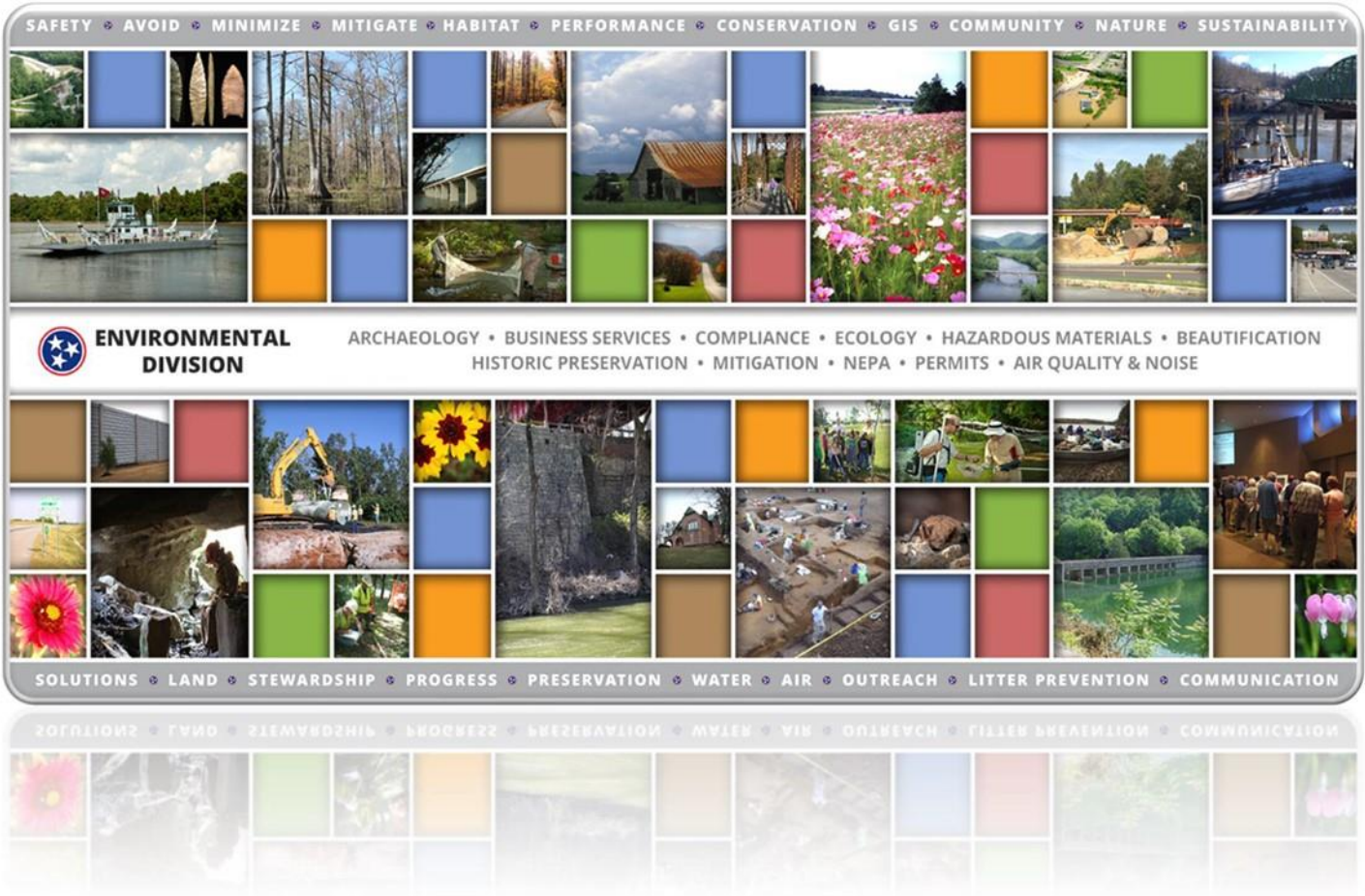




Environmental Guidelines



The Environmental Guidelines (EG) contain information appropriate to all transportation projects developed under the direction of the Tennessee Department of Transportation (TDOT), and to all local agency highway or local street and road projects with funding or approvals required by TDOT and/or the Federal Highway Administration (FHWA).

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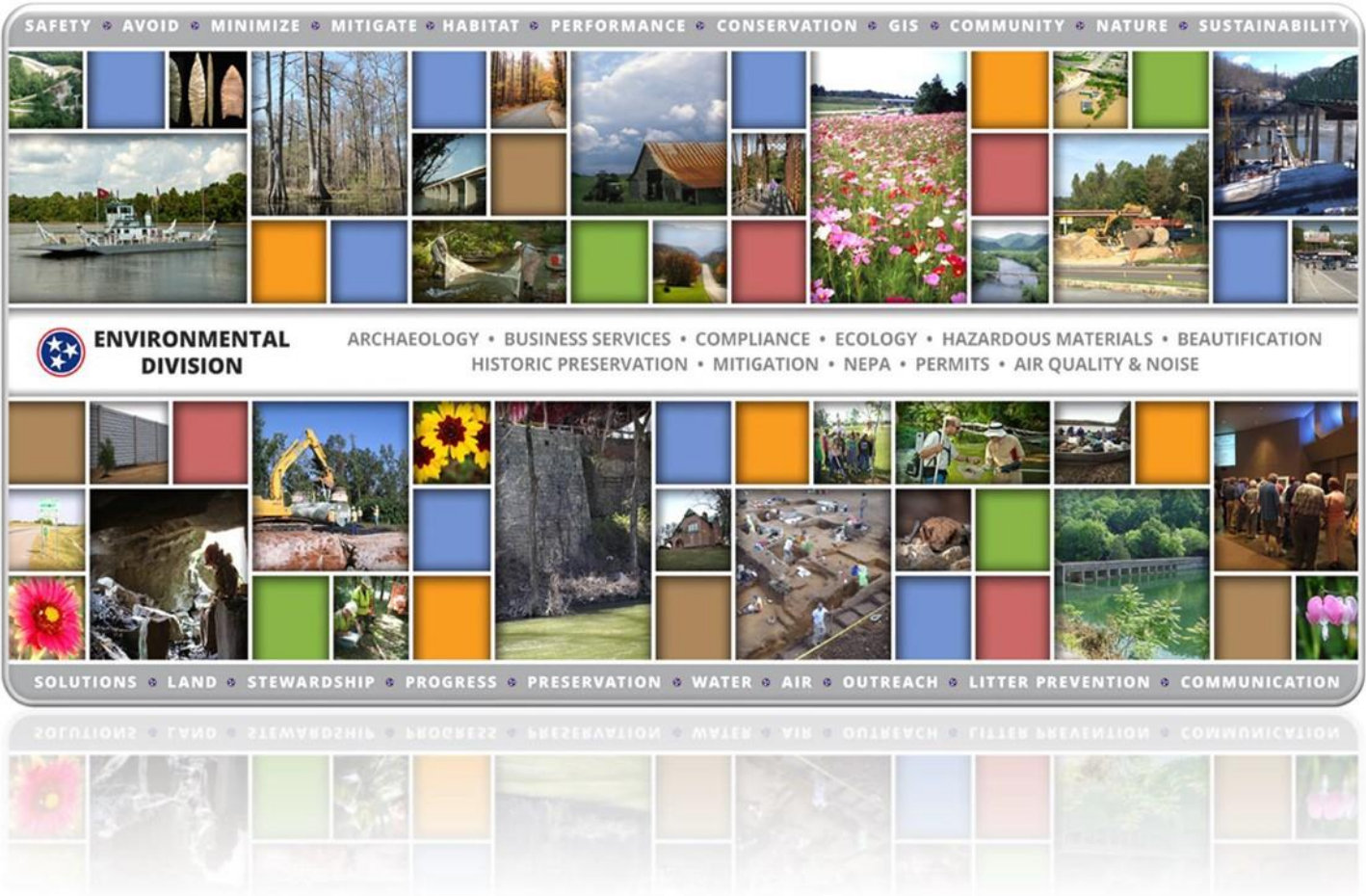
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INTRODUCTION TO ENVIRONMENTAL GUIDELINES (EG)



The EG contains information appropriate to all transportation projects developed under the direction of the Tennessee Department of Transportation (TDOT), and to all local agency highway or local street and road projects with funding or approvals required by TDOT and/or the Federal Highway Administration (FHWA). TDOT ensures environmental compliance through the National Environmental Policy Act (NEPA), Environmental Technical Studies, Mitigation, and Permit processes.

1. INTRODUCTION TO ENVIRONMENTAL GUIDELINES (EG)

The Environmental Guidelines (EG) contains information appropriate to all transportation projects developed under the direction of the Tennessee Department of Transportation (TDOT), and to all local agency highway or local street and road projects with funding or approvals required by TDOT and/or the Federal Highway Administration (FHWA).

TDOT coordinates with FHWA, federal, and state agencies to ensure compliance with the National Environmental Policy Act (NEPA), the Clean Water Act, the Clean Air Act, the National Historic Preservation Act, the Endangered Species Act, and other federal environmental laws, regulations, and policies where TDOT is the state approval authority in the development and implementation of transportation projects. Environmental practitioners, scientists, engineers, managers, and decision makers can apply the tools and resources found within the EG to meet the standards required by TDOT policy in order to comply with FHWA, NEPA, and other environmental compliance procedures, as well as Tennessee's environmental laws, regulations, policies, and procedures.

1.1 TDOT'S ENVIRONMENTAL DIVISION

The Environmental Division is responsible for identifying, assessing, mitigating and documenting environmental risk to TDOT on projects and operations from early project development through construction and into maintenance.

The Environmental Division focuses on:

- Integrating environmental considerations and regulatory requirements into TDOT's transportation program
- Providing a broad range of technical expertise in the studies of the natural and human environments
- Providing environmental review documentation to satisfy NEPA and other state and federal environmental permit requirements for TDOT projects and facilities
- Coordinating with regulatory agencies to streamline environmental review processes

For office descriptions and contact information see [TDOT Environmental Division website](#).

1.2 TDOT'S ENVIRONMENTAL REVIEW PROCESS

Transportation projects proposed by TDOT are subject to various environmental regulations and laws pursuant to which environmental analysis and compliance are required (see Table 1-1 and Table 1-2). These guidelines are intended to assist in the overall understanding and knowledge of environmental impact and analysis studies, as well as the requirements and intent of environmental documents, environmental permits, mitigation actions, and compliance.

The intent of federal and state environmental regulations, policies, and guidelines is to ensure that during project development and implementation, adequate and appropriate consideration is given to the potential impacts of the project on the natural and human environment. Environmental reviews involve an interdisciplinary and interagency process, and TDOT works cooperatively with other federal and state agencies during the process. This coordinated review process includes input from the public, as well as from other agencies, to guarantee that all environmental regulations and other issues are taken into consideration.

1.3 FEDERAL ENVIRONMENTAL LAWS AND REGULATIONS

This section provides explanations and background information on the federal laws, regulations, and procedures that govern the environmental evaluation and compliance process that TDOT must follow for transportation projects that have federal funding and/or require a major federal action.

Legislation forms the foundation for all requirements. Federal laws are compiled in the United States Code (U.S.C.). Agencies then issue regulations that outline how the law will be implemented; these are found in the Code of Federal Regulations (CFR). Agencies also issue policy, guidance, and memos to provide more specific information and advice on how to apply regulations. The President Issues Executive Orders (EOs) that are binding on federal agencies.

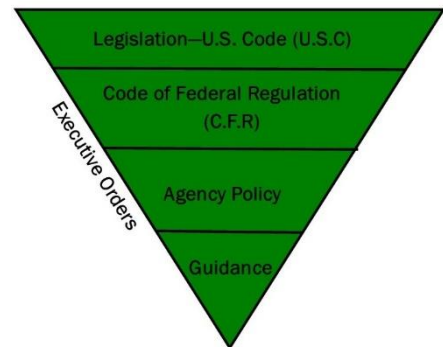


TABLE 1-1: FEDERAL ENVIRONMENTAL LAWS, REGULATIONS, AND GUIDANCE

NATURAL AND PHYSICAL ENVIRONMENTAL	
2008 COMPENSATORY MITIGATION FOR LOSSES OF AQUATIC RESOURCES	
Description	Chapter
Comprehensive standards for Permittee-Responsible Mitigation, Mitigation Banking, and In-Lieu Fee Mitigation mechanisms for providing compensatory mitigation.	<ul style="list-style-type: none"> • Environmental Technical Studies • Stream & Wetland Mitigation
CLEAN WATER ACT OF 1977 AND 1987 (33 U.S.C § 1251)	
Description	Chapter
Restores and maintains the chemical, physical, and biological integrity of the Nation's waters through prevention and elimination of pollution	<ul style="list-style-type: none"> • Environmental Technical Studies • Stream & Wetland Mitigation • Environmental Permits • Environmental Construction Compliance
CLEAN AIR ACT OF 1970 (42 U.S.C 7401 ET. SEQ)	
Description	Chapter
Protects and enhances air quality and assist state and local governments with air pollution prevention programs	<ul style="list-style-type: none"> • Environmental Technical Studies
FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (7 U.S.C § 136)	
Description	Chapter
Controls the application of pesticides to provide greater protection to man and the environment; applies to roadside maintenance activities as well	<ul style="list-style-type: none"> • Environmental Construction Compliance
SOLID WASTE DISPOSAL ACT (42. U.S.C § 6901 ET. SEQ.)	
Description	Chapter
Ensures environmentally sound methods for the disposal of household, municipal, commercial, and industrial waste	<ul style="list-style-type: none"> • Environmental Technical Studies • Environmental Construction Compliance
RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (RCRA) (42 U.S.C § 9601 ET. SEQ.)	
Description	Chapter
Authorizes the EPA to control the generation, transportation, treatment, storage, and disposal of hazardous waste, and creates a framework for the management of non-hazardous waste	<ul style="list-style-type: none"> • Environmental Technical Studies • Environmental Construction Compliance
COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA) (42 U.S.C § 6901)	

Description	Chapter
Creates a “superfund” to clean up abandoned or uncontrolled hazardous waste sites, spills, or emergency releases of contaminants, and gives the EPA the ability to seek out responsible parties	<ul style="list-style-type: none"> • Environmental Technical Studies • Environmental Construction Compliance
EXECUTIVE ORDER 12962 (RECREATIONAL FISHERIES) (AMENDED BY EXECUTIVE ORDER 13474)	
Description	Chapter
Improves the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities	<ul style="list-style-type: none"> • Environmental Technical Studies
EXECUTIVE ORDER 13112 (INVASIVE SPECIES) (AMENDED BY EXECUTIVE ORDER 13286 AND EXECUTIVE ORDER 13751)	
Description	Chapter
Prevents the introduction of invasive species, provides for their control, and minimizes the economic, ecological, and human health impacts that invasive species cause	<ul style="list-style-type: none"> • Environmental Construction Compliance • Environmental Technical Studies • Stream & Wetland Mitigation • Environmental Permits
EXECUTIVE ORDER 13186 (MIGRATORY BIRDS)	
Description	Chapter
Promotes the conservation of migratory bird populations	<ul style="list-style-type: none"> • Environmental Technical Studies
FISH AND WILDLIFE COORDINATION ACT OF 1934, AS AMENDED (16 U.S.C. § 661-666)	
Description	Chapter
Covers conservation, maintenance, and management of wildlife resources	<ul style="list-style-type: none"> • Environmental Technical Studies
MIGRATORY BIRD TREATY ACT OF 1918(16 U.S.C. § 703-711)	
Description	Chapter
Ensures the sustainability of populations of all protected migratory bird species, and prohibits the taking (including killing, capturing, selling, trading, and transporting) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service	<ul style="list-style-type: none"> • Environmental Technical Studies • Environmental Construction Compliance

SAFE DRINKING WATER ACT (PUB. L. 93-523 AND 42 U.S.C § 300F)	
Description	Chapter
Ensures the quality of American drinking water and allows the EPA to set national standards in public water systems	<ul style="list-style-type: none"> • Environmental Technical Studies
WILD AND SCENIC RIVERS ACT (16 U.S.C § 1271-1287)	
Description	Chapter
Preserves and protects wild and scenic rivers and immediate environments for benefit of present and future generations	<ul style="list-style-type: none"> • Environmental Technical Studies • NEPA • Environmental Permits
WETLAND MITIGATION BANKING, INTERMODAL SURFACE TRANSPORTATION EQUITY ACT (ISTEA)	
Description	Chapter
Defines compensatory mitigation activities, such as natural habitat and wetland banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands. Directs development of statewide and regional natural habitat and wetlands conservation and mitigation plans as eligible products	<ul style="list-style-type: none"> • Stream & Wetland Mitigation
RIVERS AND HARBORS ACT OF 1899 (SECTION 9 AND SECTION 10) (33 U.S.C § 401)	
Description	Chapter
Protects navigable waters in the U.S.	<ul style="list-style-type: none"> • Environmental Technical Studies • Environmental Permits
EMERGENCY WETLANDS RESOURCES ACT OF 1986 (16 U.S.C § 3921)	
Description	Chapter
Promotes the conservation of wetlands in the U.S. in order to maintain the public benefits they provide	<ul style="list-style-type: none"> • Environmental Technical Studies • Stream & Wetland Mitigation • Environmental Permits
NATIONAL TRAILS SYSTEMS ACT (16 U.S.C § 1241-1249)	
Description	Chapter
Provides for outdoor recreation needs and encourages outdoor recreation	<ul style="list-style-type: none"> • NEPA

FEDERAL WATER POLLUTION CONTROL ACT OF 1972 (33 U.S.C § 1251-1376)	
Description	Chapter
Restores and maintains chemical, physical, and biological integrity of the Nation's waters through prevention, reduction, and elimination of pollution	<ul style="list-style-type: none"> • Environmental Technical Studies • Stream & Wetland Mitigation • Environmental Permits • Environmental Construction Compliance
NATIONAL FLOOD INSURANCE & FLOOD DISASTER PROTECTION ACT (42 U.S.C § 4001-4128)	
Description	Chapter
Identifies flood-prone areas and requires insurance coverage in such areas	<ul style="list-style-type: none"> • NEPA
FISH AND WILDLIFE COORDINATION ACT (16 U.S.C § 661-666(C))	
Description	Chapter
Covers the conservation, maintenance, and management of wildlife resources	<ul style="list-style-type: none"> • Environmental Technical Studies
EXECUTIVE ORDER 11990 (PROTECTION OF WETLANDS)	
Description	Chapter
Requires the avoidance and minimization of adverse effects on wetlands and avoid support of new construction in wetlands	<ul style="list-style-type: none"> • Environmental Technical Studies • Stream & Wetland Mitigation • Environmental Permits
FLOOD DISASTER PROTECTION ACT (42 U.S.C. § 4001-4128)	
Description	Chapter
Requires the identification of flood-prone areas and the purchase of insurance for buildings in special flood-hazard areas	<ul style="list-style-type: none"> • NEPA

US. DEPARTMENT OF TRANSPORTATION (USDOT) ORDER 5650.2-FLOODPLAIN MANAGEMENT AND PROTECTION (APRIL 23, 1979) (EO 11988, 23 CFR 650, PART A)	
Description	Chapter
Directs all federal agencies to avoid the long- and short-term adverse impacts associated with the modification of floodplains, to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, and to restore and preserve the natural and beneficial values served by floodplains	<ul style="list-style-type: none"> • NEPA • Environmental Permits
SECTION 6(F) OF THE LAND AND WATER CONSERVATION ACT (36 CFR 59.3 AND 54 USC 200305)	
Description	Chapter
Provides federal funding for recreational areas and parks and protection of those areas improved using land and water conservation act funding	<ul style="list-style-type: none"> • NEPA
ENDANGERED SPECIES ACT (16 U.S.C § 1531 ET. SEQ.)	
Description	Chapter
Provides federal protection and recovery for imperiled species and the ecosystems on which they rely	<ul style="list-style-type: none"> • Environmental Technical Studies
EXECUTIVE ORDER 11988 (FLOODPLAIN MANAGEMENT)	
Description	Chapter
Requires federal agencies to avoid occupying and/or modifying floodplains and to avoid direct and indirect support of floodplain development whenever possible	<ul style="list-style-type: none"> • NEPA
FARMLAND PROTECTION POLICY ACT OF 1981 (7 U.S.C. 4201)	
Description	Chapter
Minimizes the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to non-agricultural usages	<ul style="list-style-type: none"> • NEPA

**SECTION 4(F) OF THE U.S. DEPARTMENT OF TRANSPORTATION ACT OF 1966
(23 CFR 774, 49 U.S.C. §303, AND 23 U.S.C. §138)**

Description	Chapter
Provides for the consideration of publicly owned parks, recreational areas, and wildlife and waterfowl refuges, and public or private historic sites during the transportation project development process.	<ul style="list-style-type: none"> • NEPA • Environmental Technical Studies

**NATIONAL HISTORIC PRESERVATION ACT (SECTION 106 AND SECTION 110)
(16 U.S.C § 470 ET. SEQ.)**

Description	Chapter
Federal agencies must take historic preservation into account in the development of programs by identifying historic properties and assessing for adverse effects. Requires states to create historic preservation programs and provide process of nominating properties to the national register.	<ul style="list-style-type: none"> • Environmental Technical Studies

TENNESSEE VALLEY AUTHORITY ACT OF 1933 (16 U.S.C. § 831)

Description	Chapter
Improves the navigability and provides flood control of the Tennessee River, provides reforestation and proper use of marginal lands in the Tennessee Valley, and provides agricultural and industrial development of the Valley.	<ul style="list-style-type: none"> • Environmental Technical Studies • Environmental Permits

COMMUNITY RESOURCE AND CUMULATIVE EFFECTS

PUBLIC HEARINGS (23 U.S.C. § 128)

Description	Chapter
Ensures adequate opportunities for public hearings on the effects of alternative project locations, major design features, and the consistency of the project with local planning goals and objectives.	<ul style="list-style-type: none"> • NEPA

**ECONOMIC, SOCIAL, AND ENVIRONMENTAL EFFECTS
(23 U.S.C § 109(H))**

Description	Chapter
Ensures that potential adverse, economic, social, and environmental effects of proposed highway projects and project locations are fully considered and that final decisions on highway projects are made in the best overall public interest.	<ul style="list-style-type: none"> • NEPA

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (42 U.S.C § 4601 ET. SEQ.)	
Description	Chapter
Ensures that persons displaced by federally funded projects will be treated fairly and compensated equitably for relocation or loss of personal property.	<ul style="list-style-type: none"> • NEPA
NOISE STANDARDS (23 U.S.C § 109)	
Description	Chapter
Incorporates reasonable and feasible noise abatement measures for highway traffic.	<ul style="list-style-type: none"> • Environmental Technical Studies
EXECUTIVE ORDER 12898 (ENVIRONMENTAL JUSTICE)	
Description	Chapter
Federal agencies must identify and address disproportionately high and adverse effects of programs on minority and low-income populations.	<ul style="list-style-type: none"> • NEPA
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (42 U.S.C § 2000 ET. SEQ)	
Description	Chapter
Ensures that no one is discriminated against on the basis of race, color, or national origin in federally funded/assisted programs.	<ul style="list-style-type: none"> • NEPA
CONSIDERING CUMULATIVE EFFECTS UNDER NEPA (COUNCIL ON ENVIRONMENTAL QUALITY, JANUARY 1997) (42 U.S.C. § 4321 ET. SEQ.)	
Description	Chapter
Requires consideration of the impact on the environmental which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions.	<ul style="list-style-type: none"> • NEPA
QUESTIONS AND ANSWERS REGARDING THE CONSIDERATION OF INDIRECT AND CUMULATIVE IMPACTS IN THE NEPA PROCESS, FHWA (40 CFR §1500-1508)	
Description	Chapter
Provides context for FHWA and other federal agencies' responsibility to address and consider direct, indirect, and cumulative impacts in the NEPA Programs process.	<ul style="list-style-type: none"> • NEPA

SECONDARY AND CUMULATIVE IMPACT ASSESSMENT IN THE HIGHWAY PROJECT DEVELOPMENT PROCESS, FHWA (40 CFR § 1508)

Description	Chapter
Requires an examination of secondary and cumulative consequences and the focus on the functional relationships of resources with larger systems. If these relationships are understood, conclusions on a project's likely secondary and cumulative impacts to the overall system should be possible.	<ul style="list-style-type: none"> NEPA

DEVELOPMENT OF PROJECT ALTERNATIVES

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) (42 USC 4321-4347)

Description	Chapter
A national policy to consider environmental impacts of federal actions.	<ul style="list-style-type: none"> All

NEPA PROGRAMS IMPLEMENTATION, THE IMPORTANCE OF PURPOSE AND NEED IN ENVIRONMENTAL DOCUMENTS, FHWA

Description	Chapter
A clear, well-justified purpose and need section explains to the public and decision makers that the expenditure of funds is necessary and worthwhile and that the priority the project is being given relative to the other needed highway projects is warranted.	<ul style="list-style-type: none"> NEPA

NEPA AND TRANSPORTATION DECISION-MAKING, ELEMENTS OF PURPOSE AND NEED, FHWA (40 CFR § 1500-1508)

Description	Chapter
Addresses the basic decision-making framework and action forcing provisions established in NEPA. FHWA adopted the policy of managing the NEPANNEPA Programs project development and decision-making process as an "umbrella", under which all applicable environmental laws, executive orders, and regulations are considered and addressed prior to final project decision and document approval.	<ul style="list-style-type: none"> NEPA

NEPA AND TRANSPORTATION DECISION-MAKING, DEVELOPMENT AND EVALUATION OF ALTERNATIVES, FHWA (40 CFR § 1502.14)	
Description	Chapter
Consideration of alternatives leads to a solution that satisfies the transportation need and protects environmental and community resources.	<ul style="list-style-type: none"> NEPA
NEPA IMPLEMENTATION, THE DEVELOPMENT OF LOGICAL PROJECT TERMINI, FHWA (23 CFR 771.111(F))	
Description	Chapter
Defined as the rational end points for both a transportation improvement and a review of the environmental impacts.	<ul style="list-style-type: none"> NEPA


1.3.1 FHWA, FTA, AND FRA ENVIRONMENTAL IMPACTS AND RELATED PROCEDURES

Addresses the NEPA Programs Office’s responsibilities established by the Council on Environmental Quality (CEQ). Three USDOT agencies (FHWA, Federal Transit Administration (FTA), and the Federal Rail Administration (FRA) have developed detailed guidance for applying NEPA Programs to highway and transit projects. Those regulations are codified in 23 CFR 771, Environmental Impact and Related Procedures, as amended.

While the regulations contained in 23 CFR 771 apply to each of the three agencies, the discussion below and throughout the EG refers specifically to FHWA’s regulations, polices, and guidance.

Federal Highway Administration

The Federal Highway Administration is a division of the United States Department of Transportation that specializes in highway transportation. The agency's major activities are grouped into two programs, the Federal-aid Highway Program and the Federal Lands Highway Program.



TDOT’s Environmental Division completes NEPA actions on behalf of FHWA.

The regulations require that agencies undertaking transportation activities with federal funding or major federal action:

- Comply with all applicable environmental requirements, including NEPA and Section 4(f) of the Department of Transportation Act of 1966.
- Prepare documentation of compliance to a level appropriate to the undertaking’s potential to cause significant harm to the environment.

Federal Railroad Administration

The Federal Railroad Administration is an agency within the United States Department of Transportation that provides financial and technical support to rail systems throughout the country. The FRA is one of ten modal administrations within the DOT.



U.S. Department of Transportation
Federal Railroad Administration

TDOT's Freight and Logistics Division works with FRA to complete Railroad NEPA Actions.

- Evaluate alternatives (including a no action or no-build alternative) and make decisions that balance the need for the project with the social, economic and environmental impacts of the project.
- Inform governmental entities and the public and provide them an

Federal Transit Administration

The Federal Transit Administration is an agency within the United States Department of Transportation that provides financial and technical assistance to local public transportation systems. The FTA is one of ten modal administrations within the DOT.



Federal Transit Administration

TDOT's Multimodal Division works with FTA to complete Transit NEPA actions.

opportunity to be involved in decision-making, and

- Implement measures to avoid, minimize, or mitigate environmental impacts.

1.4 STATE ENVIRONMENTAL LAWS AND REGULATIONS

Much like the federal government, the State of Tennessee has established environmental laws, regulations, and policies applicable to transportation projects. State laws and regulations are supplemental environmental measures that should be used in conjunction with federal laws and regulations. This section will provide some background on Tennessee environmental legislation, a list of which can be found in **Table 1-2**.

TABLE 1-2: ENVIRONMENTAL STATE LAWS AND REGULATIONS

State Laws and Regulations Relating to the Environmental Review Process	
TENNESSEE WATER QUALITY CONTROL ACT OF 1977 (T.C.A § 69)	
Description	Chapter
Protects the right to have clean, unpolluted waters. obligates the State government to take all prudent and feasible steps to protect and preserve this right. Abates existing pollution in state waters, prevents future pollution, and appropriately plans for the future use of these state waters	<ul style="list-style-type: none"> • Environmental Permits • Environmental Construction Compliance

**TENNESSEE UNIFORM RELOCATION ASSISTANCE ACT OF 1972
(T.C.A § 1-11-101)**

Description	Chapter
Establishes a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by state agencies with or without federal financial assistance, programs or projects undertaken by local agencies with federal or state financial assistance.	<ul style="list-style-type: none"> • NEPA

**TENNESSEE NONGAME AND ENDANGERED OR THREATENED WILDLIFE SPECIES
CONSERVATION ACT OF 1974 (T.C.A. § 70-8-101 TO 112)**

Description	Chapter
Protects species or subspecies of indigenous wildlife that are found to be endangered or threatened in Tennessee, as well as those species deemed to be endangered or threatened elsewhere.	<ul style="list-style-type: none"> • Environmental Technical Studies

**TENNESSEE PETROLEUM UNDERGROUND STORAGE TANK
ACT (T.C.A. § 68-53-101 ET SEQ.)**

Description	Chapter
Protects the health and welfare of both humans and the environment related to petroleum underground storage tanks (USTs).	<ul style="list-style-type: none"> • Environmental Technical Studies • Environmental Construction Compliance

**MULTIMODAL ACCESS POLICY (T.C.A. § 43-23-03 OR TDOT
POLICY NO. 530-01)**

Description	Chapter
Implements a multimodal transportation policy that provides safe access to users of all ages and accessibility levels throughout the planning, design, construction, implementation, and maintenance of a project.	<ul style="list-style-type: none"> • NEPA

TDOT BICYCLE PEDESTRIAN POLICY (TDOT POLICY NO. 530-01)

Description	Chapter
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Integrates bicycling and walking options into the transportation system as a means to improve mobility and safety of non-motorized traffic.	<ul style="list-style-type: none"> • NEPA
TENNESSEE RARE PLANT PROTECTION AND CONSERVATION ACT 1985 (T.C.A. § 70-8-3)	
Description	Chapter
Identifies rare plants and the process through which plants can become listed as rare in the state of Tennessee. Requires persons to obtain written permission from a landowner or manager before knowingly removing or destroying state-listed endangered plant species and requires nursery farmers to be licensed in order to sell state-listed endangered species.	<ul style="list-style-type: none"> • NEPA

1.4.1 AGREEMENTS

The Environmental Division has entered into agreements with state and federal agencies in an effort to streamline the environmental review process.

Memorandums of Understanding (MOUs) describe an understanding between two or more agencies or parties and provide the broad outline of a common line of action or agreed upon method. **Memorandums of Agreement (MOAs)** outline the specific terms or methods to be used when two or more agencies or parties are working together towards a common goal. MOUs and MOAs are applied in similar capacities. While both are formal and binding agreements, MOUs are often broader, and MOAs tend to be more specific.

Programmatic Agreements (PA) are agreed upon procedures often used to increase efficiency while still providing sufficient consideration for the environment.

Working Agreements increase the effectiveness of coordination efforts between several different agencies toward a achieving a mutual goal. Some agreements may be used by other parties when project funding is administered by TDOT. **Table 1-3** provides a list of frequently used agreements.

TABLE 1-3: AGREEMENTS AND UNDERSTANDINGS

ENVIRONMENTAL AGREEMENTS AND UNDERSTANDINGS

PROGRAMMATIC CONSULTATION FOR ADDRESSING CLIFF SWALLOW AND BARN SWALLOW NESTING SITES ON TRANSPORTATION PROJECTS

Term	Topic	Parties Involved
09/16/2020 to 09/16/2025	Addresses cliff swallows and barn swallow nesting sites found on TDOT projects and ensures no adverse effects under the Migratory Bird Act.	<ul style="list-style-type: none"> • TDOT • USFWS • FHWA

GROUP PROGRAMMATIC NO EFFECT ACTIVITIES

Term	Topic	Parties Involved
09/02/2020 to 06/2022 (will be changed out when new doc is signed)	Establishes projects and activities which typically result in no adverse effects to threatened/endangered plant and animal species and/or their critical habitats in Tennessee.	<ul style="list-style-type: none"> • TDOT • FHWA

PROGRAMMATIC BIOLOGICAL OPINION

Term	Topic	Parties Involved
02/2018	Establishes the need for a biological opinion for transportation projects in the range of the Indiana Bat and Northern Long Eared Bat.	<ul style="list-style-type: none"> • USFWS • FHWA • FRA • FTA

PROGRAMMATIC AGREEMENT REGARDING THE PROCESSING OF ACTIONS CLASSIFIED AS CATEGORICAL EXCLUSIONS FOR FEDERAL-AID HIGHWAY PROJECTS

Term	Topic	Parties Involved
06/18/2018	Establishes thresholds which, if exceeded, require that Categorical Exclusions be reviewed and approved by FHWA. Also, outlines TDOT and FHWA responsibilities with regards to CEs.	<ul style="list-style-type: none"> • TDOT • FHWA

MEMORANDUM OF AGREEMENT

Term	Topic	Parties Involved
08/10/2016	Regards acceptance of the TDOT Fundamentals of EPSC Training Program as an approved extension of the TDEC Level 1 Tennessee EPSC Training Program and TDEC Statewide Storm water Training Program	<ul style="list-style-type: none"> • TDOT • TDEC

PROGRAMMATIC CONSULTATION

Term	Topic	Parties Involved
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09/02/2020 to 09/02/2020	Involves the disposal of excess land and establishes an agreement for detailed project reviews conducted by the USFWS for the sale or use of excess lands.	<ul style="list-style-type: none"> • TDOT • USFWS • FHWA
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PROGRAMMATIC AGREEMENT AMONG THE FHWA, TDOT, TN-SHPO, AND ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) REGARDING THE IMPLEMENTATION OF TRANSPORTATION PROJECTS

Term	Topic	Parties Involved
07/30/2021 to 07/30/2026	Provides a program alternative to establish efficient and effective program for taking into account the effects of the Program on historic properties in Tennessee.	<ul style="list-style-type: none"> • TDOT • FHWA • TN-SHPO • ACHP

MEMORANDUM OF AGREEMENT BETWEEN THE TDOT, FHWA-TN DIVISION, AND TDEC DNA FOR NO ADVERSE EFFECTS

Term	Topic	Parties Involved
01/06/2021 to 01/06/2026	Provides a list of activities that would not result in adverse effects to state listed plant species or their habitats; the MOA constitutes consultation/coordination between the agencies.	<ul style="list-style-type: none"> • TDOT • TDEC DNA

RENEWAL OF DESIGNATION OF TDOT AS THE FHWA'S NON-FEDERAL REPRESENTATIVE

Term	Topic	Parties Involved
01/25/2021	Provides streamlining of Federal Section 7 consultation requirements for TDOT projects.	<ul style="list-style-type: none"> • USFWS • FHWA

STEWARDSHIP AND OVERSIGHT AGREEMENT

Term	Topic	Parties Involved
06/15/2015	The Federal-aid Highway Program (FAHP) is a federally assisted program of State-selected projects. The Federal Highway Administration (FHWA) and the State Departments of Transportation have long worked as partners to deliver the FAHP in accordance with Federal requirements.	<ul style="list-style-type: none"> • TDOT • FHWA

PROCEDURES FOR COORDINATING HIGHWAY ENCROACHMENTS ON FLOODPLAINS WITH (MOU BETWEEN FHWA AND FEMA)

Term	Topic	Parties Involved
-------------	--------------	-------------------------

06/25/1982	Provides procedures for coordination with FEMA and guidance on highway encroachments on regulatory floodways and floodplains.	<ul style="list-style-type: none"> • FHWA • Federal Emergency Management Agency (FEMA)
TWRA LIAISON FUNDING AGREEMENT		
Term	Topic	Parties Involved
03/01/2021 to 03/01/2026	Sets forth the responsibilities of the signatory agencies to this agreement relative to the priority review of TDOT transportation projects.	<ul style="list-style-type: none"> • TDOT • TWRA
USFWS LIAISON FUNDING AGREEMENT		
Term	Topic	Parties Involved
09/04/2019 to 09/04/2024	USFWS shall provide all service and deliverables as required, described, and shall meet all service and delivery timelines as specified by this agreement.	<ul style="list-style-type: none"> • USFWS
USACE-NASHVILLE DISTRICT LIAISON FUNDING AGREEMENT		
Term	Topic	Parties Involved
06/30/2017 to 12/31/2022 (as amended 04/14/2021 and 06/10/2022)	Sets forth the responsibilities of the signatory agencies relative to the priority review of TDOT transportation projects.	<ul style="list-style-type: none"> • TDOT • USACE

1.5 PROJECT COLLABORATION RESOURCES

TDOT collaborates with local governments, contractors, and consultants to develop transportation projects.

1.5.1 LOCAL PROGRAMS PROJECTS

Local governments may opt to use state or federal-aid funds for projects within their jurisdiction. In undertaking such projects, local governments must abide by the same laws and regulations as all TDOT projects. They must prepare a NEPA document for review and approval by TDOT Environmental Division staff and/or FHWA if the project has a federal nexus and FHWA is the lead federal agency. They must prepare a TEER document for review and approval by TDOT Environmental Division staff if the project has no federal nexus but will be utilizing state funds provided by TDOT.



Local Programs Overpass Project (Veterans Parkway, Millington, Tennessee)

Before a project can be advertised, all applicable water quality and stormwater permits must be obtained from appropriated state and federal agencies. The Local government shall obtain all permits and assumes all responsibilities of the permittee as indicated in the permit that relate to protection. Local governments undertaking a Local Programs project must follow the guidance contained in the *Local Government Guidelines for The Management of Federal and State-Funded Transportation Projects*. The most up-to-date version of the guidelines is posted on the website for TDOT's Local Programs Development Office.

1.5.2 ALTERNATIVE CONTRACTING

Alternative Contracting is a project delivery method used to supplement traditional Design-Bid-Build delivery methods. Alternative contracting methods often use new, innovative practices to decrease project delivery time, reduce construction time, improve safety, and reduce costs. TDOT implements two methods of innovative and alternative contracting, Design-Build (D-B) and Construction Manager/General Contractor (CM/GC). Environmental compliance responsibilities will be specified in the scope of work. Additional information is available on the TDOT Project Management website.

1.6 ENVIRONMENTAL COMMITMENTS

Throughout the environmental review process, the effects of a proposed undertaking, as well as any effects that could potentially occur throughout the life of the project, are

reviewed to determine if and how these effects should be avoided, minimized, and/or mitigated. Often, these avoidance, minimization, and mitigation efforts are captured as environmental commitments. Identification and documentation of commitments can occur throughout the environmental review process. Coordination between TDOT employees, coordinating agencies, FHWA (for federally funded projects), and contractors is essential to ensure environmental commitments are identified.

When a commitment is made, it is noted in the environmental document. Commitments that are written into the NEPA document are legally binding as the implementation of these commitments are a condition of the approval of the project. Failure to implement a commitment could result in litigation measures or significant penalties, such as FHWA determining that the costs associated with any actions that were to be mitigated by said commitments are ineligible for federal funds.

To ensure that all commitments are implemented, they must be tracked and organized properly so that all parties involved can clearly understand and access them. Therefore, commitments are not only documented in environmental documents, but are also entered into PPRM for tracking and communication and, where relevant, are noted directly on plan sheets.

Potential Sources of Commitments

- ❖ Technical Studies and Agency Coordination
- ❖ Section 106 MOA
- ❖ Endangered Species Act
- ❖ Section 404 of the Clean Water Act
- ❖ Stakeholder Commitments
- ❖ Other documents (MOUs, Programmatic Agreements)

TDOT identifies project commitments throughout the project development process, generally as avoidance, minimization, or mitigation measures for potential adverse impacts. Commitments are often related to:

- design – for example, storm water detention basins or sidewalks
- natural resources - for example, stream mitigation or realignment, wetland mitigation, or endangered species
- cultural resources – for example, historic property or cemetery protection measures
- other environmental concerns raised during the public involvement or agency coordination process

Commitments may also result from public comment or through coordination with resource agencies. Commitments should be reviewed by TDOT, tracked, and carried forward through the project design, construction, maintenance, and operation phases. This chapter identifies the process by which environmental commitments are carried forward into project design, construction, maintenance, and operation.

1.6.1 TYPES OF COMMITMENTS

Environmental commitments generally accomplish one of three goals:

- **AVOIDANCE**

Avoidance involves adjustments to the proposed design or scope to avoid identified impacts. Avoidance can involve shifting or developing a new alignment as well as grade changes to go over or under a sensitive area.

- **MINIMIZATION**

Minimization involves the creation and implementation of measures to reduce the potential impact to a resource when it is not possible or feasible to avoid an impact to the resource.

- **MITIGATION**

Mitigation includes compensation and enhancement when avoidance and minimization are not possible. Compensation attempts to offset damages to or displacements of the impacted resources.

1.6.2 TDOT ENVIRONMENTAL COMMITMENTS

The appropriate Environmental Division staff member has the responsibility to communicate all commitments to the project design team and the NEPA Planner so that the commitments are carried forward in the design, construction, and operations/maintenance phases, and, where warranted, documented in the NEPA document.