

Table of Contents

<u>Section</u>	<u>Page</u>
C.1 General	C-1
C.2 Public Involvement	C-3
C.3 Historic and Archeological Preservation	C-3
C.4 Section 4(f)	C-6
C.5 Socio-Economics	C-7
C.6 Wetlands/Waters of the US	C-8
C.7 Storm Water	C-10
C.8 Threatened and Endangered Species	C-11
C.9 Material Sites	C-11
C.10 Air Quality	C-12
C.11 Safe Drinking Water	C-12
C.12 Noise	C-13
C.13 Hazardous Materials/Waste	C-13
C.14 Section 6(f)	C-15
C.15 Invasive Species/Noxious Weeds	C-15
C.16 Farmland	C-16
C.17 Wild and Scenic Rivers	C-17
C.18 Migratory Birds	C-17
C.19 State of Nevada Incidental Take Permits	C-17
C.20 Native American Consultation/Coordination	C-18
C.21 Wilderness Areas	C-19

Appendix C

OTHER ENVIRONMENTAL DIRECTIVES & GUIDANCE

C.1 GENERAL

[See [Chapter 5 “Decision-Making Process for Applying NEPA”](#)]

[See [Chapter 6 “Categorical Exclusions”](#)]

[See [Chapter 7 “Environmental Assessments”](#)]

[See [Chapter 8 “Environmental Impact Statements”](#)]

1. 42 U.S.C. 4321-4347 “National Environmental Policy.”

Purpose: Consider environmental factors through systematic interdisciplinary approach before committing to a course of action.

Applicability: Federal actions.

General Procedures: Procedures are in [Appendix B Item I. 40 CFR 1500-1508](#) and [Appendix B Item III. 23 CFR 771](#).

Coordination: Federal, State and local agencies.

2. 23 U.S.C. 139 “Efficient Environmental Reviews for Project Decision Making.”

Purpose: To improve the efficiency of environmental reviews by promoting a structured approach to involvement of other agencies (i.e., participating and cooperating agencies).

Applicability: Applicable to projects for which an Environmental Impact Statement is prepared pursuant to the *National Environmental Policy Act*. Also may be applied to projects involving the preparation of an environmental document pursuant to NEPA as deemed appropriate by the Secretary of the US Department of Transportation.

General Procedures: Identify and invite the involvement of participating agencies in determining purpose and need, range of alternatives, as well as methodologies and level of detail for environmental analyses. Prepare a participation plan, which may include a schedule for involvement activities.

Coordination: Federal, State and local agencies.

3. The Importance of Purpose and Need in Environmental Documents, FHWA Guidance Paper, September 18, 1990.

Purpose: To explain the importance of project purpose and need, how it should be presented in environmental documents, and how it is used in selecting alternatives and other aspects of project decision-making.

4. The Development of Logical Project Termini, FHWA Guidance Paper, November 5, 1993.

Purpose: To provide guidance on selecting logical termini for transportation projects to meet the requirements of 23 CFR 771 (see [Appendix B Item III](#)).

5. FHWA “Environmental Review Toolkit” Website.

Purpose: To provide a convenient way for accessing information from FHWA and other sources regarding the project environmental review process.

6. FHWA “Environmental Guidebook” Website.

Purpose: To provide up-to-date information to accelerate the delivery of transportation projects. The website provides information on environmental and transportation planning topics and for each topic, includes FHWA contact information, FHWA policy and guidance documents, transportation and environment websites, training information, State practices from the Streamlining and Stewardship Practices Database and a list of related newsletters (i.e., *Successes in Stewardship*).

7. Maintaining a Project File and Preparing an Administrative Record for a NEPA Study — AASHTO Practitioner’s Handbook 01, July 2006.

Purpose: To provide guidance on maintaining the project file during the NEPA process and on compiling the administrative record if a lawsuit is filed to challenge the decisions made during the NEPA process.

8. Responding to Comments on an Environmental Impact Statement — AASHTO Practitioner’s Handbook 02, July 2006.

Purpose: To provide recommendations for reviewing and responding to comments on an Environmental Impact Statement under NEPA.

9. Tracking Compliance with Environmental Commitments/Use of Environmental Monitors — AASHTO Practitioner’s Handbook 04, November 2006.

Purpose: To provide recommendations on tracking compliance with environmental commitments during the environmental review phase as well as the design, construction, operations and maintenance phases of a transportation project.

10. Defining the Purpose and Need and Determining the Range of Alternatives for Transportation Projects — AASHTO Practitioner’s Handbook 07, August 2007.

Purpose: To provide recommendations, that are in accordance with NEPA, for defining the purpose, need and range of alternatives in Environmental Impact Statements and Environmental Assessments for transportation projects.

11. Developing & Implementing an Environmental Management System in a State Department of Transportation — AASHTO Practitioner’s Handbook 08, September 2007.

Purpose: To provide recommendations for developing and implementing an Environmental Management System to help meet goals and expectations for enhancing environmental and business performance and for demonstrating commitment to environmental stewardship.

C.2 PUBLIC INVOLVEMENT

[See [Chapter 9](#)]

1. 23 U.S.C. 128 “Public Hearings.”

Purpose: To ensure adequate opportunity for public hearing(s) on the social, economic and environmental effects of alternative project locations and major design features, as well as the consistency of the project with local planning goals and objectives.

Applicability: Public hearings or hearing opportunities are required for projects described in each State's FHWA-approved public involvement procedures.

General Procedures: Public hearings or opportunities for public hearings during the consideration of highway location and design proposals are conducted as described in the State's FHWA-approved public involvement procedures. States must certify to FHWA that such hearings or the opportunity for them to occur have been held and must submit a hearing transcript to FHWA.

Coordination: Federal, State and local agencies.

C.3 HISTORIC AND ARCHEOLOGICAL PRESERVATION

[See [Chapter 11](#)]

1. 16 U.S.C. 470f Section 106 of the *National Historic Preservation Act*.

Purpose: To protect, rehabilitate, restore and reuse districts, sites, buildings, structures and objects significant in American architecture, archeology, engineering and culture.

Applicability: Properties in or eligible for inclusion in the National Register of Historic Places.

General Procedures: Procedures are in 36 CFR 800. (1) Identify and determine the effects of the project on properties included in or eligible for inclusion in the National Register of Historic Places, (2) coordinate with the State Historic Preservation Officer, consulting parties and the Advisory Council on Historic Preservation and (3) avoid or mitigate adverse effects to the greatest extent possible.

Coordination: State Historic Preservation Officer, Advisory Council on Historic Preservation and DOI (NPS).

2. 16 U.S.C. 470h-2(f) “Planning and Actions to Minimize Harm to National Historic Landmarks.”

Purpose: To protect national historic landmarks and record historic properties prior to demolition.

Applicability: Properties designated as National Historic Landmarks. Properties on or eligible for inclusion on the National Register of Historic Places.

General Procedures: Procedures are in 36 CFR 65. (1) Identify and determine the effects of the project on subject properties and (2) afford Advisory Council on Historic Preservation an early opportunity to comment, in accordance with 36 CFR 800.

Coordination: State Historic Preservation Officer, Advisory Council on Historic Preservation and DOI (NPS).

3. 16 U.S.C. 469c “Threat of irreparable loss or destruction of significant scientific, prehistoric, historic or archeological data by Federal construction projects.”

Purpose: To preserve significant historical and archeological data from loss or destruction.

Applicability: Unexpected archeological resources discovered as a result of a Federal construction project or Federally licensed activity or program.

General Procedures: (1) Notify DOI (NPS) when a Federal project may result in the loss or destruction of a historic or archeological property and (2) DOI and/or the Federal agency may undertake survey or data recovery.

Coordination: DOI (NPS) Departmental consulting archeologist and State Historic Preservation Officer (SHPO).

4. 16 U.S.C. 470aa-mm “Archeological Resources Protection.”

Purpose: To preserve and protect archaeological resources on public lands and Indian lands from loss or destruction.

Applicability: Archeological resources on Federal or Native American-owned property.

General Procedures: Procedures are in 43 CFR 7. (1) Ensure contractor obtains permit and identifies and evaluates resource, (2) Mitigate or avoid resource in consultation with State officials and (3) Apply for permission to examine, remove or excavate such objects.

Coordination: Department or agency having jurisdiction over land on which resources may be situated (e.g., BIA, BLM, DOA, DOD, NPS, TVA, USFS, SHPO, recognized Indian Tribe).

5. 16 U.S.C. 433 “American Antiquities.”

Purpose: To ensure that historic or prehistoric ruins or monuments, or objects of antiquity, situated on lands owned or controlled by the Government of the United States shall not be appropriated, excavated, injured or destroyed without the permission of the Secretary of the Department having jurisdiction over the lands on which the antiquities are situated.

General Procedures: Procedures are in 43 CFR 3. (1) Apply for a permit when a Federal project may result in the loss or destruction of a historic or prehistoric ruin or monument or any object of antiquity on lands owned or controlled by the US

Government and (2) Include information regarding the plans for treatment of the object of antiquity.

Coordination: Secretary of Federal agency having jurisdiction over the lands on which the antiquities are located.

6. 23 U.S.C. 144(o) "Historic Bridge Program."

Purpose: To complete an inventory of on-system and off-system bridges to determine their historic significance. Encourage the rehabilitation, reuse and preservation of historic bridges.

Applicability: Bridges listed on or eligible for listing on the National Register of Historic Places.

General Procedures: (1) Inventory bridges on and off the Federal-aid system to determine their historic significance, (2) seek to preserve or reduce impact to historic bridges and (3) seek a recipient prior to demolition.

Coordination: State Historic Preservation Officer, Keeper of the National Register and Advisory Council on Historic Preservation.

7. 42 U.S.C. 1996 "Protection and Preservation of Traditional Religions of Native Americans."

Purpose: To protect places of religious importance to American Indians, Eskimos and Native Hawaiians.

Applicability: Projects that affect places of religious importance to Native Americans.

General Procedures: Consult with knowledgeable sources to identify and determine effects on places of religious importance. Comply with Section 106 procedures if the property is historic.

Coordination: BIA, State Historic Preservation Officer, State Indian liaison and Advisory Council on Historic Preservation.

8. 25 U.S.C. 3001, et seq. "Native American Graves Protection and Repatriation."

Purpose: To determine the rights of lineal descendants and Indian Tribes and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects or objects of cultural patrimony with which they are affiliated.

Applicability: Human remains, funerary objects, sacred objects or objects of cultural patrimony that are in Federal possession or control; in the possession or control of any institution of State or local government receiving Federal funds; or excavated intentionally or discovered inadvertently on Federal or Tribal lands.

General Procedures: Procedures are in 43 CFR 10. Consult with known lineal descendants and Indian Tribe officials from Indian Tribes on whose aboriginal lands the planned activity will occur or where the inadvertent discovery has been made; from

Indian Tribes and Native Hawaiian organizations that are, or are likely to be, culturally affiliated with the human remains, funerary objects, sacred objects or objects of cultural patrimony; and from Indian Tribes and Native Hawaiian organizations that have a demonstrated cultural relationship with the human remains, funerary objects, sacred objects or objects of cultural patrimony.

Coordination: DOI (NPS), BIA, State Historic Preservation Officer.

9. Consulting Under Section 106 of the National Historic Preservation Act — AASHTO Practitioner’s Handbook 06, February 2007.

Purpose: To provide recommendations for complying with Section 106 of the National Historic Preservation Act during the environmental review process for transportation projects.

C.4 SECTION 4(F)

[See [Chapter 12](#)]

1. 23 U.S.C. 138 and 49 U.S.C. 303 Section 4(f).

Purpose: To preserve significant publicly owned parks, recreation areas, and wildlife and waterfowl refuges and significant historic sites.

Applicability: Significant publicly owned public parklands, recreation areas, wildlife and waterfowl refuges and significant historic sites “used” for a highway project.

General Procedures: Procedures are in 23 CFR 771.135. Specific finding required: (1) project should avoid use of land from protected areas, unless there is no feasible and prudent alternative; and (2) selected alternative must include all possible planning to minimize harm to the protected area.

Coordination: DOI, DOA, HUD, State, or local agencies having jurisdiction, and State Historic Preservation Officer (for historic sites).

2. 23 U.S.C. 103(c) “Exemption of Interstate System.”

Purpose: To recognize that the Interstate System shall not be considered a historic site for purposes of Section 4(f), but individual elements of the Interstate System may be specifically determined by the Secretary of the US Department of Transportation to be historic sites for Section 4(f) purposes.

Applicability: The Interstate Highway System.

General Procedures: The Secretary of the US Department of Transportation will determine those specific elements of the Interstate System that will be considered historic sites under Section 4(f) and will publish in the *Federal Register* a listing of those individual elements.

Coordination: FHWA.

3. 23 U.S.C. 138 “De Minimis Impacts.”

Purpose: To provide that the requirements of Section 4(f) shall be considered satisfied if it is determined, in accordance with terms specified, that the program or project will have a de minimis impact on a resource protected by Section 4(f).

Applicability: Federal-aid highway projects or actions that affect resources protected by Section 4(f) and are subject to an approval action by an agency of the US Department of Transportation.

General Procedures: Evaluate and document that the effects of a project on a resource protected by Section 4(f) meet the stipulated criteria for de minimis impact. Request concurrence from the FHWA or other involved agency of the US Department of Transportation.

Coordination: FHWA or other US Department of Transportation agency.

C.5 SOCIO-ECONOMICS

[See [Chapter 13](#)]

1. 23 U.S.C. 109(h) “Consideration of Economic, Social, and Environmental Effects.”

Purpose: To assure that possible adverse, economic, social and environmental effects of proposed highway projects and project locations are considered and that final decisions on highway projects are made in the best overall public interest.

Applicability: Planning and development of proposed projects on the Federal-aid system for which the FHWA approves the plans, specifications and estimates or has the responsibility for approving a program.

General Procedures: Procedures are in 23 CFR 771. Identify social, economic and environmental effects; consider alternative courses of action; involve other agencies and the public; use a systematic interdisciplinary approach.

Coordination: Federal, State and local agencies.

2. 42 U.S.C. 4601 et seq. “Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs.”

Purpose: To implement the Uniform Act as amended in an efficient manner; to ensure property owners of real property acquired for and persons displaced by Federal-aid projects are treated fairly, consistently and equitably; and so they will not suffer disproportionate injuries.

Applicability: Projects involving Federal-aid funds.

General Procedures: Procedures are in 49 CFR 24.

Coordination: DOT/FHWA has lead responsibility. Federal, State and local agencies.

3. Executive Order 12898 Environmental Justice.

Purpose: To avoid Federal actions that cause disproportionately high and adverse impacts on minority and low-income populations with respect to human health and the environment.

Applicability: Federal programs and projects.

General Procedures: Procedures set forth in DOT Final Environmental Justice Strategy and final DOT Order (*Federal Register*, Volume 62, No. 72, pp. 18377-18381).

Coordination: FHWA headquarters and field offices.

C.6 WETLANDS/WATERS OF THE US

[See [Chapter 14](#)]

1. Executive Order 11990 Protection of Wetlands.

Purpose: To avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.

Applicability: Federally undertaken, financed or assisted construction and improvements that have impacts on wetlands.

General Procedures: DOT Order 5660.1A establishes US Department of Transportation policy on preservation of wetlands pursuant to Executive Order 11990. Procedures for evaluation and mitigation of adverse environmental impacts to wetlands and natural habitats resulting from Federal-aid highway projects are in 23 CFR 777. Evaluate alternatives to avoid wetland impacts and mitigate for unavoidable adverse wetland impacts. Specific finding required in final environmental document if selected alternative affects wetlands (e.g., there is no practicable alternative to construction in wetlands and the undertaking includes all practicable measures to minimize harm to wetlands that may result from the construction).

Coordination: DOI (FWS), EPA, USACE, NMFS, NRCS, State agencies.

2. 23 U.S.C. 133(b)(11) Participation in Wetland Mitigation Banks.

Purpose: To mitigate wetlands impacts directly associated with projects funded through NHS and STP by participating in wetlands mitigation banks for the restoration, enhancement and creation of wetlands authorized under the *Water Resources Development Act* and through contributions to Statewide and regional efforts.

Applicability: Federally undertaken, financed or assisted construction and improvements in or with impacts on wetlands.

General Procedures: Procedures for evaluation and mitigation of adverse environmental impacts to wetlands and natural habitats resulting from Federal-aid highway projects are in 23 CFR 777. Mitigation banking is an option for Federal-aid highway projects.

Coordination: DOI (FWS), EPA, USACOE, NMFS, NRCS, State agencies.

3. 16 U.S.C. 3901 “Wetlands Resources.”

Purpose: To promote the conservation of wetlands in the US to maintain the public benefits they provide.

Applicability: Projects that impact wetlands.

General Procedures: (1) Preparation of a National Wetlands Priority Conservation Plan that provides priority with respect to Federal and State acquisition and (2) provide direction for the National Wetlands Inventory Project.

Coordination: FWS.

4. 33 U.S.C. 1251-1376 “Water Pollution Prevention and Control” (*Clean Water Act*).

Purpose: To restore and maintain chemical, physical and biological integrity of the Nation's waters through prevention, reduction and elimination of pollution.

Applicability: Discharges of a pollutant into waters of the US.

General Procedures: Permit procedures are in 33 CFR 320-331. Water quality certification procedures are in 40 CFR 121. Guidelines for specification of disposal sites for dredged or fill material are in 40 CFR 230. (1) Obtain permit for discharge of dredged or fill material from USACE or State agency, as appropriate (Section 404) and (2) obtain Section 401 water quality certification from EPA or State water quality agency.

Procedures for total maximum daily load (TMDL) and individual water quality-based effluent limitations pursuant to 33 U.S.C 1313(d) “Identification of areas with insufficient controls; maximum daily load; certain effluent limitations revision” are in 40 CFR 130.7.

Coordination: USACOE, EPA, designated State water quality control agency, designated State non-point source pollution agency.

5. 16 U.S.C. 661-666(c) “Protection and Conservation of Wildlife.”

Purpose: To conserve, maintain and manage wildlife resources.

Applicability: (1) A project in which the waters of any stream or other body of water are proposed or authorized, permitted or licensed to be impounded, diverted or otherwise controlled or modified by any agency under a Federal permit or license and (2) transfer of property by Federal agencies to State agencies for wildlife conservation purposes.

General Procedures: Requires consultation early in project development with FWS and State fish and wildlife agency. The purpose of consultation is to prevent loss of and damage to wildlife resources.

Coordination: DOI (FWS), State fish and wildlife agencies.

6. NEPA/404 Merger Agreement for NDOT Highway Projects, executed by the USACE, FHWA and the NDOT.

Purpose: To streamline project development by ensuring that a NEPA document prepared for FHWA approval of a highway project meets the needs of the USACE for NEPA compliance associated with the issuance of a Section 404 permit for the highway project.

Applicability: Projects that require an individual Section 404 permit from the USACE.

General Procedures: Coordinate with the USACE during planning and preconstruction to get input on USACE issues to be addressed in the project NEPA document.

Coordination: USACE and FHWA.

7. USACE Regulatory Guidance Letter 07-01, June 5, 2007, "Practices for Documenting Jurisdiction Under Sections 9 & 10 of the Rivers & Harbors Act (RHA) and Section 404 of the Clean Water Act (CWA)."

Purpose: To provide a consistent national approach for making, documenting and approving jurisdictional determinations by the USACE and making that information available to the public.

C.7 STORM WATER

[See [Chapter 15](#)]

1. 33 U.S.C. 1342 "National Pollutant Discharge Elimination System."

Purpose: To establish a permit program for eliminating discharges of pollutants into waters of the United States and Navigable Waters of the United States.

Applicability: Under NPDES Phase I, permits required for medium and large (i.e., serving populations of more than 100,000) municipal separate storm sewer systems and for construction activities disturbing more than 5 acres of land area. Under NPDES Phase II, permits required for small municipal separate storm sewer systems (i.e., any municipal separate storm sewer system not already covered as a medium or large system under Phase I) and construction activities disturbing between 1 and 5 acres of land area.

General Procedures: Permit procedures are in 40 CFR 122-125. Construction permit requires preparation of a storm water pollution prevention plan (SWPPP). Procedures for erosion and sediment control on highway construction projects are in 23 CFR 650.201-211.

Coordination: EPA, designated State water quality control agency, designated State non-point source pollution agency.

C.8 THREATENED AND ENDANGERED SPECIES

[See [Chapter 16](#)]

1. 16 U.S.C. 1531-1543 “Endangered Species.”

Purpose: To conserve species of fish, wildlife and plants facing extinction.

Applicability: An action that is likely to jeopardize continued existence of threatened or endangered species or result in destruction or adverse modification of critical habitat.

General Procedures: Consult with the Secretary of the Interior or Commerce, as appropriate. Procedures for endangered terrestrial plant species are in 7 CFR 355. Procedures for endangered and threatened wildlife and plants are in 50 CFR 17 and 50 CFR 81. Identify and evaluate project effects on listed and proposed threatened and endangered species and designated and proposed critical habitat. Evaluate alternatives to avoid jeopardizing the continued existence of threatened or endangered species and the destruction or adverse modification of critical habitat for threatened or endangered species.

Coordination: DOI (FWS), Commerce (NMFS).

C.9 MATERIAL SITES

[See [Chapter 17](#)]

1. “Memorandum of Agreement Among USDOJ Bureau of Land Management, USDOT Federal Highway Administration and State of Nevada Department of Transportation.”

Purpose: To define specific policies and guidelines for processing new and amended Federal-aid highway rights-of-way, including materials sites.

Applicability: For material sites, the provisions of the agreement apply to the following: testing existing material sites on BLM land; acquisition of right-of-way for use of a material site; and use of a material site.

General Procedures: Collect data on the material site location, etc.; conduct preliminary field reviews and surveys of site; initiate consultations with regulatory agencies; prepare draft NEPA document; finalize NEPA document and obtain approval; and provide environmental clearances.

Coordination: BLM, FHWA, regulatory and resource agencies.

C.10 AIR QUALITY

[See [Chapter 18](#)]

1. 23 U.S.C. 109(j) and 42 U.S.C. 7506 et seq. “Conformity with State Implementation Plans for Air Quality.”

Purpose: To ensure that transportation plans, programs and projects conform to the State’s air quality implementation plans.

Applicability: Projects in areas designated as non-attainment or maintenance areas for the criteria pollutants.

General Procedures: Transportation plans, programs and projects must conform with State Implementation Plans (SIPs) that provide for attainment of the national ambient air quality standards. Procedures for determining conformity of Federal actions to State or Federal implementation plans are in 40 CFR 93.

Coordination: FHWA, EPA, MPOs, State Departments of Transportation and State and local Air Quality Control Agencies.

2. NRS 445B.100 et seq. “Air Pollution.”

Purpose: To achieve and maintain levels of air quality that will protect human health and safety, prevent injury to plant and animal life, prevent damage to property and preserve visibility and scenic, esthetic and historic values of the State of Nevada.

Applicability: Facilities that meet air emissions thresholds for permitting and projects that will disturb 5 acres or more.

General Procedures: Coordinate with the Nevada Division of Environmental Protection, Bureau of Air Pollution Control or, for projects in Clark or Washoe Counties, with the designated air quality agency to obtain any necessary air quality permits.

Coordination: NDEP/BAPC, Clark and Washoe County air quality agencies.

C.11 SAFE DRINKING WATER

[See [Appendix B Item IV. “FHWA Technical Advisory T6640.8A”](#)]

[See [Chapter 6 “Categorical Exclusions”](#)]

[See [Chapter 7 “Environmental Assessments”](#)]

[See [Chapter 8 “Environmental Impact Statements”](#)]

1. 42 U.S.C. 300f - 300j-6 “Safety of Public Water Systems.”

Purpose: To ensure public health and welfare through safe drinking water.

Applicability: (1) Public drinking water systems and reservoirs, including rest area facilities and (2) actions that have a significant impact on an aquifer or wellhead

protection area, which is the sole or principal drinking water source as designated through the Federal Register process.

General Procedures: (1) Compliance with national primary drinking water regulations, (2) compliance with State wellhead protection plans and (3) compliance with MOAs between EPA and FHWA covering specific sole-source aquifers. National primary drinking water regulations are in 40 CFR 141, and regulations on sole source aquifers are in 40 CFR 149.

Coordination: EPA and appropriate State water quality agency.

C.12 NOISE

[See [Chapter 19](#)]

1. 23 U.S.C. 109(i) "Standards for Highway Noise."

Purpose: To promulgate noise standards for highway traffic.

Applicability: Federally funded projects for the construction of a highway on new location, or the physical alteration of an existing highway which significantly changes either the vertical or horizontal alignment or increases the number of through traffic lanes.

General Procedures: (1) Noise impact analysis, (2) analysis of mitigation measures and (3) incorporate reasonable and feasible noise abatement measures to reduce or eliminate noise impact. Procedures for abatement of highway traffic noise and construction noise are in 23 CFR 772.

C.13 HAZARDOUS MATERIALS/WASTE

[See [Chapter 20](#)]

1. 42 U.S.C. 6901, et seq. "Solid Waste Disposal/Hazardous Waste Management."

Purpose: To protect human health and the environment, prohibit open dumping, manage solid wastes and regulate treatment, storage, transportation and disposal of hazardous waste.

Applicability: Projects that take right-of-way containing a hazardous waste.

General Procedures: Coordinate with EPA or State agency on remedial action. Procedures for hazardous waste management and hazardous waste programs are in 40 CFR 260-271.

Coordination: EPA or State agency approved by EPA, if any.

2. 42 U.S.C. 9601-9657 "Comprehensive Environmental Response, Compensation and Liability."

Purpose: To provide for liability, compensation, cleanup and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

Applicability: Projects that take right-of-way containing a hazardous substance.

General Procedures: (1) Avoid hazardous waste sites, if possible, (2) check EPA lists of hazardous waste sites, (3) field surveys and reviews of past and present land use, (4) contact appropriate officials if uncertainty exists, (5) if hazardous waste is present or suspected, coordinate with appropriate officials and (6) if hazardous waste is encountered during construction, cordon the area, stop the project and develop remedial action. Procedures for the National Oil and Hazardous Substances Pollution Contingency Plan are in 40 CFR 300. Procedures for the identification, investigation, study and response to a release of a hazardous substance are in 43 CFR 11. Standards and Practices for Inquiries are addressed in 40 CFR 312.

Coordination: EPA or State agency approved by EPA, if any.

3. FHWA "Interim Guidance – Hazardous Waste Sites Affecting Project Development," August 5, 1988.

Purpose: To provide a framework around which effective processes for dealing with hazardous substances/waste can be built.

4. FHWA "Supplemental Hazardous Waste Guidance," January 16, 1997.

Purpose: To provide additional guidance to supplement that provided in the 1988 "Interim Guidance – Hazardous Waste Sites Affecting Project Development."

5. NRS 459.610-658 "Program for Voluntary Cleanup of Hazardous Substances and Relief from Liability."

Purpose: To provide permitting program for the voluntary cleanup of hazardous substances and relief from liability.

Applicability: Projects involving acquisition of right-of-way containing a hazardous substance.

General Procedures: (1) Submit application in writing to the Administrator of the Division of Environmental Protection of the Nevada Department of Conservation and Natural Resources, (2) include an environmental assessment of the property, including the source, nature and location of hazardous substances known to, or reasonably believed to be located on the property, (3) include a proposed general plan for removal or remediation of the hazardous substances on the property and (4) submit application fee and other information required. Procedures for participation in the program for voluntary cleanup of hazardous substances are in NAC 459.973-9743.

Coordination: Nevada Department of Conservation and Natural Resources, Division of Environmental Protection.

C.14 SECTION 6(F)

[See [Section 21.1](#)]

1. 16 U.S.C. 4601-4 et seq. "Land and Water Conservation Fund."

Purpose: To preserve, develop and assure the quality and quantity of outdoor recreation resources for present and future generations.

Applicability: Projects that impact recreational lands purchased or improved with assistance under the *Land and Water Conservation Fund Act* (L&WCF).

General Procedures: The Secretary of the Interior must approve any conversion of property acquired or developed with assistance under the *Land and Water Conservation Fund Act* to other than public, outdoor recreation use. Regulations on post-completion compliance responsibilities (including conversion to other uses) are in 36 CFR 59.

Coordination: DOI, State agencies.

C.15 INVASIVE SPECIES/NOXIOUS WEEDS

[See [Section 21.2](#)]

1. Executive Order 13112 Invasive Species.

Purpose: To prevent the introduction of invasive species, provide for their control and minimize the economic, ecological and human health impacts invasive species cause.

Applicability: Federal actions that affect the status of invasive species.

General Procedures: Use relevant programs and authorities to: (1) prevent the introduction of invasive species; (2) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (3) monitor invasive species populations accurately and reliably; (4) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (5) conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species and (6) promote public education on invasive species and the means to address them.

Coordination: Invasive Species Council, State and local governmental agencies and affected landowners.

2. 16 U.S.C. 4701 et seq. "Aquatic Nuisance Prevention and Control."

Purpose: To develop and carry out environmentally sound methods to prevent, monitor and control unintentional introductions of non-indigenous species and to understand and minimize economic and ecological impacts of non-indigenous aquatic nuisance species that become established.

Applicability: Waters of the US.

General Procedures: Implement measures to control established aquatic nuisance species to minimize the risk of harm to the environment and public health and welfare.

Coordination: Federal and State agencies, Indian Tribes, local governments, inter-jurisdictional organizations and other appropriate entities.

3. 23 U.S.C. 329 “Eligibility for Control of Noxious Weeds and Aquatic Noxious Weeds and Establishment of Native Species.”

Purpose: To provide that Federal highway funding may be used for specified activities to establish native species and control noxious weeds and aquatic noxious weeds.

Applicability: Federal-aid highway projects.

General Procedures: Specified activities for establishing native species and for controlling noxious weeds may be carried out concurrently with, in advance of or following the construction of a project funded under Title 23.

Coordination: FHWA and local transportation authorities.

4. NRS 555.130-201 “Inspection and Destruction of Noxious Weeds.”

Purpose: To control the propagation and spread of weeds declared and designated as noxious.

Applicability: Land within the State of Nevada.

General Procedures: Persons owning, controlling or occupying lands in the State of Nevada shall cut, destroy or eradicate weeds declared and designated as noxious as provided in NRS 555.130, before such weeds propagate and spread and whenever required by the State Quarantine Officer.

Coordination: State Quarantine Officer.

C.16 FARMLAND

[See [Section 21.3](#)]

1. 7 U.S.C. 4201-4209 “Farmland Protection Policy.”

Purpose: To minimize impacts on farmland and maximize compatibility with State and local farmland programs and policies.

Applicability: Projects that take right-of-way in farmland, as defined by regulation.

General Procedures: (1) Early coordination with the NRCS, (2) land evaluation and site assessment and (3) determination of whether or not to proceed with farmland

conversion, based on severity of impacts and other environmental considerations. Procedures for compliance with the *Farmland Protection Policy Act* are in 7 CFR 658.

Coordination: NRCS.

C.17 WILD AND SCENIC RIVERS

[See [Section 21.4](#)]

1. 16 U.S.C. 1271-1287 “Wild and Scenic Rivers.”

Purpose: To preserve and protect wild and scenic rivers and immediate environments for the benefit of present and future generations.

Applicability: Projects that affect designated and potential wild, scenic and recreational rivers and/or immediate environments.

General Procedures: Submit project plans and reports to the Federal agency responsible for administering the affected river. USFS procedures for wild and scenic rivers are in 36 CFR 297. BLM procedures for management areas are in 43 CFR 8350.

Coordination: DOI (NPS, FWS, BLM) and/or Agriculture (USFS), State agencies.

C.18 MIGRATORY BIRDS

[See [Section 21.6](#)]

1. 16 U.S.C. 703-712 “Migratory Bird Treaty.”

Purpose: To protect most common wild birds found in the United States.

Applicability: Makes it unlawful for anyone to kill, capture, collect, possess, buy, sell, trade, ship, import or export any migratory bird. Indirect killing of birds by destroying nests or eggs is applicable, so construction in nesting areas can constitute a taking.

General Procedures: The FWS is to review and comment on the effects of a proposal that could kill birds, even indirectly.

Coordination: DOI (FWS), State fish and wildlife agencies.

C.19 STATE OF NEVADA INCIDENTAL TAKE PERMITS

[See [Section 21.7](#)]

1. NRS 527.260-527.300 “Protection and Propagation of Selected Species of Native Flora.”

Purpose: To conserve and protect the various species of flora in the State of Nevada that are threatened with extinction.

Applicability: Projects that impact a species or subspecies of native flora that the Nevada State Forester Firewarden has determined to be threatened with extinction and placed on the Nevada list of fully protected species.

General Procedures: Coordinate with the State Forester Firewarden to obtain a special permit for removal or destruction of any member of the fully protected species, if necessary. Regulations for the permit procedures are in NAC 527.250-360.

Coordination: Nevada State Forester Firewarden.

C.20 NATIVE AMERICAN CONSULTATION/COORDINATION

[See [Section 21.9](#)]

1. Executive Order 13084 and Executive Order 13175 Consultation and Coordination with Indian Tribal Governments.

Purpose: To establish regular and meaningful consultation and collaboration with Indian Tribal governments on matters that have Tribal implications.

Applicability: Development and/or implementation of policies or programs that have Tribal implications.

General Procedures: Coordinate and collaborate with Tribal government officials and decision-makers on matters having Tribal implications.

Coordination: BIA, Tribal government officials and decision-makers.

2. “Tribal Consultation” Website, AASHTO Center for Environmental Excellence.

Purpose: To provide transportation professionals with a one stop source for information on tribal consultation. The website contains documents and links to documents and websites that address key aspects of tribal consultation.

3. “National NAGPRA” Website, NPS.

Purpose: To provide useful information on the NAGPRA law and regulations and a link to the Native American Consultation Database (NACD). The NACD is a listing of federally recognized tribes that have indicated interests in specific geographical areas. The database is not a comprehensive source of information, but provides a starting point for consultation by identifying tribal leaders and NAGPRA contacts. The NPS periodically updates the NACD as information is received from Indian tribes, Alaska Native villages and corporations, Native Hawaiian organizations and the BIA.

4. *Tribal Consultation — Best Practices in Historic Preservation*, National Association of Tribal Historic Preservation Officers, May 2005.

Purpose: To provide guidance on effective methods for meaningful tribal consultation in the historic preservation process.

C.21 WILDERNESS AREAS

[See [Appendix B Item II. "40 Questions Concerning CEQ's NEPA Regulations"](#)]

[See [Appendix B Item VI. "FHWA Section 4\(f\) Policy Paper"](#)]

[See [Chapter 6 "Categorical Exclusions"](#)]

[See [Chapter 7 "Environmental Assessments"](#)]

[See [Chapter 8 "Environmental Impact Statements"](#)]

1. 16 U.S.C. 1131-1136 "National Wilderness Preservation System."

Purpose: To preserve and protect wilderness areas in their natural condition for use and enjoyment by present and future generations.

Applicability: Lands designated as part of the wilderness system by Congress.

General Procedures: Apply for modification or adjustment of wilderness boundary by either Secretary of the Interior or Agriculture, as appropriate. USFS regulations on Wilderness-Primitive Areas are in 36 CFR 293. DOI regulations on Wilderness Preservation are in 43 CFR 19 and FWS regulations on Wilderness Preservation and Management are in 50 CFR 35.

Coordination: USDA (USFS), DOI (FWS, NPS, BLM), and State agencies.

