding of Effect

- Area of Potential Effect
- Direct Impacts
  - Right-of-way needed within the boundary of an eligible resource.
  - Demolition or design changes to an eligible resource.
    - Change in size or materials
  - Visual or audible changes that diminish significant features of the eligible resource.



# Outcome of a Finding of Effect

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Not Eligible – No effect

## Eligible - No Adverse Effect

- Eligible resource but the project will not diminish character-defining features that make the resource eligible for NRHP
- Documents include DOE and FOE
- No design changes after concurrence of the FOE.

## Eligible - Adverse Effect

- Eligible resource and the project WILL diminish character-defining features
- Documents include DOE, FOE, and a Memorandum of Agreement (MOA)
- MOA process can take up to a year.



Thank you for attending!  
Questions?

