Project Delivery Directive

Number:	PD-10
References:	Project Development Procedures Manual, Chapters 10 and 14
Effective Date:	09/04/12
Supersedes:	NEW
Review by:	09/04/15

To: *Project Delivery Employees*

TITLE: Permissible Design Activities during the NEPA Process

DIRECTIVE

The Department, consistent with Federal Highway Administration (FHWA) policy and federal regulations, as a project's lead agency for complying with the National Environmental Policy Act (NEPA), will perform the work necessary to complete a NEPA decision document and comply with other related environmental laws and regulations to the maximum extent possible during the NEPA process.

Final design activities, property acquisition or project construction shall not proceed until the following have been completed, except as otherwise provided in law or regulation:

1. The NEPA decision document has been approved;
2. For actions proposed for federal funding, FHWA has received and accepted the certifications and any required public hearing transcripts required by Title 23, United States Code, section 128 (23 USC 128);
3. For activities proposed for federal funding, the programming requirements of the Code of Federal Regulations (CFR) Title 23, part 450, subpart B, and part 630, subpart A, have been met.

Title 23 CFR 710.501 and 771.113(d) allow limited exceptions to the above for early acquisition of property in cases of hardship, protective buying, open market transactions or environmental mitigation parcels.

Until a NEPA decision is approved, no action concerning the proposal shall be taken which would have an adverse environmental impact or limit the choice of reasonable alternatives.

BACKGROUND

FHWA's "Policy on Permissible Project Related Activities during the NEPA Process" (Order 6640.1A), and 23 CFR 771.113(a) establish allowable activities during the NEPA process.

FHWA's Every Day Counts initiative is designed to identify and employ innovation aimed at shortening project delivery, enhancing the safety of our roadways, and protecting the environment. As an element of Every Day Counts, "Clarifying the Scope of Preliminary Design" identifies the amount of design work allowable prior to NEPA completion regardless of contracting mechanism and will develop guidance to allow this work to be done consistently.

The Department's Standard Environmental Reference (SER) identifies the requirements needed for a NEPA decision document approval. It is an on-line resource to help state and local agency staff plan, prepare, submit, and evaluate environmental documents for transportation projects. The SER contains information appropriate to all transportation projects developed under the auspices of the Department and to all local agency highway or local streets and roads projects with funding or approvals by FHWA.

The Department's Right of Way Manual provides users with uniform procedures established to carry out the Right of Way functions of the Department.

DEFINITIONS

Preliminary Design: Preliminary design defines the general project location and design concepts. Preliminary design can include a wide range of preliminary engineering and other activities and analyses needed to establish parameters for the final design. See Attachment A for examples of allowable activities. Preliminary design can also include activities which do not materially affect the objective consideration of alternatives in the NEPA review process.

Final Design: Any design activities following preliminary design and expressly includes the preparation of final construction plans and detailed specifications for the performance of construction work.

NEPA Decision Document: The point in the NEPA evaluation process at which the Federal lead agency issues a categorical Exclusion (CE), Finding Of No Significant Impact (FONSI), or a Record of Decision (ROD).

RESPONSIBILITIES

Chief Engineer:

- Ensure policy, guidance and training, as appropriate, is developed and implemented in the Capital Outlay Support Program.

District Directors:

- Ensure implementation of this directive in their respective districts and regions.

Chiefs, Divisions of Construction, Design, Engineering Services, Environmental Analysis, Project Management, and Right of Way and Land Surveys:

- Ensure this directive is circulated to target audiences in their division.
- Ensure this directive is circulated to other divisions to identify shared issues.
- Ensure this directive is circulated to districts to identify implementation issues.
- Ensure this directive is incorporated into applicable manuals and review within three years of issuance to ensure current applicability.
- Develop or update guidance and procedures required for the effective, efficient implementation of this directive.
- Recommend update or deletion of this directive.

Deputy District Directors, Project Delivery Functions and Engineering Services Deputy Division Chiefs:

- Ensure policy and standards are met or exceptions have appropriate approval.
- Ensure incorporation of best practices into their functional operations.

Robert Pieplow

ROBERT PIEPLOW
Acting Deputy Director
Project Delivery

Aug. 23, 2012
Date Signed