

## Notice of Proposed Rulemaking on Environment

Issue	Current Provisions	New TEA-21 Requirements	Intended Outcomes	Proposed Regulations (Excerpts)
<b>NEPA Policy Framework</b>	<p>§771.105 NEPA document and process address all environmental requirements to fullest extent possible</p> <p>§771.105 Decisions made in best overall public interest</p> <p>§771.105 Public involvement and systematic interdisciplinary approach essential parts of NEPA process</p> <p>§771.105 Mitigation measures incorporated into action and also eligible for Federal funding</p> <p>§771.105 Environmental document preparation costs eligible for Federal assistance</p> <p>§771.105 Non-discrimination in conduct of the NEPA process</p>	<p>No new provisions</p>	<ul style="list-style-type: none"> <li>• Underscore central role of NEPA process in transportation decisionmaking</li> <li>• Reveal full range of Federal environmental mandates</li> <li>• Promote reasonable measures to protect and enhance the environment</li> <li>• Provide a framework for ensuring environmental justice in the NEPA process</li> </ul>	<p>§1420.105 Applicability of CEQ regulations emphasized</p> <p>§1420.107 Multiple goals of NEPA process highlighted</p> <p>§1420.109 Greater visibility of NEPA as a procedural umbrella</p> <p>§1420.113 Avoidance, minimization, mitigation and enhancement responsibilities</p> <p>§1420.111 Environmental Justice guidelines</p>
<b>Environmental Justice</b>	<p>§771.105 Nondiscrimination policy statement</p>	<p>No specific provision in TEA-21</p> <p>Proposed regulatory changes based on current Title VI requirements of Civil Rights Act</p>	<ul style="list-style-type: none"> <li>• Prevent discrimination</li> <li>• Engage potentially affected communities in decisionmaking</li> <li>• Identify impact avoidance and minimization strategies</li> </ul>	<p>§1420.111 Affirmative duty to avoid disproportionate effects where possible</p> <p>§1420.111 Data/analysis to support conclusions regarding environmental equity of decisions</p>
<b>Planning Linkage</b>	<p>No provision in the current NEPA regulations</p>	<p>TEA-21 (Section 1308) eliminates separate Major Investment Study requirement and calls for integrating the requirement with analyses in the planning and environmental (NEPA) rules</p>	<ul style="list-style-type: none"> <li>• Enhance coordination between planning and NEPA processes</li> <li>• Reduce project delay by making greater use of planning results</li> <li>• Eliminate redundant work</li> <li>• Increase public confidence in transportation planning and project development</li> </ul>	<p>§1420.201 Planning studies given explicit standing in the NEPA process</p> <p>§1420.201 NEPA process relies on planning studies and decisions based on various factors</p>
<b>Environ. Streamlining</b>	<p>No current provisions specifically on environmental streamlining</p> <p>§771.109 Policy language on using NEPA process and documents to address all required environmental reviews</p> <p>CEQ regulations address reducing delay</p>	<p>TEA-21 (Section 1308) directs the Secretary of Transportation to establish a coordinated environmental review process</p>	<ul style="list-style-type: none"> <li>• Reduce project delays</li> <li>• Protect and enhance the environment</li> </ul>	<p>§1420.203 Explicit process for identifying agencies, issues, methodologies, time frames, etc. Informal and formal dispute resolution. Option to include State environmental reviews in streamlined process. Option to exclude non-EIS projects at applicant's request</p>
<b>Alternate Procedures</b>	<p>No provision</p>	<p>No new TEA-21 provisions</p>	<ul style="list-style-type: none"> <li>• Allow for innovation in meeting NEPA requirements</li> <li>• Provide flexibility for better integrating with State/local project development processes</li> </ul>	<p>§1420.209 Option for applicants to propose alternate procedures</p> <p>§1420.213 USDOT approval after consultation with CEQ</p>

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<b>USDOT Integration</b>	§771.109, §771.111 Different treatment of FHWA and FTA in many sections of the regulations	No new TEA-21 provisions  ISTEA (Section 3012) directs FTA to conform its project development process to FHWA's process	<ul style="list-style-type: none"> <li>• Simplify process for applicants that deal with both FHWA and FTA</li> <li>• Eliminate redundant requirements for projects involving multiple USDOT modes</li> </ul>	§1420.201 Distinctions between FHWA and FTA virtually eliminated  §1420.211 Option for other USDOT modes to use these regulations
<b>Contracting for Eng. Serv.</b>	No provision  CEQ regulations prohibit conflict of interest	TEA-21 (Section 1205) allows a single consultant to be hired for NEPA and subsequent engineering services	<ul style="list-style-type: none"> <li>• Protect the integrity of the NEPA process</li> <li>• Reduce project delays</li> <li>• Maintain institutional knowledge throughout project development</li> </ul>	§1420.301 Single consultant can be hired for NEPA and post-NEPA work  §1420.301 Objectivity review required
<b>Air Quality Conformity</b>	Link between NEPA and conformity not explicit	No new TEA-21 provision	<ul style="list-style-type: none"> <li>• Clarify Clean Air Act prohibitions on Federal approvals in non-attainment areas</li> </ul>	§1420.307 Final EIS, FONSI, CE approval not allowed until project conforms
<b>Categorical Exclusions</b>	§771.117 Two broad categories: "automatic" CEs and "documented" CEs  §771.117 Specific activities listed under two categories	No new TEA-21 provisions on categorical exclusion  NHS Act (Section 316) categorically excludes transportation enhancements	<ul style="list-style-type: none"> <li>• Streamline NEPA process for new low-impact activities</li> <li>• Maintain current flexibility</li> </ul>	§1420.311 List of activities updated to reflect ITS, enhancements, other activities  §1420.311 Modification of which activities are "automatic" vs. "documented" CEs
<b>Section 4(f)</b>	§771.135 Section 4(f) requirements part of the NEPA regulations	No new TEA-21 provision	<ul style="list-style-type: none"> <li>• Make section 4(f) regulation more user friendly</li> <li>• Update to reflect enhancement activities</li> <li>• Put section 4(f) on equivalent procedural footing with other environmental mandates</li> </ul>	§1430.101 Section 4(f) in separate part of CFR  §1430.117 Programmatic approvals explicitly allowed  §1430.111 Certain enhancement activities excluded  §1430.119 Link to planning and NEPA processes  §1430.111 Conformity changes to reflect new ACHP rules