

# CHAPTER XI – LOCAL GOVERNMENT RESPONSIBILITIES

## 1.0 Overview

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When local governments are sub-recipients of federal funds, the Georgia Department of Transportation (GDOT) must ensure that the federally funded project complies with all federal requirements, including environmental requirements.

When local governments receive state-aid funds, the recipient is responsible for complying with the Georgia Environmental Policy Act (GEPA) and obtaining all applicable state and federal permits. [Chapter X](#) of this manual provides guidance on GEPA and [Chapter V.4](#) provides guidance on environmental permits. The local government will [certify](#) that GEPA requirements have been met and that all permits have been obtained.

When a local government accepts responsibility for preliminary engineering, they also have agreed to prepare all of the environmental studies, documents and permits. As indicated throughout this manual, the environmental process is an integral part of project development and project decisions. Impacts to environmental resources are considered as project decisions are made. Environmental work should be completed early in project development before too many design decisions have been made to reduce the amount of redesign as environmental resources and concerns are identified.

The environmental process requires a multi-disciplinary team as well as input from environmental resource agencies. The work of this team must be closely coordinated to be certain that the project advances.

As a public agency utilizing public funds, including public input from the public into the decision making process is also critical. Local governments must ensure that public input is sought and that these efforts are documented.

The environmental process does not end with the approval of the National Environmental Policy Act (NEPA) document; the environmental team (including consultants hired by local governments) must be available throughout project development to perform reevaluations and to participate in field plan reviews.

Environmental studies, reports, documents and permit applications will be prepared in accordance with this manual except for Transportation Enhancement (TE) projects (funding codes C220, L220, Q22, and 33B) and Congestion Mitigation and Air Quality (CMAQ) projects (funding code L400). Projects within these funding codes are subject to an application and selection process; since these projects have been prescreened and reviewed prior to being funded; alternative procedures have been developed for the environmental process and agreed to by the Federal Highway Administration (FHWA) and the Historic Preservation Division (HPD). Projects with funding codes other than TE and CMAQ (e.g., MPO discretionary funds [L230]) do not qualify for the alternate procedures described below. Projects that have solely TE and/or CMAQ funds qualify for the alternative procedures; however, projects that have multiple funding

sources which include TE and/or CMAQ would not qualify. Instead, the procedures followed would have to be those for the more encompassing project type.

## 2.0 GDOT Review

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All environmental studies, reports, documents and permit applications will be reviewed and approved by GDOT staff prior to submission to other agencies. Local government staff should include review times when establishing project schedules. All materials should be submitted to the GDOT NEPA analyst assigned to the project for circulation to the appropriate staff.

## 3.0 TE and CMAQ Procedures

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### 3.1 NEPA Documentation

As noted in [Chapter III](#) of this manual, the NEPA document publicly discloses the project decision making process. Transportation projects have varying degrees of severity or potential to affect the environment. There are three classes of actions [23 CFR 771.115], defining the way that compliance with NEPA is documented in terms of the action's impacts:

1. **Class I, Environmental Impact Statements (EIS)** are prepared for projects whose action will have a significant effect on the environment.
2. **Class II, Categorical Exclusions (CE)** are for projects that do not individually or cumulatively have a significant environmental effect.
3. **Class III, Environmental Assessments (EA)** are prepared for projects in which the significance of the environmental impact is not clearly defined. All actions that are not Class I or II are Class III. All actions in this class require the preparation of an EA to determine the appropriate NEPA document required.

Since TE and CMAQ projects are designed to enhance the transportation system, most do not have significant adverse environmental effects and will qualify as Class II projects, thereby requiring the preparation of a [CE](#). There is no streamlining of the CE for TE and CMAQ projects. Guidance on preparing CEs can be found in [Chapter III](#), Section 4.0 of this manual.

All studies and consultations must be completed prior to submitting the CE for review and approval. Every CE should include a project's [environmental commitments table \(green sheet\)](#) that lists all commitments made during project development.

### 3.2 Public Involvement

While CEs do not require that a public open house or hearing be held, the document should disclose efforts made to engage the public. The CE should cite concerns raised by the public and efforts made to address those concerns. The project sponsor should be aware of project effects that have the potential to cause controversy and take steps to minimize those effects. The CE also should discuss project benefits that would offset the effects associated with the controversy.

This discussion should include meetings that have been held, when, where, number of attendees, etc. The comments received as well as responses to citizens should be included as

an attachment to the NEPA document. [Chapter IV](#) of this manual discusses Public Involvement during project development.

### 3.3 Environmental Studies

#### 3.3.1 Overview

Throughout the NEPA process for a project, analyses will need to be completed to address specific impacts. Specific reports are prepared to document environmental studies in support of the overall NEPA document as well as for compliance with other environmental laws.

Environmental studies will be completed in accordance with Chapter V of this document, except as noted below. Should the preparer require additional information concerning any of this analysis, please refer back to Chapter V. All pertinent templates for special studies can be found in the document library, separated by subject.

#### 3.3.2 Social Environment

##### A. Land Use

Land use has two components: change in land use within the footprint of the project and change in land use of adjacent properties. The CE will discuss if there are actual changes in land use and describe that change (e.g., a railroad bed being converted into a trail). The discussion should describe current land uses in the project area and the anticipated change.

##### B. Community Impacts

###### 1. Community Cohesion

Transportation Enhancement and CMAQ projects often have positive benefits for the community, such as providing greater non-motorized travel options, improving the aesthetics of a community or connecting formerly noncontiguous recreation areas.

###### 2. Environmental Justice (EJ)/Title VI

Environmental Justice (EJ) evaluates whether or not a project will result in a disproportionate and adverse effect to EJ populations (low income or minority). Title VI requires that “No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving [f]ederal financial assistance.” Transportation Enhancement and CMAQ projects should not result in disproportionate adverse effects or denial of participation or benefits.

###### 3. Economic

If the project requires additional right-of-way (ROW), the CE should note whether or not it is minimal and whether or not it would affect the tax bases of the locality.

##### C. Relocation Potential

The CE should disclose whether or not the project will require the relocation of any homes or businesses. This does not refer to relocation of the project.

##### D. Churches and Institutions

This section will analyze the project effects on churches and other institutions located within the project area. Consideration should be given not only to building

displacements but also to ways in which the project may affect the functions of the institution (e.g., loss of parking).

E. Parks/Recreation Areas/Wildlife Refuges

If any parks, recreation areas or wildlife refuges are located in the project area, this section will analyze project effects including the ability for the resource to continue to function with no impairments and still meet its intended purpose.

If the project corridor includes a Wildlife Management Area (WMA), the NEPA analyst should be informed prior to CE submission so that FHWA can be advised. If no land would be required from the WMA FHWA will determine if it should be included in the CE. If land IS required from the WMA, the owner or managing entity should be contacted. A WMA would be considered a Section 4(f) resource.

1. If the property is publicly owned, a determination as to the applicability of Section 4(f) of the USDOT Act will need to be made (see [Chapter VI](#) of this manual). This analysis will determine if the Section 4(f) resource is affected and whether there is a transportation use of the resource.

Should the proposed project use land from a publicly owned park, recreation area or wildlife or waterfowl refuge, and adversely affect or otherwise impair the property, an individual Section 4(f) evaluation will be needed as described in [Chapter VI](#).

2. If the proposed project uses land from such a resource but does not result in an adverse effect, the project may result in a *de minimis* finding under Section 4(f). The project sponsor must obtain a letter providing permission as well as stating that the project would not adversely affect or otherwise impair its current activities and acknowledge the *de minimis* finding. The public must be notified of *de minimis* findings for public lands. Please see [Chapter VI](#) for a discussion of public notification options.

### 3.3.3 Cultural Resources

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires all federal agencies to take into account the effects of their projects on historic and archaeological resources (collectively referred to as cultural resources). Should a project adversely affect a cultural resource, the sponsor must consider ways to avoid and minimize adverse effects and to mitigate any unavoidable adverse effects.

Since TE and CMAQ projects are reviewed and selected during an application process, a [Section 106 worksheet](#) has been developed. The project sponsor should fill out this worksheet and submit to GDOT for review and coordination with the Georgia Department of Natural Resources' (DNR) HPD. Following their review, the GDOT will submit it to HPD to for review and approval.

The HPD's review of the 106 worksheet will determine if the project has National Register (NR) eligible historic properties present and if the project will adversely affect them. With regard to archaeological resources, if the HPD review determines that a full Phase I archaeological field survey ([Chapter V.3](#)) is required the sponsor must hire a GDOT [prequalified](#) archaeological consultant to perform the survey. The resulting report will be submitted to GDOT for review and coordination with HPD.

Should the proposed project use land from a NR eligible historic property, and adversely affect or otherwise impair the property, an individual Section 4(f) evaluation will be needed as described in [Chapter VI](#). A Programmatic Section 4(f) evaluation may be appropriate for [historic bridges](#), even those that are being adversely affected.

If the proposed project uses land from such a resource but does not result in an adverse effect, the project may result in a *de minimis* finding under Section 4(f). The HPD must concur that the project would not adversely affect or otherwise impair the historic property and acknowledge the *de minimis* finding. No coordination with the property owner is required for historic resources.

The HPD will have additional involvement in every project affecting historic resources. The HPD must be kept informed throughout all preconstruction and construction activities. A typical commitment for historic properties that will be included on the environmental commitments table (green sheet) is project plan reviews and site visits by HPD.

#### [3.3.4 Ecological Resources](#)

All TE and CMAQ projects must be evaluated for their potential to affect ecological resources. Ecological resources include protected waters (both jurisdictional waters of the US and buffered state waters) as well as protected species (threatened and endangered species as well as migratory birds). A full discussion on ecological resources can be found in [Chapter V.4](#) of this manual.

The project areas of most streetscapes, facility restorations or in-town projects generally consist of previously disturbed areas. These types of projects generally will have no effect or minimal effects on ecological resources. Depending on their location, projects, such as trails, could involve wetlands, streams, protected species, or undisturbed/undeveloped lands if they are located in wooded areas, overgrown abandoned sites, or river walks that are adjacent to wetlands.

An [ecological worksheet](#) has been developed to assist sponsors in determining the ecological study requirements for their projects. The worksheet evaluates the project's potential to affect threatened and endangered species, protected waters, essential fish habitat and migratory birds. If the worksheet review determines that a full ecological field survey is required, the sponsor must hire a GDOT [prequalified](#) ecological consultant to perform the survey.

#### [3.3.5 Additional Natural Resources](#)

##### A. Wild and Scenic Rivers

In accordance with the Wild and Scenic Rivers Act (16 USC 1271 - 1278), if the proposed action could have foreseeable adverse effects on a river on the National Wild

and Scenic River System or a river under study for designation to the National Wild and Scenic River System, the NEPA document should identify early coordination undertaken with the agency responsible for managing the listed or study river. See [Chapter V.5](#), of this manual. The Chattooga River is Georgia's only designated Wild and Scenic River.

B. Floodplain impacts

If the project encroaches into a floodplain, the project sponsor must evaluate impacts to that floodplain. If it involves a regulatory floodway, additional coordination is needed. See [Chapter V.5](#) of this manual.

C. Farmland

If any farmland is impacted by the project, the sponsor must fill out the US Department of Agriculture's Form AD-1006 to determine farmland effects and coordinate with the Natural Resources Conservation Service (NRCS). See [Chapter V.5](#) of this manual.

D. Coastal Zone Barrier/Coastal Zone Impacts

The Coastal Barrier Resources Act (CBRA) provides protection for coastal barriers often referred to as Coastal Barrier Resource Systems (CBRS). The statute identifies coastal areas that will be protected by placing restrictions on the use of federal funds for developmental activities within these units.

The term "coastal zone" means the coastal zone area delineated in a state's management program. For projects located in counties subject to the Coastal Zone Management Act, basic coordination is required. In Georgia, coordination may be initiated with the Georgia Coastal Zone Management of the Department of Natural Resources (DNR) Coastal Resources Division (CRD).

[Chapter V.5](#) of this manual provides guidance for projects located in coastal barrier areas or coastal zones.

### 3.3.6 Physical Environment

A. Noise assessment

Transportation Enhancement and CMAQ projects generally will not require a noise analysis since this study is required for projects that increase through lane capacity or result in a significant change to the vertical or horizontal alignment of the transportation facility. In this case, a No Noise Required document should be submitted for review and approval. See [Chapter V.6](#) for a full discussion on noise assessments.

B. Air Quality Analysis

Both NEPA and the Clean Air Act Amendments require the consideration for four pollutants: ozone, fine particulate matter (PM<sub>2.5</sub>), carbon monoxide (CO) and mobile source air toxics (MSAT). See [Chapter V.6](#) for a full discussion on air quality analysis.

If a project is located in a non-attainment area for [ozone](#) or [PM<sub>2.5</sub>](#), it must be included in a conforming Transportation Improvement Program (TIP). When checking the TIP, please remember that TE projects may be included as a "lump sum" item. Please refer to [Chapter V.6](#) for discussion specific to PM 2.5.

Project level analysis for ozone is not required. Most TE and CMAQ projects should be exempt from project level PM<sub>2.5</sub> analysis. However, the project must be included on the

exempt list submitted to Interagency. A copy of the exemption list with the project highlighted as well as a copy of the email concurrence from Interagency should be attached to the CE. Please refer to [Chapter V.6](#) for discussion specific to PM 2.5.

Transportation Enhancement and CMAQ projects are also generally exempt from project level analysis for CO since their traffic and level of service (LOS) should be below the established thresholds. Please refer to [Chapter V.6](#) for discussion specific to PM 2.5.

Transportation Enhancement and CMAQ projects also generally are exempt from project level analysis for MSATS. Exempt projects include projects with no meaningful potential MSAT effects. Exempt projects include:

- Projects qualifying as a CE under 23 CFR 771.117(c) ([www.fhwa.dot.gov/legsregs/legislat.html](http://www.fhwa.dot.gov/legsregs/legislat.html)) or
- Projects exempt under the CAA conformity rule under 40 CFR 93.126 ([www.fhwa.dot.gov/environment/conformity/con\\_laws.htm](http://www.fhwa.dot.gov/environment/conformity/con_laws.htm)).

Although there is no analysis of MSATs required for exempt projects, a statement regarding the exempt status will be included in the CE. While TE and CMAQ projects may be exempt from a full Air Assessment Analysis, the Air Screening Assessment (4-part Air Write-off) should be submitted for review and approval.

C. Energy supply and mineral resources

Most TE and CMAQ should not affect either energy or mineral resources.

D. Construction and utilities

If it is determined that your project will cause inconvenience due to construction or the relocation of utilities, please note this in the CE.

E. UST/Hazardous waste

If UST or hazardous waste sites are identified within the construction area, please refer to [Chapter V.6](#).

### 3.4 Section 4(f)

Section 4(f) of the USDOT Act concerns the use of land from significant historic resources and publicly owned parks, recreation areas, wildlife & waterfowl refuges. Please see Sections 3.3.3 and 3.3.2.E, above. If a TE or CMAQ project requires the use of land from one of these types of resources, refer to [Chapter VI](#) of this manual.

FHWA has developed [guidance](#) specifically for Section 4(f) in regard to TE projects within their Section 4(f) Policy Paper, under number 24 of the Section 4(f) Applicability discussion.

### 3.5 Environmental Reevaluations/Validation

An environmental approval is valid until the project design changes. This includes not only alignment changes but all footprint, right-of-way, and/or easement changes as well as design changes that alter the analysis presented in the approved NEPA document. Project changes may result in the need to update environmental studies. Information for updating technical studies can be found in Chapters V and VII. Depending upon the age of the most recent

approval, a “no change” reevaluation may be required prior to the authorization of ROW or construction funds. Reevaluation requirements can be found in Chapter VII.

The environmental approval also may be invalidated due to changes in the affected environment or environmental regulations or requirements. Therefore, the reevaluation will address not only project design changes, but any that may have occurred to the affected environment (e.g., are there new residences or churches), anticipated impacts of the project, and proposed mitigation. In addition, it must take into account any changes in environmental regulations and requirements.

Within six months of the construction funds for TE or CMAQ project being authorized, the project sponsor will complete an [Environmental Validation](#) form to confirm that the project has not changed since the CE or reevaluation was approved. This document acts as a “no change reevaluation” so that a traditional reevaluation is not needed prior to the authorization of funds. This document can only be utilized for TE and CMAQ projects.

### 3.6 Environmental Permits

The project sponsor is responsible for acquiring all environmental permits, including but not limited to cemetery permits (see [Chapter V.3](#)), Section 404 permits (see [Chapter V.4](#)) and vegetative buffer variances (see [Chapter V.4](#)).

Cemetery permits must be obtained prior to right-of-way authorization; Section 404 permits and vegetative buffer variances (and required mitigation) must be obtained prior to the project being certified for let.

### 3.7 Commitments Table (aka Green Sheet)

All NEPA documents require a commitments table (green sheet), a matrix (printed on green paper) that captures every commitment made during the environmental process. Even projects without commitments will include this table, with “None” marked in each section of the table. Standard specifications such as erosion control are omitted since they are standard for every project. See [Chapter VIII](#) of this manual for a discussion on project green sheets.

Since the NEPA document is completed fairly early on in project development, many efforts to avoid and minimize harm to environmental resources take the form of commitments. Typical commitments include:

- The delineation of environmental resources on project plans,
- Mitigation, Permit, and Variance requirements,
- Orange fencing erected to protect environmental resource boundaries,
- Agency coordination, and
- Plan review and site visits by HPD.

Please remember that all commitments made are legally binding and must be fulfilled. Once the project is let to construction, any commitments that take place during or after construction need to have the signature of the GDOT Area or Construction Engineer for GDOT let projects on the

Commitment Table (green sheet). Locally let projects should have the signature of the local's PM on the Commitment Table (green sheet).