**Introduction to the Environmental Document Annotated Outlines**

The Environmental Document Annotated Outlines (AOs) were developed for the preparation of environmental documents addressing both the requirements of the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA). An annotated version of the Initial Study/Environmental Assessment (IS/EA) was first posted in November of 2003, and over the next two years the Environmental Impact Report/Environmental Assessment (EIR/EA) and Environmental Impact Report/Environmental Impact Statement (EIR/EIS) AOs were posted. The NEPA-only AOs were first posted in April of 2008.

The use of the joint NEPA/CEQA AOs or the NEPA-only AOs is *required* for any project receiving Federal Highway Administration (FHWA) Federal-aid funds. In addition, the AOs are required for projects on the state highway system. The use of the joint NEPA/CEQA AOs is highly recommended for all other projects.

The AOs provide a consistent document format for the presentation of required content and organize the documents into the following sections:

1. Summary (optional for the IS/EA and NEPA-only EA)
2. Proposed project
3. Project alternatives
4. Affected environment
5. Environmental consequences
6. Avoidance, minimization, and/or mitigation measures
7. Comments and coordination
8. Appendices
9. Technical Reports

Each section provides guidance for the planner to assist in the preparation of the environmental document.

As new initiatives emerge regarding environmental document preparation, the Division of Environmental Analysis reviews these initiatives and incorporates them, as appropriate, into the AOs. In some cases, the AOs already feature the suggestions or techniques contained in these documents. The references below can be used as general guidelines for improving the quality of environmental documents:

* [*Improving the Quality of Environmental Documents*](http://environment.transportation.org/center/products_programs/reports/improving_quality_nepa.aspx) (AASHTO/American Council of Engineering Companies Committee in Cooperation with the FHWA, May, 2006)
* [*Improving the Process for Preparing Efficient and Timely Environmental Review under the National Environmental Policy Act*](https://ceq.doe.gov/docs/ceq-regulations-and-guidance/Improving_NEPA_Efficiencies_06Mar2012.pdf)(Council on Environmental Quality Memorandum, March 6, 2012)
* [FHWA - Every Day Counts – EDC 2012 Initiatives – Implementing Quality Environmental Documentation](http://www.fhwa.dot.gov/everydaycounts/edctwo/2012/doc.cfm)
* [Plain Language: Improving Communication from the Federal Government to the Public](http://www.plainlanguage.gov/)
* [*Examples of Effective Techniques for Improving the Quality of Environmental Documents* (2014)](http://environment.transportation.org/center/products_programs/reports/quality_enviro_docs.aspx) (AASHTO Center for Environmental Excellence and FHWA)

**NOTE:** Section1319 ofMAP-21 authorized the use (under certain circumstances) of a combined FEIS and ROD. A number of conditions must be met in order to utilize this efficiency, including notification that the FEIS and ROD will be combined *at the time the DEIS is circulated*. Please contact your HQ Environmental Coordinator if you are considering a combined FEIS/ROD.

Environmental Impact Statement

Annotated Outline

**Note to authors:**

For a Final EIS mark any changes to the document by placing a line in the margin where the changes are made. Do not show strikeout of text in the final document.

**Standards used in this template:**

Black text = Required headings.

Blue text = Instructions and guidance to be considered and deleted from the final document.

Red text = Required boilerplate text to be inserted into document. This text may be deleted if not applicable, but may not be edited.

Gray highlighted text (Coastal) = Instructions and guidance for projects within the coastal zone. This text should be deleted for projects outside the coastal zone.
Purple text = Sample text that can be used in document, as applicable.

Orange text = Text needing special attention; for example, to distinguish between instructions relating to draft and final environmental document.

Green text = Special guidance for Local Assistance projects (local roadway projects off the State Highway System using Federal-aid funds).

Underlined text (regardless of text color) = Internet or Intranet web links.

To jump to desired sections, use the navigation pane shown on the left of the screen. If the navigation pane is not visible, it can be turned on by marking the “navigation pane” box located under the “View” tab in the “Ribbon” at the top of the screen.

Sample Cover Sheet

Main Street Realignment Project

SAN LUIS OBISPO COUNTY, CALIFORNIA

DISTRICT 5 – SLO – 1 (PM 42.3/44.7)

City of San Luis Obispo, Main Street

0A3800/1000021137

[or Federal Aid Number for Local Assistance projects]

[Draft or Final] Environmental Impact Statement and [Draft or Final] Section 4(f) Evaluation [only include if there is an Individual or Programmatic Section 4(f) Evaluation]

[INSERT A PHOTO HERE]

**Prepared by the**

**State of California, Department of Transportation**

[Insert agency name only if agency is joint lead agency under NEPA]

The environmental review, consultation, and any other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by Caltrans pursuant to 23 USC 327 and the Memorandum of Understanding dated May 27, 2022, and executed by FHWA and Caltrans.

****

**December 2023**

**General Information about This Document**

GUIDANCE

An example of the General Information page for the draft and final documents is included to show how this page could be formatted. Change the project-specific text as needed.

**[DRAFT DOCUMENT ONLY]**Include the following three sections in the draft document: “What’s in this document,” “What you should do,” and “What happens next.”

**What’s in this document:**This section should briefly identify the document type (EIS) and what the document contains. An example is included on the following page and can be modified for use in any document.

**What you should do:**This section should describe what is being asked of the reader. Where should they send their comments? When does the comment period close? Describe how the document can be found in an electronic format. An example is included on the following page and can be modified for use in any document.

**What happens next:**This section should briefly describe the next step in the environmental process. An example is included on the following page and can be modified for use in any document.

**Alternative formats:**

This page must also include a paragraph telling the public how to obtain the document in alternative formats. For Local Assistance projects, specify the formats in which the local agency will make the document available. For projects on the State Highway system (SHS), the Department will determine the special formats the document should be available in and list them in this section. You’ll also need to provide your district’s California Relay Service TTY number (<http://itvendors.dot.ca.gov/tty.htm>) and include the following: "or use California Relay Service 1 (800) 735-2929 (TTY to Voice), 1 (800) 735-2922 (Voice to TTY), 1 (800) 855-3000 (Spanish TTY to Voice and Voice to TTY), 1-800-854-7784 (Spanish and English Speech-to-Speech) or 711.”

**[FINAL DOCUMENT ONLY]
Alternative formats:**

The General Information page for the final document must also include a paragraph telling the public how to obtain the document in alternative formats. For Local Assistance projects, specify the formats in which the local agency will make the document available. For projects on the SHS, the Department will determine the special formats the document should be available in and list them in this section. You’ll also need to provide your district’s California Relay Service TTY number (<http://itvendors.dot.ca.gov/tty.htm>) and include the following: "or use California Relay Service 1 (800) 735-2929 (TTY to Voice), 1 (800) 735-2922 (Voice to TTY), 1 (800) 855-3000 (Spanish TTY to Voice and Voice to TTY), 1-800-854-7784 (Spanish and English Speech-to-Speech) or 711.”

The General Information page should be kept to one page. A sample for the draft and final documents can be found on the following pages.**SAMPLE GENERAL INFORMATION PAGE [DRAFT DOCUMENT ONLY]**

**General Information about This Document**

What’s in this document:

The California Department of Transportation (Department), as assigned by the Federal Highway Administration (FHWA), in cooperation with the Local Agency, [If the Local Agency is a joint lead agency, insert “and the (Local Agency), as joint lead agencies have…”] has prepared this Environmental Impact Statement (EIS), which examines the potential environmental impacts of the alternatives being considered for the proposed project located in San Luis Obispo County, California. [For Local Assistance projects, add: The (Local Agency) is proposing to use funds from FHWA for this local roadway project.] The document tells you why the project is being proposed, what alternatives we have considered for the project, how the existing environment could be affected by the project, the potential impacts of each of the alternatives, and the proposed avoidance, minimization, and/or mitigation measures.

What you should do:

* Please read this document.
* Additional copies of this document, and the related technical studies, are available for review at [the (Local Agency Office) or district office, and/or XYZ public institution, such as a library, community center, school, etc., (provide addresses for all locations)]. This document may be downloaded at the following website (include web page address).
* Include as applicable: Attend the public hearing. [Add date and location of hearing if known.]
* We’d like to hear what you think. If you have any comments about the proposed project, please attend the [insert type of meeting—for SHS projects, see [Chapter 11, Article 7 of the PDPM](https://dot.ca.gov/programs/design/manual-project-development-procedures-manual-pdpm) to identify type of meeting)] and/or send your written comments via postal mail or email to the [Local Agency Office] (Local Assistance projects should refer to the LAPM, Chapter 8, Public Hearings) or Department by the deadline.
* Send comments via postal mail to [insert Local Agency or Department address, as applicable]:
* Send comments via email to: [insert Local Agency or Department email, as applicable]:
* Be sure to send comments by the deadline: November 1, 2017.

What happens next:

After comments are received from the public and reviewing agencies, the Department, as assigned by the FHWA, and in cooperation with [Local Agency], may: (1) give environmental approval to the proposed project, (2) do additional environmental studies, or (3) abandon the project. If the project is given environmental approval and funding is obtained, the Department [and/or Local Agency) could design and construct all or part of the project.

**Alternative Formats:**

For individuals with sensory disabilities, this document can be made available in Braille, in large print, on audiocassette, or on computer disk [modify, as appropriate, to describe the formats that will be made available by the Local Agency]. To obtain a copy in one of these alternate formats, please call or write to [Local Agency or Department of Transportation, as applicable], Attn: Larry E. Planner, Environmental Planning, 50 Higuera Street, San Luis Obispo, CA 93401; (805) xxx-xxxx (Voice), or use the California Relay Service 1 (800) 735-2929 (TTY to Voice), 1 (800) 735-2922 (Voice to TTY), 1 (800) 855-3000 (Spanish TTY to Voice and Voice to TTY), 1-800-854-7784 (Spanish and English Speech-to-Speech) or 711. **SAMPLE GENERAL INFORMATION PAGE [FINAL DOCUMENT ONLY—can be placed on back of cover sheet]**

**General Information about This Document**

The California Department of Transportation (Department), as assigned by the Federal Highway Administration (FHWA), in cooperation with the Local Agency, [If the Local Agency is a joint lead agency, insert “and the (Local Agency), as joint lead agencies have…”] has prepared this Final Environmental Impact Statement for the proposed project located in San Luis Obispo County, California. [For Local Assistance projects, add: The (Local Agency) is proposing to use funds from FHWA for this local roadway project.] The document tells you why the project is being proposed, what alternatives we have considered for the project, how the existing environment could be affected by the project, the potential impacts of each of the alternatives, and the proposed avoidance, minimization, and/or mitigation measures. The Draft Environmental Impact Statement circulated to the public for [INSERT NUMBER] of days between [INSERT DATE] and [INSERT DATE]. Comments received during this period are included in Chapter 3 (or Appendix [INSERT APPENDIX LETTER]. Elsewhere throughout this document, a vertical line in the margin indicates a change made since the draft document circulation. Minor editorial changes and clarifications have not been so indicated. Additional copies of this document and the related technical studies are available for review at [the district office and/or XYZ public institution, such as a library, community center, school, etc., (provide addresses for all locations)]. This document may be downloaded at the following website (include web page address).

**Alternative Formats:**

For individuals with sensory disabilities, this document can be made available in Braille, in large print, on audiocassette, or on computer disk. (Modify, as appropriate, to describe the formats that will be made available by the Local Agency). To obtain a copy in one of these alternate formats, please call or write to [Local Agency or Department of Transportation, as applicable], Attn: Larry E. Planner, Environmental Planning, 50 Higuera Street, San Luis Obispo, CA 93401; (805) xxx-xxxx (Voice), or use the California Relay Service 1 (800) 735-2929 (TTY to Voice), 1 (800) 735-2922 (Voice to TTY), 1 (800) 855-3000 (Spanish TTY to Voice and Voice to TTY), 1-800-854-7784 (Spanish and English Speech-to-Speech) or 711.

**Sample Title Sheet**

FHWA Highway ID No. 10-MER-99-PM 0.0/10.5

415700/ [or Federal Aid Number for Local Assistance projects]

 1000021137

[Insert short descriptive phrase consistent with project alternative(s) such as “widen” or “improve” or “rehabilitate.”] [For Local Assistance project, “San Luis Obispo Main Street Realignment, located at Main Street”]

**[Draft or Final]** **ENVIRONMENTAL IMPACT STATEMENT
 and [Draft or Final] Section 4(f) Evaluation [Only include if there is an Individual or Programmatic Section 4(f) Evaluation]**

Submitted Pursuant to: (Federal) 42 USC 4332(2)(C)

[If there is an Individual or Programmatic Section 4(f) Evaluation, add: 49 USC 303, and/or 23 USC 138]

THE STATE OF CALIFORNIA

Department of Transportation

and

 Insert agency name only if agency has been designated by Caltrans as joint lead agency under NEPA

List any other cooperating agencies here.

Cooperating Agencies:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date Debra Director

 District Director

 California Department of Transportation

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date Agency

Guidance

Note: If it is anticipated that a combined final EIS/ROD will be used, include the following notice:

Following circulation for public review and consideration of comments received, the Department will issue a combined final EIS/ROD document unless statutory criteria or practicability considerations preclude such issuance.

Include the agency signature block only if the agency has been designated by Caltrans as a joint lead agency under NEPA, otherwise delete.

The following persons may be contacted for more information about this document:

Name, address, & telephone number of Name, address and telephone of

Department Contact local agency contact

**Abstract:** Provide a one- or two-sentence summary of the purpose and need and project description. List/discuss in a very brief fashion any substantial environmental effects expected. Provide due date for comments and where the comments should be sent (name and address). Note for a Final EIS there is no comment period, only a review period.

**Summary (required)**

**NEPA Assignment**

California participated in the “Surface Transportation Project Delivery Pilot Program” (Pilot Program) pursuant to 23 USC 327, for more than five years, beginning July 1, 2007, and ending September 30, 2012. MAP-21 (P.L. 112-141), signed by President Obama on July 6, 2012, amended 23 USC 327 to establish a permanent Surface Transportation Project Delivery Program. As a result, the Department entered into a Memorandum of Understanding pursuant to 23 USC 327 ([NEPA Assignment MOU](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/mous-moas-agreements)) with FHWA. The NEPA Assignment MOU became effective October 1, 2012, and was renewed on May 27, 2022, for a term of ten years. In summary, the Department continues to assume FHWA responsibilities under NEPA and other federal environmental laws in the same manner as was assigned under the Pilot Program, with minor changes. With NEPA Assignment, FHWA assigned and the Department assumed all of the United States Department of Transportation (USDOT) Secretary's responsibilities under NEPA. This assignment includes projects on the State Highway System and Local Assistance Projects off the State Highway System within the State of California, except for certain categorical exclusions that FHWA assigned to the Department under the [23 USC 326 CE Assignment MOU](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/mous-moas-agreements), projects excluded by definition, and specific project exclusions.

GUIDANCE

Briefly include each of the following in the Summary:

1. For Local Assistance projects (off State Highway System), include the following text.

The project is subject to federal as well as state environmental review requirements because the [insert name of Local Agency] proposes the use of federal funds from the Federal Highway Administration (FHWA) and/or the project requires an approval from FHWA. Project documentation, therefore, has been prepared in compliance with the National Environmental Policy Act (NEPA). The [insert name of Local Agency] is the project proponent and the lead agency under the California Environmental Quality Act (CEQA) [or if the Local Agency is a joint lead agency under NEPA, state ”The [Local Agency] is the project proponent, a joint lead agency with the Department under NEPA, and the lead agency under CEQA.”]. FHWA’s responsibility for environmental review, consultation, and any other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by Caltrans pursuant to 23 United States Code Section 327 (23 USC 327) and the Memorandum of Understanding dated May 27, 2022, and executed by FHWA and Caltrans.

While this project is subject to the requirements of both NEPA and CEQA, separate environmental documents have been prepared, one that complies with NEPA and another that complies with CEQA. This Environmental Impact Statement (EIS) complies with the requirements of NEPA and other federal environmental laws. Compliance with CEQA and state environmental laws is provided in \_\_\_(name of CEQA document)\_\_\_\_\_ which was approved for public circulation by the [City Council or County Board of Supervisors] on \_\_\_(date)\_\_\_\_.

After receiving comments from the public and reviewing agencies, a Final EIS will be prepared. The lead agency [agencies if Local Agency is a joint lead under NEPA] may prepare additional environmental and/or engineering studies to address comments. The Final EIS will include responses to comments received on the Draft EIS and will identify the preferred alternative. After the Final EIS is circulated, if the lead agency [agencies if Local Agency is a joint lead under NEPA] decides to approve the project, a Record of Decision will be published for compliance with the National Environmental Policy Act.

1. For projects on the SHS, include the following text:

The [insert name of Local Agency] is the project proponent for this project [if applicable, include the following text] and the lead agency under the California Environmental Quality Act (CEQA). [Describe why the Local Agency is sponsoring this project. If the project is part of a larger development project, describe the project’s relationship to the larger project. Describe the funding source for this project.] FHWA’s responsibility for environmental review, consultation, and any other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by Caltrans pursuant to 23 United States Code Section 327 (23 USC 327) and the Memorandum of Understanding dated May 27, 2022, and executed by FHWA and Caltrans.

While this project is subject to the requirements of both the National Environmental Policy Act (NEPA) and CEQA, separate environmental documents have been prepared, one that complies with NEPA and another that complies with CEQA. This Environmental Impact Statement (EIS) complies with the requirements of NEPA and other federal environmental laws. Compliance with CEQA and state environmental laws is provided in \_\_\_(name of CEQA document)\_\_\_\_\_ which was approved for public circulation by the Department [or City Council or County Board of Supervisors, if applicable] on \_\_\_(date)\_\_\_\_.

After receiving comments from the public and reviewing agencies, a Final EIS will be prepared. The lead agency [agencies if Local Agency is a joint lead under NEPA] may prepare additional environmental and/or engineering studies to address comments. The Final EIS will include responses to comments received on the Draft EIS and will identify the preferred alternative. After the Final EIS is circulated, if the lead agency [agencies if Local Agency is a joint lead under NEPA] decides to approve the project, a Record of Decision will be published for compliance with the National Environmental Policy Act.

Note: For the final environmental document change the above text as appropriate.

1. Overview of Project Area
2. Describe any major actions proposed by other government agencies for the same general area as the proposed project.
3. Purpose and Need.
4. Proposed Action.
	1. Briefly describe the proposed action. Define the route, the beginning and ending points, and the proposed improvement, including the number of lanes and their length. Don’t forget to mention the county, city, and state.
	2. Briefly describe all alternatives under consideration.
	3. If a preferred alternative has already been identified, tell the reader and explain the reasons for the choice.
5. Project Impacts.
	1. Summarize the major project impacts.
	2. Use a table or matrix with impacts (and avoidance, minimization, and/or mitigation measures) as part of the summary to help the reader understand the potential impacts of each alternative on the various resources. It is helpful for the reader if you number the various measures you propose in the ED. This will assist with the creation of the ECR and the tracking of measures through the life of the project.  Items are then not lost within blocks of text.
6. Coordination with Public and Other Agencies.
7. List needed permits, licenses, agreements, and certifications (PLACs) and their status.
8. Discuss any unresolved issues with other agencies.
9. Mention any areas of controversy including issues raised by agencies and the public.

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Include a list of table and figures here. Make sure to update whenever edits are made to table numbers or figure numbers.

To aid the public in locating maps, it is recommended to clearly show where mapping can be found, particularly for the preferred alternative (if it has been identified).

Chapter 1 – Proposed Project

Note: As you write the body of the document, remember who your audience is. Write to the general public and not to professional planners and engineers. Reword difficult terms or concepts, or explain them in the body of the text. Only when neither of these is practical should you use footnotes or include these terms in a glossary using common language.

GUIDANCE

Local agencies that propose projects on the State Highway System (SHS) shall use all applicable Department manuals and guidelines. These describe the processes and procedures for developing SHS projects. These also contain discussions of the regional and state planning and programming processes. For more information, please see the Standard Environmental Reference (SER), Vol. I, [Chapter 5 “Preliminary Environmental Scoping”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-5-preliminary-environmental-scoping) and [Chapter 38, “NEPA Assignment.”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-38-nepa-assignment)

Local agencies that propose federal aid projects off the SHS shall follow the Local Assistance Procedures Manual (including Chapter 6), the Local Assistance Program Guidelines that describe the processes and processes for developing local assistance projects, and the SER. Local agencies must complete the first two pages of the Field Review and a Preliminary Environmental Study (PES) form. The PES form documents preliminary environmental investigations and subsequent technical studies that will need to be prepared to support the required National Environmental Policy Act (NEPA) approval document. For more information, please see Chapter 6 of the [Local Assistance Procedures Manual](https://dot.ca.gov/programs/local-assistance/guidelines-and-procedures/local-assistance-procedures-manual-lapm).

Introduction

Writing the Document

1. Begin Chapter 1 with a ***brief***introduction describing the existing facility, the project background and history (including funding and programming—specifically state that the project is included in the [agency and date] Regional or Metropolitan Transportation Plan [RTP or MTP] and a cost-constrained Transportation Improvement Program [TIP] if that is the case)—and very generally describe the proposed action (more detailed information can be provided in the “Alternatives” discussion). Include just enough information so that the reader can understand the general geographic setting of the project and major project features. For Local Assistance projects, the description of the proposed action must be consistent with the project description contained in the PES form. See the sample text below for a Local Assistance project.

The Department of Transportation (Department), as assigned by the Federal Highway Administration (FHWA), in cooperation with the County of San Luis Obispo proposes to realign Main Street in the City of San Luis Obispo. The total length of the project is 1.2 miles. Figures 1 and 2 are project location and vicinity maps.

This project is included in the 2013 Federal Statewide Transportation Improvement Program (FSTIP) and is proposed for funding from the HB4C program (System Operational Improvements). It is also included in the Metropolitan Transportation Commission’s (MTC) 2013 Metropolitan Transportation Plan (MTP) and the 2013 cost-constrained Metropolitan Transportation Improvement Program (MTIP).

Include maps showing the project location, the project vicinity, and/or the project features. These should clearly identify the limits of the project and the project footprint. The project location map should identify street names and prominent landmarks (e.g., community center, museum, library), especially those mentioned in the text.

Additional Guidance

* [Local Assistance Procedures Manual](https://dot.ca.gov/programs/local-assistance/guidelines-and-procedures/local-assistance-procedures-manual-lapm), Chapter 6, Exhibit 6-B: Instructions for completing the PES Form, including project description.

Purpose and Need

The project “purpose” is a set of objectives the project intends to meet. The project “need” is the transportation deficiency that the project was initiated to address. All Purpose and Need statements shall be prepared in accordance with guidance and policy set forth in the SER. Tailor this discussion for Local Assistance, as appropriate.

1. Make your Purpose and Need statement broad enough to allow you to consider more than one solution, but specific enough that the range of alternatives can be focused. This allows you to consider alternate locations and/or alignments, design variations, and other modes of travel. Resource agencies reviewing the purpose and need statement are particularly interested in this; addressing the issue early means you won’t have to go back and do this work later.
2. Other departmental documents (see list in guidance below) can be useful sources of information. A project’s purpose and need may broaden or become more focused as the project progresses through the project development process. However, it is important that the project’s basic purpose and need, which is the reason for the project, stays consistent from planning and programming through each phase.

 For SHS projects, often, the Transportation Planning Office has already drafted a “regional” or “corridor” document such as a Route Concept Report or Transportation Concept Report; these documents can provide valuable information about traffic, systems linkages, etc. Also, refer to the Project Initiation Document (PID) (PSR, PSR/PDS, PSSR, etc.) prepared for SHS projects. For Local Assistance projects, consider using local government planning resources such as county, city, or local general plans and other planning documents. For Local Assistance projects, the purpose and need statement should also be consistent with the description of the purpose and need in the signed PES form.

Format for Purpose and Need Discussion

Depending on the project, the Purpose and Need statement can range from a few sentences to several pages. Its length and complexity will be driven by the complexity of the proposed project.

1. Discuss the purpose of the project. Each purpose should be no more than two sentences and a bulleted list may be used.

 The project purposes are specific objectives of the proposed action. The project purposes are used as the decision factors for comparing alternatives and identifying/selecting the preferred alternative. The purpose is a proposed solution to the problem or deficiency identified in the need statement. Ensure that the purpose is:

1. Consistent with transportation goals and objectives (mobility, safety, capacity).
2. A reasonable expenditure of public funds (benefit: cost).
3. Broad enough to allow a reasonable range of alternatives.
4. Achievable and unbiased.

Again, do not make the purpose so narrow that only one solution is considered.

If the “need” is for increased capacity, don’t write that the purpose is “to widen the highway.” Do write that the purpose is “to relieve traffic congestion.” This would allow the project team to consider Transportation System Management (TSM), public transit, and access control alternatives. Don’t write that the purpose of the project is “to build a new bridge on SR 1 due to the piers being undermined by wave action.” Do write that the purpose of the project is “to protect the SR 1 bridge from being undermined by wave action.” This would allow the project team to consider rip-rap, breakers, clear span bridge, and/or moving the location of the bridge farther inland. The Department has developed Purpose and Need guidance for projects on the SHS of which certain elements can be useful for off-highway system projects.

Some examples of purpose are:

* To encourage motorists passing through the area on their way to another destination to use the regional highway system.
* To relieve congestion and improve traffic flow on the regional transportation system.
* To address increased travel associated with existing and planned local development. Note: The Department has no approval authority with regard to local plans.
* To offer a different way for vehicles to get to ….
* To help achieve the goals of the [AGENCY/DATE] Regional Transportation Plan (RTP). Note: the Department has no approval authority with regard to local plans. [This purpose can be used if there is a link between the project and broad policy goals of the RTP that should be highlighted, such as encouraging more transit use, shortening car trips, and/or linking transportation and housing.]
* To help reduce emissions from transportation sources.
* To balance the circulation of traffic and reduce the number of motorists who must “double-back” to get to their destinations (out of direction travel).
* To improve the safety and operation of….**[NOTE: Do not state that the project will improve safety unless a safety problem has been identified]**
* To be consistent with or meet the goals of the [Local Agency/Date] General Plan.
1. Discuss the need for the project.

The need is the transportation problem or deficiency that the local agency or Department is responding to. Be specific and use measurable terms as much as possible. Use terms the general reader will easily understand: For example, “Drivers typically wait 7 to 9 minutes to enter the intersection.” The statement of need, together with the purpose, allows the agency to focus the range of alternatives. In developing the statement of need, consider this: alternatives can be thought of as different ways to meet the underlying need.

Discuss the following categories of needs as applicable for your project. Appendix B of the Department’s [Purpose and Need Team Report and Recommendation](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/other-guidance#purpose_need) can help to identify potential data sources. For Local Assistance projects, consult applicable local plans and planning studies.

1. Capacity, Transportation Demand, and Safety
2. Describe existing capacity and LOS.
3. List regional population/traffic forecasts.
4. Identify projected capacity needs, queue and delay, and/or LOS.
5. If the project is specified as a safety improvement project, identify system safety needs.
* Describe the existing collision rate. Use direct language in this discussion. If collisions are occurring regularly on this stretch of roadway, say so.
* Compare the existing collision rate to the statewide average.
* Explain what is needed to improve safety and how this project will address that need.

For SHS projects, coordinate with the Department’s Traffic forecasting staff—for most districts, they are in the Transportation Planning Division. They coordinate with the local Metropolitan Planning Organization/Regional Transportation Planning Agency/Council of Governments (MPO/RTPA/COG) on traffic modeling. For Local Assistance projects, local agencies should also consult the local general plan circulation element and coordinate with the local MPO/RTPA as needed. Care should be taken to ensure that the traffic forecasts used to support the need discussion are consistent with the local general plan circulation element.

The circulation element of city and county general plans should also contain traffic data. Regional population forecasts are usually done by the MPO/RTPA as well. The U.S. Census Bureau also has some information on [population projections](https://www.census.gov/programs-surveys/popproj.html); however, these projections do not take the place of traffic forecasts.

For SHS projects, collision data is available from the Traffic Accident Surveillance and Analysis System (TASAS). Each district should have a District TASAS Highway Database Coordinator within its Traffic Division. The Project Engineer (PE) should contact the coordinator to get the needed TASAS data and the traffic or design engineer should provide the interpretation of that data. Be sure to use the most current data in the need statement.

The PE should be able to provide information about how the project will improve safety. This information should be as specific as possible. For Local Assistance projects, consult the local agency traffic engineer and/or public works department for accident data.

1. Roadway Deficiencies
2. Describe operational deficiencies (substandard geometrics, inadequate cross sections). Use language the general reader will understand.
3. Identify structural limitations (load limits).
4. Discuss maintenance problems.
5. Explain what is needed to correct deficiencies.

For SHS projects, the information for this section is primarily the responsibility of the Department PE. The PE will have information about roadway deficiencies and proposed corrections but may need to coordinate with the Department’s Office of Structure Design if bridges or other structures are involved. Information on maintenance problems can be obtained by contacting the maintenance field station in the project area. For Local Assistance projects, the local agency traffic engineer and/or public works department should be consulted for information on roadway deficiencies.

1. Social Demands or Economic Development
2. Discuss existing land use plans.
3. Identify projected land use plan changes.
4. Identify growth management/control ordinances.

Sources for the above information include city and county planning offices, MPOs and RTPAs (e.g., SACOG, SANDAG, ABAG, SCAG), and the District/Region Intergovernmental Review/CEQA branch. For Local Assistance projects that are being proposed to accommodate projected general plan land uses, projected land uses should be briefly discussed.

1. Legislation
2. Describe any federal, state, or local government mandates (e.g., demonstration projects, sales tax measure projects) that relate to the project.

The following is an example from one of the Department’s documents:

In July 1989, Governor Deukmejian approved Assembly Bill 680. This allowed the (Local Agency or Department) to select four demonstration projects to be financed by and constructed by private sector developers and then operated as private toll facilities for up to 35 years. In September 1990, the (Local Agency or Department) selected the proposed Route XYZ project as one of the demonstration projects.

The Department Project Manager (PM) should have the above information and it should also be in the Project Initiation Document or PID (PSR, PSR/PDS, PSSR, etc.). [CA Streets and Highways Code Section 300](http://leginfo.legislature.ca.gov/faces/codes.xhtml) provides useful language on the Legislature’s intent in establishing the SHS.

For Local Assistance, the District Local Assistance Engineer (DLAE), and/or the local agency project manager should have the above information and it should also be in the PES.

1. Modal Interrelationships and System Linkages
2. Discuss how the project will interface with airport, rail, port, and mass transit facilities.
3. Indicate whether the project serves as a connecting link between two facilities or systems.
4. Describe how the project fits into the transportation system.

For SHS projects, coordinate with the Department’s System Planning Branch. Look at Route Concept Reports and Transportation Concept Reports. Contact local agencies for transit information and general plans (circulation elements), and the MTP/RTP available from MPOs/RTPAs (the district/region planning office may also have copies and many RTPs are available on-line). For Local Assistance projects, local agencies should coordinate with MPOs/RTPAs, as needed, and consult the local general plan and other pertinent planning documents.

1. Air Quality Improvements
2. Identify transportation control measures (e.g., High Occupancy Vehicle [HOV] lanes, ramp metering, bike lanes, and park and ride facilities).
3. Identify Transportation Demand Management strategies (e.g., rideshare programs, mass transit subsidies).

Information on bike lane systems, park and ride facilities, ridesharing, and mass transit can be obtained from the Department’s Transportation Planning Office or local government planning departments. Information on HOV lanes and ramp metering can be obtained from District Traffic Operations.

Some examples of need are:

* A growing use of the local streets for regional trips, leading to congestion that requires motorists to go out of their way to get to their destinations (increased travel distance).
* Increasing congestion on the regional transportation system, including Interstates ##.
* Extensive existing and approved planned development that generates additional trips.
* Inadequate regional access to the \_\_\_\_ area.

Independent Utility and Logical Termini

Federal Highway Administration (FHWA) regulations (23 Code of Federal Regulations [CFR] 771.111 [f]) require that the action evaluated:

1. Connect logical termini and be of sufficient length to address environmental matters on a broad scope.
2. Have independent utility or independent significance (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.

When writing the Purpose and Need statement, ensure that the text addresses independent utility and logical termini. These are two terms that will need to be defined for readers and should be restated with plainer language whenever possible. A problem of segmentation may arise if a transportation need extends throughout an entire corridor, but environmental issues and transportation need are discussed for only a segment of the corridor. Again, be sure to define segmentation for readers. See FHWA’s guidance on logical termini and independent utility at: <http://environment.fhwa.dot.gov/projdev/tdmtermini.asp>.

Additional Guidance on Purpose and Need

* FHWA memo on [Purpose and Need in Environmental Documents](http://www.environment.fhwa.dot.gov/projdev/tdmneed.asp), Sept. 18, 1990
* [Technical Advisory T6640.8A](http://environment.fhwa.dot.gov/projdev/impTA6640.asp), Oct. 30, 1987
* [Project Development Procedures Manual](https://dot.ca.gov/programs/design/manual-project-development-procedures-manual-pdpm) (see Chapter 10, Section 4)
* [Guidance on Purpose and Need, July 23, 2003, Memo from FHWA.](http://environment.fhwa.dot.gov/guidebook/Gjoint.asp)
* [Interim Guidance on Purpose and Need, August 21, 2003](https://collaboration.fhwa.dot.gov/dot/fhwa/ReNepa/Lists/aReferences/DispForm.aspx?ID=339&ContentTypeId=0x0100FD88498C79DA344891463A41FB7F7D1A001A40A8D46CD61248B5B55A58770845CA)
* [Caltrans Purpose and Need Team: Final Report and Recommendations](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/other-guidance#purpose_need), July 2003
* Caltrans Deputy Directive #83, Purpose and Need
* FHWA [“Executive Order 13274 Purpose and Need Work Group Draft Baseline Report, Revised Draft,”](https://collaboration.fhwa.dot.gov/dot/fhwa/ReNepa/Lists/aReferences/Attachments/338/pnreport031505.pdf) March 15, 2005.
* [Local Assistance Procedures Manual](https://dot.ca.gov/programs/local-assistance/guidelines-and-procedures/local-assistance-procedures-manual-lapm), Chapter 6

Chapter 2— Project Alternatives

**Project Description**

An Environmental Impact Statement (EIS) must discuss a range of alternatives including the no-build alternative ([FHWA Technical Advisory T6640.8A](https://www.environment.fhwa.dot.gov/projdev/impTA6640.asp)). Under NEPA, viable alternatives must be discussed in equal detail. Also under NEPA, consideration should be given to transportation system management (TSM), transportation demand management (TDM), and multi-modal alternatives, such as bike lanes, Active Transportation Program projects, pedestrian walkways, etc. NOTE: If your project includes new or modified access to the Interstate System and requires FHWA approval, include the “Final Determination of Engineering and Operational Acceptability” from FHWA as an appendix in the final document. See the [Project Development Procedures Manual](https://dot.ca.gov/programs/design/manual-project-development-procedures-manual-pdpm), Chapter 27, for additional information.

Additional Guidance

* [SER, Chapter 32, “Environmental Impact Statement (EIS)](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-32-environmental-impact-statement)”
* [SER, Vol. 1, Chapter 1, “Federal Requirements, Development of Project Alternatives”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#devalt)

Writing the Document

1. Provide a brief paragraph telling the reader the purpose of this section. For example:

This section describes the proposed action and the project alternatives developed to meet the purpose and need of the project, while avoiding or minimizing environmental impacts. The alternatives are Alternative “X,” Alternative “Y,” and the “No-Build Alternative.”

1. Provide a very brief restatement of the description of the existing facility and the purpose and need for the project. For example:

The project is located in the City of San Luis Obispo on Main Street. The total length of the project is 1.2 miles. Within the limits of the proposed project, Main Street is a conventional two-lane, undivided highway with two 12-foot lanes and 2- to 4-foot non-standard shoulders. The purpose of the project is to upgrade the highway to current design standards and to correct operational problems resulting from traffic queues formed by slow-moving vehicles.

1. For projects in the coastal zone, the California Coastal Commission (CCC) usually requires a more detailed project description than normally provided in an EIS in order to support findings for coastal permit or Local Coastal Program (LCP) approval by the CCC or local agency. Additional information to include in the project description, to the extent feasible, would include details about all physical development, such as dimensions of proposed structures and facilities, public access components (trails, parking lots, etc.), approximate grading quantity, approximate amount of vegetation removal, construction techniques and timing, etc. It is helpful to include as much detail as possible, acknowledging that the details may change as the project and plans progress.

Alternatives

GUIDANCE

Outline of Alternatives Section

1. Project Alternatives
2. Build alternatives should include a range of reasonable alternatives (see heading below) that could meet the purpose and need of the project. Once a preferred alternative has been identified, it should be listed before the other alternatives under consideration. For Local Assistance projects, use local government planning resources such as local general plans and other planning documents in developing alternatives to the project.

 List the criteria for alternative selection here.

 Use the following headings to cover the topic.

1. Common Design Features of the Build Alternatives
2. Unique Features of Build Alternatives (use separate subheadings for each build alternative)
3. Include Transportation Demand Management (TDM), Transportation System Management (TSM), and Mass Transit Alternatives:
* TDM Alternative (to be considered on all proposed major highway projects in urban areas over 200,000 population)
* TSM Alternative (usually only relevant in urban areas over 200,000 population)
* Mass Transit Alternative (to be considered on all proposed major highway projects in urban areas over 200,000 population)
1. No-Build (No-Action) Alternative—the "no-build" analysis must discuss both the existing conditions and what would reasonably be expected to occur in the foreseeable future if the project was not approved.
2. Comparison of Alternatives
3. Identification of a Preferred Alternative (include in the final document)
4. Alternatives Considered but Eliminated from Further Discussion [for final document, change section title to Alternatives Considered but Eliminated from Further Discussion Prior to Draft Environmental Impact Statement (EIS)].

Range of Alternatives

An EIS will include a range of reasonable alternatives. Alternatives may be developed to avoid resources such as wetlands, floodplains, Section 4(f) properties, endangered species, and cultural sites, or to be consistent with federal laws, regulations, and policies. For projects on the State Highway System (SHS), the range of alternatives must also follow state and departmental directives such as DD-64-R2: Complete Streets – Integrating the Transportation System. If there are no alternatives to impacts on floodplains or wetlands, then an *only practicable alternative finding* must be made for these resources. This section of the document should include a reference to the appropriate sections where further discussion of these avoidance alternatives can be found—wetlands, floodplains, Section 4(f) properties, endangered species, etc., as applicable.

For projects in the coastal zone, the CCC usually requires an alternatives analysis that goes beyond what is typically provided in an EIS. The alternatives analysis should address the feasibility of potential temporary and permanent resource impact avoidance or minimization alternatives through project design features, siting options and/or construction methods, and clearly identify the proposed avoidance, minimization, and mitigation measures and any potential secondary impacts associated with such implementation. For example, consider alternatives that would reduce native vegetation removal, grading/landform alteration, impacts to sensitive habitat, water quality, public views, cultural resources, public access, etc.

1. The Council on Environmental Quality’s (CEQ) regulations for implementing the National Environmental Policy Act (NEPA) specify the requirements for the treatment of alternatives in an EIS. All reasonable alternatives must be rigorously explored and objectively evaluated. For alternatives that were eliminated from detailed study, briefly discuss the reasons for their elimination. Devote substantial treatment to each alternative considered in detail. Include reasonable alternatives not within the jurisdiction of the lead agency, and include the no-action alternative. Identify the agency's preferred alternative (PA) or alternatives, if one or more exists, in the draft statement and identify those alternatives in the final statement unless another law prohibits the expression of such a preference. Include appropriate mitigation measures not already included in the proposed action or alternatives.
2. The [FHWA Technical Advisory T6640.8A](http://environment.fhwa.dot.gov/projdev/impTA6640.asp) requires a discussion of a reasonable range of alternatives. Under NEPA, alternatives must be discussed in equal detail. However, the 23 United States Code Section 139 (23 USC 139) efficient environmental review process allows the preferred alternative (PA) to be developed to a greater level of detail to assist in the development of mitigation measures and compliance with other federal environmental laws if all the requirements in the FHWA’s Section 6002 final guidance are met. Also under NEPA, consideration should be given to TSM, TDM, and multi-modal alternatives. For more information, see [Standard Environmental Reference (SER), Chapter 32, “Environmental Impact Statements (EIS)”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-32-environmental-impact-statement) and [CEQ 40 FAQs](https://www.energy.gov/nepa/downloads/forty-most-asked-questions-concerning-ceqs-national-environmental-policy-act), 1a, Range of Alternatives.
3. Additional alternatives may be required on projects where a law, Executive Order, or regulation (e.g., Section 4[f], Executive Order 11990, or Executive Order 11988) mandates an evaluation of avoidance alternatives.

Writing the Document

Project Alternatives

1. Include an introductory paragraph that briefly discusses the criteria used for alternative evaluation (meets purpose and need, avoids environmental impacts, feasibility, etc.). Major features used for comparison may include project cost, level of service (LOS) and other traffic data, and specific environmental impacts. NOTE: Cost should not be used as a primary determining factor for choosing an alternative; rather, it can be one of several considerations in alternative selection. If a specific “avoidance alternative” has been developed for the project, describe the ways in which this alternative is expected to avoid or minimize environmental impacts. If different alternatives have been developed to avoid Section 4(f) resources, wetlands, floodplains, etc., include that information in the “Common Design Features of the Build Alternatives” or the “Unique Features of Build Alternatives” discussions, as applicable.
2. This section of the document should discuss any project features intended to reduce environmental impacts or that could be considered project enhancements. The specific placement of this discussion will depend upon whether or not these features are common to all alternatives or if they vary by project alternative.

Project features can include both design elements and standardized measures that are applied to all, or most, Caltrans projects. These features are considered a part of the project itself and are not subsequent actions proposed to mitigate or offset an adverse environmental impact. Include the following statement in this section:

This project contains a number of standardized project measures which are employed on most, if not all, Caltrans projects and were not developed in response to any specific environmental impact resulting from the proposed project. These measures are addressed in more detail in the Environmental Consequences sections found in Chapter 3.

First, consider design elements. A design element is a feature that is an integral component of the project (for example, bike and transit features of a Complete Streets project). Other examples may include alignment shifts/modifications or a reduction in right-of-way acquisition to avoid sensitive environmental resources; providing pedestrian or bicycle bridges or tunnels; elevated structures to minimize floodplain impacts or low-profile structures to minimize visual impacts; design considerations necessary to address geological or seismic concerns; etc. Some design elements are actually enhancements not intended to address an environmental impact, but rather provide a net benefit to the community (for example, a gateway monument).

 Context sensitive solutions should be included here. Explain how these contextual elements such as textured noise barriers, colored concrete or asphalt, highway plantings, etc., help generate public acceptance of the project, reflect the unique character of the community, and provide compatibility with the existing visual resources. Early coordination with Landscape Architecture can ensure that these “good design” elements are incorporated into the project early in the process. For information on context sensitive solutions, please see [FHWA’s Context Sensitive Solutions website](http://contextsensitivesolutions.org/), [FHWA’s Context Sensitive Solutions Primer](https://www.fhwa.dot.gov/context/css_primer/), and the [Department’s Context Sensitive Solutions website](http://www.dot.ca.gov/hq/LandArch/16_livability/css/index.htm).

1. This section should also be used to provide a list of the applicable standardized measures that will be applied to the project such as Best Management Practices (BMPs) and measures included in the Standard Plans and Specifications or as Standard Special Provisions (see the sample text below). Many of these will be especially relevant to the discussion of construction impacts. It may also be desirable to list these measures in the ECR (or equivalent) as well, with an emphasis on Standard Special Provisions and Non-Standard Special Provisions required for the project, as well as items to be depicted on the project plan sheets (rather than items found in the Standard Specifications). This will also assist in the PS&E review for the project. If these are included in the ECR, they should be clearly delineated as standardized measures and not included in the listings of avoidance, minimization, and mitigation measures. It is not necessary to discuss these measures in detail, either here or in the ECR, as the “Environmental Consequences” section under each resource topic will explain how these measures have reduced the potential environmental impacts of the proposed project.

Common Design Features of the Build Alternatives

1. Use this heading when the build alternatives share many common features. Shared design features (i.e., park-and-ride facilities, ramp metering, interchanges, etc.) discussed here do not have to be repeated under each alternative description.
2. Include design exceptions (for SHS projects), new or revised access, and status of their approval in this discussion.
3. Include those project features (including design elements and standardized measures) intended to reduce environmental impacts that are common to all build alternatives here, as applicable. See the sample text below:

Each project alternative includes the following standardized measures that are included as part of the project description. Standardized measures (such as Best Management Practices [BMPs]) are those measures that are generally applied to most or all Department projects. These standardized or pre-existing measures allow little discretion regarding their implementation and are not specific to the circumstances of a particular project. More information on each measure can be found in the applicable sections of Chapter 3.

**TT-1**: A Transportation Management Plan (TMP) will be prepared for the project.

**CR1:** Standard provisions dealing with the discovery of unanticipated cultural materials or human remains will be included in the project plans and specifications:

**AQ1:** The construction contractor must comply with the Department’s Standard Specifications in Section 14.

Unique Features of Build Alternatives

For each alternative:

1. Discuss right-of-way requirements, utility relocations, designated optional borrow/fill sites, staging areas, proposed access, etc.
2. Include those project features (including design elements and standardized measures) intended to reduce environmental impacts that are unique to certain build alternatives here, as applicable. See the sample text below:

Alternative C was specifically designed to avoid impacts to wetlands by making adjustments to the alignment of the road at the southern end of the project limits. This re-alignment has, however, moved construction activities closer to three elderberry bushes. These bushes will be protected during construction by the establishment of an Environmentally Sensitive Area (ESA), which is described in Section 14 of Caltrans Standard Specifications and which will be included on the project plan sheets.

1. Describe the rationale for inclusion of the alternative in the document.
2. Make sure the names of the various alternatives are distinct and will not be easily confused. Keep the names of the alternatives consistent throughout the document.
3. Make sure the project description and description of alternatives in the environmental document, (Draft) Project Report, (Preliminary Environmental Study [PES] form for Local Assistance projects), and technical studies match.
4. Include a map or maps showing the details of the build alternative(s). If a preferred alternative has been identified, make sure the map detailing the preferred alternative can be easily located by the public. Other graphics such as typical cross sections and typical profiles should also be included, especially when needed to illustrate variations in the alternatives.
5. List the cost of each alternative.

Transportation System Management (TSM) and Transportation Demand Management (TDM) Alternatives

Include a discussion [as applicable for projects on the SHS] of viable TSM and TDM alternatives.

TSM strategies increase the efficiency of existing facilities; they are actions that increase the number of vehicle trips a facility can carry without increasing the number of through lanes. Examples of TSM strategies include: ramp metering, auxiliary lanes, turning lanes, reversible lanes, and traffic signal coordination. TSM also promotes automobile, public and private transit, ridesharing programs, and bicycle and pedestrian improvements as elements of a unified urban transportation system. Modal alternatives integrate multiple forms of transportation modes, such as pedestrian, bicycle, automobile, rail, and mass transit. If applicable, add a boilerplate paragraph for one common conclusion:

Although Transportation System Management measures alone could not satisfy the purpose and need of the project, the following Transportation System Management measures have been incorporated into the build alternatives for this project: [list items here].

TDM focuses on regional means of reducing the number of vehicle trips and vehicle miles traveled as well as increasing vehicle occupancy. It facilitates higher vehicle occupancy or reduces traffic congestion by expanding the traveler's transportation options in terms of travel method, travel time, travel route, travel costs, and the quality and convenience of the travel experience. A typical activity would be providing funds to regional agencies that are actively promoting ridesharing, maintaining rideshare databases, and providing limited rideshare services to employers and individuals.

If these alternatives have been withdrawn from consideration, move the discussion of TSM and TDM alternatives to the heading “Alternatives Considered but Eliminated from Further Discussion.”

No-Build (No-Action) Alternative

1. No-Build (No-Action) Alternative. The “no build” analysis must discuss the existing conditions as well as what would be reasonably expected to occur in the foreseeable future if the project was not approved. Environmental review must consider the effects of not implementing the proposed project. The no-build alternative provides a basis for comparing the build alternatives. Under NEPA, the no-build alternative can be used as the baseline for comparing environmental impacts. Explain the effects of the no-build alternative. Use the Purpose and Need statement to identify these; they might include deteriorating LOS, worsening air quality, and increasing maintenance costs. Indirect impacts might include impacts to the economic health of a nearby or an adjacent community. The no-build alternative may create cumulative impacts if several smaller fixes are implemented in a piecemeal fashion. For Local Assistance projects, if the no-build alternative is inconsistent with the local general plan, identify this inconsistency.

Comparison of Alternatives

1. A summary table comparing the alternatives is suggested but not required. The discussion and table should focus on the criteria used for evaluating the alternatives. Explain how the criteria were developed and how the criteria will be or have been used to reach a decision. Include the no-build alternative in the comparison discussion.
2. The draft EIS should identify the preferred alternative to the extent practicable. When a preferred alternative has been identified at the Draft EIS stage, it must be disclosed (see suggested wording below). Explain in some detail why the Department identified that alternative as the preferred alternative. Use the following suggested introductory language for the preferred alternative discussion in a Draft EIS:

After comparing and weighing the benefits and impacts of all feasible alternatives, [Include as appropriate: some of which are summarized in Table 2.x-x], the Project Development Team has identified Alternative [X] as the preferred alternative, subject to public review. Final identification of a preferred alternative will occur after the public review and comment period.

Note: For larger or more complex projects, the preferred alternative is not typically identified until after the circulation of the draft environmental document. If the draft EIS does not identify the preferred alternative, Caltrans should provide agencies and the public with an opportunity after the issuance of the draft EIS to review the impacts of the preferred alternative.

1. If local governments or organizations have voiced a preference for a particular alternative, state that preference and label that alternative the “Locally Preferred Alternative.” The identification of a “Locally Preferred Alternative” is required if the project is a Federal Transit Agency (FTA) project. If there is any opposition to the project or any of its alternatives, say so here.
2. Briefly explain the final decision-making process. See the sample text below.

After the public circulation period, all comments will be considered, and the Department in cooperation with [Local Agency] will select a preferred alternative and make the final determination of the project’s effect on the environment. With respect to the National Environmental Policy Act (NEPA), the Department, as assigned by the Federal Highway Administration (FHWA), will document and explain its decision regarding the selected alternative, project impacts, and mitigation measures in a Record of Decision.

Note: The above text should be removed or revised to past tense for the final document.

Identification of a Preferred Alternative

**[THIS WOULD BE IN THE FINAL DOCUMENT]**

1. Explain the rationale for identifying the preferred alternative. The identification decision must be structured, analytical, and clearly address the specific evaluation criteria developed for the project. It must ensure that the preferred alternative meets the purpose and need of the project (See [Local Assistance Procedures Manual](https://dot.ca.gov/programs/local-assistance/guidelines-and-procedures/local-assistance-procedures-manual-lapm), Chapter 6; for projects on the SHS, see [Project Development Procedures Manual](https://dot.ca.gov/programs/local-assistance/guidelines-and-procedures/local-assistance-procedures-manual-lapm), Chapter 12, Section 2).
2. Where more than one alternative is equally suitable, the final environmental document can be structured to present such options.

Alternatives Considered but Eliminated from Further Discussion

**[FOR FINAL DOCUMENT, CHANGE SECTION TITLE TO ALTERNATIVES CONSIDERED BUT ELIMINATED FROM FURTHER DISCUSSION PRIOR TO “DRAFT” ENVIRONMENTAL IMPACT STATEMENT (EIS)]**

1. This section should include all alternatives that were considered during the project development process but were eliminated *before* the draft environmental document. Alternatives that were considered in the draft environmental document should not be placed in this section; they remain viable alternatives. The Department or for Local Assistance projects, the Local Agency may have identified some of these alternatives, while other alternatives may have been identified by other public agencies or members of the public. Information on alternatives considered but eliminated from further discussion can be found in the environmental and design project files, as well as the Project Initiation Document (PID) and other planning documents. This section provides an opportunity to explain to those outside of the Project Development Team (PDT) when and why alternatives were eliminated from consideration. In addition, the section provides documented reasoning why alternatives identified in early planning documents are not to be carried forward for future consideration. Consider the following when writing this section:
2. *Briefly* describe the other alternatives that were considered and explain why each was eliminated from further discussion. Note: Use the criteria for alternative selection as the basis of this discussion (e.g., meets purpose and need, avoids environmental impacts, feasibility, etc.). Compare each alternative to the criteria and explain how the alternative did not meet one or more of the criteria. NOTE: Cost should not be used as a primary determining factor for eliminating an alternative; rather, it can be one of several considerations in alternative selection.
3. For projects where TSM, TDM, mass transit, and modal alternatives might be considered reasonable alternatives at first glance but are not being considered as viable alternatives in the environmental document, include a brief discussion that they were considered but eliminated and explain why.
4. If an alternative was eliminated due to its potential environmental effects, include that information here! Take credit for good project planning!

Permits and Approvals Needed

List all permits, licenses, agreements, and certifications (PLACs) that will be needed, including waters and wetland permits, threatened and endangered species approvals (biological opinions, determinations), freeway agreements, etc. Also, give the status of each approval as in the following example (this table reflects sample PLACs that the project may need but is not an exhaustive list). Make sure to update the status of the PLACS for the final environmental document (FED).

The following permits, licenses, agreements, and certifications (PLACs) are required for project construction:

| Agency | PLAC | Status |
| --- | --- | --- |
| United States Fish and Wildlife Service (USFWS) | Section 7 Consultation for Threatened and Endangered SpeciesReview and Comment on 404 Permit | Non-jeopardy Biological Opinion expected from USFWS prior to FED/Non-jeopardy Biological Opinion issued on November 18, 2011. USFWS has actively participated in NEPA/404 process. |
| United States Army Corps of Engineers | Section 404 Permit for filling or dredging waters of the United States.  | Concurrence on the Least Environmentally Damaging Practicable Alternative as part of NEPA/404 received on August 28, 2012. Application for Section 404 permit expected after FED approval.  |
| California Coastal Commission | Coastal Development Permit (CDP) | Application for CDP expected after FED approval. |
| California Coastal Commission | Federal Coastal Consistency Certification | Consistency Certification expected prior to ROD. |
| California Department of Fish and Wildlife | Section 1602 Lake and Streambed Alteration AgreementSection 2080.1 Agreement for Threatened and Endangered Species | Applications for 1602 permit and Section 2080.1 agreement expected after FED approval.  |
| California Water Resources Board | Water Discharge Permit | Application for Section 401 permit expected after FED approval. |
| Federal Highway Administration | Air Quality Conformity Determination | Request for determination to be submitted following selection of a preferred alternative/The Federal Highway Administration found that the project is consistent with the requirements of the Clean Air Act on December 3, 2012. |
| State Historic Preservation Officer | Memorandum of Agreement (MOA) | MOA expected following the circulation of the draft ED/ SHPO approved MOA on \_\_\_\_\_. |
| County of San Luis Obispo, City of San Luis Obispo | Cooperative Agreement | Signed by Caltrans and [Local Agency] on June 1, 2012. |
| County of San Diego, City of Chula Vista, City of San Diego | Freeway Agreement | Freeway agreement will be completed after the route adoption by the California Transportation Commission. |
| United States Coast Guard | Bridge Permit | Application for Bridge Permit submitted October 3, 2011. |

Chapter 3 – Affected Environment; Environmental Consequences; and Avoidance, Minimization, and/or Mitigation Measures

Following is a list of potential topic areas for the Environmental Impact Statement (EIS). The EIS needs a full text discussion of only those topics that are relevant to the project. **DO NOT AUTOMATICALLY DISCUSS EVERY TOPIC IN THE OUTLINE IN THE EIS.**

For those topics considered but determined not to be relevant for the project, include the following header and summary statement:

Topics Considered but Determined Not to be Relevant

As part of the scoping and environmental analysis carried out for the project, the following environmental issues were considered but no adverse impacts were identified. As a result, there is no further discussion about these issues in this document.

For local assistance projects, the content of the EIS must address all required technical studies identified in the Preliminary Environmental Study (PES) or any additional environmental resource issues identified in the scoping meeting. Sections A-D of the project PES form should be consulted to ensure that all environmental issues and required approvals are addressed in the environmental document, consistent with the information contained in the form.

List topics and briefly (in one or two sentences) describe why there is no potential for adverse environmental impacts. Cite technical studies as appropriate. Note: The intent of this section is for resources that are not present or that clearly have no impact. If a lengthy discussion is necessary to explain why there are no adverse impacts, do not include here, provide discussions in the body of the document under the appropriate section. For resources with only minor construction-related impacts, you may dismiss those topics here and discuss them in a separate “construction impacts” section. Include any measures or project features intended to minimize those impacts (e.g., dust control, etc.). Resources with potentially significant construction-related impacts should not be dismissed in this section.

**Land Use**

When placing land use under this section, the project must be consistent with land use plans. At a minimum, provide information on the [project’s consistency with land use plans](#Land_Use).

**Coastal Zone**

If the project is not located within the coastal zone, simply state that there will be no effects to coastal resources because the project is not located within the coastal zone.

**Environmental Justice**

If no minority or low-income populations have been identified in the project area, summarize that here including the efforts undertaken to identify those populations and conclude with the following language [Do not modify statement below]:

No minority or low-income populations that would be adversely affected by the proposed project have been identified as determined above. Therefore, this project is not subject to the provisions of Executive Order 12898.

**Cultural Resources**

Do not dismiss cultural resources in this section even if it is a Screened Undertaking under the Programmatic Agreement or a No Historic Properties Affected finding was made.  Include a brief discussion in the body of the document.  See the Cultural Resource section for further instruction.

**Floodplains**

If the project is not located within the 100-year base floodplain, state that there will be no effects to the 100-year floodplain because the project is not located within a 100-year base floodplain.

If the project is located within a 100-year base floodplain and a Location Hydraulic Study was prepared for the project, then include a Hydrology and Floodplain section in the body of the document; don’t dismiss Floodplains as an issue here even if the project will not result in a significant encroachment on the 100-year base floodplain.

**Air Quality**

If the project is exempt from air quality conformity, explain why the project is exempt per 40 CFR 93.126 or 93.128. Describe the specific category used in 40 CFR 93.126, and any interagency consultation done as some exemptions need concurrence by interagency consultation.

**Noise**

If it is determined that there is no potential for adverse traffic noise impacts and noise is dismissed as a relevant topic to the project, identify whether or not the project is a Type 1 and explain why it is exempt from the traffic noise analysis requirements.

**Threatened and Endangered Species**

If a project will have a Section 7 No Effect Finding on all listed threatened and endangered species or critical habitat, that can be stated here. It must be made clear that both a USFWS and NOAA Fisheries species list were obtained (and are included either in the “Threatened and Endangered Species” section below or as an appendix) and that the effect finding was “No Effect” for EACH species and critical habitat on the lists.

For projects outside of NOAA Fisheries Service jurisdiction, where a species list is not required, please include the following statement:

This project is located outside of NOAA Fisheries Service jurisdiction; therefore an NOAA species list is not required and no effects to NOAA species are anticipated.

**Section 4(f)**

If there are no potential Section 4(f) properties (i.e., there are no historic sites, parks and recreational resources, or wildlife or waterfowl refuges) within the project vicinity, clearly state that here using the language below.  Note: If any potential Section 4(f) properties are located within the project vicinity, do not include 4(f) in this section, even if the properties are determined not to meet the definition of a Section 4(f) resource or there is no use; they must be discussed in Appendix A, under the heading “Resources Evaluated Relative to the Requirements of Section 4(f).”

There are no historic sites, parks and recreational resources, wildlife or waterfowl refuges, which meet the definition of a Section 4(f) resource, within the project vicinity.  Therefore, this project is not subject to the provisions of Section 4(f) of the Department of Transportation Act of 1966.

If a given topic is relevant, the discussion of that topic should include the following subheadings:

1. Regulatory Setting (if applicable)

The regulatory setting language explains why we analyze issues the way we do in an environmental document. If the topic is important enough to be discussed in the document, cut and paste the regulatory setting language into the environmental document.

1. Affected Environment

Provide a concise description of the existing social, economic, and environmental setting for the area affected by all alternatives presented in the EIS. Under the National Environmental Policy Act (NEPA), the no-build alternative can be used as the baseline for comparing environmental impacts. Where possible, there should be one description for the general project area rather than a separate description for each alternative.

For projects in the coastal zone, the baseline is not always the no build alternative. For more information on “baseline conditions” under the Coastal Act, please see Chapter 4, Section 4.3.2, in Volume 5 of the SER.

Limit your discussion to data, information, issues, and values that will have a bearing on possible impacts, environmental commitments, or alternative analysis. The importance of the impact should determine the length and complexity of data and analyses, with less important material summarized or referenced rather than be reproduced. Use photographs, illustrations, and other graphics to give readers a clearer understanding of the area and the important issues.

1. Environmental Consequences

Discuss the impacts of each build alternative and the no-build alternative. This includes permanent, temporary (usually construction-related), and direct and indirect impacts. Construction-related impacts and cumulative impacts must be discussed either under each resource or in separate sections at the end of the chapter. Cross-reference between sections as appropriate. When discussing impacts, it is important to take into account project features that have been incorporated into the project that may avoid or minimize impacts. Project features can include both design elements of the project, and standardized measures that are applied to all or most Caltrans projects such as Best Management Practices (BMPs) and measures included in the Standard Plans and Specifications or as Standard Special Provisions. These features should be considered as elements of the project in the impact analysis, even if these measures are environmentally beneficial.

1. Avoidance, Minimization, and/or Mitigation Measures

Discuss any proposed avoidance, minimization, and/or mitigation measures. Do not include standardized measures which are considered to be part of the project or project features in this discussion. These features should have already been taken into account in the “Environmental Consequences” discussion. In other words, the effects of the project should be assessed AFTER consideration of those measures or project features.

Remember to state what the measure would do and why we are proposing it.

When writing the environmental document, limit the use of the terms “mitigation” and “mitigate.” For NEPA, use them to refer to only those impacts that are adverse. Address all other measures as avoidance and/or minimization. Remember the first priority is avoidance, then minimization, and lastly mitigation. If avoidance, minimization, and/or mitigation measures vary between alternatives, discuss which measures are proposed for each alternative.

Guidance on Mitigation

The Federal Highway Administration (FHWA) requires the project to incorporate measures to mitigate adverse impacts caused by the action and requires the project applicant to be responsible for the implementation of the mitigation measures (23 Code of Federal Regulations Part 771 [23 CFR 771]).

1. Formulation of mitigation measures should not be deferred until some future time. However, the precise details of how the mitigation will be carried out do not need to be specified. For example, measures to revegetate can include replanting ratios, types of vegetation, and contingency plans if the replanting is not successful, but need not specify exact details of the revegetation plan.
2. The mitigation proposed for a project must have a “nexus” and “rough proportionality.”
	* + - Nexus: A connection between the impact and the mitigation measure.
* Rough proportionality: The amount of mitigation should roughly correspond in size, degree or intensity to the project impact.
1. Mitigation measures must be fully enforceable through permits, licenses, agreements, and certifications (PLACs) or other measures (special provisions).
2. Proposed mitigation measures must be constructible. It is important to discuss the various items with the Project Development Team (PDT) members and Construction staff to decide whether or not all measures are feasible.

The mitigation discussion should include the following:

1. Whether the mitigation measure will avoid or substantially reduce the environmental effect.
2. If several measures are available to mitigate an impact, discuss each and why the chosen measure was selected.
3. If the implementation of a mitigation measure results in environmental effects, those effects must be discussed (this discussion does not need to be as detailed as the projects impacts).
4. Relevant energy conservation measures.
5. Who is responsible for implementing, monitoring and/or reporting on the mitigation measures (Resident Engineer, Department Biologist, contract biologist, etc.).

The above information will be used to prepare and update the Environmental Commitments Record ([ECR](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/forms-templates#cert_compliance)) or equivalent during the Project Approval/Environmental Document (PA&ED); Right-of-way; Plans, Specifications, and Estimate (PS&E); and/or the Construction phases of the project.

Regulatory agencies may require additional measures beyond those required for compliance with NEPA. Any measure required by a permit or other approval should be identified as such.

Human Environment

GUIDANCE

Writing the Document

Many of the topics in this section can use the Community Impact Assessment as an information source. Note: the [SER](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/other-guidance#cia) has a template for writing Community Impact Assessments, with detailed guidance for addressing Community Impacts.

List applicable technical report(s) along with completion date(s) in each section as appropriate.

Existing and Future Land Use

1. Describe the existing land use in the project area. Land use types include: residential, commercial/industrial, recreational, institutional/public services, transportation, utilities, agriculture, and undeveloped land. Discuss housing prices and job information as relevant.
2. Discuss development trends in the project vicinity and the community at large. Provide a cross-reference to the Growth section as applicable. Include:
3. Name of each development.
4. Jurisdiction of development.
5. Status of each development (built, under construction, or proposed).
6. Size of each development.

Example table:

| Name | Jurisdiction | Proposed Uses | Status |
| --- | --- | --- | --- |
| Jet Air | City of … | 24 industrial lots on 48 acres | Final map being developed. No construction. |
| Telegraph Canyon Estates (St. Claire) | County of … | 345 single-family dwellings, 30 acres open space, and 2 park sites | Construction complete.  |
| East Lake Greens SPA |  | Mixed residential, commercial, schools, park, golf course, open space | Under construction. |
| Salt Creek 1 |  | 219 single-family and 331 multiple units and15 acres open space on 124 acres | Construction complete (now part of Rolling Hills Ranch). |

1. Provide a map showing existing and planned land use in the project vicinity.
2. Sources for land use information include:
3. Community Impact Assessment (if one is prepared for the project).
4. The county or city general plan, local specific area plans, local coastal programs/plans, and local planning department staff. Keep in mind that general plans may be out of date and planned developments may not have happened. In addition, certain state or local jurisdictions (e.g., San Francisco Bay Conservation and Development Commission, Tahoe Regional Planning Agency, Santa Monica Mountains Conservancy, etc.) may have different land use designations and developments standards that apply within their jurisdictions.

In the coastal zone, a city or county’s certified LCP is the standard of review for coastal development permits issued by the local government agency.
5. Land use maps and aerial maps.
6. Environmental documents for other types of projects.
7. Area Chambers of Commerce.
8. Newspaper articles on growth, housing, land use, or other topics of a similar nature.
9. District or local agency Right of Way staff members.

Consistency with State, Regional, and Local Plans and Programs

Provide a subheading for each plan.

1. The project’s consistency with the following types of plans needs to be considered and discussed either at the beginning of Chapter 3 under topics considered but not relevant or in this section:
* Transportation plans/programs (MTPs/RTPs and MTIPs/RTIPs).
* Regional growth plans (if proposed or adopted).
* Habitat conservation plans or similar regional conservation plans.
* General and community plans (both city and county).

Often, the number of adopted plans and policies for a particular area can be quite large. Care should be given to analyze only those plans or policies that are relevant to the project. When preparing the environmental document, it is typically necessary to analyze only the consistency of the project with the required elements of the General Plan for cities and counties, which include:

* Land Use
* Housing
* Noise
* Circulation and Transportation
* Public Services and Facilities
* Economic Development
* Conservation and Open Space
* Specific development proposals or specific plans (specific planning area maps, tentative maps, etc.).

Environmental Consequences

1. Assess and discuss the consistency of the alternatives with the applicable state, regional, and local land use, transportation, and habitat conservation plans and programs adopted for the area. Analyze each project alternative separately, including the no-build, and consider using a table or matrix to present a comparison of the alternatives for each plan or program. The cells of the table or matrix should contain a conclusion regarding consistency and a brief explanation to justify the findings. Be certain to discuss the relevant project features (including standardized measures) that have been incorporated into the project to avoid or minimize the project’s environmental consequences. If an alternative was modified to achieve consistency with an adopted land use plan, policy, or program, describe that here.

Example table: **Consistency with State, Regional, and Local Plans and Programs**

|  |  |  |  |
| --- | --- | --- | --- |
| Policy | Alternative A | Alternative B | No-Project Alternative |
| **County General Plan** |
| *Policy 2.5: To sustain the viability of county agriculture by restraining division and use of land which is harmful to continued agricultural use of non-replaceable land resources.* | **Consistent.** Alternative A has been designed to acquire only narrow strips of farmland along the sides of the existing roadway. These acquisitions would not result in the subdivision of agricultural parcels; substantially diminish the size of agricultural parcels; or change the existing use, designation, or zoning of agricultural parcels. | **Not Consistent.** Alternative B would require the acquisition of two agricultural parcels resulting in a permanent conversion of farmland to non-agricultural uses. Alternative B would also require fragmentation of two agricultural parcels leaving small remnants that would not be practical for agriculture. | **Consistent.** The No-Project Alternative would not result in conversion of farmland to non-agricultural uses. |
| **City Redevelopment Plan for Project Area** |
| *Policy 6.1: Designate expeditious routes for freight trucks between industrial and commercial areas and the regional and state freeway system to minimize conflicts with automobile traffic and incompatibility with other land uses.* | **Consistent.** Implementation of Alternative A would create an efficient route for freight trucks between the state highway and industrial areas to the south that would reduce conflicts with automobile traffic and reduce truck traffic on residential streets. | **Consistent.** Implementation of Alternative B would create an efficient route for freight trucks between the state highway and industrial areas to the south that would reduce conflicts with automobile traffic and reduce truck traffic on residential streets. | **Not consistent.** Under the No-Project Alternative, no changes to the existing roadways would occur in the project area. This alternative would not provide an efficient route for freight trucks between the state highway and industrial areas that would minimize conflicts with automobile traffic and incompatibility with other land uses. |

1. If the project is expected to result in growth-related effects, discuss them here only to the extent that those effects are either consistent or inconsistent with state, regional, and local plans. Otherwise, refer the reader to the Growth section below.

Avoidance, Minimization, and/or Mitigation Measures

1. Identify measures that are being proposed to avoid, minimize, and/or mitigate land use impacts. When an alternative is found to be inconsistent with an adopted land use plan, policy, or program, consider modifying the alternative, or developing measures to address the inconsistency. Avoidance measures may include modification of an alignment to achieve consistency with planned development under an applicable land use plan. Another option is to work with local agencies to update existing land use plans. Early collaborative planning between federal, state, and local agencies will tend to increase opportunities to develop measures to avoid, minimize, and/or mitigate land use impacts. See the [Standard Environmental Reference (SER), Vol. 4, Chapter 4, “Land Use, Farmlands, and Growth”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-4-community-impacts-assessment) for more information.

Coastal Zone

If the proposed project is located within the coastal zone, include the following boilerplate language and discuss the location of the project (include maps if available) with respect to the coastal zone and regulatory jurisdiction (statewide and/or local), expected impacts within the coastal zone (summarize and cross-reference other sections as appropriate), consistency of the project with the management program, and any needed PLACs.

Regulatory Setting

This project has the potential to affect resources protected by the Coastal Zone Management Act (CZMA) of 1972. The CZMA is the primary federal law enacted to preserve and protect coastal resources. The CZMA sets up a program under which coastal states are encouraged to develop coastal management programs. States with an approved coastal management plan are able to review federal permits and activities to determine if they are consistent with the state’s management plan.

California has developed a coastal zone management plan and has enacted its own law, the California Coastal Act of 1976, to protect the coastline. The policies established by the California Coastal Act are similar to those for the CZMA: They include the protection and expansion of public access and recreation; the protection, enhancement, and restoration of environmentally sensitive areas; the protection of agricultural lands; the protection of scenic beauty; and the protection of property and life from coastal hazards. The California Coastal Commission is responsible for implementation and oversight under the California Coastal Act.

Include if project will require a coastal development permit (and potentially associated LCP Amendment) by the local government agency, approval of a coastal development permit by the CCC for projects within the CCC’s original jurisdiction (e.g. tidelands), or a consolidated coastal development permit processed by the CCC (if project crosses CCC and local agency jurisdiction). Just as the federal CZMA delegates power to coastal states to develop their own coastal management plans, the California Coastal Act delegates power to local governments to enact their own local coastal programs (LCPs). This project is subject to [insert name of jurisdiction]’s local coastal program. LCPs contain the ground rules for development and protection of coastal resources in their jurisdiction consistent with the California Coastal Act goals. A Federal Consistency Certification will be needed as well. The Federal Consistency Certification process will be initiated prior to final environmental document (FED) and will be completed prior to ROD.

Include if project is in SF Bay Area. The Bay Conservation and Development Commission (BCDC), created prior to the California Coastal Act, retains oversight and planning responsibilities for development and conservation of coastal resources in the Bay Area. The regulatory authority for BCDC is the McAteer-Petris Act and the Suisun Marsh Protection Act.

GUIDANCE

For projects in the coastal zone, detailed technical data is often necessary to support Coastal Act/and or LCP policy consistency findings, and should be prepared during the development of the EIS and evaluated to the extent possible within each resource chapter of the EIS. Further, the following list shows how each resource of this document correlates to Coastal Act resource protection policies:

* Farmlands/Timberlands: This section provides information to support findings related to the Agricultural Resources policies of the Coastal Act (Sections 30241-30243).
* Visual/Aesthetics: This section provides information necessary to support findings related to the Visual Resources policy of the Coastal Act (Section 30251).
* Cultural Resources: This section provides information necessary to support findings related to the Archaeological and Paleontological Resources policy of the Coastal Act (Section 30244).
* Traffic and Transportation/Pedestrian and Bicycle Facilities: This section provides information to support findings related to the Public Access & Recreation policies and New Development policies of the Coastal Act (Sections 30210-30214, 30220-30224, and 30252).
* Water Quality and Stormwater Runoff: This section provides information necessary to support findings related to the Water Quality policies of the Coastal Act (Sections 30230-30232).
* Geology/Soils/Seismic/Topography: This section provides information necessary to support findings related to the Coastal Hazards policies of the Coastal Act (Sections 30235, 30236, and 30253).
* Paleontology: This chapter provides information necessary to support findings related to the Archaeological and Paleontological Resources policy of the Coastal Act (Section 30244).
* Natural Communities/Plant Species/Animal Species/Threatened and Endangered Species/Invasive Species: These chapters provide information necessary to support findings related to the Environmentally Sensitive Habitat Area (ESHA) and Special Status Species policies of the Coastal Act (Sections 30240 and 30236).
* Wetlands and Other Waters: This chapter provides information necessary to support findings related to the wetlands policy of the Coastal Act (Section 30233).

Refer to each resource section in this document (Farmlands/Timberlands, Visual/Aesthetics, Cultural Resources, etc.)for additional guidance on the technical studies and analysis often requested to support coastal policy consistency findings.

Early and continuous coordination with CCC, BCDC, and/or local jurisdictions is intended to facilitate project delivery and can reduce undue delays in processing coastal permits, including the potential for the permit to be subject to conditions that affect the feasibility of the project or that the permit will be denied. Emphasis should be placed on early involvement to avoid delays, redesign, additional costs, or permit denials. The CCC and/or other state and local jurisdictions should be invited to be participating agencies under [the 23 USC Efficient Environmental Review Process](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-32-environmental-impact-statement#23usc139). In addition, if federal funds, permits, and/or approvals are required for a project, a Federal Consistency Certification review will be necessary and therefore early assessment of project consistency with the policies in Chapter 3 of the Coastal Act is warranted. Concurrence in a Federal Consistency Certification should be completed before approval of the FED.

Affected Environment

1. Describe known, significant coastal resources, such as lagoons or upland riparian habitats, which may be affected by the project. Identify the coastal zone jurisdiction for the entire project area, including any potential local certified LCP areas, areas of original Coastal Commission jurisdiction (e.g., tidelands), or any areas of deferred certification. Consider including a location map identifying the areas of coastal jurisdiction.

Environmental Consequences

A Coastal Act Chapter Three Policy Consistency Summary Table should be included here to help the reader understand anticipated impacts to coastal resources. An example of this table can be found at the beginning of Vol. 5 of the SER. This table should reflect the coastal resource analysis as written in the Environmental Consequences section for each resource, as applicable. Be certain to discuss the relevant project features (including standardized measures) that have been incorporated into the project to avoid or minimize the project’s environmental consequences.

Avoidance, Minimization, and/or Mitigation Measures

1. In addition to helping the reader to understand impacts to coastal resources, the Coastal Act Chapter Three Policy Consistency Table should also list avoidance, minimization and/or mitigation measures, and how these measures have been incorporated into the project for consistency with Coastal Act policies.

Note: Regulatory agencies such as CCC may require additional measures beyond those required for compliance with NEPA. Any measure required by a PLAC should be identified as such.

Note: For the final environmental document refer the reader to Chapter 4 for information regarding coordination with the appropriate coastal agency. The Federal Coastal Consistency Certification should be obtained prior to the circulation of the final environmental document, must be referenced in Chapter 4, and must be included as an appendix to the final document.

Additional Guidance

* [SER, Vol. 5, “Coastal Requirements”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-5-coastal-requirements)
* [Coastal Act Resource Policy Information](http://www.dot.ca.gov/env/coastal/coastal-act-policy.html)

Wild and Scenic Rivers

Regulatory Setting

Projects affecting Wild and Scenic Rivers are subject to the National Wild and Scenic Rivers Act (16 United States Code [USC] 1271) and the California Wild and Scenic Rivers Act (CA Public Resources Code [PRC] Section 5093.50 et seq.).

There are three possible Wild and Scenic River Designations:

1. Wild: Undeveloped, with river access by trail only.
2. Scenic: Undeveloped, with occasional river access by road.
3. Recreational: Some development is allowed, with road access.

Affected Environment

1. If the project could affect a Wild and Scenic River or a river under study for designation as a Wild and Scenic River:
2. Describe the river.
3. Identify its designation.

Environmental Consequences

1. List expected impacts. Be certain to discuss the relevant project features (including standardized measures) that have been incorporated into the project to avoid or minimize the project’s environmental consequences. Is there a feasible avoidance alternative? Describe it here and in the “Alternatives” section. If the project was modified to avoid impacts to Wild and Scenic Rivers, discuss that here and in the “Alternatives” section.
2. Would the project have an adverse effect on the free-flowing characteristics of the river?
3. Would the project alter the river segment’s designation of wild, scenic, or recreational?
4. Include coordination efforts to date. Agencies responsible for managing listed or studied rivers include the National Park Service (NPS), U.S. Fish and Wildlife Service (USFWS), Bureau of Land Management (BLM), and U.S. Forest Service (USFS). Document your coordination with the river’s responsible managing agency and the results of the consultation. For more information, see [SER, Vol. 1, Chapter 19, “Wild and Scenic Rivers](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-19-wild-scenic-rivers).” Note: Publicly owned waters of designated Wild and Scenic Rivers and public lands next to a Wild and Scenic River may be subject to Section 4(f) or Section 6(f) protection under certain conditions (see notes on Section 4(f) Evaluation in Appendix A).

Avoidance, Minimization, and/or Mitigation Measures

1. List any additional avoidance, minimization and/or mitigation measures here.

Parks and Recreational Facilities

**GUIDANCE**

If there are no parks or recreational facilities within the Section 4(f) study area, you may dismiss parks and recreational facilities under Topics Considered but Determined Not to be Relevant. However, do not dismiss Section 4(f) unless there are also no cultural resources within the APE.

Affected Environment

1. Describe any parks and recreational facilities within the Section 4(f) study area, including wildlife and waterfowl refuges, equestrian trails, recreational bikeways, and other recreational trails in this section of the document. The Section 4(f) study area should include properties within and immediately adjacent to the project limits, and nearby properties to ensure that proximity impacts can be considered.

Environmental Consequences

1. Discuss how each alternative would affect the facilities. If an avoidance alternative was developed to avoid parks and recreational facilities, describe that here.
2. Analyze all parks, recreational facilities, and wildlife and waterfowl refuges within the Section 4(f) study area to determine if they are protected Section 4(f) resources. Briefly discuss and refer the reader to Appendix A. Sample language provided below. Chose the most appropriate text for your project and modify as needed.
* If the project results in a Section 4(f) use including *de minimis*, state that here and document in Appendix A.
	+ There are parks and recreational facilities within the project vicinity that are protected by Section 4(f) of the Department of Transportation Act of 1966. This project will result in a “use” of those facilities as defined by Section 4(f). Please see Appendix A, Section 4(f), for additional details.
* If there are Section 4(f) resources within the project vicinity but no use of these resources, clearly state that here and document in Appendix A under the heading “Resources Evaluated Relative to the Requirements of Section 4(f).”
	+ There are parks and recreational facilities within the project vicinity that are protected by Section 4(f) of the Department of Transportation Act of 1966. However, this project will not “use” those facilities as defined by Section 4(f). Please see Appendix A under the heading “Resources Evaluated Relative to the Requirements of Section 4(f)” for additional details.
* If there are potential Section 4(f) resource types within the project vicinity, but they do not meet the definition of a Section 4(f) resource clearly state that here and document in Appendix A.
	+ Section 4(f) of the Department of Transportation Act of 1966 provides protection for publicly owned parks and recreational resources. However, it has been determined that the facilities within the project vicinity do not meet the definition of a Section 4(f) resource. Please see Appendix A under the heading “Resources Evaluated Relative to the Requirements of Section 4(f)” for additional details.

Avoidance, Minimization, and/or Mitigation Measures

Discuss any proposed measures to avoid, minimize, and/or mitigate impacts. Remember to state what the measure would do and why we are proposing it.

Farmlands/Timberlands (if applicable)

Regulatory Setting

The National Environmental Policy Act (NEPA) and the Farmland Protection Policy Act (FPPA, 7 United States Code [USC] 4201-4209; and its regulations, 7 Code of Federal Regulations [CFR] Part 658) require federal agencies, such as the Federal Highway Administration (FHWA), to coordinate with the Natural Resources Conservation Service (NRCS) if their activities may irreversibly convert farmland (directly or indirectly) to nonagricultural use. For purposes of the FPPA, farmland includes prime farmland, unique farmland, and land of statewide or local importance.

If work is being done on federal land (e.g., Bureau of Land Management or U.S. Forest Service lands), those agencies’ regulations and policies regarding protection of timberlands are followed.

**GUIDANCE**

The National Environmental Policy Act (NEPA) and the Farmland Protection Policy Act (FPPA, United States Code [USC] 4201-4209, and its regulations, 7 Code of Federal Regulations [CFR] Part 658) require the lead (federal) agency to coordinate with the Natural Resources Conservation Service (NRCS) to examine the effects of farmland conversion before approving any federal action. The coordination process is described in the act, and if an adverse effect is found, the agency must consider alternatives to lessen the impacts. Projects where farmland may be adversely affected require close coordination with the NRCS and the completion of a “Farmland Conversion Impact Rating for Corridor-Type Projects” Form NRCS-CPA-106 or “Farmland Conversion Impact Rating” (for non-corridor type projects) Form AD-1006. The rating form provides a way to assess the extent of farmland impacts based on federally established criteria.

If the project has the potential to affect coastal agricultural resources, additional technical information may include a coastal agricultural resource impact evaluation for any project located within a site designated and zoned for agricultural use and actively used for agricultural purposes, containing designated prime farmland and/or active agricultural uses, or containing any other prime agricultural land that meets the Coastal Act definition (Coastal Act Section 30113, referencing Section 51201 of the Government Code). The Coastal Act and regulations generally define prime agricultural lands as: 1) lands consisting of Class I or II soils as defined by the Natural Resource Conservation Service, 2) soils with a Storie Index Rating of 80 through 100, 3) lands with the ability to support livestock (at least one animal-unit per acre as defined by the United States Department of Agriculture), and/or 4) lands planted with fruit- or nut-bearing trees, vines, bushes, or crops. An agricultural viability analysis may also need to be provided, including, but not limited to consideration of an economic feasibility evaluation containing at least both of the following elements: 1) analysis of the gross revenue from the agricultural products grown in the area for five years, and 2) analysis of the operational expenses, excluding the cost of land, associated with the production of agricultural products grown in the area for five years. This information can be obtained from a variety of sources including, NRCS, general plan land use maps, Department of Conservation land use conversion information, and county farmland or crop reports. It is also recommended that planners check with coastal staff to confirm what information is needed for permit processing.

Additionally, a current map and description of known agricultural lands (as defined by the Coastal Act and LCPs) and proposed development location may also need to be provided.

Early Agency Coordination

Except in cases where it is obvious there is no farmland, the Department’s District Environmental Branch submits Form NRCS-CPA-106 or AD-1006 to the NRCS office that handles the county in which the project is located, and requests a determination on whether the project location has farmland that is subject to the Farmland Protection Policy Act. Key issues to discuss with the NRCS begin with whether or not there are farmlands in the project area. If there are, then:

1. Will the project convert or affect any farmland?
2. Is the affected farmland considered “prime, unique, statewide or local important farmland”?
3. How much farmland will be converted?
4. Will any agricultural parcels be bisected, making one or more not practical for continued agricultural uses?
5. What is the percentage of the county’s total prime farmland that will be lost or affected by the project?
6. Are there alternatives that will reduce or avoid impacts to farmlands?

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s).
2. The Farmlands section of the Community Impact Assessment should be summarized here.
3. When a project would result in a substantial amount of farmland conversion, provide a general discussion of the agricultural resources and character of agriculture in the project area. This discussion might include the amount of land under cultivation, important crops, the value of agricultural production, a description of trends in farmland conversion in the particular county, and a description of applicable general plan elements, ordinances, and other policies related to agriculture in the project area.
4. Provide a map or maps showing the location of all farmlands in the project area, including prime or unique farmlands and/or coastal agricultural lands.

Environmental Consequences

1. Be certain to discuss the relevant project features (including standardized measures) that have been incorporated into the project to avoid or minimize the project’s environmental consequences. Discuss any alternatives that were developed to reduce or avoid impacts to farmlands here and in the “Alternatives” section.
2. Compare farmland conversion from the project to farmland conversion locally (in the county or in the region) and statewide. Discuss impacts to agricultural land in general, and impacts to farmland by category (prime, unique, coastal, etc.). This information can be shown in a comparison table, which should also include the percentage of the county’s total agricultural land and prime farmland that would be lost or affected by the project. See the sample table below.

|  |
| --- |
| **Farmland Conversion by Alternative** |
| **Alternatives** | **Land Converted****(acres)** | **Prime and Unique Farmland****(acres)** | **Percent of Farmland in County** | **Percent of Farmland in State** | **Farmland Conversion Impact Rating** |
| A | 242 | 131.4 | 0.47 | 0.25 | 153.2 |
| B | 713 | 139.1 | 0.15 | 0.05 | 188.0 |
| C | 226 | 59.0 | 0.20 | 0.05 | 136.4 |
| *Source:* Form NRCS-CPA-106 (Farmland Conversion Impact Rating for Corridor-Type Projects). |

1. Discuss any conflicts with existing zoning for agricultural use.
2. Include the following information in the discussion:
3. Identification of impacts on agricultural lands and on prime, unique, statewide or local important farmland in the project area, mentioned above.
4. Identification of any agricultural parcels that would be bisected, making them not practical for continued agricultural uses.
5. Completion of a Form NRCS-CPA-106 or AD-1006, if appropriate. See the [SER, Vol. 4](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-4-community-impacts-assessment), Chapter 4 for more information about ratings and mitigation. Include the completed NRCS-CPA-106 or AD-1006 form in the environmental document. If the total points equal or exceed 160, consider alternative actions, as appropriate, that could reduce adverse impacts (e.g., alternative sites, modifications, or mitigation).
6. Evidence of coordination with local agriculture commissioner and/or the NRCS, as appropriate.
7. If the project has the potential to affect coastal agricultural resources, discuss impacts and discuss consistency with applicable coastal policies and ordinances.
8. For Local Assistance projects, consistency of the project with local general plan policies related to agricultural lands should also be discussed.

Avoidance, Minimization, and/or Mitigation Measures

1. Identify measures that are being proposed to avoid, minimize, and/or mitigate impacts to farmlands. Measures may include establishing agricultural conservation easements or contributing funds to the CA Department of Conservation’s Farmland Conservancy Fund or stockpiling prime soils for other applications in the project area. Other measures could include reconfiguring parcels for resale, and/or leasing the land back to farmers. It is important to consider and disclose the feasibility for each measure that is proposed.

Additional Guidance

* [SER, Vol. 1, Chapter 23 “Farmlands”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-23-farmlands)
* [Farmland Protection Policy Act](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#community)
* [SER, Vol. 4 Community Impacts Assessment](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-4-community-impacts-assessment)

Growth

Regulatory Setting

The Council on Environmental Quality (CEQ) regulations, which established the steps necessary to comply with the National Environmental Policy Act (NEPA) of 1969, require evaluation of the potential environmental effects of all proposed federal activities and programs. This provision includes a requirement to examine indirect effects, which may occur in areas beyond the immediate influence of a proposed action and at some time in the future. The CEQ regulations (40 Code of Federal Regulations [CFR] 1508.8) refer to these consequences as indirect impacts. Indirect impacts may include changes in land use, economic vitality, and population density, which are all elements of growth.

Guidance

**In 2006, the Department, in conjunction with the FHWA and the United States Environmental Protection Agency (U.S. EPA), developed a guidance document entitled** [Guidance for Preparers of Growth-Related, Indirect Impact Analyses](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/other-guidance#gri)**.** The guidance, which was prepared to address California’s specific challenges relating to growth-related impacts, focuses on the influence that transportation projects may have on growth and development and provides a phased approach (see “first-cut screening” below).

In the past, there was often uncertainty about whether to characterize growth-related impacts as “inducing growth” or “accommodating growth.” The guidance steers clear of this debate, focusing instead on whether and how transportation projects “influence” growth. The guidance recognizes that some transportation projects will have no influence, others will have a moderate influence, and still others may greatly influence growth. The guidance also describes the possible ways in which a transportation project may influence the location, type, and rate of future growth and development.

Since different transportation projects will influence growth in different ways, the guidance adopts a two-phase approach to the evaluation of growth-related impacts.

Writing the Document

1. The first phase, called “*first-cut screening,*” is designed to help the environmental planner decide if there is potential for growth-related effects and whether further analysis is necessary.
2. If the first-cut screening reveals that no further analysis is required, document that here by discussing the following:
3. How, if at all, does the project potentially change accessibility?
4. How, if at all, do the project type, project location, and growth-pressure potentially influence growth? Some transportation projects may have very little influence on future growth, while others may have a great influence. Some geographic locations are more conducive to influencing growth, while others are highly constrained. These differences may result from physical constraints, planning and zoning factors, or local political considerations.
5. Determine whether project-related growth is “reasonably foreseeable” as defined by NEPA. Under NEPA, indirect impacts need only be evaluated if they are reasonably foreseeable as opposed to remote and speculative.
6. If there is project-related growth, how, if at all, will that affect resources of concern? Identify which resources of concern are likely to be affected by the foreseeable future growth. If a project is likely to influence future growth, but no resources of concern will be affected, then state that here and indicate that no further growth analysis is necessary.
7. If the first-cut screening demonstrates that further analysis is required, document that here by discussing:
8. Step 1: How the “right-size” for the analysis was determined and what the right-size was. This means choosing an analysis approach and the appropriate tools to answer the questions and accomplish the goals of the analysis. The comparison of the build/no-build alternatives will range in complexity depending on the project.
9. Step 2: Identify the potential for growth for each alternative. Predict the land use and development patterns in the geographic area for each alternative, including the no-build alternative (without project). If a future development scenario without the transportation project was produced, discuss that here.
10. Step 3: Assess the growth-related effects of each alternative to resources of concern. Identify if and to what extent the change in growth would affect resources of concern. If a change in growth would not affect resources of concern, then the analysis is complete and findings should be documented in the environmental document.
11. Step 4: Document measures that were taken to avoid and minimize growth-related impacts. Some commonly considered project modifications include alignment choices, the location and/or configuration of access points, traffic impact fees, and mode choices. If project alternatives were modified to avoid or minimize growth-related impacts, describe that here.

Additional avoidance, minimization, and/or mitigation measures that may be required should be discussed only after consideration of any project features that were incorporated in order to avoid or minimize impacts. Conservation easements can be established to protect resources in perpetuity. Other strategies might include land banking and developing habitat conservation plans or resource conservation plans.

1. Step 5: Compare the results of the analysis for all alternatives. Summarize how and to what extent growth associated with the no-build and build alternatives would affect resources of concern. The results of this comparison will contribute to the identification of the preferred alternative. If a Section 404 permit will be required, the results also will be used for identifying the least environmentally damaging practicable alternative (LEDPA).
2. Step 6: Document the process and findings of the analysis. Include information in the environmental document about the methods and assumptions used, the agencies and experts consulted, and any other research.
3. The guidance emphasizes that early communication, coordination, and involvement among federal, state, and local agencies helps avoid conflict and delay, and allows for the early consideration of avoidance and minimization opportunities to reduce growth-related effects to resources of concern.

Additional Guidance

There are several valuable publications that can help you complete a growth-related impact analysis. The intent of this annotation is to provide a brief, simple explanation of this type of analysis. For more information, please use any of the following:

* [Guidance for Preparers of Growth-Related Indirect Impact Analysis](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/other-guidance#gri)
* [NCHRP Report 466—Desk Reference for Estimating the Indirect Effects of Proposed Transportation Projects](http://www.trb.org/Publications/Blurbs/161023.aspx) (2002), prepared for the National Cooperative Highway Research Program by The Louis Berger Group
* [A Review and Synthesis of the Requirements for Indirect and Cumulative Impact Analysis and Mitigation under Major Environmental Laws and Regulations](https://environment.transportation.org/environmental_topics/indirect_effects/)(2006)*,* prepared for the American Association of State Highway and Transportation Officials (AASHTO) by the Transportation Research Board under the National Cooperative Highway Research Program (NCHRP)

Community Character and Cohesion

Regulatory Setting

The National Environmental Policy Act (NEPA) of 1969, as amended, established that the federal government use all practicable means to ensure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings (42 United States Code [USC] 4331[b][2]). The Federal Highway Administration (FHWA) in its implementation of NEPA (23 USC 109[h]) directs that final decisions on projects are to be made in the best overall public interest. This requires taking into account adverse environmental impacts, such as destruction or disruption of human-made resources, community cohesion, and the availability of public facilities and services.

Guidance

Community character and cohesion are subtle, often hard-to-identify qualities, particularly if you are not familiar with the community. First develop a community profile—a summary of the social and economic characteristics of the area where the project will be built (the “affected area”). Information sources may be primary (interviews, field work, and public meetings) or secondary (minutes of public hearings, newspaper articles, etc.). For Local Assistance projects in particular, information contained in the local general plan may be helpful in developing the community profile.

1. Steps to profile a community are:
2. Define community boundaries and neighborhood or subdivision boundaries. Aerial and road maps from local jurisdictions as well as from the Department are good sources for this information.
3. Locate businesses, homes, and activity centers that may be affected, especially those bordering the highway alternatives and near interchanges.
4. Determine demographic characteristics, economic base, location of community facilities, and other relevant characteristics. See the 2010 census at <http://www.census.gov/2010census/>. It may be useful to include a map showing the census tracts in the project area.
5. Demographic data to describe the project area may come from the U.S. Census—local sources such as Chambers of Commerce and a city’s general and specific plans should also be consulted. Most cities have a web page that can provide helpful information. Useful data on income and other financial matters can be found at the CA Department of Finance website. It’s at <http://www.dof.ca.gov/Forecasting/Demographics/>.
6. Talk to residents and business owners. Invite community leaders (both elected and informal) to scoping meetings or public hearings, and ask for their comments and opinions. These are the people in touch with the community. Other good sources may include social service agencies and community websites.

Note: California has a very diverse population. Be sure to conduct outreach efforts in other languages (at a minimum, Spanish and any Asian language predominant in the area), and have interpreters available at hearings and meetings.

1. What are some indicators that the community has a high degree of cohesion?
2. Long average residency tenures: Long-term residents are likely to feel more connected. Both Right of Way staff and the U.S. Census are potential sources for this information.
3. Households of two or more people: A high percentage of single-person households tends to correlate with lower cohesion.
4. Although subject to debate and dependent upon the geographic location and other social factors, look at the percentage of home ownership over rentals, and single-family homes over higher density housing.
5. Frequent personal contact: This would be observed in field reviews or in interviews with residents.
6. Ethnic homogeneity.
7. Lots of community activity: Determined primarily through interviews with residents. If there’s a park in the neighborhood, field visits after regular work hours might be helpful. Look for notices and handbills describing activities (neighborhood yard sales, farmer’s markets, etc.).
8. Stay-at-home parents: Also a possible indicator of community activity, and a resource for finding out the degree of cohesiveness.
9. Elderly: Like the stay-at-home parents, they’re more active in their community; plus they have the time to become involved.

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s).
2. Describe community boundaries and neighborhood or subdivision boundaries in the study area.
3. Describe businesses, homes, and activity centers of potential impact, especially those bordering the highway alternatives and near interchanges.
4. Describe demographic characteristics, economic base, location of community facilities, and other relevant characteristics.

Environmental Consequences

1. Keep the following in mind:
2. The discussion in the environmental document should focus on the effects of each alternative on the community’s character (“setting”) and on the cohesiveness of the community and/or segments within the community.
3. Pay particular attention to areas of the community that have elderly persons, disabled persons, transit-dependent individuals, and minority groups.
4. Increasing or decreasing public access.
5. Dividing neighborhoods.
6. Separating residences from community facilities.
7. Growth.
8. Changes in quality of life.
9. Increasing urbanization or isolation.
10. Include a discussion of any project features that will avoid or minimize community impacts. Examples include providing pedestrian or bicycle overcrossings or cut-and-cover tunnels, reducing the visibility of structures, reducing right-of-way width, providing street lighting or buffers for noise or visual effects, and/or providing signage.
11. If there are potential economic impacts to the community, these should be addressed where relevant. These impacts may include but are not limited to:
* Loss of parking
* Business relocation
* Loss of employment
* Loss of tax base
* Loss or change in access to established businesses (both temporary and permanent)
1. If homeless individuals will need to be relocated from the right of way prior to construction of the proposed project, describe the established procedures that will be followed.  These procedures, which are usually carried out by District Maintenance staff accompanied by state or local law enforcement, include providing a “Notice to Vacate” which provides advance notice of the date on which belongings will be removed, information on where belongings will be stored and for how long, and information on community services available.

In the case of our projects affecting homeless individuals within third party right-of-way, please note that the third party usually has responsibility, and local cities and counties have legal responsibility for providing services and assistance for the homeless.

Avoidance, Minimization, and/or Mitigation Measures

List any additional avoidance, minimization, and/or mitigation measures such as adding public artwork to the project, setting aside land for a park, or enhanced landscaping.

Additional Guidance

* [SER, Vol. 4](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-4-community-impacts-assessment) covers community characteristics in greater detail.
* See also the [FHWA Community Impact Assessment website](https://www.fhwa.dot.gov/livability/cia/index.cfm).

Relocations and Real Property Acquisition

Regulatory Setting

The Department’s Relocation Assistance Program (RAP) is based on the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act), and Title 49 Code of Federal Regulations (CFR) Part 24. The purpose of the RAP is to ensure that persons displaced as a result of a transportation project are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole. Please see Appendix C for a summary of the RAP.

All relocation services and benefits are administered without regard to race, color, national origin, persons with disabilities, religion, age, or sex. Please see Appendix B for a copy of the Department’s Title VI Policy Statement.

Guidance

Please refer to Appendix C for information on the Department’s Relocation Assistance Program (RAP) procedures and guidelines. For Local Assistance, additional guidance can be found in [LAPM](http://www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm), Ch. 13—Right of Way.

Writing the Document

1. If a Draft Relocation Impact Document or Memorandum is prepared for the project, summarize those findings in the draft environmental document and then incorporate the report by reference. For the final environmental document, summarize the findings of the Final Relocation Impact Document or Memorandum.
2. Whenever possible, use tables as they are easier for the reader to absorb. Note: Avoid use of the word “take” in describing property to be acquired.

Affected Environment

1. List applicable technical report(s) along with completion date(s).
2. Describe the study area, focusing on any areas where right-of-way will need to be acquired for the project.
3. Include a discussion of any affected neighborhoods, public facilities, non-profit organizations, and families having special composition (e.g., ethnic, minority, elderly, disabled, or other factors) that may require special relocation considerations.

Environmental Consequences

1. Using data from the Relocation Impact Document, list the proposed acquisitions in a table showing an estimate of acquisitions per alternative. Note that Assessor’s Parcel Numbers can be disclosed but property owner’s names should not be included. Differentiate residential and business acquisitions, and define each as either full or partial acquisition.

Example table:

**Estimated Displacements by Alternative**

|  |  |  |  |
| --- | --- | --- | --- |
|  | Alt. A | Alt. B | Alt. C |
| RESIDENTIAL |
| Owner Occupants of Single Family Residences | 5 | 7 | 3 |
| Tenant Occupants of Single Family Residences | 2 | 6 | 0 |
| Owner Occupants of Mobile Homes | 7 | 5 | 3 |
| TOTAL RESIDENTIAL UNITS | 14 | 18 | 6 |
| TOTAL PERSONS | 30 | 44 | 16 |
|  |
| NON-RESIDENTIAL |
| Commercial Businesses | 2 | 4 | 2 |
| Industrial/Manufacturing Businesses | 1 | 3 | 0 |
| Agricultural/Farms | 0 | 0 | 1 \*PA |
| TOTAL NON-RESIDENTIAL UNITS | 3 | 7 | 3 |
|  |
| TOTAL RESIDENTIAL AND NON-RESIDENTIAL UNITS | 17 | 25 | 9 |

\*PA=Partial Acquisition

1. Discuss the characteristics of the displaces:
2. Include a general discussion of the family characteristics (e.g., minority, ethnic, disabled, elderly, large family, income level, and owner/tenant status). However, where there are very few residents being displaced, information on race, ethnicity, and income levels should not be included in the environmental document to protect the privacy of those affected.
3. Include descriptions of the businesses and farms to be displaced, types of occupancy (owner/tenant), and sizes (number of employees).
4. Discuss the requirements of the Department’s Relocation Assistance Program and refer the reader to Appendix C. Give consideration to the availability of replacement housing, which must be decent, safe, and sanitary.
5. Compare available (decent, safe, and sanitary) housing in the area with the housing needs of the displacees. The comparison should include: (1) price ranges; (2) sizes (number of bedrooms); and (3) occupancy status (owner/tenant).
6. Identify: (1) sites available in the area to which the affected businesses may relocate; (2) likelihood of relocation; and (3) potential impacts on individual businesses and farms caused by displacement or proximity of the proposed highway if not displaced.
7. Propose measures to resolve any special relocation concerns.
8. Discuss the measures to be taken where the existing housing inventory is insufficient, does not meet relocation standards, or is not within the financial capability of the displacees. Include a commitment to last resort housing when sufficient comparable replacement housing may not be available.

Avoidance, Minimization, and/or Mitigation Measures

Include any avoidance, minimization, and/or mitigation measures for relocations and real property acquisitions that go above and beyond what is required by the Uniform Act and/or the Department’s Relocation Assistance Program. Work with local government and community organizations to identify other financial and incentive programs or opportunities (beyond those provided by the Uniform Act) that may be available to residential and business relocatees. Discuss the measures to be taken where the existing housing inventory is insufficient, does not meet relocation standards, or is not within the financial capability of the displacees. Include a commitment to last resort housing when sufficient comparable replacement housing may not be available.

Environmental Justice

Regulatory Setting

**NOTE:** If an Environmental Justice section is included in the body of the document (i.e., not dismissed under “TOPICS CONSIDERED BUT DETERMINED NOT TO BE RELEVANT”), the following Regulatory Setting language must be included in the NEPA document:

All projects involving a federal action (funding, permit, or land) must comply with Executive Order (EO) 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,* signed by President William J. Clinton on February 11, 1994. This EO directs federal agencies to take the appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law. Low income is defined based on the Department of Health and Human Services poverty guidelines. For [year], this was [##,###] for a family of four.

EO 14096—"Revitalizing Our Nation’s Commitment to Environmental Justice for All” was enacted on April 21, 2023. EO 14096 on environmental justice does not rescind EO 12898 – “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” which has been in effect since February 11, 1994 and is currently implemented through DOT Order 5610.2C. This implementation will continue until further guidance is provided regarding the implementation of the new EO 14096 on environmental justice.

All considerations under Title VI of the Civil Rights Act of 1964, and related statutes, have also been included in this project. The Department’s commitment to upholding the mandates of Title VI is demonstrated by its Title VI Policy Statement, signed by the Director, which can be found in Appendix B of this document.

Guidance

Follow the guidance in the [FHWA Guidance on Environmental Justice and NEPA](http://environment.fhwa.dot.gov/projdev/guidance_ej_nepa.asp) and the [FHWA Environmental Justice Reference Guide](https://www.fhwa.dot.gov/environment/environmental_justice/publications/reference_guide_2015/section11.cfm) to ensure all important points have been covered.

Writing the Document

Affected Environment

1. Identify whether there are any minority or low-income populations in the project area. How do you know whether a project will cause a disproportionate impact on minority and/or low-income residents? Gather data first:
2. The U.S. Census provides median income, housing and demographic information to the “block” level.  Metropolitan Planning Organizations and Council of Governments are good sources for census information and often have demographers on staff to assist. You can also access data on the [U.S. Census Data website](https://data.census.gov/cedsci/).
3. Field reviews may help identify minority or low-income populations not readily apparent in the census data. Housing tracts or structures for the elderly may be an indicator of fixed, often low, incomes.
4. Local newspapers and advertising flyers can give you a feel for housing costs in the area. Check foreign language newspapers in the neighborhood, if any. You can compare average or median rentals in the area with median rentals for the city or region as a whole, information readily available from the census. While this won’t pinpoint low-income populations, it’s a useful indicator.
5. If no minority or low-income populations are identified, see the beginning of Chapter 3 for the required discussion and “boilerplate” language to be included there.

Environmental Consequences

1. If there are minority or low-income populations in the project area, are there disproportionately high and adverse impacts to those populations? Consider and discuss the following in the environmental document:
2. The beneficial and adverse impacts on the overall population and on minority and low-income populations or communities, in particular, need to be discussed. Cross-reference other sections of the environmental document instead of repeating information. Potential topics include, but are not limited to, air quality, noise, water pollution, hazardous waste, aesthetic values, community cohesion, economic vitality, employment effects, displacements/relocations, farmland impacts, accessibility, traffic congestion, safety, and construction impacts.
3. Be certain to discuss any modifications that have been made to the project to minimize the effects of the project, including alternate alignments and/or reducing right-of-way acquisitions. Remember that you are looking for *disproportionate impacts* on minority and low-income populations, not every possible impact. It may be useful, when analyzing demographic tables, to include city-, county-, or region-wide percentages (depending upon project size) of minority and low-income populations, so that “disproportionate” can be established.
4. If a project includes an alternative which would add a price the public must pay for use of a road, bridge, or lanes within a facility, discuss the potential impacts. Examples of such projects include High Occupancy Toll (HOT) lanes and congestion pricing. There may be public controversy, and there may be community impacts such as equity issues, or impacts affecting traffic (such as re-direction of traffic onto other streets, which may affect neighborhoods). Guidance for dealing with toll projects is available from [Environmental Justice and Tolling: A Review of Tolling and Potential Impacts to Environmental Justice Populations (FHWA, December 2016)](https://www.fhwa.dot.gov/environment/environmental_justice/publications/ej_and_tolling/index.cfm).

Avoidance, Minimization, and/or Mitigation Measures

1. If the project widens an existing road, alternatives are limited. Typically, impacts that may be disproportionate are relocations and temporary, partial acquisitions for construction easements. If these impacts appear to affect minority or lower-income households more, calculate the costs of avoidance alternatives (see next bullet).
2. If the preferred alternative **will** cause disproportionate impacts to the protected populations, the project is not doomed! Follow the steps in the [FHWA Guidance on Environmental Justice and NEPA](https://www.environment.fhwa.dot.gov/env_topics/ej/guidance_ejustice-nepa.aspx). The guidance describes the conditions under which a project may go forward despite its disproportionate impact on protected populations. One condition is the “extraordinary magnitude” of project costs for other alternatives, which is why costs are calculated in the previous step.
3. As appropriate, include the following concluding statement [Do not modify red text]:

Based on the above discussion and analysis, the [XYZ] alternative(s) will not cause disproportionately high and adverse effects on any minority or low-income populations in accordance with the provisions of EO 12898. No further environmental justice analysis is required.

Utilities/Emergency Services

Regulatory Setting

Not needed.

Guidance

For Local Assistance projects, local municipal utility and emergency services staff should be contacted to identify utility systems and emergency services that may be affected.

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s). This section should include a description of all utility systems that could be affected by the project, including water, sewer, electric power, and telecommunication systems.

Environmental Consequences

1. Include any transmission lines, pump stations, or other infrastructure facilities that are affected. The Project Engineer and Right of Way staff can help identify impacts.
2. Also, include a brief description of all law enforcement, fire, and other emergency services that could be affected by the project. Describe all temporary and long-term impacts to utilities and emergency services. Include impacts caused by detours and roadway closures. Also, include positive impacts such as improvements to access for emergency services. Scoping the project with the locals can be very helpful.
3. Discuss the relevant project features (including standardized measures) that have been incorporated into the project to avoid or minimize the project’s environmental consequences. One example would be the relocation of a power line to avoid affecting power service. Describe coordination efforts that will be needed to carry out the measures.
4. Note: If utility relocations are proposed, then describe (either in this section or in the appropriate resource sections) the impacts that would be caused by relocating the utilities and the proposed measures to lessen those impacts.

Avoidance, Minimization, and/or Mitigation Measures

Include a brief statement of any avoidance, minimization, and/or mitigation measures that will be included.

**Additional Guidance**

* [Memorandum Regarding PUC General Order 131-D, Relocation of 50kV or Higher Power Lines](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/policy-memos#LinkTarget_654)

Traffic and Transportation/Pedestrian and Bicycle Facilities

This section discusses the project’s impacts on traffic and circulation, both during construction (construction impacts) and after completion of the project (long-term or operational impacts). Note: Recreational trails, such as equestrian trails, are covered in the Parks and Recreational Facilities section of the document.

Regulatory Setting

Include the following two paragraphs if the project proposes or has impacts on pedestrian or bicycle facilities:

The Department, as assigned by the Federal Highway Administration (FHWA), directs that full consideration should be given to the safe accommodation of pedestrians and bicyclists during the development of Federal-aid highway projects (see 23 Code of Federal Regulations [CFR] 652). It further directs that the special needs of the elderly and the disabled must be considered in all Federal-aid projects that include pedestrian facilities. When current or anticipated pedestrian and/or bicycle traffic presents a potential conflict with motor vehicle traffic, every effort must be made to minimize the detrimental effects on all highway users who share the facility.

In July 1999, the U.S. Department of Transportation (USDOT) issued an Accessibility Policy Statement pledging a fully accessible multimodal transportation system. Accessibility in federally assisted programs is governed by the USDOT regulations (49 CFR 27) implementing Section 504 of the Rehabilitation Act (29 United States Code [USC] 794). The FHWA has enacted regulations for the implementation of the 1990 Americans with Disabilities Act (ADA), including a commitment to build transportation facilities that provide equal access for all persons. These regulations require application of the ADA requirements to Federal-aid projects, including Transportation Enhancement Activities.

Guidance

Discuss how the project would affect traffic and transportation/pedestrian and bicycle facilities, reflecting both existing and design-year (project open-to-traffic year plus 20 years) traffic. Most Metropolitan Planning Organizations (MPOs), Regional Transportation Planning Agencies (RTPAs), and Councils of Governments (COGs) have a future year that their documents reflect; adopt theirs. Be aware that if there is enough lag time between issuing the draft and final environmental documents, it may be necessary to show forecasts for a later date than shown in the draft. Get future estimates from Transportation Planning’s modelers and forecasters. Other sources of information include:

1. Highway Capacity Manual (Special Report 209 from the Transportation Research Board, Washington, D.C.). This is where the concept of Level of Service (LOS) originates. While most of it is geared to engineers, it can help clarify how the data, especially LOS, are derived.
2. The circulation element of the local general plan of the jurisdiction(s) in which the project is located. As with other local planning documents, the project must be consistent with the plan(s).
3. TASAS: The Traffic Accident Surveillance and Analysis System tabulates collision rates for all highways in California, identified by post mile. Data are shown based on the number of lanes, whether the collision occurred on wet or dry pavement, whether it occurred during night or day, and whether the collision resulted in fatalities. The engineer writing the technical study will obtain the TASAS data. Note: Safety data are also used to support the purpose and need discussion in Chapter 1 for safety projects.
4. Various Transportation Demand Management (TDM) guidance materials. These are useful when a project involves multi-modal infrastructure, such as for buses, carpools, rail, cycles. These documents can help support projects involving High Occupancy Vehicle (HOV) lanes, transit ways (barricade-separated HOV lanes), bicycle lanes, and other work on conventional highways, and even some Transportation System Management (TSM) tools such as closed circuit TV. Check with Transportation Planning for these materials.
5. Regional traffic demand models.
6. Pavement management systems.
7. See the [*Highway Design Manual*](https://dot.ca.gov/programs/design/manual-highway-design-manual-hdm) for more information.

Writing the Document

Affected Environment

1. List applicable technical report(s) with their completion date(s). Define the study area for the transportation and traffic analysis, and describe existing conditions in the study area. Include tables and figures as described above to aid the reader in understanding concepts such as LOS.

All data should be shown for both directions of travel and for morning and evening peak periods.

1. Show modeled data for all these categories for 20 years beyond the completion of project construction.
2. Coordinate with local jurisdictions to see if there is a master bicycle trails plan.
3. If bicycle and pedestrian studies were conducted, discuss the results.
4. If the project has the potential to affect coastal access, additional technical information related to coastal public access and/or coastal recreation areas may be needed, such as traffic and parking demand studies, inventories, and maps of existing and planned public access and recreation areas. Projects that may affect coastal access and recreation include projects located along or near the shoreline or coastal recreation area (including beaches, parks, trails, and inland waterbodies) and/or projects that have the potential to temporarily or permanently impact access and recreation opportunities due to physical displacement of land or parking resources used for such uses, public pullouts or viewing areas or changes in traffic patterns along critical access corridors.

Environmental Consequences

1. Compare the existing, future no-build, and design-year traffic for Traffic and Transportation/Pedestrian and Bicycle Facilities. If the project is a safety project, how will it improve safety? Provide a discussion of the project’s impacts on traffic and circulation, both during construction (construction impacts) and after completion of the project (long-term or operational impacts). Quantify impacts if possible (estimate time delays, for example). The description of traffic must include the following items. Note: It is essential to compare Single Occupancy Vehicle (SOV) and HOV numbers if the project includes building HOV facilities.
2. **Travel time comparison** (existing and modeled): Usually expressed as time saved by comparing vehicle miles traveled (VMT) and vehicle hours traveled (VHT), shown as total time saved annually. Compare all build alternatives to the existing and the future no-build or no-project alternative.
3. **Peak period performance**: Show modeled top speeds during the period(s) of highest demand. A slower speed during the peak period is a strong indicator of need. Be sure to show all peak periods, including mid-day, if appropriate. A table to show **average speeds** may also be helpful to the reader. Again, compare all build alternatives to both existing conditions and the future no-build alternative.
4. **Corridor travel time**:Comparisons between origin and destination (O/D) pairs are helpful to the lay reader. Transportation planners can help obtain these data.
5. **Volume/capacity (v/c) ratio and level of service**: Show density of traffic on the freeway or roadway. This is another item the layperson will be keenly interested in. Including photos that show the various levels is very reader-friendly.
6. **Measures to lessen traffic/circulation impacts**: If these are proposed, provide a table showing the improved v/c ratios, modeled for the future year, including a comparison of all build alternatives to the no-build alternative.
7. **Freeway connector volumes**: Compare all build alternatives to the existing and the future no-build or no-project alternative if the project includes connector improvements.
8. **Arterial impacts and intersection impacts** (existing and modeled): If the project will create any impacts to local streets and intersections, describe them.
9. Describe improvements to circulation (such as installing loop sensors and signals at intersections on conventional highways, or at on-ramps on freeways, adding turning lanes, adding an auxiliary lane to a freeway, building a barrier to impede unsafe turning, etc.).
10. Will the project improve or negatively alter traffic patterns for residents and businesses?
11. Is there a Transportation Management Plan (TMP)? Strategies of a TMP include public information, motorist information, incident management, construction, demand management, and alternate routes or detours. Note: For projects on the SHS, the plan should be written by Traffic Operations staff. Examples of individual TMP elements include:
	1. Public Information – Brochures and mailers, press releases/media alerts, paid advertisements, project website, public meetings/hearings, etc.
	2. Motorist Information – Traffic radio announcements, changeable message signs, temporary motorist signs, etc.
	3. Incident Management – Traffic management teams, Intelligent Transportation Systems (ITS), surveillance equipment, tow/freeway service patrol, etc.
	4. Construction – Lane requirement charts, construction staging, traffic handling plans, full facility closures, etc.
	5. Lane Modifications – Reduced lane widths or lane closures, reduced shoulder width or shoulder closures, lane shifts, ramp closures, night work, incentives and disincentives, innovative construction techniques, etc.
	6. Demand Management – Telecommuting, ramp metering, variable work hours, truck/heavy vehicle restrictions, transit service improvements or incentives, ridesharing/carpooling incentives, etc.
	7. Alternate Routes/Detours – Offsite detours and use of alternate routes, signal timing/coordination improvements, temporary traffic signals, turn restrictions, parking restrictions, etc.
12. Transportation Management Plans may also include agreements with local agencies to provide enhanced infrastructure on arterial roads or intersections to deal with detoured traffic. We may also contract with local agencies for traffic personnel, especially for special event traffic through or near the construction zone. The enhancements *must* be temporary if federal funds are used.
13. Describe the public input process: How has the public been involved in learning about the project, including impacts and proposed measures to minimize harm? The cycling and pedestrian public should also be included as part of the scoping process to ensure the inclusion of bike- and pedestrian-friendly design elements in the project. Note this participation here.
14. What impacts will occur during construction (accessibility for vehicles, bicycles, and pedestrians)? Be sure that bicycling advocacy groups are included in planning the detour.
15. Discuss compliance with the ADA.
16. Discuss impacts to access to coastal resources and/or coastal recreation areas such as beaches, parks, trails (including existing and planned segments of the California Coastal Trail) and inland waterbodies. Evaluate consistency with applicable coastal policies and ordinances. For example, explain how the project facilitates non-motorized modes of transportation and maximizes public access to the shoreline. The status of the Coastal Trail in the vicinity should be discussed, as well as consideration for interconnecting trail systems and for providing safe roadway crossings. This section should characterize unavoidable permanent or temporary access impacts caused directly or indirectly by the project. Describe how public access for pedestrians and bicyclists would be provided under each alternative. Information may also need to address whether the impact is to “low cost visitor and recreational facilities.”

Avoidance, Minimization, and/or Mitigation Measures

1. Describe any additional measures (beyond design elements and standardized measures) that have been identified to lessen adverse impacts. Remember to state what the measure would do and why we are proposing it.

Visual/Aesthetics

Regulatory Setting

The National Environmental Policy Act (NEPA) of 1969, as amended, establishes that the federal government use all practicable means to ensure all Americans safe, healthful, productive, and *aesthetically* (emphasis added) and culturally pleasing surroundings (42 United States Code [USC] 4331[b][2]). To further emphasize this point, the Federal Highway Administration (FHWA), in its implementation of NEPA (23 USC 109[h]), directs that final decisions on projects are to be made in the best overall public interest taking into account adverse environmental impacts, including among others, the destruction or disruption of aesthetic values.

Guidance

A Visual Impact Assessment (VIA) should be considered for every project that has the potential to change the visual environment, for example by removing vegetation, or constructing cut and fill slopes or structures such as bridges and walls, or installing signs or lighting, etc. The VIA will be prepared by, or under the direction of, a licensed Landscape Architect. The level of VIA to be prepared is determined using the [VIA Questionnaire](https://dot.ca.gov/programs/design/lap-visual-impact-assessment/lap-via-questionnaire). For detailed information about visual analysis, see the [SER, Vol. 1, Chapter 27 “Visual and Aesthetics Review.”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-27-visual-aesthetics-review)

The FHWA *Visual Impact Assessment for Highway Projects* provides detailed guidance on how to conduct a visual assessment for federal or Federal-aid highway projects. The basic steps in the process are:

1. Define the project location and setting.
2. Identify visual assessment units and key views and define these terms for the reader.
3. Analyze existing visual resources, changes to those resources, and viewer response (attributes such as form, line, color, texture, dominance, scale, diversity, and continuity that are used to describe visual character—and vividness, intactness, and unity that are used to describe visual quality—should be defined for the reader).
4. Depict or describe the visual appearance of project alternatives.
5. Assess the visual impacts of project alternatives.
6. Propose measures to offset visual impacts. The purpose of these measures is to avoid, minimize, and/or mitigate adverse visual impacts.

Detailed information about each step in the process can be found in FHWA’s [*Visual Impact Assessment for Highway Projects*](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/other-guidance#visual). In the EIS, summarize the steps and results of the FHWA visual impact assessment.

Writing the Document

Affected Environment

1. List all applicable technical report(s) along with completion date(s). Using the information in the VIA, describe the project’s visual setting, and identify visual assessment units, key views, and viewers in the study area. Discuss the visual resources, including the visual character and visual quality.
2. Indicate whether any portion of the project is within an *officially* designated scenic highway and if this segment includes scenic resources (e.g., a tree that displays outstanding features of form or age; a unique or massive rock formation; a historic building that is a rare example of its period, style, or design). Refer to the Scenic Resource Evaluation (SRE) for this information.

Note: The Department Landscape Architect may also be called on to help determine whether the proposed project would affect the setting of a historic and/or Section 4(f) resource. Include this in the Cultural Resources and/or Section 4(f) sections of the document. The discussions can be cross-referenced in the Visual/Aesthetics section.

Environmental Consequences

1. Using information from the VIA, describe the visual appearance of the project alternatives and how the project would affect the visual assessment units and key views. Discuss the resource change, viewer response, and visual impact. Include visual simulations, if applicable, in the environmental document to show the before and after conditions.
2. Discuss temporary construction impacts.
3. If context sensitive solutions have been included in the proposed project, describe those here. Explain how these contextual elements such as textured noise barriers, colored concrete or asphalt, highway plantings, etc., help generate public acceptance of the project, reflect the unique character of the community, and provide compatibility with the existing visual resources (see “good design” elements providing in the Project Description section of the VIA). For information on context sensitive solutions, please see [FHWA’s Context Sensitive Solutions website](http://contextsensitivesolutions.org/) and [FHWA’s Context Sensitive Solutions Primer](https://www.fhwa.dot.gov/context/css_primer/).
4. Discuss whether the project has the potential to affect any identified scenic resources within an *officially* designated scenic highway. The scenic highway program protects and enhances California’s natural scenic beauty by allowing county and city governments to apply to the Department to establish a scenic corridor protection program. If the project is within the boundaries of a scenic corridor protection program, the environmental document must discuss whether the project is consistent with that program. For more information about scenic highways, please see the Department’s [Scenic Highway Program](https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways) website.
5. Discuss potential visual effects of public views to shoreline and inland coastal resources, if applicable, and discuss consistency with applicable coastal policies and ordinances. For projects that may affect coastal resources or that are in the coastal zone, additional technical information may be necessary to evaluate potential effects on public views to and along the shoreline, recreation and open spaces areas, significant landforms, waterbodies, and inland mountains, as well as changes in visual character of the project area. Information necessary may include a visual impact assessment, including but not limited to, line-of-site analyses, visual simulations, sketches and photographic examples of project features including signage, bridge sections, railings, retaining walls, sound walls, and landscaping. In some instances, changes in visual character and/ or views to developed areas that consist of special communities, usually designated as such in LCPs, must also be considered. A visual assessment, along with visual simulations of the proposed project, is often prepared by a landscape architect and required for any project located in a visual protection overlay area as identified in a certified LCP, or for a project located within an area adjacent to the shoreline or parkland, areas consisting of steep terrain and/or significant vegetation, or for projects that have the potential to block public views to shoreline or inland scenic resources. The visual assessment should include public views both to and from the proposed project. For example, the evaluation may include a discussion of: impacts of bluewater views, loss of views to open space areas and inland hillsides and mountains, substantial change in the visual character of the area, etc.
6. For Local Assistance projects, the consistency of the project with applicable visual quality and/or design policies contained in the local general plan should be discussed.

Avoidance, Minimization, and/or Mitigation Measures

1. Consistent with the guidance, propose methods to avoid, minimize, and/or mitigate adverse visual impacts. State how the proposed measure would avoid, minimize, and/or mitigate each visual impact that has been identified.

Additional Guidance

* [SER, Vol. I, Chapter 27, “Visual and Aesthetics Review”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-27-visual-aesthetics-review)

Cultural Resources

Regulatory Setting

The term “cultural resources,” as used in this document, refers to the “built environment” (e.g., structures, bridges, railroads, water conveyance systems, etc.), places of traditional or cultural importance, and archaeological sites (both prehistoric and historic), regardless of significance. Under federal law, cultural resources that meet certain criteria of significance are referred to by various terms including “historic properties,” “historic sites,” and “traditional cultural properties.” Laws and regulations dealing with cultural resources include:

The National Historic Preservation Act (NHPA) of 1966, as amended, sets forth national policy and procedures for historic properties, defined as districts, sites, buildings, structures, and objects included in or eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and to allow the Advisory Council on Historic Preservation (ACHP) the opportunity to comment on those undertakings, following regulations issued by the ACHP (36 Code of Federal Regulations [CFR] 800). On January 1, 2014, the First Amended Section 106 Programmatic Agreement (PA) among the Federal Highway Administration (FHWA), the ACHP, the California State Historic Preservation Officer (SHPO), and the Department went into effect for Department projects, both state and local, with FHWA involvement. The PA implements the ACHP’s regulations, 36 CFR 800, streamlining the Section 106 process and delegating certain responsibilities to the Department. The FHWA’s responsibilities under the PA have been assigned to the Department as part of the Surface Transportation Project Delivery Program (23 United States Code [USC] 327).

Include as applicable: As the project is [partially] located on lands administered [owned] by the [name of tribe/federal agency], the Caltrans First Amended Section 106 Programmatic Agreement [does not apply/was requested not to be used by the federal agency] and consultation will occur under the National Historic Preservation Act implementing regulations at 36 CFR § 800.

Include as applicable: The Archaeological Resources Protection Act (ARPA) applies when a project may involve archaeological resources located on federal or tribal land. The ARPA requires that a permit be obtained before excavation of an archaeological resource on such land can take place.

Other federal laws and regulations also apply to cultural resources. See the [SER, Vol. 2, Chapter 1, “General Information](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-2-cultural-resources),” for a more complete listing and descriptions. Include those other laws and regulations as applicable to the project.

GUIDANCE

This section of the environmental document discloses the project’s effects, or impacts, on cultural resources listed in or eligible for listing in the NRHP, how those impacts were determined, and whether and how impacts can be avoided or lessened.

Not all information about cultural resources can be fully disclosed to the public. The location of archaeological sites and confidential information provided by California Native American tribes are exempt from disclosure to the public by law in part, to protect sites from looters. Prior written consent to disclose information provided by a California Native American tribe during the environmental review process is necessary before some or all of that information can be disclosed to the public. A tribally-approved confidential appendix or summary may be included in the document.

Writing the Document

If a proposed project involves several different types of cultural resources, the clarity of the document may be improved if the discussion is divided by resource type— built environment, archaeological sites—or those with cultural or traditional values—although these types may overlap.

Affected Environment

1. Briefly list cultural resources studies completed for the project along with completion dates— Screened Undertaking, Historic Property Survey Report (HPSR), Finding of Effect (FOE), etc.
2. Briefly discuss the methods used to support studies—records searches, field surveys, testing, Native American consultation, etc.—and describe the Area of Potential Effects (APE).
3. Using the HPSR and other cultural resources technical studies, discuss the cultural resources (historic properties, historic sites, and/or traditional cultural properties) evaluated within the APE (omitting confidential information provided by California Native American tribes and specific location information for archaeological sites as discussed above). If there are no cultural resources within the APE, there’s no need to write a lengthy Cultural Resources section, briefly describe the studies completed, methods used, and the finding. In Section 106 language, if no historic properties are present, there is a finding of “No Historic Properties Affected.”
4. Discuss the significance of each evaluated cultural resource within the APE (i.e., whether it is listed in or eligible for listing in the NRHP). Note that a cultural resource determined *eligible* for listing in the NRHP is considered to have the same status as a listed resource for purposes of the project or undertaking.

Environmental Consequences

1. Using information from the cultural resources technical reports, (HPSR, FOE, etc.), discuss the anticipated effects finding for each resource and for the project as a whole. There are four possible findings when cultural resources are present within the project limits:

	1. No Historic Properties Affected
	2. Finding of No Adverse Effect with standard conditions (FNAE-SC)
	3. Finding of No Adverse Effect (FNAE)
	4. Finding of Adverse Effect (FAE)

If the APE contains more than one historic property, it is possible that the project may have no adverse effect on some historic properties, but an adverse effect on others. Discuss the potential effects of each alternative on each identified significant cultural resource. For each resource listed in or eligible for listing in the NRHP, discuss whether the project would alter the characteristics that make the resource eligible, and whether or not the project will have an effect on the resource.

In addition to discussing the effects on each resource, clearly state the Section 106 finding for the project (undertaking) as a whole. The finding for the undertaking will be at the highest level of effect found for any one historic property within the APE. For example, if the project would have “no adverse effect” to one resource but have an “adverse effect” to another, then the Section 106 finding for the project (undertaking) as a whole would be “adverse effect.” See sample text below:

Within the project APE, there are three cultural resources that have been determined eligible for inclusion to the National Register of Historic Places.  Two of the historic properties are prehistoric archaeological sites and the third is a 1920s residence.  The two prehistoric archaeological sites will be avoided and protected by using an ESA for each.  Thus, the project has a “no adverse effect with standard conditions” finding for the two prehistoric historic properties.  The original stamped sidewalks and wrought iron fencing at the 1920s residence, which are contributing elements to the overall eligibility of the historic property, will be removed, therefore altering and removing characteristics that helped to qualify the historic property for the National Register.  The project has an “adverse effect” on the 1920s residence/historic property, and a Memorandum of Agreement has been prepared, outlining the mitigation agreed to by Caltrans and the SHPO. Overall, the project (undertaking) as whole has an adverse effect on historic properties.

1. Regardless of the determinations of eligibility, the following provisions dealing with the discovery of cultural materials or human remains must be included:

If cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area will be diverted until a qualified archaeologist can assess the nature and significance of the find.

If human remains are discovered, California Health and Safety Code (H&SC) Section 7050.5 states that further disturbances and activities shall stop in any area or nearby area suspected to overlie remains, and the County Coroner contacted. If the remains are thought by the coroner to be Native American, the coroner will notify the Native American Heritage Commission (NAHC), who, pursuant to PRC Section 5097.98, will then notify the Most Likely Descendent (MLD). At this time, the person who discovered the remains will contact [insert the project contact, e.g., District Environmental Branch] so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable.

1. Discuss the results of consultation with SHPO and/or if applicable (i.e., if project is partially or entirely on tribal lands), the Tribal Historic Preservation Officer (THPO), and any other consulting parties (e.g., Native American tribes and interested parties (USACE, historical societies, etc.)). Discuss the status of SHPO and/or THPO concurrence with the findings under Section 106. Include concurrence documentation in either a separate appendix or in Chapter 4, “Comments and Coordination.” Include confidential information obtained from California Native American Indian Tribes in a Confidential Appendix or in the document itself as agreed to in writing by the California Native American Tribe.
2. Within the project vicinity, analyze all historic properties within the Section 106 APE to determine whether they are protected Section 4(f) resources. Briefly discuss and refer the reader to Appendix A. Sample language provided below. Chose the most appropriate text for your project and modify as needed.
* If the project results in a Section 4(f) use, state that here and document it in Appendix A.
	+ There are historic properties protected by Section 4(f) of the Department of Transportation Act of 1966 within the project vicinity. The proposed project would result in a “use” of those properties as defined by Section 4(f). Please see additional details in Appendix A.
* If there are Section 4(f) resources within the project vicinity but no use of these resources, clearly state that here and document in Appendix A under the heading “Resources Evaluated Relative to the Requirements of Section 4(f).”
	+ There are historic properties protected by Section 4(f) of the Department of Transportation Act of 1966 within the project vicinity. However, this project will not “use” those properties as defined by Section 4(f). Please see Appendix A under the heading “Resources Evaluated Relative to the Requirements of Section 4(f)” for additional details.
* If there are potential Section 4(f) resource types within the project vicinity, but they do not meet the definition of a Section 4(f) resource clearly state that here and document in Appendix A.
	+ Section 4(f) of the Department of Transportation Act of 1966 provides protection for historic properties. However, it has been determined that the properties within the project vicinity do not meet the definition of a Section 4(f) resource. Please see Appendix A under the heading “Resources Evaluated Relative to the Requirements of Section 4(f)” for additional details.
* If no historic properties are present state that here:
	+ Section 4(f) of the Department of Transportation Act of 1966 provides protection for historic properties. There are no historic properties present within the APE; therefore, there are no Section 4(f) historic sites affected by the proposed project.
1. If the project has the potential to affect cultural resources in the coastal zone,discuss impacts and discuss consistency with applicable coastal policies and ordinances.

Avoidance, Minimization, and/or Mitigation Measures

1. Discuss proposed avoidance, minimization, and/or mitigation measures for each identified significant cultural resource. Remember to state what the measures would do and why we are proposing them.
2. If the project would result in a Finding of Adverse Effect (FAE), then an approved signed Memorandum of Agreement (MOA) is required before circulation of the final environmental document. An MOA stipulates the responsibilities of FHWA, SHPO, the Department (as assigned by FHWA), and, if participating, ACHP, THPO, or other consulting parties, on measures that will be taken to avoid, minimize, and/or mitigate the effects of the undertaking on historic properties. Summarize those measures here.

A signed FOE is required for the final environmental document unless there are limiting factors (e.g., a large project with several different alternatives or difficulties accessing private property for the necessary studies). If the project is to be phased in order to achieve Section 106 compliance, as agreed to by CSO, then a project-level PA must be executed before circulation of the final environmental document (just like the MOA) and included in the final environmental document.

The MOA process is described at the [ACHP’s Guidance on Agreement Documents website](https://www.achp.gov/initiatives/guidance-agreement-documents). The ACHP’s main website is located at <http://www.achp.gov/>.

For the final environmental document, documentation of SHPO or THPO concurrence or the signed MOA must be included as an appendix or in Chapter 4, “Comments and Coordination.”

Physical Environment

Hydrology and Floodplain

Regulatory Setting

Executive Order (EO) 11988 (Floodplain Management) directs all federal agencies to refrain from conducting, supporting, or allowing actions in floodplains unless it is the only practicable alternative. The Federal Highway Administration (FHWA) requirements for compliance are outlined in 23 Code of Federal Regulations (CFR) 650 Subpart A.

To comply, the following must be analyzed:

* The practicability of alternatives to any longitudinal encroachments.
* Risks of the action.
* Impacts on natural and beneficial floodplain values.
* Support of incompatible floodplain development.
* Measures to minimize floodplain impacts and to preserve/restore any beneficial floodplain values affected by the project.

The base floodplain is defined as “the area subject to flooding by the flood or tide having a one percent chance of being exceeded in any given year.” An encroachment is defined as “an action within the limits of the base floodplain.”

Guidance

Hydraulic information for the environmental document is provided in the Location Hydraulic Study, Summary Floodplain Encroachment Report, and/or a Floodplain Evaluation Report. A Location Hydraulic Study (LHS) is prepared by a registered engineer who has hydraulics expertise. If, based on the results of the LHS, either: (1) a significant encroachment on a floodplain, or (2) an inconsistency with existing watershed and floodplain management programs, or (3) uncertainty exists about what impacts will occur, then a Floodplain Evaluation Report must be prepared. If no encroachment or impacts to the floodplain will occur, then a Summary Floodplain Encroachment Report will be prepared. Note: For local agency transportation projects off the State Highway System (SHS), the Location Hydraulic Study (LHS), the Summary Floodplain Encroachment Report, and the Floodplain Caltrans Reviewers Checklist are available for use at: <https://dot.ca.gov/programs/local-assistance> with appropriate local agency signature approval forms. For Local Assistance projects, the Summary Floodplain Encroachment Form is jointly approved by the DLAE and the District Environmental Office Chief (or designee).

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s). Where applicable, the Affected Environment section should include a description of the existing floodplain; its natural and beneficial values and policies; and procedures and orders relating to hydraulics.
2. The base 100-year floodplain can be shown using Federal Emergency Management Agency (FEMA) maps, National Flood Insurance Program (NFIP) maps, or other maps developed by the highway agency. The maps must be included in the document. If the NFIP maps do not exist, the agency must develop the needed maps so the floodplain can be identified.
3. If the project is not located within a 100-year base floodplain, state this at the beginning of Chapter 3.

Environmental Consequences

1. If an increase in the base floodplain elevation (BFE) is expected, a hydraulic computer model must be run to establish the amount of increase to determine the floodplain encroachment impacts.

A “significant encroachment” as defined in 23 CFR 650.105 is a highway encroachment and any direct support of likely base floodplain development that would involve one or more of the following construction or flood-related impacts:

* A significant potential for interruption or termination of a transportation facility that is needed for emergency vehicles or provides a community's only evacuation route;
* A significant risk (to life or property), or;
* A significant adverse impact on natural and beneficial floodplain values.

The document MUST state whether or not there is a significant floodplain encroachment. Include a summary of any coordination with local, state, and/or federal water resources and floodplain management agencies (especially FEMA) because of an encroachment on a regulatory floodway, increase in the base flood elevation, and any subsequent actions such as the need for a floodplain map revision. When there is a significant encroachment and an “Only Practicable Alternative Finding” is required (see below), FHWA must approve the significant floodplain encroachment, even under NEPA Assignment. For the final environmental document, this concurrence must be included in Chapter 4 “Comments and Coordination” or included as an appendix.

Be certain to discuss the relevant project features (including selection of alternate sites for improvements, elevated structures, etc.) that have been incorporated into the project to avoid or minimize the project’s environmental consequences. Additional measures may include basins and the number of drainage inlets.

Note: [Executive Order 11988](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#Ch1EO11988) requires that when a floodplain risk assessment (Floodplain Evaluation Report) is prepared, the public must be given the opportunity for early review and comment. It also requires that the risk assessment be filed with the State Clearinghouse. A reference to encroachments on the base floodplain must be included in public notices, and any encroachments must be identified at public hearings.

Avoidance, Minimization, and/or Mitigation Measures

1. List any avoidance, minimization, and/or mitigation measures here. Refer to the Water Quality section, which may provide measures to lessen impacts on natural and beneficial floodplain values.

Only Practicable Alternative Finding

This section is required in the final environmental document only when there is a significant encroachment into the base or 100-year floodplain.

If the preferred alternative causes significant encroachment in the floodplain, then a finding must be made that it is the only practicable alternative as required by [23 CFR 650](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#Ch1EO11988), Subpart A. The finding should refer to EO 11988 and 23 CFR 650, Subpart A. It should be included in a separate subsection entitled "Only Practicable Alternative Finding" and must be supported by the following information:

1. The reasons the proposed action must be located in the floodplain.
2. The alternatives considered and why they were not practicable.
3. A statement indicating whether the action conforms to applicable state or local floodplain protection standards. Standard concluding language is provided below.

Based on studies carried out by the [Local Agency, in accordance with guidance prescribed by the California Department of Transportation or California Department of Transportation, as assigned by the Federal Highway Administration (FHWA)], no practicable alternative to the proposed alternative exists (23 CFR 650, Subpart A) and FHWA has concurred with this finding. All other potential alternatives are not possible within reasonable natural, social, and economic constraints. In addition, all measures to minimize potential harm within the floodplain, consistent with regulations issued under Section 2(d) of Executive Order (EO) 11988, have been taken. Further, a public notice, as required by EO 11988, has been circulated containing an explanation of why the action is proposed to be located in the floodplain.

For Local Assistance projects, the DLAE makes the "Only Practicable Alternative Finding" for significant floodplain encroachments and is responsible for coordinating with FHWA to obtain the “Only Practicable Alternative Finding” concurrence.

Additional Guidance

* [SER, Vol. 1, Chapter 17, “Floodplains](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-17-floodplains)”
* [Revised Guidance on Co-operating Agencies](https://flh.fhwa.dot.gov/resources/design/pddm/extras/CooperatingAgencies199203.pdf) (March 1992)
* [Technical Advisory T6640.8A](http://environment.fhwa.dot.gov/projdev/impTA6640.asp), Guidance for Preparing and Processing Environmental and Section 4(f) Documents, October 30, 1987 (FHWA)
* [National Flood Insurance Act of 1968 (42 USC Sections 4001 *et seq.*)](http://www.gpo.gov/fdsys/granule/USCODE-2010-title42/USCODE-2010-title42-chap50-sec4001/content-detail.html)

Water Quality and Storm Water Runoff

Regulatory Setting

**Federal Requirements: Clean Water Act**

In 1972, Congress amended the Federal Water Pollution Control Act, making the addition of pollutants to the waters of the United States (U.S.) from any point source[[1]](#footnote-1) unlawful unless the discharge is in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. This act and its amendments are known today as the Clean Water Act (CWA). Congress has amended the act several times. In the 1987 amendments, Congress directed dischargers of storm water from municipal and industrial/construction point sources to comply with the NPDES permit scheme. The following are important CWA sections:

* Sections 303 and 304 require states to issue water quality standards, criteria, and guidelines.
* Section 401 requires an applicant for a federal license or permit to conduct any activity that may result in a discharge to waters of the U.S. to obtain certification from the state that the discharge will comply with other provisions of the act. This is most frequently required in tandem with a Section 404 permit request (see below).
* Section 402 establishes the NPDES, a permitting system for the discharges (except for dredge or fill material) of any pollutant into waters of the U.S. Regional Water Quality Control Boards (RWQCBs) administer this permitting program in California. Section 402(p) requires permits for discharges of storm water from industrial/construction and municipal separate storm sewer systems (MS4s).
* Section 404 establishes a permit program for the discharge of dredge or fill material into waters of the U.S. This permit program is administered by the U.S. Army Corps of Engineers (USACE).

The goal of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

The USACE issues two types of 404 permits: General and Individual. There are two types of General permits: Regional and Nationwide. Regional permits are issued for a general category of activities when they are similar in nature and cause minimal environmental effect. Nationwide permits are issued to allow a variety of minor project activities with no more than minimal effects.

Ordinarily, projects that do not meet the criteria for a Regional or Nationwide Permit may be permitted under one of the USACE’s Individual permits. There are two types of Individual permits: Standard permits and Letters of Permission. For Individual permits, the USACE decision to approve is based on compliance with U.S. Environmental Protection Agency’s (U.S. EPA) Section 404 (b)(1) Guidelines (40 Code of Federal Regulations [CFR] Part 230), and whether the permit approval is in the public interest. The Section 404(b)(1) Guidelines (Guidelines) were developed by the U.S. EPA in conjunction with the USACE, and allow the discharge of dredged or fill material into the aquatic system (waters of the U.S.) only if there is no practicable alternative which would have less adverse effects. The Guidelines state that the USACE may not issue a permit if there is a least environmentally damaging practicable alternative (LEDPA) to the proposed discharge that would have lesser effects on waters of the U.S. and not have any other significant adverse environmental consequences. According to the Guidelines, documentation is needed that a sequence of avoidance, minimization, and compensation measures has been followed, in that order. The Guidelines also restrict permitting activities that violate water quality or toxic effluent[[2]](#footnote-2) standards, jeopardize the continued existence of listed species, violate marine sanctuary protections, or cause “significant degradation” to waters of the U.S. In addition, every permit from the USACE, even if not subject to the Section 404(b)(1) Guidelines, must meet general requirements. See 33 CFR 320.4. A discussion of the LEDPA determination, if any, for the document is included in the [Wetlands and Other Waters section](#wetlands).

**State Requirements: Porter-Cologne Water Quality Control Act**

California’s Porter-Cologne Act, enacted in 1969, provides the legal basis for water quality regulation within California. This act requires a “Report of Waste Discharge” for any discharge of waste (liquid, solid, or gaseous) to land or surface waters that may impair beneficial uses for surface and/or groundwater of the state. It predates the CWA and regulates discharges to waters of the state. Waters of the state include more than just waters of the U.S., like groundwater and surface waters not considered waters of the U.S. Additionally, it prohibits discharges of “waste” as defined, and this definition is broader than the CWA definition of “pollutant.” Discharges under the Porter-Cologne Act are permitted by Waste Discharge Requirements (WDRs) and may be required even when the discharge is already permitted or exempt under the CWA.

The State Water Resources Control Board (SWRCB) and RWQCBs are responsible for establishing the water quality standards (objectives and beneficial uses) required by the CWA and regulating discharges to ensure compliance with the water quality standards. Details about water quality standards in a project area are included in the applicable RWQCB Basin Plan. In California, RWQCBs designate beneficial uses for all water body segments in their jurisdictions and then set criteria necessary to protect those uses. As a result, the water quality standards developed for particular water segments are based on the designated use and vary depending on that use. In addition, the SWRCB identifies waters failing to meet standards for specific pollutants. These waters are then state-listed in accordance with CWA Section 303(d). If a state determines that waters are impaired for one or more constituents and the standards cannot be met through point source or non-point source controls (NPDES permits or WDRs), the CWA requires the establishment of Total Maximum Daily Loads (TMDLs). TMDLs specify allowable pollutant loads from all sources (point, non-point, and natural) for a given watershed.

**State Water Resources Control Board and Regional Water Quality Control Boards**

The SWRCB administers water rights, sets water pollution control policy, and issues water board orders on matters of statewide application, and oversees water quality functions throughout the state by approving Basin Plans, TMDLs, and NPDES permits. RWCQBs are responsible for protecting beneficial uses of water resources within their regional jurisdiction using planning, permitting, and enforcement authorities to meet this responsibility.

* **National Pollutant Discharge Elimination System (NPDES) Program**

Municipal Separate Storm Sewer Systems (MS4)

Section 402(p) of the CWA requires the issuance of NPDES permits for five categories of storm water discharges, including Municipal Separate Storm Sewer Systems (MS4s). An MS4 is defined as “any conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels, and storm drains) owned or operated by a state, city, town, county, or other public body having jurisdiction over storm water, that is designed or used for collecting or conveying storm water.” The SWRCB has identified the Department as an owner/operator of an MS4 under federal regulations. The Department’s MS4 permit covers all Department rights-of-way, properties, facilities, and activities in the state. The SWRCB or the RWQCB issues NPDES permits for five years, and permit requirements remain active until a new permit has been adopted.

The Department’s MS4 Permit, Order No. 2012-0011-DWQ (adopted on September 19, 2012 and effective on July 1, 2013), as amended by Order No. 2014-0006-EXEC (effective January 17, 2014), Order No. 2014-0077-DWQ (effective May 20, 2014) and Order No. 2015-0036-EXEC (conformed and effective April 7, 2015) has three basic requirements:

1. The Department must comply with the requirements of the Construction General Permit (see below);
2. The Department must implement a year-round program in all parts of the State to effectively control storm water and non-storm water discharges; and
3. The Department storm water discharges must meet water quality standards through implementation of permanent and temporary (construction) Best Management Practices (BMPs), to the maximum extent practicable, and other measures as the SWRCB determines to be necessary to meet the water quality standards.

To comply with the permit, the Department developed the Statewide Storm Water Management Plan (SWMP) to address storm water pollution controls related to highway planning, design, construction, and maintenance activities throughout California. The SWMP assigns responsibilities within the Department for implementing storm water management procedures and practices as well as training, public education and participation, monitoring and research, program evaluation, and reporting activities. The SWMP describes the minimum procedures and practices the Department uses to reduce pollutants in storm water and non-storm water discharges. It outlines procedures and responsibilities for protecting water quality, including the selection and implementation of BMPs. The proposed project will be programmed to follow the guidelines and procedures outlined in the latest SWMP to address storm water runoff.

Construction General Permit

Construction General Permit, Order No. 2009-0009-DWQ (adopted on September 2, 2009 and effective on July 1, 2010), as amended by Order No. 2010-0014-DWQ (effective February 14, 2011) and Order No. 2012-0006-DWQ (effective on July 17, 2012). The permit regulates storm water discharges from construction sites that result in a Disturbed Soil Area (DSA) of one acre or greater, and/or are smaller sites that are part of a larger common plan of development. By law, all storm water discharges associated with construction activity where clearing, grading, and excavation result in soil disturbance of at least one acre must comply with the provisions of the General Construction Permit. Construction activity that results in soil disturbances of less than one acre is subject to this Construction General Permit if there is potential for significant water quality impairment resulting from the activity as determined by the RWQCB. Operators of regulated construction sites are required to develop Storm Water Pollution Prevention Plans (SWPPPs); to implement sediment, erosion, and pollution prevention control measures; and to obtain coverage under the Construction General Permit.

The Construction General Permit separates projects into Risk Levels 1, 2, or 3. Risk levels are determined during the planning and design phases, and are based on potential erosion and transport to receiving waters. Requirements apply according to the Risk Level determined. For example, a Risk Level 3 (highest risk) project would require compulsory storm water runoff pH and turbidity monitoring, and before construction and after construction aquatic biological assessments during specified seasonal windows. For all projects subject to the permit, applicants are required to develop and implement an effective SWPPP. In accordance with the Department’s SWMP and Standard Specifications, a Water Pollution Control Program (WPCP) is necessary for projects with DSA less than one acre.

Local Agency Construction Activity Permitting

For local agency transportation projects off the State Highway System (SHS), the local agency (as owner of the land where the construction activity is occurring) is responsible for obtaining the NPDES permit if required and for signing certification statements (when necessary). Local agencies contact the appropriate RWQCB to determine what permits are required for their construction activity. The local agency is also responsible for ensuring that all permit conditions are included in the construction contract and fully implemented in the field.

Section 401 Permitting

Under Section 401 of the CWA, any project requiring a federal license or permit that may result in a discharge to a water of the U.S. must obtain a 401 Certification, which certifies that the project will be in compliance with state water quality standards. The most common federal permits triggering 401 Certification are CWA Section 404 permits issued by the USACE. The 401 permit certifications are obtained from the appropriate RWQCB, dependent on the project location, and are required before the USACE issues a 404 permit.

In some cases, the RWQCB may have specific concerns with discharges associated with a project. As a result, the RWQCB may issue a set of requirements known as WDRs under the State Water Code (Porter-Cologne Act) that define activities, such as the inclusion of specific features, effluent limitations, monitoring, and plan submittals that are to be implemented for protecting or benefiting water quality. WDRs can be issued to address both permanent and temporary discharges of a project.

Local Assistance

For local assistance projects off the SHS, local agencies may follow their local design standards, if they meet AASHTO standards.

Because the local agency is the owner/operator of the transportation facility, the local agency is responsible for:

1. Obtaining all necessary permits, agreements, and approvals from resource and regulatory agencies (401/404, Encroachment, and U.S. Coast Guard (USCG) Bridge Permit, etc.) before advertisement for construction.
2. Fully complying with the conditions of permits.
3. Achieving all performance standards.
4. Preparing all required reports.
5. Providing a copy of each permit to the Department’s District Local Assistance office for recording in LP2000.

Permits are typically applied for following NEPA approval and when the design is far enough along to determine and calculate specific impacts. Since two to three months are normally required to process a routine permit application involving a public notice, local agencies are strongly encouraged to apply for permits as early as possible to allow enough time to obtain all necessary approvals before beginning construction. For large and complex projects, local agencies should request a “pre-application consultation” or informal meeting with the USACE during the early planning phase of their project, and coordinate with Caltrans District Local Assistance liaison to minimize the potential for delays later.

GUIDANCE

 The Water Quality section of the environmental document will rely heavily on input from District Environmental Engineering staff and other functional units, including Hydraulics, Biology, Design, and Geotechnical.

 For local assistance projects off the SHS, the local agency will determine whether or not its project has the potential to impact water resources (rivers, streams, bays, inlets, lakes, drainage sloughs) within or immediately adjacent to the project area. If the project has potential to impact water resources, the local agency prepares a “Water Quality Assessment Report,” conducts the necessary coordination with USACE, USCG, California Department of Fish and Wildlife (CDFW), RWQCB, etc.; and applies for all required permits. Note: Because local agencies are the owner of the land where the construction activity is occurring, they are responsible for obtaining all permits and for signing certification statements (when necessary). Local agencies contact the appropriate RWQCB to determine which permits are required for their construction activity.

 For capital and locally sponsored projects on the SHS during the Project Initiation Document (PID) phase, a decision will be made on whether or not a more detailed technical study of storm water quality issues is necessary. If so, a water quality assessment report will be prepared by qualified staff (usually Environmental Engineering). The report will identify water quality concerns such as applicable storm water regulations, receiving water bodies and their beneficial uses, existing water quality, project-related discharges, including storm water, and potential water quality and storm water impacts. The assessment should be conducted for each reasonable alternative to determine if there are any potential water quality impacts. The report would reference and generally describe both construction and permanent post-construction BMPs, other mitigation measures, and implementation procedures included in the SWMP as the appropriate measures to avoid or minimize project-related storm and non-storm water impacts to water quality. Specific BMPs will be selected during later phases of project development, but should be determined well in advance for projects requiring a Section 401 Water Quality Certification from the RWQCB or a permit from the USCG under the Rivers and Harbors Act.

 For projects that will apply for a 404 Standard permit from the USACE, the Section 404 (b)(1) Guidelines require that the PDT provide an alternative analysis to illustrate that the LEDPA has been selected. For local assistance projects off the SHS, the local agency or its consultant will provide an alternatives analysis. If impacts of the proposed project fall under the NEPA/404 Memorandum of Understanding (MOU) Integration process for EIS projects with five or more acres of permanent impact, the MOU requires coordination by the signatory agencies, the Department, FHWA, USACE, U.S. EPA, and USFWS at three checkpoints: (1) purpose and need; (2) identification of range of alternatives; and (3) preliminary determination of LEDPA and conceptual mitigation plan. For more information, see the SER, [Vol. 1, Chapter 15, “Waters of the U.S. and the State,”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-15-waters-of-the-us-and-state) and [Vol. 3, Chapter 3, “Waters of the U.S. and the State.”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-3-biological-resources/ch-3-waters-of-the-us-and-state)

For local assistance projects off the SHS, the local agency is responsible for preparing the SWMP (if required by the RWQCB). For capital and locally sponsored projects on the SHS, the Department has a SWMP to control, reduce, or eliminate pollutants from storm water runoff from entering the Department’s drainage conveyances. The SWMP is the framework for developing and implementing storm water permit requirements for the Department’s storm water discharges. The SWMP addresses not only temporary impacts to water quality from construction activities, but long-term water quality impacts from new construction and major reconstruction. Some of the long-term water quality impacts may result from adding new net impervious surface to the project or changes in grade or hydraulics. While many of these issues may be addressed later in project development by Design (through use of the Project Planning Design Guide), the environmental document should address the reasonably foreseeable impacts to water quality from construction as well as permanent impacts from the finished project.

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s).
2. The Affected Environment section discusses the project setting as it relates to water quality. The section should include a discussion of watersheds and receiving waters that are potentially affected by the project. A description of the watersheds and receiving waters for a project is included in the water quality assessment report. See the [Water Quality Assessment Report](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/forms-templates#water-quality) Recommended Content and Format guidelines.

Environmental Consequences

1. Information in the Environmental Consequences section will also be drawn from the project water quality assessment report. The majority of the discussion on impacts relating to water quality will be qualitative in nature. However, some projects located in watersheds with established TMDLs, or identified by the RWQCB or the SWRCB as high quality waters (sources of municipal or domestic water supplies) or projects located in the Lake Tahoe Hydrologic Unit, the Mono Lake Hydrologic Unit, or projects with discharges into an Area of Special Biological Significance (ASBS) will probably require a quantitative analysis as well. Potential water quality impacts include increased concentrations of pollutants such as suspended solids, nutrients, pesticides, metals, pathogens, litter, biochemical oxygen demand, and total dissolved solids. Environmental consequences may include short-term and long-term impacts to aquatic life. This section should provide a simple discussion of the effects of water quality impacts to aquatic organisms and how impacts are recognized through aquatic bioassessments.
2. If the project has the potential to impact coastal water quality, discuss potential impacts and consistency with applicable coastal policies and ordinances. This analysis may need to include information such as the amount of existing versus new impervious surface and opportunities to treat runoff from both existing and new impervious surfaces.
3. Be certain to discuss the relevant project features and standardized measures, including best practices that have avoided or minimized the project’s environmental consequences.

Avoidance, Minimization, and/or Mitigation Measures

1. For projects requiring a 404 permit, the District Biologist must document that a sequence of avoidance, minimization, and/or compensation measures have been followed, in that order.

Additional Guidance

* [FHWA Environmental Review Toolkit: Stormwater Management and Water Quality](https://www.environment.fhwa.dot.gov/env_topics/water/stormwater.aspx)
* [Department Statewide Storm Water Management Plan](https://dot.ca.gov/programs/environmental-analysis/stormwater-management-program)
* [Department Storm Water Homepage](https://dot.ca.gov/programs/environmental-analysis/stormwater-management-program)
* [Department Construction Storm Water Links](https://dot.ca.gov/programs/construction/storm-water-and-water-pollution-control)
* [Department Design Storm Water Links](https://dot.ca.gov/programs/design/hydraulics-stormwater)
* [Department Storm Water Project Planning and Design Guide](https://dot.ca.gov/programs/design/hydraulics-stormwater)
* [Department Local Assistance Procedures Manual](https://dot.ca.gov/programs/local-assistance/guidelines-and-procedures/local-assistance-procedures-manual-lapm), Chapter 6, “Environmental Procedures,” Exhibits 6-A and 6-B, Question #10.
* [SER, Vol. 1, Chapter 4, “Environmental Consequences During Transportation Planning”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-4-environmental-considerations-during-transportation-planning)
* [SER, Vol. 1, Chapter 15, “Waters of the U.S. and the State”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-15-waters-of-the-us-and-state)
* [SER, Vol. 3, Biological Resources, Chapter 1, “General Information”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-3-biological-resources/ch-1-general-information)
* [SER, Vol. 3, Biological Resources, Chapter 3, “Waters of the U.S. and the State”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-3-biological-resources/ch-3-waters-of-the-us-and-state)
* [33 CFR 320-330](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#CWA)
* [40 CFR 230](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#CWA)
* [Section 404(b)(1) Guidelines](https://www.epa.gov/cwa-404/section-404b1-guidelines-40-cfr-230)
* [SWRCB website](http://www.swrcb.ca.gov/)
* [RWQCB websites and Basin Plans](http://www.swrcb.ca.gov/plans_policies/#plans)
* [SWRCB Resolution 68-16](http://www.swrcb.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf)
* [33 USC § 401](http://www.gpo.gov/fdsys/granule/USCODE-2011-title33/USCODE-2011-title33-chap9-subchapI-sec401/content-detail.html) (Rivers and Harbors Act)
* [33 USC § 1341](http://www.gpo.gov/fdsys/granule/USCODE-2000-title33/USCODE-2000-title33-chap26-subchapIV-sec1341/content-detail.html) (Clean Water Act Section 404)

Geology/Soils/Seismic/Topography

Regulatory Setting

For geologic and topographic features, the key federal law is the Historic Sites Act of 1935, which establishes a national registry of natural landmarks and protects “outstanding examples of major geological features.”

This section also discusses geology, soils, and seismic concerns as they relate to public safety and project design. Earthquakes are prime considerations in the design and retrofit of structures. Structures are designed using the Department’s Seismic Design Criteria (SDC). The SDC provides the minimum seismic requirements for highway bridges designed in California. A bridge’s category and classification will determine its seismic performance level and which methods are used for estimating the seismic demands and structural capabilities. For more information, please see the [Department’s Division of Engineering Services, Office of Earthquake Engineering, Seismic Design Criteria](https://dot.ca.gov/programs/engineering-services).

Note: Local regulations may apply as well. The general plan of the jurisdiction(s) affected should include references to local standards on this topic area and identification of hazards.

Guidance

A preliminary geotechnical report is prepared by Geotechnical staff and should be the basis for this section.

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s).
2. Describe the geologic setting, physiography and topography, surface and groundwater, rock/soils, and geologic hazards including seismic hazards (strong ground shaking, liquefaction, fault rupture, tsunami, seismically-induced landslides, rock falls, settlement, and subsidence), non-seismically induced earth movement, volcanic hazards, and economical resources/mineral hazards.
3. If the project is in the coastal zone, additional technical information may be necessary such as wave run-up studies, evaluation of potential sea level rise impacts, assessment of potential shoreline erosion issues during the useful life of the project, and analysis of structural and non-structural alternatives for responding to these potential shoreline hazard issues. Not all projects will require these additional studies, so early coordination with the CCC is critical to determine when such studies are appropriate and to avoid lengthy project delays.

Environmental Consequences

1. The more susceptible the project area is to erosion and geologic hazards, the greater the degree of impact from hazards such as earthquakes and liquefaction. Your evaluation should include the potential exposure of workers to these hazards during construction as well as the exposure of the traveling public once the project is completed.
2. Discuss design elements or measures needed to address geologic or topographic features as they relate to the structural integrity of the facility. Appropriate measures to protect structures from liquefaction include avoidance where possible, and soil and structural improvements where avoidance is not possible. Soil improvements may include mixing soils, vibro-compacting, and/or adding drainage to an area. Structural measures may include driving piles below liquefiable layers. The soil and structural improvements may be more suitably placed in the Project Description section of the document.
3. Refer to BMPs related to erosion control identified in the Water Quality section of the document.
4. Discuss measures to limit damage from seismic hazards such as improvements to structures for earthquake protection. These would include designing structures that are able to withstand a defined level of ground acceleration and fault offset, where applicable.
5. Discuss briefly and/or reference design elements intended to reduce visual impacts to geologic or topographic features.
6. Identify and discuss potential impacts to natural landmarks and landforms. Refer to the Visual/Aesthetics section of the document as appropriate.
7. If the project is in the coastal zone, discuss impacts from potential coastal hazards and discuss consistency with applicable coastal policies and ordinances.

Avoidance, Minimization, and/or Mitigation Measures

1. Discuss any avoidance, minimization, and/or mitigation measures here.

Additional Guidance

* [SER, Vol. 1, Chapter 7, “Topography/Geology/Soils/Seismic”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-7-topography-geology-soils-seismic)
* [42 USC Section 7704 National Earthquake Hazards Reduction Program](http://www.gpo.gov/fdsys/granule/USCODE-2011-title42/USCODE-2011-title42-chap86-sec7704/content-detail.html)
* [Historic Sites and Building Act of 1935](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#Ch1HSBA1935)
* [36 CFR 62 National Natural Landmarks Program](https://www.govinfo.gov/app/details/CFR-2012-title36-vol1/CFR-2012-title36-vol1-part62)
* [Division of Engineering Services, Office of Earthquake Engineering](https://dot.ca.gov/programs/engineering-services)

Paleontology

Regulatory Setting

Paleontology is a natural science focused on the study of ancient animal and plant life as it is preserved in the geologic record as fossils.

Include as applicable: A number of federal statutes specifically address paleontological resources, their treatment, and funding for mitigation as a part of federally authorized projects.

Include as applicable: 16 United States Code (USC) 431-433 (the “Antiquities Act”) prohibits appropriating, excavating, injuring, or destroying any object of antiquity situated on federal land without the permission of the Secretary of the Department of Government having jurisdiction over the land. Fossils are considered “objects of antiquity” by the Bureau of Land Management, the National Park Service, the Forest Service, and other federal agencies.

Include as applicable: 16 United States Code (USC) 461-467 established the National Natural Landmarks (NNL) program. Under this program property owners agree to protect biological and geological resources such as paleontological features. Federal agencies and their agents must consider the existence and location of designated NNLs, and of areas found to meet the criteria for national significance, in assessing the effects of their activities on the environment under NEPA.

Include as applicable: 16 United States Code (USC) 470aaa (the Paleontological Resources Preservation Act) prohibits the excavation, removal, or damage of any paleontological resources located on federal land under the jurisdiction of the Secretaries of the Interior or Agriculture without first obtaining an appropriate permit. The statute establishes criminal and civil penalties for fossil theft and vandalism on federal lands.

Include as applicable: 23 United States Code (USC) 1.9(a) requires that the use of Federal-aid funds must be in conformity with all federal and state laws.

Include as applicable: 23 United States Code (USC) 305 authorizes the appropriation and use of federal highway funds for paleontological salvage as necessary by the highway department of any state, in compliance with 16 USC 431-433 above and state law.

**Guidance**

Add language to the Regulatory Setting section that specifically explains how the laws listed apply to this project. For example, some federal laws apply only if the project includes certain federal lands, and the Federal-Aid Highway Act of 1960 applies only if there is federal funding for the project.

Projects that involve ground disturbance (e.g., excavating, scraping, grading, digging, drilling, blasting) have the potential to impact paleontological resources if these resources are located within the project area. A Paleontological Identification Report (PIR) is prepared to determine whether there is the potential for resources to be affected by the project. If the PIR indicated that the potential does exist and ground disturbance is an aspect of the project, a Paleontological Evaluation Report (PER) should be prepared by qualified personnel concurrent with the preparation of the environmental document. In some cases, the PIR and PER are combined into one document. The PER should include a brief outline of the Paleontological Mitigation Plan (PMP) if one will be needed. In many cases, once paleontological resources are identified on a project, the assessment work is contracted out. Please see the [SER, Vol. 1, Chapter 8, “Paleontology”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-8-paleontology) for more details about these reports.

The PIR and PER are not required for Local Assistance projects and are optional formats that may be used.

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s).
2. Identify the geologic units in the project area and discuss any geologic formations or features that may indicate the presence of paleontological resources. Note: It is the Department’s policy not to include the exact location of specific fossil localities on project maps, but a general geologic map that shows the formations and rock units described in the document or a generalized paleontological sensitivity map must be included in the document.
3. Discuss the scientific value and sensitivity of the geologic formations in the project area.

Environmental Consequences

1. Identify and discuss the potential for disturbing scientifically important paleontological resources. Be as specific as possible about the anticipated location, depth, and lateral extent of subsurface disturbances and the expected depth of sensitive formations. Will “original ground” be disturbed? Will the construction activities extend to a great enough depth to encounter the formations defined as paleontological resources? Are there areas of fill where original ground will not be disturbed?
2. Compare the alternatives. Explain whether each alternative is more or less likely to impact paleontological resources than the other alternatives considered.
3. If the project has the potential to affect paleontological resources in the coastal zone, discuss impacts and consistency with applicable coastal policies and ordinances.
4. If the project was modified to avoid impacts to paleontological resources, discuss that here and in the “Alternatives” section. Be certain to discuss the relevant project features (including standardized measures) that have been incorporated into the project to avoid or minimize the project’s environmental consequences.

Avoidance, Minimization, and/or Mitigation Measures

1. Indicate whether avoidance, minimization, and/or mitigation measures for paleontological resources are warranted.
2. Discuss the specific avoidance, minimization, and/or mitigation measures for paleontological resources appropriate for the project. Include cost estimates for the different alternatives. Remember to state what the measure would do and why we are proposing it. *Mitigation is the most common response since true avoidance or impact minimization measures are often difficult to implement because geologic formations extend for large distances and large enough design changes cannot be made*. In most cases mitigation measures are implemented when action must be taken to protect a paleontological resource. However, if there is a specific resource area limited in size and currently being studied by scientists or used for public education, design changes should be considered to avoid or minimize impacts to this specific area. The PER should include an outline of the Paleontological Mitigation Plan (PMP) with mitigation measures that are appropriate for the project. Some examples of mitigation measures include:
3. A project-specific Paleontological Mitigation Plan will be prepared by a qualified principal paleontologist (MS or PhD in paleontology) once adequate project design information regarding subsurface disturbance location, depth, and lateral extent is available.
4. The qualified principal paleontologist will be present at pre-construction meetings to confer with contractors who will be performing ground-disturbing activities.
5. Paleontological monitors, under the direction of the qualified principal paleontologist, will be on site to inspect cuts for fossils at all times during original ground disturbance involving sensitive geologic formations.
6. When fossils are discovered, the paleontologist (or paleontological monitor) will recover them. Construction work in these areas may be halted or diverted by the Resident Engineer to allow the prompt recovery of fossils.
7. Fossils collected during the monitoring and salvage portion of the mitigation program will be prepared to the point of identification, sorted, and cataloged.
8. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, will be deposited in a scientific institution with paleontological collections.
9. A Paleontological Mitigation Report will be completed that outlines the results of the mitigation program.
10. Where feasible, selected road cuts or large finished slopes in areas with critically interesting paleontological features may be left exposed to serve as important educational and scientific features. This may be possible if no substantial adverse visual or safety impacts result.
11. Specify whether permits will be necessary if paleontological mitigation is required. Permits are required when the transportation project involves property under the jurisdiction of certain governmental agencies such as the U.S. Department of Agriculture, the U.S. Department of Interior, the CA Department of Parks and Recreation, and the California Coastal Commission.

Additional Guidance

* SER, Vol. 1, [Chapter 8, “Paleontology](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-8-paleontology)”
* [Omnibus Public Land Management Act of 2009 (16 USC 470aaa)](http://www.gpo.gov/fdsys/pkg/PLAW-111publ11/pdf/PLAW-111publ11.pdf)

Hazardous Waste/Materials

Regulatory Setting

Hazardous materials, including hazardous substances and wastes, are regulated by many federal laws. Statutes govern the generation, treatment, storage, and disposal of hazardous materials, substances, and waste, and also the investigation and mitigation of waste releases, air and water quality, human health, and land use.

The primary federal laws regulating hazardous wastes/materials are the [Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#Ch1CERCLA) and the [Resource Conservation and Recovery Act (RCRA) of 1976](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#Ch1RCRA1976). The purpose of CERCLA, often referred to as “Superfund,” is to identify and cleanup abandoned contaminated sites so that public health and welfare are not compromised. The RCRA provides for “cradle to grave” regulation of hazardous waste generated by operating entities. Other federal laws include:

* Community Environmental Response Facilitation Act (CERFA) of 1992
* Clean Water Act
* Clean Air Act
* Safe Drinking Water Act
* Occupational Safety and Health Act (OSHA)
* Atomic Energy Act
* Toxic Substances Control Act (TSCA)
* Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Section 121(d) of CERCLA requires that remedial action plans include consideration of more stringent state environmental “Applicable or Relevant and Appropriate Requirements” (ARARs). The 1990 National Oil and Hazardous Substances Pollution Contingency Plan (NCP) also requires compliance with ARARs during remedial actions and during removal actions to the extent practicable. As a result state laws pertaining to hazardous waste management and cleanup of contamination are also pertinent.

In addition to the acts listed above, Executive Order (EO) 12088, *Federal Compliance with Pollution Control Standards*, mandates that necessary actions be taken to prevent and control environmental pollution when federal activities or federal facilities are involved.

Worker and public health and safety are key issues when addressing hazardous materials that may affect human health and the environment. Proper management and disposal of hazardous material is vital if it is found, disturbed, or generated during project construction.

Guidance

Under federal and state environmental laws, acquisition of contaminated property creates permanent liability for the new property owner. Project proponents must exercise due diligence to prevent acquisition of contaminated property that may create long-term liability or detrimentally affect project cost, scope, or schedule.

An Initial Site Assessment (ISA) must first be prepared to identify any potential sources of hazardous materials, waste, and substances in, and adjacent to, the project area. Sources of hazardous materials, waste, and substances that must be identified include, but are not limited to, active, inactive or abandoned gas stations, repair shops, dry cleaners, sites of industrial activity, vehicle dismantlers and recyclers, landfills of any type (whether permitted or unpermitted), and certain geologic formations that can contain naturally occurring asbestos. The ISA must also investigate past land uses on all alternatives to determine if there were activities on or adjacent to the project area that could result in contamination that would affect the project or cause long-term liability for the state. The ISA should also address asbestos or lead paint that may be found in older bridge structures and buildings and the potential presence of aerially deposited lead in roadside soils. Finally, the ISA should state whether or not treated wood is expected to be encountered.

The ISA typically begins with an electronic regulatory record search, often conducted by a contractor, that identifies possible land uses or environmental conditions that may be of concern. The hazardous waste technical specialist must conduct a field inspection of the parcels in and adjacent to the project area to look for and document land use, disturbance, materials, or facilities that may indicate past or current releases or activities that may release or use hazardous materials. The specialist should evaluate old maps (Sanborn maps, topographic maps, etc.), aerial photographs and as-built plans to identify facilities or sites that may potentially contain hazardous materials. The specialist must also review regulatory files for any reports of hazardous materials releases, cleanup, or use permits. The specialist may also interview current and past property owners, occupants, or users to determine if hazardous materials were used or released. Consult with the historian working on the project to determine past businesses and land uses on the parcel(s) in question. All of this information is compiled into the ISA document for your use.

The ISA has a shelf life and an ISA older than one year is considered out-of-date by federal regulations.

If hazardous materials are suspected to have been released within the footprint of the project, and have not been adequately investigated by the property owner or a regulatory agency, invasive testing is necessary. A Preliminary Site Investigation (PSI) must be completed to create a report confirming the presence of any suspected hazardous materials. If hazardous materials are known to be present, or found to be present by the PSI, a Detailed Site Investigation (DSI) may be required to further define the lateral and vertical extent of the contamination, the physical state of the contamination, and the volume and concentration of hazardous materials. If contaminants are present in the construction zone, a Remedial Actions Options Report (RAOR) may be necessary to address its proper handling, cleanup, and disposal. The ISA, PSI, DSI, and RAOR support the environmental document by generating adequate information to estimate hazardous material effects to project cost, scope, and schedule. For information about the scheduling of the development of these reports, see the [SER, Vol. I, Chapter 10, “Hazardous Materials, Hazardous Waste, and Contamination.”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-10-hazardous-materials-hazardous-waste-contamination)

When preparing the Hazardous Waste/Materials section of the environmental document, the ISA, PSI, DSI, and/or RAOR will provide the information you need to complete the Affected Environment section. The impacts and avoidance, minimization, and/or mitigation measures, if present and needed, will be explained in the detailed site investigation report. Information about the type (and level) of contamination and location (extent) of any hazardous materials and how it will be affected by each alternative (including avoidance, minimization, and/or mitigation measures and their costs) must be placed in the environmental document along with maps showing the location of the contaminated sites relative to each alternative. In addition, information about the proper handling of the materials, safety for workers, cleanup of the site, and disposal must be included in the Environmental Consequences and the Avoidance, Minimization, and/or Mitigation sections of the document.

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s).
2. Describe the type and scope of site assessments and investigations conducted.
3. Disclose any limitations of the site assessments or investigations.
4. Summarize the findings of the site assessments or investigations for each alternative considered. Include the types of contaminants, their concentration(s), and the level and extent of contamination in relationship to the project. (Note: The summary must address all alternatives considered.)
5. Document coordination or consultation with regulatory agencies, local entities or property owners that was conducted during preparation of the reports, or that will be needed to address the contamination. Agencies may include the U.S. EPA and/or state agencies such as the Department of Toxic Substances Control (DTSC) and RWQCBs, and local agencies such as county environmental health departments. Regulatory oversight can have huge impacts to a transportation project schedule as well as to the project scope and cost. These issues must be addressed in the document.

Environmental Consequences

1. Disclose the presence of known or suspected hazardous materials, contamination, and contaminant concentrations that may be found during construction of each alternative and explain how it may impact project scope, schedule, and costs for each alternative. Include maps identifying the properties with known or suspected contamination and cross-sections identifying the extent of contamination of these properties. Include summary tables identifying contaminants and concentrations on each parcel, regulatory agencies involved, and the magnitude of expected impacts to project scope, schedule, and cost.
2. Discuss justification for avoiding or not avoiding known or suspected hazardous materials contamination within the preferred alternative or corridor alignment. Justify acquisition of contaminated parcels. Please note that any acquisition of contaminated property must comply with the approval process defined in [Project Delivery Directive 02](https://dot.ca.gov/programs/project-delivery/directives).
3. State whether further investigation or monitoring is needed, and who will do it (a property owner, the project proponent, etc.). Further investigation may be necessary to develop contract special provisions addressing the contamination before and/or during construction, and to satisfy environmental or worker health and safety requirements, or both. Discuss the expected scope of that investigation or monitoring, plus the timing and duration of any needed work.
4. Justify any postponement or elimination of further identified investigations.
5. Discuss the relevant project features and standardized measures, including best practices that have avoided or minimized the project’s environmental consequences. Examples include standard specifications for addressing hazardous waste and contamination, solid waste disposal, material containing aerially deposited lead, removal of yellow traffic stripe, etc.
6. For projects on the SHS, include a paragraph that defines aerially deposited lead (ADL), explains that Caltrans must follow the ADL Agreement with DTSC, and states that soil containing ADL can be reused on the project.  After consultation with the Hazardous Waste Technical Specialist choose one of the following paragraphs for this purpose:

Use this paragraph for urban projects and all projects expected to involve ADL over the action levels (80 mg/kg total lead or 5 mg/l soluble lead):

Aerially deposited lead (ADL) from the historical use of leaded gasoline, exists along roadways throughout California.  There is the likely presence of soils with elevated concentrations of lead as a result of ADL on the state highway system right-of-way within the limits of the project alternatives.  Soil determined to contain lead concentrations exceeding stipulated thresholds must be managed under the July 1, 2016, ADL Agreement between Caltrans and the California Department of Toxic Substances Control. This ADL Agreement allows such soils to be safely reused within the project limits as long as all requirements of the ADL Agreement are met.

OR

Use this paragraph for extremely rural projects where it is less likely to encounter ADL exceeding action levels:

Aerially deposited lead (ADL) from the historical use of leaded gasoline, exists along roadways throughout California.  If encountered, soil with elevated concentrations of lead as a result of ADL on the state highway system right-of-way within the limits of the project will be managed under the July 1, 2016, ADL Agreement between Caltrans and the California Department of Toxic Substances Control. This ADL Agreement allows such soils to be safely reused within the project limits as long as all requirements of the ADL Agreement are met.

Avoidance, Minimization, and/or Mitigation Measures

1. List any avoidance, minimization, and/or mitigation measures here including any special considerations, contingencies, or provisions needed to handle known or suspected hazardous material contamination during right-of-way negotiation and acquisition, property management, design, and/or construction. Note that property owners are legally responsible to cleanup regulated contamination on their properties. For projects on the State Highway System, in accordance with Department policy, these responsibilities must not be accepted by the Department as these are not transportation project costs.
2. Include a rough estimate of the added costs of avoiding, minimizing, and/or mitigating hazardous materials impacts (in terms of both dollars and time).
3. Describe any required further coordination, approvals, permits, and site closure negotiations needed with regulatory agencies. Define what efforts or submittals will be necessary, and estimate the duration needed to develop and submit these materials and to obtain regulatory approvals.
4. Justify any postponement of coordination with regulatory agencies.

Additional Guidance

* [SER, Vol. 1, Chapter 1, “Federal Requirements](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements)”
* [SER, Vol. 1, Chapter 10, “Hazardous Materials, Hazardous Waste, and Contamination.”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-10-hazardous-materials-hazardous-waste-contamination)
* [Hazardous Waste Management website](https://dot.ca.gov/programs/environmental-analysis/hazardous-waste)

Air Quality

Regulatory Setting

The Federal Clean Air Act (FCAA), as amended, is the primary federal law that governs air quality while the California Clean Air Act (CCAA) is its companion state law. These laws, and related regulations by the United States Environmental Protection Agency (U.S. EPA) and the California Air Resources Board (ARB), set standards for the concentration of pollutants in the air. At the federal level, these standards are called National Ambient Air Quality Standards (NAAQS). NAAQS and state ambient air quality standards have been established for six criteria pollutants that have been linked to potential health concerns: carbon monoxide (CO), nitrogen dioxide (NO2), ozone (O3), particulate matter (PM) — which is broken down for regulatory purposes into particles of 10 micrometers or smaller (PM10) and particles of 2.5 micrometers and smaller (PM2.5), Lead (Pb), and sulfur dioxide (SO2). In addition, state standards exist for visibility reducing particles, sulfates, hydrogen sulfide (H2S), and vinyl chloride. The NAAQS and state standards are set at levels that protect public health with a margin of safety, and are subject to periodic review and revision. Both state and federal regulatory schemes also cover toxic air contaminants (air toxics); some criteria pollutants are also air toxics or may include certain air toxics in their general definition.

Federal air quality standards and regulations provide the basic scheme for project-level air quality analysis under the National Environmental Policy Act (NEPA). In addition to this environmental analysis, a parallel “Conformity” requirement under the FCAA also applies.

*Conformity*

The conformity requirement is based on FCAA Section 176(c), which prohibits the U.S. Department of Transportation (USDOT) and other federal agencies from funding, authorizing, or approving plans, programs, or projects that do not conform to State Implementation Plan (SIP) for attaining the NAAQS. “Transportation Conformity” applies to highway and transit projects and takes place on two levels: the regional (or planning and programming) level and the project level. The proposed project must conform at both levels to be approved.

Conformity requirements apply only in nonattainment and “maintenance” (former nonattainment) areas for the NAAQS, and only for the specific NAAQS that are or were violated. U.S. EPA regulations at 40 Code of Federal Regulations (CFR) 93 govern the conformity process. Conformity requirements do not apply in unclassifiable/attainment areas for NAAQS and do not apply at all for state standards regardless of the status of the area.

Regional conformity is concerned with how well the regional transportation system supports plans for attaining the NAAQS for carbon monoxide (CO), nitrogen dioxide (NO2), ozone (O3), particulate matter (PM10 and PM2.5), and in some areas (although not in California), sulfur dioxide (SO2). California has nonattainment or maintenance areas for all of these transportation-related “criteria pollutants” except SO2, and also has a nonattainment area for lead (Pb); however, lead is not currently required by the FCAA to be covered in transportation conformity analysis. Regional conformity is based on emission analysis of Regional Transportation Plans (RTPs) and Federal Transportation Improvement Programs (FTIPs) that include all transportation projects planned for a region over a period of at least 20 years (for the RTP) and 4 years (for the FTIP). RTP and FTIP conformity uses travel demand and emission models to determine whether or not the implementation of those projects would conform to emission budgets or other tests at various analysis years showing that requirements of the FCAA and the SIP are met. If the conformity analysis is successful, the Metropolitan Planning Organization (MPO), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA) make the determinations that the RTP and FTIP are in conformity with the SIP for achieving the goals of the FCAA. Otherwise, the projects in the RTP and/or FTIP must be modified until conformity is attained. If the design concept and scope and the “open-to-traffic” schedule of a proposed transportation project are the same as described in the RTP and FTIP, then the proposed project meets regional conformity requirements for purposes of project-level analysis.

Project-level conformity is achieved by demonstrating that the project comes from a conforming RTP and TIP; the project has a design concept and scope[[3]](#footnote-3) that has not changed significantly from those in the RTP and TIP; project analyses have used the latest planning assumptions and EPA-approved emissions models; and in PM areas, the project complies with any control measures in the SIP. Furthermore, additional analyses (known as hot-spot analyses) may be required for projects located in CO and PM nonattainment or maintenance areas to examine localized air quality impacts.

Guidance

Writing the Environmental Document

Affected Environment

1. List applicable technical report(s) along with completion date(s).
2. Discuss the general climatic and meteorological conditions in the study area. Include prevailing winds, inland/coastal influences, prevalence of stagnant conditions or low inversions, geographic effects, etc. from the air quality technical report.
3. Document the air quality attainment and nonattainment status of the study area for all criteria pollutants, and document the status of the SIP and the state-level Air Quality Attainment Plan. The status should be documented in a table in most cases. SIP status information can be obtained from the U.S. EPA’s web page – [Status of SIP Requirements for Designated Areas](https://www.epa.gov/air-quality-implementation-plans/sip-status-reports). In designated nonattainment areas for the criteria pollutants, the [(U.S. EPA Green Book)](https://www.epa.gov/green-book%20%20%20%20) provides detailed information about area NAAQs designations, classifications and nonattainment/maintenance status. Attainment and nonattainment information for all national and state standards can be found at the ARB’s [Air Quality Standards and Area Designations web page](http://www.arb.ca.gov/desig/desig.htm) and mapping for the national standards is available at the [U.S. EPA’s Region 9 website](http://www.epa.gov/region09/air/). Status information should be available in the air quality technical report.
4. The [Air Pollution Standards Table](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/forms-templates#conformity), found on the Forms and Templates page of the SER, can be inserted into the environmental document to summarize air quality standards, the effects and typical sources of pollutants, and the attainment/nonattainment status of the project area. It may be most useful for areas that are nonattainment for a large number of pollutants, but could also be used to ensure that all applicable pollutants are identified. Summarizing this information in a table reduces the need for extensive narrative discussion of health effects and sources. Be sure to check and update the standards based on the current ARB [State and National Air Ambient Quality Standards](http://www.arb.ca.gov/research/aaqs/aaqs2.pdf) table for both the draft and final document as well as reevaluations; changes affecting the environmental document and/or conformity analysis can occur at any time.

**TABLE ##: STATE AND FEDERAL CRITERIA AIR POLLUTANT STANDARDS, EFFECTS, AND SOURCES**

**Insert the current “**[**Air Pollution Standards Table**](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/forms-templates#conformity)**” from the SER Forms and Templates page.**

Always check the ARB’s “[State and National Air Ambient Quality Standards](http://www.arb.ca.gov/research/aaqs/aaqs2.pdf)” table and the [U.S. EPA’s National Ambient Air Quality Standards](https://www.epa.gov/criteria-air-pollutants/naaqs-table) web page and update the information contained in the table used in the environmental document as needed before the circulation of the draft or final document and prior to the final NEPA decision.

Environmental Consequences

1. Regional Conformity

For federal or joint projects, the air quality analysis and technical report must show compliance with the FCAA and NEPA (see the [SER, Vol. 1, Chapter 11](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-11-air-quality) for general air quality information and [Vol. 1, Chapter 38](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-38-nepa-assignment) for NEPA Assignment requirements), and the environmental document must also include a regional and a project level conformity statement, unless the project is exempt. Note: Unless located in an attainment/unclassified area, most projects requiring an EIS or EA will not be fully exempt (see [40 CFR 93](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#Ch1LawFCAA), 126 and 128), and exemption from any more than regional analysis ([40 CFR 93](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#Ch1LawFCAA).127) is rare for projects processed with a Finding of No Significant Impact (FONSI). Exemption from conformity requirements (regional and/or project-level) generally indicates that the project has a neutral effect on air quality.

Unless exempt, the proposed project, in an area subject to conformity requirements, **must** be consistent with the design, concept, and scope of the project as described in the most recent RTP and FTIP. The “open-to-traffic” delivery date must be within the same conformity analysis time period that the project is listed in for the RTP and FTIP conformity analysis.

If the project is in an “isolated rural” nonattainment area – where there is no MPO in the nonattainment area – there will be no RTP and TIP conformity to which to refer. In this case for regionally significant projects, regional analysis must be done and documented for the project itself using procedures (including interagency consultation and public involvement) and criteria similar to those used by an MPO. See [40 CFR 93](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#Ch1LawFCAA).109(g) for more information.

**The final document must include FHWA’s Conformity Determination in Appendix H or in Chapter 4, “Comments and Coordination.”**

**Use the flow chart on the following page to determine which regional conformity language to put in your document.**

Is the project exempt from conformity? 40 CFR 93.126 or is it signal synchronization 40 CFR 93.128

Briefly state in the document that the project is exempt per 40 CFR 93.126 or 93.128 and why it is exempt. Describe the specific category used in 40 CFR 93.126, and any interagency consultation done.

Is the project exempt from regional conformity requirements? 40 CFR 93.127

Insert the following text in the ED:

This project is exempt from regional (40 CFR 93.127) conformity requirements. Separate listing of the project in the Regional Transportation Plan and Transportation Improvement Program, and their regional conformity analyses, is not necessary. The project will not interfere with timely implementation of Transportation Control Measures identified in the applicable SIP and regional conformity analysis.

Is the project in an area that has a Metropolitan Planning Organization (MPO)?

Insert the following text in ED:

The proposed project is listed in the [insert title and year] financially constrained Regional Transportation Plan [include amendment number if applicable] which was found to conform by [insert Metropolitan Planning Organization (MPO) or Regional Transportation Planning Agency (RTPA)] on [date], and FHWA and FTA made a regional conformity determination finding on [date]. The project is also included in [insert MPO or RTPA] financially constrained [year] Regional Transportation Improvement Program [include amendment number if applicable], pages [#]. The [insert MPO or RTPA and year] Regional Transportation Improvement Program was determined to conform by FHWA and FTA on [date]. The design concept and scope of the proposed project is consistent with the project description in the [year] RTP, [year] RTIP, and the “open to traffic assumptions of the [MPO’S or RTPA’S] regional emissions analysis.

Insert the following text in the ED:

A regional conformity analysis covering the [insert name of nonattainment area] for [identify pollutant(s) – ozone, PM2.5, and PM10 are the only pollutants in these areas in California as of 1/2018] was carried out that includes this project, and all reasonably foreseeable and financially constrained regionally significant projects for at least 20 years from the date that the analysis was started. The analysis used the latest planning assumptions, and the most recent emission models and appropriate analysis methods, as determined by Interagency Consultation on [date of meeting]. Based on this analysis, the region will be in conformity with the SIP, including this project, based on the [emission budget, project/no project, and/or project/baseline] conformity test(s) and analysis procedures, as described in 40 CFR 93.109(l) [or the most recent section number]. The design concept and scope of the proposed project is consistent with the project design concept and scope used in the regional conformity analysis. Transportation Control Measures Timely Implementation evaluation was reviewed and concurred with by Interagency Consultation on [date of meeting].

**Yes**

**Yes**

**Yes**

**Yes**

**No**

**No**

**No**

Is the project in an area that is subject to conformity?

If area is [non-attainment](https://www3.epa.gov/airquality/greenbook/anayo_ca.html) or maintenance for—ozone, CO, NO2, PM 2.5, PM 10, then conformity applies.

Insert the following text into the ED:

The project is located in an attainment/unclassified area for all current National Ambient Air Quality Standards (NAAQS). Therefore, transportation conformity requirements do not apply.

**No**

1. Project Level Conformity
2. On June 1, 2018, Transportation Conformity requirements under CCAA section 176 (c)(5) for specified CO maintenance areas (Refer to: EPA’s CO Maintenance Letter) ended. This date marks 20 years after the effective date U.S. EPA’s approval of the first 10-year maintenance plan and re-designation of areas from maintenance to attainment/unclassified for the CO (NAAQS). Under 40 CFR 93.102(b)(4) of the U.S. EPA’s regulations, transportation conformity applies to maintenance areas through the 20-year maintenance planning period, unless the maintenance plan specifies that the transportation conformity requirements apply for a longer time period. Pursuant to CCAA’s section 176(c)(5) and as explained in the preamble of the 1993 final rule, conformity applies to areas that are designated nonattainment or are subject to a maintenance plan approved under CCAA section 175A.
3. If a project does not meet the June 1, 2018, Transportation Conformity requirements and is located in a nonattainment or maintenance area for carbon monoxide (CO) and/or particulate matter (PM2.5 and/or PM10), then additional hot-spot analysis and possible emission reduction measures for that pollutant may be required. Refer to the [CO Protocol](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-11-air-quality) and the [U.S. EPA PM Hot-Spot Analysis Guidance](https://www.epa.gov/state-and-local-transportation/project-level-conformity-and-hot-spot-analyses) documents for full details of hot-spot data and analysis needs; the following is only a summary.
4. Include a map and table showing the project alternatives, and receptor sites or grids used for any quantitative CO or PM hot-spot analysis. Qualitative analysis may consider land uses rather than specific receptors; if that is done include a map showing the sensitive land uses considered in relation to the project. Also show (this may be on a separate map) the location of the monitoring stations used to establish background pollutant concentrations.
5. For each “non-attainment” or “maintenance” pollutant, the environmental document must summarize the following information from the air quality technical report:
	* 1. Briefly describe the analysis process. For both CO and PM, there is first a screening process and then a detailed analysis process.
		2. State any assumptions made for the purposes of doing the analysis.
		3. Provide results of the screening process, or of the detailed analysis with a comparison of the impacts and the proposed avoidance, minimization, and/or mitigation measures for each alternative.
		4. State conclusions on whether the project will cause (or, in a nonattainment area, worsen) any violations.

Note: Analysis for CO is based on the Caltrans/University of California, Davis CO Protocol, which includes both a screening procedure and a quantitative analysis method. Analysis for PM10 and PM2.5 is governed by the U.S. EPA Hot-Spot Analysis Guidance. The hot-spot analysis requirements in the conformity process for both pollutants are outlined in 40 CFR 93.116 and 40 CFR 93.123. Details of the technical analysis, interagency consultation if required (for PM10 and PM2.5), and public notice must be documented in an Air Quality Conformity Analysis that supports this summary. [Example conformity language](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/forms-templates#conformity) required in certain public notices under NEPA can be found in on the SER Forms and Templates page.

NOTE: Please see the Construction Conformity section below for construction conformity considerations.

For the final environmental document, include the date of the FHWA Conformity Determination and direct the reader to the letter, which must be included in Chapter 4 “Comments and Coordination” or as an appendix.

1. Additional Environmental Analysis
2. NEPA Studies: Environmental documents need to consider more than just conformity analysis. The primary factors for determining whether a project has substantial air quality impacts under NEPA are the NAAQS. Long-term (operational) environmental analysis should include regional (indirect or cumulative) pollutant analysis (for ozone, especially); this may be based on the regional conformity analysis, if available, or a separate regional analysis if conformity requirements do not apply for ozone in a particular area. Comparative criteria pollutant emissions analyses are recommended in all areas, not just nonattainment/maintenance areas, to ensure for NEPA purposes that the project would not create a violation that could put the area into nonattainment.
3. Naturally occurring asbestos (NOA) and structural asbestos. If the project is in a known or suspected asbestos area, document the geologic or structural asbestos assessment and disclose measures for dealing with the material. Also document coordination with the local air district or the ARB and disclose any required permits or approvals. Cross-reference the Hazardous Waste/Materials discussion as appropriate. If the project is in an area where NOA is known not to be an issue, state this and explain why it is not a concern. For more information please see the U.S. EPA’s "National Emission Standards for Hazardous Air Pollutants" (NESHAP) regulations for asbestos ([40 CFR 61](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#Ch1LawFCAA) Subpart M), and the [ARB’s NOA regulations](http://www.arb.ca.gov/toxics/asbestos/reginfo.htm).
4. Lead (Pb) is normally not an air quality issue for transportation projects unless the project involves disturbance of soils containing high levels of aerially deposited lead (ADL), or painting or modification of structures with lead-based coatings. In these cases, construction impact analysis should describe monitoring and mitigation requirements of the Department’s Standard Specifications and Standard Special Provisions for aerially deposited lead or for lead paint removal and sandblasting. Also disclose local and air district rules that may apply to sandblasting and other activities related to lead paint removal or disturbance.
5. Mobile Source Air Toxics (MSATs). NEPA analysis may also need to consider MSATs and other specific health-related issues. The U.S. EPA has assessed an expansive list in their latest rule on the Control of Hazardous Air Pollutants from mobile sources and identified a group of 93 compounds emitted from mobile sources that are listed in their Integrated Risk Information System (IRIS). In addition, U.S. EPA identified nine compounds with significant contributions from mobile sources that are among the national and regional-scale cancer risk drivers from their 1999 National Air Toxics Assessment (NATA). For projects warranting MSAT analysis, these 9 priority [MSATs](https://www.epa.gov/urban-air-toxics/urban-air-toxic-pollutants) (Diesel PM, 1,3 Butadiene, Benzene, Formaldehyde, Acrolein(2-propenal), Naphthalene, Acetaldehyde, Ethylbenzene, and Polycyclic Organic Matter) should be considered. While FHWA considers these the priority MSATs, the list is subject to change and may be adjusted in consideration of future U.S. EPA rules. For guidance on how to address mobile source air toxics in an environmental document, please refer to the *Updated FHWA Interim Guidance on Mobile Source Air Toxic Analysis in NEPA Documents* (October 18, 2016).

Clearly state which FHWA MSAT category listed below relates to the proposed project. Provide a description of the project category.
	1. Projects with No Meaningful Potential MSAT Effects, or Exempt Projects
	2. Projects with Low Potential MSAT Effects
	3. Projects with Higher Potential MSAT Effects

The following is sample text that can be used to indicate the project category:

According to the FHWA’s Interim Guidance this project is classified as a category 2 project (Projects with Low Potential MSAT Effects). This project is expected to meet this category for the following reasons:

Following is the MSAT chart for guidance.

**Analyzing Mobile Source Air Toxics (MSAT) in the NEPA Process for Highways**

California's vehicle emissions control and fuel standards are more stringent than federal standards, and are effective sooner, so the effect on air toxics of combined state and federal regulations is expected to result in greater emission reductions, more quickly, than the FHWA analysis shows. The FHWA analysis, with modifications related to use of the California-specific EMFAC model rather than the MOBILE model, would be conservative.

Appendices and other references marked with an asterisk (\*) are from FHWA’s [Interim Guidance Update on Mobile Source Air Toxic Analysis in NEPA.](https://www.fhwa.dot.gov/environMent/air_quality/air_toxics/policy_and_guidance/msat/)

MSAT analysis may differ for CEQA.

For these projects, a qualitative assessment of emissions projections should be conducted. This qualitative assessment would compare the expected effect of the project on traffic volumes, vehicle mix, or routing of traffic, and the associated changes in MSATs for the project alternatives, based on \*VMT, vehicle mix, and speed. \*Appendix B includes prototype language for a qualitative assessment. It would also discuss national trend data projecting substantial overall reductions in emissions due to stricter engine and fuel regulations issued by the U.S. EPA. In addition, quantitative emissions analysis of these types of projects will not yield credible results that are useful to project-level decision-making due to the limited capabilities of the transportation and emissions forecasting tools. In addition to the qualitative assessment, a NEPA document for this category of projects must include a discussion of information that is incomplete or unavailable for a project specific assessment of MSAT impacts, in compliance with CEQ regulations (40 CFR 1502.22(b)) regarding incomplete or unavailable information. This discussion would explain how air toxics analysis is an emerging field and current scientific techniques, tools, and data are not sufficient to accurately estimate human health impacts that would result from a transportation project in a way that would be useful to decision-makers. Also in compliance with 40 CFR 1502.22(b), it should contain a summary of current studies regarding the health impacts of MSATs. Prototype language for this discussion is contained in \*Appendix C.

California does not use the U.S. EPA’s MOBILE 6 or MOVES emissions models, but instead uses the latest version of the EMFAC model issued by the California Air Resources Board. Use of EMFAC for MSAT analysis requires “off-model” application of air toxic speciation factors and other information, or use of tools like CT-EMFAC (maintained by Caltrans).

Does the project produce no meaningful potential MSAT effects?

No MSAT analysis is required, regardless of the class of NEPA environmental document. However the project record should document the basis for the determination of "no meaningful potential impacts" with a brief description of the factors considered. Prototype language that could be included in the record is found in \*Appendix A of the FHWA Interim MSAT Guidance.

**Projects with Low Potential MSAT Effects**

These projects serve to improve operations of highway, transit or freight without adding substantial new capacity or without creating a facility that is likely to meaningfully increase emissions or exposure to MSAT emissions of sensitive populations or land uses.

**Yes**

**No**

**No**

**Yes**

**Projects with Higher Potential MSAT Effects**

Does your project create or significantly alter a major intermodal freight facility that has the potential to concentrate high levels of diesel particulate matter in a single location, or does your project create new or add significant capacity to urban highways, such as interstates, urban arterials, or urban collector-distributor routes with traffic volumes where the AADT is projected to be 140,000-150,000 in any analysis year through the design year, and also proposed to be located in proximity to populated areas or in rural areas, in proximity to concentrations of vulnerable populations?

The California Air Resources Board "[Air Quality and Land Use Handbook](https://ww3.arb.ca.gov/ch/landuse.htm)" identifies the following land uses as particularly sensitive to MSATs: residential areas, schools, hospitals and other health care facilities, day care and other child care facilities, and parks and playgrounds).

You should contact your HQ Environmental Coordinator for assistance in developing a specific approach for assessing impacts.

This approach would include a quantitative analysis that would attempt to measure the level of emissions for the U.S. EPA’s priority MSATs for each alternative, to use as a basis of comparison. This analysis also may address the potential for cumulative impacts, where appropriate, based on local conditions. How and when cumulative impacts should be considered would be addressed as part of the assistance outlined above.

(\*Note that the organic-based MSATs listed by the U.S. EPA are also listed as toxic air contaminants by the California Air Resources Board. The particulate matter fraction of diesel exhaust (Diesel PM) has also been identified by the California Air Resources Board as a toxic air contaminant).

The NEPA document for this project would also include relevant prototype language on unavailable information included in \*Appendix C.

California does not use the U.S. EPA’s MOBILE 6 or MOVES emission models, but instead uses the EMFAC model issued by the California Air Resources Board. Use of EMFAC for MSAT analysis requires “off-model” application of air toxic speciation factors and other information, or use of tools like [CT-EMFAC](http://www.dot.ca.gov/hq/env/air/pages/ctemfac_license.htm) (maintained by Caltrans).

If the analysis for a project in this category indicates meaningful differences in levels of MSAT emissions, mitigation options should be identified and considered. See \*Appendix E for information on mitigation strategies.

Does your project not fall within any of these categories, but you think it has the potential to substantially increase future MSAT emissions?

Contact your HQ Environmental Coordinator for assistance in developing a specific approach for assessing impacts. Although not required, projects with high potential for litigation on air toxics issues may also benefit from a more rigorous quantitative analysis to enhance their defensibility in court.

**No**

**Yes**

**Yes**

1. Construction (Short-term) Impacts

If construction impacts are discussed under each resource heading instead of in a separate section, then temporary air quality impacts from construction activities need to be discussed here. While construction emissions need not be considered in conformity analysis where construction will last for less than five years, they may need to be considered for a wider variety of projects and shorter construction periods for NEPA.

The primary construction emission impacts will usually be associated with dust and equipment exhaust emissions. The Department’s Standard Specifications (Section 14) require compliance by the contractor with all applicable air quality laws and regulations, and also include a fugitive dust control specification. Watering and general dust control efforts will be adequate to meet typical “nuisance” and “visible emissions” rules. In the [San Joaquin Valley](http://www.valleyair.org/rules/1ruleslist.htm#reg8), [South Coast Air Basin, Coachella Valley](http://www.aqmd.gov/rules/rulesreg.html), [Imperial County](http://www.co.imperial.ca.us/AirPollution/), and some other areas, more specific rules that require certain procedures and recordkeeping practices are in place. In those areas, the rules should be reviewed and discussed in the environmental document as applicable.

If construction will last more than three years and/or will substantially impact traffic due to detours, road closures, and temporary terminations, then impacts of the resulting traffic flow changes may need to be analyzed. For NEPA analyses, analysts should compare emissions from the future year build scenario to those from the future year no-build scenario. If construction will last more than three years and/or will substantially impact traffic due to detours, road closures, and temporary terminations, then impacts of the resulting traffic flow changes may need to be analyzed.

***For NEPA compliance and for projects on the SHS, use of locally adopted CEQA thresholds of significance for construction emissions IS NOT MANDATORY.* Local air district CEQA guidelines may be used as guidance for scoping air quality studies. For more information, consult with the HQ Environmental Coordinator**.

Applicable laws and regulations in effect at the time the environmental document is prepared should be identified in the air quality technical study and environmental document. Some typical measures that may be related to local air district and other regulations are included in the sample text below. Other examples include truck idling limitations (ARB statewide rules limiting truck idling to five minutes, and possibly less near schools and in some areas that have local ordinances), ARB’s portable equipment regulations, and applicable public and private fleet regulations (such as South Coast Air Quality Management District’s and ARB’s requirements for diesel-powered sweepers and other public fleet vehicles, and ARB’s off-road mobile equipment fleet rules).

If an air district permit is likely to be needed for some part of the work, or for the use of certain types of equipment that appear likely to be used (such as crushers or batch plants installed at the project site, or portable equipment like generators that will be used for more than six months at one location), the need for a permit should be documented. If an air district permit is needed, use of local air district CEQA Guidelines may be considered (though it is ***not mandatory***) to minimize effort by the contractor and reduce the potential for delay when the permit must be obtained.

**The following is sample text that shows a qualitative assessment of construction emissions:**

Environmental Consequences

During construction, short-term degradation of air quality may occur due to the release of particulate emissions (airborne dust) generated by excavation, grading, hauling, and other construction-related activities. Emissions from construction equipment also are expected and would include carbon monoxide (CO), nitrogen oxides (NOx), volatile organic compounds (VOCs), directly-emitted particulate matter (PM10 and PM2.5 ), and toxic air contaminants such as diesel exhaust particulate matter. Ozone is a regional pollutant that is derived from NOx and VOCs in the presence of sunlight and heat.

Site preparation and roadway construction typically involves clearing, cut-and-fill activities, grading, removing or improving existing roadways, building bridges, and paving roadway surfaces. Construction-related effects on air quality from most highway projects would be greatest during the site preparation phase because most engine emissions are associated with the excavation, handling, and transport of soils to and from the site. These activities could temporarily generate enough PM10, PM2.5, and small amounts of CO, SO2, NOx, and VOCs to be of concern. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site could deposit mud on local streets, which could be an added source of airborne dust after it dries. PM10 emissions would vary from day to day, depending on the nature and magnitude of construction activity and local weather conditions. PM10 emissions would depend on soil moisture, silt content of soil, wind speed, and the amount of equipment operating. Larger dust particles would settle near the source, while fine particles would be dispersed over greater distances from the construction site.

Construction activities for large development projects are estimated by the United States Environmental Protection Agency (U.S. EPA) to add 1.2 tons of fugitive dust per acre of soil disturbed per month of activity. If water or other soil stabilizers are used to control dust, the emissions can be reduced by up to 50 percent. The Department’s Standard Specifications (Section 14) on dust minimization require use of water or dust palliative compounds and will reduce potential fugitive dust emissions during construction.

In addition to dust-related PM10 emissions, heavy-duty trucks and construction equipment powered by gasoline and diesel engines would generate CO, SO2, NOx, VOCs and some soot particulate (PM10 and PM2.5 ) in exhaust emissions. If construction activities were to increase traffic congestion in the area, CO and other emissions from traffic would increase slightly while those vehicles are delayed. These emissions would be temporary and limited to the immediate area surrounding the construction site. [Consider specifying areas within 500 feet of ARB-defined sensitive land uses as no-idle areas where material storage/transfer and equipment maintenance activities are not to occur. If this is done, mention it here as a control measure for equipment emissions related to diesel exhaust.]

SO2 is generated by oxidation during combustion of organic sulfur compounds contained in diesel fuel. Under California law and ARB regulations, off-road diesel fuel used in California must meet the same sulfur and other standards as on-road diesel fuel (not more than 15 ppm sulfur), so SO2-related issues due to diesel exhaust will be minimal.

Some phases of construction, particularly asphalt paving, may result in short-term odors in the immediate area of each paving site(s). Such odors would quickly disperse to below detectable levels as distance from the site(s) increases.

Most of the construction impacts to air quality are short-term in duration and, therefore, will not result in long-term adverse conditions. Implementation of the following standardized measures, some of which may also be required for other purposes such as storm water pollution control, will reduce any air quality impacts resulting from construction activities:

* The construction contractor must comply with the Department’s Standard Specifications in Section 14.
* Section 14 specifically requires compliance by the contractor with all applicable laws and regulations related to air quality, including air pollution control district and air quality management district regulations and local ordinances.
* Section 14 is directed at controlling dust. If dust palliative materials other than water are to be used, material specifications are described in Section 18.
* Water or dust palliative will be applied to the site and equipment as often as necessary to control fugitive dust emissions. Fugitive emissions generally must meet a “no visible dust” criterion either at the point of emissions or at the right-of-way line, depending on local regulations.
* Soil binder will be spread on any unpaved roads used for construction purposes, and on all project construction parking areas.
* Trucks will be washed as they leave the right-of-way as necessary to control fugitive dust emissions.
* Construction equipment and vehicles will be properly tuned and maintained. All construction equipment will use low sulfur fuel as required by California Code of Regulations Title 17, Section 93114.
1. A dust control plan will be developed documenting sprinkling, temporary paving, speed limits, and timely revegetation of disturbed slopes as needed to minimize construction impacts to existing communities.
* Equipment and materials storage sites will be located as far away from residential and park uses as practicable. Construction areas will be kept clean and orderly.
* ESA (Environmentally Sensitive Area)-like areas or their equivalent will be established near sensitive air receptors. Within these areas construction activities involving the extended idling of diesel equipment or vehicles will be prohibited, to the extent feasible.
* Track-out reduction measures, such as gravel pads at project access points to minimize dust and mud deposits on roads affected by construction traffic, will be used.
* All transported loads of soils and wet materials will be covered before transport, or adequate freeboard (space from the top of the material to the top of the truck) will be provided to minimize emission of dust (particulate matter) during transportation.
* Dust and mud that are deposited on paved, public roads due to construction activity and traffic will be promptly and regularly removed to decrease particulate matter.
* To the extent feasible, construction traffic will be scheduled and routed to reduce congestion and related air quality impacts caused by idling vehicles along local roads during peak travel times.
* Mulch will be installed or vegetation planted as soon as practical after grading to reduce windblown particulate in the area. [Be aware that certain methods of mulch placement, such as straw blowing, may themselves cause dust and visible emission issues, and may need to use controls such as dampened straw.]

Construction Conformity

Discuss whether or not construction will last for more than 5 years at one location. If not, state:

Construction activities will not last for more than 5 years at one general location, so construction-related emissions do not need to be included in regional and project-level conformity analysis ([40 CFR 93](http://www.dot.ca.gov/ser/vol1/sec1/ch1fedlaw/chap1.htm#Ch11LawCCAA).123(c)(5)).

If construction will last for more than 5 years, include construction emissions in the conformity hot spot analysis above, verify that they are included in the regional conformity analysis, and state:

Construction activities will last for more than 5 years. Construction-related emissions have been included in any hot spot analysis performed for conformity purposes, and have been included in the regional conformity analysis (40 CFR 93.123(c)(5)).

Avoidance, Minimization, and/or Mitigation Measures

List any avoidance, minimization, and/or mitigation measures here.

Noise (And Vibration, if applicable)

Regulatory Setting

The National Environmental Policy Act (NEPA) of 1969 provides the broad basis for analyzing and abating highway traffic noise effects. The intent of this law is to promote the general welfare and to foster a healthy environment. The requirements for noise analysis and consideration of noise abatement under NEPA are described below.

National Environmental Policy Act and 23 CFR 772

For highway transportation projects with Federal Highway Administration (FHWA) involvement (and the Department, as assigned), the Federal-Aid Highway Act of 1970 and its implementing regulations (23 CFR 772) govern the analysis and abatement of traffic noise impacts. The regulations require that potential noise impacts in areas of frequent human use be identified during the planning and design of a highway project. The regulations include noise abatement criteria (NAC) that are used to determine when a noise impact would occur. The NAC differ depending on the type of land use under analysis. For example, the NAC for residences (67 dBA) is lower than the NAC for commercial areas (72 dBA). The following table lists the noise abatement criteria for use in the NEPA/23 CFR 772 analysis.

|  |
| --- |
| **Table ##: Noise Abatement Criteria** |
| **Activity Category** | **NAC, Hourly A- Weighted Noise Level,** **Leq(h)** | **Description of activity category** |
| A | 57 (Exterior) | Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose. |
| B1 | 67 (Exterior) | Residential. |
| C1 | 67 (Exterior) | Active sport areas, amphitheaters, auditoriums, campgrounds, cemeteries, day care centers, hospitals, libraries, medical facilities, parks, picnic areas, places of worship, playgrounds, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, recreation areas, Section 4(f) sites,schools, television studios, trails, and trail crossings. |
| D | 52 (Interior) | Auditoriums, day care centers, hospitals, libraries,medical facilities, places of worship, public meetingrooms, public or nonprofit institutional structures, radio studios, recording studios, schools, and television studios. |
| E | 72 (Exterior) | Hotels, motels, offices, restaurants/bars, and otherdeveloped lands, properties, or activities not included in A–D or F. |
| F | No NAC—reporting only | Agriculture, airports, bus yards, emergency services,industrial, logging, maintenance facilities,manufacturing, mining, rail yards, retail facilities,shipyards, utilities (water resources, water treatment, electrical, etc.), and warehousing. |
| G | No NAC—reporting only | Undeveloped lands that are not permitted. |
| 1 Includes undeveloped lands permitted for this activity category. |

[Insert figure number] lists the noise levels of common activities to enable readers to compare the actual and predicted highway noise levels discussed in this section with common activities.



Figure ##: Noise Levels of Common Activities

According to the Department’s *Traffic Noise Analysis Protocol for New Highway Construction and Reconstruction Projects, May 2011,* a noise impact occurs when the predicted future noise level with the project substantially exceeds the existing noise level (defined as a 12 dBA or more) or when the future noise level with the project approaches or exceeds the NAC. A noise level is considered to approach the NAC if it is within 1 dBA of the NAC.

If it is determined that the project will have noise impacts, then potential abatement measures must be considered. Noise abatement measures that are determined to be reasonable and feasible at the time of final design are incorporated into the project plans and specifications. This document discusses noise abatement measures that would likely be incorporated in the project.

The Department’s *Traffic Noise Analysis Protocol* sets forth the criteria for determining when an abatement measure is reasonable and feasible. Feasibility of noise abatement is basically an engineering concern. Noise abatement must be predicted to reduce noise by at least 5 dB at an impacted receptor to be considered feasible from an acoustical perspective. It must also be possible to design and construct the noise abatement measure for it to be considered feasible.  Factors that affect the design and constructability of noise abatement include, but are not limited to, safety, barrier height, topography, drainage, access requirements for driveways, presence of local cross streets, underground utilities, other noise sources in the area, and maintenance of the abatement measure. The overall reasonableness of noise abatement is determined by the following three factors: 1) the noise reduction design goal of 7 dB at one or more impacted receptors; 2) the cost of noise abatement; and 3) the viewpoints of benefited receptors (including property owners and residents of the benefited receptors).

Guidance

Writing the Document

Affected Environment

1. For Local Assistance projects, a reference should be provided stating that the project’s CEQA document analyzes noise impacts relative to the local general plan noise policies.
2. List applicable technical report(s) along with completion date(s). This includes the Noise Study Report and the Noise Abatement Decision Report.
3. Summarize the information in the Noise Study Report and the Noise Abatement Decision Report, identifying land uses and sensitive noise receptors, particularly areas of frequent human use that would benefit from reduced noise levels.
4. Include a map showing the locations of receptors and proposed barrier locations.

Environmental Consequences

1. Identify whether the project is a Type 1 project.
2. Identify whether the project will result in noise impacts that require the consideration of noise abatement. Document the following information:
3. Measure and model existing noise levels at receptors during worst traffic noise hour.
4. Model future noise levels for each alternative and the no-build using traffic from the design year, typically 20 years from the project opening date.
5. If there is a substantial increase (12 dBA) in noise with the project and/**or** if the noise approaches (within 1 dBA) or exceeds the NAC, then there is a noise impact that requires consideration of noise abatement. Include a table summarizing the results of the noise impact analysis for the project. A sample table is provided below:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Receptor # and Location | Existing Noise Level (dBA) | Predicted Noise Level without Project (dBA) | Predicted Noise Level with Project (dBA) | Noise Impact Requiring Abatement Consideration | Predicted Noise Level with Abatement (dBA) | Reasonable and Feasible |
| 6-foot Wall | 9-foot Wall | 12-foot Wall |
| 1—A Street | 62 | 64 | 79 | Yes | 74 | 64 | 66 | Yes |

Avoidance, Minimization, and/or Abatement Measures

1. Consider noise abatement (include barriers of different heights and types). Determine and discuss whether proposed abatement is reasonable and feasible. Refer to the Noise Abatement Decision Report ([NADR](https://dot.ca.gov/programs/environmental-analysis/noise-vibration)) during the environmental process to document the following:
2. Acoustic feasibility of noise abatement.
3. Locations and dimensions of evaluated noise barriers.
4. Noise abatement reasonableness allowances.
5. Engineering estimates for acoustically feasible noise abatement.
6. Other construction considerations related to noise barriers—i.e., known utilities, etc.

Sample text:

Receptor 1 represents 10 homes located on A Street in the City of Alphabet. Measurements taken at Receptor 1 show that the existing noise level at that location is 62 dBA. The future noise level at Receptor 1 with the project is predicted to be 80 dBA. Because the predicted future noise level exceeds the Noise Abatement Criteria (NAC) for residential uses (67dBA), the 10 homes represented by Receptor 1 would be exposed to traffic noise impacts. To achieve a 5 dBA reduction at one or more receptors, a 6-foot high noise wall would be needed. An 8-foot wall would be needed to achieve the design goal of 7 dBA. If the total cost of the wall at this location is less than the total cost allowance, then the wall is considered reasonable from a cost perspective and would likely be incorporated into the project. The total cost allowance, calculated as directed by the Department’s Traffic Noise Analysis Protocol, is $175,000. The current estimated cost of the wall is $\_\_\_\_.

Where noise abatement may be included in the project, include the following statement:

Include this statement in the draft ED

Based on the studies completed to date, the Department intends to incorporate noise abatement in the form of (a) barrier(s) at: [\_\_\_\_\_\_\_\_\_\_\_\_], with respective lengths and average heights of [\_\_\_\_\_\_\_\_\_\_\_\_]. Calculations based on preliminary design data show that the barrier(s) will reduce noise levels by 5 to [\_\_] dBA for [\_\_\_\_] residences at a cost of [\_\_\_\_\_\_\_\_]. These measures may change based on input received from the public. If conditions have substantially changed during final design, noise abatement may not be constructed. The final decision on noise abatement will be made upon completion of the project design.

Include this statement in the final ED

Based on the studies completed to date and input from the public, the Department intends to incorporate noise abatement in the form of (a) barrier(s) at: [\_\_\_\_\_\_\_\_\_\_\_\_], with respective lengths and average heights of [\_\_\_\_\_\_\_\_\_\_\_\_]. Calculations based on preliminary design data show that the barrier(s) will reduce noise levels by 5 to [\_\_] dBA for [\_\_\_\_] residences at a cost of [\_\_\_\_\_\_\_\_]. If conditions have substantially changed during final design, noise abatement may not be constructed. The final decision on noise abatement will be made upon completion of the project design.

1. **Include a map** showing receptors and proposed wall/berm locations.
2. **Do not use the words “mitigate” or “mitigation.”** For NEPA, use the terms “abate” or “abatement” or “attenuate” or “attenuation” in the Noise section of environmental documents.

Additional Guidance

* [23 CFR 772](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements%22%20%5Cl%20%22Ch1NoiseAct1972)
* For more guidance on noise, please see the [SER, Vol. 1, Chapter 12, “Noise.”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-12-noise)
* For detailed information on noise analysis, see the Department’s [*Traffic Noise Analysis Protocol May 2011*](https://dot.ca.gov/programs/environmental-analysis/noise-vibration) and the [*Technical Noise Supplement*](https://dot.ca.gov/programs/environmental-analysis/noise-vibration).
* [*Highway Traffic Noise: Analysis and Abatement Guidance*](http://www.fhwa.dot.gov/environment/noise/regulations_and_guidance/), U.S. Department of Transportation, Federal Highway Administration, Office of Environment and Planning, Noise and Air Quality Branch, Washington, D.C., December 2011, Document Number FHWA-HEP-10-025.

Energy

Regulatory Setting

The National Environmental Policy Act (NEPA) (42 United States Code [USC] Part 4332) requires the identification of all potentially significant impacts to the environment, including energy impacts.

GUIDANCE

The [SER, Vol. 1, Chapter 13, “Energy”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-13-energy) provides guidance on performing an energy analysis, including when an energy analysis is required for a proposed project.

This guidance on energy starts with a decision tree that helps you decide if a qualitative analysis of construction and operational energy uses is sufficient, or if a more detailed quantitative study would be called for. There are detailed directions for conducting quantitative studies/technical reports.

For projects requiring an EIS, a detailed quantitative analysis of energy impacts is not usually needed. The following sample text can be used as applicable:

When balancing energy used during construction and operation against energy saved by relieving congestion and other transportation efficiencies, the project would not have substantial energy impacts.

This is a good place to demonstrate a project’s long-term potential for energy savings and to document conservation measures to be employed during the construction, operation, and maintenance phases.

Biological Environment

GUIDANCE

The Biological Environment section of the environmental document is divided into the following subsections:

* Natural Communities
* Wetlands and Other Waters
* Plant Species
* Animal Species
* Threatened and Endangered Species
* Invasive Species

Natural Communities

Writing the Document

This section of the environmental document focuses on the issues covered in Chapter 4 of the [Natural Environment Study (NES)](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/forms-templates#faqs).

1. Include this introductory boilerplate:

This section of the document discusses natural communities of concern. The focus of this section is on biological communities, not individual plant or animal species. The emphasis of the section should be on the ecological function of the natural communities within the area. This section also includes information on wildlife corridors [include fish passage as appropriate] and habitat fragmentation. Wildlife corridors are areas of habitat used by wildlife for seasonal or daily migration. Habitat fragmentation involves the potential for dividing sensitive habitat and thereby lessening its biological value. Include any regulations relevant to the natural communities discussed (i.e., Oak Woodland protection, California Fish and Game Code, etc.).

Habitat areas that have been designated as critical habitat under the Federal Endangered Species Act are discussed below in the Threatened and Endangered Species section [##]. Wetlands and Other Waters are also discussed below [##]. Fish passage should be included under the Threatened and Endangered Species section if part of the federal consultation.

Affected Environment

* 1. List applicable technical report(s) along with completion date(s).
1. Discuss habitat not listed as critical habitat under the Federal Endangered Species Act (FESA) or not discussed under the Wetlands and Other Waters section. Examples of habitat types that could be discussed here include grasslands, oak woodlands, riparian forest, riparian scrub, and maritime succulent scrub.
2. Describe any special resource protection areas, as identified in a certified LCP, or if the project is located within 100 feet of a potential environmentally sensitive habitat area (ESHA) as defined by the Coastal Act. Discuss whether the habitat is especially valuable in terms of sustaining a special–status species, providing habitat connectivity, wildlife movement corridors, etc. Also note if the area could be easily disturbed or degraded by human activities and development.

Environmental Consequences

1. For each habitat type, discuss the potential direct and indirect impacts (and cumulative impacts if not discussed in a separate section). Discuss, as needed, habitat fragmentation, potential impacts to wildlife corridors and/or fish passage, potential impacts to the natural communities related to the distribution of this community in the region or statewide, and function of the community in terms of services it provides for water quality, habitat, breeding, etc.
2. This is a good place to reference any regional conservation plans, such as habitat conservation plans (HCP), multiple species conservation plans (MSCP), or coastal plans. Such plans are usually developed to lessen habitat loss and fragmentation and to maintain wildlife corridors.
3. The NES discusses issues such as migration routes, fish passage, wildlife corridors, concentrations of animal strikes on the roadway, and habitat fragmentation. Regulatory agencies are likely to raise concerns over these issues, so discuss them in the environmental document as applicable.
4. If the project is in the coastal zone and has the potential to affect ESHA, discuss potential impacts and consistency with applicable coastal policies and ordinances.
5. Discuss the relevant project features and standardized measures, including best practices that have avoided or minimized the project’s environmental consequences. Examples might include standard revegetation efforts performed by the Contractor (and not required as mitigation or as a permit condition), fish passage or wildlife crossings included as part of the project design, and the establishment of environmentally sensitive areas (ESAs).

Avoidance, Minimization, and/or Mitigation Measures

1. Discuss any proposed avoidance, minimization, and/or mitigation measures. Remember to state what the measure would do and why we are proposing it.

Additional Guidance

* [SER Vol. I, Chapter 14, “Biological Resources”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-14-biological-resources)
* [SER Vol I, Chapter 15, “Waters of the U.S. and State”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-15-waters-of-the-us-and-state)

Wetlands and Other Waters

Regulatory Setting

Wetlands and other waters are protected under a number of laws and regulations. At the federal level, the Federal Water Pollution Control Act, more commonly referred to as the Clean Water Act (CWA) (33 United States Code [USC] 1344), is the primary law regulating wetlands and surface waters. One purpose of the CWA is to regulate the discharge of dredged or fill material into waters of the U.S., including wetlands. Waters of the U.S. include navigable waters, interstate waters, territorial seas, and other waters that may be used in interstate or foreign commerce. The lateral limits of jurisdiction over non-tidal water bodies extend to the ordinary high water mark (OHWM), in the absence of adjacent wetlands. When adjacent wetlands are present, CWA jurisdiction extends beyond the OHWM to the limits of the adjacent wetlands. To classify wetlands for the purposes of the CWA, a three-parameter approach is used that includes the presence of hydrophytic (water-loving) vegetation, wetland hydrology, and hydric soils (soils formed during saturation/inundation). All three parameters must be present, under normal circumstances, for an area to be designated as a jurisdictional wetland under the CWA.

Section 404 of the CWA establishes a regulatory program that provides that discharge of dredged or fill material cannot be permitted if a practicable alternative exists that is less damaging to the aquatic environment or if the nation’s waters would be significantly degraded. The Section 404 permit program is run by the U.S. Army Corps of Engineers (USACE) with oversight by the U.S. Environmental Protection Agency (U.S. EPA).

The USACE issues two types of 404 permits: General and Individual. There are two types of General permits: Regional and Nationwide. Regional permits are issued for a general category of activities when they are similar in nature and cause minimal environmental effect. Nationwide permits are issued to allow a variety of minor project activities with no more than minimal effects.

Ordinarily, projects that do not meet the criteria for a Regional or Nationwide Permit may be permitted under one of USACE’s Individual permits. There are two types of Individual permits: Standard permits and Letters of Permission. For Individual permits, the USACE decision to approve is based on compliance with [U.S. EPA’s Section 404(b)(1) Guidelines (40 Code of Federal Regulations [CFR] 230)](https://www.epa.gov/cwa-404/section-404b1-guidelines-40-cfr-230), and whether permit approval is in the public interest. The Section 404 (b)(1) Guidelines (Guidelines) were developed by the U.S. EPA in conjunction with the USACE, and allow the discharge of dredged or fill material into the aquatic system (waters of the U.S.) only if there is no practicable alternative which would have less adverse effects. The Guidelines state that the USACE may not issue a permit if there is a “least environmentally damaging practicable alternative” (LEDPA) to the proposed discharge that would have lesser effects on waters of the U.S., and not have any other significant adverse environmental consequences.

Note: If impacts of the proposed project fall under the NEPA/404 MOU Integration Process, then include the following paragraph about the process here:

The Department, the Federal Highway Administration (FHWA), the USACE, the U.S. EPA, and U.S. Fish and Wildlife Service (USFWS) entered into a Memorandum of Understanding (MOU) to integrate the National Environmental Policy Act (NEPA) and the CWA for Environmental Impact Statement (EIS) projects that have five or more acres of permanent impact to waters of the United States (U.S.). Under this MOU, the signatory agencies agree to coordinate at three checkpoints: (1) purpose and need, (2) identification of range of alternatives, and (3) preliminary determination of the LEDPA and conceptual mitigation plan. The goal of the MOU process is to allow the USACE to more efficiently adopt the Department’s EIS for their Section 404 permit action.

The Executive Order for the Protection of Wetlands (EO 11990) also regulates the activities of federal agencies with regard to wetlands. Essentially, EO 11990 states that a federal agency, such as FHWA and/or the Department, as assigned, cannot undertake or provide assistance for new construction located in wetlands unless the head of the agency finds: (1) that there is no practicable alternative to the construction and (2) the proposed project includes all practicable measures to minimize harm. A Wetlands Only Practicable Alternative Finding must be made.

The Regional Water Quality Control Boards (RWQCBs) were established under the Porter-Cologne Water Quality Control Act to oversee water quality. Discharges under the Porter-Cologne Act are permitted by Waste Discharge Requirements (WDRs) and may be required even when the discharge is already permitted or exempt under the CWA. In compliance with Section 401 of the CWA, the RWQCBs also issue water quality certifications for activities which may result in a discharge to waters of the U.S. This is most frequently required in tandem with a Section 404 permit request. Please see the [Water Quality section](#water_quality) for more details.

Guidance

The information needed to write this section of the environmental document can be pulled from Chapters 4 and 5 of the NES and other technical documents, such as the Biological Assessment (BA) and the Wetland Delineation Report/Aquatic Resources Delineation. Reference these studies and their completion dates in the environmental document.

A Wetland Delineation Report/Aquatic Resources Delineation is prepared according to the [1987 Corps of Engineers Wetlands Delineation Manual](http://www.cpe.rutgers.edu/Wetlands/1987-Army-Corps-Wetlands-Delineation-Manual.pdf) and the appropriate [Regional supplement](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/reg_supp.aspx) to identify wetlands and waters under USACE jurisdiction for the purposes of compliance with Section 404 of the CWA, and/or Sections 9 and 10 of the Rivers and Harbors Act. The Wetland Delineation Report/Aquatic Resources Delineation is submitted to the USACE requesting verification. The USACE will make a jurisdictional determination (JD) based on the Wetland Delineation Report/Aquatic Resources Delineation. [USACE Regulatory Guidance Letter (RGL) 16-01 issued October 2016, which supersedes RGL 08-02](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/GuidanceLetters.aspx) explains the differences between approved JDs and preliminary JDs, and explains when an approved JD is required, and when a preliminary JD can be prepared instead. An approved JD should be used for projects that will require a Standard (Individual) Permit or are likely to be contested in court for issues related to the delineation. A preliminary JD may be used for all other projects. For projects that require an approved JD, a verified JD is required for the final environmental document. For all other projects, a verified JD is recommended, but not required, for the final environmental document. The final environmental document should document project coordination with the USACE. Note that per RGL 16-01, approved JDs are valid for five (5) years, subject to limited exceptions specified in [RGL 05-02](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/GuidanceLetters.aspx). See [SER, Vol. 1, Chapter 15, “Waters of the U.S. and the State,”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-15-waters-of-the-us-and-state) [SER, Vol. 3, Chapter 3, “Waters of the U.S. and the State,”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-3-biological-resources/ch-3-waters-of-the-us-and-state) RGL 05-02, and RGL 05-05 for further information.

Within the coastal zone, California Code of Regulations Title 14 ([14 CCR Section 13577](https://govt.westlaw.com/calregs/Document/I2EA4E8D32D044C78BF258B4F0DA30B08?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))) establishes a “one parameter definition” that only requires evidence of a single parameter to establish wetland conditions.

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s) and specify if the report is for an approved JD or preliminary JD, and the date of approval by the USACE.
2. Describe the study area for wetlands and other waters.
3. If there are no waters of the U.S. in the project area, clearly state that and provide information in the discussion that supports this conclusion.
4. If there are waters of the U.S. in the project area, the discussion should include the following:
5. Copies of letters from the USACE and other appropriate agencies (NEPA/404 MOU signatory agencies) related to the Purpose and Need statement and the alternatives that were evaluated in the environmental document (not required for wetlands assumed to be covered by Nationwide permits).
6. A concise description, including exhibits depicting the waters of the U.S. in the project area relative to the alternatives under consideration, and the location(s) of any associated sensitive species habitat or special aquatic sites.
7. If the project has the potential to affect coastal wetlands, additional technical information necessary for this section may include jurisdictional wetland delineations conducted consistent with CCC guidelines. These should include a current (typically less than 2 years old), detailed, temporary and permanent project feature impact analysis. Wetland delineations are commonly required for any project located within 100 feet of a potential wetland resource, including isolated wetlands. Note that in many instances, wetland delineation criteria as identified in California Code of Regulations Section 13577(b) of Title 14, Division 5.5, Article 18 will differ from criteria utilized by other resource agencies (e.g., USACE) for identifying wetlands.

Environmental Consequences

1. The alternatives discussion and comparison are the key component of this section of the document. Refer reader to the discussion of alternatives considered but withdrawn in Chapter 2, which describes why alternatives were withdrawn and not carried forward for analysis in the environmental document.
2. Document wetland avoidance alternatives here and in the “Alternatives” section. If the avoidance alternatives are not practicable, justify in detail how the cost, performance, socioeconomic impacts, or other factors would make these alternatives impracticable.
3. Discuss how all practicable measures to minimize harm to the affected wetland have been included in the proposed alternative(s). If a given minimization measure is not practicable, justify in detail how the cost, performance, socioeconomic impacts, or other factors would make the measure impracticable.
4. For alternatives that would affect other waters and wetlands:
5. Include maps or other drawings that show the other waters/wetlands and quantify how the project or alternatives would affect them.
6. Describe the quality and functions of the affected other waters/wetlands and any associated habitats.
7. Include a quantitative assessment of the impacts and discuss how the project will affect the function and value of the other waters/wetlands.
8. Discuss the relevant project features and standardized measures, including best practices that have avoided or minimized the project’s environmental consequences such as the establishment of ESAs, standard erosion control measures, and the use of temporary wetland protection mats (when approved by the applicable regulatory agencies).
9. A table summarizing the impacts on wetlands and other waters of the U.S./state by drainage location and impact type (permanent, temporary, direct, indirect) should be included to aid reviewers. Distinguish impacts to USACE jurisdictional waters (wetlands and other waters of the U.S.) from impacts to SWRCB or RWQCB waters (waters of the state) from coastal wetland resources. Summarize this information for each alternative discussed in the document so comparisons can be readily made. A text discussion should also be provided.
10. For a final environmental document, identify the least environmentally damaging practicable alternative (LEDPA) and support its selection. Note: The LEDPA may not always be the “biologically preferred alternative.” In determining the LEDPA, other environmental impacts, such as socioeconomic impacts, may be taken into account.
11. Document agency coordination. Briefly list all waters and wetlands permits needed for the proposed project and describe coordination with the relevant resource agencies. Refer the reader to Chapter 4 for a more detailed discussion of coordination and copies of correspondence with the agencies. Chapter 5 of the NES should include a coordination summary.
12. Remember that public notice must be given if wetlands would be affected by the proposed project. See the Project Development and Procedures Manual, Appendix HH, for more information (<https://dot.ca.gov/programs/design/manual-project-development-procedures-manual-pdpm>).
13. If the project has the potential to affect coastal wetlands, discuss potential impacts and consistency with applicable coastal policies and ordinances.

Avoidance, Minimization, and/or Mitigation Measures

1. Include avoidance, minimization, and/or mitigation measures here. For alternatives that would affect wetlands and other waters, discuss compensatory measures, including location, functions, plants, cost estimates, and success criteria.
2. Remember to state what the measure would do and why we are proposing it.
3. Define which measures apply to each jurisdictional water (waters of the U.S. vs. waters of the state, etc.) to avoid providing duplicative protection or compensation measures.

Wetlands Only Practicable Alternative Finding

1. For a final environmental document, include the following information under a separate “Wetlands Only Practicable Alternative Finding” subheading if the preferred alternative will permanently impact wetlands:
2. A reference to EO 11990.
3. An explanation of why there are no practicable alternatives to the proposed action.
4. An explanation about the inclusion of all practicable measures to minimize harm to wetlands.
5. A concluding statement (see the sample text below):

Based on the above considerations, it is determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use.

Note: For Local Assistance projects, the DLAE and the District Environmental Office Chief or designee makes the “only practicable alternative finding” for wetlands.

Additional Guidance

* [SER, Vol. 3, Chapter 3, “Waters of the U.S. and the State”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-3-biological-resources/ch-3-waters-of-the-us-and-state)
* [SER, Vol. 1, Chapter 15, “Waters of the U.S. and the State](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-15-waters-of-the-us-and-state).”
* [USACE Regulatory Guidance Letter (RGL) No. 16-01](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/GuidanceLetters.aspx) – Jurisdictional Determinations
* [USACE RGL No. 05-02](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/GuidanceLetters.aspx) – Expiration of Geographic Jurisdictional Determinations of Waters of the United States
* [USACE Regional Supplement to the Corps of Engineers Delineation Manual: Arid West Region (Version 2.0)](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/reg_supp.aspx)
* [USACE Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Western Mountains, Valleys and Coast Region (Version 2.0)](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/reg_supp.aspx)
* [1987 Corps Wetlands Delineation Manual](http://www.cpe.rutgers.edu/Wetlands/1987-Army-Corps-Wetlands-Delineation-Manual.pdf)
* [Revised Guidance on Clean Water Act Jurisdiction Following the Supreme Court Decision in Rapanos v. U.S. and Carabell v. U.S. – 2 December 2008](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/RelatedResources/CWAGuidance.aspx)
* [Standard Operating Procedure for Determination of Mitigation Ratios](http://www.spd.usace.army.mil/Portals/13/docs/regulatory/qmsref/ratio/12501-SPD.pdf)
* [USACE RG L05-05 - Ordinary High Water Mark](http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Guidance-Letters/)
* [USACE South Pacific Division Mitigation and Monitoring Plan Guidance](http://www.spd.usace.army.mil/Portals/13/docs/regulatory/mitigation/MitMon.pdf)

Plant Species

Regulatory Setting

The U.S. Fish and Wildlife Service (USFWS) is responsible for the protection of federally listed special-status plant species. “Special-status” species are selected for protection because they are rare and/or subject to population and habitat declines. “Special status” is a general term for species that are provided varying levels of regulatory protection. The highest level of protection is given to threatened and endangered species; these are species that are formally listed or proposed for listing as endangered or threatened under the Federal Endangered Species Act (FESA). Please see the Threatened and Endangered Species section [##] in this document for detailed information about these species.

This section of the document discusses all federally protected special-status plant species, including USFWS candidate species.

The regulatory requirements for FESA can be found at 16 United States Code (USC) Section 1531, et seq. See also 50 Code of Federal Regulations (CFR) Part 402.

Guidance

Chapter 4 of the Natural Environment Study (NES) should provide all the necessary information on federally protected plants species for the preparation of the environmental document, including affected environment, environmental consequences, and avoidance, minimization, and/or mitigation measures. When writing the environmental document, summarize the information on federally protected species and incorporate the NES by reference as needed.

This section of the document presents a broader view of special-status plant species than the more focused discussion found in the Threatened and Endangered Species section. In this section, describe the dominant plant species in the biological study area.

Keep in mind that some local governments, special districts, and other land management agencies may identify certain species of plants as important, although they may not be protected by USFWS. These plants should be discussed in this section along with avoidance, minimization, and/or mitigation measures proposed for impacts to these species.

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s). Remember to discuss/describe species that occur or have the potential to occur in the project area and the studies done to determine their presence or absence.
2. Present each species individually. Describe the dominant plant species, followed by the lesser dominant species, in the biological study area.
3. Include a discussion of the habitat conditions that were found and the species that would be supported.
4. Describe any special resource protection areas, as identified in a certified LCP, or if the project is located within 100 feet of a potential ESHA as defined by the Coastal Act, and/or where special-status species potentially occur.

Environmental Consequences

1. Discuss and quantify the potential direct and indirect, permanent and temporary, impacts of each of the project alternatives on the plants identified in the Affected Environment section using the environmental consequences documented in the NES. These should be discussed in detail here as they pertain to federally protected plant species (i.e., U.S. Forest Service) other than those listed under FESA, which are discussed in the Threatened and Endangered Species section. If work is being done on federal land (e.g., BLM or USFS), then those agencies’ regulations, policies, and Habitat Conservation Plans are followed.
2. If the project has the potential to affect ESHA or special-status species, discuss potential impacts and consistency with applicable coastal policies and ordinances.
3. Be certain that this discussion incorporates any relevant project features and standardized measures, including best practices that have avoided or minimized the project’s environmental consequences. Examples might include standard revegetation efforts performed by the Contractor (and not required as mitigation or as a permit condition), pre-construction surveys, standard erosion control measures, and the establishment of environmentally sensitive areas (ESAs).

Avoidance, Minimization, and/or Mitigation Measures

1. Identify applicable proposed avoidance, minimization, and/or mitigation measures as documented in the NES to address impacts on species identified in the Environmental Consequences section. Remember to state what the measure would do and why we are proposing it.

Potential measures can include but are not limited to:

1. Purchasing conservation easements.
2. Purchasing credits from established mitigation banks.
3. Mitigating directly on-site.

Animal Species

Regulatory Setting

Many federal laws regulate impacts to wildlife. The U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NOAA Fisheries) are responsible for implementing these laws. This section discusses potential impacts and permit requirements associated with animals not listed or proposed for listing under the federal Endangered Species Act. Species listed or proposed for listing as threatened or endangered are discussed in the Threatened and Endangered Species section [##] below. All other federally protected special-status animal species are discussed here, including USFWS or NOAA Fisheries candidate species.

Federal laws and regulations relevant to wildlife include the following:

* National Environmental Policy Act
* Migratory Bird Treaty Act
* Fish and Wildlife Coordination Act

Include and discuss, as applicable, other federal laws such as the Marine Mammal Protection Act. In addition to federal laws regulating impacts to wildlife, there are often local regulations (county or city) that should be considered when developing projects. If work is being done on federal land (e.g., BLM or USFS), then those agencies’ regulations, policies, and Habitat Conservation Plans are followed.

Guidance

Chapters 3 and 4 of the NES should provide all the necessary information on federally protected animal species for the preparation of the EIS, including affected environment, environmental consequences, and avoidance, minimization, and/or mitigation measures. When writing the environmental document, summarize the information on federally protected species and incorporate the NES by reference as needed.

This section presents a broader view of special-status animal species than the more focused discussion found in the Threatened and Endangered Species section.

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s).
2. Discuss the special status of each species included in this section. Describe any special resource protection areas, as identified in a certified LCP, or if the project is located within 100 feet of a potential ESHA as defined by the Coastal Act.
3. Discuss the common animal species that are described in Chapter 3 of the NES.
4. Discuss any survey results that will inform the Environmental Consequences section; quantify or use visuals where possible.

Environmental Consequences

1. Discuss the potential impacts to each species included in this section. Be certain that this discussion incorporates any relevant project features and standardized measures, including best practices that have avoided or minimized the project’s environmental consequences. Examples might include standard revegetation efforts performed by the Contractor (and not required as mitigation or as a permit condition), pre-construction surveys, bird protection measures, fish protection measures, and the establishment of environmentally sensitive areas (ESAs).
2. Where applicable, differentiate between temporary and permanent impacts and between alternatives.
3. Discuss possible effects to species covered by the Migratory Bird Treaty Act.
4. If the project has the potential to affect ESHA or special-status species, discuss potential impacts and consistency with applicable coastal policies and ordinances.

Avoidance, Minimization, and/or Mitigation Measures

1. Describe the proposed avoidance, minimization, and/or mitigation measures for each impact and each alternative. Highlight the important avoidance, minimization, and/or mitigation efforts taken by the PDT. Remember to state what the measure would do and why we are proposing it.

Potential measures can include but are not limited to:

1. Purchasing conservation easements.
2. Purchasing credits from established mitigation banks.
3. Mitigating directly on-site.

Threatened and Endangered Species

Regulatory Setting

The primary federal law protecting threatened and endangered species is the Federal Endangered Species Act (FESA): 16 United States Code (USC) Section 1531, et seq. See also 50 Code of Federal Regulations (CFR) Part 402. This act and later amendments provide for the conservation of endangered and threatened species and the ecosystems upon which they depend. Under Section 7 of this act, federal agencies, such as the Federal Highway Administration (FHWA) (and the Department, as assigned), are required to consult with the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NOAA Fisheries) to ensure that they are not undertaking, funding, permitting or authorizing actions likely to jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat. Critical habitat is defined as geographic locations critical to the existence of a threatened or endangered species. The outcome of consultation under Section 7 may include a Biological Opinion with an Incidental Take Statement or a Letter of Concurrence. Section 3 of FESA defines take as “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or any attempt at such conduct.”

Another federal law, the Magnuson-Stevens Fishery Conservation and Management Act of 1976, was established to conserve and manage fishery resources found off the coast, as well as anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species, Continental Shelf fishery resources, and fishery resources in special areas.

Guidance

Threatened or endangered (T & E) species are species of plants and animals that are formally listed as endangered under FESA. The Department is required to determine if the proposed projects will involve—and possibly affect—proposed or listed species and/or their critical habitat.

As noted above, federally protected special-status animals are provided varying levels of regulatory protection. If a species is listed or proposed for listing, formal consultation must be initiated with the USFWS and/or NOAA Fisheries. Informal consultation should be conducted when animals are considered USFWS candidate species. Informal consultation is especially important because non-listed species can sometimes become listed as a project is being planned, designed, or constructed, and the regulatory agencies may impose new requirements on the project.

This section on T & E species should be focused on only FESA issues. A more general discussion of other federally protected special-status species should be included in the Animal and Plant sections above.

Consult with the project biologist throughout the documentation and consultation processes. Together, develop and outline a tentative schedule of the processes. This is especially important as T & E consultation is often a critical path item for the PA&ED phase of the project development process.

Remember that for projects requiring a federal permit, involving federal land, or with federal funding, Section 7 consultation may be required. Remember also that consultation under Section 10 of FESA is not an acceptable substitute (Section 10 consultation results in a Habitat Conservation Plan).

The [SER, Vol. 3, Biological Resources](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-3-biological-resources), includes a section on FESA documentation and consultation requirements. Space does not permit a detailed overview here. However, you should be aware of the basic steps.

The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) requires federal agencies, such as the FHWA (and the Department, as assigned), to consult with the Secretary of Commerce on any action or proposed action authorized, funded, or undertaken by that agency may adversely affect essential fish habitat (EFH) as identified under the MSFCMA. Federal agencies and their delegates may use existing consultation/environmental review procedures, such as biological assessments, to satisfy the MSFCMA consultation requirements.

The biologist will complete a biological assessment (BA) where a “may affect” determination has been made. The BA is written under the direction of the federal agency having jurisdiction over the species, usually USFWS or NOAA Fisheries Service. The BA should provide all the necessary information on federal endangered species for the preparation of the environmental document, including affected environment, environmental consequences, and avoidance, minimization, and/or mitigation measures. Summarize the information and incorporate the BA by reference as needed. Remember that many of the terms used by technical specialists are not in the vocabularies of most general readers. Reword or explain difficult terms in the body of the document so the general reader can easily understand the information.

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s).
2. Summarize the federal consultation process (Section 7 consultation) and the status of consultation to date. See Chapter 5 of the NES for this information.

Reference any correspondence with the resource agencies, which must be included in Chapter 4 or as a separate appendix. A copy of a recent ([no more than 180 days](http://www.dot.ca.gov/ser/memos.htm#bio_issues) old) species list(s) requested for the proposed project must also be included in Chapter 4 or as a separate appendix. If the species list(s) are older than 180 days, request a new list, or the USFWS must verify, in writing, that the list(s) is valid. A separate species list must also be requested from NOAA Fisheries. Include copies of emails as needed to verify the date of lists obtained. If the project is outside NOAA Fisheries’ jurisdiction, state that either here or at the beginning of Chapter 3 (topics considered but not relevant).

For the final environmental document, include the Biological Opinion and/or any concurrence with “May Affect, Not Likely to Adversely Affect.” If available, copies of the 2081 Incidental Take Permit and the 2080.1 Consistency Determination, as applicable, should also be included.

1. Identify species within the project area and any survey results.

Environmental Consequences

1. Be certain that this discussion incorporates any relevant project features and standardized measures, including best practices that have avoided or minimized the project’s environmental consequences. Examples might include standard revegetation efforts performed by the Contractor (and not required as mitigation or as a permit condition), standard erosion control measures, pre-construction surveys, bird protection measures, fish protection measures, wetland protection measures, biological monitoring during construction, the inclusion of a natural resource protection plan as a contract bid item, and the establishment of environmentally sensitive areas (ESAs).
2. In this section, discuss the potential impacts to each species and/or critical habitat on the valid species list received from USFWS. Include all effect findings (No Effect; May Affect, Not Likely to Adversely Affect; May Affect, Likely to Adversely Affect) where they have been made. The final environmental document must include an effect finding for all listed/proposed species and designated or proposed critical habitat on both of the USFWS and NOAA Fisheries species lists. Note that at the draft environmental document stage, you should at a minimum be able to clearly state anticipated effects (No Effect or May Affect) related to listed/proposed species and/or critical habitat. Summarize the consultation process and provide the date of the BO and/or letter of concurrence. A table can be used to summarize effect findings or provide a statement that clearly identifies the species and effect finings (e.g. The project has no effect on all species listed in Appendix X, except for the San Joaquin Kit Fox. The project may affect, but is not likely to adversely affect the San Joaquin Kit Fox).

Example table:

**FESA Effect Findings [or Preliminary Effect Findings for draft environmental document]**

**Note: For listed species where there is no designated critical habitat present, put N/A in the table.**

| **Common Name** | **Scientific Name** | **Status** | **Effect Finding** | **Effect Finding for Critical Habitat (if applicable).** |
| --- | --- | --- | --- | --- |
| **Plants** |
| Butte County Meadowfoam | *Limnanthes floccosa ssp. californica* | FE\* | No Effect | N/A |
| Sacramento Orcutt Grass | *Orcuttia viscida* | FE | No Effect | N/A |
| **Invertebrates** |
| Vernal Pool Fairy Shrimp | *Branchinecta lynchi* | FT | May Affect, Likely to Adversely Affect | May Affect, Likely to Adversely Affect |
| Conservancy Fairy Shrimp | *Branchinecta conservatio* | FE | May Affect, Likely to Adversely Affect | May Affect, Likely to Adversely Affect |
| **Amphibians and Reptiles** |
| California Red-Legged Frog | *Rana draytonii* | FT | May Affect, Not Likely to Adversely Affect | No Effect |
| Giant Garter Snake | *Thamnophis gigas* | FT | May Affect, Not Likely to Adversely Affect | No Effect |
| **Mammals** |
| Riparian Brush Rabbit | *Sylvilagus bachmani riparius* | FE | No Effect | N/A |

\*Federal Endangered (FE); Federal Threatened (FT); Federal Proposed (FP, FPE, FPT).

Avoidance, Minimization, and/or Mitigation Measures

1. Describe the proposed avoidance, minimization, and/or mitigation measures for each impact (reference the project description in the BA during the draft document and the BO terms and conditions in the final). Remember to state what the measure would do and why we are proposing it, and note where the measure was the outcome of consultation.

**Additional Guidance**

* [Clarification Regarding Federal Endangered Species List Validity, Phil Stolarski, January 9, 2017](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/policy-memos%22%20%5Cl%20%22bio_issues)
* [50 CFR Section 402.12 (Biological Assessments)](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#Ch1ESA1973)
* [SER, Volume 3, Biological Resources](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-3-biological-resources)
* [USFWS and NMFS BA Checklists](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/forms-templates#faqs)

Invasive Species

Regulatory Setting

On February 3, 1999, President William J. Clinton signed Executive Order (EO) 13112 requiring federal agencies to combat the introduction or spread of invasive species in the United States. The order defines invasive species as “any species, including its seeds, eggs, spores, or other biological material capable of propagating that species, that is not native to that ecosystem whose introduction does or is likely to cause economic or environmental harm or harm to human health." Federal Highway Administration (FHWA) guidance issued August 10, 1999 directs the use of the State’s invasive species list, maintained by the [California Invasive Species Council](http://www.iscc.ca.gov/) to define the invasive species that must be considered as part of the National Environmental Policy Act (NEPA) analysis for a proposed project.

GUIDANCE

Writing the Document

Affected Environment

1. List applicable technical report(s) along with completion date(s).
2. Identify and quantify any existing invasive species within the project area. Note: Invasive species include animals (invertebrates and vertebrates) as well as plants.

Environmental Consequences

1. Discuss the potential of the project to promote or inhibit the spread of invasive species. State that invasive species will not be used in any landscaping needed for the project. Discuss any additional measures that will be used to combat invasive species. See sample text below:

In compliance with the Executive Order on Invasive Species, EO 13112, and guidance from the Federal Highway Administration (FHWA), the landscaping and erosion control included in the project will not use species listed as invasive. None of the species on the California list of invasive species is used by the Department for erosion control or landscaping in XYZ. All equipment and materials will be inspected for the presence of invasive species and cleaned if necessary. In areas of particular sensitivity, extra precautions will be taken if invasive species are found in or next to the construction areas. These include the inspection and cleaning of construction equipment and eradication strategies to be implemented should an invasion occur.

Avoidance, Minimization, and/or Mitigation Measures

Discuss any required avoidance, minimization, and/or mitigation measures.

Additional Guidance

* [FHWA Guidance on Invasive Species](http://www.environment.fhwa.dot.gov/ecosystems/wildlife/inv_guid.asp)
* [National Invasive Species Council](http://www.invasivespecies.gov/index.html)
* [California Invasive Species Council](http://www.iscc.ca.gov/)

[Relationship between Local Short-Term Uses of the Human Environment and the Maintenance and Enhancement of Long-Term Productivity](#relationship)

GUIDANCE

The EIS should discuss in general terms the proposed action's relationship between local short-term impacts and use of resources, and the maintenance and enhancement of long-term productivity. This general discussion might recognize that the build alternatives would have similar impacts. The discussion should point out that transportation improvements are based on state and/or local comprehensive planning that consider(s) the need for present and future traffic requirements within the context of present and future land use development. In such a situation, one might conclude that the local short-term impacts and use of resources by the proposed action are consistent with the maintenance and enhancement of long-term productivity for the local area, region, or state. See sample text below.

Project implementation will result in attainment of short-term and long-term transportation and economic goals at the expense of some long-term social, aesthetic, biological, noise, parkland, and other land use impacts.

**Build Alternatives**

The build alternatives would have similar impacts.

**Short-term losses would include:** economic losses experienced by businesses that relocate; construction impacts such as noise, motorized and non-motorized traffic delays or detours; and recreational impacts such as access inconveniences to the Little League fields and/or the regional park, and trail detours or closures.

**Short-term benefits would include:** increased jobs and revenue generated during construction.

**Long-term losses would include:** permanent loss of plant and wildlife resources, loss of open space, visual impacts, community character and cohesion impacts, noise increases, use of construction materials and energy, trail impacts, homes and stables displaced from the community, loss of regional park lands, and archaeological site values lost.

**Long-term gains include:** improvement of the transportation network in the region and the project vicinity, increased access to the region or project vicinity, reduction of congestion on local streets and highways, use of private funds to construct a public facility (for the tollway), faster project delivery (tollway) through use of private funds, increased jobs and revenue through creation of new toll operation industry, and support of approved development.

**No-Project**

This alternative would offer none of the gains or have any of the losses listed above. It would, however, do nothing to resolve worsening congestion on local streets and highways. Private funding to provide public transportation facilities would not be available.

Irreversible and Irretrievable Commitments of Resources That Would Be Involved in the Proposed Project

GUIDANCE

The EIS should discuss in general terms the proposed action's irreversible and irretrievable commitment of resources. This general discussion might recognize that the build alternatives would require a similar commitment of natural, physical, human, and fiscal resources. An example discussion would be as follows:

The proposed action involves a commitment of a range of natural, physical, human, and fiscal resources. Land used in the construction of the proposed facility is considered an irreversible commitment during the period that the land is used for a highway facility. However, if a greater need arises for use of the land or if the highway facility is no longer needed, the land can be converted to another use. At present, there is no reason to believe such a conversion would ever be necessary or desirable.

Considerable amounts of fossil fuels, labor, and highway construction materials such as cement, aggregate, and bituminous material are used. Additionally, large amounts of labor and natural resources are used in the making of construction materials. These materials are generally not retrievable. However, they are not in short supply and their use would not have an adverse effect upon continued availability of these resources. Any construction would also require a substantial one-time use of both state and federal funds, which are not retrievable; savings in energy, time, and a reduction in collisions would offset this. In addition to the costs of construction and right-of-way would be costs for roadway maintenance, including pavement, roadside, litter/sweeping, signs and markers, electrical and storm maintenance.

The commitment of these resources is based on the concept that residents in the immediate area, region, and state would benefit from the improved quality of the transportation system. These benefits would consist of improved accessibility and safety, which are expected to outweigh the commitment of these resources.

Construction Impacts (optional placement)

If construction impacts have not been discussed above and/or the project is likely to have many construction impacts, consider adding a separate Construction Impacts section. Potential subjects include: construction phasing/schedule/work hours, noise, air quality (dust), access issues (pedestrian, cyclists, equestrians, etc.), utilities, detours, traffic delays, and emergency vehicle access. Be certain to discuss how standardized measures, including best practices will minimize these impacts. Remember to discuss proposed borrow/fill and optional disposal sites (see [Design Information Bulletin 85](https://dot.ca.gov/programs/design/design-information-bulletins-dibs)). Also, identify and assess impacts associated with the staging and storage of equipment. List applicable technical report(s) along with completion date(s).

Additional Guidance

* [Design Information Bulletin 85: Guidance for the Consideration of Material Disposal, Staging, and Borrow Sites](https://dot.ca.gov/programs/design/design-information-bulletins-dibs), May 13, 2007.
* [Disposal Site Quality Team Final Report](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/other-guidance#disposal). This report addresses Department and FHWA policies on disposal, staging, and borrow areas, including plant sites, contractor yards, and access roads.

Cumulative Impacts (optional placement)

If cumulative impacts have not been discussed under each resource section above, discuss them here.

Regulatory Setting

Cumulative impacts are those that result from past, present, and reasonably foreseeable future actions, combined with the potential impacts of the proposed project. A cumulative effect assessment looks at the collective impacts posed by individual land use plans and projects. Cumulative impacts can result from individually minor but collectively substantial impacts taking place over a period of time.

Cumulative impacts to resources in the project area may result from residential, commercial, industrial, and highway development, as well as from agricultural development and the conversion to more intensive agricultural cultivation. These land use activities can degrade habitat and species diversity through consequences such as displacement and fragmentation of habitats and populations, alteration of hydrology, contamination, erosion, sedimentation, disruption of migration corridors, changes in water quality, and introduction or promotion of predators. They can also contribute to potential community impacts identified for the project, such as changes in community character, traffic patterns, housing availability, and employment.

A definition of cumulative impacts under the National Environmental Policy Act (NEPA) can be found in 40 Code of Federal Regulations (CFR) Section 1508.7.

Guidance

In 2005, the Department, in conjunction with the FHWA and U.S. EPA, developed a guidance document entitled[Guidance for Preparers of Cumulative Impact Analysis](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/other-guidance#cumulative).

The information outlined here summarizes that guidance. Additional guidance can be found at the end of this section.

A cumulative impact analysis, while complex, can be broken down into several steps that will facilitate the overall analysis. Gathering the necessary information about each resource, pulling the needed specifics from the whole, and organizing this into a usable format for the analysis are generally the most time-consuming parts of a cumulative impacts analysis.

Note: It is helpful to keep in mind that an analysis of cumulative impacts looks at the effects on a resource by multiple actions, including the proposed project. This means that a cumulative impact analysis focuses on the resource. The analysis will be easier if you keep asking, “What will happen to the resource?”

Writing the Document

The following eight steps serve as guidelines for identifying and assessing cumulative impacts. Document and discuss each step in the EIS.

1. Identify/define the project-specific resources to consider in a cumulative effect analysis. Depending on the project, resources may have different degrees of impacts, ranging from none to significant. List each resource area for which the project could cause direct or indirect impacts. If a project will not cause direct or indirect impacts on a resource, it will not contribute to a cumulative impact on that resource, and need not be further evaluated. Document this conclusion in the environmental document.
2. Define the geographic boundary or resource study area (RSA) for each resource to be addressed in the cumulative impact analysis. There will be a separate resource study area for each resource, rather than a single study area for all resources combined, and the boundaries of RSAs for cumulative impacts analysis are also often broader than the boundaries used for analyzing the project’s direct impacts. For more information on determining the correct geographic boundaries associated with an individual resource, refer to the issue paper entitled [*Defining Resource Study Areas*](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/cumulative-impact-analysis-purpose) in the Guidance for Preparers of Cumulative Impact Analysis.
3. Describe the current health and the historical context of each resource. “Tell the story of the resource.” Describe its current health, condition, or status within the RSA, and provide historical context that explains how the resource got to its current state. Remember that a cumulative impact analysis considers the effects on a resource from past, present, and reasonably foreseeable future actions, combined with the potential impacts of the proposed project. It is not always practical or necessary to provide an exhaustive list of past projects that have affected the resource. Rather, the historical context should identify key historical patterns or a range of activities that have contributed to the current condition of the resource. This historical analysis should not be limited to transportation projects, but rather all types of activities that have contributed to the current condition of the resource. Describe the influence that these patterns or activities have had on the resource and the timeframe in which the notable changes have occurred.
4. Identify the direct and indirect impacts of each of the proposed project alternatives that might contribute to a cumulative impact on the identified resources. If the environmental impacts of the various project alternatives are similar, the discussion of project impacts may be represented by one alternative. If impacts vary substantially between alternatives, describe each alternative’s potential for cumulative impacts.
5. Identify other current and reasonably foreseeable future actions or projects and their associated environmental impacts. Reasonably foreseeable future projects are those that are likely to occur in the future and will add to the cumulative impact on a particular resource. If an impact is permanent and would occur to a resource indefinitely, a time frame of 20 years is recommended for analysis. Again, this discussion should not be limited to transportation projects.

Although there is no uniform established standard, generally, projects will be considered “reasonably foreseeable” if they:

1. Have applications pending with a government agency.
2. Are included in an agency’s budget or capital improvement program.
3. Are foreseeable future phases of existing projects.

Keep in mind that CEQ regulations, as explained in [FHWA guidance](https://www.environment.fhwa.dot.gov/nepa/QAimpact.aspx), require cumulative impact analyses to focus on actions “that are likely or probable, rather than those that are merely possible” (FHWA 2003). For more suggestions about how to gather the information for the analysis, refer to the [Data Gathering Issue Paper](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/cumulative-impact-analysis-purpose).

1. Assess the potential cumulative impacts. A variety of analysis methods and tools can be used to compile and analyze the data. [Chapter 5 of CEQ’s Considering Cumulative Effects](https://ceq.doe.gov/publications/cumulative_effects.html) describes a variety of methods or tools ranging from preparing a matrix or a map overlay to conducting modeling or trends analysis. Determine for each resource (1) whether there is currently a cumulative impact on the resource in the resource study area; and (2) whether the impacts from your project would contribute to that impact, and if so, at what level.
2. Report the results of the cumulative impact analysis in the environmental document, identifying the RSA, its current health and historical context, project impacts that might contribute to a cumulative impact, other current and reasonably foreseeable actions considered in the cumulative impact analysis, information sources and methodology, and conclusions.
3. Assess the need for avoidance, minimization, and/or mitigation measures and/or recommendations for actions by other agencies to address a cumulative impact. Mitigation for a cumulative impact is often beyond the jurisdiction of the FHWA, the Department, or NEPA cooperating agencies. Successful mitigation measures might require actions by local or regional agencies that have authority for making land use decisions. Therefore, disclosure of mitigation for cumulative impacts is not based on or limited to specific mitigation measures that can be implemented by the lead agency.

If it was not possible to identify a mitigation measure that will be incorporated into the project, list the agencies that have regulatory authority over the resource and recommend actions those agencies could take to influence the sustainability of the resource. For more information about mitigation by others, see CEQ’s discussion of mitigation in [NEPA’s 40 Most Asked Questions](http://ceq.eh.doe.gov/nepa/regs/40/11-19.htm#19), Number 19b.

Additional Guidance

There are many publications in print that can help you with a cumulative impact analysis. The intent of this annotation is to provide a brief, simple explanation of this type of analysis. For more information, please visit and/or obtain any of the following:

* [Guidance for Preparers of Cumulative Impact Analysis](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/other-guidance#cumulative)
* [Considering Cumulative Effects under the National Environmental Policy Act](https://ceq.doe.gov/publications/cumulative_effects.html). Council on Environmental Quality. January 1997.
* [Guidance on the Consideration of Past Actions in Cumulative Effects Analysis](https://www.energy.gov/nepa/downloads/guidance-consideration-past-actions-cumulative-effects-analysis-ceq-2005). Council on Environmental Quality. June 2005.
* Environmental Protection Agency. [Consideration of Cumulative Impacts in EPA Review of NEPA Documents](https://www.epa.gov/nepa/cumulative-impacts-guidance-national-environmental-policy-act-reviews). U.S. Environmental Protection Agency, Office of Federal Activities. May 1999.
* McCold, L.N. and J.W. Saulsbury. Including Past and Present Impacts in Cumulative Impact Assessments. Environmental Management. Vol. 20 no.5 pp. 767-776. 1996.

Chapter 4 – Comments and Coordination

Regulatory Setting

Not required.

Guidance

Writing the Document

1. Documenting Coordination
2. Provide a brief introduction to this chapter (sample text below).

Early and continuing coordination with the general public and public agencies is an essential part of the environmental process. It helps planners determine the necessary scope of environmental documentation and the level of analysis required, and to identify potential impacts and avoidance, minimization, and/or mitigation measures and related environmental requirements. Agency and tribal consultation and public participation for this project have been accomplished through a variety of formal and informal methods, including interagency coordination meetings, public meetings, public notices, Project Development Team (PDT) meetings (continue list as needed). This chapter summarizes the results of the Department’s efforts to fully identify, address, and resolve project-related issues through early and continuing coordination.

1. Describe the 23 USC 139 coordination plan prepared for the project for participating agency and public input and comment during the 23 USC 139 environmental review process. Please note that with the passage of the FAST Act, projects with a Notice of Intent (NOI) published after December 4, 2015 must establish a coordination plan no later than 90 days after the NOI has been published. In addition, a schedule is now required and must be concurred upon by the participating agencies and included as part of the coordination plan. The summary of the coordination plan must include the following:
2. Schedule.
3. Notice of initiation.
4. List of lead, cooperating, and participating agencies.
5. Process for inviting participating agencies. Note: Participating agencies must be identified and invitations sent no later than 45 days after the publication of the NOI.
6. Which agencies have accepted participating agency status.
7. How and when opportunities for involvement were given on:
8. Purpose and need.
9. Range of alternatives.
10. Preferred alternative.
11. Methodology for analyzing alternatives.
12. Process for early identification of issues.
13. If the preferred alternative was developed to a greater level of detail, a summary of the decision to do so by lead agencies and their justification under 23 USC 139.
14. Status of permits and approvals.
15. Discuss the scoping process including the date the Notice of Intent (NOI) was published. The NOI must be included as an appendix to the EIS.
16. Describe the process, including meeting dates, attendees, issues raised, and comments received.
17. Describe consultation and coordination with public agencies and tribal governments.
18. State which public agencies and tribal governments were contacted during the project’s development. For each entity, do the following:
19. Provide a chronology of all meetings, workshops, hearings, etc. that the agency participated in. If this is an extensive list, it can be a combined list for all agencies and be moved to the back of the chapter.
20. Describe the results of the coordination to date; in other words, document critical decisions. If the agency has taken a position on the project or an issue associated with the project, state the agency’s position.
21. Describe the status of any needed approvals or permits from the agencies.

Note: The level of detail provided for each item above should be commensurate with the controversy and complexity of the project.

1. Include correspondence with agencies (e.g., concurrence letters) at the end of this chapter. Larger approval documents such as the biological opinion, the Memorandum of Agreement (MOA) for cultural resources, Federal Coastal Consistency Certification, and others should be included in the back of the document as appendices.
2. Discuss public participation, including participation by Native American individuals.
3. Describe the public participation methods used for the proposed project. Methods could include PDT participation, citizen advisory committees, mailing lists, newsletters, newspaper notices/articles, public meetings/workshops, and web-based information. Include dates when applicable. Include a copy of the NOI.
4. Describe the results of the public participation process—number of attendees, comments received, issues raised, and any other pertinent facts.
5. If a public hearing or public open house/informational meeting was held, provide the following information:
* Date, time and location of hearing
* Type of hearing
* Number of attendees
* Number of written comments
* Number of comments taken by court reporter
* Summary of meeting outcome, issues raised, etc.
1. Comments and Responding to Comments

If comments are received on the Draft EIS during the public availability period and/or at the public hearing, the Final EIS must be modified to reflect all substantive comments and responses to those comments. Substantive comments are those comments that are related to the facts of the project, environmental document, or studies—comments that are purely just expressing support or opposition to the project without any factual substantiation may be acknowledged but do not generally require a response. Comments and responses to comments can either be included in this chapter or as an appendix in the back of the document.

1. A response must be made to all substantive comments received on the Draft EIS. Options for responding include:
2. Modifying the design of the proposed project and reflecting the modifications in the document.
3. Supplementing, improving, or modifying the analysis in the Final EIS.
4. Making factual corrections.
5. Explaining why the comments do not require modification to the document and/or proposed project. If this is the case, the response should cite sources, authorities or reasons that support the Department’s position.
6. If changes are made to the text of the Final EIS as a result of comments received, those changes must be marked with a line in the margins of the document and the responses to comments should include a reference to the document change.
7. To improve readability, it is recommended that the comment letter and corresponding response(s) be side by side on the same page.
8. “Comment noted” is typically not an appropriate response to a substantive issue. Do not use this as a way to avoid difficult issues. “Comment noted,” is only appropriate when someone has expressed an opinion, such as “I don’t think this project is needed,” or “I support alternative XYZ,” or when there is simply no other response possible. Consider responding “Your support of project ’X,’ Alternatives 1, 2, and 3 is acknowledged and included in the project record.”

Responses to comments should address the issue or concern of the person who commented and should be based on facts and/or reasoned judgment. In responding to comments, it is often necessary to engage other members of the internal PDT.

1. Remember to deal sensitively with public comments. When responding to comments, keep in mind that the person cared enough about the issue to make a comment, so a good response requires at least as much care.
2. If many comments are received, the comments and responses may be summarized; however, comment letters from elected officials and local, state, and federal agencies and planning groups should always be included in their entirety in the document, along with the responses.
3. For purposes of an EIS, comments received after the public availability period and up until the final NEPA decision document should also be addressed and considered.

Additional Guidance

* AASHTO [Practitioners Handbook Responding to Comments](http://www.environment.transportation.org/center/products_programs/practitioners_handbooks.aspx#1)
* [FHWA 6002 Guidance](https://www.fhwa.dot.gov/hep/guidance/section6002/page00.cfm)

Chapter 5 – List of Preparers

The list of preparers should include a list of state and local agency personnel, including consultants, who were primarily responsible for preparing the environmental document and technical studies. Legal counsel who reviewed the document should NOT be included on this list. It is typical to list Department staff first, followed by local agency personnel, and then consultant staff. If the project is not assigned, FHWA personnel would also be included. For more information on the requirements for a List of Preparers, please see [FHWA Technical Advisory T 6640.8A - Guidance for Preparing and Processing Environmental and Section 4(f) Documents, October 30, 1987](http://environment.fhwa.dot.gov/projdev/impta6640.asp).

The following provides a sample format that can be used. Typically, staff members are listed alphabetically by last name:

The following Department staff and consultants contributed to the preparation of this EIS.

Paul Alfa, Transportation Engineer (NPDES Coordinator). M.S. Civil and Environmental

Engineering, University of California at Davis. 5 years of experience working in the water resources sector; 3 years with the Department as an NPDES Coordinator. Contribution: Water Quality Report.

Sandy Beta, Associate Environmental Planner. B.A. Anthropology, California State

 University at Sacramento; M.A. Anthropology University of Oklahoma at Norman. 13 years experience in environmental surveys and document preparation. Contribution: Community Impact Assessment, Cumulative Impacts Analysis, and environmental document preparation.

Julia Charlie, Senior Environmental Planner. B.S. Environmental Policy Analysis and

Planning, University of California at Berkeley; M.S. Transportation Management, San Jose State University. 22 years experience performing environmental studies and document preparation. Contribution: Environmental document preparation.

Robert Delta, Associate Environmental Planner (Natural Sciences). B.A, Environmental

 Studies, California State University at Sacramento. 15 years experience with

the Department conducting wildlife biology and botany studies and surveys. Contribution: Natural Environment Study, Biological Assessment, and Wetland Delineation.

John Echo, Associate Environmental Planner. M.A. Anthropology, California State

 University at Chico. Professionally Qualified Staff: Principal Investigator, Prehistoric Archaeology. 25 years archaeological experience including 9 years with the Department. Contribution: Cultural resource compliance documents.

When a document is primarily prepared by consultant staff, Department staff should include their oversight role. For example:

**Department Staff**

Julia Charlie, Senior Environmental Planner. B.S. Environmental Policy Analysis and

Planning, University of California at Berkeley; M.S. Transportation Management, San Jose State University. 22 years experience performing environmental studies and document preparation. Contribution: Environmental document oversight.

Robert Delta, Associate Environmental Planner (Natural Sciences). B.A, Environmental

Studies, California State University at Sacramento. 15 years experience with the Department conducting wildlife biology and botany studies and surveys. Contribution: Natural Environment Study, Biological Assessment, and Wetland Delineation oversight.

**ABC Consulting Firm, Inc.**

Diana Foxtrot, Senior Project Coordinator. B.S. Environmental Planning, University of

California at Santa Barbara. 5 years experience in environmental planning and permitting. Contribution: Environmental document preparation.

Jackie Golf, Project Biologist. B.S. Biological Sciences, California State University at

Humboldt. 9 years experience in conducting wildlife surveys and wetland delineations. Contribution: Natural Environment Study, Biological Assessment, and Wetland Delineation.

Chapter 6 – Distribution List

Include the [distribution list](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/forms-templates#aos) for the EIS.

APPENDICES

Appendix A. Section 4(f) (if applicable)

Additional information regarding the guidance in this appendix can be found in [Chapter 1, “Federal Requirements”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#4fguidance) and [Chapter 20, “Section 4(f) and Related Requirements”](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-20-section-4f) of the SER. If it is determined that one or more properties trigger the provisions of Section 4(f), coordinate early with your HQ Environmental Coordinator to determine the need for and the content of a Section 4(f) analysis.

Guidance

**Determining the appropriate level of Section 4(f) analysis and documentation**

Analyze all archaeological and historic sites within the Section 106 area of potential effects (APE) and all parks, recreational facilities, and wildlife and waterfowl refuges within the Section 4(f) study area to determine whether they are protected Section 4(f) properties. The Section 4(f) study area should include properties within and immediately adjacent to the project limits, and nearby properties to ensure that proximity impacts can be considered.

* If there are no potential Section 4(f) properties within the project vicinity, clearly state that in the beginning of Chapter 3 under topics considered but not relevant and the Parks and Recreational Facilities and/or Cultural Resources section(s) of the environmental document and omit this appendix.
* If there are potential Section 4(f) properties within the project vicinity, there are four possible outcomes for EACH property, each of which should be clearly and briefly stated in the appropriate section of the environmental document (Parks and Recreational Facilities and/or Cultural Resources) AND addressed in this appendix under one of the following headings:
	+ Individual Section 4(f) Evaluation
	+ Programmatic Section 4(f) Evaluation
	+ Section 4(f) *De Minimis* Determination
	+ Resources Evaluated Relative to the Requirements of Section 4(f): No-Use Determination (this includes properties for which it is has been determined that Section 4(f) does not apply AND properties for which Section 4(f) does apply but there is no use).
* While each property can have only one finding or determination, the project as a whole may have many different findings or determinations. For example, a single project might have six potential Section 4(f) properties. Following the analysis, it may be determined that one is not eligible for protection under Section 4(f), one will have no use, two will have *de minimis* impacts, one property qualifies for a Programmatic evaluation, and one property requires an Individual evaluation. In another example, a single project could have five potential Section 4(f) properties. Following the analysis it is determined that three of these properties will have *de minimis* impacts, while the other two properties quality for two different Programmatic evaluations.

Use the sections of this appendix that are applicable to your project. There is no need for a separate technical report if Section 4(f) is addressed as part of the environmental document that will be circulated to the public. See Chapter 20 of the SER for documentation and circulation requirements if a categorical exclusion is being prepared for the project.

The Basic Section 4(f) Analysis

There are five basic steps involved in the Section 4(f) analysis. The Department must determine: (1) if Section 4(f) applies to the project, (2) if there are Section 4(f) properties within the project vicinity, (3), if there is a “use” of the Section 4(f) property, (4) if there is an exception to the “use,” and (5) the level of approval required for the “use.” The Department must then document the analysis.

*Step 1: Determine if Section 4(f) applies to the project*

1. Is there U.S. Department of Transportation (usually FHWA or FTA for Department projects) involvement (funding, right-of-way, action) in the project?
2. If not, Section 4(f) does not apply.

*Step 2: Determine if there are Section 4(f) properties within the project vicinity*

1. Are there any *publicly owned* lands of a *public* park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance within the project area?
2. If the land is not publicly owned or is not open to the public, it is not protected by Section 4(f), unless it is a significant historic site (see number 2 below). Some publicly owned wildlife refuges may have restrictions on public access but are still protected by Section 4(f).
3. The determination of significance is made by the federal, state, or local officials having jurisdiction over the land. If a determination cannot be obtained, the land is presumed to be significant. The Department, as assigned, will make an independent evaluation to assure that the official’s finding of significance or non-significance is reasonable.
4. Are there any lands of a historic site of national, state, or local significance within the project area?
5. For historic sites, the land does not have to be publicly owned or open to the public for Section 4(f) to be triggered.
6. In most cases, significance for historic sites under Section 4(f) means the site is listed in or eligible for listing in the National Register of Historic Places. If the historic site is not significant, then it is not protected by Section 4(f).
7. Section 4(f) does not apply to archaeological resources that are important chiefly because of what can be learned from data recovery and have minimal value for preservation in place [23 CFR 774.13(b)(1)]. In other words, Section 4(f) applies to archaeological sites that are in or eligible for listing in the National Register AND that warrant preservation in place. The Department determines this through coordination with the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP).

*Step 3: Determine if there is a “use” of the Section 4(f) property*

1. If it is determined that one or more properties trigger the provisions of Section 4(f), determine whether the project would “use” those properties [23 CFR 774.17 *use* definition].

*Use* occurs when:

* 1. land is permanently incorporated into a transportation facility [permanent acquisition or permanent easement], or
	2. there is a temporary occupancy of land that is adverse in terms of the statute’s preservationist purpose, or
	3. there is (are) proximity impact(s) that substantially impair(s) the purpose of the land (this is called constructive use). An example of constructive use would be excessive noise near an amphitheater. Constructive uses are very rare. Note: if you believe that there may be a constructive use, contact your HQ Environmental Coordinator as soon as possible for assistance. Your HQ Environmental Coordinator will contact FHWA for approval of any constructive use determinations (this is required even under NEPA Assignment).

*Step 4: Determine if there is an exception to the “use” of the Section 4(f) property*

There are seven exceptions to the “use” of Section 4(f) properties (23 CFR 774.13). The most common exception that the Department applies is the temporary occupancy exception.

For the purposes of Section 4(f), temporary construction easements do not normally constitute “use” if ALL of the following five conditions are met for temporary occupancy [(23 CFR 774.13(d)]:

1. Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land;
2. Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the Section 4(f) property are minimal;
3. There are no anticipated permanent adverse physical impacts, nor will there be interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis;
4. The land being used must be fully restored, i.e., the property must be returned to a condition which is at least as good as that which existed prior to the project; and
5. There must be documented agreement of the official(s) with jurisdiction over the Section 4(f) property regarding the above conditions. This documentation must be included in the final environmental document in either Chapter 4, “Comments and Coordination” or as a separate appendix.

If all of the five conditions are met for temporary occupancy, then a “use” did not occur under Section 4(f). Document why a use did not occur in the project file by explaining how all five conditions are met and the exception for temporary occupancy applies. Include this analysis below under the heading “Resources Evaluated Relative to the Requirements of Section 4(f): No-Use Determination.”

If the project cannot meet the above five conditions, then there is a “use” for purposes of Section 4(f). See 23 CFR 774.13(d), 23 CFR 774.17 and the FHWA website, including the Section 4(f) Policy Paper, for more details regarding temporary occupancy and “use.”

*Step 5: Determine the level of approval required for the “use.”*

There are three types of approval to the “use” of a Section 4(f) property: (1) *de minimis*, (2) programmatic, and (3) individual.

1. If it is determined that there would be a “use” of a property or properties protected by Section 4(f), could that use be approved by a *de minimis* impact finding?
2. *De minimis* impacts on publicly owned parks, recreation areas, and wildlife and waterfowl refuges are defined as those that do not adversely affect the activities, features, and attributes of the 4(f) property. The *de minimis* impact finding considers avoidance, minimization, compensation, or enhancement measures. Following an opportunity for public review and comment, the official(s) with jurisdiction over the property must provide written concurrence; only then can the Department (as assigned by the FHWA) make the final determination on the *de minimis* impact finding.
3. *De minimis* impacts on historic sites are defined as the determination of either ”no adverse effect” or "no historic properties affected" in compliance with Section 106 regulations, including the SHPO’s written concurrence, and ACHP’s written concurrence, when applicable. [NOTE: Any finding under Section 106 other than “no adverse effect” or “no historic properties affected” will require either a Programmatic evaluation or an Individual evaluation.] Under the Department’s First Amended Programmatic Agreement for Section 106, the Department must inform the SHPO in writing that a non-response for the purposes of a “no adverse effect” or a “no historic properties affected” determination will be treated as the written concurrence for the *de minimis* impact finding. The Department (as assigned by the FHWA) makes the final determination on the *de minimis* impact finding.
4. If the Section 4(f) “use” qualifies for a *de minimis* impact, see the “Section 4(f) [*De Minimis* Determination](#De_Minimis)” section below, which highlights the major points needed to properly document the *de minimis* impact finding.
5. In addition to documenting the analysis below in the “Section 4(f) *De Minimis* Determination” section, briefly summarize the *de minimis* impact finding under the appropriate section of the environmental document (Parks and Recreational Facilities and/or Cultural Resources). The information does not need to be repeated verbatim in the environmental document; present the Section 4(f) use in a few sentences and direct the reader to the Section 4(f) appendix for more information.
6. If it is determined that there would be a “use” of a property or properties protected by Section 4(f) and the use is not *de minimis*, then a Programmatic or Individual evaluation will be needed.

Note: If there is an Individual Section 4(f) evaluation, then it should include, as sub-sections:

* + Programmatic Section 4(f) Evaluation(s)
	+ Section 4(f) *De Minimis* Determination(s)
	+ Resources Evaluated Relative to the Requirements of Section 4(f): No-Use Determination(s)

**Multiple Protected Section 4(f) Properties**. If the proposed project has multiple protected Section 4(f) properties, it may be easier for the reader if the evaluation is organized so that each property is discussed separately. In other words, describe each property, then discuss the use of that property, then ascertain if there is a feasible and prudent avoidance alternative that avoids the use of the Section 4(f) property by considering the six factors specified in 23 CFR 774.3(c), discuss measures to minimize harm to that property, then document the coordination for that property, and lastly add the concluding statement for that property. Then move on and do the same for each additional Section 4(f) property. Using this approach, the overall organization would look as follows:

* Introduction
* Description of proposed project (include all alternatives)
* List and describe the Section 4(f) properties
	1. Describe the use of [insert name of first property] (discuss the degree of use caused by each alternative)
		1. Avoidance alternatives for all Section 4(f) properties (i.e., any avoidance alternatives must avoid each and every Section 4(f) property, not just the property being discussed).
		2. Measures to minimize harm to [insert name of first property]
		3. Coordination conducted for [insert name of first property]
		4. Concluding statement for [insert name of first property]
	2. Describe the use of [insert name of second property] (discuss the degree of use caused by each alternative)
		1. Avoidance alternatives for all Section 4(f) properties (i.e., any avoidance alternatives must avoid each and every Section 4(f) property, not just the property being discussed).
		2. Measures to minimize harm to [insert name of second property]
		3. Coordination conducted for [insert name of second property]
		4. Concluding statement for [insert name of second property]
* Sub-sections, as applicable, describing Programmatic evaluation(s), *de minimis* determinations, and No-Use determinations. Follow the directions provided below for each of these situations, but there is no need to repeat any regulatory language that has already been used.
* Letters and other correspondence

**Section 6(f) Consideration**

State and local governments often obtain grants through the Land and Water Conservation Fund Act (LWCF) to acquire or make improvements to parks and recreational areas. Section 6(f) of this act prohibits the conversion of property acquired or developed with these grants to a non-recreational purpose without the approval of the Department of Interior’s National Park Service. If LWCF funds were used for acquisition or improvement, certain requirements must be met before the land can be acquired (see SER, Vol. 1, Chapter 20, “Section 4(f) and Related Requirements”). Section 6(f) properties should be identified and discussed in the Section 4(f) evaluation.

**Documenting the Analysis**

**Include the appropriate sections below in your document as applicable (Use links below to jump to appropriate section):**

[Individual Section 4(f) Evaluation](#Individual)

[Programmatic Section 4(f) Evaluation](#Programmatic)

[Section 4(f) *De Minimis* Determination](#De_Minimis)

[Resources Evaluated Relative to the Requirements of Section 4(f): No Use Determination](#Resources_Evaluated)

[Section 6(f) Consideration](#Section_6f)

Individual Section 4(f) Evaluation

GUIDANCE

The purpose of an Individual Section 4(f) evaluation is to analyze the alternatives that avoid the Section 4(f) property(ies), determine if these alternatives are prudent and feasible, and identify all possible planning to minimize harm. Please note that under NEPA Assignment, all Individual Section 4(f) evaluations must undergo the same 5-step review process that is done for Environmental Impact Statements, including a legal sufficiency review.

1. If a cover page is being used for the Section 4(f) report, insert the following language on the cover:

The environmental review, consultation, and any other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by Caltrans pursuant to 23 USC 327 and the Memorandum of Understanding dated May 27, 2022, and executed by FHWA and Caltrans.

1. Organize the Section 4(f) evaluation as follows:
* Introduction
* Description of proposed project (include all alternatives)
* Describe the Section 4(f) property
* Assess the use of the Section 4(f) property (discuss the degree of use caused by each alternative)
* Avoidance alternatives
* Measures to minimize harm
* Coordination
* Concluding statement
* Sub-sections, as applicable, describing Programmatic evaluation(s), *de minimis* determinations, and No-Use determinations. Follow the directions provided below for each of these situations, but there is no need to repeat any regulatory language that has already been used.
* Letters and other correspondence
* Reference technical reports (HPSR, CIA, etc. as appropriate)

Introduction

Include the following boilerplate language in the introduction for an Individual Section 4(f) evaluation:

Section 4(f) of the Department of Transportation Act of 1966, codified in federal law at 49 United States Code (USC) 303, declares that “it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.”

Section 4(f) specifies that the Secretary of Transportation may approve a transportation program or project . . . “requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or land of an historic site of national, state, or local significance (as determined by the federal, state, or local officials having jurisdiction over the park, area, refuge, or site) only if:

* There is no prudent and feasible alternative to using that land; and
* The program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.”

Section 4(f) further requires coordination with the Department of the Interior and, as appropriate, the involved offices of the Department of Agriculture and the Department of Housing and Urban Development in developing transportation projects and programs that use lands protected by Section 4(f). If historic sites are involved, then coordination with the State Historic Preservation Officer is also needed.

Responsibility for compliance with Section 4(f) has been assigned to the Department pursuant to 23 USC 326 and 327, including determinations and approval of Section 4(f) evaluations, as well as coordination with those agencies that have jurisdiction over a Section 4(f) resource that may be affected by a project action.

Description of the Proposed Project

Discuss the proposed project, including each build alternative and the no-build alternative. Give enough detail so that the reader can understand the proposed project and alternatives; then refer the reader to Chapter 1, “Proposed Project,” for more detailed information.

Briefly discuss the purpose and need for the project. Refer the reader to the “Purpose and Need” section in Chapter 1 for more information.

Section 4(f) Properties

Analyze all archaeological and historic sites within the Section 106 area of potential effects (APE) and all public and private parks, recreational facilities, and wildlife refuges within the Section 4(f) study area to determine whether they are protected Section 4(f) properties.

1. If protected Section 4(f) properties have been identified in the project vicinity, any of which would be used by any alternative under consideration, then include the following for each property affected. Provide:
* Detailed map(s) showing relationship of the property to the alternative(s)
* Size and location of property
* Ownership (publicly or privately owned) and type of Section 4(f) property, e.g., County of XYZ Park
* Lease, easements, covenants, and/or restrictions that affect ownership
* Function of, or available activities on, the property
* Description and location of all existing and planned facilities (baseball fields, playgrounds, etc.)
* Access (pedestrian, bicycle, car) and usage (approximate number of visitors)
* Relationship to other similarly used lands in the vicinity (what other parks, recreational facilities or historical structures exist in the area?)
* Unusual characteristics of the property that either enhance or reduce its value

Use of the Section 4(f) Property

1. For each alternative, discuss the use on the property. The Section 4(f) regulation explicitly defines when a use of a Section 4(f) property occurs; therefore, the term has very specific meaning within the regulation. A use occurs one of three ways: (1) land is permanently incorporated into a transportation facility (i.e. through the purchase of right-of-way or permanent easement); (2) one of the five criteria cannot be met for the temporary occupancy exception (See instructions under “The Basic Section 4(f) Analysis” above and 23 CFR 774.13(d).); or (3) constructive use (23 CFR 774.15).

Assess the use of the Section 4(f) property in terms that are consistent with the language of the regulation: permanent incorporation; does not meet the criteria of temporary occupancy; or constructive use. The term *constructive use* can only be used when prior approval from FHWA is received by the HQ Environmental Coordinator. Otherwise, the term should not appear in the text to describe a use of the 4(f) property. Refer to FHWA’s Section 4(f) Policy Paper for additional guidance on how to assess the use of Section 4(f) properties.

1. Discuss the degree of use that each alternative causes to the Section 4(f) property. First, identify the property’s major activities, features, or attributes. Second, explain how these are affected. For example, identify the amount of land to be acquired, explain what park facilities are affected, or which contributing elements are modified in a historic district, or if there are any perceptible noise differences. If the alternative causes temporary impacts during construction, discuss those as well.
2. If an alternative acquires land from more than one Section 4(f) property, it may be helpful to develop a summary table that compares the various uses. Be sure to quantify measurable impacts, such as noise, whenever possible. Visual intrusions or changes to accessibility, which cannot be quantified, should be described. Cross-reference other sections of the environmental document as appropriate.

Avoidance Alternatives

A Section 4(f) evaluation must contain sufficient supporting information to make the finding that there is no feasible and prudent avoidance alternative and that the project includes all possible planning to minimize harm. Section 4(f) requires the development of one or more “avoidance” alternatives that avoid each and every Section 4(f) property. In this section, identify any avoidance alternatives that have been developed, including the no-build alternative, which avoid the use of the Section 4(f) property. The analysis for avoidance alternatives can be broken into a series of three steps.

1. Identify and develop a reasonable range of alternatives that completely avoid the Section 4(f) property or properties. One of the avoidance alternatives must be the no-build alternative. Other potential alternatives to avoid the use of the Section 4(f) property may include one or more of the following:
* Location alternatives (re-routing the entire project along a different alignment)
* Alternative actions (this could be a different mode of transportation such as rail or bus, or some other action that does not involve construction such as the implementation of transportation management systems or similar measures)
* Alignment shifts (re-routing a portion of the project to a different alignment to avoid a specific property)
* Design changes (modifying the proposed design in a manner that will avoid impacts such as reducing median width, building a retaining wall, incorporating design exceptions, etc.)
1. Once the potential avoidance alternative(s) have been identified, evaluate whether it is feasible and prudent to avoid the Section 4(f) property. *Alternatives that do not avoid the use of each and every Section 4(f) property are not analyzed.* Only the avoidance alternatives go through the feasible and prudent analysis. The regulations state that an avoidance alternative is not feasible if it cannot be built as a matter of sound engineering judgment (23 CFR 774.17). The prudence evaluation involves applying each of the following six factors to each avoidance alternative. Does the alternative:
2. Compromise the project so that it is unreasonable given the purpose and need?
3. Result in unacceptable safety or operational problems?
4. After reasonable mitigation, still causes:
* Severe social, economic, or environmental impacts;
* Severe disruption to established communities;
* Severe environmental justice impacts; or
* Severe impacts to other federally protected resources
1. Result in additional construction, maintenance, or operational costs of an extraordinary magnitude?
* Consider factors such as: the percentage difference in the costs of the alternatives; how the cost difference relates to the total cost of similar transportation projects in the applicant’s annual budget; and the extent to which the increased cost for the project would adversely impact that applicants’ ability to fund other transportation projects. (FHWA Final Rule, “Section-by-Section Analysis of the NPRM Comments and the Administration’s Response,” Federal Register Vol. 73, No. 49, March 12, 2008).
1. Cause other unique problems or unusual factors?
2. Involve multiple factors listed above that, while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude?

Evaluate each avoidance alternative against the factors for feasibility and prudence. Document the consideration of the six factors above for each avoidance alternative and remember that this analysis puts a “thumb on the scale” in favor of protecting the Section 4(f) property. If a factor is not applicable, simply note that in the analysis. Do not state that the avoidance alternatives are not feasible and prudent in the draft document. The purpose of the draft Individual Section 4(f) evaluation is to discuss the information that will ultimately support a decision made in the final evaluation. However, you may discuss your preliminary findings (see sample language below).

Based on the discussions above, it appears that there is no feasible and prudent avoidance alternative. However, a final decision will not be made until after the draft document has been circulated for public review. (Update for final document).

1. The third and final step is to develop the supporting facts that will help eliminate the avoidance alternatives that do not meet the standards for “feasible and prudent.” In the final Individual Section 4(f) evaluation, discuss the reasons for concluding there are no feasible and prudent avoidance alternatives.

Remember that *the feasible and prudent standard applies only to avoidance alternatives*. It does not apply when choosing among alternatives that use a Section 4(f) property.

If no feasible and prudent avoidance alternatives exist, then there are two options:

* If only one alternative that uses a Section 4(f) property remains under consideration, document all possible planning to minimize harm.
* If two or more alternatives that both use one or more Section 4(f) properties remain under consideration, document the least harm analysis.

Measures to Minimize Harm to the Section 4(f) Property

Discuss all possible planning for measures that are available to minimize the impacts on the property. Document all efforts undertaken even if they seem relatively minor. Summarize and refer readers to the main body of the environmental document as appropriate. *All possible planning* means all reasonable measures identified in the Section 4(f) evaluation to minimize harm or mitigate for adverse impacts and effects must be included in the project (23 CFR 774.17 *All Possible Planning* definition).

In evaluating the reasonableness of measures to minimize harm, consider and document the preservation purpose of the statute and all of the following:

* The views of the officials with jurisdiction over the Section 4(f) property
* Whether the cost of the measures is a reasonable public expenditure in light of the adverse impacts of the project on the Section 4(f) property and the benefits of the measure to the property
* Any impacts or benefits of the measures to communities or environmental resources outside of the Section 4(f) property

Measures should be developed in consultation with the official of the agency having jurisdiction over the land, and usually involve replacement land, replacement facilities, or monetary compensation to enhance the remaining land.

Least Harm Analysis and Concluding Statement [include for Final ED]

This section must be included in the final environmental document if the analysis in the preceding section concludes that there is no feasible and prudent avoidance alternative, and there are two or more alternatives that use a Section 4(f) property. In the draft environmental document, some preliminary information about the least harm analysis may be included, but no conclusion or final analysis is to be included until the final environmental document. Least harm analysis is required when multiple alternatives that use the Section 4(f) property remain under consideration.

If there is no prudent and feasible alternative to avoid harm to the Section 4(f) property, then only the alternative that causes the least overall harm in light of the statute’s preservation purpose can be chosen. To determine which of the alternatives cause the least overall harm, compare and consider the following seven factors. These factors involve balancing competing and conflicting considerations—some of the factors may weigh in favor of an alternative while other factors may weigh against it (23 CFR 774.3(c)(1)).

1. Ability to mitigate adverse impacts to each Section 4(f) property
2. Relative severity of the remaining harm, after mitigation, to the protected activities and attributes or features (document even if harm is substantially equal)
3. Relative significance of each Section 4(f) property
4. Views of the officials with jurisdiction over each Section 4(f) property.
5. Degree to which each alternative meets the purpose and need
6. After reasonable mitigation, the magnitude of any adverse impacts to resources not protected by Section 4(f)
7. Substantial differences in costs among alternatives

The purpose of the balancing test is to identify an alternative that would cause the least overall harm. Document the process and the results of the balancing. A summary table may be helpful to differentiate the balancing of each factor for the alternatives. Consider the views of each official with jurisdiction and make an independent judgment about the relative value of each Section 4(f) property. Not all Section 4(f) properties are equal. Consider the function of each Section 4(f) resource, compare impacts, and apply reasonable minimization approaches to help minimize harm in light of the balancing factors to determine which alternative is considered the most appropriate.

The identification of the alternative that has the overall least harm must be documented in the final Section 4(f) analysis.

Include the concluding statement in final environmental document only:

Based on the above considerations, there is no feasible and prudent alternative to the use of land from [name the Section 4(f) property(ies)]. The proposed action includes all possible planning to minimize harm to [name the Section 4(f) property(ies)] resulting from such use and causes the least overall harm in light of the statute’s preservation purpose.

Coordination

1. Document coordination with the agency having jurisdiction over the property—the Department of the Interior, and, as appropriate, the U.S. Department of Agriculture (for National Forest System Lands) and the Department of Housing and Urban Development (property for which HUD funding was used). (Note: The Department of Interior has 45 days to respond; if they don’t reply within 45 days, then you must wait another 15 days before proceeding without their comments.)
2. The focus of this section is on coordination with these agencies regarding Section 4(f), not coordination with them in general (see a through d below). Coordination with these agencies is the responsibility of the Department as assigned by the FHWA. The FHWA Section 4(f) Policy Paper recommends that preliminary coordination with these agencies should occur before the circulation of the draft Section 4(f) evaluation and that follow-up coordination *must* occur to address issues that are raised during review of the draft evaluation. Coordination must occur and be documented before the Final Section 4(f) evaluation can be approved.
3. Document coordination on:
4. Significance of the property
5. Primary purpose of the land
6. Proposed use and impacts
7. Proposed measures to avoid and /or minimize harm

Programmatic Section 4(f) **Determination(s)**

Guidance

Programmatic Section 4(f) Evaluation

1. **Programmatic Section 4(f) Evaluations.** A separate annotated outline has been developed for use in preparing a Programmatic Section 4(f) evaluation; it can be found in the [Annotated Outline section of the Forms and Templates page of the SER](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/forms-templates#aos). Programmatic Section 4(f) evaluations eliminate *only* the coordination process with the Department of Interior and, as appropriate, the Department of Agriculture and the Department of Housing and Urban Development, and the requirement for a legal sufficiency review. *Interagency coordination is still required with the agency having jurisdiction over the property*. A Programmatic Section 4(f) evaluation and an Individual Section 4(f) evaluation require the same amount of intense analysis and effort to prepare.

There are five Programmatic Section 4(f) evaluations. Each of the five programmatic evaluations has unique requirements or applicability criteria. Project-specific details must fit the applicability criteria in order to apply the programmatic evaluation. The applicability criteria are found within each of the linked Programmatic Section 4(f) evaluations under the heading “Applicability.” If the project details do not fall within the applicability criteria, or the specific conditions within that programmatic category are not met, then an Individual Section 4(f) evaluation is required. The five Programmatic Section 4(f) evaluations are:

1. [Independent Walkway and Bikeways Construction Projects](https://www.environment.fhwa.dot.gov/legislation/section4f/4fbikeways.aspx)
2. [Historic Bridges](https://www.environment.fhwa.dot.gov/legislation/section4f/4f_bridges.aspx)
3. [Minor Involvements with Historic Sites](https://www.environment.fhwa.dot.gov/legislation/section4f/4f_minor_hist.aspx)
4. [Minor Involvements with Parks, Recreation Areas and Waterfowl and Wildlife Refuges](https://www.environment.fhwa.dot.gov/legislation/section4f/4f_minor_parks.aspx)
5. [Net Benefit](https://www.environment.fhwa.dot.gov/legislation/section4f/4f_netbenefits.aspx)

Section 4(f) *De Minimis* **Determination(s)**

Guidance

Include the following boilerplate language at the beginning of this section:

This section of the document discusses *de minimis* impact determinations under Section 4(f). Section 6009(a) of SAFETEA-LU amended Section 4(f) legislation at 23 United States Code (USC) 138 and 49 USC 303 to simplify the processing and approval of projects that have only *de minimis* impacts on lands protected by Section 4(f). This amendment provides that once the U.S. Department of Transportation (USDOT) determines that a transportation use of Section 4(f) property, after consideration of any impact avoidance, minimization, and mitigation or enhancement measures, results in a *de minimis* impact on that property, an analysis of avoidance alternatives is not required and the Section 4(f) evaluation process is complete. FHWA’s final rule on Section 4(f) *de minimis* findings is codified in 23 Code of Federal Regulations (CFR) 774.3 and CFR 774.17.

Responsibility for compliance with Section 4(f) has been assigned to the Department pursuant to 23 USC 326 and 327, including *de minimis* impact determinations, as well as coordination with those agencies that have jurisdiction over a Section 4(f) resource that may be affected by a project action.

Analyze all public and private parks, recreational facilities, and wildlife refuges within the Section 4(f) study area to determine whether they are protected Section 4(f) properties. *De minimis* impacts on publicly owned parks, recreation areas, and wildlife and waterfowl refuges are defined as those that do not adversely affect the activities, features, and attributes of the 4(f) property.

If the proposed project results in a *de minimis* impact finding for a publicly owned park, recreation area, or wildlife and waterfowl refuge, describe and document the following for each property:

* List the activities, features, attributes of the 4(f) property
* Describe the use
* Explain why the use is *de minimis*
* Define the public notice process
* List any avoidance, minimization, and/or mitigation, measures needed to make a de *minimis* finding
* In the final environmental document, include the written concurrence from the official with jurisdiction that the project will not adversely affect the activities, features, and attributes of the Section 4(f) property. (Note: written concurrence can only be requested after the public notice period and after the public has had a chance to comment on the *de minimis* impact finding.)

Analyze all archaeological and historic sites within the Section 106 area of potential effects (APE) to determine whether they are protected Section 4(f) properties. \

If the proposed project results in a *de minimis* finding for a historic property under 23 CFR 774.17, describe and document the following (remember that *de minimis* can only be used for archaeological and historic sites when there is a Section 106 finding of “no adverse effect” or “no historic properties affected.”):

* Describe the use
* Explain why the use is *de minimis*
* List any avoidance, minimization, and/or mitigation measures needed to make a *de* *minimis* finding
* Section 106 Programmatic Agreement documentation with *de* *minimis* notice sent to SHPO, if applicable, and ACHP, if applicable.

When a Programmatic Agreement for Section 106 is in place between the Department, SHPO, and FHWA, SHPO must be informed in writing that a non-response for the purposes of a “no adverse effect” or a “no historic properties affected” determination will be treated as the written concurrence for the *de minimis* determination.

Resources Evaluated Relative to the Requirements of Section 4(f): No-Use Determination(s)

Guidance

The appendix titled “Resources Evaluated Relative to the Requirements of Section 4(f): No-Use Determination” is intended to document the rationale for why a “use” did not occur to Section 4(f) properties within the Section 4(f) study area. Do not include an appendix titled “Section 4(f) Analysis” unless there is a use to one or more Section 4(f) properties.

Include the following boilerplate language at the beginning of this section:

Section 4(f) of the Department of Transportation Act of 1966, codified in federal law at 49 United States Code (USC) 303, declares that “it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.”

This section of the document discusses parks, recreational facilities, wildlife refuges, and historic properties found within or next to the project area that do not trigger Section 4(f) protection because: 1) they are not publicly owned, 2) they are not open to the public, 3) they are not eligible historic properties, or 4) the project does not permanently use the property and does not hinder the preservation of the property.

Analyze all archaeological and historic sites within the Section 106 area of potential effects (APE) and all public and private parks, recreational facilities, and wildlife refuges within the Section 4(f) study area to determine whether they are protected Section 4(f) properties and whether the project would “use” the properties. If there are potential Section 4(f) properties in the project vicinity, but they are not eligible for protection under Section 4(f) and/or the project does not “use” them, clearly state that in the appropriate section of the environmental document (Parks and Recreational Facilities and/or Cultural Resources). Then, follow the guidance below:

1. First, list each property that is not protected by Section 4(f) and explain why each property is not protected. If the reason a particular property is not protected by Section 4(f) is not explained in the regulations, but is discussed in the Section 4(f) Policy Paper, then incorporate the language from the policy paper as the basis of your discussion and demonstrate how the project meets the requirements of the policy paper. Provide details.
2. Then, list each property that is protected by Section 4(f) but for which there is no “use.” When doing so, refer to the Section 4(f) regulations at 23 CFR 774 and discuss how the facts of this project either meet or do not meet the requirements found in the regulations. For each property discussed in this section, include one of the following concluding remarks:
* If the property is not a Section 4(f) property, or if the property is a Section 4(f) property but a “use” did not occur, then conclude with one of the following statements:
	1. The property is not a Section 4(f) property, therefore, the provisions of Section 4(f) do not apply.
	2. The property is a Section 4(f) property, but no “use” will occur. Therefore, the provisions of Section 4(f) do not apply.

Section 6(f)

Guidance

Include the following boilerplate language at the beginning of this section:

The Land and Water Conservation Fund (LWCF) Act was established by Congress in 1964 to fulfill a bipartisan commitment to safeguard natural areas, water resources and cultural heritage, and to provide recreation opportunities to all Americans. The LWCF program provides matching grants to States and local governments for the acquisition and development of public outdoor recreation areas and facilities. Section 6(f) of this Act prohibits the conversion of property acquired or developed with these grants to a non-recreational purpose without the approval of the Department of Interior’s (DOI) National Park Service.

If LWCF funds were used for acquisition or improvement, certain requirements must be met before the land can be acquired (see SER, Vol. 1, Chapter 20, “Section 4(f) and Related Requirements” and Chapter 8 of the [National Park Service Land and Water Conservation Fund State Assistance Program Manual](https://www.nps.gov/subjects/lwcf/upload/lwcf_manual.pdf)).

1. Discuss properties that were acquired or improved using funds from the LWCF. Define the boundaries of the 6(f) grant (note, these boundaries are not always the same as the entire park boundary). A map is preferred.
2. Discuss how the prerequisites for replacement of the 6(f) property are satisfied.
3. Identify replacement parcel and request conversion approval from State Parks (they will work with the National Park Service as appropriate). Include the approval letter in the final environmental document.
4. Document approval of 6(f) conversion/replacement property.

Additional References

* [23 CFR 774: Parks, Recreation Areas, Wildlife And Waterfowl Refuges, and Historic Sites (Section 4(f))](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-1-federal-requirements#Ch1Section4f)
* [[Technical Advisory T6640.8A, Oct. 30, 1987](http://www.dot.ca.gov/ser/vol1/sec3/special/ch204f/..%5C%5C..%5C%5C..%5C%5Csec1%5C%5Cch1fedlaw%5C%5Cchap1.htm%22%20%5Cl%20%226640)](http://environment.fhwa.dot.gov/projdev/impTA6640.asp)
* [Section 4(f) Policy Paper, July 20, 2012](http://www.environment.fhwa.dot.gov/4f/4fpolicy.asp)

* [FHWA Section 4(f) Legislation, Regulations, and Guidance](https://www.environment.fhwa.dot.gov/legislation/section4f.aspx)

Appendix B. Title VI Policy Statement

Include the [Title VI Policy Statement](https://dot.ca.gov/programs/business-and-economic-opportunity/title-vi).

Appendix C. Summary of Relocation Benefits (if applicable)

If the proposed project involves any relocations, then include the following

California Department of Transportation Relocation Assistance Program

RELOCATION ASSISTANCE ADVISORY SERVICES

This appendix is general in nature and is not intended to be a complete statement of federal and state relocation laws and regulations. Any questions about relocation should be addressed to the Department’s Division of Right of Way and Land Surveys. This section provides some general descriptive information on Public Law (PL) 91-646, the [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended](http://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter61&edition=prelim). This is often referred to simply as the “Uniform Act.” The information in this appendix is provided only as background and is not intended as a complete statement of all the state or federal laws and regulations; for specific details the environmental planner should contact the Department’s District or Regional Right of Way Relocation Branch. After presenting an outline of the basic legal foundation for relocation policy, the appendix looks at important relocation assistance information, including advisory services and the financial benefit program. Refer to the Department’s [Right of Way Manual](https://dot.ca.gov/programs/right-of-way/right-of-way-manual) Chapter 10, for more detailed and specific information on relocation and housing programs.

***DECLARATION OF POLICY***

“The purpose of this title is to establish a ***uniform policy for fair and equitable treatment*** of persons displaced as a result of federal and federally assisted programs in order that such persons ***shall not suffer disproportionate injuries*** as a result of programs designed for the benefit of the public as a whole.”

The Fifth Amendment to the U.S. Constitution states, “No Person shall… be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use without just compensation.” The Uniform Act sets forth in statute the due process that must be followed in Real Property acquisitions involving federal funds. Supplementing the Uniform Act is the government-wide single rule for all agencies to follow, set forth in 49 Code of Federal Regulations (CFR) Part 24. Displaced individuals, families, businesses, farms, and nonprofit organizations may be eligible for relocation advisory services and financial benefits, as discussed below.

***FAIR HOUSING***

The Fair Housing Law (Title VIII of the Civil Rights Act of 1968) sets forth the policy of the United States to provide, within constitutional limitations, for fair housing. This act, and as amended, makes discriminatory practices in the purchase and rental of most residential units illegal. Whenever possible, minority persons shall be given reasonable opportunities to relocate to any available housing regardless of neighborhood, as long as the replacement dwellings are decent, safe, and sanitary and are within their financial means. This policy, however, does not require the Department to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

Any persons to be displaced will be assigned to a relocation advisor, who will work closely with each displacee in order to see that all payments and benefits are fully utilized and that all regulations are observed, thereby avoiding the possibility of displacees jeopardizing or forfeiting any of their benefits or payments. At the time of the initiation of negotiations (usually the first written offer to purchase), owner-occupants are given a detailed explanation of the state’s relocation services. Tenant occupants of properties to be acquired are contacted soon after the initiation of negotiations and also are given a detailed explanation of the Caltrans Relocation Assistance Program. To avoid loss of possible benefits, no individual, family, business, farm, or nonprofit organization should commit to purchase or rent a replacement property without first contacting a Department relocation advisor.

***RELOCATION ASSISTANCE ADVISORY SERVICES***

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Department will provide relocation advisory assistance to any person, business, farm, or nonprofit organization displaced as a result of the acquisition of real property for public use, so long as they are legally present in the United States. The Department will assist eligible displacees in obtaining comparable replacement housing by providing current and continuing information on the availability and prices of both houses for sale and rental units that are “decent, safe, and sanitary.” Nonresidential displacees will receive information on comparable properties for lease or purchase (for business, farm, and nonprofit organization relocation services, see below).

Residential replacement dwellings will be in a location generally not less desirable than the displacement neighborhood at prices or rents within the financial ability of the individuals and families displaced, and reasonably accessible to their places of employment. Before any displacement occurs, comparable replacement dwellings will be offered to displacees that are open to all persons regardless of race, color, religion, sex, national origin, and consistent with the requirements of Title VIII of the Civil Rights Act of 1968. This assistance will also include the supplying of information concerning federal and state assisted housing programs and any other known services being offered by public and private agencies in the area.

Persons who are eligible for relocation payments and who are legally occupying the property required for the project will not be asked to move without first being given at least 90 days written notice. Residential occupants eligible for relocation payment(s) will not be required to move unless at least one comparable “decent, safe, and sanitary” replacement dwelling, available on the market, is offered to them by the Department.

***RESIDENTIAL RELOCATION FINANCIAL BENEFITS***

The Relocation Assistance Program will help eligible residential occupants by paying certain costs and expenses. These costs are limited to those necessary for or incidental to the purchase or rental of a replacement dwelling and actual reasonable moving expenses to a new location within 50 miles of the displacement property. Any actual moving costs in excess of the 50 miles are the responsibility of the displacee. The Residential Relocation Assistance Program can be summarized as follows:

*Moving Costs*

Any displaced person, who lawfully occupied the acquired property, regardless of the length of occupancy in the property acquired, will be eligible for reimbursement of moving costs. Displacees will receive either the actual reasonable costs involved in moving themselves and personal property up to a maximum of 50 miles, or a fixed payment based on a fixed moving cost schedule. Lawful occupants who move into the displacement property after the initiation of negotiations must wait until the Department obtains control of the property in order to be eligible for relocation payments.

*Purchase Differential*

In addition to moving and related expense payments, fully eligible homeowners may be entitled to payments for increased costs of replacement housing.

Homeowners who have owned and occupied their property for 90 days or more prior to the date of the initiation of negotiations (usually the first written offer to purchase the property), may qualify to receive a price differential payment and may qualify to receive reimbursement for certain nonrecurring costs incidental to the purchase of the replacement property. An interest differential payment is also available if the interest rate for the loan on the replacement dwelling is higher than the loan rate on the displacement dwelling, subject to certain limitations on reimbursement based upon the replacement property interest rate.

*Rent Differential*

Tenants and certain owner-occupants (based on length of ownership) who have occupied the property to be acquired by the Department prior to the date of the initiation of negotiations may qualify to receive a rent differential payment. This payment is made when the Department determines that the cost to rent a comparable “decent, safe, and sanitary” replacement dwelling will be more than the present rent of the displacement dwelling. As an alternative, the tenant may qualify for a down payment benefit designed to assist in the purchase of a replacement property and the payment of certain costs incidental to the purchase, subject to certain limitations noted under the *Down Payment* section below.

To receive any relocation benefits, the displaced person must buy or rent and occupy a “decent, safe and sanitary” replacement dwelling within one year from the date the Department takes legal possession of the property, or from the date the displacee vacates the displacement property, whichever is later.

*Down Payment*

The down payment option has been designed to aid owner-occupants of less than 90 days and tenants in legal occupancy prior to the Department’s initiation of negotiations. The one-year eligibility period in which to purchase and occupy a “decent, safe and sanitary” replacement dwelling will apply.

*Last Resort Housing*

Federal regulations (49 CFR 24) contain the policy and procedure for implementing the Last Resort Housing Program on Federal-aid projects. Last Resort Housing benefits are, except for the amounts of payments and the methods in making them, the same as those benefits for standard residential relocation as explained above. Last Resort Housing has been designed primarily to cover situations where a displacee cannot be relocated because of lack of available comparable replacement housing, or when the anticipated replacement housing payments exceed the limits of the standard relocation procedure, because either the displacee lacks the financial ability or other valid circumstances.

After the initiation of negotiations, the Department will within a reasonable length of time, personally contact the displacees to gather important information, including the following:

* Number of people to be displaced.
* Specific arrangements needed to accommodate any family member(s) with special needs.
* Financial ability to relocate into comparable replacement dwelling which will adequately house all members of the family.
* Preferences in area of relocation.
* Location of employment or school.

***NONRESIDENTIAL RELOCATION ASSISTANCE***

The Nonresidential Relocation Assistance Program provides assistance to businesses, farms and nonprofit organizations in locating suitable replacement property, and reimbursement for certain costs involved in relocation. The Relocation Advisory Assistance Program will provide current lists of properties offered for sale or rent, suitable for a particular business’s specific relocation needs. The types of payments available to eligible businesses, farms, and nonprofit organizations are: searching and moving expenses, and possibly reestablishment expenses; or a fixed in lieu payment instead of any moving, searching and reestablishment expenses. The payment types can be summarized as follows:

*Moving Expenses*

Moving expenses may include the following actual, reasonable costs:

* The moving of inventory, machinery, equipment and similar business-related property, including: dismantling, disconnecting, crating, packing, loading, insuring, transporting, unloading, unpacking, and reconnecting of personal property. Items identified as real property may not be moved under the Relocation Assistance Program. If the displacee buys an Item Pertaining to the Realty back at salvage value, the cost to move that item is borne by the displacee.
* Loss of tangible personal property provides payment for actual, direct loss of personal property that the owner is permitted not to move.
* Expenses related to searching for a new business site, up to $2,500, for reasonable expenses actually incurred.

*Reestablishment Expenses*

Reestablishment expenses related to the operation of the business at the new location, up to $25,000 for reasonable expenses actually incurred.

*Fixed In Lieu Payment*

A fixed payment in lieu of moving, searching, and reestablishment payments may be available to businesses that meet certain eligibility requirements. This payment is an amount equal to half the average annual net earnings for the last two taxable years prior to the relocation and may not be less than $1,000 nor more than $40,000.

***ADDITIONAL INFORMATION***

Reimbursement for moving costs and replacement housing payments are not considered income for the purpose of the Internal Revenue Code of 1954, or for the purpose of determining the extent of eligibility of a displacee for assistance under the Social Security Act, or any other law, *except* for any federal law providing local “Section 8” Housing Programs.

Any person, business, farm or nonprofit organization that has been refused a relocation payment by the Department relocation advisor or believes that the payment(s) offered by the agency are inadequate may appeal for a special hearing of the complaint. No legal assistance is required. Information about the appeal procedure is available from the relocation advisor.

California law allows for the payment for lost goodwill that arises from the displacement for a public project. A list of ineligible expenses can be obtained from the Department’s Division of Right of Way and Land Surveys. California’s law and the federal regulations covering relocation assistance provide that no payment shall be duplicated by other payments being made by the displacing agency.

If your project includes relocations, include a link to the Division of Right of Way’s Relocation Assistance Program at:

<https://dot.ca.gov/programs/right-of-way/relocation-assistance-program>

Appendix D. Glossary of Technical Terms (optional)

A glossary of common technical terms used in environmental documents can be found on the SER and can be customized for use in your document.

Appendix E. Avoidance, Minimization, and/or Mitigation Summary

Include a copy of the project’s Environmental Commitments Record (ECR) or equivalent to serve as Appendix E. All avoidance, minimization, and/or mitigation measures as well as conditions required by agreements with the resource agencies must be included in the ECR.

Numbering the measures in the ECR and using those same numbers throughout the environmental document may be helpful for the reader. It may be desirable to include project features intended to avoid and/or minimize impacts in the ECR for tracking purposes and to assist with the PS&E review for the project. If these are included, be certain to identify them as such.

Include the following introductory statement in the ECR:

In order to be sure that all of the environmental measures identified in this document are executed at the appropriate times, the following mitigation program (as articulated on the proposed Environmental Commitments Record [ECR] which follows) would be implemented. During project design, avoidance, minimization, and /or mitigation measures will be incorporated into the project’s final plans, specifications, and cost estimates, as appropriate. All permits will be obtained prior to implementation of the project. During construction, environmental and construction/engineering staff will ensure that the commitments contained in this ECR are fulfilled. Following construction and appropriate phases of project delivery, long-term mitigation maintenance and monitoring will take place, as applicable. As the following ECR is a draft, some fields have not been completed, and will be filled out as each of the measures is implemented. Note: Some measures may apply to more than one resource area. Duplicative or redundant measures have not been included in this ECR.

For local assistance projects, the local agency is responsible for providing the District Local Assistance Engineer (DLAE) with the ECR.

Appendix F. List of Acronyms and Abbreviations (optional)

A list of common acronyms and abbreviations used in environmental documents can be found on the SER and can be customized for use in your document.

Appendix G. Notice of Intent (if not included in Chapter 4)

Include a copy of the Notice of Intent here if it was not included in Chapter 4.

Appendix H. Required Consultation/Concurrence Documentation (for final document only)

The following required consultation/concurrence documentation can be included here or in Chapter 4, “Comments and Coordination.”

* FHWA Air Quality Conformity Determination
* Memorandum of Agreement (MOA) for any Finding of Adverse Effect
* Biological Opinion and/or concurrence with “Not Likely to Adversely Affect” Determination, as applicable
* If applicable and if they have been obtained by the time of the FED, the 2080 Incidental Take Permit, and/or the 2080.1 Consistency Determination
* Section 4(f) concurrence for *de minimis* (23 CFR 774.5(b), temporary occupancies (23 CFR 774.13(d), or transportation enhancement activities (23 CFR 774.13(g)
* FHWA Significant floodplain encroachment concurrence

Appendix I. Comment Letters and Responses (if not included in Chapter 4; for final document only)

Appendix J. Final Determination of Engineering and Operational Acceptability (if applicable; for final document only)

If applicable, include a copy of the project’s "Final Determination of Engineering and Operational Acceptability" from FHWA to serve as Appendix J.

List of Technical Studies

1. A point source is any discrete conveyance such as a pipe or a man-made ditch. [↑](#footnote-ref-1)
2. The U.S. EPA defines “effluent” as “wastewater, treated or untreated, that flows out of a treatment plant, sewer, or industrial outfall.” [↑](#footnote-ref-2)
3. "Design concept" means the type of facility that is proposed, such as a freeway or arterial highway. "Design scope" refers to those aspects of the project that would clearly affect capacity and thus any regional emissions analysis, such as the number of lanes and the length of the project. [↑](#footnote-ref-3)