

4.0 Environmental

One of the most important phases of a Federal-aid project is the environmental process. Final design and obligation of federal funds for construction may not proceed until full compliance with the National Environmental Policy Act ([NEPA](#)) has been completed and the Design Summary Document (DSD) has been generated by KDOT. If federal funds are being used to acquire any right of way, acquisition may not commence until the NEPA process has been completed. If federal funds are not being used to acquire any right of way, it is encouraged and may be prudent to begin the actual right of way acquisition after the NEPA process has been completed and the DSD has been concurred on by FHWA (or KDOT for class IIA categorical exclusions per the Programmatic Categorical Exclusion Agreement).

4.1 NEPA

The NEPA process consists of an evaluation of potential environmental impacts of any federal aid project that requires permits or authorization from a federal agency. For projects administered through the BLP, the NEPA process begins when KDOT programs the project and assigns it a NEPA environmental class. There are three different levels of analysis that KDOT and the LPA may undertake to comply with the law:

1. Preparation of a Categorical Exclusion (CATX);
2. Preparation of an Environmental Assessment (EA) which may lead to a Finding of No Significant Impact (FONSI); or
3. Preparation and drafting of an Environmental Impact Statement (EIS) and a Record of Decision (ROD).

The Environmental Services Section (ESS) of the Bureau of Right of Way will perform or arrange for the necessary review to fulfill the NEPA requirements for all transportation projects (except CCLIP-SP or FFE). The ESS completes the initial environmental review needed for city and county projects. The acquisition of any necessary environmental permits is the responsibility of the LPA.

Most local projects qualify for a CATX classification after analysis. The PM will review the project scope and details to confirm that the CATX NEPA class is appropriate. CATXs can be classified as IIA or IIB. For instance, an environmental class of IIB is assigned if it includes grading in the scope and an environmental class of IIA is assigned if the scope only includes surfacing or is TA or ER funded.

If the LPA has any question regarding the NEPA class during the pre-programming phase, the PM should be notified as soon as possible. The PM is trained to identify project site conditions that may trigger a higher level of investigation.

Answering yes to any of the following questions should warrant more investigation regarding a NEPA class:

- Is the proposal highly complex?
- Is public or agency interest high?
- Is the project controversial?
- Are conditions stable or highly variable?
- Are there properties affected that are protected by Section [4\(f\)](#)* or [6\(f\)](#)**?

*Section 4(f) – FHWA regulations governing the use of land from publicly owned parks, recreation areas, wildlife and waterfowl refuges, and public or private historic sites. BLP PMs will coordinate all 4(f) *de minimis* considerations.

**Section 6(f) of the Land and Water Conservation Act requires that the conversion of lands or facilities acquired with Land and Water Conservation Act funds be coordinated with the Department of Interior. Usually replacement in kind is required.

Helpful information can be found on the [FHWA Environmental Review Toolkit website](#).

Actions that significantly affect the environment that may trigger a higher level of investigation include, but are not limited to the following: a new controlled access highway, highway project of four or more lanes on a new location, or new construction or extension of fixed rail transit facilities.

4.2 Public Involvement

The LPA is responsible for public involvement in the selection/prioritization process, which is commensurate with the scope and complexity of the proposed project. At a minimum, public involvement should include a public notice indicating when a governing body would be deciding on reviewing needs, selecting projects and setting priorities for federal aid projects. In later stages of project development, more public involvement may be warranted. The public involvement in the project development process will be in accordance with KDOT's "[Sharing the Future, Public Involvement in the Kansas Transportation System](#)".

More complex projects, or those that have a high potential for environmental impact, may require early and extensive public involvement and extensive documentation in accordance with 23CFR771. Documentation in these cases may be in the form of either an EIS (Class I) or an EA (Class III). The public involvement process flow charts included in KDOT's "Sharing the Future" provides the process used to categorize projects along with the sequence of events that need to be completed for each classification. See KDOT's Design Manual, Volume I, Road Section, Section 5.9 and the KDOT manual "Sharing the Future" for additional information.

4.3 KDOT Environmental Review Process

KDOT Environmental Services Section (ESS) initiates the memo, “Status of Projects Environmental Concerns (PRELIMINARY)”, (Preliminary Memo) as projects are programmed. Depending upon the type of project and the location, ESS may proceed with clearing some of the tasks as appropriate. Tasks that may be cleared at the Preliminary Memo stage by ESS could include: Task 1- Traffic Noise, Task 2 – Air Quality, Task 6 – Farmland Protection, and Task 7 – Hazardous Waste (if no new ROW is being acquired). The remaining task’s investigations are initiated as stated on the Preliminary Memo and will be investigated by the governing agencies as ESS sends out project documents (including field check plans) to the various agencies that have oversight responsibilities for these remaining environmental areas.

The field check plans are required to be sent to various reviewing agencies within the state. This is a critical step in the NEPA process and could affect schedule. For projects that are behind schedule and do not have fully developed field check plans, it may benefit the LPA to provide plan and profile sheets to BLP that indicate ROW and construction limits prior to submitting a full set of field check plans. The submitted plan and profile sheets may be used to begin the environmental review process. Please contact the PM prior to submitting plan and profile sheets for this purpose as it may not be allowed in every instance depending on the project.

After each agency has reviewed the pertinent project documents supplied by ESS, correspondence is provided to ESS from the reviewing agency. These letters will note clearances and/or any requirements and/or permits that may need to be met by the LPA prior to proceeding with the project. ESS compiles these letters and generates the “Status of Projects Environmental Concerns: Final Memo” (Final Memo.) The Final Memo summarizes the action or non-action that may need to be taken based on the review of the project documents.

The Preliminary Memo remains an internal document to KDOT ESS and is not circulated. The agency review response letters are archived by KDOT ESS and are not distributed to BLP unless there are concerns that require action. If an agency review letter requires action on the part of the LPA, the letter will be forwarded to BLP and subsequently to the LPA and Project Designer for review. After the Final Memo is received by BLP, it is archived on the Local Projects server and electronic copies are sent to the LPA and Project Designer by the PM.

The LPA will review the Final Memo and agency review letters (if applicable) for any required actions or necessary permits. For example; Task 5 – Wildlife, may indicate that the LPA needs to coordinate with Federal Fish and Wildlife Service (USFWS) before beginning construction. In this case, the LPA or their representative shall contact the USFWS to discover the issue that may be involved with the project. The Kansas Department of Wildlife, Parks, and Tourism (KDWPT) may, in some cases, require an action permit or a “habitat assessment” (to be performed by the LPA or their representative and submitted to KDWPT). The important thing regarding the Memo and agency review letters is that these documents need to be reviewed carefully and action taken when requested. It is imperative to keep the PM up to date regarding

any permits or other documents generated for the reviewing State or Federal agencies. Copies of these documents also need to be sent to the PM.

Timely consideration of these items can be very important to the overall schedule of the project. BLP will not proceed to PS&E until all permits and/or other environmental requirements have been accomplished.

4.4 Design Summary Document

The Design Summary Document (DSD) will be generated by the PM as soon as possible after the following-listed conditions have been met:

1. The Field Check has been completed.
2. The project is listed on the current STIP or TIP, as applicable.
3. The Status of Projects Environmental Concerns: Final memo has been issued.
4. Any other requirements needed for 4(f) or 6(f) considerations are met (if applicable).

If the project includes any federal funds, the DSD will be generated and routed to FHWA for concurrence unless it is classified as a IIA project. Once concurrence is obtained, this document will be archived and emailed to the LPA and Consultant. If the project includes only state funding, it is immediately archived and emailed to the LPA and Consultant. As stated in the DSD, upon receipt of this document, ROW acquisition and final design may begin for the project. If federal funds are being used to acquire any right of way, acquisition may not commence until the NEPA process has been completed. If federal funds are not being used to acquire any right of way, it is encouraged and may be prudent to begin the actual right of way acquisition after the NEPA process (Final Environmental Memo) has been completed.

For grouped projects (Off-System Bridge, HRRR, etc.), use the initial project's federal-aid project number and include the statement: "... the grouped project is programmed on the 20XX-20XX Kansas State Transportation Improvement Plan (STIP).".

4.5 Permits / Status of Permits (1307)

It is the LPA's responsibility to determine which permits are required for the project. Permits that may be needed for the project will be discussed at the field review or field check meeting. A preliminary list of possible permits that may be needed for the project will be included in the field check report. The LPA will make application for all permits required for the project.

The final list of permits required for the project will be determined by the LPA and/or their representative and submitted to the BLP via the ["List of Permits and Status of Same" \(Form 1307\)](#).

The Form 1307 shall be filled out and signed by either the LPA or the Consultant and submitted along with office check plans. The Form 1307 shall be updated and submitted with all subsequent plan submittals (up to and including PS&E plans) to BLP. Form 1307 should be sent in electronic format to KDOT.LPePlans@ks.gov. Plans submitted for review will not be accepted unless the completed Form 1307 is included.

Projects may contain mitigation measures in addition to the standard conditions of the applicable permits. If one or more of the applicable permits contains mitigation measures, usually listed as special conditions, the Mitigation box shall be checked on Form 1307. If the applicable permits do not contain mitigation measures/special conditions, the Mitigation box shall not be checked on Form 1307. It will be the LPA's responsibility to address any mitigation/special conditions and incorporate appropriate measures into the plans or specifications as necessary.

Upon request, KDOT will assist the LPA in the development of a project specific special provision to address any special conditions.

All required permits must be obtained prior to the beginning of the PS&E process (approximately **four months** prior to letting). BLP may delay the letting or cancel the project if the Form 1307 has not been received **four months** prior to the scheduled project letting date. All required permits shall be submitted electronically to BLP in their entirety. BLP will log and track the receipt of all project permits.