Environmental Guide

Volume 2 Activity Instructions

This Volume 2 of TxDOT's Environmental Guide contains individual instructions for completing each of the Activities, Reviews, and Coordinations generated in TxDOT's Environmental Compliance Oversight System (ECOS) that may be required to environmentally approve a given transportation project.

TxDOT Environmental Affairs Division
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This Volume contains instructions for each and every Activity that may be included in a project work plan for a given project. They are arranged in alphabetical order.

Below are some general principles to be applied in following the Activity Instructions in this Volume.

Date in footer of individual Activity Instructions

Whenever ENV revises any of the Activity Instructions in this Volume 2, ENV will update the month and year in the footers on the Volume 2 cover page and on the individual Activity Instructions that are being revised. ENV will not update the month and year in the footers of any individual Activity Instructions that are not being revised so that users will be able to tell from the footers if and when the instructions for a particular Activity have been revised.

References to "district environmental staff"

Throughout this Guide, references to "district environmental staff" may be read as referring to a district employee, a TxDOT consultant, local government representative, or local government consultant, depending on who is working in ECOS, performing the Activity, or producing the relevant documentation.

References to "core team"

For each EA and EIS, a core team is established prior to the project work plan development process to review the draft EA or EIS on behalf of TxDOT. The core team consists of a district employee and an ENV project delivery employee. These roles cannot be delegated to consultants or any other non-TxDOT employee.

References to "WPD I," "WPD II," "WPD III," and "WPD IV"

Throughout this Guide, "WPD I," "WPD II," "WPD III," and "WPD IV" are used to refer to the "WPD Section I – Project Definition," "WPD Section II – Tool," "WPD Section III – Project Work Plan," and "WPD Section IV – Findings" tabs of the "Work Plan Development" console.

Relationship of Environmental Guide to Previously Issued Guidance

ENV will be updating previously issued guidance as we move forward to reduce redundancy with this Guide, and remove any instructions that contradict this Guide. In the interim, the instructions in this Guide supersede any contradictory instructions in any previously issued ENV guidance.

Submitting drafts of documents to ENV for review

- Where ENV personnel are required to track their reviews of a document in ECOS, these Activity Instructions specifically call for the creation of a Review (i.e., a "Review _____" Activity) in which case the review activity must be created, and the comments on the document must be uploaded under that review activity according to the review activity instructions.
- In other instances, these Activity Instructions state only that the document is emailed to ENV for review without specifically calling for the creation of a review activity (e.g., "District environmental staff emails the draft form to the appropriate resource area ENV SME assigned to the respective district for review.") In these situations, it is appropriate for district environmental staff to simply submit the document to the ENV personnel by email, and for the ENV personnel to return any comments by email. These emails and attachments (draft documents, comments, etc.) do not

need to be uploaded to ECOS, unless the Activity Instructions for a particular Activity specifically instruct to upload an email (e.g., the General Counsel Division's email indicating a legal sufficiency determination).

Creation of any downstream Activities required prior to finalizing an Activity

Where the Activity Instructions in this Volume 2 call for the creation of one or more downstream Activities (e.g., the Activity Instructions for "Perform Noise Analysis" call for the creation of the "Perform Noise Workshop" Activity under certain conditions), the district environmental staff (or other specified individual) must create those downstream Activities prior to finalizing the original Activity. This will ensure that all needed Activities for the project are created at the appropriate stage of the project, and that the project will not be inadvertently environmentally cleared or LOA-cleared without all "Prior to Env Clearance*" or "Prior to LOA" Activities having been recorded and completed.

These Activity Instructions do not establish "minimum" documentation requirements; they establish the actual documentation requirements

Throughout this volume, the Activity Instructions for the various Activities call for specific documentation to be created and uploaded (e.g., forms, checklists, tables, reports, etc). ENV SMEs have put a lot of work into determining the appropriate level of documentation for each specific Activity. Do not create or upload additional documentation under any Activity not called-for by the instructions for that Activity, unless dictated by some extenuating circumstances and agreed to by an ENV SME using the "_____ SME Consultation" Activity. Creation of excess and unnecessary documentation clutters the file, uses valuable storage space, and wastes state resources.

"Add CSJ After Environmental Clearance" Activity

1. District environmental staff uses this Activity to associate a new CSJ that has not been environmentally cleared, with a main CSJ for a project in ECOS that has already been environmentally cleared.

Because CSJs are associated with each other in ECOS purely for allowing multiple CSJs to be covered by a single environmental clearance (CE, FONSI, or ROD), there should never be a reason for associating two CSJs that have both already been environmentally cleared. However, if this situation arises due to an error or other unforeseen issue, it will be necessary to revoke the environmental clearance of the new CSJ before associating it with a previously cleared main CSJ (see "Revoke Environmental Clearance" Activity 1-pager).

2. Note that the new CSJ must first have been created in ECOS, the "Anticipated Environmental Clearance" on WPD I of the new CSJ must match that of the main CSJ, and any Activities with a milestone of "Prior to Env Clearance*" created in the new CSJ must be finalized, before this Activity can be used to associate the new CSJ with a previously cleared main CSJ. Note also that this procedure cannot be used to add a new CSJ to a main CSJ that was previously cleared using an expedited (c)(22) CE. If such a need arises, district environmental staff must instead simply clear the new CSJ using the expedited (c)(22) CE process.

3. District environmental staff creates this Activity in the previously cleared main CSJ with which staff intends to associate the new CSJ.

4. District environmental staff fills-in the "Add New Associate CSJ" field with the new CSJ that staff intends to associate with the previously cleared main CSJ.

5. District environmental staff selects the appropriate "Reason(s) for Adding CSJ" from the list provided.

6. If district environmental staff selected a "Reason(s) for Adding CSJ" that is marked with an asterisk (*), then the new CSJ may be associated with the previously cleared main CSJ only if a reevaluation has been completed for the work associated with the new CSJ.

7. District environmental staff selects the appropriate response to the question regarding whether the new CSJ involves activities that were not covered in the original environmental clearance for the previously cleared main CSJ and previously associated CSJs. If staff answers, "yes," then enter the date the reevaluation for the activities associated with the new CSJ was approved.

8. District environmental staff assigns this Activity to the ENV project delivery manager assigned to the respective district.

9. ENV project delivery manager ensures that any Activities with a milestone of "Prior to Env Clearance*" created in the new CSJ have been finalized.

Note that there should never be a reason why any Activities were created in the new CSJ, because there is no need to complete the project work plan process for the new CSJ, and even if

the new CSJ represents new work for which a reevaluation is required, the reevaluation and any associated Activities must be tracked in the main CSJ, not in the new CSJ that will be added to the main CSJ. Therefore, this step 9 is meant to address those unusual situations in which an Activity was inadvertently or incorrectly created in the new CSJ prior to adding it to the previously cleared main CSJ.

10. ENV project delivery manager ensures that the "Reason for Adding CSJ" entered by district environmental staff in this Activity is consistent with:

- the project description on the WPD I – Project Definition screen for the new CSJ;
- the project description for the environmental clearance for the main CSJ; and
- the description of any new work as set forth in any reevaluation.

11. If the ENV project delivery manager disapproves the information provided and reason for associating the new CSJ with the previously cleared main CSJ, the ENV project delivery manager contacts the district environmental staff to discuss, and the district environmental staff either corrects the identified deficiency or deletes this Activity.

If the ENV project delivery manager approves the information provided and reason for associating the new CSJ with the previously cleared main CSJ, the ENV project delivery manager assigns this Activity to an ENV Deputy Director.

12. If the ENV Deputy Director disapproves the information provided and reason for associating the new CSJ with the previously cleared main CSJ, the ENV Deputy Director contacts the district environmental staff to discuss, and the district environmental staff either corrects the identified deficiency or deletes this Activity.

If the ENV Deputy Director approves the information provided and reason for associating the new CSJ with the previously cleared main CSJ, the ENV Deputy Director finalizes this Activity. Finalizing this Activity will:

- associate the new CSJ with the previously cleared main CSJ;
- auto-fill the "Anticipated Environmental Classification" field in the newly associated CSJ;
- auto-fill the "Approved Environmental Classification" field in the newly associated CSJ;
- auto-fill the "Environmental Clearance Date" field in the newly associated CSJ;
- auto-fill the "Environmental LOA Date" field in the newly associated CSJ (if the main CSJ had already been LOA-cleared when the new CSJ is associated); and
- update DCIS.

"Air SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of air quality.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding air quality, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding air quality.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

"Archeology SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of archeology.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding archeology, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding archeology.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

"Biology SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of biology.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding biology, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding biology.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

"CE/EA/EIS SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of a CE, EA, or EIS.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding a CE, EA, or EIS, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding a CE, EA, or EIS.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

5. This Activity may also be used to record any important notes or details regarding the processing of the project as a CE, EA, or EIS.

"Community Impacts SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of community impacts.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding community impacts, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding community impacts.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

"Coordinate _____ (generic)"

1. "Associated Activity" – This field is auto-filled with the associated Activity name (e.g., "Obtain Hot Spot Project of Air Quality Concern (POAQC) Determination").

2. "Agency Name" – This field may be auto-filled with the name of the entity with which the Activity is being coordinated, (e.g., "Consultation Partners"), or the user may need to select the name of the entity with which the Activity is being coordinated from a drop-down menu.

If an Activity is being coordinated with multiple agencies, the user must create multiple Coordinations, as only one Agency Name may be entered per Coordination.

3. "Coordination Status" – This field is auto-filled with "Initiated" when this Coordination is created (district environmental staff or ENV SME will have to change this status prior to closing this Coordination as explained below).

4. "Are Correspondence Details Included?" – District environmental staff or ENV SME only selects "yes" if there is a desire to separately record each individual correspondence (including the status, method, date, and sender and recipient) as a separate line item in a table within the Coordination. Otherwise, district environmental staff or ENV SME selects "no."

If "yes" is selected, then for each individual correspondence, district environmental staff or ENV SME completes the following:

- "Correspondence Status" – Select the appropriate status.
- "Correspondence Method" – Select method.
- "Correspondence Date" – For correspondence by TxDOT, fill-in the date the correspondence was sent. For correspondence received by TxDOT, fill-in the date the correspondence received by TxDOT.
- "Correspondence From" – Fill-in the name of the entity.
- "Correspondence To" – Fill-in the name of the entity, or for instances in which TxDOT sent the same correspondence to multiple entities on the same date, fill-in a notation indicating that the correspondence was sent to a group of entities.
- Click "Add."
- Click "Save."

The next correspondence cannot be added until the previous one has been added and the user has clicked "Save."

<u>Note that for some Coordinations this field will be auto-filled with "yes," and tracking Correspondence Details is required.</u>

5. District environmental staff or ENV SME uploads the correspondence under this Coordination.

6. Once the entire coordination is complete (which may include multiple rounds or correspondence), district environmental staff or ENV SME updates the “Coordination Status” to either “Completed” or, if the coordination has resulted in the need for conditions that need to be met such as monitoring or mitigation commitments, “Completed with conditions,” and finalizes this Coordination.

7. If it is ever determined that this Coordination is not necessary or will not be completed for any reason, then district environmental staff or ENV SME changes the “Coordination Status” to “Rescinded,” and finalizes this Coordination (DO NOT DELETE THIS COORDINATION).

"Cumulative Impacts SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of cumulative impacts.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding cumulative impacts, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding cumulative impacts.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

"Develop or Manage Work Authorization" Activity

This Activity may be used by an ENV SME to track the development of a work authorization for a complicated project.

1. The ENV SME self-assigns the Activity.

2. The ENV SME describes the WA in the "Comments" field.

3. The ENV SME completes the associated work authorization and finalizes the Activity.

"Haz Mat SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of hazardous materials.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding hazardous materials, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding hazardous materials.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

"Historical Studies SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of historical studies.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding historical studies, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding historical studies.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

"Induced Growth SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of induced growth.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding induced growth, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding induced growth.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

"Noise SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of noise.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding noise, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding noise.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

"Obtain Archeology Section 106/Antiquities Code of Texas (ACT) Approval" Activity

1. Unless the WPD I data field, "Who is the lead agency responsible for approval of the entire project?" is answered "TxDOT – No Federal Funding" and the WPD I data field, "Who is the project sponsor for environmental review (as defined by 43 TAC 2.7)?" is answered, "Local government," the ENV SME confirms:

- that the "Perform Archeology Background Study" Activity has been finalized,
- that any necessary downstream Activities that can be finalized prior to environmental clearance have been created and finalized, and
- that any downstream Activities that cannot be finalized until after environmental clearance have been created.

For non-FHWA projects with a local government project sponsor, the local government sponsor instead uploads under this Activity any documentation demonstrating Antiquities Code compliance (and if the project requires a federal permit, Section 106 compliance), and notifies the ENV SME that this documentation has been uploaded.

2. If any commitments apply to the project, then the ENV SME confirms that the appropriate Activities have been created using the applicable milestones. This step is not required for non-FHWA projects with a local government sponsor.

3. The ENV SME makes the overall effect determination for the entire project based on the outcomes of all the finalized archeology Activities, or for a non-FHWA project with a local government project sponsor, the documentation uploaded by the local government project sponsor**.**

The overall determination must be one of the following:

- "No historic properties affected"
  This means the project will not affect any archeological historic property. Typically, we reach this finding when no archeological historic properties occur within the project's area of potential effects.
- "PA/MOU compliant – need access"
  This means the project is covered by Stipulation XI.E of the Programmatic Agreement Among the Federal Highway Administration, the Texas Department of Transportation, the Texas State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Implementation of Transportation Undertakings. This stipulation allows TxDOT to proceed with project approval in cases where access to private property was denied, preventing the completion of necessary studies and associated consultation. If this finding has been selected, then the ENV SME must create the Activities to be completed, using the milestone "Prior to Construction."
- "No adverse effect"
  This means there will be no adverse effect to any archeological historic property. In rare cases, the ENV SME must create any additional Activities to be completed to ensure the

"no adverse effect" finding, using the appropriate milestones (this is not required for a non-FHWA project with a local government project sponsor).

- "Adverse effect"
  This means there will be an adverse effect to at least one archeological historic property. If this finding has been selected, then the ENV SME must create the Activities to be completed to resolve the adverse effects, using the appropriate milestones (this is not required for a non-FHWA project with a local government project sponsor).

4. In the field labeled "Determination of Effect," the ENV SME selects the appropriate choice from the drop-down menu. The four choices for this field are:

- "No historic properties affected"
- "PA/MOU compliant – need access"
- "No adverse effect"
- "Adverse effect"

5. The ENV SME finalizes this Activity.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H.

"Obtain Coastal Barrier Resources Act (CBRA) Opinion" Activity

1. District environmental staff determines if the project qualifies for the exception at 16 USC 3505(3), which is referred to as the "essential link exception:"

"The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system." 16 USC 3505(3).

2. If the project does not meet the "essential link exception" described above, then district environmental staff determines if the project qualifies for the exception at 16 USC 3505(6)(F), which is referred to as the "CBRA consistent exception."

To qualify for the CBRA consistent exception, the project must consist of the following:

"Maintenance, replacement, reconstruction, or repair, but not the expansion (except with respect to United States route 1 in the Florida Keys), of publicly owned or publicly operated roads, structures, and facilities." 16 USC 3505(6)(F).

Additionally, to qualify for the CBRA consistent exception, the project must be determined to be consistent with the following three purposes of the CBRA, which are to:

- minimize the loss of human life,
- minimize the wasteful expenditure of Federal revenues, and
- minimize the damage to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf coasts and along the shore areas of the Great Lakes. 16 USC 3501(b).

3. If the project does not meet either of the exceptions listed above, then the project cannot proceed as a federally funded project.

4. If the project does meet one of the exceptions listed above, then district environmental staff prepares a draft consultation letter using the United States Fish and Wildlife Service's (USFWS) Inter-agency CBRA Consultation Template, which is available on USFWS's Coastal Barrier Resources System website (https://www.fws.gov/cbra/Consultations.html), and uploads the draft consultation letter under this Activity.

5. District environmental staff creates a Review of the draft consultation letter and assigns it to the appropriate ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the draft consultation letter that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

5. Once the ENV SME has no further comments and has finalized his or her Review (if one was created), the ENV SME creates a Coordination and follows the steps below to conduct the coordination with the USFWS.

Coordination process

6. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the USFWS.

7. The ENV SME submits the consultation letter to the appropriate USFWS Ecological Services Field Office.

8. The ENV SME uploads the submitted consultation letter under the Coordination.

9. The ENV SME uploads all correspondence between TxDOT and the USFWS under the Coordination.

10. The ENV SME uploads the signed approval letter issued by the USFWS under the Coordination.

11. After the USFWS issues the signed approval letter, the ENV SME finalizes the Coordination.

Finalizing this Activity

12. After the ENV SME finalizes the Coordination, the ENV SME finalizes this Activity.

Citation: 16 USC 3504 & 3505

"Obtain Endangered Species Act (ESA) Consultation" Activity

The instructions provided below are for conducting programmatic, informal project-specific, or formal project-specific consultation with the USFWS under section 7 of the Endangered Species Act. If a project instead requires a section 10 authorization from the USFWS, district environmental staff must contact the appropriate ENV SME assigned to the respective district to discuss how to proceed.

1. For each species potentially affected by the project, district environmental staff determines whether the potential effects to that species are covered by a programmatic consultation that TxDOT has already completed with USFWS, by reviewing one or both of the programmatic consultation agreements listed below:

- For the red-cockaded woodpecker, district environmental staff reviews **ENV's Endangered Species Act Programmatic Consultation Agreement for Red-cockaded Woodpecker**.
- For the golden cheeked warbler, district environmental staff reviews **ENV's Endangered Species Act Programmatic Consultation Agreement for the Black-capped Vireo and Golden-cheeked Warbler**.

2. For potential effects to species that <u>are</u> covered by one or more programmatic consultations t, district environmental staff proceeds under the "Programmatic consultation" heading below.

3. For potential effects to species that are <u>not</u> covered by a programmatic consultation, district environmental staff proceeds under the "Project-specific consultation" heading below.

4. If the same project has <u>both</u> potential effects to species that <u>are</u> covered by one or more programmatic consultations, <u>and</u> potential effects to species that are <u>not</u> covered by a programmatic consultation, then district environmental staff creates <u>another</u> "Obtain Endangered Species Act (ESA) Consultation" Activity.

In this situation, district environmental staff will address <u>all</u> potential effects to species that <u>are</u> covered by one or more programmatic consultations under <u>one</u> of the "Obtain Endangered Species Act (ESA) Consultation" Activities, and will address <u>all</u> potential effects to species that are <u>not</u> covered by a programmatic consultation under another "Obtain Endangered Species Act (ESA) Consultation" Activity.

<u>Programmatic consultation</u>

5. District environmental staff indicates in the "Comments" field that this is a programmatic consultation, and for which species (the Red-cockaded Woodpecker and/or the Golden-cheeked Warbler).

6. District environmental staff conducts field reconnaissance and identifies habitat for the Red-cockaded Woodpecker and/or the Golden-cheeked Warbler in the vicinity of the project area.

7. District environmental staff completes **ENV's Form for Documenting Applicability of Programmatic Consultation with USFWS**, and uploads it under this Activity. District environmental staff also uploads a map and photos of potential habitat, and any further documentation of field reconnaissance (if any was prepared) under this Activity.

8. District environmental staff creates the "Perform Endangered Species Act (ESA) Consultation Commitments" Activity, and indicates in the "Comments" field of that Activity that the voluntary conservation methods listed in the Documenting Applicability of Programmatic Consultation with USFWS form uploaded under the "Obtain Endangered Species Act (ESA) Consultation" will be implemented.

9. District environmental staff notifies the appropriate ENV SME assigned to the respective district and the ENV programmatic species lead(s) that the project is covered by one or more programmatic consultations and that the above-listed steps have been completed.

The ENV programmatic species leads are as follows:

- Red-cockaded Woodpecker – Dennis Palafox
- Golden-cheeked Warbler – John Maresh

10. The ENV SME programmatic species lead(s) confirms that the project is covered by the programmatic consultation(s) and that the commitments from the programmatic consultation(s) have been noted in the "Comments" field of the "Perform Endangered Species Act (ESA) Consultation Commitments" Activity, and finalizes this Activity.

<u>Project-specific consultation</u>

5. District environmental staff confers with the appropriate ENV SME assigned to the respective district to determine whether consultation will be formal or informal, and whether the biological evaluation (BE)/biological assessment (BA) will be prepared by district environmental staff or ENV.

6. District environmental staff or the ENV SME indicates in the "Comments" field whether this is a formal or informal consultation, or whether both kinds of consultations (formal and informal) are being conducted concurrently with a single BA.

7. District environmental staff or the ENV SME prepares a draft BE (informal consultation) or BA (formal consultation) according to **ENV's Documentation Standard for a Biological Assessment or a Biological Evaluation**, and uploads the draft BE or BA under this Activity. For a formal consultation, in addition to the BA prepared by TxDOT, ENV and USFWS may agree that TxDOT will also prepare a draft of the USFWS Biological Opinion (BO), in which case the district environmental staff or the ENV SME will also prepare the draft BO.

8. District environmental staff or the ENV SME creates individual Reviews of this Activity and assigns them to the district environmental staff and the ENV SME. Once the district environmental staff and ENV SME have finalized their Reviews, if there are pending comments, the district environmental staff or ENV SME:

- prepares a new, revised version of the draft BE/BA (and, possibly, the draft BO) that is responsive to the comments made and uploads it under this Activity;

- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- create a new Review under this Activity, and assigns it to the ENV SME and district environmental staff.

9. Once the district environmental staff and the ENV SME have no further comments and have finalized their Reviews, the ENV SME creates a Coordination under this Activity.

Coordination Process

ENV SME uploads all of the following documentation under the Coordination:

a. Written exchanges with USFWS

Follow the steps below to conduct the coordination.

10. ENV SME prepares a cover letter for the ENV NRM Section Director's (or his/her delegate's) signature.

11. Once the ENV NRM Section Director (or his/her delegate) has signed the cover letter, the ENV SME emails the signed cover letter and the BE/BA (and, possibly, the draft BO) to the USFWS's designated TxDOT Transportation Liaison.

12. ENV SME fills-in the "Correspondence Details" for this transmittal and uploads the email to USFWS and the attachments to the email under the Coordination.

13. ENV SME also mails the original, signed cover letter and the draft BE/BA (and, possibly, the draft BO) to the USFWS at the following address:

United States Fish and Wildlife Service
Attn: TxDOT Transportation Liaison
10711 Burnet Road, Suite 200
Austin, Texas 78758

14. ENV SME fills-in the "Correspondence Details" for this transmittal and ENV SME uploads the signed cover letter and the BE/BA (and, possibly, the draft BO) that was mailed to USFWS under the Coordination.

15. For any written responses from USFWS or further written communications by TxDOT, the ENV SME fills-in the "Correspondence Details" and uploads the correspondence and attachments for each transmittal.

16. Once the USFWS has issued a written concurrence (informal consultation), or has issued a final BO (formal consultation), the ENV SME fills-in the "Correspondence Details" for this transmittal, uploads the written concurrence or final BO under the Coordination with the word, "Approved," at the beginning of the file name, and finalizes the Coordination.

Completion of "Obtain ESA Consultation" Activity

17. If any commitments resulted from the consultation with USFWS, district environmental staff creates the "Perform Endangered Species Act (ESA) Consultation Commitments" Activity (if it has not already been created to document commitments from one or more programmatic consultations), and either lists the commitments from the consultation in the "Comments" field of the "Perform Endangered Species Act (ESA) Consultation Commitments" Activity, or uploads a list of the commitments from the consultation under that Activity. All commitments from programmatic consultations and project-specific consultations must be documented in a single "Perform Endangered Species Act (ESA) Consultation Commitments" Activity.

18. The ENV SME confirms that the type of consultation indicated in the "Comments" field is correct.

19. The ENV SME confirms that any commitments from the consultation are recorded as part of the "Perform Endangered Species Act (ESA) Consultation Commitments" Activity, then finalizes this Activity.

Citation: 16 USC 1531 et seq., 50 CFR 402

"Obtain Historical Studies Section 106/Antiquities Code of Texas (ACT) Approval" Activity

1. Unless the WPD I data field, "Who is the lead agency responsible for approval of the entire project?" is answered "TxDOT – No Federal Funding" and the WPD I data field, "Who is the project sponsor for environmental review (as defined by 43 TAC 2.7)?" is answered, "Local government," the ENV SME confirms that all other historical studies Activities have been finalized (except for "Perform Historical Studies Mitigation" and "Perform Historical Studies Monitoring Commitments").

For non-FHWA projects with a local government project sponsor, the local government sponsor instead uploads under this Activity any documentation demonstrating Antiquities Code compliance (and if the project requires a federal permit, Section 106 compliance), and notifies the ENV SME that this documentation has been uploaded.

2. If any mitigation or monitoring commitments apply to the project, then the ENV SME confirms that the "Perform Historical Studies Mitigation" and/or "Perform Historical Studies Monitoring Commitments" Activities have been created and that all mitigation and/or monitoring commitments have been identified in the "Comments" field(s) of the appropriate Activity(ies). This step is not required for non-FHWA projects with a local government sponsor.

3. The ENV SME makes the overall effect determination for the entire project based on the outcomes of all other historical studies Activities that have been completed, or for a non-FHWA project with a local government project sponsor, the documentation uploaded by the local government project sponsor**.**

The overall determination must be one of the following:

- "No historic properties affected"
  This means the project will not affect any historic property.
- "Minimal potential to affect historic properties"
  This means the project is covered by Appendix 4 of the Programmatic Agreement Among the Federal Highway Administration, the Texas Department of Transportation, the Texas State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Implementation of Transportation Undertakings.
- "No adverse effect"
  This means there will be no adverse effect to any historic property.
- "Adverse effect"
  This means there will be an adverse effect to at least one historic property.

4. In the field labeled "Project Determination of Effect," the ENV SME selects the appropriate choice from the drop-down menu. The four choices for this field are:

- "No historic properties affected"
- "Minimal potential to affect historic properties"
- "No adverse effect"
- "Adverse effect"

5. The ENV SME finalizes this Activity.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H.

"Obtain Hot Spot Project of Air Quality Concern (POAQC) Determination" Activity

1. District environmental staff completes **ENV's Project of Local Air Quality Concern (POAQC) Decision Form** and assembles the required attachments, and uploads the form and attachments under this Activity.

2. District environmental staff creates a Review of this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the Decision Form – Project of Local Air Quality Concern (POAQC) that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

3. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff contacts the local MPO and requests that they schedule a conference call with the Consultation Partners (TxDOT, FHWA, EPA, TCEQ, and MPO).

<u>Coordination process</u>

District environmental staff creates a Coordination under this Activity, and uploads all of the following documentation under the Coordination:

- Correspondence with the Consultation Partners
- Meeting minutes from the Consultation Partners conference call
- Determinations from FHWA, EPA, TCEQ, and TxDOT as to whether the project is a POAQC (may be incorporated into the meeting minutes or submitted in follow-up email correspondence)

Follow the steps below to conduct the coordination.

4. After the conference call with the Consultation Partners has been scheduled, the district environmental staff provides the POAQC Decision Form and attachments to the Consultation Partners, and uploads the correspondence with the Consultation Partners under the <u>Coordination</u>.

5. District environmental staff conducts the conference call and prepares meeting minutes for the Consultation Partners conference call, which must include a request for a Consultation Partner determination as to whether this is a project of air quality concern.

6. District environmental staff distributes the meeting minutes to each Consultation Partner for comments and corrections, and uploads the correspondence with the Consultation Partners and the final meeting minutes (with the word, "Approved," at the beginning of the file name) under the

Coordination. If the determination was made on the call, the final meeting minutes must include a determination of whether this is a project of air quality concern. Otherwise email documentation from EPA, FHWA, TCEQ, and TxDOT of their POAQC determination will need to be obtained and uploaded under the Coordination.

7. If all the Consultation Partners' determination is that this is not a project of air quality concern, then proceed as follows.

- District environmental staff must inform the public of the Consultation Partners' determination as part of the public involvement conducted for the environmental review of the project by including customizing the following statement and including it in any notice of public meeting, notice affording an opportunity for public hearing, or notice of public hearing for the project:

  "The project is located within a <PM10 non-attainment area/CO maintenance area>; therefore, the conformity consultation process was conducted. On <insert date of hot-spot decision>, the conformity Consultation Partners made the determination that the proposed project is not a PM project of air quality concern and that a hot-spot analysis is not required."
- District environmental staff addresses, in writing, any conformity-related comments received from the public, shares the comments and responses with the Consultation Partners, and uploads the transmittals to and from the Consultation Partners under the Coordination.
- District environmental staff finalizes the Coordination and this Activity.
- If an EA or EIS is being prepared for the project, then district environmental staff prepares a statement indicating that this is not a project of air quality concern using **ENV's Guidance for Preparing Air Quality Statements**, and includes it in the appropriate section of the EA or EIS.

8. If the Consultation Partners' determination is that this is a project of air quality concern, then the district environmental staff finalizes the Coordination and this Activity, and creates the "Perform Hot Spot Analysis" Activity.

Citation: 40 CFR 93.102, 30 TAC 114.260

"Obtain International Boundary and Water Commission (IBWC) Approval" Activity

1. District environmental staff confirms that the project will comply with the IBWC's Criteria For Construction Activities Within The Limits Of USIBWC Floodways, which are available on the IBWC's website at https://appportal.ibwc.gov/ibwc/.

2. District environmental staff prepares an application for an IBWC approval (which may be a license or permit) according to the IBWC's instructions, which are available on the IBWC's website at https://appportal.ibwc.gov/ibwc/.

3. Note that the IBWC's instructions specify that the application must include written concurrence from the following agencies, if coordination with these agencies was required:

- Texas Historical Commission/Texas State Historic Preservation Officer
- United States Fish and Wildlife Service
- United States Army Corps of Engineers
- Texas Parks and Wildlife Department
- Texas Commission on Environmental Quality

Therefore, if coordination with any of the above-listed agencies is required for the project (or, in the case of the USACE, if a permit other than an assumed permit is required), the application for the IBWC approval will not be considered complete until the coordination has been completed (or for the USACE, the permit/PCN approval has been issued).

If coordination with any of the above-listed agencies is not required for the project, the application must explain why coordination with that agency is not required.

4. District environmental staff may, at its discretion, upload the application under this Activity and create a Review of the application and assign it to the appropriate ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review (if one was created), if there are pending comments, the district environmental staff:

- prepares a new, revised version of the application that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

5. Once the ENV SME has no further comments and has finalized his or her Review (if one was created), the district environmental staff creates a Coordination and follows the steps below to conduct the coordination with the IBWC.

<u>Coordination process</u>

6. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The district environmental staff fills-in the correspondence details for each letter or email sent to or from the IBWC.

7. District environmental submits the application for an IBWC approval (which may be a license or permit) to the IBWC according to the IBWC's instructions, which are available on the IBWC's website at https://appportal.ibwc.gov/ibwc/.

Note that the IBWC's instructions allow for submittal of the application either manually or electronically through the IBWC's on-line portal.

8. Regardless of whether the application is submitted to the IBWC manually or through the on-line portal, district environmental staff uploads the entire submitted application under the Coordination.

9. District environmental staff uploads all correspondence between TxDOT and the IBWC under the Coordination.

10. District environmental staff uploads the final approval issued by the IBWC (license or permit) under the Coordination.

11. After the IBWC issues the final approval, district environmental staff finalizes the Coordination.

Finalizing this Activity

12. After the district environmental staff finalizes the Coordination, district environmental staff finalizes this Activity.

Citation(s): Public Law No. 370 – 74th Congress (49 Stat. 906)

"Obtain Letter of Authority (LOA) Clearance" Activity

This Activity is always automatically generated in the main CSJ. Normally, there is no reason to also manually create this Activity in any of the associate CSJs. However, for a long project with multiple sections and multiple corresponding CSJs, district environmental staff may want to LOA-clear one or more of the associate CSJs that correspond to a specific section of the project, even if other sections of the project are not ready to be LOA-cleared because there are still open Activities that only affect those sections. If this is the case, district environmental staff must manually create this Activity in the associate CSJ that the district environmental staff intends to separately LOA-clear before the other sections of the project, and contact the LOA manager to request a separate LOA clearance for just that associate CSJ.

1. ENV LOA manager determines whether there is a valid environmental clearance for the project. If not, the ENV LOA manager informs the district environmental staff that the project cannot be LOA-cleared.

2. ENV LOA manager determines whether there is any open "Perform Reevaluation" Activity. If so, the ENV LOA manager informs the district environmental staff that the project cannot be LOA-cleared (unless district environmental staff has requested separate LOA clearance for an associate CSJ, and the ENV LOA manager concludes that the reevaluation does not affect the section of the project for which LOA clearance is being requested by district environmental staff).

3. ENV LOA manager identifies all Activities with a milestone of "Prior to LOA" and confirms that all of these Activities have been completed (i.e., the Activity has been finalized and the resolution of the Activity has been recorded in the "Comments" field or in documentation uploaded under the Activity).

If any Activity with a milestone of "Prior to LOA" is still open, the LOA ENV manager informs the district environmental staff that the Activity must be completed prior to LOA Clearance (unless district environmental staff has requested separate LOA clearance for an associate CSJ, and the ENV LOA manager concludes that the Activity does not affect the section of the project for which LOA clearance is being requested by district environmental staff).

If any such Activity cannot be completed prior to LOA Clearance, then the district environmental staff must change the milestone to "Prior to Construction" (unless district environmental staff has requested separate LOA clearance for an associate CSJ, and the ENV LOA manager concludes that the Activity does not affect the section of the project for which LOA clearance is being requested by district environmental staff).

4. ENV LOA manager identifies all Activities with a milestone of "Prior to Construction" that have been <u>finalized</u> and confirms that all of these Activities have, in fact, been completed (i.e., the Activity has been finalized and the resolution of the Activity has been recorded in the "Comments" field or in documentation uploaded under the Activity).

For any Activities that are finalized but have no documentation or comments indicating that the Activity has, in fact, been completed, the ENV LOA manager contacts the district environmental staff to resolve the discrepancy (unless district environmental staff has requested separate LOA

clearance for an associate CSJ, and the ENV LOA manager concludes that the Activity does not affect the section of the project for which LOA clearance is being requested by district environmental staff).

5. Once any discrepancies have been resolved as described above, the ENV LOA manager finalizes this "Obtain Letter of Authority (LOA) Clearance" Activity, which auto-fills the "Approved for Letting" field with the date the Activity is finalized. Finalizing this Activity also automatically updates the "Env Clear to Let Date" in DCIS (updates to DCIS typically occur overnight).

Under normal circumstances, this is done in the main CSJ, and the "Approved for Letting" field in all associate CSJs will be auto-filled with the same date. In the unusual circumstance in which this Activity was manually created and then finalized in an associate CSJ at district environmental staff's request, the "Approved for Letting" field in only the associate CSJ will be auto-filled. Note that when the main CSJ is eventually LOA-cleared, it will auto-fill a new "Approved for Letting" field in the associate CSJ that was previously LOA-cleared. However, the previous LOA-clearance date will be preserved on the "Clearance History" page accessible from the Project Summary page of the associate CSJ.

"Obtain Planning Consistency Documentation" Activity

1. If, after this Activity was created, district environmental staff determines that the project meets the definition for a grouped project category for planning and programming purposes as set forth in Appendix A of the Introduction to the Statewide Transportation Improvement program (STIP), then district environmental staff explains in the "Comments" field that the project was determined to meet the definition for a grouped project category for planning and programming purposes; and finalizes this Activity.

2. District environmental staff determines whether the project is within the boundaries of an MPO.

3. If the project is not within the boundaries of an MPO, then district environmental staff indicates in the "Comments" field that the project is not within the boundaries of MPO.

Requirement #1 – Inclusion in the MPO's 20-year plan

4. If the project is within the boundaries of an MPO, then district environmental staff determines whether the project is listed in and consistent with the MPO's 20-year plan, which may be called either the metropolitan transportation plan (MTP) or the regional transportation plan (RTP).

- If the project is within the boundaries of an MPO, and is listed in and consistent with the current MTP/RTP, then district environmental staff uploads excerpts from the MTP/RTP that indicate both the title and year of the MTP/RTP, the section of the MTP/RTP in which the project is listed, and the project listing under this Activity.
- If the project is within the boundaries of an MPO, but is not listed in and consistent with the current MTP/RTP, then district environmental staff must discuss the issue with their district's planning and programming staff as this Activity cannot be completed until the project is listed in and consistent with the current MTP/RTP.

Requirement #2 – Inclusion in the STIP/TIP

5. District environmental staff determines whether the project is listed in and consistent with the current, FHWA-approved 4-year statewide transportation improvement program (STIP) by accessing TxDOT's eSTIP portal, logging-in, and using the "Search for Projects" function under "Project Management" tab (contact TxDOT's Transportation Planning and Programming Division to obtain a log-in password). At a minimum, at least one of the project phases must be listed in the STIP (Engineering, ROW, or Construction).

- If TxDOT's eSTIP portal indicates that the project is listed in and consistent with the current STIP, then district environmental staff uploads an excerpt from the eSTIP showing this project under this Activity, and finalizes this Activity.
- If TxDOT's eSTIP portal does not indicate that the project is listed in and consistent with the current STIP (e.g., only part of the project is listed, or only some of the CSJs for the project are listed), then district environmental staff proceeds as instructed below.

6. If none of the project phases (Engineering, Construction, or ROW) are expected to occur within the 4-year window of the most current STIP, but the project is within the boundary of an MPO, then district environmental staff determines whether the project is listed in the MPO's current 4-

year transportation improvement program (TIP) for illustrative purposes as a project undergoing environmental review (typically in Appendix D or another appendix to the TIP).

- If the project is listed in the MPO's current 4-year TIP for illustrative purposes as a project undergoing environmental review, then district environmental staff:
    - uploads excerpts from the TIP that indicate both the title and year of the TIP, the section of the TIP in which the project is listed, and the project listing under this Activity; and
    - finalizes this Activity.
- If the project is not listed in the MPO's current 4-year TIP for illustrative purposes as a project undergoing environmental review (e.g., only part of the project is listed, or only some of the CSJs for the project are listed), then district environmental staff must discuss the issue with their district's planning and programming staff as this Activity cannot be completed until the project is either listed in the STIP, or listed for illustrative purposes as a project undergoing environmental review in the TIP.

"Obtain Project Classification Approval" Activity

This Activity may be used for five different types of classification approvals:

Demonstration of compliance with (e)-constraints for a (c)(26), (c)(27), or (c)(28) CE

1. District environmental staff fills-out **ENV's Documenting (e)-Constraint Compliance on a (c)(26), (c)(27), or (c)(28) Categorical Exclusion Form** and uploads it under this Activity.

2. District environmental staff assigns this Activity to the ENV project delivery manager assigned to the respective district.

3. ENV project delivery manager reviews the uploaded form, and assigns this Activity to the ENV Project Delivery Section Director.

4. ENV Project Delivery Section Director records his or her approval or disapproval of the demonstration of compliance with the (e)-constraints in the "Comments" field, and finalizes this Activity.

5. ENV Project Delivery Section Director emails the district environmental staff of the approval/disapproval of the demonstration of compliance with the (e)-constraints.

Classification of project as open-ended (d) CE

1. District environmental staff fills-out **ENV's Open-Ended (d) Categorical Exclusion Classification Request Form** and uploads it under this Activity.

2. District environmental staff assigns this Activity to the ENV project delivery manager assigned to the respective district.

3. ENV project delivery manager reviews the uploaded form, and assigns this Activity to the ENV Project Delivery Section Director.

4. ENV Project Delivery Section Director records his or her approval or disapproval of the requested classification of the project as an open-ended (d) CE in the "Comments" field, and finalizes this Activity.

5. ENV Project Delivery Section Director emails the district environmental staff of the approval/disapproval of the classification request.

6. District environmental staff ensures that the project classification indicated on the Project Definition screen matches the project classification approved by the ENV Project Delivery Section Director.

7. Prior to issuing a notice and opportunity to comment, notice of public meeting, notice affording an opportunity for a public hearing, or notice of public hearing, district environmental staff must email the draft notice to the ENV project delivery manager assigned to their district for review.

Additionally, prior to holding a public meeting or public hearing, district environmental staff must email the anticipated meeting or hearing presentation materials to the ENV project delivery manager assigned to their district for review.

Amendment of open-ended (d) CE classification request

1. District environmental staff fills-out **ENV's Amendment to Open-Ended (d) CE Classification Request Form** and uploads it under this Activity.

2. District environmental staff assigns this Activity to the ENV project delivery manager assigned to the respective district.

3. ENV project delivery manager reviews the uploaded form, and assigns this Activity to the ENV Project Delivery Section Director.

4. ENV Project Delivery Section Director records his or her approval or disapproval of the continued classification of the project as an open-ended (d) CE in the "Comments" field, and finalizes this Activity.

5. ENV Project Delivery Section Director emails the district environmental staff of the approval/disapproval of the classification request.

6. District environmental staff ensures that the project classification indicated on the Project Definition screen matches the project classification approved by the ENV Project Delivery Section Director.

7. Prior to issuing a notice and opportunity to comment, notice of public meeting, notice affording an opportunity for a public hearing, or notice of public hearing, district environmental staff must email the draft notice to the ENV project delivery manager assigned to their district for review. Additionally, prior to holding a public meeting or public hearing, district environmental staff must email the anticipated meeting or hearing presentation materials to the ENV project delivery manager assigned to their district for review.

Classification of project from EIS to EA

1. While ECOS will allow the project work plan to be finalized pending the ENV Director's approval of the classification of the project as an EA, no work on preparing a draft environmental assessment document may be conducted until the ENV Director has approved.

2. District environmental staff prepares a written request to classify the project as an EA instead of an EIS using **ENV's Template for EIS to EA Classification Approval** and uploads it under this Activity.

Note that this template is prepared as an internal TxDOT Memorandum. If a local government is the official project sponsor, then the local government formats the written request as a letter from the local government to the ENV Director using the content from the body of **ENV's Template for EIS to EA Classification Approval**.

3. District environmental staff assigns this Activity to the ENV project delivery manager assigned to the respective district.

4. ENV project delivery manager reviews the written request, and assigns this Activity to the ENV Project Delivery Section Director.

5. ENV Project Delivery Section Director presents the written request to the ENV Director.

6. ENV Director indicates approval or disapproval of the request by checking "Approved" or "Disapproved" on the written request, and then signing and dating the written request.

If the ENV Director disapproves, than an EIS is required and the district environmental staff must update "Anticipated Environmental Classification" field on WPD I and re-submit the project work plan for approval by the department delegate.

7. ENV Project Delivery Section Director uploads the written request with the ENV Director's decision and signature, records the final decision in the "Comments" field, and finalizes this Activity.

8. ENV Project Delivery Section Director emails the district environmental staff of the approval/disapproval of the classification request.

9. District environmental staff ensures that the project classification indicated on the Project Definition screen matches the project classification approved by the ENV Director.

<u>Classification of project when there is a local government project sponsor, and work plan has not been finalized within 30 days of submittal of project work plan</u>

1. For CEs, within 30 days of the initial submittal of the project work plan for the district's approval, the district environmental staff transmits to the local government a letter notifying the local government of his or her preliminary determination regarding the project classification using either **ENV's Classification Letter Template (concur)** or **ENV's Classification Letter Template (no concur**). District environmental staff uploads the letter under this Activity, and finalizes this Activity.

2. For EAs and EISs, the ENV project delivery manager assigns this Activity to the ENV Project Delivery Section Director, and within 30 days of the initial submittal of the project work plan for ENV's approval, the ENV Project Delivery Section Director transmits to the local government a letter notifying the local government of his or her preliminary determination regarding the project classification using either **ENV's Classification Letter Template (concur)** or **ENV's Classification Letter Template (no concur)**. The ENV Project Delivery Section Director uploads the letter under this Activity, and finalizes this Activity.

3. Local government project sponsor ensures that the project classification indicated on the Project Definition screen matches the project classification approved by the department delegate.

Citation(s): 23 CFR 771.115(a); 43 TAC 2.44(e); Transportation Code, 201.759(a)(1)

"Obtain Project Information or Access" Activity

1. The ENV SME assigns the Activity to district environmental staff.

2. The ENV SME describes the needed information or rights of entry in the "Comments" field.

3. District environmental staff uploads the requested information under this Activity, using the following naming conventions:

- Project information: CSJ_Project_info_DD-MMM-YYYY (e.g., "090238128_Project_Info_12-Apr-2019")
- Right of entries: CSJ_ROE_DD-MMM_YYYY (e.g., "142501012_ROE_04-Feb-2018").

4. District environmental staff notifies the ENV SME that the information is available.

5. The ENV SME finalizes the activity.

"Obtain Project Level Conformity Determination" Activity

1. If the project falls within the boundaries of an MPO, district environmental staff ensures the following:[1]

- all of the project phases for the entire project as described in the "Environmental Clearance Project Description" on WPD I in ECOS are included in the fiscally constrained portion of the MTP;[2]
- at least one project phase beyond the NEPA study is included in either the appropriate year of the conforming TIP or in Appendix D (if it will not be let within the timeframe of the TIP);
- the current project limits are the same or fall within the project limits listed in (1) the MTP and (2) the FHWA-approved STIP or in Appendix D (if it will not be let within the timeframe of the TIP);
- the activity being proposed is the same as that in the MTP and STIP (or Appendix D) project description in both type of facility[3] and number of lanes;
- unless the project is identified in the MTP as non-regionally significant, the project's ETC year falls between its identified conformity year in the MTP and the previous conformity year identified in the MTP;
- that for projects with an estimated total project cost greater than $1,500,000, the estimated total project cost does not exceed what is contained in the MTP by more than 50%; and
- either 1) hot-spot conformity requirements do not apply; 2) the consultation partners determined that a hot-spot analysis was not necessary; or 3) a hot-spot analysis demonstrates that the project will not cause, contribute to, or worsen a violation of the applicable NAAQS (including applicable written commitments to mitigation and SIP control measures, if any).

2. After district environmental staff confirms all of the above, then district environmental staff completes **ENV's Transportation Conformity Report form** with all required attachments.

3. Approximately 60 days prior to the anticipated environmental clearance, the district environmental staff uploads the Transportation Conformity Report form with all required attachments under this Activity, creates a Review of the Transportation Conformity Report form under this Activity, and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

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[1] Recommend checking during work plan development, after any update to the applicable MTP, and after any update to a TIP which relates to any aspect of the project.

[2] For simplicity, the phrase MTP is used throughout this document to refer both the metropolitan transportation plans that are used in the majority of Texas' nonattainment areas and to the regional transportation plans that are used in the minority of Texas' nonattainment areas.

[3] For example: main lanes, frontage roads, HOV lanes, or managed lanes; direct connectors; bridge replacement; etc.

- prepares a new, revised version of the Transportation Conformity Report form that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

4. Once the ENV SME has no further comments and has finalized his or her Review, the ENV SME signs the Transportation Conformity Report form.

Finalization of Activity for a state project

5. For a state project, the ENV SME uploads the signed Transportation Conformity Report form with the word, "Approved," at the beginning of the file name under this Activity, and finalizes this Activity.

6. If an EA or EIS is being prepared for the project, then district environmental staff prepares the appropriate customized statement regarding transportation conformity using **ENV's Guidance for Preparing Air Quality Statements**, and includes it in the appropriate section of any EA or EIS submittals.

Coordination process for an FHWA project

If the project is an FHWA project, the ENV SME creates a Coordination under this Activity, and uploads all of the following documentation under the Coordination:

- Correspondence with FHWA
- FHWA-signed Transportation Conformity Report form

Follow the steps below to conduct the coordination.

6. ENV SME submits the Transportation Conformity Report form to FHWA for signature.

7. After FHWA has signed the Transportation Conformity Report form, the ENV SME uploads the fully executed Transportation Conformity Report form and all attachments with the word, "Approved," at the beginning of the file name under the Coordination, and finalizes both the Coordination and this Activity.

8. If an EA or EIS is being prepared for the project, then district environmental staff prepares the appropriate customized statement regarding transportation conformity using **ENV's Guidance for Preparing Air Quality Statements**, and includes it in the appropriate section of any EA or EIS submittals.

Citation: 40 CFR 93.102, 30 TAC 114.260

"Obtain Section 4(f) Approval" Activity

This Activity is used to track Section 4(f) approvals (i.e., Section 4(f) exceptions, *de minimis* Section 4(f) determinations, programmatic Section 4(f) evaluations, or individual Section 4(f) determinations) for any park, recreation area, wildlife or waterfowl refuge, or historic site for which there would be a "use." Note that for an EIS project, TxDOT will make the Section 4(f) approval either in the final EIS or in the ROD (*see* 23 CFR 774.9(b)). Therefore, for an EIS project, not all of the processes set forth below need be followed, so long as compliance with FHWA's Section 4(f) regulations is documented in the final EIS or ROD.

These Activity Instructions are long, but that is because they separately explain the processes for Section 4(f) exceptions, *de minimis* determinations, programmatic evaluations, and individual determinations first for parks, recreation areas, and wildlife or waterfowl refuges, and then for historic sites. Here is a table of contents/quick reference guide:

Property type	**Section 4(f) process**	**Who does this/uploads the initial packet?**	**Who gets assigned a Review in ECOS?**	**Who uploads the "Approved" packet?**	**Page #**	**Who finalizes this Activity?**
Park, recreation area, or wildlife or waterfowl refuge	Listing properties in the "Comments" field of this Activity (always done when there is a "use")	District environmental staff	Nobody	N/A	5 of 27	N/A
Park, recreation area, or wildlife or waterfowl refuge	Determining which Section 4(f) approval type to use, and indicating anticipated approval type in "Comments" field of this Activity (always done when there is a "use")	District environmental staff	Nobody	N/A	5 of 27	N/A

Property type	Section 4(f) process	Who does this/uploads the initial packet?	Who gets assigned a Review in ECOS?	Who uploads the "Approved" packet?	Page #	Who finalizes this Activity?
Park, recreation area, or wildlife or waterfowl refuge	Section 4(f) exception	District environmental staff	1. ENV PD staff, then 2. Director of ENV's Cultural Resources Section	ENV PD staff	6 of 27	ENV Deputy Director*
Park, recreation area, or wildlife or waterfowl refuge	Section 4(f) *de minimis* determination	District environmental staff	1. ENV PD staff, then 2. Director of ENV's Cultural Resources Section	ENV PD staff	8 of 27	ENV Deputy Director*
Park, recreation area, or wildlife or waterfowl refuge	Section 4(f) programmatic evaluation	District environmental staff	1. ENV PD staff, then 2. Director of ENV's Cultural Resources Section	ENV PD staff	10 of 27	ENV Deputy Director*
Park, recreation area, or wildlife or waterfowl refuge	Section 4(f) individual determination	District environmental staff	1. ENV PD staff (before coordination) 2. ENV PD staff (after coordination)	ENV PD staff	11 of 27	ENV Deputy Director*
Historic site	Listing properties in the "Comments" field of this Activity (always done when there is a "use")	ENV SME	Nobody	N/A	14 of 27	N/A

Property type	Section 4(f) process	Who does this/uploads the initial packet?	Who gets assigned a Review in ECOS?	Who uploads the "Approved" packet?	Page #	Who finalizes this Activity?
Historic site	Determining which Section 4(f) approval type to use, and indicating anticipated approval type in "Comments" field of this Activity (always done when there is a "use")	ENV SME	Nobody	N/A	15 of 27	N/A
Historic site	Section 4(f) exception	ENV SME	1. ENV SME (optional), then 2. Director of ENV's Cultural Resources Section, then 3. Director of ENV's Project Delivery Section	ENV SME	16 of 27	ENV Deputy Director*
Historic site	Section 4(f) *de minimis* determination	ENV SME	1. ENV SME (optional), then 2. Director of ENV's Cultural Resources Section, then 3. Director of ENV's Project Delivery Section	ENV SME	19 of 27	ENV Deputy Director*

Property type	Section 4(f) process	Who does this/uploads the initial packet?	Who gets assigned a Review in ECOS?	Who uploads the "Approved" packet?	Page #	Who finalizes this Activity?
Historic site	Section 4(f) programmatic evaluation	ENV SME	1. ENV SME (optional), then 2. Director of ENV's Cultural Resources Section, then 3. Director of ENV's Project Delivery Section	ENV SME	21 of 27	ENV Deputy Director*
Historic site	Section 4(f) individual determination	ENV SME	1. ENV SME (before coordination), then 2. Director of ENV's Cultural Resources Section, then 3. ENV SME (after coordination), then 4. Director of ENV's Cultural Resources Section	ENV SME	24 of 27	ENV Deputy Director*

* The ENV Deputy Director only finalizes this Activity after being notified by ENV PD staff or ENV SME that an approval has been completed for all 4(f) properties listed in the "Comments' field of this Activity – see page 26 of 27.

Note that some properties may qualify as both a park, recreation area, or wildlife or waterfowl refuge and an historic site. Such properties will need to be listed twice in the "Comments" field of this Activity and approved separately as described below, once as a park, recreation area, or wildlife or waterfowl refuge;

and once as an historic site (although for an individual 4(f) evaluation, a single document may be prepared to satisfy both requirements).

Parks, recreation areas, and wildlife or waterfowl refuges

Listing parks, recreation areas, and wildlife or waterfowl refuges for which there will be a "use"

1. District environmental staff lists in the "Comments" field all properties that district environmental staff determined to be publicly owned land from a public park, recreation area or wildlife or waterfowl refuge of national, State, or local significance and would be subject to a "use" as described in the Activity Instructions for the "Perform Section 4(f) Analysis" Activity. Include any such properties even if it is anticipated that a Section 4(f) exception will apply.

Use the same name for the property used in the "Perform Section 4(f) Analysis" Activity.

Do not list any properties that district environmental staff determined to not be publicly owned land from a public park, recreation area or wildlife and waterfowl refuge of national, State, or local significance, or would not be subject to a "use" as described in the Activity Instructions for the "Perform Section 4(f) Analysis" Activity.

Determination of anticipated Section 4(f) approval type for parks, recreation areas, and wildlife or waterfowl refuges

1. District environmental staff determines which type of Section 4(f) approval is anticipated to be used for each park, recreation area, and wildlife or waterfowl refuge that district environmental staff has listed in the "Comments" field.

There are four categories of Section 4(f) approvals that may be used, listed below in order of intensity from least to greatest:

- Section 4(f) exceptions
- *De minimis* Section 4(f) determinations
- Programmatic Section 4(f) evaluations
- Individual Section 4(f) determinations

Each of these categories of Section 4(f) approvals are addressed separately below.

2. District environmental staff first determines whether any of the following Section 4(f) exceptions applies by referring to the conditions for each exception in the CFR subsection cited below:

- Temporary occupancy - see 23 CFR 774.13(d)
- Trail, path, bikeway, or sidewalk - see 23 CFR 774.13(f)
- Transportation enhancement, transportation alternatives, or mitigation – see 23 CFR 774.13(g)

3. If none of the Section 4(f) exceptions listed above apply, district environmental staff determines whether the project's use of the property would potentially qualify for a *de minimis* Section 4(f) determination. In order to qualify for *de minimis*, the project must not adversely affect the features, attributes, or activities of the park, recreation area, or wildlife or waterfowl refuge.

4. If none of the Section 4(f) exceptions listed above apply and the project's use of the property would not potentially qualify for a *de minimis* Section 4(f) determination, district environmental staff determines whether the following Section 4(f) programmatic evaluation applies by referring to the project description and conditions for the programmatic evaluation on FHWA's Section 4(f) toolkit:

- "Section 4(f) Evaluation and Approval for Transportation Projects That Have a Net Benefit to a Section 4(f) Property."

5. If none of the Section 4(f) exceptions listed above apply and the project's use of the property would not potentially qualify for a *de minimis* Section 4(f) determination, and the programmatic evaluation listed above does not apply, then an individual Section 4(f) determination is required.

6. For each park, recreation area, and/or wildlife or waterfowl refuge that has been listed in the "Comments" field of this Activity, district environmental staff adds a note in the "Comments" field indicating the anticipated Section 4(f) approval type for each property, and proceeds as indicated below, depending on which Section 4(f) approval type is anticipated (Section 4(f) exception, *de minimis* Section 4(f) determination, programmatic Section 4(f) evaluation, or individual Section 4(f) determination).

Process for a Section 4(f) exception for a park, recreation area, or wildlife or waterfowl refuge

1. District environmental staff creates one of the Coordinations listed below, depending on which Section 4(f) exception is being used:

- "Coordinate Park/Rec Area/Refuge Exception Temporary Occupancy"
- "Coordinate Park/Rec Area/Refuge Exception Trail, Path, Bikeway, or Sidewalk"
- "Coordinate Park/Rec Area/ Refuge Exception Trans. Enhancement Activ., Trans. Alt. Proj., and Mitigation Activ."

2. District environmental staff follows the steps below to conduct the coordination:

- District environmental staff prepares a letter to the official with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge notifying him or her of the intent to pursue a Section 4(f) exception using (1) **ENV's Letter Template: Notification of Intent to Pursue an Exception for Temporary Occupancy**; (2) **ENV's Letter Template: Notification of Intent to Pursue an Exception for Trails, Bikeways, etc.**; or (3) **ENV's Letter Template: Notification of Intent to Pursue an Exception for Transportation Enhancement Activities, Transportation Alternatives Projects, and Mitigation Activities**.
- District environmental staff signs and mails and/or emails the letter to the official with jurisdiction.
- In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. District environmental staff fills-in the correspondence details for each letter or email sent to or from the official with jurisdiction.
- District environmental staff uploads each email or letter to or from TxDOT and the official with jurisdiction under the Coordination.
- Once the official with jurisdiction has indicated concurrence by returning a signed version of the original letter notifying him or her of the intent to pursue a Section 4(f) exception,

district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

3. District environmental staff completes **ENV's Checklist for Section 4(f) Exceptions for Public Parks, Recreation Land, Wildlife and Waterfowl Refuges, and Historic Sites**. If there are multiple properties, district environmental staff completes a separate checklist for each property.

For an EIS project, documentation of the exception will be described in the EIS, and the approval will be made when the

4. District environmental staff uploads the completed checklist for Section 4(f) exceptions with all required attachments as a single packet under this Activity using the following file naming convention: "Park-rec-refuge 4f CSJ (mo-yr)_property name."

5. If project-specific mitigation requirements have been established as part of the Section 4(f) approval, then district environmental staff creates the "Perform Protected Lands Mitigation" Activity.

6. District environmental staff creates a Review of the checklist for Section 4(f) exceptions and assigns it to the ENV Project Delivery staff assigned to the respective district. Once the ENV Project Delivery staff has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the checklist for Section 4(f) exceptions that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV Project Delivery staff.

If ENV Project Delivery staff determines that the exception simply does not apply to the project, then district environmental staff must start over with a new Section 4(f) approval type.

7. Once the ENV Project Delivery staff has no further comments and has finalized his or her Review, the ENV Project Delivery staff creates a Review of the checklist for Section 4(f) exceptions and assigns it to the Director of ENV's Cultural Resources Section. Once the Director of ENV's Cultural Resources Section has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the checklist for Section 4(f) exceptions that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the Director of ENV's Cultural Resources Section.

8. If the Director of ENV's Cultural Resources Section disapproves of the Section 4(f) exception, he or she notifies the ENV Project Delivery staff to discuss.

9. If the Director of ENV's Cultural Resources Section approves of the Section 4(f) exception, he or she selects, "Approved no comments," from the "Review Results" field in the Review, finalizes the

Review, and emails ENV Project Delivery staff to let him or her know that the Section 4(f) exception is approved. ENV Project Delivery staff uploads the checklist with all required attachments as a single packet under this Activity using the following file naming convention: "Approved park-rec-refuge 4f CSJ (mo-yr)_property name."

10. If a Section 4(f) approval has been recorded for all parks, recreation areas, wildlife or waterfowl refuges, and historic sites listed in the "Comments" field of this Activity, then the ENV Project Delivery staff proceeds as indicated on page 25 below under "Finalizing this Activity."

Process for *a de minimis* Section 4(f) determination for a park, recreation area, or wildlife or waterfowl refuge

1. District environmental staff provides for public notice and comment on the proposed *de minimis* determination by describing it in the notice of a public meeting, opportunity for public hearing, or public hearing.

If no public meeting, opportunity for public hearing, or public hearing is being held on the project, district environmental staff provides a separate public notice and opportunity for comment on the proposed *de minimis* determination as described in **ENV's Public Involvement Handbook** (notice that this is different than the "notice and opportunity to comment" that is required to be sent to adjacent landowners and affected local governments under certain circumstances because the notice and opportunity to comment on a proposed *de minimis* determination must be a public notice).

2. District environmental staff creates the "Coordinate Park/Rec Area/Refuge De Minimis" Coordination.

3. After the deadline for receiving comment on the proposed *de minimis* determination has expired and all comments on the proposed *de minimis* determination have been reviewed, district environmental staff follows the steps below to conduct the coordination:

- District environmental staff prepares a letter to the official with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge notifying him or her of the intent to pursue a Section 4(f) *de minimis* determination using **ENV's Letter Template for Official with Jurisdiction Notification of Intent to Pursue De Minimis**.
- District environmental staff signs and mails and/or emails the letter to the official with jurisdiction.
- In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. District environmental staff fills-in the correspondence details for each letter or email sent to or from the official with jurisdiction.
- District environmental staff uploads each email or letter to or from TxDOT and the official with jurisdiction under the Coordination.
- Once the official with jurisdiction has indicated concurrence by returning a signed version of the original letter notifying him or her of the intent to pursue a Section 4(f) *de minimis* determination, district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

4. District environmental staff completes **ENV's Checklist for Section 4(f) *De Minimis* for Public Parks, Recreation Land, Wildlife & Waterfowl Refuges, and Historic Properties**. If there are multiple properties, district environmental staff completes a separate checklist for each property.

5. District environmental staff uploads the completed checklist for Section 4(f) *de minimis* with all required attachments as a single packet under this Activity using the following file naming convention: "Park-rec-refuge 4f CSJ (mo-yr)_property name."

6. If project-specific mitigation requirements have been established as part of the Section 4(f) approval, then district environmental staff creates the "Perform Protected Lands Mitigation" Activity.

7. District environmental staff creates a Review of the checklist for Section 4(f) *de minimis* and assigns it to the ENV Project Delivery staff assigned to the respective district. Once the ENV Project Delivery staff has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the checklist for Section 4(f) *de minimis* that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV Project Delivery staff.

If ENV Project Delivery staff determines that a *de minimis* determination cannot be used for the project, then district environmental staff must start over with a new Section 4(f) approval type.

8. Once the ENV Project Delivery staff has no further comments and has finalized his or her Review, the ENV Project Delivery staff creates a Review of the checklist for Section 4(f) *de minimis* and assigns it to the Director of ENV's Cultural Resources Section. Once the Director of ENV's Cultural Resources Section has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the checklist for Section 4(f) *de minimis* that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the Director of ENV's Cultural Resources Section.

9. If the Director of ENV's Cultural Resources Section disapproves of the Section 4(f) *de minimis*, he or she notifies the ENV Project Delivery staff to discuss.

10. If the Director of ENV's Cultural Resources Section approves of the Section 4(f) *de minimis*, he or she selects, "Approved no comments," from the "Review Results" field in the Review, finalizes the Review, and emails the ENV Project Delivery staff to let him or her know that the Section 4(f) *de minimis* is approved. ENV Project Delivery staff uploads the checklist with all required attachments as a single packet under this Activity using the following file naming convention: "Approved park-rec-refuge 4f CSJ (mo-yr)_property name."

11. If a Section 4(f) approval has been recorded for all parks, recreation areas, wildlife or waterfowl refuges, and historic sites listed in the "Comments" field of this Activity, then the ENV Project Delivery staff proceeds as indicated on page 25 below under "Finalizing this Activity."

Process for use of a programmatic Section 4(f) evaluation for a park, recreation area, or wildlife or waterfowl refuge

1. District environmental staff creates the "Coordinate Park/Rec Area/Refuge Programmatic" Coordination.

2. District environmental staff follows the steps below to conduct the coordination:

- District environmental staff prepares a letter to the official with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge notifying him or her of the intent to use the programmatic Section 4(f) evaluation, requesting concurrence that the project includes all possible planning to minimize harm and includes appropriate mitigation measures with respect to the Section 4(f) property, and including any other information required by the specific programmatic evaluation being used.
- District environmental staff signs and mails and/or emails the letter to the official with jurisdiction.
- In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. District environmental staff fills-in the correspondence details for each letter or email sent to or from the official with jurisdiction.
- District environmental staff uploads each email or letter to or from TxDOT and the official with jurisdiction under the Coordination.
- Once the official with jurisdiction has indicated concurrence by returning a signed version of the original letter, district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

3. If the net benefit programmatic evaluation is being used, and if a public meeting and/or public hearing will be held, district environmental staff confirms that information on the proposed use of the Section 4(f) property is communicated at the meeting and/or hearing.

4. District environmental staff completes **ENV's Checklist for Programmatic Net Benefit (parks, recreation areas, refuges)**. If there are multiple properties, district environmental staff completes a separate checklist for each property.

5. District environmental staff uploads the completed checklist with all required attachments as a single packet under this Activity using the following file naming convention: "Park-rec-refuge 4f CSJ (mo-yr)_property name."

6. If project-specific mitigation requirements have been established as part of the Section 4(f) approval, then district environmental staff creates the "Perform Protected Lands Mitigation" Activity.

7. District environmental staff creates a Review of the checklist and assigns it to the ENV Project Delivery staff assigned to the respective district. Once the ENV Project Delivery staff has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the checklist that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV Project Delivery staff.

If ENV Project Delivery staff determines that the programmatic evaluation cannot be used for the project, then district environmental staff must start over with a new Section 4(f) approval type.

8. Once the ENV Project Delivery staff has no further comments and has finalized his or her Review, the ENV Project Delivery staff creates a Review of the checklist and assigns it to the Director of ENV's Cultural Resources Section. Once the Director of ENV's Cultural Resources Section has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the checklist that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the Director of ENV's Cultural Resources Section.

9. If the Director of ENV's Cultural Resources Section disapproves of the use of the Section 4(f) programmatic evaluation, he or she notifies the ENV Project Delivery staff to discuss.

10. If the Director of ENV's Cultural Resources Section approves of the use of the Section 4(f) programmatic evaluation, he or she selects, "Approved no comments," from the "Review Results" field in the Review, finalizes the Review, and emails the ENV Project Delivery staff to let him or her know that the Section 4(f) programmatic evaluation is approved. ENV Project Delivery staff uploads the checklist with all required attachments as a single packet under this Activity using the following file naming convention: "Approved park-rec-refuge 4f CSJ (mo-yr)_property name."

11. If a Section 4(f) approval has been recorded for <u>all</u> parks, recreation areas, wildlife or waterfowl refuges, <u>and</u> historic sites listed in the "Comments" field of this Activity, then the ENV Project Delivery staff proceeds as indicated on page 5 below under "Finalizing this Activity."

<u>Process for an individual Section 4(f) determination for a park, recreation area, or wildlife or waterfowl refuge</u>

1. District environmental staff prepares an individual Section 4(f) evaluation using **ENV's Documentation Standard for an Individual Section 4(f) Evaluation**. Note that if the same property qualifies both as a park, recreation area, or wildlife or waterfowl refuge <u>and</u> an historic site, only one individual Section 4(f) evaluation needs to be prepared.

2. District environmental staff uploads the individual Section 4(f) evaluation and all attachments as a single packet under this Activity using the following file naming convention: "Park-rec-refuge 4f CSJ (mo-yr)_property name."

3. If project-specific mitigation requirements have been established as part of the Section 4(f) approval, then district environmental staff creates the "Perform Protected Lands Mitigation" Activity.

4. District environmental staff creates a Review of the individual Section 4(f) evaluation and assigns it to the ENV Project Delivery staff assigned to the respective district. Once the ENV Project Delivery staff has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the individual Section 4(f) evaluation that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV Project Delivery staff.

If ENV Project Delivery staff determines that a Section 4(f) exception, *de minimis* Section 4(f) determination, or programmatic Section 4(f) evaluation can be used for the project, then district environmental staff must start over with a new Section 4(f) approval type.

5. Once the ENV Project Delivery staff has no further comments and has finalized his or her Review, the ENV Project Delivery staff emails the individual Section 4(f) evaluation to TxDOT's General Counsel Division (GCD) for review (this is <u>not</u> the formal legal sufficiency review that happens after the individual Section 4(f) evaluation has been coordinated as indicated below).

6. GCD reviews the individual Section 4(f) evaluation outside of ECOS, and provides its comments directly to the ENV Project Delivery staff. GCD's comments, response to GCD's comments, revisions to the individual Section 4(f) evaluation made in response to GCD's comments, and correspondence regarding GCD's comments and associated revisions and responses are not tracked in ECOS.

7. After GCD has completed its review, district environmental staff creates separate Coordinations for (1) the Department of the Interior and (2) the official with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge (and, if they may reasonably be expected to be interested in the property, the Department of Agriculture and/or the Department of Housing and Urban Development).

8. District environmental staff follows the steps below to conduct the coordination for each entity with which the individual Section 4(f) evaluation is being coordinated:

- District environmental staff prepares a cover letter referring to the individual Section 4(f) evaluation and requesting comments within 45 days of receipt.
- District environmental staff signs the letter and mails it and the individual Section 4(f) evaluation to the entity with which the individual Section 4(f) evaluation is being coordinated. District environmental staff may also email the letter to the entity, in addition to mailing it.
- In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. District environmental staff fills-in the correspondence details for each letter or email sent to or from the entity with which the individual Section 4(f) evaluation is being coordinated.

- District environmental staff uploads each email or letter to or from the entity with which the individual Section 4(f) evaluation is being coordinated.
- Once the entity with which the individual Section 4(f) evaluation is being coordinated has provided written comments, district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.
- If the entity with which the individual Section 4(f) evaluation does not respond within 63 days of the date the letter and individual Section 4(f) evaluation was mailed to it (3 days assumed for mail delivery, plus 45-day comment period, plus 15 days extra past the end of the comment period), district environmental staff explains in the "Comments" field that no response was received within 63 days of the date the letter and Section 4(f) evaluation was mailed; selects "Completed" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

9. District environmental staff amends the individual Section 4(f) evaluation to reflect the coordination~~,~~.

10. District environmental staff uploads the individual Section 4(f) evaluation under this Activity (again using the following file naming convention: "Park-rec-refuge 4f CSJ (mo-yr)_property name") and creates a Review of the individual Section 4(f) evaluation, and assigns it to the ENV Project Delivery staff assigned to the respective district. Once the ENV Project Delivery staff has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the individual Section 4(f) evaluation that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV Project Delivery staff.

11. Once the ENV Project Delivery staff has no further comments and has finalized his or her Review, the ENV Project Delivery staff emails the individual Section 4(f) evaluation to TxDOT's General Counsel Division (GCD) for legal sufficiency review.

12. GCD reviews the individual Section 4(f) evaluation outside of ECOS, and provides its comments directly to the ENV Project Delivery staff. GCD's comments, response to GCD's comments, revisions to the individual Section 4(f) evaluation made in response to GCD's comments, and correspondence regarding GCD's comments and associated revisions and responses are not tracked in ECOS.

13. ENV Project Delivery staff uploads 1) the version of the individual Section 4(f) evaluation that was determined to be legally sufficient by GCD with the phrase, "GCD-approved," at the beginning of the file name; and 2) an email from GCD indicating that legal sufficiency review is complete and that the individual Section 4(f) evaluation is legally sufficient.

14. ENV Project Delivery staff provides the individual Section 4(f) evaluation to the ENV Director for his or her approval.

15. If the ENV Director disapproves of the individual Section 4(f) evaluation, he or she notifies the ENV Project Delivery staff to discuss.

16. If the ENV Director approves of the individual Section 4(f) evaluation, he or she signs the individual Section 4(f) evaluation, and ENV Project Delivery staff uploads the individual Section 4(f) evaluation and all attachments as a single packet under this Activity using the following file naming convention: "Approved park-rec-refuge 4f CSJ (mo-yr)_property name."

Historic sites

Listing historic sites for which there will be a "use"

1. The ENV SME lists in the "Comments" field all historic sites that the ENV SME determined to be historic sites and would be subject to a "use." Use the same name for the property used in the "Obtain Historical Studies Section 106/Antiquities Code of Texas (ACT) Approval" or "Obtain Archeology Section 106/Antiquities Code of Texas (ACT) Approval" Activity.

If there are many historic sites that would be subject to a "use," the ENV SME may upload a list instead of listing each historic site in the "Comments" field.

An "historic site" includes any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register. 23 CFR 774.17.

For purposes of this step, "use" occurs when any of the following apply:

- land is permanently incorporated into a transportation facility;
- there is a temporary occupancy of land;
- there is a constructive use of a Section 4(f) property (see 23 CFR 774.15); or
- work proposed on an historic transportation facility.

Note that, even if one of the above conditions applies, it may be possible for the project to fall under a Section 4(f) exception, in which case, technically speaking, there is no "use" as defined in FHWA's rules – see 23 CFR 774.17. However, for purposes of this step, do not consider whether the project will fall under a Section 4(f) exception. Instead, just consider whether any of the four above-listed conditions applies. If so, there is a "use" for purposes of this step and the property must be listed in the "Comments" field. Whether an exception applies will be determined in a later step.

With respect to non-archeological historic sites, whether an historic site would be subject to a "use" may have been determined as part of any of the following Activities:

- "Perform Historical Studies Project Coordination Request (PCR),"
- "Perform Historical Studies Windshield Survey,"
- "Perform Historical Studies Reconnaissance Survey," or
- "Perform Historical Studies Intensive Survey."

With respect to archeological sites, whether an historic site would be subject to a "use" may have been determined as part of any of the following Activities:

- "Perform Archeology Background Study"

- "Perform Archeology Survey"
- "Perform Archeology Testing"

The vast majority of archeological sites are not protected under Section 4(f) because they are not included in, or eligible for inclusion in, the National Register. Therefore, for the vast majority of archeological sites, the "4(f) Property" field in the "Perform Archeology Survey" or "Perform Archeology Testing" will be answered, "No," in which case there is no need to address the property in this "Obtain Section 4(f) Approval" Activity.

Do not add any historic site that the ENV SME concluded would not be subject to a use as described above.

Determination of anticipated Section 4(f) approval type for historic sites

1. The ENV SME determines which type of Section 4(f) approval is anticipated to be used for each historic site that the ENV SME has listed in the "Comments" field.

There are four categories of Section 4(f) approvals that may be used, listed below in order of intensity from least to greatest:

- Section 4(f) exceptions
- *De minimis* Section 4(f) determinations
- Programmatic Section 4(f) evaluations
- Individual Section 4(f) determinations

Each of these categories of Section 4(f) approvals are addressed separately below.

2. The ENV SME first determines whether any of the following Section 4(f) exceptions applies by referring to the conditions for each exception in the CFR subsection cited below:

- Historic transportation facilities – see 23 CFR 774.13(a)
- Archeological sites – see 23 CFR 774.13(b)
- Temporary occupancy - see 23 CFR 774.13(d)
- Trail, path, bikeway, or sidewalk - see 23 CFR 774.13(f)
- Transportation enhancement, transportation alternatives, or mitigation – see 23 CFR 774.13(g)

3. If none of the Section 4(f) exceptions listed above apply, the ENV SME determines whether the project's use of the property would potentially qualify for a *de minimis* Section 4(f) determination. In order to qualify for *de minimis*, the project must have no adverse effect on the historic site.

4. If none of the Section 4(f) exceptions listed above apply and the project's use of the property would not potentially qualify for a *de minimis* Section 4(f) determination, the ENV SME determines whether either of the following Section 4(f) programmatic evaluations apply by referring to the project descriptions and conditions in the applicable programmatic evaluation on FHWA's Section 4(f) toolkit:

- "Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges"

- "Section 4(f) Evaluation and Approval for Transportation Projects That Have a Net Benefit to a Section 4(f) Property"

5. If none of the Section 4(f) exceptions listed above apply and the project's use of the property would not potentially qualify for a *de minimis* Section 4(f) determination, and neither of the programmatic evaluations listed above apply, then an individual Section 4(f) determination is required.

6. For each historic site that has been listed in the "Comments" field (or in a list uploaded under this Activity), the ENV SME adds a note in the "Comments" field indicating the anticipated Section 4(f) approval type for each property, and proceeds as indicated below, depending on which Section 4(f) approval type is anticipated (Section 4(f) exception, *de minimis* Section 4(f) determination, programmatic Section 4(f) evaluation, or individual Section 4(f) determination).

Process for a Section 4(f) exception for an historic site

1. The coordination process for a Section 4(f) exception is described in step 3 below. This coordination process will normally have been completed as part of one of the Activities listed below using a joint Section 106/Section 4(f) letter.

Historical studies:

- "Perform Historical Studies Project Coordination Request (PCR),"
- "Perform Historical Studies Windshield Survey,"
- "Perform Historical Studies Reconnaissance Survey"
- "Perform Historical Studies Intensive Survey"

Archeology:

- "Perform Archeology Background Study"
- "Perform Archeology Survey"
- "Perform Archeology Testing"

If the coordination process described in step 3 below was completed and documented as part of one of the Activities listed above using a joint Section 106/Section 4(f) letter, the ENV SME skips steps 2 and 3.

2. The ENV SME creates one of the Coordinations listed below, depending on which Section 4(f) exception is being used:

- "Coordinate Historic Exception Archeological Sites"
- "Coordinate Historic Exception Historic Transportation Facilities"
- "Coordinate Historic Exception Temporary Occupancy"
- "Coordinate Historic Exception Trail, Path, Bikeway or Sidewalk"
- "Coordinate Historic Exception Trans. Enhancement Activ., Trans. Alt. Proj., and Mitigation Activ."

3. The ENV SME follows the steps below to conduct the coordination.

- The ENV SME prepares a letter to the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) notifying it of the intent to pursue a Section 4(f)

exception using **ENV's Template for 4f Exception Letter (Joint 106 and 4f)** (for a non-archeological historic site) or **ENV's Template for TSHPO/THC Consultation Regarding Archeological Historic Properties** (for an archeological historic site)**.**

- The ENV SME transmits the letter to the THC/TSHPO via the THC eTRAC System.
- In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter sent to or from the THC/TSHPO.
- The ENV SME uploads each letter documenting decision-making to or from TxDOT and the THC/TSHPO under the Coordination.
- Once the THC/TSHPO has indicated concurrence by returning a signed version of the original letter notifying him or her of the intent to pursue a Section 4(f) exception, the ENV SME selects "Completed" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.
- If the THC/TSHPO does not respond within 20 days of the date the original letter was transmitted to the THC/TSHPO, the ENV SME explains in the "Comments" field that no response was received within 20 days of the date the original letter; selects "Completed" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

4. The ENV SME completes **ENV's Checklist for Section 4(f) Exceptions for Public Parks, Recreation Land, Wildlife and Waterfowl Refuges, and Historic Sites**. If there are multiple properties, the ENV SME completes a separate checklist for each property.

5. The ENV SME uploads the completed checklist for Section 4(f) exceptions with all required attachments as a single packet under this Activity using the following file naming convention: "HIST 4f CSJ (mo-yr)_property name."

6. If project-specific mitigation requirements have been established as part of the Section 4(f) approval, then they will be tracked under one or more of the following Activities:

- "Perform Historical Studies Mitigation"
- "Perform Historical Studies Monitoring Commitments"
- "Perform Archeology Data Recovery"
- "Perform Archeology Mitigation"
- "Perform Archeology Monitoring Commitments"

Therefore, there is no reason to create the "Perform Protected Lands Mitigation" Activity.

7. The ENV SME may, at his or her discretion, create a Review of the checklist for Section 4(f) exceptions and assign it to the ENV SME. Once the ENV SME has finalized his or her Review (if one was created), if there are pending comments, the ENV SME:

- prepares a new, revised version of the checklist for Section 4(f) exceptions that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

If the ENV SME determines that the exception simply does not apply to the project, then the ENV SME must start over with a new Section 4(f) approval type.

8. Once the ENV SME has no further comments and has finalized his or her Review (if one was created), the ENV SME creates a Review of the checklist and assigns it to the Director of ENV's Cultural Resources Section. Once the Director of ENV's Cultural Resources Section has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the checklist that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the Director of ENV's Cultural Resources Section.

9. If the Director of ENV's Cultural Resources Section disapproves of the Section 4(f) exception, he or she notifies the ENV SME to discuss.

10. If the Director of ENV's Cultural Resources Section approves of the Section 4(f) exception, he or she selects, "Approved no comments," from the "Review Results" field in the Review, finalizes the Review, and creates a Review of the checklist and assigns it to the Director of ENV's Project Delivery Section.

11. Once the Director of ENV's Project Delivery Section has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the checklist that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the Director of ENV's Project Delivery Section.

12. If the Director of ENV's Project Delivery Section disapproves of the use of the Section 4(f) exception, he or she notifies the ENV SME to discuss.

13. If the Director of ENV's Project Delivery Section approves of the use of the Section 4(f) exception, he or she selects, "Approved no comments," from the "Review Results" field in the Review, finalizes the Review, and emails the ENV SME staff to let him or her know that the Section 4(f) exception is approved. The ENV SME uploads the checklist with all required attachments as a single packet under this Activity using the following file naming convention: "Approved HIST 4f CSJ (mo-yr)_property name."

14. If a Section 4(f) approval has been recorded for <u>all</u> parks, recreation areas, wildlife or waterfowl refuges, <u>and</u> historic sites listed in the "Comments" field of this Activity, then the ENV SME proceeds as indicated on page 25 below under "Finalizing this Activity."

Process for *a de minimis* Section 4(f) determination for an historic site

1. The coordination process for a *de minimis* Section 4(f) determination is described in step 3 below. This coordination process will normally have been completed as part of one of the Activities listed below using a joint Section 106/Section 4(f) letter.

Historical studies:

- "Perform Historical Studies Project Coordination Request (PCR),"
- "Perform Historical Studies Windshield Survey,"
- "Perform Historical Studies Reconnaissance Survey"
- "Perform Historical Studies Intensive Survey"

Archeology:

- "Perform Archeology Background Study"
- "Perform Archeology Survey"
- "Perform Archeology Testing"

If the coordination process described in step 3 below was completed and documented as part of one of the Activities listed above using a joint Section 106/Section 4(f) letter, the ENV SME skips steps 2 and 3.

2. The ENV SME creates the "Coordinate Historic De Minimis" Coordination.

3. The ENV SME follows the steps below to conduct the coordination:

- The ENV SME prepares a letter to the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) notifying it of the intent to pursue a Section 4(f) *de minimis* determination using **ENV's Template for 4f De Minimis Letter (Joint 106 and 4f)** (for a non-archeological historic site) or **ENV's Template for TSHPO/THC Consultation Regarding Archeological Historic Properties** (for an archeological historic site)**.**
- The ENV SME transmits the letter to the THC/TSHPO via the THC eTRAC System.
- In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter sent to or from the THC/TSHPO.
- The ENV SME uploads each letter documenting decision-making to or from TxDOT and the THC/TSHPO under the Coordination.
- Once the THC/TSHPO has indicated concurrence by returning a signed version of the original letter notifying him or her of the intent to pursue a Section 4(f) *de minimis* determination, the ENV SME selects "Completed" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

4. The ENV SME completes **ENV's Checklist for Section 4(f) *De Minimis* for Public Parks, Recreation Land, Wildlife & Waterfowl Refuges, and Historic Properties**. If there are multiple properties, the ENV SME completes a separate checklist for each property.

5. The ENV SME uploads the completed checklist for Section 4(f) *de minimis* with all required attachments as a single packet under this Activity using the following file naming convention: "HIST 4f CSJ (mo-yr)_property name."

6. If project-specific mitigation requirements have been established as part of the Section 4(f) approval, then they will be tracked under one or more of the following Activities:

- "Perform Historical Studies Mitigation"
- "Perform Historical Studies Monitoring Commitments"
- "Perform Archeology Data Recovery"
- "Perform Archeology Mitigation"
- "Perform Archeology Monitoring Commitments"

Therefore, there is no reason to create the "Perform Protected Lands Mitigation" Activity

7. The ENV SME may, at his or her discretion, create a Review of the checklist for Section 4(f) *de minimis* and assign it to the ENV SME. Once the ENV SME has finalized his or her Review (if one was created), if there are pending comments, the ENV SME:

- prepares a new, revised version of the checklist for Section 4(f) *de minimis* that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

If the ENV SME determines that a *de minimis* determination cannot be used for the project, then the ENV SME must start over with a new Section 4(f) approval type.

8. Once the ENV SME has no further comments and has finalized his or her Review (if one was created), the ENV SME creates a Review of the checklist and assigns it to the Director of ENV's Cultural Resources Section. Once the Director of ENV's Cultural Resources Section has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the checklist that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the Director of ENV's Cultural Resources Section.

9. If the Director of ENV's Cultural Resources Section disapproves of the Section 4(f) *de minimis*, he or she notifies the ENV SME to discuss.

10. If the Director of ENV's Cultural Resources Section approves of the Section 4(f) *de minimis*, he or she selects, "Approved no comments," from the "Review Results" field in the Review, finalizes the Review, and creates a Review of the checklist and assigns it to the Director of ENV's Project Delivery Section.

11. Once the Director of ENV's Project Delivery Section has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the checklist that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the Director of ENV's Project Delivery Section.

12. If the Director of ENV's Project Delivery Section disapproves of the use of the Section 4(f) *de minimis*, he or she notifies the ENV SME to discuss.

13. If the Director of ENV's Project Delivery Section approves of the use of the Section 4(f) *de minimis*, he or she selects, "Approved no comments," from the "Review Results" field in the Review, finalizes the Review, and emails the ENV SME staff to let him or her know that the Section 4(f) *de minimis* is approved. The ENV SME uploads the checklist with all required attachments as a single packet under this Activity using the following file naming convention: "Approved HIST 4f CSJ (mo-yr)_property name."

14. If a Section 4(f) approval has been recorded for <u>all</u> parks, recreation areas, wildlife or waterfowl refuges, <u>and</u> historic sites listed in the "Comments" field of this Activity, then the ENV SME proceeds as indicated on page 25 below under "Finalizing this Activity."

<u>Process for use of a programmatic Section 4(f) evaluation for an historic site</u>

1. The coordination process for a programmatic Section 4(f) evaluation is described in step 3 below. This coordination process will normally have been completed as part of one of the Activities listed below using a joint Section 106/Section 4(f) letter.

Historical studies:

- "Perform Historical Studies Project Coordination Request (PCR),"
- "Perform Historical Studies Windshield Survey,"
- "Perform Historical Studies Reconnaissance Survey"
- "Perform Historical Studies Intensive Survey"

Archeology:

- "Perform Archeology Background Study"
- "Perform Archeology Survey"
- "Perform Archeology Testing"

If the coordination process described in step 3 below was completed and documented as part of one of the Activities listed above using a joint Section 106/Section 4(f) letter, the ENV SME skips steps 2 and 3.

2. The ENV SME creates the "Coordinate Historic Programmatic" Coordination.

3. The ENV SME follows the steps below to conduct the coordination:

- The ENV SME prepares a letter to the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) notifying it of the intent to use the programmatic

Section 4(f) evaluation, requesting concurrence that the project includes all possible planning to minimize harm and includes appropriate mitigation measures with respect to the Section 4(f) property, and including any other information required by the specific programmatic evaluation being used.
If the programmatic evaluation for historic bridges is being used, then the ENV SME uses **ENV's Template for Programmatic Bridge 4f Letter (Joint 106 and 4f)**.

- The ENV SME transmits the letter to the THC/TSHPO via the THC eTRAC System.
- In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter sent to or from the THC/TSHPO.
- The ENV SME uploads each letter documenting decision-making to or from TxDOT and the THC/TSHPO under the Coordination.
- Once the THC/TSHPO has indicated concurrence by returning a signed version of the original letter, the ENV SME selects "Completed" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

4. If the net benefit programmatic evaluation is being used, and if a public meeting and/or public hearing will be held, the ENV SME confirms that information on the proposed use of the Section 4(f) property is communicated at the meeting and/or hearing.

5. The ENV SME completes (1) **ENV's Checklist for Section 4(f) Net Benefit for Historic Sites** or (2) **ENV's Checklist for Section 4(f) Programmatic Evaluation of Historic Bridge Projects**. If there are multiple properties, the ENV SME completes a separate checklist for each property.

6. The ENV SME uploads the completed checklist with all required attachments as a single packet under this Activity using the following file naming convention: "HIST 4f CSJ (mo-yr)_property name."

7. If project-specific mitigation requirements have been established as part of the Section 4(f) approval, then they will be tracked under one or more of the following Activities:

- "Perform Historical Studies Mitigation"
- "Perform Historical Studies Monitoring Commitments"
- "Perform Archeology Data Recovery"
- "Perform Archeology Mitigation"
- "Perform Archeology Monitoring Commitments"

Therefore, there is no reason to create the "Perform Protected Lands Mitigation" Activity.

8. The ENV SME may, at his or her discretion, create a Review of the checklist and assign it to the ENV SME. Once the ENV SME has finalized his or her Review (if one was created), if there are pending comments, the ENV SME:

- prepares a new, revised version of the checklist that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

If the ENV SME determines that the programmatic evaluation cannot be used for the project, then the ENV SME must start over with a new Section 4(f) approval type.

10. Once the ENV SME has no further comments and has finalized his or her Review (if one was created), the ENV SME creates a Review of the checklist and assigns it to the Director of ENV's Cultural Resources Section. Once the Director of ENV's Cultural Resources Section has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the checklist that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the Director of ENV's Cultural Resources Section.

11. If the Director of ENV's Cultural Resources Section disapproves of the use of the Section 4(f) programmatic evaluation, he or she notifies the ENV SME to discuss.

12. If the Director of ENV's Cultural Resources Section approves of the use of the Section 4(f) programmatic evaluation, he or she selects, "Approved no comments," from the "Review Results" field in the Review, finalizes the Review, and creates a Review of the checklist and assigns it to the Director of ENV's Project Delivery Section.

13. Once the Director of ENV's Project Delivery Section has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the checklist that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the Director of ENV's Project Delivery Section.

14. If the Director of ENV's Project Delivery Section disapproves of the use of the Section 4(f) programmatic evaluation, he or she notifies the ENV SME to discuss.

15. If the Director of ENV's Project Delivery Section approves of the use of the Section 4(f) programmatic evaluation, he or she selects, "Approved no comments," from the "Review Results" field in the Review, finalizes the Review, and emails the ENV SME staff to let him or her know that the Section 4(f) programmatic evaluation is approved. The ENV SME uploads the checklist with all required attachments as a single packet under this Activity using the following file naming convention: "Approved HIST 4f CSJ (mo-yr)_property name."

16. If a Section 4(f) approval has been recorded for <u>all</u> parks, recreation areas, wildlife or waterfowl refuges, <u>and</u> historic sites listed in the "Comments" field of this Activity, then the ENV SME proceeds as indicated on page 25 below under "Finalizing this Activity."

Process for an individual Section 4(f) determination for an historic site

1. The ENV SME prepares an individual Section 4(f) evaluation using **ENV's Documentation Standard for an Individual Section 4(f) Evaluation**. Note that if the same property qualifies both as a park, recreation area, or wildlife or waterfowl refuge and an historic site, only one individual Section 4(f) evaluation needs to be prepared.

2. The ENV SME uploads the individual Section 4(f) evaluation with all attachments as a single packet under this Activity using the following file naming convention: "HIST 4f CSJ (mo-yr)_property name."

3. If project-specific mitigation requirements have been established as part of the Section 4(f) approval, then they will be tracked under one or more of the following Activities:

- "Perform Historical Studies Mitigation"
- "Perform Historical Studies Monitoring Commitments"
- "Perform Archeology Data Recovery"
- "Perform Archeology Mitigation"
- "Perform Archeology Monitoring Commitments"

Therefore, there is no reason to create the "Perform Protected Lands Mitigation" Activity.

4. The ENV SME creates a Review of the individual Section 4(f) evaluation and assigns it to the ENV SME. Once the ENV SME has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the individual Section 4(f) evaluation that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

If the ENV SME determines that a Section 4(f) exception, *de minimis* Section 4(f) determination, or programmatic Section 4(f) evaluation can be used for the project, then the ENV SME must start over with a new Section 4(f) approval type.

5. Once the ENV SME has no further comments and has finalized his or her Review, the ENV SME creates a Review of the individual Section 4(f) evaluation and assigns it to the Director of ENV's Cultural Resources Section. Once the Director of ENV's Cultural Resources Section has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the individual Section 4(f) evaluation that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the Director of ENV's Cultural Resources Section.

6. Once the Director of ENV's Cultural Resources Section staff has no further comments and has finalized his or her Review, the ENV SME emails the individual Section 4(f) evaluation to

TxDOT's General Counsel Division (GCD) for review (this is not the formal legal sufficiency review that happens after the individual Section 4(f) evaluation has been coordinated as indicated below).

7. GCD reviews the individual Section 4(f) evaluation outside of ECOS, and provides its comments directly to the ENV SME. GCD's comments, response to GCD's comments, revisions to the individual Section 4(f) evaluation made in response to GCD's comments, and correspondence regarding GCD's comments and associated revisions and responses are not tracked in ECOS.

8. After GCD has completed its review, the ENV SME creates separate Coordinations for (1) the Department of the Interior and (2) the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) (and, if they may reasonably be expected to be interested in the property, the Advisory Council on Historic Preservation, the Department of Agriculture and/or the Department of Housing and Urban Development).

9. The ENV SME follows the steps below to conduct the coordination for each entity with which the individual Section 4(f) evaluation is being coordinated:

- The ENV SME prepares a cover letter referring to the individual Section 4(f) evaluation and requesting comments within 45 days of receipt.
- The ENV SME signs the letter and mails it and the individual Section 4(f) evaluation to the entity with which the individual Section 4(f) evaluation is being coordinated. The ENV SME may also email the letter to the entity, in addition to mailing it.
- In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter sent to or from the entity with which the individual Section 4(f) evaluation is being coordinated.
- The ENV SME uploads each letter documenting decision-making to or from the entity with which the individual Section 4(f) evaluation is being coordinated.
- Once the entity with which the individual Section 4(f) evaluation is being coordinated has provided written comments, the ENV SME selects "Completed" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.
- If the entity with which the individual Section 4(f) evaluation does not respond within 63 days of the date the letter and individual Section 4(f) evaluation was mailed to it (3 days assumed for mail delivery, plus 45-day comment period, plus 15 days extra past the end of the comment period), the ENV SME explains in the "Comments" field that no response was received within 63 days of the date the letter and Section 4(f) evaluation was mailed; selects "Completed" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

10. The ENV SME amends the individual Section 4(f) evaluation to reflect the coordination.

11. The ENV SME uploads the individual Section 4(f) evaluation under this Activity (again using the following file naming convention: "HIST 4f CSJ (mo-yr)_property name") and creates a Review of the individual Section 4(f) evaluation, and assigns it to the ENV SME. Once the ENV SME has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the individual Section 4(f) evaluation that is responsive to the comments made and uploads it under this Activity;

- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

12. Once the ENV SME has no further comments and has finalized his or her Review, the ENV SME creates a Review of the individual Section 4(f) evaluation and assigns it to the Director of ENV's Cultural Resources Section. Once the Director of ENV's Cultural Resources Section has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the individual Section 4(f) evaluation that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the Director of ENV's Cultural Resources Section.

13. Once the Director of ENV's Cultural Resources Section staff has no further comments and has finalized his or her Review, the ENV SME emails the individual Section 4(f) evaluation to TxDOT's General Counsel Division (GCD) for legal sufficiency review.

14. GCD reviews the individual Section 4(f) evaluation outside of ECOS, and provides its comments directly to the ENV SME. GCD's comments, response to GCD's comments, revisions to the individual Section 4(f) evaluation made in response to GCD's comments, and correspondence regarding GCD's comments and associated revisions and responses are not tracked in ECOS.

15. The ENV SME uploads 1) the version of the individual Section 4(f) evaluation that was determined to be legally sufficient by GCD with the phrase, "GCD-approved," at the beginning of the file name; and 2) an email from GCD indicating that legal sufficiency review is complete and that the individual Section 4(f) evaluation is legally sufficient.

16. The ENV SME provides the individual Section 4(f) evaluation to the ENV Director for his or her approval.

17. If the ENV Director disapproves of the individual Section 4(f) evaluation, he or she notifies the ENV SME to discuss.

18. If the ENV Director approves of the individual Section 4(f) evaluation, he or she signs the individual Section 4(f) evaluation, and the ENV SME uploads the individual Section 4(f) evaluation with all attachments as a single packet under this Activity using the following file naming convention: "Approved HIST 4f CSJ (mo-yr)_property name."

Finalizing this Activity

1. ENV Project Delivery staff or the ENV SME, depending on which uploaded the "Approved" packet for the last remaining property in the "Comments" field requiring a Section 4(f) approval, does the following:

- confirms that an approval has been recorded for <u>all</u> parks, recreation areas, wildlife or waterfowl refuges, <u>and</u> historic sites listed in the "Comments" field. If the same property is listed in the "Comments" field twice, once as a park, recreation area, or wildlife or

waterfowl refuge, and once as an historic site, there must be separate approvals for each listing;

- confirms that the Section 4(f) approval type listed for each property in the "Comments" field of this Activity matches the actual Section 4(f) approval made;
- if the "Perform Section 4(f) Analysis" Activity has been created, confirms that it has been finalized; and
- if the "Obtain Historical Studies Section 106/Antiquities Code of Texas (ACT) Approval" and "Obtain Archeology Section 106/Antiquities Code of Texas (ACT) Approval" Activities were created, confirms that they have been finalized.

2. If all of the above-listed conditions are confirmed, then ENV Project Delivery staff or the ENV SME assigns this Activity to the ENV Deputy Director.

3. If the ENV Deputy Director agrees that all uses of Section 4(f) properties for the project have been approved, then the ENV Deputy Director finalizes this Activity.

Citation: 23 USC 138, 23 CFR 774

"Obtain Section 6(f) Approval" Activity

District environmental staff should be aware that the Section 6(f) process can be extremely lengthy due to the need to find suitable replacement property that must be approved by multiple agencies. For this reason, if there is <u>any</u> way to avoid using a Section 6(f) property, it should be strongly considered.

1. District environmental staff contacts the Texas Parks and Wildlife Department's Local Park Grants Coordinator to request a map showing the exact boundary of the property to confirm that the portion of the property impacted is, in fact, protected under Section 6(f) (i.e., the boundary of the property protected under Section 6(f) does not always match the current boundary of the park, refuge, etc).

2. District environmental staff determines if the project will permanently convert any property protected under Section 6(f) of the Land and Water Conservation Fund Act to a use other than public outdoor recreation.

If <u>not</u>, then district environmental staff provides an explanation in the "Comments" field of this Activity, and finalizes this Activity.

If district environmental staff determines that the project <u>will</u> permanently convert property protected under Section 6(f) to a use other than public outdoor recreation, <u>and</u> there is no practical alternative to such conversion, proceed as indicated below.

3. District environmental staff identifies a property to be substituted for the Section 6(f) property that will be converted to a use other than outdoor recreation, in consideration of the criteria listed at 36 CFR 59.3(b).

4. District environmental staff prepares a written conversion proposal explaining how the proposed conversion satisfies the criteria listed at 36 CFR 59.3(b) (to be used by the official with jurisdiction in proposing the conversion to TPWD, and ultimately, NPS, as explained below)

5. If the project is an FHWA project, then district environmental staff ensures that a Section 4(f) exception, *de minimis*, programmatic, or individual approval has been completed for the Section 6(f) property, as this will need to be included in the written conversion proposal that will be coordinated as discussed below. Note that if the Section 6(f) property is both a park, recreation area, or wildlife or waterfowl refuge <u>and</u> an historic site, then separate Section 4(f) approvals (one for park, recreation area, or wildlife or waterfowl refuge, and one for an historic site) must have been completed.

6. District environmental staff creates a Review of the written conversion proposal and assigns it to the ENV Project Delivery staff assigned to the respective district. Once the ENV Project Delivery staff has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the written conversion proposal that is responsive to the comments made and uploads it under this Activity;

- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV Project Delivery staff.

7. Once the ENV Project Delivery staff has no further comments and has finalized his or her Review district environmental staff proceeds according to the coordination process explained below.

Coordination process

District environmental staff creates a Coordination under this Activity, and uploads all of the following documentation under the Coordination:

- The Land and Water Conservation Fund State Liaison Officer at TPWD's transmittal of the written conversion proposal to the National Park Service
- The National Park Service's written approval of the conversion proposal

Follow the steps below to conduct the coordination.

8. District environmental staff transmits the written conversion proposal to the official with jurisdiction over the Section 6(f) property.

9. The official with jurisdiction transmits the written conversion proposal to the Land and Water Conservation Fund State Liaison Officer at TPWD.

10. The Land and Water Conservation Fund State Liaison Officer at TPWD transmits the written conversion proposal to the National Park Service.

11. District environmental staff uploads the Land and Water Conservation Fund State Liaison Officer at TPWD's transmittal of the written conversion proposal to the National Park Service under the Coordination.

12. The National Park Service issues a written approval of the conversion proposal.

13. District environmental staff uploads the National Park Service's written approval of the conversion proposal under the Coordination.

14. District environmental staff finalizes the Coordination.

Finalizing this Activity

15. District environmental staff creates the "Perform Protected Lands Mitigation" Activity to track the acquisition and transfer of the substitution property to the entity that owns the Section 6(f) resource.

16. District environmental staff assigns this Activity to the ENV Project Delivery staff assigned to the respective district.

17. If the ENV Project Delivery staff agrees that the Section 6(f) requirements have been satisfied, he or she finalizes this Activity.

Citation(s): 36 CFR 59.3

"Obtain Section 9 Bridge Permit" Activity

1. District environmental staff determines if a bridge permit is required. A bridge permit is required for construction, reconstruction, rehabilitation, or replacement of a bridge over waters deemed navigable under Section 9 of the Rivers and Harbors Act.

However, for a federally funded project, TxDOT must, through FHWA, pursue a bridge permit exception request (as explained below) if the bridge is over a navigable water that:

- is not used or is not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce [i.e., you can't drive a commercial boat on the water], and
- is (i) not tidal, or (ii) if tidal, used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

2. District environmental staff determines if a navigational lighting authorization is needed. If any lights or signals will be installed, modified, or removed then a navigational lighting authorization is required.

However, TxDOT may pursue a navigational lighting exemption (as explained below) if the waterway has no significant nighttime navigation.

3. If district environmental staff is uncertain regarding the need for a bridge permit or bridge permit exception request, or a navigational lighting authorization/exception, district environmental staff informally contacts USCG staff by email at D08-DG-D8DPBAll@uscg.mil to discuss whether a bridge permit/bridge permit exception and/or navigational lighting authorization/exemption are needed. Upload any email correspondence with USCG staff under this Activity.

4. District environmental staff indicates in the "Comments" field what type of authorization is required from the USGG and prepares appropriate documentation.

5. Follow the instructions for the appropriate Coordination below. District environmental staff creates a Review of the draft coordination materials and assigns it to the ENV USCG SME, Mario Mata. Once the ENV USCG SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the completed delineation report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV USCG SME, Mario Mata.

6. Once the ENV USCG SME has no further comments and has finalized his or her Review, district environmental staff follows the instructions for the appropriate Coordination below.

7. After all required Coordinations are finalized, district environmental staff finalizes this Activity.

Coordination with USCG to obtain a bridge permit

1. District environmental staff creates a "Coordinate Section 9 Bridge Permit" Coordination, and selects "U.S. Coast Guard (USCG)" as the agency with whom coordination is being conducted.

2. District environmental staff prepares and submits to the USCG a bridge permit application in accordance with the current USCG Bridge Permit Application Guide (BPAG) and Coast Guard Permit Application Template.

Note that throughout the Coast Guard Permit Application Template there are instructions to "cite location(s) in the application package" for various types of documents. All such documents must be attached to the application package.

Note also that if the proposed project is located within the Coastal Zone Management Program (CMP) boundary, a CMP Consistency Certification Letter from the Texas general Land Office (GLO) is required. District environmental staff contacts the ENV SME assigned to their respective district to discuss obtaining the GLO letter (there is no need to create a separate Coordination in ECOS for the GLO letter).

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The district environmental staff fills-in the correspondence details for each letter or email sent to or from the USCG in connection with the request for a bridge permit.

4. District environmental staff uploads the transmitted bridge permit application, any additional correspondence with the USCG, and the bridge permit issued by the USCG under this Coordination.

5. In the Coordination, the district environmental staff selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

Coordination with USCG to obtain a bridge permit exception

1. District environmental staff creates a "Coordinate Section 9 Bridge Permit" Coordination, and selects "U.S. Coast Guard (USCG)" as the agency with whom coordination is being conducted.

2. If the project is over non-tidal waters, then district environmental staff completes the FHWA form titled, "23 CFR 650.805 Bridges not requiring a U.S. Coast Guard Permit" (the FHWA Questionnaire). If the project is over tidal waters, then district environmental staff completes the USCG form titled, "Bridge Project Questionnaire" (the USCG Questionnaire).

In completing either the FHWA Questionnaire or the USCG Questionnaire, answer all questions, even if the answer is "not applicable."

If the water is tidal, and therefore the USCG Questionnaire is used, the form must clearly state that the water at the location of the crossing is used only by recreational boating, fishing, and other small vessels less than 21 feet in length. If the water is used by any boat that is 21 feet or greater, the project does not qualify for an exception.

Include the latitude and longitude of the crossing and adequate photos to characterize the area (including photos of the types of vessels that use the water, if applicable).

Note also that if the proposed project is located within the Coastal Zone Management Program (CMP) boundary, a CMP Consistency Certification Letter from the Texas general Land Office (GLO) is required. District environmental staff contacts the ENV SME assigned to their respective district to discuss obtaining the GLO letter (there is no need to create a separate Coordination in ECOS for the GLO letter).

3. Regardless of whether the FHWA Questionnaire or the USCG Questionnaire is used, district environmental staff prepares a cover letter from TxDOT to FHWA stating that the purpose of the submittal to FHWA is to request an exception from USCG bridge permitting pursuant to 23 CFR 650, Subpart H.

4. District environmental staff emails the cover letter, completed questionnaire, and any supporting documentation to FHWA. The ENV SME assigned to the respective district can provide the district with the correct FHWA email addresses.

5. If the FHWA bridge engineer determines that the project does not qualify for an exception, they will notify the USCG bridge administrator and the district environmental staff.

If the FHWA bridge engineer's preliminary determination is that the project does qualify for an exception, FHWA will notify the USCG bridge administrator.

6. If the USCG bridge administrator determines that the project qualifies for an exception, they will notify FHWA in writing and copy the district environmental staff.

Note that even if the project qualifies for an exception from the requirement to obtain a bridge permit, it may still need a navigational lighting authorization if it will install, modify, or remove any lighting or signals (see 33 CFR 650.805(e)).

6. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The district environmental staff fills-in the correspondence details for each letter or email sent to or from FHWA and the USCG in connection with the request for a bridge permit exception.

7. District environmental staff uploads the transmitted request for a bridge permit exception, any additional correspondence with FHWA and the USCG, and the bridge permit exception issued by the USCG under this Coordination.

8. In the Coordination, the district environmental staff selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

<u>Coordination with USCG to obtain a navigational lighting authorization</u>

1. District environmental staff creates a "Coordinate Section 9 Bridge Permit" Coordination, and selects "U.S. Coast Guard (USCG)" as the agency with whom coordination is being conducted.

2. District environmental staff prepares and submits to the USCG a navigational lighting authorization application, which consists of a letter accompanied by two copies of each of the following (a) drawings showing the plan and elevation of the structure showing lights and signals proposed, and (b) small scale vicinity chart showing proposed bridge and all other bridges within 1,000 feet above or below the proposed bridge (33 CFR 118.25). Plan sheets must adhere to the current USCG Bridge Lighting Manual.

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The district environmental staff fills-in the correspondence details for each letter or email sent to or from the USCG in connection with the request for a navigational lighting authorization.

4. District environmental staff uploads the transmitted navigational lighting authorization application, any additional correspondence with the USCG, and the navigational lighting authorization issued by the USCG under this Coordination.

5. In the Coordination, the district environmental staff selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

<u>Coordination with USCG to obtain an exemption from the requirement to obtain navigational lighting authorization</u>

1. District environmental staff creates a "Coordinate Section 9 Bridge Permit" Coordination, and selects "U.S. Coast Guard (USCG)" as the agency with whom coordination is being conducted.

2. District environmental staff prepares and submits to the USCG a letter explaining that the project is over a waterway with no significant nighttime navigation and requesting an exemption from the requirement to obtain navigational lighting authorization.

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The district environmental staff fills-in the correspondence details for each letter or email sent to or from the USCG in connection with the request for an exemption from the requirement to obtain navigational lighting authorization.

4. District environmental staff uploads the transmitted request for an exemption from the requirement to obtain navigational lighting authorization, any additional correspondence with the USCG, and the exemption issued by the USCG under this Coordination.

5. In the Coordination, the district environmental staff selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

Citation: General Bridge Act (33 USC 525-533) and Section 9 of the Rivers and Harbors Act (33 USC 401-406), 23 CFR 650.801-650.809, 33 CFR 118

"Obtain Section 404/10 Permit" Activity

1. District environmental staff prepares a delineation report in accordance with **ENV's Documentation Standard for Waters of the U.S. Delineation Report** and **ENV's Template: Waters of the U.S. Delineation Report** and uploads it under this Activity.

2. District environmental staff may, at its discretion, create a Review of the completed delineation report under this Activity and assign it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the completed delineation report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

3. Once the ENV SME has no further comments and has finalized his or her Review (if a Review was created), district environmental staff uploads the final completed delineation report with the word, "Approved," at the beginning of the file name.

4. Based on the delineation report, the impacts identified for the project, and the following considerations:

- USACE district (i.e., Galveston, Fort Worth, Tulsa, and/or Albuquerque) jurisdiction,
- applicable regional conditions for Texas and respective USACE district (published on Galveston district website),
- whether the applicant is a "federal applicant" (i.e., the "FHWA – Assigned to TxDOT" box is checked on WPD I), or the applicant is a "non-federal applicant" (i.e., the "TxDOT – No Federal Funding" or "FHWA – Not Assigned to TxDOT" box is checked on the WPD I),
- project purpose, schedule, and amount and type(s) of impacts,
- Is the water a Section 10 navigable water
- available permit type and number (for Nationwide Permit [NWP] or Regional General Permit [NWP]), if applicable,
- availability of mitigation banks/credits/permittee responsible mitigation (PRM), if applicable,
- direction provided by the USACE (such as during a pre-application meeting or regularly scheduled coordination call hosted by ENV), and
- **ENV's USACE Galveston District Nationwide Permit (NWP) 14 Pre-Construction Notification (PCN) template,**

District environmental staff determines:

- which of the following types of USACE authorizations are needed for both Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899:
    - nationwide permit (NWP) w/ pre-construction notification (PCN),
    - individual permit (IP),
    - letter of permission (LOP),

    - regional general permit (RGP), or
    - individual Section 10 permit
        - If the project requires a USCG Bridge Permit/Bridge Permit Exception Request, the USCG takes the lead in regards to permitting and a Section 10 permit from the USACE is not required; and
- which of the following jurisdictional determinations are needed:
    - approved jurisdictional determination (AJD),
    - preliminary jurisdictional determination (PJD),
    - joint PJD/AJD, and/or
    - no jurisdictional determination (JD)

, and completes **ENV's Section 404/10 Impacts Table** in accordance with **ENV's Instructions – Preparing a Section 404/10 Impacts Table** and uploads it under this Activity.

District environmental staff may consult with the appropriate ENV SME assigned to the respective district in making these determinations.

5. District environmental staff indicates in the "Comments" field which type(s) of USACE authorization(s) are needed and for which regulation (i.e., Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899), and which type of jurisdictional determination is needed.

If USACE authorization(s) are needed for just one regulation (i.e., just Section 404 of the Clean Water Act or just Section 10 of the Rivers and Harbors Act of 1899), include in the "Comments" field a statement that no authorization is needed with respect to the other regulation (i.e., Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act of 1899).

6. District environmental staff prepares the appropriate permitting package (PCN, IP, LOP, RGP, or Individual Section 10 permit).

For all PCNs and IPs statewide, district environmental staff uses **ENV's Documentation Standard for Pre-Construction Notification (PCN)** and **ENV's Documentation Standard for Individual Permit (IP) Application**, respectively.

For a NWP 14 PCN in the Galveston District, district environmental staff uses **ENV's Template: USACE Galveston District Nationwide Permit (NWP) 14 Pre-Construction Notification (PCN)** to prepare the permitting package, in accordance with **ENV's Documentation Standard for Pre-Construction Notification (PCN).**

For all other types of PCNs, district environmental staff uses a USACE-approved PCN template to prepare the permitting package.

For an LOP or for an RGP, district environmental staff should contact the appropriate resource area ENV SME for guidance in preparing the permitting package.

The permitting package may also include a request for a jurisdictional determination and a mitigation plan, if either or both are needed. Jurisdictional determination request forms and

processes are USACE district-specific. Mitigation plans must address all 12 required components set forth at 33 CFR 332.4(c).

7. District environmental staff may, at its discretion, create a Review of the permitting package under this Activity and assign it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the permitting package that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

8. Once the ENV SME has no further comments and has finalized his or her Review (if a Review was created), district environmental staff proceeds according to the Coordination instructions provided below. If section 7 and or Section 106 consultation is triggered by the project, and TxDOT is the federal applicant for the Section 404/10 authorization, ENV recommends that the permitting package not be submitted to USACE until such consultation is completed.

Coordination

1. District environmental staff creates a "Coordinate Section 404/10 Permit" Activity.

2. District environmental staff transmits the permitting package to the appropriate USACE district office.

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The district environmental staff fills-in the correspondence details for submittal of the permitting package and any subsequent letter or email sent to or received from the USACE.

4. District environmental staff uploads the transmitted permitting package and any additional correspondence with the USACE under this Coordination.

5. Once the USACE has issued the permit or LOP, or approved the use of a NWP or RGP, district environmental staff uploads the USACE's authorization under this Coordination.

6. In the Coordination, the district environmental staff selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

Finalizing this Activity

1. If applicable, district environmental staff creates a "Perform Compensatory Mitigation" Activity.

2. District environmental staff finalizes this Activity.

Citation(s): CWA, Sections 10 and 404, 33 CFR 325, 33 CFR 332

"Obtain WPD-Activity Creation Access for Consultant-Local Government (PMJFM)" Activity

1. District environmental staff assigns this Activity to a consultant or local government representative to allow him or her access to manage most aspects of the environmental review process for a specific project within ECOS as the project sponsor (e.g., complete work plan, create and assign Activities, etc.). This is also referred to as "Project Management Joint Full Mode" (PMJFM).

2. Before district environmental staff may assign this Activity to a consultant or local government representative, the consultant or local government representative must have first obtained an ECOS User ID and general access to ECOS. To obtain an ECOS User ID and general access to ECOS, the consultant or local government representative contacts ENV's ECOS administrative team as explained in **ENV's Environmental Guide: Volume 1 Process**.

3. District environmental staff MUST finalize this Activity if the consultant or local government representative no longer needs to have PMJFM-level ECOS access for this project due to a job change, completion of the environmental review, or any other reason. Finalizing the Activity will automatically remove the PMJFM-level ECOS access for the individual to whom this Activity was originally assigned.

"Other Project-Related Information" Activity

This Activity provides a location for documents that may be relevant to more than one technical analysis, in order to avoid the same document being uploaded multiple times under different program area-specific Activities.

1. District environmental staff uploads the documents listed in the bullet points below using a file name that indicates the date of the document (e.g., "Project schematic for FM 1234 10-04-2017") to the extent they are available. If any of the documents listed in the bullet points below have been created for the project, then they must be uploaded under this Activity:

- Project location map (may be topographical map, aerial photograph, or other format)
- Project schematic
- Plan and profile sheet ("P&P sheet")
- Typical sections

2. District environmental staff, at their discretion, may also upload any miscellaneous documents that he or she believes should be included in ECOS using a file name that indicates the date of the document (e.g., "Project site photographs for FM 1234 10-04-2017"). Examples of types of documents that may be uploaded under this Activity include the following:

- Design concept conference meeting notes
- Design summary report
- ROW and survey maps
- Detail sheets: traffic control, roadway details, drainage, utilities, etc.
- Field notes
- Project site photographs
- Constraint maps
- Interstate access justification request (IAJR) and approval
- Crash records/crash data report
- Bridge inspection reports
- Bike/pedestrian accommodation analysis
- Land use analysis
- PEL study
- Feasibility study
- Corridor study
- Travel demand model
- Traffic data and/or memo

"Perform 139(l) Notice of Limitation on Claims for Judicial Review" Activity

1. During work plan development, district environmental staff assigns this Activity to the ENV project delivery staff assigned to the respective district.

2. On a monthly basis, ENV Project Delivery Section Director emails the monthly list of open-ended (d)-list CE clearances to ENV project delivery staff to notify ENV project delivery staff that one or more open-ended (d)-list CE determinations were made in the preceding month.

3. After the project is environmentally cleared, ENV project delivery staff prepares a customized statement regarding this project using **ENV's Template: Project-Specific Insert for Section 139(l) Notice**, and emails it to the ENV Project Delivery Section Director.

4. On a quarterly basis, ENV Project Delivery Section Director prepares a 139(l) notice using **ENV's Template: Batch Section 139(l) Notice**, and the customized project-specific inserts provided by ENV project delivery staff.

NOTE: Under certain circumstances, it may be determined that a 139(l) notice should be issued for an individual project sooner than would otherwise happen on the quarterly cycle.

5. ENV Project Delivery Section Director emails the draft batch Section 139(l) notice to the General Counsel Division (GCD) for legal sufficiency review, and provides at least three days for GCD to review. GCD's comments, response to GCD's comments, revisions to the batch Section 139(l) notice made in response to GCD's comments, and correspondence regarding GCD's comments and associated revisions and responses are not tracked in ECOS.

6. After GCD has provided an email indicating that the batch Section 139(l) notice is legally sufficient, ENV Project Delivery Section Director coordinates publication of the batch Section 139(l) notice in the Federal Register as follows:

- ENV Project Delivery Section Director prepares:
  - Three single-sided copies of the Section 139(l) notice
  - Section 139(l) transmittal letter indicating the date TxDOT is requesting publication in the Federal Register, which should be approximately two weeks after the anticipated date of submittal (contact FHWA, Texas Division for the correct Federal Register address)
  - CD-ROM with the notice saved as a doc or docx file
- ENV Project Delivery Section Director physically hand-delivers the three materials listed above to FHWA's Texas Division office for signature.
- After the representative from FHWA's Texas Division has signed the transmittal letter and each of the three single-sided copies of the Section 139(l) notice, at least two weeks prior to the requested publication date, the ENV Project Delivery Section Director uses FedEx or UPS to mail the three materials indicated above to the Office of the Federal Register in Washington, D.C.

7. After the batch Section 139(l) notice has been published in the Federal Register, ENV Project Delivery Section Director emails a pdf of the Federal Register notice and the email documenting GCD's legal sufficiency determination to ENV project delivery staff.

8. ENV project delivery staff uploads the pdf of the Federal Register notice and the email documenting GCD's legal sufficiency determination under this Activity, and finalizes this Activity.

9. Note that this Activity is only automatically created for open-ended (d)-list CEs, EAs, and EISs for which the WPD I field, "Who is the lead agency responsible for the approval of the entire project?," is answered, "FHWA –Assigned to TxDOT." However, 139(l) notices may be published for other types of CE projects, and for CE, EA, or EIS projects for which the WPD I field, "Who is the lead agency responsible for the approval of the entire project?," is answered, "FHWA –Not Assigned to TxDOT" (e.g., a project that crosses a state boundary). If a 139(l) notice is published and this Activity has not been automatically created, then the ENV SME assigned to the respective district must manually create this Activity in order to document the publication of the 139(l) notice.

Citation: 23 USC 139(l)

"Perform Additional Public Outreach" Activity

1. This Activity is used to document any additional, non-legally required outreach with members of the public such as small group meetings, telephone conferences, or emails with individuals or groups that the district environmental staff elects to include in the record for the environmental review process.

No formal documentation format is required for documenting any such additional outreach.

This Activity is not used to document a required notice and opportunity to comment, public meeting, opportunity for public hearing, or public hearing.

2. District environmental staff uploads any documentation of additional public outreach described above under this Activity.

3. Once district environmental staff determines that further public outreach is not expected, district environmental staff then finalizes this Activity.

"Perform Air Monitoring Commitments" Activity

1. District environmental staff fills-in the "Comments" field with an explanation of any air quality commitments for the project.

2. District environmental staff uploads any documentation associated with air quality commitments for the project under this Activity.

3. After all air quality commitments for the project have been completed, district environmental staff finalizes this Activity.

"Perform Archeological Background Study" Activity

1. If the project meets the requirements of the categorical exclusion criterion listed at 23 CFR 771.117(c)(1) regarding activities that do not involve or lead directly to construction such as planning and research activities, or the categorical exclusion criterion listed at 23 CFR 771.117(c)(29) regarding the purchase, construction, replacement or rehabilitation of ferry vessels, then district environmental staff inserts the following statement in the "Comments" field of this Activity: "This project does not require a background study," and finalizes this Activity.

If neither of the above-listed categorical exclusion criteria apply, but district environmental staff nevertheless believes that the project does not warrant a background study, then district environmental staff must contact the ENV SME assigned to the respective district to discuss the project. If the ENV SME agrees that a background study is not warranted, then district environmental staff:

- selects, "No," from the drop-down menu for the field labeled, "Was an Archeology Background Study performed?"
- inserts the following statement in the "Comments" field of this Activity: "This project does not require a background study per [insert name], ENV SME" and
- finalizes this Activity.

2. District environmental staff prepares an archeological background study according to **ENV's Template for Archeological Background Studies**. Alternatively, district environmental staff may request that the appropriate ENV SME prepare the archeological background study.

Regardless of whether the archeological background study is prepared by district environmental staff or an ENV SME, it must be prepared by a professional archeologist (see 13 TAC 26.4(2)), and district environmental staff must provide the professional archeologist with the project's area of potential effects as defined in **ENV's Template for Archeological Background Studies**.

<u>Preparation of archeological background study by district environmental staff</u>

3. If the archeological background study is prepared by district environmental staff, then for the field labeled, "Finding," in this Activity, district environmental staff selects, "In Progress" if the district environmental staff has all project information needed to prepare the archeological background study, or "Need project information," if district environmental staff is waiting for project information before preparing the archeological background study.

4. District environmental staff uploads the archeological background study under this Activity using this file naming convention: CSJ_Background_Study_DD-MMM-YYY (e.g., "222215027_Background_Study_04-Jan-2016").

5. District environmental staff creates a Review of the archeological background study under this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district. Based on workload and other factors, this assignment will likely be re-assigned to another ENV SME. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the archeological background study that is responsive to the comments made and uploads it under this Activity;

- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and

- creates a new Review under this Activity, and assigns it to the ENV SME.

6. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the archeological background study with the word, "Approved," at the beginning of the file name.

Preparation of archeological background study by ENV SME

3. If the district environmental staff requests that an ENV SME prepare the archeological background study, then the district environmental staff uploads any available maps, schematics, or typical sections under the "Other Project-Related Information" Activity.

4. District environmental staff assigns this Activity to the appropriate resource area ENV SME assigned to the respective district. Based on workload and other factors, this assignment will likely be re-assigned to another ENV SME.

5. For the field labeled, "Finding," in this Activity, the ENV SME selects, "In Progress" if the ENV SME has all project information needed to prepare the archeological background study, or "Need project information," if the ENV SME is waiting for project information before preparing the archeological background study.

6. The ENV SME uploads the archeological background study under this Activity using this file naming convention: CSJ_Background_Study_DD-MMM-YYY (e.g., "222215027_Background_Study_04-Jan-2016").

Next steps after uploading approved archeological background study

7. Regardless of how the archeological background study has been produced (i.e., whether it was produced by district environmental staff or an ENV SME), the ENV SME completes the following steps, using the available technical documents and coordination results.

8. The ENV SME selects "Yes" from the drop-down menu for the field labeled, "Was an Archeology Background Study performed?"

9. The ENV SME selects "Adverse effect," "No effect/no further work," "No adverse effect/no further work," or "Survey/additional work required" from the drop-down menu for the "Finding" field. For projects with no potential to cause effects, with minimal potential to cause effects, or with no known historic properties in the APE, the typical response is "No effect/no further work." The ENV SME proceeds as instructed below, depending on the Finding.

- "Adverse effect" - If the ENV SME ultimately selected, "Adverse effect" for the "Finding" field, then the ENV SME creates three Coordinations under this Activity (one for THC-A Coordination, one for PA Tribe Coordination, and one for ACHP Coordination). In

addition, the ENV SME may create an OTH Coordination, if consultation included other consulting parties. The ENV SME proceeds according to the Coordination instructions below. The ENV SME also creates the "Perform Archeology Data Recovery" Activity, the "Perform Archeology Mitigation" Activity, or the "Perform Archeology Monitoring Commitments" Activity.

Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.

The ENV SME only finalizes the "Perform Archeological Background Study" Activity once all associated Coordinations have been finalized.

- "No adverse effect/no further work" - If the ENV SME ultimately selected "No adverse effect/no further work," then the ENV SME creates two Coordinations under this Activity (one for THC-A Coordination and one for PA Tribe Coordination). In addition, the ENV SME may create an OTH Coordination, if consultation included other consulting parties. The ENV SME proceeds according to the Coordination instructions below. The ENV SME may also create the "Perform Archeology Mitigation" Activity, if this Activity was necessary to achieve the "No adverse effect/no further work" finding.

  Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.

  The ENV SME only finalizes the "Perform Archeological Background Study" Activity once all associated Coordinations have been finalized.
- "No effect/no further work" - If the ENV SME ultimately selected, "No effect/no further work," then the ENV SME creates two Coordinations under this Activity (one for either ENV-A In-House Coordination or THC-A Coordination, and one for Native American Tribal Coordination, PA Tribe or Non-PA Tribe as applicable). In addition, the ENV SME may create an OTH Coordination, if consultation included other consulting parties. The ENV SME proceeds according the Coordination instructions below.

  Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.

  The ENV SME only finalizes the "Perform Archeological Background Study" Activity once all associated Coordinations have been finalized.
- "Survey/additional work required" - If the ENV SME ultimately selected, "Survey/additional work required," then the ENV SME creates the "Perform Archeology Survey" Activity, and finalizes the "Perform Archeological Background Study" Activity.

  Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.

ENV-A In-House Coordination Process

If the ENV SME determines that the project can be coordinated internally because it meets the criteria for internal coordination under **ENV's Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation** and/or the **Programmatic Agreement among the Federal Highway Administration, Texas State Historic Preservation Office, Advisory Council on Historic Preservation, and the Texas Department of Transportation**, then the ENV SME follows the steps below to begin the coordination (there is no need to upload anything to this coordination).

1. In the Coordination, the ENV SME selects the drop-down response "ENV-A" for the "Agency Name" field.

2. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details as follows:

- For the "Correspondence Status" field, the ENV SME selects, "Sent Information," using the drop-down menu.
- For the "Correspondence Method" field, the ENV SME selects, "Other," using the drop-down menu.
- For the "Correspondence Date" field, the ENV SME enters the current date.
- For the "Correspondence From" field, the ENV SME enters, "TxDOT."
- For the "Correspondence To" field, the ENV SME enters "TxDOT."
- For the "Comments" field, the ENV SME enters, "Request for internal review and approval of a finding of no archeological historic properties affected and no further work required, as permitted under the PA and MOU."

3. The ENV SME assigns the ENV-A Coordination to the ENV SME team lead or ENV SME manager.

4. Once a week, the ENV SME team lead or ENV SME manager reviews the archeological background study for each assigned project and requests clarifications from the authoring ENV SME as necessary. Once the review has been completed, resulting in a satisfactory archeological background study and confirmation of "no effect/no further work," the ENV SME team lead or ENV SME manger follows the steps below to complete the coordination.

5. The ENV SME team lead or ENV SME manager fills-in the correspondence details as follows:

- For the "Correspondence Status" field, the ENV SME team lead or ENV SME manager selects, "Response received – no further action", using the drop-down menu.
- For the "Correspondence Method" field, the ENV SME team lead or ENV SME manager selects, "Other," using the drop-down menu.
- For the "Correspondence Date" field, the ENV SME team lead or ENV SME manager enters the current date.
- For the "Correspondence From" field, the ENV SME team lead or ENV SME manager enters "TxDOT."
- For the "Correspondence To" field, the ENV SME team lead or ENV SME manager enters "TxDOT."

- For the "Comments" field, the ENV SME team lead or ENV SME manager enters, "Internal review and approval of a finding of no archeological historic properties affected and no further work required, as permitted under the PA and MOU."

6. In the Coordination, the ENV SME team lead or ENV SME manager selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

7. The ENV SME team lead or ENV SME manager finalizes the Coordination.

THC-A Coordination process

If the ENV SME determines that the project does not meet the criteria for internal coordination under ENV's **Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation** and/or the **Programmatic Agreement among the Federal Highway Administration, Texas State Historic Preservation Office, Advisory Council on Historic Preservation, and the Texas Department of Transportation** and must instead be coordinated with the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) (for example because important sites might be impacted by the project or other unusual circumstances), then the ENV SME uploads the following documentation under the Coordination:

- Consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016")
- Any other correspondence to or from TxDOT or the THC/TSHPO, using the following naming convention for correspondence to TSHPO: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation letter, using **ENV's Template for TSHPO/THC Consultation Regarding Archeological Historic Properties**. The ENV SME transmits the draft letter and associated archeological background study to the ENV SME manager.

2. The ENV SME manager reviews the archeology background study and requests clarifications from the authoring ENV SME as necessary. Once the review has been completed, resulting in a satisfactory consultation letter and report and confirmation of proposed findings, the ENV SME manager sends the letter and archeology background study to the THC/TSHPO.

3. The THC/TSHPO reviews the letter and archeology background study and requests clarifications from the authoring ENV SME as necessary.

4. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

5. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

6. In the Coordination, the ENV SME selects the drop-down response "THC-A" for the "Agency Name" field.

7. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using "TxDOT" to refer to TxDOT and "THC" to refer to the THC/TSHPO in the "Correspondence From" and "Correspondence To" fields.

8. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination, using this file naming convention for the consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016"); and this file naming convention for any additional correspondence from TxDOT to THC: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

9. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

10. The ENV SME finalizes the Coordination.

<u>Native American Tribal Coordination (i.e., early tribal coordination) process</u>

If the ENV SME determined that the project is a minor project (for definition of "minor project" see **ENV's Staff Archeologist Consultation Procedures**)**,** <u>and</u> lacks known sites within the APE, <u>and</u> was coordinated with federally recognized tribes through ENV's early tribal coordination process (for list of coordinated projects, see **ENV's Early_Coordination_CSJ_List.xls**), then the ENV SME uploads the following documentation under the Coordination:

- Signed consultation request letter sent for the first time the project appeared on the Early Tribal Coordination list, using this file naming convention: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "091818132_Consultation_Request_10-Mar-2017")
- Any responses from tribes, using this file naming convention: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222215017_Consultation_Response_ Comanche_14-Oct-2015")
- Any other correspondence to or from TxDOT or tribes

Follow the steps below to conduct the coordination.

1. The ENV SME must have already transmitted lists of upcoming projects and basic project information to tribal consulting parties. This consultation occurs well in advance of project development. For projects that can be coordinated through the Early Tribal Coordination program, tribal consultation must already have been completed prior to creation of this Activity.

2. ENV SME checks the "WPD Section I – Project Definition" page in ECOS to verify that the project can be classified as a minor type. The ENV SME also checks the Texas Archeological Sites Atlas to verify that no recorded sites occur within the project's APE.

3. ENV SME checks the current **ENV's Early_Coordination_CSJ_List.xls** on the Archeology Sharepoint site to verify that the project has been coordinated through the Early Tribal Coordination program.

4. In the Coordination, the ENV SME selects the drop-down response "Native American Tribal Coordination (NA)" for the "Agency Name" field.

5. In the "Comments" field of the Coordination, the ENV SME lists all of the tribes with whom the project was coordinated.

6. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the tribes.

7. The ENV SME uploads the signed consultation request letter sent for the first time the project appeared on the Early Tribal Coordination list. This letter can be found on the Archeology Sharepoint site. The ENV SME also uploads each additional email or letter to or from TxDOT and the tribes regarding the project under the Coordination. This correspondence uses the following file naming conventions:

- The signed consultation request letter: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "091818132_Consultation_Request_10-Mar-2017")
- Any responses from the tribes: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222215017_Consultation_Response_ Comanche_14-Oct-2015")

1. Once either all comments from tribes have been satisfactorily addressed or no response has been received within the review period (31 days from the day that the letter was transmitted), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

2. The ENV SME finalizes the Coordination.

<u>PA and Non-PA Tribal Coordination (i.e., formal, project-specific coordination) process</u>

ENV's formal, project-specific tribal coordination process is required under either of the following two conditions:

- The ENV SME determined that the project is a major project (for definition of "major project" see **ENV's Staff Archeologist Consultation Procedures**) <u>or</u> has one or more known sites within the APE.
- The project is a minor project (for definition of "minor project" see **ENV's Staff Archeologist Consultation Procedures**) that lacks known sites within the APE, but the project was not included on a list of upcoming projects sent to tribes under the Native American Tribal Coordination (i.e., early tribal coordination) process described above.

For either of these conditions, the ENV SME uploads the following documentation under the Coordination:

- Consultation email: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")
- Any other correspondence to or from TxDOT or tribes

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation email, using **ENV's Template for Tribal Consultation**. The ENV SME transmits the draft and the archeology background study to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response "PA Tribe (PA)" for the "Agency Name" field if the project is a major project or has one or more known sites within the APE.

If the project is a minor project that lacks known sites within the APE but was not included on a list of upcoming projects sent to tribes under the Native American Tribal Coordination (i.e., early tribal coordination) process described above, then the ENV SME selects the drop-down response "Non PA Tribe (NPA)" for the "Agency Name" field.

3. In the "Comments" field of the Coordination, the ENV SME lists all of the tribes with whom the project was coordinated.

4. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each email sent to or from the tribes.

5. The ENV SME uploads all correspondence to or from TxDOT or the tribes under the Coordination using the following file naming conventions:

- Consultation email: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")

6. Once either all comments from tribes have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

7. The ENV SME finalizes the Coordination.

<u>Other Consulting Party Coordination process</u>

For some large, complex projects with potential for controversy and/or adverse effects to archeological historic properties, the ENV SME will identify and invite consultation with other consulting parties. These consulting parties could include County Historical Commissions, local archeological societies (e.g., the Houston Archeological Society (HAS)), and other knowledgeable parties. When the ENV SME consults with other consulting parties, the ENV SME uploads the following documentation under the Coordination:

- Consultation email: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")
- Any other correspondence to or from TxDOT and the other consulting parties.

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation email, using **ENV's Template for Other Consulting Party Consultation**. The ENV SME transmits the draft email and the archeological background study to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response "Other Consulting Parties (OTH)" for the "Agency Name" field.

3. In the "Comments" field of the Coordination, the ENV SME lists all of the other consulting parties with whom the project was coordinated.

4. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each email sent to or from the other consulting parties.

5. The ENV SME uploads all correspondence to or from TxDOT or the other consulting parties under the Coordination using the following file naming conventions:

- Consultation email: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")

8. Once either all comments from other consulting parties have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

9. The ENV SME finalizes the Coordination.

<u>Advisory Council on Historic Preservation Coordination process</u>

For projects with adverse effects, the ENV SME will notify the Advisory Council on Historic Preservation (ACHP). When the ENV SME coordinates with ACHP, the ENV SME uploads the following documentation under the Coordination:

- Advisory Council on Historic Preservation Electronic Section 106 Documentation Submittal System (e106) Form: CSJ_ACHP_DD-MMM-YYYY (e.g., "363201001_Submittal_ACHP_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Response_ACHP_DD-MMM-YYYY (e.g., "363201001_ Response_ACHP_03-Mar-2019")

Follow the steps below to conduct the coordination.

1. The ENV SME completes the Advisory Council on Historic Preservation Electronic Section 106 Documentation Submittal System (e106) Form. The ENV SME also compiles documentation of completed consultation and any maps, report excerpts, and photographs that describe the

affected property. The ENV SME then submits the form and associated documentation by email to ACHP.

2. In the Coordination, the ENV SME selects the drop-down response “Advisory Council on Historic Preservation (ACHP)” for the “Agency Name” field.

3. In the Coordination, the field labeled, “Are Correspondence Details Included?,” will be automatically filled-in with “Yes” indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the ACHP.

4. The ENV SME uploads all correspondence to or from TxDOT or the ACHP under the Coordination using the following file naming conventions:

- Advisory Council on Historic Preservation Electronic Section 106 Documentation Submittal System (e106) Form: CSJ_ACHP_DD-MMM-YYYY (e.g., "363201001_Submittal_ACHP_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Response_ACHP_DD-MMM-YYYY (e.g., "363201001_Response_ACHP_03-Mar-2019")

5. Once either all comments from ACHP have been satisfactorily addressed or no response has been received within the notification period (15 days), the ENV SME selects “Completed” or “Completed with Conditions” from the drop-down menu for the field labeled, “Coordination Status.”

6. The ENV SME finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Archeology Data Recovery" Activity

1. If, after creating this Activity, the district environmental staff or the ENV SME determined that archeological data recovery would not, in fact, be required, then the district environmental staff or the ENV SME selects, "No," from the drop-down menu for the field labeled, "Was Archeology Data Recovery performed?," explains in the "Comments" field why no archeological data recovery was required and finalizes this Activity.

2. The archeological data recovery report may be prepared by a local government's consultant or by an ENV SME. Regardless of whether the archeological data recovery report is prepared by a local government's consultant or an ENV SME, it must be prepared by a professional archeologist (see 13 TAC 26.4(2)). This Activity must be created separately for each site that will be excavated, if multiple sites will be excavated for the same project.

Projects that would occur on TxDOT right of way or other state or local public land have an additional requirement. The professional archeologist must apply for and acquire a Texas Antiquities permit from the Texas Historic Commission prior to beginning the data recovery excavation. The professional archeologist prepares the permit application in accordance with **ENV's Review Standard for Antiquities Permit Applications**.

Also, note that sometimes a cemetery is identified and/or removed as part of this "Perform Archeology Data Recovery" Activity. In these instances, the ENV SME still creates the "Perform Cemetery Investigation" and/or "Perform Cemetery Removal" Activities and follows the instructions in those Activities. The identification and/or removal of the cemetery, however, will be included as part of the data recovery report for the project. Note that the pre-removal coordination required by the Activity Instructions for the "Perform Cemetery Removal" Activity must be conducted prior to removing any cemetery, regardless of whether it is removed as part of this "Perform Archeology Data Recovery" Activity or the "Perform Cemetery Removal" Activity.

<u>Acquire Texas Antiquities Permit by local government's consultant (if needed)</u>

1. If a Texas Antiquities permit is required specifically for the data recovery excavation, the local government project sponsor uploads the Texas Antiquities Permit application (if applicable), using the file naming convention: CSJ_Permit_App_DD-MMM-YYY (e.g., "222215024_Permit_App_10-Apr-2016").

2. The local government project sponsor creates a Review of the Texas Antiquities permit application under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the local government project sponsor:

- prepares a new, revised version of the Texas Antiquities Permit application that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

3. Once the ENV SME has no further comments and has finalized his or her Review, the local government project sponsor uploads the Texas Antiquities Permit application with the word, "Approved," at the beginning of the file name.

4. The local government project sponsor transmits the approved Texas Antiquities Permit application to the Texas Historical Commission for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

5. The THC reviews the permit application and requests clarifications or revisions from the local government project sponsor as necessary.

- The local government project sponsor prepares a revised Texas Antiquities Permit application uploads the revised Texas Antiquities Permit application with the word "Revised" at the beginning of the file name.
- The local government project sponsor transmits the revised Texas Antiquities Permit application to the THC.

6. Once the THC has no further comments, the THC will notify the professional archeologist performing the investigation of the assigned permit number.

7. The professional archeologist can begin the investigation at that point.

8. The THC will also mail a hard copy of the Texas Antiquities Permit to the professional archeologist.

9. The local government project sponsor will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

<u>Preparation of archeological data recovery report by local government's consultant</u>

10. For the field labeled, "Work Status," in this Activity, the local government project sponsor selects, "In Progress," if the local government project sponsor has all project information and access to real property needed to prepare the archeological data recovery report. Alternatively, if the local government project sponsor lacks project information or access to real property needed to prepare the archeological data recovery report, then the local government project sponsor selects one of the following drop-down options for this field:

- Select, "Need Additional ROE/ROW Acquisition," if the local government project sponsor is waiting for both right-of-entry and right-of-way acquisition.
- Select, "Need Project Information," if the local government project sponsor is waiting for project information.
- Select, "Need ROE," if the local government project sponsor is waiting for right-of-entry.
- Select, "Need ROW Acquisition," if the local government project sponsor is waiting for right-of-way acquisition.

11. Once the data recovery excavation has been completed, the local government project sponsor prepares an archeological data recovery report and uploads the archeological data recovery report using the file naming convention CSJ_Data_recovery_DD-MMM-YYY (e.g., "222215024_Data_recovery_10-Apr-2016").

12. The local government project sponsor creates a Review of the archeological data recovery report under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the local government project sponsor:

- prepares a new, revised version of the archeological data recovery report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

13. Once the ENV SME has no further comments and has finalized his or her Review, the local government project sponsor uploads the archeological data recovery report with the word, "Approved," at the beginning of the file name.

<u>Acquire Texas Antiquities Permit by ENV SME (if needed)</u>

1. Under **ENV's Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation**, the ENV SME may not need to submit a formal permit application for a Texas Antiquities Permit. This permit may instead be obtained by notifying the Texas Historical Commission of the upcoming fieldwork.

2. The ENV SME either submits a permit notification email to the THC or transmits a hard copy of the Texas Antiquities Permit application to the THC for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

- The THC reviews the permit notification/application and requests clarifications or revisions from the ENV SME as necessary.
- The ENV SME prepares a revised Texas Antiquities Permit notification/application.
- The ENV SME transmits the revised Texas Antiquities Permit notification/application to the THC.

3. Once the THC permit notification/review process has been successfully completed, the THC will notify the ENV SME and the professional archeologist performing the investigation of the assigned permit number. The ENV SME uploads the approved Texas Antiquities Permit application or notification email, using the file naming convention: Approved_CSJ_Permit_App_DD-MMM-YYY (e.g., "Approved_222215024_Permit_App_10-Apr-2016").

4. The professional archeologist can begin the investigation at that point.

5. The THC will also mail a hard copy of the Texas Antiquities Permit to the ENV SME and the professional archeologist (if a consultant will perform the investigation).

6. The ENV SME will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

Preparation of archeological data recovery report by the ENV SME

7. If the district environmental staff requests that an ENV SME prepare the archeological data recovery report, and if the ENV SME needs any project information or right of entry, then the ENV SME creates the "Obtain Project Information or Access" Activity, and the district environmental staff uploads any available right of entries or other project information requested by the SME under the "Obtain Project Information or Access" Activity.

8. Once the data recovery excavation has been completed, the ENV SME prepares an archeological data recovery report and uploads the archeological data recovery report using the file naming convention CSJ_Data_recovery_DD-MMM-YYY (e.g., "222215024_Data_recovery_10-Apr-2016").

Next steps after uploading the approved archeological data recovery report

1. Regardless of how the archeological data recovery report was produced (i.e., whether it was produced by a local government's consultant or an ENV SME), the ENV SME completes the following steps, using the available technical documents and coordination results.

2. The ENV SME selects "Yes" from the drop-down menu for the field labeled, "Was Archeology Data Recovery performed?"

3. In the "Right of Entry (ROE) Required" field, the ENV SME enters "Yes" or "No" to designate whether ROE must be obtained prior to starting fieldwork.

4. In the "Volume Excavated" field, the ENV SME enters the cubic meters of hand excavation at the site as documented in the corresponding archeological data recovery report. The volume is reported as a numeric value without any further qualifiers or descriptors.

5. In the "NEPA Approval Date" field, the ENV SME enters the date indicated for the "Environmental Clearance" field on WPD I.

6. In the "Permit Number" field, the ENV SME enters the Permit Number (if any) assigned by the THC to the investigation. If there is no THC permit, enter "0."

7. The ENV SME may, at his or her discretion, use the "Parcels" table to track parcels for which access has been granted, access has been denied, and data recovery has been completed. This table is most useful for large projects where data recovery will be conducted in more than one stage due to partial access to private property.

- The ENV SME enters a descriptor or parcel identification number in the "Parcel ID" field. This field may be used to encompass multiple parcels, when appropriate.
- The ENV SME enters the date at which granted ROE expires in the "ROE Expiration Date" field.
- The ENV SME enters "Yes" or "No" in the "Data Recovery Completed" field to track at which parcels the investigations have been completed.
- The ENV SME enters the date at which ROE received in the "ROE Received Date" field.
- The ENV SME enters the date at which ROE requested in the "ROE Requested Date" field.

- The ENV SME clicks "Add." This allows the parcel to move from below the shaded line and into the table.

8. The ENV SME enters the County and trinomial number in the "Site Number" field.

9. The ENV SME enters information to characterize the site in the "Site Description" field.

10. The ENV SME finalizes the "Perform Archeology Data Recovery" Activity once the ENV SME completes, if applicable, THC-A Coordination, PA Tribal Coordination, and OTH Coordination as explained below.

11. If cemetery removal is completed as part of this Activity, and if any of the burials are identified as being Native American, then the ENV SME creates the "Perform Native American Graves Protection and Repatriation Act (NAGPRA) Analysis" Activity.

<u>THC-A Coordination process</u>

Coordination with the THC will occur when the data recovery requires a Texas Antiquities Permit from the THC. The ENV SME uploads the following documentation under the Coordination:

- Consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016")
- Any other correspondence to or from TxDOT or the THC/TSHPO, using the following naming convention for correspondence to TSHPO: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation letter, using **ENV's Template for TSHPO/THC Consultation Regarding Archeological Historic Properties**. The ENV SME transmits the draft letter and associated archeological data recovery report to the ENV SME manager.

2. The ENV SME manager reviews the archeological data recovery report and requests clarifications from the authoring ENV SME as necessary. Once the review has been completed, resulting in a satisfactory consultation letter and report and confirmation of proposed findings, the ENV SME manager sends the letter and archeological data recovery report to the THC/TSHPO.

3. The THC/TSHPO reviews the letter and archeological data recovery report and requests clarifications from the authoring ENV SME as necessary.

4. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

5. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

6. In the Coordination, the ENV SME selects the drop-down response "THC-A" for the "Agency Name" field.

7. In the Coordination, the field labeled, “Are Correspondence Details Included?,” will be automatically filled-in with “Yes” indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using “TxDOT” to refer to TxDOT and “THC” to refer to the THC/TSHPO in the “Correspondence From” and “Correspondence To” fields.

8. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination, using this file naming convention for the consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., “222213005_THC_20-Aug-2016”); and this file naming convention for any additional correspondence from TxDOT to THC: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., “222213005_Consultation_Request_THC_19-Aug-2016”).

9. In the Coordination, the ENV SME selects “Completed” or “Completed with Conditions” from the drop-down menu for the field labeled, “Coordination Status.”

10. The ENV SME finalizes the Coordination.

<u>PA Coordination (i.e., formal, project-specific coordination) process</u>

Typically, tribal consultation regarding data recovery excavation should be completed prior to the “Perform Archeology Data Recovery” Activity. In rare cases, the outcome of the prior consultation might require the ENV SME to continue consultation during the Activity. Under these conditions, the ENV SME uploads the following documentation under the Coordination:

- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")
- Any other correspondence to or from TxDOT or tribes

Follow the steps below to conduct the coordination.

1. The ENV SME drafts an email, using **ENV’s Template for Tribal Consultation**. The ENV SME transmits the draft email and the archeological data recovery report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response “PA Tribe (PA)” for the “Agency Name” field.

3. In the “Comments” field of the Coordination, the ENV SME lists all of the tribes with whom the project was coordinated.

4. In the Coordination, the field labeled, “Are Correspondence Details Included?,” will be automatically filled-in with “Yes” indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each email sent to or from the tribes.

5. The ENV SME uploads all correspondence to or from TxDOT or the tribes under the Coordination using the following file naming conventions:
- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")

6. Once either all comments from tribes have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

7. The ENV SME finalizes the Coordination.

<u>Other Consulting Party Coordination process</u>

Typically, other consulting party consultation regarding the data recovery excavation should be completed prior to the "Perform Archeology Data Recovery" Activity. In rare cases, the outcome of the prior consultation might require the ENV SME to continue consultation during the Activity. Under these conditions, the ENV SME uploads the following documentation under the Coordination:
- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")
- Any other correspondence to or from TxDOT and the other consulting parties.

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation email using **ENV's Template for Other Consulting Party Consultation**. The ENV SME transmits the draft email and the archeological data recovery report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response "Other Consulting Parties (OTH)" for the "Agency Name" field.

3. In the "Comments" field of the Coordination, the ENV SME lists all of the other consulting parties with whom the project was coordinated.

4. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each email sent to or from the other consulting parties.

5. The ENV SME uploads all correspondence to or from TxDOT or the other consulting parties under the Coordination using the following file naming conventions:
- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")

- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")

6. Once either all comments from other consulting parties have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

7. The ENV SME finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Archeology Mitigation" Activity

1. This Activity is used to document the resolution of adverse effects to an archeological historic property through alternative mitigation (mitigation other than data recovery excavations). The alternative mitigation report may be prepared by district environmental staff, or district environmental staff may request that the appropriate ENV SME prepare the alternative mitigation report.

Alternative mitigation that would occur on TxDOT right of way or other state or local public land has an additional requirement. A professional archeologist (see 13 TAC 26.4(2)) must apply for and acquire a Texas Antiquities permit from the Texas Historic Commission. The professional archeologist prepares the permit application in accordance with **ENV's Review Standard for Antiquities Permit Applications**.

<u>Acquire Texas Antiquities Permit by district environmental staff (if needed)</u>

1. If a Texas Antiquities permit is required, district environmental staff uploads the Texas Antiquities Permit application (if applicable), using the file naming convention: CSJ_Permit_App_DD-MMM-YYY (e.g., "222215024_Permit_App_10-Apr-2016").

2. District environmental staff creates a Review of the Texas Antiquities permit application under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the Texas Antiquities Permit application that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

3. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the Texas Antiquities Permit application with the word, "Approved," at the beginning of the file name.

4. The ENV SME transmits the approved Texas Antiquities Permit application to the Texas Historical Commission for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

5. The THC reviews the permit application and requests clarifications or revisions from the ENV SME as necessary.

- The ENV SME emails any such requests for revision or clarification to the district environmental staff.
- The district environmental staff prepares a revised Texas Antiquities Permit application and uploads the revised Texas Antiquities Permit application with the word "Revised" at the beginning of the file name.
- The ENV SME transmits the revised Texas Antiquities Permit application to the THC.

6. Once the THC has no further comments, the THC will notify the ENV SME and the professional archeologist performing the investigation of the assigned permit number.

7. The professional archeologist can begin the alternative mitigation at that point.

8. The THC will also mail a hard copy of the Texas Antiquities Permit to the ENV SME and the professional archeologist.

9. The ENV SME will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

Preparation of alternative mitigation report by district environmental staff

10. Once the requirements of the mitigation have been completed, district environmental staff prepares an alternative mitigation report, and uploads the alternative mitigation report using the file naming convention CSJ_Alternative_mitigation_DD-MMM-YYY (e.g., "222215024_Alternative_mitigation_10-Apr-2016").

11. District environmental staff creates a Review under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the alternative mitigation report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

12. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the alternative mitigation report with the word, "Approved," at the beginning of the file name.

Acquire Texas Antiquities Permit by ENV SME (if needed)

1. Under **ENV's Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation**, the ENV SME may not need to submit a formal permit application for a Texas Antiquities Permit. This permit may instead be obtained by notifying the Texas Historical Commission of the upcoming fieldwork.

2. The ENV SME either submits a permit notification email to the THC or transmits a hard copy of the Texas Antiquities Permit application to the THC for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

- The THC reviews the permit notification/application and requests clarifications or revisions from the ENV SME as necessary.
- The ENV SME prepares a revised Texas Antiquities Permit notification/application.
- The ENV SME transmits the revised Texas Antiquities Permit notification/application to the THC.

3. Once the THC permit notification/review process has been successfully completed, the THC will notify the ENV SME and the professional archeologist performing the investigation of the assigned permit number. The ENV SME uploads the approved Texas Antiquities Permit application or notification email, using the file naming convention: Approved_CSJ_Permit_App_DD-MMM-YYY (e.g., "Approved_222215024_Permit_App_10-Apr-2016").

4. The professional archeologist can begin the alternative mitigation at that point.

5. The THC will also mail a hard copy of the Texas Antiquities Permit to the ENV SME and the professional archeologist (if a consultant will perform the investigation).

6. The ENV SME will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

<u>Preparation of alternative mitigation report by ENV SME</u>

7. If the district environmental staff requests that an ENV SME prepare the alternative mitigation report, and if the ENV SME needs any project information or right of entry, then the ENV SME creates the "Obtain Project Information or Access" Activity, and the district environmental staff uploads any available right of entries or other project information requested by the SME under the "Obtain Project Information or Access" Activity.

8. Once the requirements of the mitigation have been completed, the ENV SME prepares an alternative mitigation report, and uploads the alternative mitigation report using the file naming convention CSJ_Alternative_mitigation_DD-MMM-YYY (e.g., "222215024_Alternative_mitigation_10-Apr-2016").

<u>Next steps after uploading the approved alternative mitigation report</u>

1. Regardless of how the alternative mitigation report has been produced (i.e., whether it was produced by district environmental staff or an ENV SME), the ENV SME completes the following steps, using the available technical documents and coordination results.

2. The ENV SME proceeds according to the Coordination instructions below if any coordinations are required. The ENV SME only finalizes the "Perform Archeology Mitigation" Activity once all associated Coordinations have been completed.

<u>THC-A Coordination process</u>

Coordination with the THC will occur when the archeology mitigation requires a Texas Antiquities permit from the THC. The ENV SME uploads the following documentation under this Activity:

- Consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016")
- Any other correspondence to or from TxDOT or the THC/TSHPO, using the following naming convention for correspondence to TSHPO: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation letter, using **ENV's Template for TSHPO/THC Consultation Regarding Archeological Historic Properties**. The ENV SME emails the draft letter and associated alternative mitigation report to the ENV SME manager.

2. The ENV SME manager reviews the technical report and requests clarifications from the authoring ENV SME as necessary. Once the review has been completed, resulting in a satisfactory consultation letter and report and confirmation of proposed findings, the ENV SME manager sends the letter and alternative mitigation report to the THC/TSHPO.

3. The THC/TSHPO reviews the letter and technical report and requests clarifications from the authoring ENV SME as necessary.

4. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

5. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

6. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under this Activity, using this file naming convention for the consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016"); and this file naming convention for any additional correspondence from TxDOT to THC: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

<u>PA Coordination (i.e., formal, project-specific coordination) process</u>

Typically, tribal consultation regarding archeology mitigation should be completed prior to the "Perform Archeology Mitigation" Activity. In rare cases, the outcome of the prior consultation might require the ENV SME to continue consultation during the Activity. Under these conditions, the ENV SME uploads the following documentation under this Activity:

- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")
- Any other correspondence to or from TxDOT or tribes

Follow the steps below to conduct the coordination.

1. The ENV SME drafts an email, using **ENV's Template for Tribal Consultation**. The ENV SME emails the draft email and the alternative mitigation report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. The ENV SME uploads all correspondence to or from TxDOT or the tribes under this Activity using the following file naming conventions:

- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")

Other Consulting Party Coordination process

Typically, other consulting party consultation regarding the archeology mitigation should be completed prior to the "Perform Archeology Mitigation" Activity. In rare cases, the outcome of the prior consultation might require the ENV SME to continue consultation during the Activity. Under these conditions, the ENV SME uploads the following documentation under this Activity:

- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")
- Any other correspondence to or from TxDOT and the other consulting parties.

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation email using **ENV's Template for Other Consulting Party Consultation**. The ENV SME emails the draft email and the alternative mitigation report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. The ENV SME uploads all correspondence to or from TxDOT or the other consulting parties under this Activity using the following file naming conventions:

- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Archeology Monitoring Commitments" Activity

1. This Activity is used to document the completion of archeological monitoring commitments according to the Texas Historical Commission's standards for monitoring and associated reporting (13 TAC 26). The archeological monitoring report may be prepared by district environmental staff, or district environmental staff may request that the appropriate ENV SME prepare the archeological monitoring report. Regardless of whether the archeological monitoring report is completed by district environmental staff or an ENV SME, it must be prepared by a professional archeologist (see 13 TAC 26.4(2)).

Archeological monitoring that would occur on TxDOT right of way or other state or local public land has an additional requirement. The professional archeologist must apply for and obtain a Texas Antiquities permit from the Texas Historic Commission prior to beginning monitoring. The professional archeologist prepares the permit application in accordance with **ENV's Review Standard for Antiquities Permit Applications**.

<u>Acquire Texas Antiquities Permit by district environmental staff (if needed)</u>

1. If a Texas Antiquities permit is required, district environmental staff uploads the Texas Antiquities Permit application (if applicable), using the file naming convention: CSJ_Permit_App_DD-MMM-YYY (e.g., "222215024_Permit_App_10-Apr-2016").

2. District environmental staff creates a Review of the Texas Antiquities permit application under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the Texas Antiquities Permit application that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

3. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the Texas Antiquities Permit application with the word, "Approved," at the beginning of the file name.

4. The ENV SME transmits the approved Texas Antiquities Permit application to the Texas Historical Commission for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

5. The THC reviews the permit application and requests clarifications or revisions from the ENV SME as necessary.

- The ENV SME emails any such requests for revision or clarification to the district environmental staff.
- The district environmental staff prepares a revised Texas Antiquities Permit application and uploads the revised Texas Antiquities Permit application with the word "Revised" at the beginning of the file name.

- The ENV SME transmits the revised Texas Antiquities Permit application to the THC.

6. Once the THC has no further comments, the THC will notify the ENV SME and the professional archeologist performing the investigation of the assigned permit number.

7. The professional archeologist can begin the archeological monitoring at that point.

8. The THC will also mail a hard copy of the Texas Antiquities Permit to the ENV SME and the professional archeologist.

9. The ENV SME will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

<u>Preparation of archeological monitoring report by district environmental staff</u>

10. Once the archeological monitoring has been completed, district environmental staff prepares an archeological monitoring report, and uploads the archeological monitoring report using the file naming convention CSJ_Monitoring_DD-MMM-YYY (e.g., "222215024_Monitoring_10-Apr-2016").

11. District environmental staff creates a Review under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the archeological monitoring report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

12. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the archeological monitoring report with the word, "Approved," at the beginning of the file name.

<u>Acquire Texas Antiquities Permit by ENV SME (if needed)</u>

1. Under **ENV's Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation**, the ENV SME may not need to submit a formal permit application for a Texas Antiquities Permit. This permit may instead be obtained by notifying the Texas Historical Commission of the upcoming fieldwork.

2. The ENV SME either submits a permit notification email to the THC or transmits a hard copy of the Texas Antiquities Permit application to the THC for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

- The THC reviews the permit notification/application and requests clarifications or revisions from the ENV SME as necessary.
- The ENV SME prepares a revised Texas Antiquities Permit notification/application.
- The ENV SME transmits the revised Texas Antiquities Permit notification/application to the THC.

3. Once the THC permit notification/review process has been successfully completed, the THC will notify the ENV SME and the professional archeologist performing the investigation of the assigned permit number. The ENV SME uploads the approved Texas Antiquities Permit application or notification email, using the file naming convention: Approved_CSJ_Permit_App_DD-MMM-YYY (e.g., "Approved_222215024_Permit_App_10-Apr-2016").

4. The professional archeologist can begin the archeological monitoring at that point.

5. The THC will also mail a hard copy of the Texas Antiquities Permit to the ENV SME and the professional archeologist (if a consultant will perform the investigation).

6. The ENV SME will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

<u>Preparation of archeological monitoring report by ENV SME</u>

7. If the district environmental staff requests that an ENV SME prepare the archeological monitoring report, and if the ENV SME needs any project information or right of entry, then the ENV SME creates the "Obtain Project Information or Access" Activity, and the district environmental staff uploads any available right of entries or other project information requested by the SME under the "Obtain Project Information or Access" Activity.

8. Once the archeological monitoring has been completed, the ENV SME prepares an archeological monitoring report, and uploads the archeological monitoring report using the file naming convention CSJ_Monitoring_DD-MMM-YYY (e.g., "222215024_Monitoring_10-Apr-2016").

<u>Next steps after uploading the approved archeological monitoring report</u>

1. Regardless of how the archeological montioring report has been produced (i.e., whether it was produced by district environmental staff or an ENV SME), the ENV SME completes the following steps, using the available technical documents and coordination results.

2. The ENV SME proceeds according to the Coordination instructions below if any Coordinations are required. The ENV SME only finalizes the "Perform Archeology Monitoring Commitments" Activity once all associated coordinations have been completed.

<u>THC-A Coordination process</u>

Coordination with the THC will occur when the archeological monitoring requires a Texas Antiquities permit from the THC. The ENV SME uploads the following documentation under this Activity:

- Consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016")
- Any other correspondence to or from TxDOT or the THC/TSHPO, using the following naming convention for correspondence to TSHPO: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation letter, using **ENV's Template for TSHPO/THC Consultation Regarding Archeological Historic Properties**. The ENV SME emails the draft letter and associated archeological monitoring report to the ENV SME manager.

2. The ENV SME manager reviews the archeological monitoring report and requests clarifications from the authoring ENV SME as necessary. Once the review has been completed, resulting in a satisfactory consultation letter and report and confirmation of proposed findings, the ENV SME manager sends the letter and archeological monitoring report to the THC/TSHPO.

3. The THC/TSHPO reviews the letter and technical report and requests clarifications from the authoring ENV SME as necessary.

4. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

5. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

6. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under this Activity, using this file naming convention for the consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016"); and this file naming convention for any additional correspondence from TxDOT to THC: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

<u>PA Coordination (i.e., formal, project-specific coordination) process</u>

Typically, tribal consultation regarding archeological monitoring should be completed prior to the "Perform Archeology Monitoring Commitments" Activity. In rare cases, the outcome of the prior consultation might require the ENV SME to continue consultation during the Activity. Under these conditions, the ENV SME uploads the following documentation under this Activity:

- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")
- Any other correspondence to or from TxDOT or tribes

Follow the steps below to conduct the coordination.

1. The ENV SME drafts an email, using **ENV's Template for Tribal Consultation**. The ENV SME emails the draft email and the archeological monitoring report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. The ENV SME uploads all correspondence to or from TxDOT or the tribes under this Activity using the following file naming conventions:

- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")

- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")

Other Consulting Party Coordination process

Typically, other consulting party consultation regarding the archeological monitoring should be completed prior to the "Perform Archeology Monitoring Commitments" Activity. In rare cases, the outcome of the prior consultation might require the ENV SME to continue consultation during the Activity. Under these conditions, the ENV SME uploads the following documentation under this Activity:

- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")
- Any other correspondence to or from TxDOT and the other consulting parties.

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the email using **ENV's Template for Other Consulting Party Consultation**. The ENV SME emails the draft email and the archeological monitoring report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. The ENV SME uploads all correspondence to or from TxDOT or the other consulting parties under this Activity using the following file naming conventions:

- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Archeology Survey" Activity

1. If, after creating this Activity, the district environmental staff or the ENV SME determined that an archeological survey would not, in fact, be required, then the district environmental staff or the ENV SME selects, "No," from the drop-down menu for the field labeled, "Was an Archeology Survey performed?;" explains in the "Comments" field why no archeological survey was required, and finalizes this Activity.

2. The archeological survey report may be prepared by district environmental staff, or district environmental staff may request that the appropriate ENV SME prepare the archeological survey. Regardless of whether the archeological survey report is prepared by district environmental staff or an ENV SME, it must be prepared by a professional archeologist (see 13 TAC 26.4(2)).

Projects that would occur on TxDOT right of way or other state or local public land have an additional requirement. The professional archeologist must apply for and acquire a Texas Antiquities permit from the Texas Historic Commission. The professional archeologist prepares the permit application in accordance with **ENV's Review Standard for Antiquities Permit Applications**.

<u>Acquire Texas Antiquities Permit by district environmental staff (if needed)</u>

1. If a Texas Antiquities permit is required, district environmental staff uploads the Texas Antiquities Permit application (if applicable), using the file naming convention: CSJ_Permit_App_DD-MMM-YYY (e.g., "222215024_Permit_App_10-Apr-2016").

2. District environmental staff creates a Review of the Texas Antiquities permit application under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the Texas Antiquities Permit application that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

3. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the Texas Antiquities Permit application with the word, "Approved," at the beginning of the file name.

4. The ENV SME transmits the approved Texas Antiquities Permit application to the Texas Historical Commission for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

5. The THC reviews the permit application and requests clarifications or revisions from the ENV SME as necessary.

- The ENV SME emails any such requests for revision or clarification to the district environmental staff.

- The district environmental staff prepares a revised Texas Antiquities Permit application and uploads the revised Texas Antiquities Permit application with the word "Revised" at the beginning of the file name.
- The ENV SME transmits the revised Texas Antiquities Permit application to the THC.

6. Once the THC has no further comments, the THC will notify the ENV SME and the professional archeologist performing the investigation of the assigned permit number.

7. The professional archeologist can begin the investigation at that point.

8. The THC will also mail a hard copy of the Texas Antiquities Permit to the ENV SME and the professional archeologist.

9. The ENV SME will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

<u>Preparation of archeological survey report by district environmental staff</u>

10. For the field labeled, "Work Status," in this Activity, district environmental staff selects, "In Progress," if the district environmental staff has all project information and access to real property needed to prepare the archeological survey report. Alternatively, if the district environmental staff lacks project information or access to real property needed to prepare the archeological survey report, then district environmental staff selects one of the following drop-down options for this field:

- Select, "Need Additional ROE/ROW Acquisition," if the district environmental staff is waiting for both right-of-entry and right-of-way acquisition.
- Select, "Need Project Information," if the district environmental staff is waiting for project information.
- Select, "Need ROE," if the district environmental staff is waiting for right-of-entry.
- Select, "Need ROW Acquisition," if the district environmental staff is waiting for right-of-way acquisition.

11. Once the investigation has been completed, district environmental staff prepares an archeological survey report according to **ENV's Template for Archeological Survey Report**, and uploads the archeological survey report using the file naming convention CSJ_Survey_DD-MMM-YYY (e.g., "222215024_Survey_10-Apr-2016").

12. District environmental staff creates a Review of the archeological survey report under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the archeological survey report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

13. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the archeological survey report with the word, "Approved," at the beginning of the file name.

Acquire Texas Antiquities Permit by ENV SME (if needed)

1. Under **ENV's Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation**, the ENV SME may not need to submit a formal permit application for a Texas Antiquities Permit. This permit may instead be obtained by notifying the Texas Historical Commission of the upcoming fieldwork.

2. The ENV SME either submits a permit notification email to the THC or transmits a hard copy of the Texas Antiquities Permit application to the THC for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

- The THC reviews the permit notification/application and requests clarifications or revisions from the ENV SME as necessary.
- The ENV SME prepares a revised Texas Antiquities Permit notification/application.
- The ENV SME transmits the revised Texas Antiquities Permit notification/application to the THC.

3. Once the THC permit notification/review process has been successfully completed, the THC will notify the ENV SME and the professional archeologist performing the investigation of the assigned permit number. The ENV SME uploads the approved Texas Antiquities Permit application or notification email, using the file naming convention: Approved_CSJ_Permit_App_DD-MMM-YYY (e.g., "Approved_222215024_Permit_App_10-Apr-2016").

4. The professional archeologist can begin the investigation at that point.

5. The THC will also mail a hard copy of the Texas Antiquities Permit to the ENV SME and the professional archeologist (if a consultant will perform the investigation).

6. The ENV SME will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

Preparation of archeological survey report by ENV SME

7. If the district environmental staff requests that an ENV SME prepare the archeological survey report, and if the ENV SME needs any project information or right of entry, then the ENV SME creates the "Obtain Project Information or Access" Activity, and the district environmental staff uploads any available right of entries or other project information requested by the SME under the "Obtain Project Information or Access" Activity.

8. For the field labeled, "Work Status," in this Activity, the ENV SME selects, "In Progress," if the ENV SME has all project information and access to real property needed to prepare the archeological survey report. Alternatively, if the ENV SME lacks project information or access to real property needed to prepare the archeological survey report, then the ENV SME selects one of the following drop-down options for this field:

- Select, “Need Additional ROE/ROW Acquisition,” if the ENV SME is waiting for both right-of-entry and right-of-way acquisition.
- Select, “Need Project Information,” if the ENV SME is waiting for project information.
- Select, “Need ROE,” if the ENV SME is waiting for right-of-entry.
- Select, “Need ROW Acquisition,” if the ENV SME is waiting for right-of-way acquisition.

9. Once the investigation has been completed, the ENV SME prepares an archeological survey report according to **ENV’s Template for Archeological Survey Report** and uploads the archeological survey report using the file naming convention CSJ_Survey_DD-MMM-YYY (e.g., “222215024_Survey_10-Apr-2016”).

<u>Next steps after uploading the approved archeological survey report</u>

1. Regardless of how the archeological survey report has been produced (i.e., whether it was produced by district environmental staff or an ENV SME), the ENV SME completes the following steps, using the available technical documents and coordination results.

2. The ENV SME selects “Yes” from the drop-down menu for the field labeled, “Was an Archeology Survey performed?”

3. In the “Right of Entry (ROE) Required” field, the ENV SME selects “Yes” or “No” to designate whether ROE must be obtained prior to starting fieldwork.

4. In the “Acreage Surveyed” field, the ENV SME enters the acreage of the Area of Potential Effects (not just the area subject to physical inspection or survey) as documented in the corresponding archeological survey report. The acreage is reported as a numeric value without any further qualifiers or descriptors.

5. In the “Permit Number” field, the ENV SME enters the Permit Number (if any) assigned by the THC to the investigation. If there is no THC permit, enter “0.”

6. The ENV SME may, at his or her discretion, use the “Parcels” table to track parcels for which access has been granted, access has been denied, and survey has been completed. This table is most useful for large projects where survey will be conducted in more than one stage due to partial access to private property.

- The ENV SME enters a descriptor or parcel identification number in the “Parcel ID” field. This field may be used to encompass multiple parcels, when appropriate.
- The ENV SME enters the date at which granted ROE expires in the “ROE Expiration Date” field.
- The ENV SME enters “Yes” or “No” in the “Survey Required” field to track which parcels of the evaluated APE require survey.
- The ENV SME enters “Yes” or “No” in the “Collection” field to track whether the ROE allows collection of artifacts. ROE allows collection when the signed ROE form includes permission to collect and included a signed Deed of Gift form.
- The ENV SME enters the date at which ROE received in the “ROE Received Date” field.
- The ENV SME enters the date at which ROE requested in the “ROE Requested Date” field.

- The ENV SME enters "Yes" or "No" in the "Survey Completed" field to track on which parcels survey has been completed.
- The ENV SME clicks "Add." This allows the parcel to move below the shaded line and into the table.

7. The ENV SME uses the "Sites" table to summarize the investigation results; do not add any data to this table if the survey found no sites. These results must be finalized following the completion of consultation. Each individual site gets its own row in the table. This information will be used for an annual report from FHWA to the National Park Service, to identify the status of work, and to provide data for NEPA analysis.

- The ENV SME enters the County and trinomial number in the "Site Number" field.
- The ENV SME selects the correct response from the drop-down menu for the "4(f) Property" field. The options are "Yes," "No," and "Undetermined." In the vast majority of cases, the appropriate response is "No," since most archeological sites are not listed or eligible for listing in the National Register of Historic Places. In the unusual circumstance in which the site is listed or eligible for listing in the National Register of Historic Places, the ENV SME answers, "Yes," and also creates the "Obtain Section 4(f) Approval" Activity (if it has not already been created).
- The ENV SME selects the correct response from the drop-down menu for the "Site Eligibility" field. The options are "Eligible – Alternative Mitigation", "Eligible –Avoidance", and "Eligible – Data Recovery", "Ineligible", and "Undetermined".
- The ENV SME selects the correct response from the drop-down menu for the "Project Effect" field. The options are "Adverse Effect," "No Adverse Effect – Avoidance," "No Adverse Effect – Outside APE," "No Effect", and "Undetermined". The answer to this question must correspond with the answer to the "Site Eligibility" field; for example, a site labeled as "Ineligible" would never suffer an "Adverse Effect".
- The ENV SME enters information to characterize the site in the "Site Description" field.
- The ENV SME clicks "Add." This allows the site to move below the shaded line and into the table.

8. The ENV SME selects "Adverse effect," "No Effect/No Further Work," "No Adverse Effect/No Further Work," or "Potential Adverse Effect/Further Work Required" from the drop-down menu for the "Work Status" field. For projects with no archeological historic properties in the APE, the typical response is "No Effect/No Further Work." The ENV SME proceeds as instructed below, depending on the Finding.

- "Adverse effect" - If the ENV SME ultimately selected "Adverse effect" for the "Finding" field, then the ENV SME creates three Coordinations under this Activity (one for THC-A Coordination, one for PA Tribe Coordination, and one for ACHP Coordination). In addition, the ENV SME may create an OTH Coordination, if consultation included other consulting parties. The ENV SME proceeds according to the Coordination instructions below. The ENV SME also creates the "Perform Archeology Data Recovery" Activity, the "Perform Archeology Mitigation" Activity, or the "Perform Archeology Monitoring Commitments" Activity.

  Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.

The ENV SME only finalizes the "Perform Archeology Survey" once all associated Coordinations have been finalized.

- "No adverse effect/no further work" - If the ENV SME ultimately selected "No adverse effect/no further work," then the ENV SME creates two Coordinations under this Activity (one for THC-A Coordination and one for PA Tribe Coordination). In addition, the ENV SME may create an OTH Coordination, if consultation included other consulting parties. The ENV SME proceeds according to the Coordination instructions below. The ENV SME may also create the "Perform Archeology Mitigation" Activity, if this Activity was necessary to achieve the "No adverse effect/no further work" finding.
  Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.
  The ENV SME only finalizes the "Perform Archeology Survey" once all associated Coordinations have been finalized.
- "No effect/no further work" - If the ENV SME ultimately selected, "No effect/no further work," then the ENV SME creates either ENV-A In-House Coordination or THC-A Coordination. Additional Coordinations may be appropriate under the following circumstances:
  - if the ENV SME previously undertook PA Tribe Coordination or the Activity resulted in the discovery of archeological sites or Native American cemeteries, then the ENV SME must conduct additional PA Tribe Coordination; and
  - if consultation included other consulting parties, then the ENV SME may create an OTH Coordination.

  The ENV SME proceeds according to the Coordination instructions below.
  Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.

  The ENV SME only finalizes the "Perform Archeology Survey" once all associated Coordinations have been finalized.
- "Potential Adverse Effect/Further Work Required" - If the ENV SME ultimately selected, "Potential Adverse Effect/Further Work Required," then the ENV SME creates two Coordinations under this Activity (one for THC-A Coordination and one for PA Tribe Coordination). In addition, the ENV SME may create an OTH Coordination, if consultation included other consulting parties. The ENV SME proceeds according to the Coordination instructions below. The ENV SME also creates the "Perform Archeology Testing" Activity and/or "Cemetery Investigation" Activity, as applicable.
  Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.

  The ENV SME only finalizes the "Perform Archeology Survey" once all associated Coordinations have been finalized.

<u>ENV-A In-House Coordination Process</u>

If the ENV SME determines that the project can be coordinated internally for expediency and it meets the criteria for internal coordination under **ENV's Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation** and/or the **Programmatic Agreement among the Federal Highway Administration, Texas State Historic Preservation Office, Advisory Council on Historic Preservation, and the Texas Department of Transportation**, then the ENV SME follows the steps below to begin the coordination (there is no need to upload anything to this coordination).

1. In the Coordination, the ENV SME selects the drop-down response "ENV-A" for the "Agency Name" field.

2. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details as follows:

- For the "Correspondence Status" field, the ENV SME selects, "Sent Information," using the drop-down menu.
- For the "Correspondence Method" field, the ENV SME selects, "Other," using the drop-down menu.
- For the "Correspondence Date" field, the ENV SME enters the current date.
- For the "Correspondence From" field, the ENV SME enters, "TxDOT."
- For the "Correspondence To" field, the ENV SME enters "TxDOT."
- For the "Comments" field, the ENV SME enters, "Request for internal review and approval of a finding of no archeological historic properties affected and no further work required, as permitted under the PA and MOU."

3. The ENV SME assigns the ENV-A Coordination to the ENV SME team lead or ENV SME manager.

4. Once a week, the ENV SME team lead or ENV SME manager reviews the archeological survey report for each assigned project and requests clarifications from the authoring ENV SME as necessary. Once the review has been completed, resulting in a satisfactory archeological survey and confirmation of "no effect/no further work," the ENV SME team lead or ENV SME manger follows the steps below to complete the coordination.

5. The ENV SME team lead or ENV SME manager fills-in the correspondence details as follows:

- For the "Correspondence Status" field, the ENV SME team lead or ENV SME manager selects, "Response received – no further action", using the drop-down menu.
- For the "Correspondence Method" field, the ENV SME team lead or ENV SME manager selects, "Other," using the drop-down menu.
- For the "Correspondence Date" field, the ENV SME team lead or ENV SME manager enters the current date.
- For the "Correspondence From" field, the ENV SME team lead or ENV SME manager enters "TxDOT."
- For the "Correspondence To" field, the ENV SME team lead or ENV SME manager enters "TxDOT."

- For the "Comments" field, the ENV SME team lead or ENV SME manager enters, "Internal review and approval of a finding of no archeological historic properties affected and no further work required, as permitted under the PA and MOU."

6. In the Coordination, the ENV SME team lead or ENV SME manager selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

7. The ENV SME team lead or ENV SME manager finalizes the Coordination.

THC-A Coordination process

If the ENV SME does not require expedited review or determines that the project does not meet the criteria for internal coordination under ENV's **Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation** and/or the **Programmatic Agreement among the Federal Highway Administration, Texas State Historic Preservation Office, Advisory Council on Historic Preservation, and the Texas Department of Transportation** and must instead be coordinated with the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) (for example because important sites might be impacted by the project or other circumstances), then the ENV SME uploads the following documentation under the Coordination:

- Consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016")
- Any other correspondence to or from TxDOT or the THC/TSHPO, using the following naming convention for correspondence to TSHPO: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation letter, using **ENV's Template for TSHPO/THC Consultation Regarding Archeological Historic Properties**. The ENV SME emails the draft letter and associated archeological survey report to the ENV SME manager.

2. The ENV SME manager reviews the archeological survey report and requests clarifications from the authoring ENV SME as necessary. Once the review has been completed, resulting in a satisfactory consultation letter and report and confirmation of proposed findings, the ENV SME manager sends the letter and archeological survey report to the THC/TSHPO.

3. The THC/TSHPO reviews the letter and archeological survey report and requests clarifications from the authoring ENV SME as necessary.

4. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

5. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

6. In the Coordination, the ENV SME selects the drop-down response "THC-A" for the "Agency Name" field.

7. In the Coordination, the field labeled, “Are Correspondence Details Included?,” will be automatically filled-in with “Yes” indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using “TxDOT” to refer to TxDOT and “THC” to refer to the THC/TSHPO in the “Correspondence From” and “Correspondence To” fields.

8. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination, using this file naming convention for the consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., “222213005_THC_20-Aug-2016”); and this file naming convention for any additional correspondence from TxDOT to THC: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., “222213005_Consultation_Request_THC_19-Aug-2016”).

9. In the Coordination, the ENV SME selects “Completed” or “Completed with Conditions” from the drop-down menu for the field labeled, “Coordination Status.”

10. The ENV SME finalizes the Coordination.

<u>PA Tribal Coordination (i.e., formal, project-specific coordination) process</u>

ENV’s formal, project-specific tribal coordination process is required under either of the following two conditions:

- the ENV SME previously conducted PA tribal coordination during earlier phases of investigation for the project, or
- the Activity resulted in the discovery of new archeological sites or Native American cemeteries on an FHWA undertaking.

For either of these conditions, the ENV SME uploads the following documentation under the Coordination:

- Consultation email: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")
- Any other correspondence to or from TxDOT or tribes

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation email using **ENV’s Template for Tribal Consultation**. The ENV SME emails the draft email and the archeological survey report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response “PA Tribe (PA)”.

3. In the “Comments” field of the Coordination, the ENV SME lists all of the tribes with whom the project was coordinated.

4. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each email sent to or from the tribes.

5. The ENV SME uploads all correspondence to or from TxDOT or the tribes under the Coordination using the following file naming conventions:

- Consultation email: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")

6. Once either all comments from tribes have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

7. The ENV SME finalizes the Coordination.

<u>Other Consulting Party Coordination process</u>

For some large, complex projects with potential for controversy and/or adverse effects to archeological historic properties, the ENV SME will identify and invite consultation with other consulting parties. These consulting parties could include County Historical Commissions, local archeological societies (e.g., the Houston Archeological Society (HAS)), and other knowledgeable parties. When the ENV SME consults with other consulting parties, the ENV SME uploads the following documentation under the Coordination:

- Consultation email: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")
- Any other correspondence to or from TxDOT and the other consulting parties.

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation email using **ENV's Template for Other Consulting Party Consultation**. The ENV SME emails the draft email and the archeological survey report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response "Other Consulting Parties (OTH)" for the "Agency Name" field.

3. In the "Comments" field of the Coordination, the ENV SME lists all of the other consulting parties with whom the project was coordinated.

4. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each email sent to or from the other consulting parties.

5. The ENV SME uploads all correspondence to or from TxDOT or the other consulting parties under the Coordination using the following file naming conventions:
- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")

8. Once either all comments from other consulting parties have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

9. The ENV SME finalizes the Coordination.

<u>Advisory Council on Historic Preservation Coordination process</u>

For projects with adverse effects, the ENV SME will notify the Advisory Council on Historic Preservation (ACHP). When the ENV SME coordinates with ACHP, the ENV SME uploads the following documentation under the Coordination:
- Advisory Council on Historic Preservation Electronic Section 106 Documentation Submittal System (e106) Form: CSJ_ACHP_DD-MMM-YYYY (e.g., "363201001_Submittal_ACHP_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Response_ACHP_DD-MMM-YYYY (e.g., "363201001_ Response_ACHP_03-Mar-2019")

Follow the steps below to conduct the coordination.

1. The ENV SME completes the **Advisory Council on Historic Preservation Electronic Section 106 Documentation Submittal System (e106) Form**. The ENV SME also compiles documentation of completed consultation and any maps, report excerpts, and photographs that describe the affected property. The ENV SME then submits the form and associated documentation by email to ACHP.

2. In the Coordination, the ENV SME selects the drop-down response "Advisory Council on Historic Preservation (ACHP)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the ACHP.

4. The ENV SME uploads all correspondence to or from TxDOT or the ACHP under the Coordination using the following file naming conventions:
- Advisory Council on Historic Preservation Electronic Section 106 Documentation Submittal System (e106) Form: CSJ_ACHP_DD-MMM-YYYY (e.g., "363201001_Submittal_ACHP_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Response_ACHP_DD-MMM-YYYY (e.g., "363201001_Response_ACHP_03-Mar-2019")

5. Once either all comments from ACHP have been satisfactorily addressed or no response has been received within the notification period (15 days), the ENV SME selects “Completed” or “Completed with Conditions” from the drop-down menu for the field labeled, “Coordination Status.”

6. The ENV SME finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Archeology Testing" Activity

1. If, after creating this Activity, the district environmental staff or the ENV SME determined that archeological testing would not, in fact, be required, then the district environmental staff or the ENV SME selects, "No," from the drop-down menu for the field labeled, "Was Archeology Testing performed?," explains in the "Comments" field why not archeological testing was required, and finalizes this Activity.

2. The archeological testing report may be prepared by a local government's consultant or by an ENV SME. Regardless of whether the archeological testing report is prepared by a local government's consultant or an ENV SME, it must be prepared by a professional archeologist (see 13 TAC 26.4(2)). This Activity must be created separately for each site that will be evaluated, if multiple sites will be tested for the same project.

Projects that would occur on TxDOT right of way or other state or local public land have an additional requirement. The professional archeologist must apply for and acquire a Texas Antiquities permit from the Texas Historic Commission prior to beginning excavation. The professional archeologist prepares the permit application in accordance with **ENV's Review Standard for Antiquities Permit Applications**.

<u>Acquire Texas Antiquities Permit by local government's consultant (if needed)</u>

1. If a Texas Antiquities permit is required, the local government project sponsor uploads the Texas Antiquities Permit application (if applicable), using the file naming convention: CSJ_Permit_App_DD-MMM-YYY (e.g., "222215024_Permit_App_10-Apr-2016").

2. The local government project sponsor creates a Review of the Texas Antiquities permit application under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the local government project sponsor:

- prepares a new, revised version of the Texas Antiquities Permit application that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

3. Once the ENV SME has no further comments and has finalized his or her Review, the local government project sponsor uploads the Texas Antiquities Permit application with the word, "Approved," at the beginning of the file name.

4. The local government project sponsor transmits the approved Texas Antiquities Permit application to the Texas Historical Commission for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

5. The THC reviews the permit application and requests clarifications or revisions from the local government project sponsor as necessary.

- The local government project sponsor prepares a revised Texas Antiquities Permit application uploads the revised Texas Antiquities Permit application with the word "Revised" at the beginning of the file name.
- The local government project sponsor transmits the revised Texas Antiquities Permit application to the THC.

6. Once the THC has no further comments, the THC will notify the professional archeologist performing the investigation of the assigned permit number.

7. The professional archeologist can begin the investigation at that point.

8. The THC will also mail a hard copy of the Texas Antiquities Permit to the professional archeologist.

9. The local government project sponsor will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

<u>Preparation of archeological testing report by local government's consultant</u>

10. For the field labeled, "Work Status," in this Activity, the local government project sponsor selects, "In Progress," if the local government project sponsor has all project information and access to real property needed to prepare the archeological testing report. Alternatively, if the local government project sponsor lacks project information or access to real property needed to prepare the archeological testing report, then the local government project sponsor selects one of the following drop-down options for this field:

- Select, "Need Additional ROE/ROW Acquisition," if the local government project sponsor is waiting for both right-of-entry and right-of-way acquisition.
- Select, "Need Project Information," if the local government project sponsor is waiting for project information.
- Select, "Need ROE," if the local government project sponsor is waiting for right-of-entry.
- Select, "Need ROW Acquisition," if the local government project sponsor is waiting for right-of-way acquisition.

11. Once the investigation has been completed, the local government project sponsor prepares an archeological testing report according to **ENV's Template for Interim Testing Reports** and uploads the archeological testing report using the file naming convention CSJ_Testing_DD-MMM-YYY (e.g., "222215024_Testing_10-Apr-2016").

12. The local government project sponsor creates a Review of the archeological testing report under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the local government project sponsor:

- prepares a new, revised version of the archeological testing report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

13. Once the ENV SME has no further comments and has finalized his or her Review, the local government project sponsor uploads the archeological testing report with the word, "Approved," at the beginning of the file name.

Acquire Texas Antiquities Permit by ENV SME (if needed)

1. Under **ENV's Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation**, the ENV SME may not need to submit a formal permit application for a Texas Antiquities Permit. This permit may instead be obtained by notifying the Texas Historical Commission of the upcoming fieldwork.

2. The ENV SME either submits a permit notification email to the THC or transmits a hard copy of the Texas Antiquities Permit application to the THC for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

- The THC reviews the permit notification/application and requests clarifications or revisions from the ENV SME as necessary.
- The ENV SME prepares a revised Texas Antiquities Permit notification/application.
- The ENV SME transmits the revised Texas Antiquities Permit notification/application to the THC.

3. Once the THC permit notification/review process has been successfully completed, the THC will notify the ENV SME and the professional archeologist performing the investigation of the assigned permit number. The ENV SME uploads the approved Texas Antiquities Permit application or notification email, using the file naming convention: Approved_CSJ_Permit_App_DD-MMM-YYY (e.g., "Approved_222215024_Permit_App_10-Apr-2016").

4. The professional archeologist can begin the testing at that point.

5. The THC will also mail a hard copy of the Texas Antiquities Permit to the ENV SME and the professional archeologist (if a consultant will perform the investigation).

6. The ENV SME will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

Preparation of archeological testing report by the ENV SME

7. If the district environmental staff requests that an ENV SME prepare the archeological testing report, and if the ENV SME needs any project information or right of entry, then the ENV SME creates the "Obtain Project Information or Access" Activity, and the district environmental staff uploads any available right of entries or other project information requested by the SME under the "Obtain Project Information or Access" Activity.

8. For the field labeled, "Work Status," in this Activity, the ENV SME selects, "In Progress," if the ENV SME has all project information and access to real property needed to prepare the archeological testing. Alternatively, if the ENV SME lacks project information or access to real property needed to prepare the archeological testing report, then the ENV SME selects one of the following drop-down options for this field:

- Select, "Need Additional ROE/ROW Acquisition," if the ENV SME is waiting for both right-of-entry and right-of-way acquisition.
- Select, "Need Project Information," if the ENV SME is waiting for project information.
- Select, "Need ROE," if the ENV SME is waiting for right-of-entry.
- Select, "Need ROW Acquisition," if the ENV SME is waiting for right-of-way acquisition.

9. Once the testing has been completed, the ENV SME prepares an archeological testing report according to **ENV's Template for Interim Testing Reports** and uploads the archeological testing report using the file naming convention CSJ_Testing_DD-MMM-YYY (e.g., "222215024_Testing_10-Apr-2016")

<u>Next steps after uploading the approved archeological testing report</u>

1. Regardless of how the archeological testing report was produced (i.e., whether it was produced by a local government's consultant or an ENV SME), the ENV SME completes the following steps, using the available technical documents and coordination results.

2. The ENV SME selects "Yes" from the drop-down menu for the field labeled, "Was Archeology Testing performed?

3. In the "Right of Entry (ROE) Required" field, the ENV SME selects "Yes" or "No" to designate whether ROE must be obtained prior to starting fieldwork.

4. In the "Volume Excavated" field, the ENV SME enters the cubic meters of hand excavation at the site as documented in the corresponding archeological testing report. The volume is reported as a numeric value without any further qualifiers or descriptors.

5. In the "Permit Number" field, the ENV SME enters the Permit Number (if any) assigned by the THC to the investigation. If there is no THC permit, enter "0."

6. The ENV SME may, at his or her discretion, use the "Parcels" table to track parcels for which access has been granted, access has been denied, and testing has been completed. This table is most useful for large projects where testing will be conducted in more than one stage due to partial access to private property.

- The ENV SME enters a descriptor or parcel identification number in the "Parcel ID" field. This field may be used to encompass multiple parcels, when appropriate.
- The ENV SME enters the date at which granted ROE expires in the "ROE Expiration Date" field.
- The ENV SME enters "Yes" or "No" in the "Testing Completed" field to track at which parcels the investigations have been completed.
- The ENV SME enters the date at which ROE received in the "ROE Received Date" field.
- The ENV SME enters the date at which ROE requested in the "ROE Requested Date" field.
- The ENV SME enters "Yes" or "No" in the "Collection" field to track whether the ROE allows collection of artifacts. ROE allows collection when the signed ROE form includes permission to collect and included a signed Deed of Gift form.
- The ENV SME clicks "Add." This allows the parcel to move from below the shaded line and into the table.

7. The ENV SME uses the "Sites" section of this Activity to summarize the investigation results. These results must be finalized following the completion of consultation. This information will be used for an annual report from FHWA to the National Park Service, to identify the status of work, and to provide data for NEPA analysis.

- The ENV SME enters the County and trinomial number in the "Site Number" field.
- The ENV SME selects the correct response from the drop-down menu for the "4(f) Property" field. The options are "Yes," "No," and "Undetermined." In the vast majority of cases, the appropriate response is "No," since most archeological sites are not listed or eligible for listing in the National Register of Historic Places. In the unusual circumstance in which the site is listed or eligible for listing in the National Register of Historic Places, the ENV SME answers, "Yes," and also creates the "Obtain Section 4(f) Approval" Activity (if it has not already been created).
- The ENV SME selects the correct response from the drop-down menu for the "Site Eligibility" field. The options are "Eligible – Alternative Mitigation", "Eligible –Avoidance", and "Eligible – Data Recovery", "Ineligible", and "Undetermined".
- The ENV SME selects the correct response from the drop-down menu for the "Project Effect" field. The options are "Adverse Effect," "No Adverse Effect – Avoidance," "No Adverse Effect – Outside APE," "No Effect", and "Undetermined". The answer to this question must correspond with the answer to the "Site Eligibility" field; for example, a site labeled as "Ineligible" would never suffer an "Adverse Effect".
- The ENV SME enters information to characterize the site in the "Site Description" field.

8. The ENV SME selects "Adverse effect," "No Effect/No Further Work," "No Adverse Effect/No Further Work," or "Potential Adverse Effect/Further Work Required" from the drop-down menu for the "Work Status" field. For projects with no archeological historic properties in the APE, the typical response is "No Effect/No Further Work." The ENV SME proceeds as instructed below, depending on the Finding.

- "Adverse effect" - If the ENV SME ultimately selected "Adverse effect" for the "Finding" field, then the ENV SME creates three Coordinations under this Activity (one for THC-A Coordination, one for PA Tribe Coordination, and one for ACHP Coordination). In addition, the ENV SME may create an OTH Coordination, if consultation included other consulting parties. The ENV SME proceeds according to the Coordination instructions below. The ENV SME also creates the "Perform Archeology Data Recovery" Activity, the "Perform Archeology Mitigation" Activity, or the "Perform Archeology Monitoring Commitments" Activity.

  Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.

  The ENV SME only finalizes the "Perform Archeology Testing" Activity once all associated Coordinations have been finalized.
- "No adverse effect/no further work" - If the ENV SME ultimately selected "No adverse effect/no further work," then the ENV SME creates two Coordinations under this Activity (one for THC-A Coordination and one for PA Tribe Coordination). In addition, the ENV SME may create an OTH Coordination, if consultation included other consulting parties. The ENV SME proceeds according to the Coordination instructions below. The ENV SME

may also create the "Perform Archeology Mitigation" Activity, if this Activity was necessary to achieve the "No adverse effect/no further work" finding.

Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.

The ENV SME only finalizes the "Perform Archeology Testing" Activity once all associated Coordinations have been finalized.

- "No effect/no further work" - If the ENV SME ultimately selected, "No effect/no further work," then the ENV SME creates either ENV-A In-House Coordination or THC-A Coordination. Additional Coordinations may be appropriate under the following circumstances:
    - if the ENV SME previously undertook PA Tribe Coordination or the Activity resulted in the discovery of archeological sites or Native American cemeteries, then the ENV SME must conduct additional PA Tribe Coordination; and
    - if consultation included other consulting parties, then the ENV SME may create an OTH Coordination.

  The ENV SME proceeds according to the Coordination instructions below.
  Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.

  The ENV SME only finalizes the "Perform Archeology Testing" Activity once all associated Coordinations have been finalized.

- "Potential Adverse Effect/Further Work Required" - If the ENV SME ultimately selected, "Potential Adverse Effect/Further Work Required," then the ENV SME creates two Coordinations under this Activity (one for THC-A Coordination and one for PA Tribe Coordination). In addition, the ENV SME may create an OTH Coordination, if consultation included other consulting parties. The ENV SME proceeds according to the Coordination instructions below. The ENV SME also creates the "Cemetery Investigation" Activity, as applicable.

  Also, if further work is needed to identify the presence of burials, the ENV SME creates the "Perform Cemetery Investigation" Activity, and/or if burials have already been identified and require removal, the ENV creates the "Perform Cemetery Removal" Activity.

  The ENV SME only finalizes the "Perform Archeology Testing" Activity once all associated Coordinations have been finalized.

<u>ENV-A In-House Coordination Process</u>

If the ENV SME determines that the project can be coordinated internally for expediency and it meets the criteria for internal coordination under **ENV's Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation** and/or the **Programmatic Agreement among the Federal Highway Administration, Texas State Historic Preservation Office, Advisory Council on Historic Preservation, and the Texas Department of Transportation**, then the

ENV SME follows the steps below to begin the coordination (there is no need to upload anything to this coordination).

1. In the Coordination, the ENV SME selects the drop-down response "ENV-A" for the "Agency Name" field.

2. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details as follows:

- For the "Correspondence Status" field, the ENV SME selects, "Sent Information," using the drop-down menu.
- For the "Correspondence Method" field, the ENV SME selects, "Other," using the drop-down menu.
- For the "Correspondence Date" field, the ENV SME enters the current date.
- For the "Correspondence From" field, the ENV SME enters, "TxDOT."
- For the "Correspondence To" field, the ENV SME enters "TxDOT."
- For the "Comments" field, the ENV SME enters, "Request for internal review and approval of a finding of no archeological historic properties affected and no further work required, as permitted under the PA and MOU."

3. The ENV SME assigns the ENV-A Coordination to the ENV SME team lead or ENV SME manager.

4. Once a week, the ENV SME team lead or ENV SME manager reviews the archeological testing report for each assigned project and requests clarifications from the authoring ENV SME as necessary. Once the review has been completed, resulting in a satisfactory archeological testing report and confirmation of "no effect/no further work," the ENV SME team lead or ENV SME manger follows the steps below to complete the coordination.

5. The ENV SME team lead or ENV SME manager fills-in the correspondence details as follows:

- For the "Correspondence Status" field, the ENV SME team lead or ENV SME manager selects, "Response received – no further action", using the drop-down menu.
- For the "Correspondence Method" field, the ENV SME team lead or ENV SME manager selects, "Other," using the drop-down menu.
- For the "Correspondence Date" field, the ENV SME team lead or ENV SME manager enters the current date.
- For the "Correspondence From" field, the ENV SME team lead or ENV SME manager enters "TxDOT."
- For the "Correspondence To" field, the ENV SME team lead or ENV SME manager enters "TxDOT."
- For the "Comments" field, the ENV SME team lead or ENV SME manager enters, "Internal review and approval of a finding of no archeological historic properties affected and no further work required, as permitted under the PA and MOU."

6. In the Coordination, the ENV SME team lead or ENV SME manager selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

7. The ENV SME team lead or ENV SME manager finalizes the Coordination.

THC-A Coordination process

If the ENV SME does not require expedited review or determines that the project does not meet the criteria for internal coordination under ENV's **Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation** and/or the **Programmatic Agreement among the Federal Highway Administration, Texas State Historic Preservation Office, Advisory Council on Historic Preservation, and the Texas Department of Transportation** and must instead be coordinated with the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) (for example because important sites might be impacted by the project or other circumstances), then the ENV SME uploads the following documentation under the Coordination:

- Consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016")
- Any other correspondence to or from TxDOT or the THC/TSHPO, using the following naming convention for correspondence to TSHPO: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation letter, using **ENV's Template for TSHPO/THC Consultation Regarding Archeological Historic Properties**. The ENV SME emails the draft letter and associated archeological testing report to the ENV SME manager.

2. The ENV SME manager reviews the archeological testing report and requests clarifications from the authoring ENV SME as necessary. Once the review has been completed, resulting in a satisfactory consultation letter and report and confirmation of proposed findings, the ENV SME manager sends the letter and archeological testing report to the THC/TSHPO.

3. The THC/TSHPO reviews the letter and archeological testing report and requests clarifications from the authoring ENV SME as necessary.

4. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

5. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

6. In the Coordination, the ENV SME selects the drop-down response "THC-A" for the "Agency Name" field.

7. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using "TxDOT" to refer to TxDOT and "THC" to refer to the THC/TSHPO in the "Correspondence From" and "Correspondence To" fields.

8. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination, using this file naming convention for the consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016"); and this file naming convention for any additional correspondence from TxDOT to THC:

CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

9. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

10. The ENV SME finalizes the Coordination.

<u>PA Tribal Coordination (i.e., formal, project-specific coordination) process</u>

ENV's formal, project-specific tribal coordination process is required in order to consult on the eligibility and effects determinations made in compliance with the National Historic Preservation Act.

The ENV SME uploads the following documentation under the Coordination:

- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")
- Any other correspondence to or from TxDOT or tribes

Follow the steps below to conduct the coordination.

1. To continue consultation, the ENV SME drafts text for an email, using **ENV's Template for Tribal Consultation**. The ENV SME emails the draft email and the archeological testing report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response "PA Tribe (PA)".

3. In the "Comments" field of the Coordination, the ENV SME lists all of the tribes with whom the project was coordinated.

4. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the tribes.

5. The ENV SME uploads all correspondence to or from TxDOT or the tribes under the Coordination using the following file naming conventions:

- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")

6. Once either all comments from tribes have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

7. The ENV SME finalizes the Coordination.

Other Consulting Party Coordination process

For some large, complex projects with potential for controversy and/or adverse effects to archeological historic properties, the ENV SME will identify and invite consultation with other consulting parties. These consulting parties could include County Historical Commissions, local archeological societies (e.g., the Houston Archeological Society (HAS)), and other knowledgeable parties. When the ENV SME consults with other consulting parties, the ENV SME uploads the following documentation under the Coordination:

- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")
- Any other correspondence to or from TxDOT and the other consulting parties.

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation email using **ENV's Template for Other Consulting Party Consultation**. The ENV SME emails the draft email and the archeological testing report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response "Other Consulting Parties (OTH)" for the "Agency Name" field.

3. In the "Comments" field of the Coordination, the ENV SME lists all of the other consulting parties with whom the project was coordinated.

4. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each email sent to or from the other consulting parties.

5. The ENV SME uploads all correspondence to or from TxDOT or the other consulting parties under the Coordination using the following file naming conventions:

- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")

8. Once either all comments from other consulting parties have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

9. The ENV SME finalizes the Coordination.

Advisory Council on Historic Preservation Coordination process

For projects with adverse effects, the ENV SME will notify the Advisory Council on Historic Preservation (ACHP). When the ENV SME coordinates with ACHP, the ENV SME uploads the following documentation under the Coordination:

- Advisory Council on Historic Preservation Electronic Section 106 Documentation Submittal System (e106) Form: CSJ_ACHP_DD-MMM-YYYY (e.g., "363201001_Submittal_ACHP_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Response_ACHP_DD-MMM-YYYY (e.g., "363201001_ Response_ACHP_03-Mar-2019")

Follow the steps below to conduct the coordination.

1. The ENV SME completes the form **Advisory Council on Historic Preservation Electronic Section 106 Documentation Submittal System (e106) Form**. The ENV SME also compiles documentation of completed consultation and any maps, report excerpts, and photographs that describe the affected property. The ENV SME then submits the form and associated documentation by email to ACHP.

2. In the Coordination, the ENV SME selects the drop-down response “Advisory Council on Historic Preservation (ACHP)” for the “Agency Name” field.

3. In the Coordination, the field labeled, “Are Correspondence Details Included?,” will be automatically filled-in with “Yes” indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the ACHP.

4. The ENV SME uploads all correspondence to or from TxDOT or the ACHP under the Coordination using the following file naming conventions:

- Advisory Council on Historic Preservation Electronic Section 106 Documentation Submittal System (e106) Form: CSJ_ACHP_DD-MMM-YYYY (e.g., "363201001_Submittal_ACHP_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Response_ACHP_DD-MMM-YYYY (e.g., "363201001_Response_ACHP_03-Mar-2019")

5. Once either all comments from ACHP have been satisfactorily addressed or no response has been received within the notification period (15 days), the ENV SME selects “Completed” or “Completed with Conditions” from the drop-down menu for the field labeled, “Coordination Status.”

6. The ENV SME finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Carbon Monoxide Traffic Air Quality Analysis (CO TAQA)" Activity

1. District environmental staff identifies applicable receptor locations for the TAQA.

- Use project-specific traffic data to identify the sections of each build alternative that contain the highest AADT.
- Use project schematics to identify the areas of these high AADT sections that contain the narrowest right-of-way (ROW). Place a receptor on the ROW line at these locations.
- Determine whether the project will contain major signalized intersections. If so, follow the EPA Guideline for Modeling Carbon Monoxide from Roadway Intersections to identify appropriate receptor locations.

2. District environmental staff obtains the applicable CO emission rates.

- Consult **ENV's Emission Rates Lookup Table (ERLT) for TAQA** and determine whether it contains CO emission rates for the TxDOT district in which this project resides. If so, use the emission rates provided in that table. If not, develop the applicable CO emission rates using the MOVES emission factor model.

3. District environmental staff develops the TAQA results.

- Calculate the design hour volume (DHV) traffic for each project segment by multiplying the segment's AADT by the K-factor. The AADT and K-factor can be obtained from project-specific traffic analyses.
- Perform the dispersion modeling using EPA's CAL3QHC dispersion model for the ETC and design year for each alternative using:
    - the parameters for a worst-case scenario in Appendix A of this 1-pager, "CAL3QHC Parameters;"
    - the 1-hr CO background concentrations in Appendix B of this 1-pager, "Background CO Concentrations & CO NAAQS;"
    - the receptor locations identified in Step 1 above; and
    - the emission rates identified in Step 2 above.

  The result will be the 1-hr CO concentrations.
- Develop the 8-hr CO concentrations for each receptor by using the formula in Appendix C of this 1-pager, "Converting the One-Hour CO Standard to the Eight-Hour CO Standard."

4. District environmental staff analyzes the modeling results.

- Determine whether the 1-hr CO concentrations at each receptor are less than the 1-hr CO NAAQS (Appendix B of this 1-pager), and the 8-hr CO concentrations at each receptor are less than the 8-hour CO NAAQS (Appendix B of this 1-pager).
- If modeled results exceed the 1-hr or 8-hr CO NAAQS, consult with the ENV air specialist to determine whether there was a flaw in the analysis.

- If modeled results exceed either the 1-hr or 8-hr CO NAAQS, and there was no flaw in the analysis, consult with the ENV air specialist on how to proceed.[1]

5. District environmental staff documents the CO TAQA in an individual document uploaded under this Activity. The documentation of the CO TAQA must include all information listed in **ENV's Documentation Standard for a CO TAQA Technical Report**.

6. District environmental staff creates a Review of this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the CO TAQA technical report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

7. Once the ENV SME has no further comments and has finalized his or her Review, the district environmental staff uploads the final CO TAQA technical report with the word, "Approved," at the beginning of the file name, and finalizes this Activity.

8. If an EA or EIS is being prepared for the project, then district environmental staff prepares a summary of the CO TAQA to be included in the appropriate section of the EA or EIS using the standardized language provided in **ENV's Guidance for Preparing Air Quality Statements**.

It is recommended that the same person or persons who prepared the CO TAQA technical report prepare the summary of the CO TAQA to be included in the EA or EIS.

Citation: NEPA (42 USC 4332)

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[1] Nationwide there are no CO nonattainment areas. Thus far, no project analyzed in Texas has exceeded the CO NAAQS.

Appendix A: CAL3QHC Parameters

A worst-case analysis is used to demonstrate that standards will not be exceeded under the worst possible conditions. To help create the worst-case scenario, the CAL3QHC model uses the following variables:

Roadway: The CAL3QHC model is limited to a maximum of 120 roadway links. A roadway link is defined as a straight segment of roadway having a constant height, width, traffic volume, and emission factor. The links are defined by the coordinates of their start and end points and should be established to reflect orientation to true north.

Free-flow Receptor Siting: Receptors should be located on the right-of-way line adjacent to the roadway segments with the highest traffic volume at the narrowest portion of the project right-of-way. Receptor should be located outside of the mixing zone (discussed below). If the receptor is located within a mixing zone, consider altering the mixing zone so that the receptor remains outside of the mixing zone. CAL3QHC can accommodate a maximum of 60 receptors.

Averaging Time: Averaging time can range from 30 minutes to 60 minutes. Since most predictions are performed for a one hour period, use 60 minutes in the CAL3QHC models.

Surface Roughness: Surface roughness coefficients range between 3 to 400 centimeters. Table 1 of the CAL3QHC User's Guide provides surface roughness coefficients for a variety of surface types and land uses. If land use is mixed, use the smaller roughness coefficient for the worst-case analysis.

Settling and Deposition Velocities: Both settling and deposition velocities should be entered as 0 cm/sec.

Scale Factor: The scale conversion factor entered in the CAL3QHC models should be 0.3048 if the model units are in feet, or 1.0 if the units are in meters.

Receptor Height: Receptor height should be set at an assumed breathing height of 5.9 if coordinates are in feet, or 1.8 if coordinates are input in meters.

Traffic Volume: Use Design Hour Volume (DHV), or peak hour traffic volumes, for a given segment of roadway. The DHV is calculated by multiplying the AADT of the segment by the project-specific K Factors. The AADT and K Factor can be obtained from project-specific traffic analyses. The DHV is then divided by the number of travel lanes used in the CAL3QHC model. The DHV can be developed by using Transportation Research Board Special Report 209 (Highway Capacity Manual).

CO Emission Factors: A CO ERLT is included in the Air Quality toolkit. The look-up tables provide estimated CO emissions by area, year, speed, and roadway type. Use of the CO look-up tables could prevent the need for performing MOVES modeling; however, if MOVES CO results and the CO emissions tables are both available, use the higher value of the two emission factors in the dispersion model for the worst-case analysis. The emission factor is expressed in grams/mile.

Source Height: Source height refers to the elevation of the roadway relative to the receptors. For at-grade roadways, the source height will be zero (at grade). For elevated and depressed roadway links, the elevation should reflect the elevation relative to the receptors. In CAL3QHC, the source height should not be greater than +10 meters (+32 feet) for an elevated roadway section, or lower than -10 meters (-32

feet) for a depressed roadway section. If the receptors are higher or lower than these limits, use +10 or -10 meters (+32 or -32 feet).

Mixing Zone Width: The mixing zone width represents the width of the CO plume that has been generated by the vehicles and dispersed by their wake, and is considered to be uniform in regard to emissions and turbulence. The mixing zone width should equal the width of the travel lanes (without shoulders) plus 3 meters (or 10 feet) on each of the outside travel lanes.

Wind Speed: A wind speed of one meter per second should be used for a worst-case analysis.

Wind Angle: Evaluate wind at 10 degree increments as recommended by the CAL3QHC User's Guide. Wind angle is represented in degrees from north (i.e., 0o is equivalent to a wind from the north).

Atmospheric Stability Class: Values of one to six, representing atmospheric stability classes A-F, respectively, can be used in the CAL3QHC model. For worst-case analysis, use Stability Class 4 for urban areas or Stability Class 5 for rural areas .

Mixing Height: A mixing height of 1000 meters should be used.

Background CO Concentration: Refer to Appendix B.

Additional CAL3QHC Intersection Modeling Parameters

Additional parameters and considerations required for CAL3QHC intersection modeling are discussed below.

Roadway and Intersection: A roadway link is defined as a straight segment of roadway having a constant height, width, traffic volume, and emission factor. The links are defined by the coordinates of their start and end points and should be established to reflect orientation to true north. Roadway links in the CAL3QHC model are defined as either (1) Free-flow links or (2) Queue links.

Mixing Zone Width: In CAL3QHC, the mixing zone width should equal the width of the free-flow travel lanes (without shoulders) plus 3 meters (or 10 feet) on each of the outside travel lanes. For roadway links defined as queue links, the mixing zone is equal to the width of the travel lane.

Intersection Receptor Siting: Receptors should be located 3 meters from the outside edge of the roadway at distances of 3 meters, 25 meters, 50 meters, and midl-block from the outside edge of the intersection cross-street. CAL3QHC can accommodate up to 60 receptors.

Queue Link Information: CAL3QHC requires the following information for each roadway modeled as a Queue Link:

- Average Signal Cycle Length (in seconds);
- Average Red Time Length (in seconds);
- Clearance Time Lost (Yellow Light), use 2 seconds if the clearance time is unknown;
- Saturation Flow Rate, the saturation flow rate is the hourly capacity for each roadway queue link expressed in vehicles per hour. Use 1,600 veh/hr if rate is not specified.
- Signal Type, the signal type can be specified as (1) Pretimed, (2) Actuated, or (3) Semiactuated. If the signal type is not specified, CAL3QHC will assume the signal type is (1) Pretimed; and

Arrival Rate, CAL3QHC has five options for arrival type, (1) Worst, (2) Below Average, (3) Average, (4) Above Average, or (5) Best Progression. Enter an arrival rate of (3) Average for a default value.

Intersection Emission Factors: A *CO ERLT* is included in the Air Quality toolkit, which in conjunction with the associated document, *Useful Information: CO TAQA ERLT*, can be used to identify idling emission factors. In addition, when looking up applicable emission factors for free-flow traffic through intersections use the default speeds identified in Table 4-2 of the EPA's 1992 guidance document titled, *Guideline for Modeling Carbon Monoxide from Roadway Intersections*.

Appendix B: Background CO Concentrations & CO NAAQS

Estimates of CO Background Concentrations for Texas Cities and Rural Areas		
City or Region	**One Hour Average Background Concentration (ppm)**	**Eight-Hour Average Background Concentration (ppm)**
Austin	1.6	1.3
Beaumont-Port Arthur	1.0	0.5
Dallas-Fort Worth	1.7	1.4
El Paso	4.4	2.8
Houston-Galveston	2.3	2.0
San Antonio	1.4	0.9
Brownsville	2.0	1.2
Laredo	3.3	1.9
Waco	0.5	0.4
All other areas[2]	3.3	2.0

Source: TxDOT Environmental Affairs Division, CO background concentrations are based upon the average of the first highest CO concentration averaged for three years for the monitor with highest average within the specified metroplex. The 2015-2017 three year average was used for all areas, except Austin and San Antonio which used the 2016-2017 two year average because data was not available in 2015. On May 7, 2018, quality assured and quality controlled monitoring data was obtained from: https://www.epa.gov/outdoor-air-quality-data. This background data is subject to change, and ENV will release notifications when such changes occur.

CO NAAQS	
1-HR NAAQS	***8-HR NAAQS***
35 ppm	9 ppm

Source: EPA. http://epa.gov/air/criteria.html

[2] Based on the highest 1-hour and 8-hour concentrations for Texas for areas that do not also have a CO nonattainment or maintenance area.

Appendix C: Converting the One-Hour CO Standard to the Eight-Hour CO Standard

Modeling results from the CAL3QHC model are in one-hour CO concentrations and are compared to the one-hour NAAQS standard for CO. The eight-hour CO concentration is calculated using the one-hour CO concentration and a persistence factor, and then adding in the appropriate background CO concentration provided in Appendix B. The following formula can be used to convert the one hour results to eight-hour results:

$$CO8 = (CO1 - BG1)\ 0.7 + BG8$$

where:

CO8 = Eight-hour CO concentration

CO1 = One-hour CO concentration

BG1 = One-hour background CO concentration (Appendix B)

0.7 = Persistence factor (meteorology and traffic)

BG8 = Eight-hour background CO concentration (Appendix B)

"Perform CE Determination" Activity

This Activity generates a CE Determination Form containing the following fields, which will be automatically filled-in based on the information entered on the WPD Section I – Project Definition screen:

- "Highway"
- "Main CSJ"
- "Project Limits From"
- "Project Limits To"
- "Associated CSJs"
- "CE Type"
- "Criterion"

This Activity has different instructions depending on how the following questions on "WPD Section I – Project Definition" are answered:

- "Who is the lead agency responsible for the approval of the entire project?"
- "Who is the project sponsor as defined by 43 TAC 2.7?"

<u>Lead agency is "FHWA – Assigned to TxDOT" or "TxDOT – No Federal Funding"</u>

If the lead agency is "FHWA – Assigned to TxDOT" or "TxDOT – No Federal Funding," then the instructions for completing this Activity depend on whether the project sponsor is "TxDOT" or "Local Government," as explained below.

<u>Project sponsor is "TxDOT"</u>

1. District employee with delegated authority to approve the CE reviews the Activities console to confirm that all Activities designated with a milestone of "prior to environmental clearance" have been completed and finalized. This Activity cannot be completed until all such Activities are completed and finalized.

2. If all Activities designated with a milestone of "prior to environmental clearance" have been completed and finalized, then the district employee with delegated authority to approve the CE reviews the statements on the CE determination form to confirm that they are accurate.

3. If the district employee with delegated authority to approve the CE determines that all Activities designated with a milestone of "Prior to environmental clearance" have been completed and finalized, and that the statements on the CE determination form are accurate, then he or she clicks the "Click here to approve" button. A pop-up window will appear and it will read, "Clicking OK will record a CE determination for the main and any associated CSJs." District employee with delegated authority to approve the CE then clicks "OK" to approve the CE. This will automatically update the "Environmental Clearance Date" on WPD I and the "Env NEPA Clear Date" in DCIS (updates to DCIS typically occur overnight).

4. ECOS will send an email to the "Sponsor Point of Contact" listed on WPD I notifying them of the environmental clearance of the project.

Project sponsor is "Local Government"

1. Local government representative reviews the Activities console to confirm that all Activities designated with a milestone of "Prior to environmental clearance" have been completed and finalized. This Activity cannot be completed until all such Activities are completed and finalized.

2. If all Activities designated with a milestone of "Prior to environmental clearance" have been completed and finalized, then the local government representative reviews the statements on the CE determination form to confirm that they are accurate.

3. If the local government representative determines that all Activities designated with a milestone of "Prior to environmental clearance" have been completed and finalized, and that the statements on the CE determination form are accurate, then he or she clicks the "Click here to submit" button.

4. A pop-up window will appear and it will read, "Clicking OK will submit the CE determination form to the department delegate for approval."

5. Local government representative then clicks "OK." The system will generate an email to the "Delegate Point Of Contact" listed on WPD I notifying him or her that the CE determination has been submitted for his or her review and approval.

6. To approve the CE determination, the district employee with delegated authority to approve the CE clicks the "Click here to approve" button. A pop-up window will appear and it will read, "Clicking OK will record a CE determination for the main and any associated CSJs." The district employee with delegated authority to approve the CE then clicks "OK" to approve the CE. This will automatically update the "Environmental Clearance Date" on WPD I and the "Env NEPA Clear Date" in DCIS (updates to DCIS typically occur overnight). ECOS will send an email to the "Sponsor Point of Contact" listed on WPD I notifying them of the environmental clearance of the project.

7. To disapprove the CE determination, the district employee with delegated authority to approve the CE enters an explanation for disapproval in the "Comments" field, and clicks "Click here to not approve." A pop-up window will appear and it will read, "Clicking OK will disapprove the CE determination for the main and any associated CSJs." The district employee with delegated authority to approve the CE then clicks "OK" to disapprove the CE. The system will generate an email to the "Sponsor Point of Contact" listed on WPD I notifying them that the CE determination has been disapproved.

8. If the CE determination is disapproved, the local government representative will have to address any noted deficiencies, create a new "Perform CE Determination" Activity (by re-submitting the project work plan to the delegate for approval), and repeat the process outlined above.

"FHWA – Not Assigned to TxDOT"

If the lead agency is "FHWA – Not Assigned to TxDOT," then FHWA must make the actual CE determination and provide TxDOT with documentation of that determination. Follow the instructions below to complete this Activity.

1. District environmental staff uploads FHWA's documentation that it made a CE determination (e.g., email or other written communication) under this Activity.

2. District employee with delegated authority to approve the CE uses the calendar icon to select the date on which FHWA approved the CE determination.

3. District employee with delegated authority to approve the CE clicks "Click here to confirm." A pop-up window will appear and it will read, "ECOS will record a NEPA Clear date for the main CSJ and any associated CSJs that matches the date on which FHWA approved the CE determination as indicated on this form." District employee with delegated authority to approve the CE then clicks "OK." This will automatically update the "Environmental Clearance Date" on WPD I and the "Env NEPA Clear Date" in DCIS (updates to DCIS typically occur overnight).

4. ECOS will send an email to the "Sponsor Point of Contact" listed on WPD I notifying them of the environmental clearance of the project.

Citations: 43 TAC 2.81, 23 CFR 771.117

"Perform Cemetery Investigation" Activity

1. If, after creating this Activity, the district environmental staff or the ENV SME determined that a cemetery investigation would not, in fact, be required, then the district environmental staff or the ENV SME selects, "No," from the drop-down menu for the field labeled, "Was a Cemetery Investigation performed?;" explains in the "Comments" field why no cemetery investigation was required, and finalizes this Activity.

2. The research and (possibly) fieldwork needed to identify the presence of burials is typically completed as part of the "Perform Archeological Background Study" Activity or the "Perform Archeology Survey" Activity, in which case the information needed to complete this "Perform Cemetery Investigation" Activity will be found in the documentation associated with those Activities.

This Activity must be created separately for each cemetery that has been identified, if multiple cemeteries have been identified for the same project, regardless of whether the research and (possibly) fieldwork needed to identify the presence of burials was completed as part of the Perform Archeological Background Study" Activity, the "Perform Archeology Survey" Activity, or as a separate investigation.

If the research and (possibly) fieldwork needed to identify the presence of burials is <u>not</u> completed as part of the "Perform Archeological Background Study" Activity or the "Perform Archeology Survey" Activity, then such work may be conducted by district environmental staff, or district environmental staff may request that the appropriate ENV SME conduct that work.

Also, if the research and (possibly) fieldwork needed to identify the presence of burials is <u>not</u> completed as part of the "Perform Archeological Background Study" Activity or the "Perform Archeology Survey" Activity, <u>and</u> fieldwork is required, <u>and</u> the fieldwork would occur on TxDOT right of way or other state or local public land, then there is an additional requirement. A professional archeologist must apply for and acquire a Texas Antiquities permit from the Texas Historic Commission. The professional archeologist prepares the permit application in accordance with **ENV's Review Standard for Antiquities Permit Applications**.

<u>Acquire Texas Antiquities Permit by district environmental staff (if needed)</u>

1. If a Texas Antiquities permit is required, district environmental staff uploads the Texas Antiquities Permit application (if applicable), using the file naming convention: CSJ_Permit_App_DD-MMM-YYY (e.g., "222215024_Permit_App_10-Apr-2016").

2. District environmental staff creates a Review of the Texas Antiquities permit application under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the Texas Antiquities Permit application that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and

- creates a new Review under this Activity, and assigns it to the ENV SME.

3. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the Texas Antiquities Permit application with the word, "Approved," at the beginning of the file name.

4. The ENV SME transmits the approved Texas Antiquities Permit application to the Texas Historical Commission for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

5. The THC reviews the permit application and requests clarifications or revisions from the ENV SME as necessary.

- The ENV SME emails any such requests for revision or clarification to the district environmental staff.
- The district environmental staff prepares a revised Texas Antiquities Permit application and uploads the revised Texas Antiquities Permit application with the word "Revised" at the beginning of the file name.
- The ENV SME transmits the revised Texas Antiquities Permit application to the THC.

6. Once the THC has no further comments, the THC will notify the ENV SME and the professional archeologist performing the investigation of the assigned permit number.

7. The professional archeologist can begin the fieldwork at that point.

8. The THC will also mail a hard copy of the Texas Antiquities Permit to the ENV SME and the professional archeologist.

9. The ENV SME will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

<u>Performance of research and (possibly) fieldwork needed to identify the presence of burials by district environmental staff (if needed)</u>

10. As stated earlier, research and (possibly) fieldwork is needed in connection with this Activity only if such work was not completed as part of the "Perform Archeological Background Study" Activity or the "Perform Archeology Survey" Activity.

11. For the field labeled, "Work Status," in this Activity, district environmental staff selects, "In Progress," if the district environmental staff has all project information and access to real property needed to conduct any required fieldwork. Alternatively, if the district environmental staff lacks project information or access to real property needed to conduct any required fieldwork, then district environmental staff selects one of the following drop-down options for this field:

- Select, "Need Additional ROE/ROW Acquisition," if the district environmental staff is waiting for both right-of-entry and right-of-way acquisition.
- Select, "Need Project Information," if the district environmental staff is waiting for project information.
- Select, "Need ROE," if the district environmental staff is waiting for right-of-entry.

- Select, "Need ROW Acquisition," if the district environmental staff is waiting for right-of-way acquisition.

12. Once the research and (possibly) fieldwork has been completed, <u>if fieldwork was done for this Activity,</u> district environmental staff prepares a cemetery investigation report according to **ENV's Template for Archeological Survey**. When using the template to prepare a cemetery investigation report, make appropriate edits to the title and other parts of the template to reflect that the report is for a cemetery investigation (not a background study or survey). District environmental staff uploads the cemetery investigation report using the file naming convention CSJ_Cemetery_Investigation_DD-MMM-YYY (e.g., "222215024_Cemetery_Investigation_10-Apr-2016").

13. District environmental staff creates a Review of the report under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

14. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the cemetery investigation report with the word, "Approved," at the beginning of the file name.

<u>Acquire Texas Antiquities Permit by ENV SME (if needed)</u>

1. Under **ENV's Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation**, the ENV SME may not need to submit a formal permit application for a Texas Antiquities Permit. This permit may instead be obtained by notifying the Texas Historical Commission of the upcoming fieldwork.

2. The ENV SME either submits a permit notification email to the THC or transmits a hard copy of the Texas Antiquities Permit application to the THC for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

- The THC reviews the permit notification/application and requests clarifications or revisions from the ENV SME as necessary.
- The ENV SME prepares a revised Texas Antiquities Permit notification/application.
- The ENV SME transmits the revised Texas Antiquities Permit notification/application to the THC.

3. Once the THC permit notification/review process has been successfully completed, the THC will notify the ENV SME and the professional archeologist performing the investigation of the assigned permit number. The ENV SME uploads the approved Texas Antiquities Permit application or notification email, using the file naming convention: Approved_CSJ_Permit_App_DD-MMM-YYY (e.g., "Approved_222215024_Permit_App_10-Apr-2016").

4. The professional archeologist can begin the fieldwork at that point.

5. The THC will also mail a hard copy of the Texas Antiquities Permit to the ENV SME and the professional archeologist (if a consultant will perform the investigation).

6. The ENV SME will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

Performance of research and (possibly) fieldwork needed to identify the presence of burials by ENV SME (if needed)

7. As stated earlier, research and (possibly) fieldwork is needed in connection with this Activity only if such work was not completed as part of the "Perform Archeological Background Study" Activity or the "Perform Archeology Survey" Activity.

8. If the district environmental staff requests that an ENV SME perform the research and (possibly) fieldwork needed to identify the presence of burials, and if the ENV SME needs any project information or right of entry, then the ENV SME creates the "Obtain Project Information or Access" Activity, and the district environmental staff uploads any available right of entries or other project information requested by the SME under the "Obtain Project Information or Access" Activity.

9. For the field labeled, "Work Status," in this Activity, the ENV SME selects, "In Progress," if the ENV SME has all project information and access to real property needed to conduct any required fieldwork. Alternatively, if the ENV SME lacks project information or access to real property needed to conduct any required fieldwork, then the ENV SME selects one of the following drop-down options for this field:

- Select, "Need Additional ROE/ROW Acquisition," if the ENV SME is waiting for both right-of-entry and right-of-way acquisition.
- Select, "Need Project Information," if the ENV SME is waiting for project information.
- Select, "Need ROE," if the ENV SME is waiting for right-of-entry.
- Select, "Need ROW Acquisition," if the ENV SME is waiting for right-of-way acquisition.

15. Once the research and (possibly) fieldwork has been completed, if fieldwork was done for this Activity, the ENV SME prepares a cemetery investigation report according to **ENV's Template for Archeological Survey**. When using the template to prepare a cemetery investigation report, make appropriate edits to the title and other parts of the template to reflect that the report is for a cemetery investigation (not a background study or survey). The ENV SME uploads the cemetery investigation report using the file naming convention CSJ_Cemetery_Investigation_DD-MMM-YYY (e.g., "222215024_Cemetery_Investigation_10-Apr-2016").

Next steps after completing research and (possibly) fieldwork needed to identify the presence of burials

1. Regardless of how the research and (possibly) fieldwork was performed and regardless of who was responsible for performing that work, the ENV SME completes the following steps, using the available technical documents and coordination results.

2. The ENV SME selects "Yes" from the drop-down menu for the field labeled, "Was a Cemetery Investigation performed?"

3. If the research and (possibly) fieldwork needed to identify the presence of burials was completed as part of the "Perform Archeological Background Study" Activity or the "Perform Archeology Survey" Activity, then in the "Comments" field for this Activity, the ENV SME indicates which Activity included this work.

4. In the "Right of Entry (ROE) Required" field, the ENV SME enters "Yes" or "No" to designate whether ROE must be obtained prior to starting fieldwork.

5. In the "Permit Number" field, the ENV SME enters the Permit Number (if any) assigned by the THC to the investigation. If there is no THC permit, enter "0."

6. The ENV SME may, at his or her discretion, use the "Parcels" table to track parcels for which access has been granted, access has been denied, and investigation has been completed. This table is most useful for large projects where the investigation will be conducted in more than one stage due to partial access to private property.

- The ENV SME enters a descriptor or parcel identification number in the "Parcel ID" field. This field may be used to encompass multiple parcels, when appropriate.
- The ENV SME enters the date at which granted ROE expires in the "ROE Expiration Date" field.
- The ENV SME enters "Yes" or "No" in the "Investigated Completed" field to track which parcels of the evaluated APE still require investigation.
- The ENV SME enters the date at which ROE received in the "ROE Received Date" field.
- The ENV SME enters the date at which ROE requested in the "ROE Requested Date" field.
- The ENV SME clicks "Add." This allows the parcel to move below the shaded line and into the table.

7. The ENV SME uses the "Sites" section of this Activity to summarize the investigation results. These results must be finalized following the completion of consultation. This information will be used for an annual report from FHWA to the National Park Service, to identify the status of work, and to provide data for NEPA analysis.

- The ENV SME enters the THC's Cemetery ID Number, site trinomial, or cemetery name in the "Cemetery ID" field.
- The ENV SME selects the correct response from the drop-down menu for the "4(f) Property" field. The options are "Yes," "No," and "Undetermined." In the vast majority of cases, the appropriate response is "No," since most cemeteries are not eligible for inclusion in the National Register of Historic Places.
- The ENV SME selects the correct response from the drop-down menu for the "Burials in APE" field. The options are "Yes," "No," and "Undetermined."
- The ENV SME selects the correct response from the drop-down menu for the "Is Cemetery 50 years or older" field. The options are "Yes," "No," and "Undetermined."
- The ENV SME selects the correct response from the drop-down menu for the "Site Eligibility" field. The options are "Eligible – Alternative Mitigation", "Eligible –Avoidance", and "Eligible – Data Recovery", "Ineligible", and "Undetermined".
- The ENV SME selects the correct response from the drop-down menu for the "Project Effect" field. The options are "Adverse Effect," "No Adverse Effect – Avoidance," "No

Adverse Effect – Outside APE," "No Effect", and "Undetermined". The answer to this question must correspond with the answer to the "Site Eligibility" field; for example, a site labeled as "Ineligible" would never suffer an "Adverse Effect".

- The ENV SME selects the correct response from the drop-down menu for the "Cemetery Type" field. The options are "Perpetual Care," "Unknown," "Abandoned", and "Other". Refer to the Health and Safety Code, Chapter 711 for definitions of these cemetery types.
- The ENV SME enters information to characterize the site in the "Site Description" field.

8. The ENV SME may, at his or discretion, use the "Burials" table to summarize the investigation results. Each burial gets its own row in this table. Do not add any data to this table if the investigation did not identify individual burials. This table is most useful when individual burials may require removal to address project effects.

- The ENV SME enters an identifier in the "Burial ID" field.
- The ENV SME selects the correct response from the drop-down menu for the "Next of Kin Known" field. The options are "Yes," and "No".
- The ENV SME enters the date on which permission was received from the appropriate parties to relocate the burial in the "Permission to Relocate Date" field.
- The ENV SME selects the correct response from the drop-down menu for the "NAGPRA-Related" field. The options are "Yes," and "No".
- The ENV SME enters an identifier for the next-of-kin, if known, in the "Next of Kin" field.
- The ENV SME enters any additional information relevant for identifying the burial in the "Burial Description" field.
- The ENV SME clicks "Add." This allows the burial to move below the shaded line and into the table.

9. The ENV SME selects "Adverse effect," "No Effect/No Further Work," or "No Adverse Effect/No Further Work," from the drop-down menu for the "Work Status" field. For suspected cemeteries that are later confirmed as having no burials, the typical response is "No Effect/No Further Work." (Note that "Potential Adverse Effect/Further Work Required" is listed as a drop-down option, but for this particular Activity, the ENV SME must never select it. Any work needed to identify the presence of burials must be completed as part of this Activity, not any other downstream Activity).

10. The ENV SME proceeds as instructed below, depending on the Finding.

- "Adverse effect" - If the ENV SME ultimately selected "Adverse effect" for the "Work Status" field, then the ENV SME creates the "Perform Cemetery Removal" Activity, the "Perform Archeology Mitigation" Activity, or the "Perform Archeology Monitoring Commitments" Activity. In addition, the ENV SME creates a THC-A Coordination, PA Tribe Coordination, OTH Coordination, and/or County Clerk Coordination (which is also tracked as an "Other Consulting Parties (OTH)" in ECOS) as appropriate according to the below instructions for each type of coordination. The ENV SME proceeds according to the Coordination instructions below if any Coordinations were created. The ENV SME only finalizes the "Perform Cemetery Investigation" Activity once all associated Coordinations have been finalized.
- "No adverse effect/no further work" - If the ENV SME ultimately selected "No adverse effect/no further work," then the ENV SME may create the "Perform Archeology Mitigation" Activity, if this Activity was necessary to achieve the "No adverse effect/no further work" finding. In addition, the ENV SME creates a THC-A Coordination, PA Tribe

Coordination, OTH Coordination, and/or County Clerk Coordination (which is also tracked as an "Other Consulting Parties (OTH)" in ECOS) as appropriate according to the below instructions for each type of coordination. The ENV SME proceeds according to the Coordination instructions below if any Coordinations were created. The ENV SME only finalizes the "Perform Cemetery Investigation" Activity once all associated Coordinations have been finalized.

- "No effect/no further work" - If the ENV SME ultimately selected "No effect/no further work," then no additional Activities are necessary to evaluate or address potential effects to cemeteries. In addition, the ENV SME creates a THC-A Coordination, PA Tribe Coordination, OTH Coordination, and/or County Clerk Coordination (which is also tracked as an "Other Consulting Parties (OTH)" in ECOS) as appropriate according to the below instructions for each type of coordination. The ENV SME proceeds according to the Coordination instructions below if any Coordinations were created. The ENV SME only finalizes the "Perform Cemetery Investigation" Activity once all associated Coordinations have been finalized.

<u>THC-A Coordination process</u>

Coordination with the THC on a standalone cemetery investigation may occur in rare cases. A project will merit consultation on a standalone cemetery investigation when:

- district environmental staff determined that the project meets the "No Review" criteria on **ENV's "List of Projects that Do Not Require Review or Coordination for Archeological Compliance,"** a known cemetery occurs within or adjacent to the project's area of potential effects, and the cemetery requires a field investigation and a Texas Antiquities Permit for that field investigation; or
- the archeological background study and associated coordination resulted in a determination that the project would have no effect on archeological historic properties; a cemetery occurs within or adjacent to the project's area of potential effects; and the cemetery requires a field investigation and a Texas Antiquities Permit for that field investigation.

The ENV SME uploads the following documentation under the Coordination:

- Consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016")
- Any other correspondence to or from TxDOT or the THC/TSHPO, using the following naming convention for correspondence to TSHPO: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation letter, using **ENV's Template for TSHPO/THC Consultation Regarding Archeological Historic Properties**. The ENV SME emails the draft letter and associated cemetery investigation report to the ENV SME manager.

2. The ENV SME manager reviews the technical report and requests clarifications from the authoring ENV SME as necessary. Once the review has been completed, resulting in a satisfactory consultation letter and report and confirmation of proposed findings, the ENV SME manager sends the letter and cemetery investigation report to the THC/TSHPO.

3. The THC/TSHPO reviews the letter and technical report and requests clarifications from the authoring ENV SME as necessary.

4. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

5. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

6. In the Coordination, the ENV SME selects the drop-down response "THC-A" for the "Agency Name" field.

7. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using "TxDOT" to refer to TxDOT and "THC" to refer to the THC/TSHPO in the "Correspondence From" and "Correspondence To" fields.

8. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination, using this file naming convention for the consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016"); and this file naming convention for any additional correspondence from TxDOT to THC: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

9. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

10. The ENV SME finalizes the Coordination.

<u>PA Coordination (i.e., formal, project-specific coordination) process</u>

Consultation with federally recognized tribes on a standalone cemetery investigation may occur in rare cases. A project will merit consultation on a standalone cemetery investigation when:

- district environmental staff determined that the project meets the "No Review" criteria on **ENV's "List of Projects that Do Not Require Review or Coordination for Archeological Compliance,"** and a known Native American cemetery occurs within or adjacent to the project's area of potential effects of an FHWA undertaking; or
- the archeological background study and associated coordination resulted in a determination that the project would have no effect on archeological historic properties; a Native American cemetery occurs within or adjacent to the project's area of potential effects of an FHWA undertaking; and the cemetery requires a field investigation.

Under these conditions, the ENV SME uploads the following documentation under the Coordination:

- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")
- Any other correspondence to or from TxDOT or tribes

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation email using **ENV's Template for Tribal Consultation**. The ENV SME emails the draft email and the cemetery investigation report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response "PA Tribe (PA)" for the "Agency Name" field.

3. In the "Comments" field of the Coordination, the ENV SME lists all of the tribes with whom the project was coordinated.

4. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each email sent to or from the tribes.

5. The ENV SME uploads all correspondence to or from TxDOT or the tribes under the Coordination using the following file naming conventions:

- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")

6. Once either all comments from tribes have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

7. The ENV SME finalizes the Coordination.

<u>Other Consulting Party Coordination process</u>

Often, county historic commissions, cemetery organizations, and cemetery caretakers will have special insight to the history of local cemeteries. The ENV SME will identify and invite consultation with these consulting parties in order to evaluate the potential for burials, both marked and unmarked, in the area of potential effects. When the ENV SME consults with other consulting parties, the ENV SME uploads the following documentation under the Coordination:

- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")
- Any other correspondence to or from TxDOT and the other consulting parties.

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the email using **ENV's Template for Other Consulting Party Consultation**. The ENV SME emails the draft email and the cemetery investigation report (if one

was prepared) to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response “Other Consulting Parties (OTH)” for the “Agency Name” field.

3. In the “Comments” field of the Coordination, the ENV SME lists all of the other consulting parties with whom the project was coordinated.

4. In the Coordination, the field labeled, “Are Correspondence Details Included?,” will be automatically filled-in with “Yes” indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each email sent to or from the other consulting parties.

5. The ENV SME uploads all correspondence to or from TxDOT or the other consulting parties under the Coordination using the following file naming conventions:

- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")

6. Once either all comments from other consulting parties have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects “Completed” or “Completed with Conditions” from the drop-down menu for the field labeled, “Coordination Status.”

7. The ENV SME finalizes the Coordination.

<u>County Clerk Coordination Process</u>

If the investigation results in the finding of a previously unknown or abandoned cemetery, a Notice of Existence must be filed with the County Clerk within ten days of completing identification efforts. When the ENV SME must file a Notice of Existence, the ENV SME uploads the following documentation under the Coordination:

- Transmittal letter to landowner: CSJ_Letter_LandownerLastName_DD-MMM-YYYY (e.g., "222217007_Letter_Anderson_12-Jun-2017").
- Notarized Notice to County Clerk: CSJ_Notice_County_Clerk_DD-MMM-YYYY (e.g., "222217007_Notice_Frio Co_Clerk_12-Jun-2017")

Follow the steps below to conduct the coordination.

1. The ENV SME works with the district environmental staff to write a legal description of the land on which the cemetery was found. In cases where the site location information is protected from public disclosure under the Antiquities Code of Texas, the legal description comprises the survey and abstract numbers for the parcel on which the cemetery occurs as recorded in the local appraisal district records.

2. The ENV SME drafts a Notice of Existence, using either the Notice of Existence of Archeological Cemetery form from the THC or the Notice of Existence of Unknown or Abandoned Cemetery

form from the THC. Use the former form in cases where the site location information is protected from public disclosure under the Antiquities Code of Texas. Use the latter form in cases where the site location information is not protected from public disclosure under the Antiquities Code of Texas.

3. The ENV SME has the form notarized.

4. The ENV SME makes a copy of the notarized Notice, creates a transmittal letter, makes a copy of the transmittal letter, and mails the letter and Notice copy to the landowner on record in the local appraisal district. In cases where TxDOT owns the property on which the cemetery occurs, the SME addresses the letter to the appropriate District Engineer.

5. The ENV SME files the Notice with County Clerk for the County in which the cemetery occurs. The ENV SME should bring a copy of the transmittal letter to the landowner. The ENV SME should also bring a copy of Texas Health and Safety Code, Chapter 711.011 when filing, as many County Clerks are unfamiliar with this part of the Code.

6. In the Coordination, the ENV SME selects the drop-down response “Other Consulting Parties (OTH)” for the “Agency Name” field.

7. In the “Comments” field of the Coordination, the ENV SME identifies the County Clerk office with which the notice is filed and identifies the landowner of record in the local appraisal district.

8. In the Coordination, the field labeled, “Are Correspondence Details Included?,” will be automatically filled-in with “Yes” indicating that correspondence details are required. The ENV SME fills-in the correspondence detail for the Notice.

9. The ENV SME uploads the notarized Notice of Existence under the Coordination using the following file naming convention: CSJ_Notice_County_Clerk_DD-MMM-YYYY (e.g., "222217007_Notice_Frio Co_Clerk_12-Jun-2017").

10. The ENV SME uploads the transmittal letter under the Coordination using the following file naming convention: CSJ_Letter_LandownerLastName_DD-MMM-YYYY (e.g., "222217007_Letter_Anderson_12-Jun-2017").

11. The ENV SME finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H; Texas Health and Safety Code, Chapter 711

"Perform Cemetery Removal" Activity

1. If, after creating this Activity, the district environmental staff or the ENV SME determined that cemetery removal would not, in fact, be required, then the district environmental staff or the ENV SME selects, "No," from the drop-down menu for the field labeled, "Was a Cemetery Removal performed?," explains in the "Comments" field why no cemetery removal was required and finalizes this Activity.

2. The fieldwork and reporting required for the removal of a cemetery is sometimes completed as part of the "Perform Data Recovery" Activity, in which case some of the information needed to complete this "Perform Cemetery Removal" Activity will be found in the documentation associated with that Activity.

This Activity must be created separately for each cemetery requiring the removal, if multiple such cemeteries have been identified for the same project. This Activity must be created regardless of whether the removal of the cemeteries was completed as part of the "Perform Data Recovery" Activity or as a separate effort.

If the fieldwork and reporting required for the removal of a cemetery is <u>not</u> completed as part of the "Perform Archeology Data Recovery" Activity, then such work may be completed by a local government's consultant or an ENV SME. Regardless of whether the cemetery removal is performed by a local government's consultant or an ENV SME, it must be performed by a professional archeologist (see HSC 711.0105(a) and 13 TAC 26.4(2)).

Prior to removal of burials, the professional archeologist may need permission from one or more parties. The particular parties depend on the nature of the cemetery and other circumstances. Projects that would occur on TxDOT right of way or other state or local property have an additional requirement. The professional archeologist must apply for and obtain a Texas Antiquities permit from the Texas Historic Commission prior to beginning the cemetery removal. The professional archeologist prepares the permit application in accordance with **ENV's Review Standard for Antiquities Permit Applications**.

<u>Required Coordination prior to cemetery removal (if needed)</u>

As stated earlier, the fieldwork and reporting associated with removing a cemetery may be completed as part of the "Perform Archeology Data Recovery" Activity. Regardless of whether the fieldwork and reporting required for the cemetery removal is performed as part of the "Perform Archeology Data Recovery" Activity or as part of the "Perform Cemetery Removal" Activity, the coordination described below will be completed and tracked as part of the "Perform Cemetery Removal" Activity.

Coordination related to the "Perform Cemetery Removal" Activity may have to be completed prior to performing the Activity. The nature of the required permissions depends on the type of cemetery and other circumstances as explained below. If any permissions are required, then the local government project sponsor or ENV SME creates a single "Coordinate Cemetery Removal" Coordination for all permissions, and uploads the following ***documentation*** under this Coordination:

- Requests for removal: CSJ_Removal_request_party_DD-MMM-YYYY (e.g., "222217007_Removal_Notification_Woodlawn_Cemetery_08-Jun-2017").
- Notification letters or follow-up emails: CSJ_Removal_notification_party_DD-MMM-YYYY (e.g., "222217007_Removal_Notification_THC_08-Jun-2017").
- Email transmittal (if applicable) that accompanies formal letters: CSJ_Removal_Transmittal_THC_DD-MMM-YYYY (e.g., "222217007_Removal_Transmittal_Other_Parties_08-Jun-2018").
- Electronic file copy of any responses: CSJ_Removal_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Removal_Response_TravisCHC_20-Jun-2018").
- Any other correspondence to or from TxDOT and the other consulting parties.
- The district court order, if one was obtained: CSJ_Removal_order_DD-MMM_YYYY (e.g., 222217007_Removal_order_03-Mar-2019)
- State registrar permits (one per removed burial), if disinterment permits were obtained: CSJ_Disinter_Permit_##_DD-MMM-YYYY (e.g., 222217007_Disinter_Permit_01_04-Apr-2019)

Follow the steps below to conduct the required coordination. The applicable steps depend on the type of cemetery.

1. For an actively maintained cemetery where burials will be removed from the cemetery, the local government project sponsor or ENV SME obtains the following two sets of required permissions (for other types of cemeteries, skip to the next step):

- The local government project sponsor or the ENV SME requests permission from the cemetery organization, the plot owner(s), and a representative from the decedent's family (see HSC 711.004(a) for the exact order of priority for the family representative). Since the permissions are required, no standard time frame exists for the acquisition of the permissions.
- Once those permissions have been received, the local government project sponsor or the ENV SME obtains a permit or permits from the state registrar (HSC 711.004(f)). The state registrar requires up to eight weeks to process applications.

2. For an actively maintained cemetery where burials will be removed from the cemetery and the aforementioned consent cannot be obtained, the local government project sponsor or ENV SME does the following (HSC 711.004(c)) (for other types of cemeteries skip to the next step):

- The local government project sponsor or the ENV SME gives notice to the cemetery organization or, if the cemetery organization cannot be found, the Texas Historical Commission;
- The local government project sponsor or the ENV SME gives notice to the plot owner(s) and family representative(s) as detailed in HSC 711.004(a);
- The local government project sponsor or the ENV SME, through the Office of the Attorney General, then requests a court order from the district court. No standard time frame exists for the acquisition of the court order, as it depends on when the proposed order can get scheduled on the district court docket. In prior cases, the court order has required four to six months to obtain.
- After the court order has been obtained, the local government project sponsor or the ENV SME obtains a permit or permits from the state registrar (HSC 711.004(f)). The state registrar requires up to eight weeks to process applications.

3. For unmarked graves from an unknown or abandoned cemetery where burials will be removed from the cemetery, the local government project sponsor or ENV SME obtains the following required permissions:

- The local government project sponsor or the ENV SME gives notice to the Texas Historical Commission and the county historical commission (HSC 711.010(c))
- The local government project sponsor or the ENV SME, through the Office of the Attorney General, then requests a court order from the district court HSC 711.010(a)). No standard time frame exists for the acquisition of the court order, as it depends on when the proposed order can get scheduled on the district court docket. In prior cases, the court order has required four to six months to obtain.
- Permission from the state registrar is not required (HSC 711.004(f-1) and HSC 711.0105)

4. The relocation of a burial within a family, fraternal, or community cemetery not larger than ten acres in size does not require any of the previously-described permissions (HSC 711(e)(1)(A)). A Texas Antiquities Permit may still be required for removals on state or local public lands.

5. In the Coordination, the local government project sponsor or ENV SME selects the drop-down response “Other Consulting Parties (OTH)” for the “Agency Name” field.

6. In the “Comments” field of the Coordination, the local government project sponsor or ENV SME lists all of the parties to whom notice was given or permission was requested.

7. In the Coordination, the field labeled, “Are Correspondence Details Included?,” will be automatically filled-in with “Yes” indicating that correspondence details are required. The local government project sponsor or ENV SME fills-in the correspondence details for each letter request, letter notification, email, request for court order, or disinterment permit request sent and each response received.

8. The local government project sponsor or ENV SME uploads all correspondence to or from TxDOT or the other parties under the Coordination using the following file naming conventions:

- Requests for removal: CSJ_Removal_request_party_DD-MMM-YYYY (e.g., "222217007_Removal_Notification_Woodlawn_Cemetery_08-Jun-2017").
- Notification letters or follow-up emails: CSJ_Removal_notification_party_DD-MMM-YYYY (e.g., "222217007_Removal_Notification_THC_08-Jun-2017").
- Email transmittal (if applicable) that accompanies formal letters: CSJ_Removal_Transmittal_THC_DD-MMM-YYYY (e.g., "222217007_Removal_Transmittal_Other_Parties_08-Jun-2018").
- Electronic file copy of any responses: CSJ_Removal_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Removal_Response_TravisCHC_20-Jun-2018").
- Any other correspondence to or from TxDOT and the other consulting parties.
- The district court order, if one was obtained: CSJ_Removal_order_DD-MMM_YYYY (e.g., 222217007_Removal_order_03-Mar-2019)
- State registrar permits (one per removed burial), if disinterment permits were obtained: CSJ_Disinter_Permit_##_DD-MMM-YYYY (e.g., 222217007_Disinter_Permit_01_04-Apr-2019)

9. In the Coordination, the local government project sponsor or ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

10. The local government project sponsor or ENV SME finalizes the Coordination.

Acquire Texas Antiquities Permit by local government's consultant (if needed)

1. As stated earlier, the fieldwork and reporting required for cemetery removal may be completed as part of the "Perform Archeology Data Recovery" Activity, in which case there is no need to obtain a separate Texas Antiquities Permit as described below.

2. If a Texas Antiquities permit is required specifically for the cemetery removal, the local government project sponsor uploads the Texas Antiquities Permit application (if applicable), using the file naming convention: CSJ_Permit_App_DD-MMM-YYY (e.g., "222215024_Permit_App_10-Apr-2016").

3. The local government project sponsor creates a Review of the Texas Antiquities permit application under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the local government project sponsor:

- prepares a new, revised version of the Texas Antiquities Permit application that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

4. Once the ENV SME has no further comments and has finalized his or her Review, the local government project sponsor uploads the Texas Antiquities Permit application with the word, "Approved," at the beginning of the file name.

5. The local government project sponsor transmits the approved Texas Antiquities Permit application to the Texas Historical Commission for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

6. The THC reviews the permit application and requests clarifications or revisions from the local government project sponsor as necessary.

- The local government project sponsor prepares a revised Texas Antiquities Permit application uploads the revised Texas Antiquities Permit application with the word "Revised" at the beginning of the file name.
- The local government project sponsor transmits the revised Texas Antiquities Permit application to the THC.

7. Once the THC has no further comments, the THC will notify the professional archeologist performing the cemetery removal of the assigned permit number.

8. The professional archeologist can begin the cemetery removal at that point (provided that all other required permissions described above have been obtained).

9. The THC will also mail a hard copy of the Texas Antiquities Permit to the professional archeologist.

10. The local government project sponsor will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

Preparation of cemetery removal report by local government's consultant (if needed)

11. As stated earlier, the fieldwork and reporting required for cemetery removal may be completed as part of the "Perform Archeology Data Recovery" Activity, in which case there is no need to prepare a separate cemetery removal report as described below.

12. Once the cemetery removal has been completed, the local government project sponsor prepares a cemetery removal report and uploads the cemetery removal report using the file naming convention CSJ_Cemetery_Removal_DD-MMM-YYY (e.g., "222215024_Cemetery_Removal_10-Apr-2016").

13. The local government project sponsor creates a Review of the cemetery removal report under this Activity and assigns it to the ENV SME assigned to the project. Once the ENV SME has finalized his or her Review, if there are pending comments, the local government project sponsor:

- prepares a new, revised version of the cemetery removal report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

14. Once the ENV SME has no further comments and has finalized his or her Review, the local government project sponsor uploads the cemetery removal report with the word, "Approved," at the beginning of the file name.

Acquire Texas Antiquities Permit by ENV SME (if needed)

1. As stated earlier, the fieldwork and reporting required for cemetery removal may be completed as part of the "Perform Archeology Data Recovery" Activity, in which case there is no need to obtain a separate Texas Antiquities Permit as described below.

2. Under **ENV's Memorandum of Understanding between the Texas Historical Commission and the Texas Department of Transportation**, the ENV SME may not need to submit a formal permit application for a Texas Antiquities Permit. This permit may instead be obtained by notifying the Texas Historical Commission of the upcoming fieldwork.

3. The ENV SME either submits a permit notification email to the THC or transmits a hard copy of the Texas Antiquities Permit application to the THC for their review, approval, and assignation of the Texas Antiquities Permit number for the project.

- The THC reviews the permit notification/application and requests clarifications or revisions from the ENV SME as necessary.
- The ENV SME prepares a revised Texas Antiquities Permit notification/application.

- The ENV SME transmits the revised Texas Antiquities Permit notification/application to the THC.

4. Once the THC permit notification/review process has been successfully completed, the THC will notify the ENV SME and the professional archeologist performing the cemetery removal of the assigned permit number. The ENV SME uploads the approved Texas Antiquities Permit application or notification email, using the file naming convention: Approved_CSJ_Permit_App_DD-MMM-YYY (e.g., "Approved_222215024_Permit_App_10-Apr-2016").

5. The professional archeologist can begin the cemetery removal at that point (provided that all other required permissions described above have been obtained).

6. The THC will also mail a hard copy of the Texas Antiquities Permit to the ENV SME and the professional archeologist (if a consultant will perform the investigation).

7. The ENV SME will upload a copy of the Texas Antiquities Permit using the file naming convention CSJ_TAP_DD-MMM-YYYY (e.g., "222219005_TAP_02-May-2018").

<u>Preparation of archeological cemetery removal report by the ENV SME (if needed)</u>

8. As stated earlier, the fieldwork and reporting required for cemetery removal may be completed as part of the "Perform Archeology Data Recovery" Activity, in which case there is no need to prepare a separate cemetery removal report as described below.

9. If the district environmental staff requests that an ENV SME prepare the cemetery removal report, and if the ENV SME needs any project information or right of entry, then the ENV SME creates the "Obtain Project Information or Access" Activity, and the district environmental staff uploads any available right of entries or other project information requested by the SME under the "Obtain Project Information or Access" Activity.

10. Once the cemetery removal has been completed, the ENV SME prepares a cemetery removal report and uploads the cemetery removal report using the file naming convention CSJ_Cemetery_Removal_DD-MMM-YYY (e.g., "222215024_Cemetery_Removal_10-Apr-2016").

<u>Next steps after uploading the approved cemetery removal report</u>

1. Regardless of how the cemetery removal was performed and regardless of who was responsible for performing that work, the ENV SME completes the following steps, using the available technical documents and coordination results.

2. In the "Cemetery ID" field, the ENV SME enters the THC's Cemetery ID Number, site trinomial, or cemetery name.

3. In the "De-Dedication Date" field, the ENV SME enters the date of the court order (if applicable) de-dedicating the parcel(s) on which cemetery occurred.

4. In the "TX Antiquities Permit Number" field, the ENV SME enters the Permit Number (if any) assigned by the THC to the investigation. If there is no THC permit, enter "0."

5. In the "Construction Clearance Date" field, the ENV SME enters the date on which all required permissions, removals, and other agreed-upon measures related to removal of the cemetery have been completed, allowing construction to occur at the site of the cemetery.

6. In the "NEPA Approval Date" field, the ENV SME enters the date indicated for the "Environmental Clearance" field on WPD I.

7. The ENV SME uses the "Burials" table to summarize the removal results.

- The ENV SME enters an identifier in the "Burial ID" field.
- The ENV SME selects the correct response from the drop-down menu for the "Permit Obtained" field. The options are "Yes," and "No". If no permit is required from the state registrar, leave this field blank.
- The ENV SME enters the date on which permission was received from the appropriate parties to relocate the burial in the "Permission to Relocate Date" field.
- The ENV SME selects the correct response from the drop-down menu for the "Burial Status" field, detailing the intended final disposition of the burial. The options are "Reinterred w/i cemetery," "Perpetual care cemetery," "Trans to curation facility," and "Transferred to tribe".
- The ENV SME enters the "Full Name of the Deceased" from the Disinterment Permit in the "Permit Number" field.
- The ENV SME selects the correct response from the drop-down menu for the "NAGPRA Cultural Affiliation Determination" field. The options are "Yes," and "No". If NAGPRA does not apply to the burial, leave this field blank.
- The ENV SME enters the date on which the burial was removed in the "Burial Removal Date" field.
- The ENV SME clicks "Add." This allows the burial to move from below the shaded line and into the table.

8. The ENV SME finalizes the "Perform Cemetery Removal" Activity once all burials listed for removal have a "Burial Removal Date;" and the ENV SME completes, if applicable, THC-A Coordination, PA Tribal Coordination, and OTH Coordination as explained below.

9. If any of the burials are identified as being Native American, then the ENV SME creates the "Perform Native American Graves Protection and Repatriation Act (NAGPRA) Analysis" Activity.

<u>THC-A Coordination process</u>

Coordination with the THC will occur when the removal requires a Texas Antiquities permit from the THC. The ENV SME uploads the following documentation under the Coordination:

- Consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016")
- Any other correspondence to or from TxDOT or the THC/TSHPO, using the following naming convention for correspondence to TSHPO: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

Follow the steps below to conduct the coordination.

1. The ENV SME drafts the consultation letter, using **ENV's Template for TSHPO/THC Consultation Regarding Archeological Historic Properties**. The ENV SME emails the draft letter and associated cemetery removal report to the ENV SME manager.

2. The ENV SME manager reviews the cemetery removal report and requests clarifications from the authoring ENV SME as necessary. Once the review has been completed, resulting in a satisfactory consultation letter and cemetery removal report and confirmation of proposed findings, the ENV SME manager sends the letter and cemetery removal report to the THC/TSHPO.

3. The THC/TSHPO reviews the letter and cemetery removal report and requests clarifications from the authoring ENV SME as necessary.

4. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

5. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

6. In the Coordination, the ENV SME selects the drop-down response "THC-A" for the "Agency Name" field.

7. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using "TxDOT" to refer to TxDOT and "THC" to refer to the THC/TSHPO in the "Correspondence From" and "Correspondence To" fields.

8. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination, using this file naming convention for the consultation letter signed by the THC/TSHPO: CSJ_THC_DD-MMM-YYYY (e.g., "222213005_THC_20-Aug-2016"); and this file naming convention for any additional correspondence from TxDOT to THC: CSJ_Consultation_Request_THC_DD-MMM-YYYY (e.g., "222213005_Consultation_Request_THC_19-Aug-2016").

9. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

10. The ENV SME finalizes the Coordination.

<u>PA Coordination (i.e., formal, project-specific coordination) process</u>

Typically, tribal consultation regarding the removal of burials in the area of potential effects should be completed prior to the "Perform Cemetery Removal" Activity. In rare cases, the outcome of the prior consultation might require the ENV SME to continue consultation during the removal process. Under these conditions, the ENV SME uploads the following documentation under the Coordination:

- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")
- Any other correspondence to or from TxDOT or tribes

Follow the steps below to conduct the coordination.

1. The ENV SME drafts an email, using **ENV's Template for Tribal Consultation**. The ENV SME emails the draft email and the cemetery removal report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response "PA Tribe (PA)" for the "Agency Name" field.

3. In the "Comments" field of the Coordination, the ENV SME lists all of the tribes with whom the project was coordinated.

4. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each email sent to or from the tribes.

5. The ENV SME uploads all correspondence to or from TxDOT or the tribes under the Coordination using the following file naming conventions:
- Consultation emails: CSJ_Consultation_Request_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Tribe_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_Kiowa_20-Jun-2018")

6. Once either all comments from tribes have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

7. The ENV SME finalizes the Coordination.

<u>Other Consulting Party Coordination process</u>

Typically, other consulting party consultation regarding the removal of burials in the area of potential effects should be completed prior to the "Perform Cemetery Removal" Activity. In rare cases, the outcome of the prior consultation might require the ENV SME to continue consultation during the removal process. Under these conditions, the ENV SME uploads the following documentation under the Coordination:
- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")
- Any other correspondence to or from TxDOT and the other consulting parties.

Follow the steps below to conduct the coordination.

1. The ENV SME drafts an email, using **ENV's Template for Other Consulting Party Consultation**. The ENV SME emails the draft email and cemetery removal report to the ENV SME responsible for consultation. The ENV SME responsible for consultation finalizes the documentation and transmits it to all appropriate consulting parties.

2. In the Coordination, the ENV SME selects the drop-down response "Other Consulting Parties (OTH)" for the "Agency Name" field.

3. In the "Comments" field of the Coordination, the ENV SME lists all of the other consulting parties with whom the project was coordinated.

4. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each email sent to or from the other consulting parties.

5. The ENV SME uploads all correspondence to or from TxDOT or the other consulting parties under the Coordination using the following file naming conventions:

- Consultation emails: CSJ_Consultation_Request_Other_Parties_DD-MMM-YYYY (e.g., "222217007_Consultation_Request_Other_Parties_08-Jun-2017")
- Electronic file copy of any responses: CSJ_Consultation_Response_Party_Name_DD-MMM-YYYY (e.g., "222217007_Consultation_Response_HAS_20-Jun-2018")

6. Once either all comments from other consulting parties have been satisfactorily addressed or no response has been received within the review period (31 days), the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

7. The ENV SME finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H; Texas Health and Safety Code, Chapter 711

"Perform Chapter 26 Analysis" Activity

1. District environmental staff determines if the project will permanently convert any property protected under Chapter 26 of the Texas Parks and Wildlife Code from one type of use to another. If not, then there is no "use or taking" under Chapter 26, in which case District environmental staff provides an explanation in the "Comments" field of this Activity, and finalizes this Activity.

Note that the mere existence of a "use agreement" between TxDOT and the entity with jurisdiction over the Chapter 26 resource does not necessarily mean that there will be a permanent conversion of uses. If district environmental staff is uncertain as to whether a project will or will not represent a permanent conversion of use of the Chapter 26 resource, district environmental staff should contact the ENV SME assigned to the respective district.

(Note: If multiple properties protected by Chapter 26 will be affected by the project, but there will only be a "use or taking" with respect to one or some of those properties, provide an explanation for why there is no "use or taking" with respect to the others in the comments field of this Activity.)

2. If district environmental staff determines that the project will permanently convert property protected under Chapter 26 from one type of use to another, proceed as indicated below.

After a hearing is held in accordance with the requirements of Chapter 26, district environmental staff completes **ENV's Checklist: Parks and Wildlife Code, Chapter 26 Compliance,** and uploads it, including any applicable attachments, under this Activity.

3. If project-specific mitigation requirements have been established as part of the Chapter 26 approval, then district environmental staff creates the "Perform Protected Lands Mitigation" Activity.

4. District environmental staff assigns this Activity to the ENV core team member, or for a CE, the ENV Project Delivery staff assigned to the respective district.

5. If the ENV core team member or ENV Project Delivery staff agrees that the Chapter 26 requirements have been satisfied, he or she uploads the approved version of the Chapter 26 checklist under this Activity with the word, "Approved," at the beginning of the file name; and finalizes this Activity.

Citation(s): Parks and Wildlife Code, Chapter 26

"Perform Community Impacts Assessment (CIA)" Activity

1. District environmental staff completes **ENV's Community Impacts Assessment Technical Report** form and uploads the form under this Activity.

2. District environmental staff creates a Review of the Community Impacts Assessment Technical Report form under this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the Community Impacts Assessment Technical Report form that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

3. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the final Community Impacts Assessment Technical Report form with the word, "Approved," at the beginning of the file name, and finalizes this Activity.

4. If the Community Impacts Assessment Technical Report form indicates that there <u>are</u> mitigation measures proposed, then district environmental staff creates the "Perform Community Impacts Mitigation" Activity.

5. If an EA or EIS is being prepared for the project, then district environmental staff uses the summary of the community impacts assessment included in the Community Impacts Assessment Technical Report form to complete the appropriate section of the EA or EIS.

Citation: NEPA (42 USC 4332), Title VI of the Civil Rights Act of 1964, Executive Order 12898

"Perform Community Impacts Mitigation" Activity

1. District environmental staff fills-in the "Comments" field with an explanation of any community impacts mitigation commitments for the project.

2. District environmental staff uploads any documentation associated with community impacts mitigation commitments for the project under this Activity.

3. After all community impacts mitigation commitments for the project have been completed, district environmental staff finalizes this Activity.

"Perform Congestion Management Process (CMP) Analysis" Activity

1. District environmental staff identifies the Metropolitan Planning Organization (MPO) where the project is located.

2. District environmental staff identifies date of adoption and latest amendment date of the MPO's Congestion Management Process (CMP).

3. District environmental staff determines whether the project is included in the MPO's CMP.

If so, proceed to step 4.

If not, district environmental staff requests that the MPO determine whether the project should be incorporated into the MPO's CMP. If the project should be incorporated into the MPO's CMP, district environmental staff follows the MPO procedures for evaluating congestion within the corridor. If the project need not be incorporated into the MPO's CMP, district environmental staff requests that the MPO provide a waiver for the project indicating why it is not appropriate for this project to be included in the CMP.

District environmental staff cannot complete this Activity unless the project is included in the MPO's CMP, or the MPO has provided a waiver.

4. District environmental staff follows the established process of the local MPO or collaborates with the MPO to identify other operational improvements, if any, within the project corridor.

5. District environmental staff follows the established process of the local MPO or collaborates with the MPO to identify any reasonable travel demand reduction and operational management strategies that should be committed to for the project.

6. District environmental staff identifies the committed congestion reduction strategies for this project (e.g., signal timing, intersection improvements, pedestrian facilities, etc.).

7. District environmental staff either documents a waiver of CMP requirements or provides results of the CMP analysis by customizing the appropriate statement(s) from **ENV's Guidance for Preparing Air Quality Statements**.

8. District environmental staff uploads the waiver of CMP requirements or the customized statement(s) (with any attachments) under this Activity.

9. District environmental staff may, at its discretion, create a Review of the customized statement(s) (with any attachments) under this Activity and assign it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the customized statement(s) (with any attachments) that is responsive to the comments made and uploads it under this Activity;

- completes the comment response matrix by filling-in the “How Addressed,” “New Page,” and “New Section” columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

10. Once the ENV SME has no further comments and has finalized his or her Review (if a Review was created), district environmental staff uploads the final customized statement(s) (with any attachments) with the word, “Approved,” at the beginning of the file name, and finalizes this Activity.

11. If an EA or EIS is being prepared for the project, then district environmental staff includes the customized statement(s) in the appropriate section of the EA or EIS.

Citation: 23 USC 134(k)(3) and 134(n), 23 CFR 450.322

"Perform Consultation Documentation" Activity

This Activity may be used by an ENV SME to track the development of archeology-related consultation documentation for a complicated project.

1. The ENV SME self-assigns the Activity.

2. The ENV SME describes the consultation in the "Comments" field.

3. The ENV SME completes the associated documentation and finalizes the Activity.

"Perform Cumulative Impacts Analysis" Activity

1. District environmental staff uses **ENV's Cumulative Impacts Decision Tree** to determine if no cumulative impacts are anticipated, or if a more detailed five-step cumulative impacts analysis ("five-step analysis") is required.

If **ENV's Cumulative Impacts Decision Tree** indicates that no cumulative impacts are anticipated, then district environmental staff identifies in the "Comments" field of this Activity the path through the decision tree that led to the conclusion that no cumulative impacts are anticipated, and finalizes this Activity. District environmental staff will also include an explanation of how it was determined that no cumulative impacts are anticipated in the appropriate section of the EA or EIS.

If **ENV's Cumulative Impacts Decision Tree** indicates that a five-step analysis is required, then proceed as indicated below.

2. District environmental staff consults the ENV core team member to determine whether the five-step analysis will be prepared separately from the EA or EIS and then only summarized in the EA or EIS, or if it will be included in its entirety in the EA or EIS.

<u>Five-step analysis prepared separately from EA or EIS and then summarized in EA or EIS</u>

3. District environmental staff prepares the five-step analysis in accordance with **ENV's Guidance: Cumulative Impacts Analysis Guidelines**, and uploads it under this Activity.

4. District environmental staff creates a Review of the five-step analysis under this Activity, and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the five-step analysis that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

5. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the final five-step analysis with the word, "Approved," at the beginning of the file name, and finalizes this Activity.

6. District environmental staff includes a summary of the five-step analysis in the appropriate section of the EA or EIS.

It is recommended that the same person or persons who prepared the five-step analysis prepare the summary of the five-step analysis to be included in the EA or EIS.

Five-step analysis included in its entirety in EA or EIS

3. District environmental staff notes in the "Comments" field of this Activity that the five-step analysis will not be prepared as a separate deliverable, but rather will be written as part of the EA or EIS.

4. District environmental staff finalizes this Activity.

5. District environmental staff prepares the five-step analysis as part of the EA or EIS in accordance with **ENV's Guidance: Cumulative Impacts Analysis Guidelines**. The appropriate resource area ENV SME assigned to the respective district will review the five-step analysis as part of his or her review of the EA or EIS.

Citation: NEPA (42 USC 4332)

"Perform Draft EA Preparation" Activity

This Activity is comprised of three phases: (1) administrative completeness review and start of technical review, (2) technical review, and (3) completion of technical review.

Administrative completeness review and start of technical review

1. District environmental staff prepares the draft EA according to **ENV's Environmental Handbook: Preparing an Environmental Assessment**, **ENV's Environmental Assessment Outline**, and **ENV's Environmental Assessment Cover Page**.

2. District environmental staff:

- creates the "Submit Draft EA" deliverable Activity (on the Activities screen, click the "D+" next to the "Perform Draft EA Preparation" Activity),
- assigns the "Submit Draft EA" deliverable Activity to him or herself,
- uploads the draft EA under the "Submit Draft EA" deliverable Activity, and
- finalizes the "Submit Draft EA" deliverable Activity.

District environmental staff must not upload the draft EA under the "Submit Draft EA" deliverable Activity until all other Activities with a milestone of "Prior to Env Clearance*" have been completed with the following exceptions, which may remain open at the time the draft EA is uploaded:

- "Perform Opportunity for Public Hearing (OPH)/Public Hearing (PH),"
- "Obtain Planning Consistency Documentation,"
- "Perform Final EA Preparation,"
- "Perform Notice of Availability (NOA) for Final EA listed at 23 CFR 771.115(a)" (if applicable), and
- any other Activity if the ENV core team member and appropriate ENV SME for the Activity agree that the Activity may remain open until after the opportunity for public hearing or public hearing, and have noted such using the "CE/EA/EIS SME Consultation" Activity.

3. District environmental staff creates a Review of the draft EA under the "Submit Draft EA" deliverable Activity, and assigns it to the ENV core team member.

4. ENV core team member determines whether the draft EA is administratively complete (i.e., all Activities that affect the content of the draft EA have been finalized, and the draft EA is consistent with **ENV's Environmental Assessment Outline**).

If the draft EA is administratively complete, then:

- The ENV core team member creates individual Reviews of the draft EA under the "Submit Draft EA" deliverable Activity, and assigns them to the district core team member and individual ENV subject matter experts (SMEs).

If the draft EA is not administratively complete, then:

- The ENV core team member does not create individual Reviews for the district core team member and individual ENV SMEs, and instead explains in his or her Review why the

document is not administratively complete, and finalizes his or her Review with a "not approved" determination.

- The above steps are repeated until the ENV core team member determines that the draft EA is administratively complete.

Technical review

5. The ENV core team member, district core team member, and individual ENV SMEs complete their reviews of the draft EA according to the instructions in the "Review Draft EA" Activity Instructions.

Completion of technical review

6. Once the ENV core team member has finalized his or her Review, if there are pending comments on the draft EA, the district environmental staff:

- prepares a new, revised version of the draft EA that is responsive to the comments made;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns;
- creates a new "Submit Draft EA" deliverable Activity;
- assigns the new "Submit Draft EA" deliverable Activity to him or herself;
- uploads the new, revised version of the draft EA and the completed comment response matrix under the new "Submit Draft EA" deliverable Activity;
- finalizes this deliverable Activity; and
- creates a Review under the new "Submit Draft EA" deliverable Activity, and assigns it to the ENV core team member.

7. ENV core team member creates Reviews of the new, revised version of the draft EA and assigns them to the district core team member and any ENV SMEs that had made comments on the previous version.

8. If further revisions to the draft EA are needed after this second round of reviews, the district environmental staff creates a new "Submit Draft EA" deliverable Activity (on the Activities screen, click the "D+" next to the "Perform Draft EA Preparation" Activity), uploads a new version of the draft EA, and creates and assigns a Review to the ENV core team member for each new version of the draft EA. The process set forth above is repeated until the ENV core team member has indicated in his or her Review that the draft EA is "Approved no comments," and finalizes his or her Review.

9. Once the ENV core team member has no further comments on the draft EA and has finalized his or her Review, the ENV core team member assigns a Review to the ENV Project Delivery Section Director.

10. If the ENV Project Delivery Section Director has comments on the draft EA, then the district environmental staff creates a new "Submit Draft EA" deliverable Activity (on the Activities screen, click the "D+" next to the "Perform Draft EA Preparation" Activity), uploads the new version of the draft EA, and creates and assigns a Review to the ENV Project Delivery Section Director.

11. Once the ENV Project Delivery Section Director has no further comments on the draft EA, the ENV Project Delivery Section Director finalizes his or her Review (selecting "Approved no comments"), and notifies the ENV core team member that the draft EA is approved for circulation.

12. ENV core team member uploads the approved version of the draft EA with the word, "Approved," at the beginning of the file name under the last "Submit Draft EA" deliverable Activity.

13. ENV core team member fills-in the "Approval Date of Draft EA" field with the date that the ENV Project Delivery Section Director finalized his or her Review. If the applicable deadline under Transportation Code 201.759 was missed, then the ENV core team member selects, "No," in the drop-down menu for field labeled, "Was the applicable deadline at Transportation Code 201.759 met?" The ENV core team member then finalizes this "Perform Draft EA Preparation" Activity.

Citation(s): NEPA (42 USC 4332), 43 TAC 2.83

"Perform Draft EIS Preparation" Activity

This Activity is comprised of three phases: (1) administrative completeness review and start of technical review, (2) technical review, and (3) completion of technical review.

Administrative completeness review and start of technical review

1. District environmental staff prepares the draft EIS. As of the date of these Activity Instructions, ENV has not developed guidance regarding the content and arrangement of an EIS. However, an EIS must, at a minimum, address all of the resource areas that are listed in **ENV's Environmental Assessment Outline** (but is not required to follow that outline exactly). The text of the draft EIS must be less than 150 pages in length, or less than 300 pages in length if the project is of unusual scope or complexity (not including the executive summary, appendices, or materials incorporated by reference).

2. District environmental staff:

- creates the "Submit Draft EIS" deliverable Activity (on the Activities screen, click the "D+" next to the "Perform Draft EIS Preparation" Activity),
- assigns the "Submit Draft EIS" deliverable Activity to him or herself,
- uploads the draft EIS under the "Submit Draft EIS" deliverable Activity, and
- finalizes the "Submit Draft EIS" deliverable Activity.

District environmental staff must not upload the draft EIS under the "Submit Draft EIS" deliverable Activity until all other Activities with a milestone of "Prior to Env Clearance*" have been completed with the following exceptions, which may remain open at the time the draft EIS is uploaded:

- "Perform Opportunity for Public Hearing (OPH)/Public Hearing (PH),"
- "Obtain Planning Consistency Documentation,"
- "Perform Final EIS/Record of Decision (ROD) Preparation," and
- any other Activity if the ENV core team member and appropriate ENV SME for the Activity agree that the Activity may remain open until after the public hearing, and have noted such using the "CE/EA/EIS SME Consultation" Activity.

3. District environmental staff creates a Review of the draft EIS under the "Submit Draft EIS" deliverable Activity and assigns it to the ENV core team member.

4. ENV core team member determines whether the draft EIS is administratively complete (i.e., all Activities that affect the content of the draft EIS have been finalized, and it address all of the resource areas that are listed in **ENV's Environmental Assessment Outline**, but is not required to follow that outline exactly).

If the draft EIS is administratively complete, then:

- The ENV core team member creates individual Reviews of the draft EIS under the "Submit Draft EIS" deliverable Activity, and assigns them to the ENV Project Delivery Section Director, district core team member and individual ENV subject matter experts (SMEs).

If the draft EIS is not administratively complete, then:

- The ENV core team member does not create individual Reviews for the ENV Project Delivery Section Director, district core team member and individual ENV SMEs, and instead explains in his or her Review why the document is not administratively complete, and finalizes his or her Review with a "not approved" determination.
- The above steps are repeated until the ENV core team member determines that the draft EIS is administratively complete.

Technical review

5. The ENV core team member, the ENV Project Delivery Section Director, district core team member, and individual ENV SMEs complete their reviews of the draft EIS according to the instructions in the "Review Draft EIS" Activity Instructions.

Completion of technical review

6. Once the ENV core team member has finalized his or her Review, if there are pending comments on the draft EIS, the district environmental staff:

- prepares a new, revised version of the draft EIS that is responsive to the comments made;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns;
- creates a new "Submit Draft EIS" deliverable Activity;
- assigns the new "Submit Draft EIS" deliverable Activity to him or herself;
- uploads the new, revised version of the draft EIS and the completed comment response matrix under the new "Submit Draft EIS" deliverable Activity;
- finalizes this deliverable Activity; and
- creates a Review under the new "Submit Draft EIS" deliverable Activity, and assigns it to the ENV core team member.

7. ENV core team member creates Reviews of the new, revised version of the draft EIS and assigns them to the ENV Project Delivery Section Director, district core team member and any ENV SMEs that had made comments on the previous version.

8. If further revisions to the draft EIS are needed after this second round of reviews, the district environmental staff creates a new "Submit Draft EIS" deliverable Activity (on the Activities screen, click the "D+" next to the "Perform Draft EIS Preparation" Activity), uploads a new version of the draft EIS, and creates and assigns a Review to the ENV core team member for each new version of the draft EIS. The process set forth above is repeated until the ENV core team member has indicated in his or her Review that the draft EIS is "Approved no comments," and finalizes his or her Review.

9. The ENV core team member emails the draft EIS to TxDOT's General Counsel Division for review (this is not the formal legal sufficiency review that happens at the FEIS stage). GCD's comments, response to GCD's comments, revisions to the final EIS/ROD made in response to GCD's comments, and correspondence regarding GCD's comments and associated revisions and responses are not tracked in ECOS.

10. Once the General Counsel Division has completed its review and agrees with proceeding to pubic review of the draft EIS, the ENV core team member uploads under the latest "Submit Final EIS/Record of Decision (ROD)" deliverable Activity (1) the version of the final EIS/ROD that was approved by GCD with the phrase, "GCD-approved," at the beginning of the file name; and (2) an email from the General Counsel Division indicating that it has completed its review and agrees with proceeding to public review of the draft EIS.

12. ENV core team member provides (1) a hard copy of an email exchange or other written statement showing that both core team members have reviewed the draft EIS for both content and accuracy, and (2) a hard copy of the draft EIS cover page to the ENV Division Director for review and approval.

13. After the ENV Division Director has signed the draft EIS, the ENV core team member uploads the approved version of the draft EIS with the word, "Approved," at the beginning of the file name under the last "Submit Draft EIS" deliverable Activity.

14. ENV core team member fills-in the "Approval date of DEIS" field with the date that the ENV Division Director signed the draft EIS, and finalizes this "Perform Draft EIS Preparation" Activity.

Citation(s): NEPA (42 USC 4332), 43 TAC 2.84

"Perform EIS Scoping" Activity

Pre-notice of intent

1. District environmental staff discusses with the ENV core team member whether the project is a "major infrastructure project" under Executive Order 13807. If all three phases of the project (Engineering, Right-of-Way, and Construction) are NOT included in the FHWA-approved 4-year statewide transportation improvement program (STIP) (see TxDOT's eSTIP portal) then this project is not considered a "major infrastructure project" because it cannot be said that "the reasonable availability of funds sufficient to complete the project" have been identified (Executive Order 13807, Sec. 3(e)).

2. In the "Comments" field, district environmental staff indicates whether the project is a "major infrastructure project" under Executive Order 13807, and provides a brief explanation.

3. District environmental staff drafts purpose and need in accordance with **ENV's Preparing a Purpose and Need Statement Guidance** and emails to the ENV core team member for review.

4. District environmental staff prepares a coordination plan and schedule. The coordination plan is a plan for coordinating public and agency participation in and comment on the environmental review process for the project.

If the project is a "major infrastructure project" under Executive Order 13807, the schedule must be less than two years from notice of intent to FEIS/ROD, and must include a permitting timetable in accordance with Executive Order 13807.

5. District environmental emails the draft coordination plan and schedule to the ENV core team member for review.

6. District environmental staff identifies potential participating and cooperating agencies.

7. District environmental staff drafts letters or emails inviting entities to be participating or cooperating agencies, and emails to ENV core team member for review.

Post-notice of intent (all steps below take place after publication of the notice of intent)

Invitation for entities to be designated cooperating or participating agencies

8. Once ENV core team member has approved draft letters or emails inviting entities to be participating or cooperating agencies, district environmental staff mails letters or sends emails inviting entities to be participating or cooperating agencies (not later than 45 days after publication of NOI).

9. District environmental staff uploads the following under this Activity:

- letters or emails inviting entities to be participating or cooperating agencies; and
- responses from potential participating or cooperating agencies.

Circulation of draft coordination plan and schedule

10. After the ENV core team member has approved the draft coordination plan and schedule, the district environmental staff prepares letters or emails transmitting the draft coordination plan and schedule to participating/cooperating agencies and soliciting comments with a 30-day comment deadline, and emails to the ENV core team member for review.

11. After the ENV core team member has approved the letters or emails transmitting the draft coordination plan and schedule to participating/cooperating agencies, the district environmental staff sends the letters or emails to the participating/cooperating agencies no later than 90 days after publication of the notice of intent for the project.

12. District environmental staff uploads the following under this Activity:

- letters or emails transmitting the draft coordination plan and schedule to participating or cooperating agencies, and
- responses from participating or cooperating agencies.

Preparation for scoping meetings (includes invitation of cooperating and participating agencies to the agency scoping meeting)

13. District environmental staff drafts range of alternatives, and methodologies and level of detail for analyzing alternatives, and emails to the ENV core team member for review.

14. District environmental staff prepares letters or emails inviting participating and cooperating agencies to the agency scoping meeting, and emails to the ENV core team member for review (note that these letters or emails inviting the agencies to the scoping meeting may have been combined with the circulation of the draft coordination plan described above).

15. After the ENV core team member has approved the purpose and need, range of alternatives, methodologies and level of detail for analyzing alternatives, and the letters or emails inviting participating and cooperating agencies to the agency scoping meeting, the district environmental staff sends the letters or emails to the participating/cooperating agencies (note that these letters or emails inviting the agencies to the scoping meeting may have been combined with the circulation of the draft coordination plan described above).

16. District environmental staff uploads the following under this Activity:

- letters or emails inviting the participating or cooperating agencies to the agency scoping meeting (note that these letters or emails inviting the agencies to the scoping meeting may have been combined with the circulation of the draft coordination plan described above)

17. District environmental staff prepares public outreach materials for the public scoping meeting, and emails to the ENV core team member for review.

18. After the ENV core team member has reviewed the public outreach materials for the public scoping meeting, the district environmental staff conducts public outreach for the public scoping meeting.

Agency scoping meeting

19. At the agency scoping meeting, district environmental staff presents the following and solicits comments (comment deadline of 30 days):

- draft coordination plan and schedule;
- purpose and need;
- range of alternatives; and
- methodologies and level of detail for analyzing alternatives.

20. District environmental staff uploads the following under this Activity:

- letters or emails inviting participating or cooperating agencies to the agency scoping meeting;
- materials presented at the agency scoping meeting;
- sign-in sheet showing the names, contact information, and agency represented for each of the attendees at the agency scoping meeting;
- minutes from the agency scoping meeting, including any comments made verbally by agency representatives at the meeting; and
- written comments from participating or cooperating agencies.

Note that these Instructions are written to include only one agency scoping meeting. However, district environmental staff may hold multiple agency scoping meetings on an EIS project. If multiple agency scoping meetings are held, document them each separately as instructed above.

Public scoping meeting

21. At the public scoping meeting, district environmental staff presents the following and solicits comments (comment deadline of 30 days):

- draft coordination plan and schedule;
- purpose and need;
- range of alternatives; and
- methodologies and level of detail for analyzing alternatives.

22. District environmental staff follows the instructions in the “Perform Public Meeting” Activity Instructions with respect to the public scoping meeting.

Note that these Instructions are written to include only one public scoping meeting. However, district environmental staff may hold multiple public scoping meetings on an EIS project. If multiple public scoping meetings are held, document them each separately as instructed above, including creating a new “Perform Public Meeting” Activity for each public meeting held.

Finalize Coordination Plan and Schedule (includes transmittal of final coordination plan and schedule to cooperating and participating agencies)

23. District environmental staff prepares the following:

- final coordination plan and schedule, and
- transmittal letters or emails to transmit the final coordination plan and schedule to participating and cooperating agencies.

District environmental staff emails the above items to the ENV core team member for review.

24. After the ENV core team member has approved the above items, the district environmental staff sends the final coordination plan and schedule to the participating/cooperating agencies.

25. District environmental staff uploads the following under this Activity:

- letters or emails transmitting the final coordination plan and schedule to participating or cooperating agencies; and
- final coordination plan and schedule with the word, "Approved," at the beginning of the file name.

Finalization of Activity

26. Once all of the above-listed steps have been completed, the district environmental staff finalizes this Activity.

Citation: 43 TAC 2.84 & 2.103, 23 USC 139, 23 CFR 771.123

"Perform Endangered Species Act (ESA) Consultation Commitments" Activity

1. District environmental staff uses this Activity to document any commitments that result from a consultation with the USFWS under the Endangered Species Act, including:

- commitments made by TxDOT in its written communications to USFWS (e.g., voluntary conservation or reporting measures);
- conditions listed by USFWS in a concurrence letter (informal consultation); and/or
- reasonable and prudent measures listed by USFWS in a final biological opinion (formal consultation).

2. District environmental staff identifies in the "Comments" field whether the commitments resulting from a consultation with the USFWS under the Endangered Species Act include any compensatory mitigation (e.g., acquisition and preservation of habitat).

3. District environmental staff either lists the commitments from the consultation in the "Comments" field of this Activity, or uploads a list of the commitments from the consultation under this Activity. Regardless of which method is chosen, the commitments must be stated exactly as written in the source document (i.e., TxDOT or USFWS correspondence, or USFWS biological opinion).

4. District environmental staff notifies the appropriate ENV SME assigned to the respective district <u>after</u> the following conditions are satisfied:

- For consultation commitments that <u>will</u> be incorporated into the design or construction contract, such commitments have been communicated in writing to design or contracting staff, as appropriate, and district environmental staff has explained in the "Comments" field how and when such commitments were communicated to design or contracting staff.
- For consultation commitments that will <u>not</u> be incorporated into the design or construction contract (i.e., commitments that TxDOT staff or a separate environmental contractor will undertake), such commitments have been completed, and all documentation regarding compliance with consultation commitments (e.g., reports, surveys, etc.), including any correspondence with USFWS regarding such consultation commitments, have been uploaded under this Activity.

5. The appropriate ENV SME assigned to the respective district confirms completion of the consultation commitments, and finalizes this Activity.

Citation: 16 USC 1531 et seq., 50 CFR 402

"Perform Essential Fish Habitat (EFH) Analysis" Activity

1. District environmental staff determines whether the project may have an adverse effect on essential fish habitat (EFH).

"Adverse effect" means "any impact that reduces quality and/or quantity of EFH. Adverse effects may include direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components, if such modifications reduce the quality and/or quantity of EFH. Adverse effects to EFH may result from actions occurring within EFH or outside of EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions." 50 CFR § 600.10.

2. If district environmental staff determines that the project <u>will not have an adverse effect on EFH</u>, then district environmental staff:

- indicates in the "Comments" field of this Activity that the project will not have an adverse effect on EFH,
- provides an explanation in the "Comments" field for concluding that the project will not have an adverse effect on EFH, and
- finalizes this Activity.

3. If the project <u>may have an adverse effect on EFH</u>, then consultation with the NMFS is required. Follow the instructions for the Coordination below.

<u>Coordination with NMFS</u>

1. District environmental staff creates a "Coordinate Essential Fish Habitat (EFH)" Activity.

2. District environmental staff prepares an EFH assessment. The EFH assessment may be prepared as a relatively short email to NMFS, or a more detailed report, depending on the extent of impacts to EFH. The EFH assessment must include the following components (see 50 CFR 600.920(e)(3)):

- A description of the action.
- An analysis of the potential adverse effects of the action on EFH and the managed species.
- TxDOT's conclusions regarding the effects of the action on EFH.
- Proposed mitigation, if applicable.

Additionally, if appropriate, the EFH assessment must also include:

- The results of an on-site inspection to evaluate the habitat and the site-specific effects of the project.
- The views of recognized experts on the habitat or species that may be affected.
- A review of pertinent literature and related information.
- An analysis of alternatives to the action. Such analysis must include alternatives that could avoid or minimize adverse effects on EFH.
- Other relevant information.

3. District environmental staff may, at its discretion, create a Review of the EFH assessment and assign it to the appropriate ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review (if one was created), if there are pending comments, the district environmental staff may:

- prepare a new, revised version of the EFH assessment that is responsive to the comments made and uploads it under this Activity;
- complete a comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

4. Once the ENV SME has no further comments and has finalized his or her Review (if one was created) district environmental staff transmits the EFH assessment to NMFS at least 60 days prior to the anticipated environmental clearance date (i.e., CE determination, FONSI, or FEIS/ROD).

5. NMFS must respond within 30 days of receipt of the EFH assessment.

6. If NMFS provides written conservation recommendations, district environmental staff must respond to the NMFS's conservation recommendations in writing within 30 days. The written response to NMFS's conservation recommendations must contain the following information:

- a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on EFH; and
- if TxDOT's response is inconsistent with NMFS's conservation recommendations, the response must explain TxDOT's reasons for not following the recommendations, including the scientific justification for any disagreements with NMFS over the anticipated effects of the action and the measures needed to avoid, minimize, mitigate, or offset such effects. 50 CFR 600.920(k).

7. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The district environmental staff fills-in the correspondence details for each letter or email sent to or from NMFS.

8. District staff uploads the transmitted EFH and any additional correspondence with NMFS under this Coordination.

9. In the Coordination, the district environmental staff selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

<u>Finalizing this Activity</u>

1. If applicable, district environmental staff creates a "Perform Non-Endangered Species Act (ESA) Biology Commitments" Activity to track any resulting commitment that will be carried-out by district environmental staff related to EFH. This Activity is not used to record and track BMPs and other commitments that will be the responsibility of design, construction, or maintenance personnel. Those commitments must be included in project plans, general notes, and specifications as appropriate.

2. District environmental staff finalizes this Activity.

Citation: 16 USC 1801, 16 USC 1855(b)(1)(B), 50 CFR 600.05-600.930 (specifically 600.920)

"Perform Farmland Protection Policy Act (FPPA) Analysis" Activity

1. District environmental staff determines whether the project is a corridor or non-corridor project, which determines the type of Farmland Conversion Impact Rating Form to be used (AD-1006 or NRCS CPA-106). Projects that have a linear or corridor-type site configuration connecting two distant points, and crossing several different tracts of land (i.e., typical widening or new location highway projects) are considered "corridor" projects and must use the corridor form NRCS CPA-106. Projects that will take place a discrete location and are do not have a linear or corridor-type site configuration (e.g., bridge replacement projects with no or little associated highway work) are considered "non-corridor" projects and must use form AD-1006. Complete Parts I, III, and VI of the appropriate NRCS form.

2. District environmental staff may, at his or her discretion, upload the draft Farmland Conversion Impact Rating Form, and create a Review of the draft Form and assign it to the appropriate ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff may:

- prepare a new, revised version of the draft Farmland Conversion Impact Rating Form that is responsive to the comments made and uploads it under this Activity;
- complete a comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assign it to the ENV SME.

Once the ENV SME has no further comments and has finalized his or her Review (if one was created), district environmental staff proceeds as instructed below.

3. <u>If the site assessment score in Part VI is 59 points or less</u>, no further consideration under FPPA is needed and the project does not require coordination with the NRCS. District environmental staff documents that the "project activities meet the FPPA exemption criteria" in the "Comments" field, uploads the completed Farmland Conversion Impact Rating Form under this Activity, and finalizes this Activity.

<u>If the site assessment score in Part VI is 60 points or greater</u>, then coordination with the NRCS is required. See Coordination steps below. District environmental staff finalizes this Activity only after the Coordination has been completed.

<u>Coordination</u>

1. District environmental staff creates a "Coordinate Farmland Policy Protection Act (FPPA)" Coordination.

2. District environmental staff submits the completed Farmland Conversion Impact Rating Form and a map of the project area to the NRCS State Office in Temple, Texas:

NRCS Texas State Office
101 South Main Street
Temple, TX 76501

3. The NRCS soil science staff will complete Parts II, IV, and V of the form. The results of their analysis will be recorded in Part V of the form, and the form will be returned to TxDOT.

If the NRCS determination of effect of the conversion has a total score of 159 or less, then district environmental staff documents that "this project received a total score of less than 160 on the NRCS form and therefore need not be given further consideration for protection and no additional sites need to be evaluated" in the "Comments" field of this Activity.

If the NRCS determination of effect of the conversion has a total score of 160 or greater, then district environmental staff must consider the NRCS recommendations for minimizing the adverse effects and alternative actions to lessen the conversion's adverse effects to protected farmland. Document what was considered and why or why not measures to minimize the effects were or were not implemented in the "Comments" field of this Activity, or indicate in the "Comments" field of this Activity that documentation of consideration of NRCS recommendations is included in the EA or EIS, if applicable.

If the NCRS does not return the form to TxDOT within 30 days of when it was provided to NRCS, then district environmental staff records the expiration of the review period by adding a correspondence entry under the Correspondence Details and selecting, "No Response received – review time expired," from the drop-down for the field labeled, "Correspondence Status."

4. If requested by the NRCS, district environmental staff must respond to NRCS recommendations in writing, including completing Section VII of the form and returning the form (yet again) to NRCS, if specifically requested by NRCS.

5. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The district environmental staff fills-in the correspondence details for each letter or email sent to or from the NRCS.

6. The district environmental staff uploads each email or letter to or from TxDOT and the NRCS under the Coordination.

7. In the Coordination, the district environmental staff selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

Citation: 7 USC 4201-4209; 7 CFR 657 and 658

"Perform Final EA Preparation" Activity

1. After the public hearing documentation or opportunity for public hearing documentation has been completed and approved by the ENV core team member, and after all Activities with a milestone of "Prior to Environmental Clearance" are finalized, district environmental staff prepares the final EA in accordance with **ENV's Environmental Handbook: Preparing an Environmental Assessment**, **ENV's Environmental Assessment Outline**, and **ENV's Environmental Assessment Cover Page**. The final EA will include any changes resulting from public comment received in connection with the public hearing or opportunity for public hearing.

2. District environmental staff:

- creates the "Submit Final EA" deliverable Activity (on the Activities screen, click the "D+" next to the "Perform Final EA Preparation" Activity),
- assigns this "Submit Final EA" deliverable Activity to him or herself,
- uploads the final EA under the "Submit Final EA" deliverable Activity, and
- finalizes the "Submit Final EA" deliverable Activity.

3. District environmental staff creates a Review of the final EA under the "Submit Final EA" deliverable Activity, and assigns it to the ENV core team member.

4. The ENV core team member creates individual Reviews of the final EA under the "Submit Final EA" deliverable Activity, and assigns them to the district core team member and individual ENV subject matter experts (SMEs) for resource areas for which there have been changes from the draft EA to the final EA.

5. The ENV core team member, district core team member, and individual ENV SMEs complete their reviews of the final EA according to the instructions in the "Review Final EA" Activity Instructions.

6. Once the ENV core team member has finalized his or her Review, if there are pending comments on the final EA, the district environmental staff:

- prepares a new, revised version of the final EA that is responsive to the comments made;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns;
- creates a new "Submit Final EA" deliverable Activity;
- assigns the new "Submit Final EA" deliverable Activity to him or herself;
- uploads the new, revised version of the final EA and the completed comment response matrix under the new "Submit Final EA" deliverable Activity;
- finalizes this deliverable Activity; and
- creates a Review under the new "Submit Final EA" deliverable Activity, and assigns it to the ENV core team member.

7. ENV core team member creates Reviews of the new, revised version of the final EA and assigns them to the district core team member and any ENV SMEs that had made comments on the previous version.

8. If further revisions to the final EA are needed after this second round of reviews, the district environmental staff creates a new "Submit Final EA" deliverable Activity (on the Activities screen, click the "D+" next to the "Perform Final EA Preparation" Activity), uploads a new version of the EA, and creates and assigns a Review to the ENV core team member for each new version of the final EA. The process set forth above is repeated until the ENV core team member has indicated in his or her Review that the final EA is "Approved no comments," and finalizes his or her Review.

9. The ENV core team member confirms the following:

- the planning consistency documents uploaded under the "Obtain Planning Consistency" Activity and appended to the Final EA are consistent and accurate; and
- any needed Activities with milestones of "Prior to LOA," "Prior to Construction," "During Construction," or "Post-Construction" have been created.

10. Once the ENV core team member has no further comments on the final EA, and has confirmed all of the above, the ENV core team member prepares a draft FONSI using **ENV's Finding of No Significant Impact for State or FHWA Project template**, uploads the draft FONSI under the most recent "Submit Final EA" deliverable with the word "Draft" in the file name, and assigns a Review to the ENV Project Delivery Section Director.

11. If the ENV Project Delivery Section Director has comments on the final EA and/or draft FONSI, then the district environmental staff creates a new "Submit Final EA" deliverable Activity (on the Activities screen, click the "D+" next to the "Perform Final EA Preparation" Activity), uploads the final EA and draft FONSI (even if changes were made to only one of them), and creates and assigns a Review to the ENV Project Delivery Section Director.

12. Once the ENV Project Delivery Section Director has no further comments on the final EA and the draft FONSI, the ENV Project Delivery Section Director finalizes his or her Review (selecting "Approved no comments"), and notifies the ENV core team member that the final EA and FONSI are ready for review and approval by the ENV Division Director.

13. ENV core team member uploads the approved version of the final EA with the words, "Approved Final EA" at the beginning of the file name under the most recent "Submit Final EA" deliverable activity, and provides (1) a hard copy of an email exchange or other written statement showing that both core team members have reviewed the final EA and FONSI for both content and accuracy, and (2) a hard copy of the draft FONSI to the ENV Division Director for review and approval. The ENV core team member also explains to the ENV Division Director whether the project is an FHWA project that is of a type for which an EIS would normally be required according to 23 C.F.R. §771.115(a), and therefore a 30-day wait period before signing the FONSI is required.

14. <u>For an FHWA project that is of a type for which an EIS would normally be required according to 23 C.F.R. §771.115(a)</u>, once the ENV Division Director has indicated that he or she is ready to sign the FONSI, the ENV core team member directs district environmental staff to issue a notice of availability of the final EA prior to the ENV Division Director actually signing the FONSI. The notice of availability of the final EA is tracked under the "Perform Notice of Availability (NOA) for Final EA listed at 23 CFR 771.115(a)" Activity. The ENV core team member must wait 30 days after the NOA is issued before requesting that the ENV Division Director sign the FONSI, for

which there will be a separate NOA tracked under the "Perform FONSI Notice of Availability (NOA)" Activity.

15. After the ENV Division Director has signed the FONSI, the ENV core team member uploads the signed FONSI with the word, "Approved," at the beginning of the file name under the most recent "Submit Final EA" deliverable activity.

16. ENV core team member fills-in the "Finding of No Significant Impact Date" field with the date that the ENV Division Director signed the FONSI. If the applicable deadline under Transportation Code 201.759 was missed, then the ENV core team member selects, "No," in the drop-down menu for field labeled, "Was the applicable deadline at Transportation Code 201.759 met?" The ENV core team member then finalizes this "Perform Final EA Preparation" Activity. Finalizing this Activity will automatically update the "Environmental Clearance Date" on WPD I and the "Env NEPA Clear Date" in DCIS (updates to DCIS typically occur overnight).

17. ECOS will send an email to the "Sponsor Point of Contact" and "District Core Team Member" listed on WPD I notifying them of the environmental clearance of the project.

Citation(s): NEPA (42 USC 4332), 43 TAC 2.83

"Perform Final EIS/Record of Decision (ROD) Preparation" Activity

The final EIS and ROD must be combined into one document, except in the following unusual circumstances:

- the final EIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or
- there are significant new circumstances or information relevant to environmental concerns that bear on the proposed action or the impacts of the proposed action.

The process outlined immediately below is for the normal circumstance of a combined final EIS/ROD. Special instructions for the unusual circumstance of a separate final EIS and ROD are provided at the end of these Activity Instructions.

<u>Combined final EIS/ROD</u>

1. After the public hearing documentation has been completed and approved by the ENV core team member, and after all Activities with a milestone of "Prior to Env Clearance*" are finalized, district environmental staff prepares the final EIS/ROD in accordance with **ENV's Guidance – Assembling a Combined Final Environmental Impact Statement/Record of Decision**. The final EIS/ROD will include any changes resulting from public comment received in connection with the public hearing. The text of the final EIS (not counting the ROD) must be less than 150 pages in length, or less than 300 pages in length if the project is of unusual scope or complexity (not including the executive summary, appendices, or materials incorporated by reference).

2. District environmental staff:

- creates the "Submit Final EIS/Record of Decision (ROD)" deliverable Activity (on the Activities screen, click the "D+" next to the "Perform Final EIS/Record of Decision (ROD) Preparation" Activity),
- assigns the "Submit Final EIS/Record of Decision (ROD)" deliverable Activity to him or herself,
- uploads the final EIS/ROD under the "Submit Final EIS/Record of Decision (ROD)" deliverable Activity, and
- finalizes the "Submit Final EIS/Record of Decision (ROD)" deliverable Activity.

3. District environmental staff creates a Review of the final EIS/ROD under the "Submit Final EIS/Record of Decision (ROD)" deliverable Activity and assigns it to the ENV core team member.

4. The ENV core team member creates individual Reviews of the final EIS/ROD under the "Submit Final EIS/Record of Decision (ROD)" deliverable Activity and assigns them to the ENV Project Delivery Section Director, district core team member, and individual ENV subject matter experts (SMEs) for resource areas for which there have been changes from the draft EIS to the final EIS.

5. The ENV core team member, the ENV Project Delivery Section Director, district core team member, and individual ENV SMEs complete their reviews of the final EIS/ROD according to the instructions in the "Review Final EIS/ROD" Activity Instructions.

6. Once the ENV core team member has finalized his or her Review, if there are pending comments on the final EIS/ROD, the district environmental staff:

- prepares a new, revised version of the final EIS that is responsive to the comments made;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns;
- creates a new "Submit Final EIS/Record of Decision (ROD)" deliverable Activity;
- assigns the new "Submit Final EIS/Record of Decision (ROD)" deliverable Activity to him or herself;
- uploads the new, revised version of the final EIS and the completed comment response matrix under the new "Submit Final EIS/Record of Decision (ROD)" deliverable Activity;
- finalizes this deliverable Activity; and
- creates a Review under the new "Submit Final EIS/Record of Decision (ROD)" deliverable Activity, and assigns it to the ENV core team member.

7. ENV core team member creates Reviews of the new, revised version of the final EIS/ROD and assigns them to the ENV Project Delivery Section Director, district core team member and any ENV SMEs that had made comments on the previous version.

8. If further revisions to the final EIS/ROD are needed after this second round of reviews, the district environmental staff creates a new "Submit Final EIS/Record of Decision (ROD)" deliverable Activity (on the Activities screen, click the "D+" next to the "Perform Final EIS/Record of Decision (ROD) Preparation" Activity), uploads a new version of the final EIS/ROD, and creates and assigns a Review to the ENV core team member for each new version of the final EIS/ROD. The process set forth above is repeated until the ENV core team member has indicated in his or her Review that the final EIS/ROD is "Approved no comments," and finalizes his or her Review.

9. The ENV core team member emails the final EIS/ROD to TxDOT's General Counsel Division for legal sufficiency review. GCD's comments, response to GCD's comments, revisions to the final EIS/ROD made in response to GCD's comments, and correspondence regarding GCD's comments and associated revisions and responses are not tracked in ECOS.

10. Once the General Counsel Division determines that the final EIS/ROD is legally sufficient, ENV core team member uploads under the latest "Submit Final EIS/Record of Decision (ROD)" deliverable Activity (1) the version of the final EIS/ROD that was determined to be legally sufficient by GCD with the phrase, "GCD-approved," at the beginning of the file name; and (2) an email from the General Counsel Division indicating that legal sufficiency review is complete and that the final EIS/ROD is legally sufficient.

11. The ENV core team member confirms the following:

- the planning consistency documents uploaded under the "Obtain Planning Consistency" Activity and appended to the final EIS/ROD are consistent and accurate; and

- any needed Activities with milestones of "Prior to LOA," "Prior to Construction," "During Construction," or "Post-Construction" have been created.

12. ENV core team member provides (1) a hard copy of an email exchange or other written statement showing that both core team members have reviewed the final EIS/ROD for both content and accuracy, and (2) a hard copy of the final EIS/ROD cover page to the ENV Division Director for review and approval.

13. After the ENV Division Director has signed the final EIS/ROD, the ENV core team member uploads the signed final EIS/ROD with the word, "Approved," at the beginning of the file name under the most recent "Submit Final EIS/Record of Decision (ROD)" deliverable Activity.

14. ENV core team member fills-in the "Record of Decision (ROD) Date" field with the date the ENV Director signs the final EIS/ROD. If the applicable deadline under Transportation Code 201.759 was missed, then the ENV core team member selects, "No," in the drop-down menu for field labeled, "Was the applicable deadline at Transportation Code 201.759 met?" The ENV core team member then finalizes this "Perform Final EIS/Record of Decision (ROD) Preparation." Finalizing this Activity will automatically update the "Environmental Clearance Date" on WPD I and the "Env NEPA Clear Date" in DCIS (updates to DCIS typically occur overnight).

15. ECOS will send an email to the "Sponsor Point of Contact" and "District Core Team Member" listed on WPD I notifying them of the environmental clearance of the project.

<u>Separate final EIS and ROD</u>

1. In the unusual circumstance of a separate final EIS and ROD, there will be separate pdf documents of the final EIS and the ROD. Complete Steps 1 through 11 above for both documents, except that GCD's legal sufficiency email need only address the final EIS.

2. After both the final EIS and the ROD have been approved by the General Counsel Division, the ENV core team member provides (1) a hard copy of an email exchange or other written statement showing that both core team members have reviewed the final EIS and the ROD for both content and accuracy, and (2) hard copies of the final EIS cover page and the ROD to the ENV Division Director for review and approval.

3. Once the ENV Division Director has determined that the final EIS and ROD are approved, the ENV Division Director signs the final EIS.

4. The ENV core team member uploads the signed final EIS with the word, "Approved," at the beginning of the file name under the most recent "Submit Final EIS/Record of Decision (ROD)" deliverable Activity.

5. The ENV core team member directs the district environmental staff to issue a notice of availability of the final EIS. The notice of availability of the final EIS is tracked under the "Perform Final EIS/ROD Notice of Availability (NOA)" Activity. The ENV core team member must wait 30 days after the NOA is issued before requesting that the ENV Division Director sign the ROD.

6. Once 30 days have passed since the issuance of the NOA of the final EIS, the ENV Division Director signs the ROD.

7. After the ENV Division Director has signed the ROD, the ENV core team member uploads the signed ROD with the word, "Approved," at the beginning of the file name under the most recent "Submit Final EIS/Record of Decision (ROD)" deliverable Activity.

8. ENV core team member fills-in the "Record of Decision (ROD) Date" field with the date the ENV Director signs the ROD. If the applicable deadline under Transportation Code 201.759 was missed, then the ENV core team member selects, "No," in the drop-down menu for field labeled, "Was the applicable deadline at Transportation Code 201.759 met?" The ENV core team member then finalizes this "Perform Final EIS/Record of Decision (ROD) Preparation." Finalizing this Activity will automatically update the "Environmental Clearance Date" on WPD I and the "Env NEPA Clear Date" in DCIS (updates to DCIS typically occur overnight).

9. ECOS will send an email to the "Sponsor Point of Contact" and "District Core Team Member" listed on WPD I notifying them of the environmental clearance of the project.

10. The ENV core team member directs the district environmental staff to issue a notice of availability of the ROD. The notice of availability of the ROD is tracked under a new "Perform Final EIS/ROD Notice of Availability (NOA)" Activity.

Citation(s): NEPA (42 USC 4332), 43 TAC 2.84

"Perform Final EIS/ROD Notice of Availability (NOA)" Activity

The final EIS and ROD must be combined into one document, except in the following unusual circumstances:

- the final EIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or
- there are significant new circumstances or information relevant to environmental concerns that bear on the proposed action or the impacts of the proposed action.

The process outlined immediately below is for the normal circumstance of a combined final EIS/ROD. Special instructions for the unusual circumstance of a separate final EIS and ROD are provided at the end of these Activity Instructions.

<u>Combined final EIS/ROD</u>

1. District environmental staff drafts the NOA of the final EIS/ROD using **ENV's Template: FEIS/ROD Notice of Availability**.

2. District environmental staff:

- emails the NOA to the ENV core team member, so that the ENV core team member can arrange for publication in the Texas or Federal Register as indicated below;
- provides the NOA to the MPO (by U.S. Mail or email);
- provides the NOA to any other affected units of federal, state, and local government (by U.S. Mail or email);
- provides the NOA to any entities that have requested in writing to receive notices regarding the environmental review of the project (by U.S. Mail or email);
- provides the NOA to any other entities with which environmental review of the project is being coordinated (by U.S. Mail or email), except that if the project is being coordinated under a memorandum of understanding (MOU), the terms of the MOU govern;
- provides the NOA to any persons, organizations, or agencies that made substantive comments on the draft EIS or requested a copy (by U.S. Mail or email);
- publishes the NOA in a local newspaper having general circulation in the area affected by the project (or if there is no local newspaper in the area affected by the project, the project sponsor publishes the NOA in any newspaper having general circulation in the area affected by the project); and
- posts the NOA on TxDOT's website.

3. District environmental staff uploads documentation of compliance with the above requirements under this Activity.

4. <u>For a state project</u>, the ENV core team member emails the NOA to the General Counsel Division for publication in the Texas Register, at least two weeks prior to the intended publication date. Once the notice has been published in the Texas Register, the ENV core team member notifies the district environmental staff that the notice has been published, and uploads the published notice under this Activity.

For an FHWA project, the ENV core team member uses e-NEPA to publish the NOA in the Federal Register. Once the notice has been published in the Federal Register, the ENV core team member notifies the district environmental staff that the notice has been published, and uploads the published notice under this Activity.

5. Once the district environmental staff has confirmed that all of the above requirements have been fulfilled, the district environmental staff finalizes this Activity.

Separate final EIS and ROD

In the unusual circumstance of a separate final EIS and ROD, there will be one NOA for the final EIS, and another NOA for the ROD.

Final EIS NOA

1. District environmental staff drafts the NOA of the final EIS by modifying **ENV's Template: FEIS/ROD Notice of Availability** to refer only to the final EIS.

2. District environmental staff and the ENV core team member complete Steps 2 through 5 above, with the only change being that the NOA is just for the final EIS, not a combined final EIS/ROD.

ROD NOA

1. District environmental staff creates a new "Perform Final EIS/ROD Notice of Availability (NOA)" Activity for the NOA for the ROD.

2. District environmental staff drafts the NOA of the ROD by modifying **ENV's Template: FEIS/ROD Notice of Availability** to refer only to the ROD.

3. District environmental staff:

- provides the NOA to the MPO (by U.S. Mail or email);
- provides the NOA to affected units of federal, state, and local government (by U.S. Mail or email);
- provides the NOA to any entities that have requested in writing to receive notices regarding the environmental review (by U.S. Mail or email);
- provides the NOA to any other entities with which environmental review of the project is being coordinated (by U.S. Mail or email), except that if the project is being coordinated under a memorandum of understanding (MOU), the terms of the MOU govern; and
- posts the NOA on TxDOT's website.

4. District environmental staff uploads documentation of compliance with the above requirements under this Activity and finalizes this Activity.

Citation: 43 TAC 2.108(c), 23 CFR 771.123(g) & (i) and 771.125(e) & (f), 40 CFR 1506.10

"Perform FONSI Notice of Availability (NOA)" Activity

1. District environmental staff drafts the NOA of the FONSI using **ENV's Template: FONSI Notice of Availability**.

2. District environmental staff:

- provides the NOA to the MPO (by U.S. Mail or email);
- provides the NOA to affected units of federal, state, and local government (by U.S. Mail or email);
- provides the NOA to any entities that have requested in writing to receive notices regarding the environmental review (by U.S. Mail or email);
- provides the NOA to any other entities with which environmental review of the project is being coordinated (by U.S. Mail or email), except that if the project is being coordinated under a memorandum of understanding (MOU), the terms of the MOU govern; and
- posts the NOA on TxDOT's website.

3. District environmental staff uploads documentation of compliance with the above requirements under this Activity, and finalizes this Activity.

Citation: 43 TAC 2.108(c)

"Perform Haz Mat Initial Site Assessment (ISA)" Activity

1. District environmental staff completes **ENV's Hazardous Materials Initial Site Assessment form** and uploads the form under this Activity.

2. District environmental staff may, at its discretion, create a Review of the Hazardous Materials Initial Site Assessment form under this Activity and assign it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the Hazardous Materials Initial Site Assessment form that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

3. Once the ENV SME has no further comments and has finalized his or her Review (if a Review was created), district environmental staff uploads the final Hazardous Materials Initial Site Assessment form with the word, "Approved," at the beginning of the file name, and finalizes this Activity.

4. If Section 8.3 of the Hazardous Materials Initial Site Assessment form indicates that there <u>are</u> one or more unresolved hazardous materials concerns requiring additional investigations or assessments, then district environmental staff creates the "Perform Haz Mat Issue Identification and Resolution (IIR)" Activity.

5. If an EA or EIS is being prepared for the project, <u>and</u> if Section 8.3 of the Hazardous Materials Initial Site Assessment form indicates that there are <u>not</u> one or more unresolved hazardous materials concerns requiring additional investigations or assessments, then district environmental staff prepares a summary of the hazardous materials investigation and conclusions to be included in the appropriate section of the EA or EIS using **ENV's Hazardous Materials in Project Development – Environmental Documentation**.

"Perform Haz Mat Issue Identification and Resolution (IIR)" Activity

District environmental staff uses this Activity to track the status of each unresolved issue identified in Section 8.1 of the Hazardous Materials Initial Site Assessment form. District environmental staff may, with an ENV SME's permission, assign this Activity to an ENV SME, in which case the ENV SME will complete the process set forth below instead of district environmental staff.

Initial IIR Activity Creation

1. For each unresolved issue identified in Section 8.1 of the Hazardous Materials Initial Site Assessment form, district environmental staff or the ENV SME completes the following steps.

2. District environmental staff or the ENV SME selects the drop-down response for the "Issue Type" field that corresponds to the Type of Concern for the issue as indicated in Section 8.1 of the Hazardous Materials Initial Site Assessment form. The drop-down options are:

- "Oil and Gas Activity Concerns"
- "Petroleum Storage Tanks (PST)"
- "Leaking Petroleum Storage Tanks (LPST)"
- "Landfills/Waste Pits/Dump Site Concerns"
- "Non-LPST Source of Contamination Concerns"
- "Other"

3. District environmental staff or the ENV SME selects "Under Investigation" from the drop-down options for the "Issue Status" field.

4. District environmental staff or the ENV SME specialist fills-in a unique name for the issue for the "Issue Name" field.

5. District environmental staff or the ENV SME fills-in a description of the issue in the "Issue Description" field. The information placed in this field may be cut and paste from the "Explain Unresolved or Resolved Issues" field from Section 8.1 of the Hazardous Materials Initial Site Assessment form.

6. District environmental staff or the ENV SME clicks the "Add" button. This allows the issue to move into the table of issues below the shaded line.

7. District environmental staff or the ENV SME performs steps 2-6 above for each unresolved issue identified in Section 8.1 of the Hazardous Materials Initial Site Assessment form.

8. District environmental staff may, at its discretion, ask the appropriate resource area ENV SME assigned to the respective district to look at this Activity to ensure that it has been filled-out correctly. This would be done outside of ECOS either by email or telephone conversation.

Updating individual issues within the IIR Activity table

1. When new information is obtained about an issue in the IIR table, but the issue has not yet been fully resolved, district environmental staff or the ENV SME selects the edit icon under the "Actions" column for the issue requiring an update.

2. District environmental staff or the ENV SME specialist updates the IIR Activity by adding additional information in the "Issue Description" field, which should show progression toward resolution. There are no required inputs for this field and notes entered are at the discretion of the district environmental staff or ENV SME.

Resolving individual issues within the IIR Activity table

1. District environmental staff or the ENV SME selects the edit icon under the "Actions" column for the issue requiring an update.

2. District environmental staff or the ENV SME selects "Resolved" from the drop-down responses for the "Issue Status" field.

3. District environmental staff or the ENV SME updates the "Issue Description" field by providing a reason for resolving the issue. The reason provided shall be descriptive enough to justify no additional investigations into the issue. If the resolution of the issue is based on some documentation (e.g., TCEQ record, testing report, or remediation report), then upload the documentation under this Activity.

4. District environmental staff may, at its discretion, create a Review under this Activity and assign it to the appropriate resource area ENV SME assigned to the respective district in order to have the ENV SME review the explanation and/or documentation supporting the resolution of the issue. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

5. Changing the "Issue Status" to "Resolved" will automatically change the value in the "Validation" column of the table from "N" to "Y."

Preparation of summary for EA or EIS

1. If an EA or EIS is being prepared for the project, district environmental staff prepares a summary of the hazardous materials investigation and conclusions to be included in the appropriate section of the EA or EIS using **ENV's Hazardous Materials in Project Development – Environmental Documentation**.

Finalizing the IIR Activity

1. Once all issues in the table have been resolved and their respective "Issue Status" has been updated to "Resolved," district environmental staff or the ENV SME finalizes this Activity. The system will prevent this Activity from being finalized until the value for each issue in the table under the "Validation" column has been changed to "Y," reflecting that that the required fields for the issue have been completed and the "Issue Status" has been changed to "Resolved."

"Perform Historical Studies Intensive Survey" Activity

1. District environmental staff prepares an historical studies intensive survey according to **ENV's Documentation Standard and Report Template for Preparing an Historic Resources Survey Report.** Alternatively, district environmental staff may request that the appropriate ENV SME prepare the historical studies intensive survey.

Regardless of whether the historical studies intensive survey is prepared by district environmental staff or an ENV SME, it must be prepared by a professional that meets the Secretary of the Interior's Professional Qualification Standards.

2. District environmental staff or the ENV SME (depending on who prepared the document) uploads the historical studies intensive survey under this Activity using this file naming convention: HIST IS CSJ MM-YY (e.g., HIST IS 2222-15-027 02-19).

3. District environmental staff or the ENV SME (depending on who prepared the document) creates a Review of the historical studies intensive survey under this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff or ENV SME (depending on who prepared the document):

- prepares a new, revised version of the historical studies intensive survey that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

4. Once the ENV SME has no further comments and has finalized his or her Review, the district environmental staff or the ENV SME (depending on who prepared the document) uploads the final historical studies intensive survey with the word, "Approved," at the beginning of the file name.

5. The ENV SME does the following:

- creates one or more of the following Coordinations based on **ENV's Historical Studies Analysis Tool**:
  - Environmental – Historical (ENV-H)
  - Texas Historical Commission – Historical (THC-H)
  - Texas Historical Commission – Architecture (THC-R)
  - Advisory Council on Historic Preservation (ACHP)
  - County Historical Commission (CHC)
  - Certified Local Government (CLG)
  - Historical Consulting Parties (CPL-H)
- proceeds according to the Coordination instructions below;
- creates the "Perform Historical Studies Mitigation" Activity (for any adverse effects);
- creates the "Perform Historical Studies Monitoring Commitment" Activity (for non-adverse effects, if appropriate);
- creates the "Obtain Section 4(f) Approval" Activity (if appropriate);

- creates the "Perform Chapter 26 Analysis" Activity (if appropriate);
- notifies the district environmental staff of any newly created Activity(ies)); and
- after all Coordinations are finalized, finalizes this Activity.

ENV-H In-House Coordination Process

If the ENV SME determines that the project can be coordinated internally based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Signed memo from ENV SME

Follow the steps below to conduct the coordination.

1. The ENV SME prepares a memo according to **ENV's Template for Stipulation IX Memo**.

2. The ENV SME emails the memo to the ENV SME team lead for review and signature.

3. Once the ENV SME team lead has signed the memo, the ENV SME team lead returns the memo to the ENV SME.

4. In the Coordination, the ENV SME selects the drop-down response "Environmental – Historical (ENV-H)" for the "Agency Name" field.

5. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details as follows:

- For the "Correspondence Status" field, the ENV SME selects, "Response received – no further action", using the drop-down menu.
- For the "Correspondence Method" field, the ENV SME selects, "Letter", using the drop-down menu.
- For the "Correspondence Date" field, the ENV SME enters the date the memo was signed by the ENV CRM Section Director.
- For the "Correspondence From" field, the ENV SME enters "TxDOT."
- For the "Correspondence To" field, the ENV SME enters "TxDOT."

6. The ENV SME uploads a copy of the signed memo under the Coordination using the following naming convention: "Approved_HIST IM CSJ MM-YY" (e.g. Approved_HIST IM 2222-15-027 02-19).

7. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

8. The ENV SME finalizes the Coordination.

THC/TSHPO Coordination process

If the ENV SME determines that the project must be coordinated with the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Consultation letter signed by the THC/TSHPO
- Any other correspondence documenting decision-making to or from TxDOT or the THC/TSHPO

Follow the steps below to conduct the coordination.

1. The ENV SME prepares a consultation letter as appropriate using one of the following templates:
- **ENV's Template for Section 106 Projects Letter**
- **ENV's Template for 4f Exception Letter (Joint 106 and 4f)**
- **ENV's Template for 4f De Minimis Letter (Joint 106 and 4f)**
- **ENV's Template for Programmatic Bridge 4f Letter (Joint 106 and 4f)**

2. The ENV SME emails the consultation letter to the ENV SME team lead for review and approval.

3. Once the ENV SME team lead has approved the consultation letter by initialing it, the ENV SME team lead returns the consultation letter to the ENV SME.

4. The ENV SME emails the consultation letter to the ENV CRM Section Director for review and approval.

5. Once the ENV CRM Section Director has approved the consultation letter by initialing it, the ENV CRM Section Director returns the consultation letter to the ENV SME.

6. The ENV SME signs the consultation letter and transmits the consultation letter and historical studies intensive survey to the THC/TSHPO via the THC eTRAC System.

7. The THC/TSHPO reviews the letter and historical studies intensive survey and requests clarifications from the authoring ENV SME as necessary.

8. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

9. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

10. In the Coordination, the ENV SME selects the drop-down response "Texas Historical Commission – Historical (THC-H)" or "Texas Historical Commission – Architecture (THC-R)" for the "Agency Name" field, depending on **ENV's Historical Studies Analysis Tool**.

11. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using "TxDOT" to refer to TxDOT and "THC" to refer to the THC/TSHPO in the "Correspondence From" and "Correspondence To" fields.

12. The ENV SME uploads the consultation letter signed by the THC under the Coordination using the following file naming convention: "Approved_HIST THC CSJ MM-YY" (e.g., Approved_HIST THC 2222-15-027 02-19).

13. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination.

14. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

15. The ENV SME finalizes the Coordination.

<u>Advisory Council on Historic Preservation (ACHP) Coordination process</u>

If the ENV SME determines that the project must be coordinated with the Advisory Council on Historic Preservation (ACHP) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Completed ACHP consultation form
- Consultation letter signed by the ACHP
- Any other correspondence documenting decision-making to or from TxDOT or the ACHP

Follow the steps below to conduct the coordination.

1. The ENV SME completes the ACHP's consultation form.

2. The ENV SME emails the completed ACHP consultation form to the ENV SME team lead for review and approval.

3. Once the ENV SME team lead has approved the completed ACHP consultation form, the ENV SME team lead returns the completed ACHP consultation form to the ENV SME.

4. The ENV SME emails the completed ACHP consultation form to the ENV CRM Section Director for review and approval.

5. Once the ENV CRM Section Director has approved the completed ACHP consultation form, the ENV CRM Section Director returns the completed ACHP consultation form to the ENV SME.

6. The ENV SME transmits the completed ACHP consultation form to the ACHP at the following address: e106@achp.gov and uploads the completed ACHP consultation form under the Coordination.

7. The ACHP reviews the completed ACHP consultation form and requests clarifications from the ENV SME as necessary.

8. The ENV SME transmits to the ACHP any requested responses or clarifications.

9. The ACHP issues a signed letter concluding the consultation.

10. In the Coordination, the ENV SME selects the drop-down response "Advisory Council on Historic Preservation (ACHP)" for the "Agency Name" field,

11. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the ACHP.

12. The ENV SME uploads the ACHP's signed letter concluding the consultation using the following file naming convention: "Approved_HIST ACHP CSJ MM-YY" (e.g., Approved_HIST ACHP 2222-15-027 02-19).

13. The ENV SME uploads each email or letter to or from TxDOT and the ACHP under the Coordination.

14. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

15. The ENV SME finalizes the Coordination.

<u>County Historical Commission (CHC) Coordination process</u>

If the ENV SME determines that the project must be coordinated with the County Historical Commission (CHC) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the CHC

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the CHC by email, telephone conversation, or letter. Depending on the project, the ENV SME or district environmental staff could, but is not required to use the one following templates:
- **ENV's Template for CHC General Correspondence 106**
- **ENV's Template for CHC Letter Non-Truss Bridges 106**
- **ENV's Template for CHC Letter Truss Bridges 106**

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response "County Historical Commission (CHC)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the CHC under the Coordination using the following file naming convention: "HIST CHC CSJ MM-YY" (e.g., HIST CHC 2222-15-027 02-19).

5. Once either all comments from the CHC have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME or district environmental staff finalizes the Coordination.

Certified Local Government (CLG) Coordination process

If the ENV SME determines that the project must be coordinated with the Certified Local Government (CLG) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the CLG

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the CLG by email, telephone conversation, or letter.

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response "Certified Local Government (CLG)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the CLG under the Coordination using the following naming convention: "HIST CLG CSJ MM-YY" (e.g. HIST CLG 2222-15-027 02-19).

5. Once either all comments from the CLG have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME or district environmental staff finalizes the Coordination.

Historical Consulting Parties (CPL-H) Coordination process

If the ENV SME determines that the project must be coordinated with historical consulting parties (CPL-H) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the historical consulting parties

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the historical consulting parties by email, telephone conversation, or letter.

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response "Historical Consulting Parties (CPL-H)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the historical consulting parties under the Coordination using the following naming convention: "HIST CPL CSJ MM-YY" (e.g. HIST CPL 2222-15-027 02-19).

5. Once either all comments from the historical consulting parties have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME or district environmental staff finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; 36 CFR 61; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Historical Studies Mitigation" Activity

1. The ENV SME identifies the required mitigation in the "Comments" field of this Activity, including the property name and the mitigation agreement date.

2. The ENV SME uploads any associated mitigation files to this Activity using this file naming convention: HIST MTG CSJ MM-YY (e.g., "HIST MTG 2222-15-027 02-19").

3. The ENV SME may, at his or her discretion, create a Review of any mitigation files uploaded under this Activity and assign it to him or herself. Once the ENV SME has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the mitigation that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to themselves.

4. Once the ENV SME has no further comments and has finalized his or her Review (if one was assigned), the ENV SME uploads the final mitigation with the word, "Approved," at the beginning of the file name.

5. If, based on the requirements of the mitigation agreement, the ENV SME must coordinate mitigation with consulting parties, then the ENV SME does the following:

- creates one or more of the following Coordinations:
    - Texas Historical Commission – Historical (THC-H)
    - Texas Historical Commission – Architecture (THC-R)
    - Advisory Council on Historic Preservation (ACHP)
    - County Historical Commission (CHC)
    - Certified Local Government (CLG)
    - Historical Consulting Parties (CPL-H)
- proceeds according to the Coordination instructions below.

6. After the above-listed steps have been completed, including any coordination, the ENV SME notes the mitigation completion date in the "Comments" field of this Activity, and finalizes this Activity.

<u>THC/TSHPO Coordination process</u>

If the ENV SME determines that the mitigation must be coordinated with the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) based on the mitigation agreement, then the ENV SME uploads the following documentation under the Coordination:

- Any correspondence to or from TxDOT or the THC/TSHPO

Follow the steps below to conduct the coordination.

1. The ENV SME provides information regarding the mitigation to the THC/TSHPO by email or letter.

2. In the Coordination, the ENV SME selects the drop-down response "Texas Historical Commission – Historical (THC-H)" or "Texas Historical Commission – Architecture (THC-R)" for the "Agency Name" field, depending on the mitigation agreement.

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using "TxDOT" to refer to TxDOT and "THC" to refer to the THC/TSHPO in the "Correspondence From" and "Correspondence To" fields.

4. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination.

5. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME finalizes the Coordination.

<u>Advisory Council on Historic Preservation (ACHP) Coordination process</u>

If the ENV SME determines that the mitigation must be coordinated with the Advisory Council on Historic Preservation (ACHP) based on the mitigation agreement, then the ENV SME uploads the following documentation under the Coordination:

- Any correspondence to or from TxDOT or the ACHP

Follow the steps below to conduct the coordination.

1. The ENV SME provides information regarding the mitigation to the ACHP by email or letter.

2. In the Coordination, the ENV SME selects the drop-down response "Advisory Council on Historic Preservation (ACHP)" for the "Agency Name" field,

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the ACHP.

4. The ENV SME uploads each email or letter to or from TxDOT and the ACHP under the Coordination.

5. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME finalizes the Coordination.

County Historical Commission (CHC) Coordination process

If the ENV SME determines that the mitigation must be coordinated with the County Historical Commission (CHC) based on the mitigation agreement, then the ENV SME uploads the following documentation under the Coordination:

- Any correspondence to or from TxDOT or the CHC

Follow the steps below to conduct the coordination.

1. The ENV SME provides information regarding the mitigation to the CHC by email or letter.

2. In the Coordination, the ENV SME selects the drop-down response "County Historical Commission (CHC)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details.

4. The ENV SME uploads any correspondence to or from TxDOT and the CHC under the Coordination using the following file naming convention: "HIST CHC MTG CSJ MM-YY" (e.g., HIST MTG CHC 2222-15-027 02-19).

5. Once either all comments from the CHC have been addressed or no response has been received within the review period (30 days), the ENV SME selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME finalizes the Coordination.

Certified Local Government (CLG) Coordination process

If the ENV SME determines that the mitigation must be coordinated with the Certified Local Government (CLG) based on the mitigation agreement, then the ENV SME uploads the following documentation under the Coordination:

- Any correspondence to or from TxDOT or the CLG

Follow the steps below to conduct the coordination.

1. The ENV SME provides information regarding the mitigation to the CLG by email or letter.

2. In the Coordination, the ENV SME selects the drop-down response "Certified Local Government (CLG)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details.

4. The ENV SME uploads any correspondence to or from TxDOT and the CLG under the Coordination using the following naming convention: "HIST CLG MTG CSJ MM-YY" (e.g. HIST CLG MTG 2222-15-027 02-19).

5. Once either all comments from the CLG have been addressed or no response has been received within the review period (30 days), the ENV SME selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME finalizes the Coordination.

Historical Consulting Parties (CPL-H) Coordination process

If the ENV SME determines that the mitigation must be coordinated with historical consulting parties (CPL-H) based on the mitigation agreement, then the ENV SME uploads the following documentation under the Coordination:

- Any correspondence to or from TxDOT or the historical consulting parties

Follow the steps below to conduct the coordination.

1. The ENV SME provides information regarding the mitigation to the historical consulting parties by email, telephone conversation, or letter.

2. In the Coordination, the ENV SME selects the drop-down response "Historical Consulting Parties (CPL-H)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details.

4. The ENV SME uploads any correspondence to or from TxDOT and the historical consulting parties under the Coordination using the following naming convention: "HIST CPL MTG CSJ MM-YY" (e.g. HIST CPL MTG 2222-15-027 02-19).

5. Once either all comments from the historical consulting parties have been addressed or no response has been received within the review period (30 days), the ENV SME selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Historical Studies Monitoring Commitments" Activity

1. The ENV SME identifies the required monitoring commitment(s) in the "Comments" field of this Activity, including the property name, type of monitoring, and responsible party.

2. The ENV SME uploads any associated monitoring commitment files to this Activity using this file naming convention: HIST MON CSJ MM-YY (e.g., HIST MON 2222-15-027 02-19). Typical monitoring files may include:

- EPIC sheet and/or General Notes with protection notes
- Protection notes and monitoring discussed at pre-construction meeting with contractor (document through an agenda or meeting notes)
- Emails or reports from inspections or organizations monitoring the work
- Final reports or photographs after work is completed
- Approval from THC to move historical markers

3. The ENV SME may, at his or her discretion, create a Review of any monitoring commitment files uploaded under this Activity and assign it to him or herself. Once the ENV SME has finalized his or her Review, if there are pending comments, the ENV SME:

- prepares a new, revised version of the monitoring commitment files that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to themselves.

4. Once the ENV SME has no further comments and has finalized his or her Review (if one was assigned), the ENV SME uploads the final monitoring commitment files with the word, "Approved," at the beginning of the file name.

5. If, based on the requirements of the monitoring commitments, the ENV SME must coordinate the monitoring commitments with consulting parties, then the ENV SME does the following:

- creates one or more of the following Coordinations:
    - Texas Historical Commission – Historical (THC-H)
    - Texas Historical Commission – Architecture (THC-R)
    - County Historical Commission (CHC)
    - Certified Local Government (CLG)
    - Historical Consulting Parties (CPL-H)
- proceeds according to the Coordination instructions below.

6. After the above-listed steps have been completed, including any coordination, the ENV SME finalizes this Activity.

<u>THC/TSHPO Coordination process</u>

If the ENV SME determines that the monitoring commitments must be coordinated with the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) based on the commitment, then the ENV SME uploads the following documentation under the Coordination:

- Concurrence letter signed by the THC/TSHPO
- Any other correspondence to or from TxDOT or the THC/TSHPO

Follow the steps below to conduct the coordination.

1. The ENV SME provides information regarding the monitoring commitment to the THC/TSHPO by email or letter.

2. In the Coordination, the ENV SME selects the drop-down response "Texas Historical Commission – Historical (THC-H)" or "Texas Historical Commission – Architecture (THC-R)" for the "Agency Name" field, depending on the commitment.

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using "TxDOT" to refer to TxDOT and "THC" to refer to the THC/TSHPO in the "Correspondence From" and "Correspondence To" fields.

4. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination.

5. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME finalizes the Coordination.

<u>County Historical Commission (CHC) Coordination process</u>

If the ENV SME determines that the monitoring commitments must be coordinated with the County Historical Commission (CHC) based on the commitment, then the ENV SME uploads the following documentation under the Coordination:

- Any correspondence to or from TxDOT or the CHC

Follow the steps below to conduct the coordination.

1. The ENV SME provides information regarding the monitoring commitments to the CHC by email or letter.

2. In the Coordination, the ENV SME selects the drop-down response "County Historical Commission (CHC)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details.

4. The ENV SME uploads any correspondence to or from TxDOT and the CHC under the Coordination using the following file naming convention: "HIST CHC MON CSJ MM-YY" (e.g., HIST MON CHC 2222-15-027 02-19).

5. Once either all comments from the CHC have been addressed or no response has been received within the review period (30 days), the ENV SME selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME finalizes the Coordination.

Certified Local Government (CLG) Coordination process

If the ENV SME determines that the monitoring commitments must be coordinated with the Certified Local Government (CLG) based on the commitment, then the ENV SME uploads the following documentation under the Coordination:

- Any correspondence to or from TxDOT or the CLG

Follow the steps below to conduct the coordination.

1. The ENV provides information regarding the monitoring commitment to the CLG by email or letter.

2. In the Coordination, the ENV SME selects the drop-down response "Certified Local Government (CLG)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details.

4. The ENV SME uploads any correspondence to or from TxDOT and the CLG under the Coordination using the following naming convention: "HIST CLG MON CSJ MM-YY" (e.g. HIST CLG MON 2222-15-027 02-19).

5. Once either all comments from the CLG have been addressed or no response has been received within the review period (30 days), the ENV SME selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME finalizes the Coordination.

Historical Consulting Parties (CPL-H) Coordination process

If the ENV SME determines that the monitoring commitments must be coordinated with historical consulting parties (CPL-H) based on the commitment, then the ENV SME uploads the following documentation under the Coordination:

- Any correspondence to or from TxDOT or the historical consulting parties

Follow the steps below to conduct the coordination.

1. The ENV SME provides information regarding the monitoring commitment to the historical consulting parties by email, telephone conversation, or letter.

2. In the Coordination, the ENV SME selects the drop-down response "Historical Consulting Parties (CPL-H)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details.

4. The ENV SME uploads any correspondence to or from TxDOT and the historical consulting parties under the Coordination using the following naming convention: "HIST CPL MTG CSJ MM-YY" (e.g. HIST CPL MTG 2222-15-027 02-19).

5. Once either all comments from the historical consulting parties have been addressed or no response has been received within the review period (30 days), the ENV SME selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Historical Studies Project Coordination Request (PCR)" Activity

1. If the project meets the requirements of the categorical exclusion criterion listed at 23 CFR 771.117(c)(1) regarding activities that do not involve or lead directly to construction such as planning and research activities, or the categorical exclusion criterion listed at 23 CFR 771.117(c)(29) regarding the purchase, construction, replacement or rehabilitation of ferry vessels, then district environmental staff inserts the following statement in the "Comments" field of this Activity: "This project does not require a PCR," and finalizes this Activity.

If neither of the above-listed categorical exclusion criteria apply, but district environmental staff nevertheless believes that the project does not warrant a PCR, then district environmental staff must contact the ENV SME assigned to the respective district to discuss the project. If the ENV SME agrees that a PCR is not warranted, then district environmental staff:

- inserts the following statement in the "Comments" field of this Activity: "This project does not require a PCR per [insert name], ENV SME" and
- finalizes this Activity.

2. District environmental staff prepares a Project Coordination Request (PCR) according to **ENV's Project Coordination Request (PCR) for Historical Studies** form and **ENV's Instructions for Completing Project Coordination Request (PCR) for Historical Studies**.

3. District environmental staff uploads the PCR under this Activity using this file naming convention: HIST PCR CSJ MM-YY (e.g., HIST PCR 2222-15-027 02-19).

4. District environmental staff creates a Review of the PCR under this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the PCR that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

5. If the ENV SME finalized his or her Review of the original version of the PCR uploaded by district environmental staff by indicating "Approved no comments," or "Approved with comments" but district environmental staff determines that the comments do not warrant a new version of the PCR, then the reviewed PCR is the Approved PCR for purposes of this Activity. If the ENV SME's comments warranted a new version of the PCR, then once the ENV SME has no further comments and has finalized his or her Review, the district environmental staff uploads the final PCR with the word, "Approved," at the beginning of the file name.

<u>Survey required</u>

1. If, based on the results of the PCR, the ENV SME determines that a survey is required in accordance with **ENV's Historical Studies Analysis Tool**, then the ENV SME does the following:

- finalizes this Activity;
- creates the "Perform Historical Studies Research Design" Activity, indicates the type of survey required (windshield, reconnaissance, or intensive) in the "Assignment Details" field of the "Perform Historical Studies Research Design" Activity, and assigns it to the district environmental staff (if responsible for performing the survey) or to the ENV SME (if responsible for performing the survey);
- creates the "Obtain Section 4(f) Approval" Activity (if appropriate);
- creates the "Perform Chapter 26 Analysis" Activity (if appropriate); and
- notifies the district environmental staff of the newly created Activity(ies).

(1) No survey required **and (2)** no historic-age properties (45 years old or greater) in the project's Area of Potential Effects (or project is listed on Appendix 4) **and (3)** no sensitive property types in the project's Area of Potential Effects (i.e., a "negative survey")

1. If, based on the results of the PCR, the ENV SME determines that an additional survey is not required, and that there are no historic-age properties (45 years old or greater) in the project's Area of Potential Effects (or there are such properties, but the project is listed on Appendix 4) and that there are no sensitive property types in the project's Area of Potential Effects, then the ENV SME does the following:

- explains in the "Comments" field of this Activity that, based on the results of the PCR, there are no historic-age properties (45 years old or greater)/no sensitive property types in the project's Area of Potential Effects; and
- finalizes this Activity.

(1) No survey required, **and (2)** one or more historic-age properties (45 years old or greater) within the project's Area of Potential Effects (and project is not listed on Appendix 4) **or** one or more sensitive property types in the project's Area of Potential Effects

1. If, based on the results of the PCR, the ENV SME determines that an additional survey is not required, and that there are one or more historic-age properties (45 years old or greater) in the project's Area of Potential Effects (and the project is not listed on Appendix 4), or there are one or more sensitive property types in the project's Area of Potential Effects, then the ENV SME does the following:

- creates one or more of the following Coordinations based on **ENV's Historical Studies Analysis Tool**:
  - Environmental – Historical (ENV-H)
  - Texas Historical Commission – Historical (THC-H)
  - Texas Historical Commission – Architecture (THC-R)
  - Advisory Council on Historic Preservation (ACHP)
  - County Historical Commission (CHC)
  - Certified Local Government (CLG)
  - Historical Consulting Parties (CPL-H)
- proceeds according to the Coordination instructions below (subject to Step 2 below);

- creates the "Perform Historical Studies Monitoring Commitment" Activity (for non-adverse effects, if appropriate);
- creates the "Obtain Section 4(f) Approval" Activity (if appropriate);
- creates the "Perform Chapter 26 Analysis" Activity (if appropriate);
- notifies the district environmental staff of any newly created Activity(ies)); and
- after all Coordinations are finalized, finalizes this Activity.

ENV-H In-House Coordination Process

If the ENV SME determines that the project can be coordinated internally based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Signed memo from ENV SME

Follow the steps below to conduct the coordination.

1. The ENV SME prepares a memo according to **ENV's Template for Stipulation IX Memo**.

2. The ENV SME emails the memo to the ENV SME team lead for review and signature.

3. Once the ENV SME team lead has signed the memo, the ENV SME team lead returns the memo to the ENV SME.

4. In the Coordination, the ENV SME selects the drop-down response "Environmental – Historical (ENV-H)" for the "Agency Name" field.

5. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details as follows:

- For the "Correspondence Status" field, the ENV SME selects, "Response received – no further action", using the drop-down menu.
- For the "Correspondence Method" field, the ENV SME selects, "Letter", using the drop-down menu.
- For the "Correspondence Date" field, the ENV SME enters the date the memo was signed by the ENV CRM Section Director.
- For the "Correspondence From" field, the ENV SME enters "TxDOT."
- For the "Correspondence To" field, the ENV SME enters "TxDOT."

6. The ENV SME uploads a copy of the signed memo under the Coordination using the following naming convention: "Approved_HIST IM CSJ MM-YY" (e.g. Approved_HIST IM 2222-15-027 02-19).

7. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

8. The ENV SME finalizes the Coordination.

THC/TSHPO Coordination process

If the ENV SME determines that the project must be coordinated with the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Consultation letter signed by the THC/TSHPO
- Any other correspondence documenting decision-making to or from TxDOT or the THC/TSHPO

Follow the steps below to conduct the coordination.

1. The ENV SME prepares a consultation letter as appropriate using one of the following templates:
- **ENV's Template for Section 106 Projects Letter**
- **ENV's Template for State Antiquities Code Letter**
- **ENV's Template for 4f Exception Letter (Joint 106 and 4f)**
- **ENV's Template for 4f De Minimis Letter (Joint 106 and 4f)**
- **ENV's Template for Programmatic Bridge 4f Letter (Joint 106 and 4f)**

2. The ENV SME emails the consultation letter to the ENV SME team lead for review and approval.

3. Once the ENV SME team lead has approved the consultation letter by initialing it, the ENV SME team lead returns the consultation letter to the ENV SME.

4. The ENV SME emails the consultation letter to the ENV CRM Section Director for review and approval.

5. Once the ENV CRM Section Director has approved the consultation letter by initialing it, the ENV CRM Section Director returns the consultation letter to the ENV SME.

6. The ENV SME signs the consultation letter and transmits the consultation letter and historical studies reconnaissance survey to the THC/TSHPO via the THC eTRAC System.

7. The THC/TSHPO reviews the letter and historical studies reconnaissance survey and requests clarifications from the authoring ENV SME as necessary.

8. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

9. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

10. In the Coordination, the ENV SME selects the drop-down response "Texas Historical Commission – Historical (THC-H)" or "Texas Historical Commission – Architecture (THC-R)" for the "Agency Name" field, depending on **ENV's Historical Studies Analysis Tool**.

11. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using "TxDOT" to refer to TxDOT and "THC" to refer to the THC/TSHPO in the "Correspondence From" and "Correspondence To" fields.

12. The ENV SME uploads the consultation letter signed by the THC under the Coordination using the following file naming convention: "Approved_HIST THC CSJ MM-YY" (e.g., Approved_HIST THC 2222-15-027 02-19).

13. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination.

14. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

15. The ENV SME finalizes the Coordination.

<u>Advisory Council on Historic Preservation (ACHP) Coordination process</u>

If the ENV SME determines that the project must be coordinated with the Advisory Council on Historic Preservation (ACHP) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Completed ACHP consultation form
- Consultation letter signed by the ACHP
- Any other correspondence documenting decision-making to or from TxDOT or the ACHP

Follow the steps below to conduct the coordination.

1. The ENV SME completes the ACHP's consultation form.

2. The ENV SME emails the completed ACHP consultation form to the ENV SME team lead for review and approval.

3. Once the ENV SME team lead has approved the completed ACHP consultation form, the ENV SME team lead returns the completed ACHP consultation form to the ENV SME.

4. The ENV SME emails the completed ACHP consultation form to the ENV CRM Section Director for review and approval.

5. Once the ENV CRM Section Director has approved the completed ACHP consultation form, the ENV CRM Section Director returns the completed ACHP consultation form to the ENV SME.

6. The ENV SME transmits the completed ACHP consultation form to the ACHP at the following address: e106@achp.gov and uploads the completed ACHP consultation form under the Coordination.

7. The ACHP reviews the completed ACHP consultation form and requests clarifications from the ENV SME as necessary.

8. The ENV SME transmits to the ACHP any requested responses or clarifications.

9. The ACHP issues a signed letter concluding the consultation.

10. In the Coordination, the ENV SME selects the drop-down response "Advisory Council on Historic Preservation (ACHP)" for the "Agency Name" field,

11. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the ACHP.

12. The ENV SME uploads the ACHP's signed letter concluding the consultation using the following file naming convention: "Approved_HIST ACHP CSJ (MM-YY)" (e.g., Approved_HIST ACHP 2222-15-027 (02-19)).

13. The ENV SME uploads each email or letter to or from TxDOT and the ACHP under the Coordination.

14. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

15. The ENV SME finalizes the Coordination.

<u>County Historical Commission (CHC) Coordination process</u>

If the ENV SME determines that the project must be coordinated with the County Historical Commission (CHC) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the CHC

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the CHC by email, telephone conversation, or letter. Depending on the project, the ENV SME or district environmental staff could, but is not required to use the one following templates:
   - **ENV's Template for CHC General Correspondence 106**
   - **ENV's Template for CHC Letter Non-Truss Bridges 106**
   - **ENV's Template for CHC Letter Truss Bridges 106**

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response "County Historical Commission (CHC)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the CHC under the Coordination using the following file naming convention: "HIST CHC CSJ MM-YY" (e.g., HIST CHC 2222-15-027 02-19).

5. Once either all comments from the CHC have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME or district environmental staff finalizes the Coordination.

Certified Local Government (CLG) Coordination process

If the ENV SME determines that the project must be coordinated with the Certified Local Government (CLG) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the CLG

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the CLG by email, telephone conversation, or letter.

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response "Certified Local Government (CLG)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the CLG under the Coordination using the following naming convention: "HIST CLG CSJ MM-YY" (e.g. HIST CLG 2222-15-027 02-19).

5. Once either all comments from the CLG have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME or district environmental staff finalizes the Coordination.

Historical Consulting Parties (CPL-H) Coordination process

If the ENV SME determines that the project must be coordinated with historical consulting parties (CPL-H) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the historical consulting parties

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the historical consulting parties by email, telephone conversation, or letter.

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response “Historical Consulting Parties (CPL-H)” for the “Agency Name” field.

3. In the Coordination, the field labeled, “Are Correspondence Detailed Included?,” will be automatically filled-in with “Yes” indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the historical consulting parties under the Coordination using the following naming convention: “HIST CPL CSJ MM-YY” (e.g. HIST CPL 2222-15-027 02-19).

5. Once either all comments from the historical consulting parties have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects “Completed” from the drop-down menu for the field labeled, “Coordination Status.”

6. The ENV SME or district environmental staff finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Historical Studies Reconnaissance Survey" Activity

1. District environmental staff prepares an historical studies reconnaissance survey according to **ENV's Documentation Standard and Report Template for Preparing an Historic Resources Survey Report.** Alternatively, district environmental staff may request that the appropriate ENV SME prepare the historical studies reconnaissance survey.

Regardless of whether the historical studies reconnaissance survey is prepared by district environmental staff or an ENV SME, it must be prepared by a professional that meets the Secretary of the Interior's Professional Qualification Standards.

2. District environmental staff or the ENV SME (depending on who prepared the document) uploads the historical studies reconnaissance survey under this Activity using this file naming convention: HIST RS CSJ MM-YY (e.g., HIST RS 2222-15-027 02-19).

3. District environmental staff or the ENV SME (depending on who prepared the document) creates a Review of the historical studies reconnaissance survey under this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff or ENV SME (depending on who prepared the document):

- prepares a new, revised version of the historical studies reconnaissance survey that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

4. Once the ENV SME has no further comments and has finalized his or her Review, the district environmental staff or the ENV SME (depending on who prepared the document) uploads the final historical studies reconnaissance survey with the word, "Approved," at the beginning of the file name.

5. If, based on the results of the historical studies reconnaissance survey, the ENV SME determines that an intensive survey is required, then the ENV SME does the following:

- finalizes this Activity;
- creates the "Perform Historical Studies Intensive Survey" Activity;
- creates the "Obtain Section 4(f) Approval" Activity (if appropriate);
- creates the "Perform Chapter 26 Analysis" Activity (if appropriate); and
- notifies the district environmental staff of the newly created Activity(ies).

5. If, based on the results of the historical studies reconnaissance survey, the ENV SME determines that an intensive survey is <u>not</u> required, then the ENV SME does the following:

- creates one or more of the following Coordinations based on **ENV's Historical Studies Analysis Tool**:
  - Environmental – Historical (ENV-H)
  - Texas Historical Commission – Historical (THC-H)
  - Texas Historical Commission – Architecture (THC-R)

  - Advisory Council on Historic Preservation (ACHP)
  - County Historical Commission (CHC)
  - Certified Local Government (CLG)
  - Historical Consulting Parties (CPL-H)
- proceeds according to the Coordination instructions below;
- creates the "Perform Historical Studies Mitigation" Activity (for any adverse effects);
- creates the "Perform Historical Studies Monitoring Commitment" Activity (for non-adverse effects, if appropriate);
- creates the "Obtain Section 4(f) Approval" Activity (if appropriate);
- creates the "Perform Chapter 26 Analysis" Activity (if appropriate);
- notifies the district environmental staff of any newly created Activity(ies)); and
- after all Coordinations are finalized, finalizes this Activity.

<u>ENV-H In-House Coordination Process</u>

If the ENV SME determines that the project can be coordinated internally based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Signed memo from ENV SME

Follow the steps below to conduct the coordination.

1. The ENV SME prepares a memo according to **ENV's Template for Stipulation IX Memo**.

2. The ENV SME emails the memo to the ENV SME team lead for review and signature.

3. Once the ENV SME team lead has signed the memo, the ENV SME team lead returns the memo to the ENV SME.

4. In the Coordination, the ENV SME selects the drop-down response "Environmental – Historical (ENV-H)" for the "Agency Name" field.

5. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details as follows:

- For the "Correspondence Status" field, the ENV SME selects, "Response received – no further action", using the drop-down menu.
- For the "Correspondence Method" field, the ENV SME selects, "Letter", using the drop-down menu.
- For the "Correspondence Date" field, the ENV SME enters the date the memo was signed by the ENV CRM Section Director.
- For the "Correspondence From" field, the ENV SME enters "TxDOT."
- For the "Correspondence To" field, the ENV SME enters "TxDOT."

6. The ENV SME uploads a copy of the signed memo under the Coordination using the following naming convention: "Approved_HIST IM CSJ MM-YY" (e.g. Approved_HIST IM 2222-15-027 02-19).

7. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

8. The ENV SME finalizes the Coordination.

<u>THC/TSHPO Coordination process</u>

If the ENV SME determines that the project must be coordinated with the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Consultation letter signed by the THC/TSHPO
- Any other correspondence documenting decision-making to or from TxDOT or the THC/TSHPO

Follow the steps below to conduct the coordination.

1. The ENV SME prepares a consultation letter as appropriate using one of the following templates:
- **ENV's Template for Section 106 Projects Letter**
- **ENV's Template for 4f Exception Letter (Joint 106 and 4f)**
- **ENV's Template for 4f De Minimis Letter (Joint 106 and 4f)**
- **ENV's Template for Programmatic Bridge 4f Letter (Joint 106 and 4f)**

2. The ENV SME emails the consultation letter to the ENV SME team lead for review and approval.

3. Once the ENV SME team lead has approved the consultation letter by initialing it, the ENV SME team lead returns the consultation letter to the ENV SME.

4. The ENV SME emails the consultation letter to the ENV CRM Section Director for review and approval.

5. Once the ENV CRM Section Director has approved the consultation letter by initialing it, the ENV CRM Section Director returns the consultation letter to the ENV SME.

6. The ENV SME signs the consultation letter and transmits the consultation letter and historical studies reconnaissance survey to the THC/TSHPO via the THC eTRAC System.

7. The THC/TSHPO reviews the letter and historical studies reconnaissance survey and requests clarifications from the authoring ENV SME as necessary.

8. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

9. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

10. In the Coordination, the ENV SME selects the drop-down response "Texas Historical Commission – Historical (THC-H)" or "Texas Historical Commission – Architecture (THC-R)" for the "Agency Name" field, depending on **ENV's Historical Studies Analysis Tool**.

11. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using "TxDOT" to refer to TxDOT and "THC" to refer to the THC/TSHPO in the "Correspondence From" and "Correspondence To" fields.

12. The ENV SME uploads the consultation letter signed by the THC under the Coordination using the following file naming convention: "Approved_HIST THC CSJ MM-YY" (e.g., Approved_HIST THC 2222-15-027 02-19).

13. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination.

14. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

15. The ENV SME finalizes the Coordination.

<u>Advisory Council on Historic Preservation (ACHP) Coordination process</u>

If the ENV SME determines that the project must be coordinated with the Advisory Council on Historic Preservation (ACHP) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Completed ACHP consultation form
- Consultation letter signed by the ACHP
- Any other correspondence documenting decision-making to or from TxDOT or the ACHP

Follow the steps below to conduct the coordination.

1. The ENV SME completes the ACHP's consultation form.

2. The ENV SME emails the completed ACHP consultation form to the ENV SME team lead for review and approval.

3. Once the ENV SME team lead has approved the completed ACHP consultation form, the ENV SME team lead returns the completed ACHP consultation form to the ENV SME.

4. The ENV SME emails the completed ACHP consultation form to the ENV CRM Section Director for review and approval.

5. Once the ENV CRM Section Director has approved the completed ACHP consultation form, the ENV CRM Section Director returns the completed ACHP consultation form to the ENV SME.

6. The ENV SME transmits the completed ACHP consultation form to the ACHP at the following address: e106@achp.gov and uploads the completed ACHP consultation form under the Coordination.

7. The ACHP reviews the completed ACHP consultation form and requests clarifications from the ENV SME as necessary.

8. The ENV SME transmits to the ACHP any requested responses or clarifications.

9. The ACHP issues a signed letter concluding the consultation.

10. In the Coordination, the ENV SME selects the drop-down response "Advisory Council on Historic Preservation (ACHP)" for the "Agency Name" field,

11. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the ACHP.

12. The ENV SME uploads the ACHP's signed letter concluding the consultation using the following file naming convention: "Approved_HIST ACHP CSJ MM-YY" (e.g., Approved_HIST ACHP 2222-15-027 02-19).

13. The ENV SME uploads each email or letter to or from TxDOT and the ACHP under the Coordination.

14. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

15. The ENV SME finalizes the Coordination.

<u>County Historical Commission (CHC) Coordination process</u>

If the ENV SME determines that the project must be coordinated with the County Historical Commission (CHC) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the CHC

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the CHC by email, telephone conversation, or letter. Depending on the project, the ENV SME or district environmental staff could, but is not required to use the one following templates:
   - **ENV's Template for CHC General Correspondence 106**
   - **ENV's Template for CHC Letter Non-Truss Bridges 106**
   - **ENV's Template for CHC Letter Truss Bridges 106**

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response "County Historical Commission (CHC)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the CHC under the Coordination using the following file naming convention: "HIST CHC CSJ MM-YY" (e.g., HIST CHC 2222-15-027 02-19).

5. Once either all comments from the CHC have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME or district environmental staff finalizes the Coordination.

Certified Local Government (CLG) Coordination process

If the ENV SME determines that the project must be coordinated with the Certified Local Government (CLG) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the CLG

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the CLG by email, telephone conversation, or letter.

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response "Certified Local Government (CLG)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the CLG under the Coordination using the following naming convention: "HIST CLG CSJ MM-YY" (e.g. HIST CLG 2222-15-027 02-19).

5. Once either all comments from the CLG have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME or district environmental staff finalizes the Coordination.

Historical Consulting Parties (CPL-H) Coordination process

If the ENV SME determines that the project must be coordinated with historical consulting parties (CPL-H) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the historical consulting parties

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the historical consulting parties by email, telephone conversation, or letter.

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response "Historical Consulting Parties (CPL-H)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the historical consulting parties under the Coordination using the following naming convention: "HIST CPL CSJ MM-YY" (e.g. HIST CPL 2222-15-027 02-19).

5. Once either all comments from the historical consulting parties have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME or district environmental staff finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; 36 CFR 61; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Historical Studies Research Design" Activity

1. District environmental staff or the ENV SME prepares an historical studies research design according to **ENV's Documentation Standard and Report Template for Preparing an Historical Resources Research Design.** Alternatively, district environmental staff may request that the appropriate ENV SME prepare the historical studies research design.

Regardless of whether the historical studies research design is prepared by district environmental staff or an ENV SME, it must be prepared by a professional that meets the Secretary of the Interior's Professional Qualification Standards.

2. District environmental staff or the ENV SME (depending on who prepared the document) uploads the historical studies research design under this Activity using this naming convention: HIST RD CSJ MM-YY (e.g., HIST RD 2222-15-027 02-19).

3. District environmental staff or the ENV SME (depending on who prepared the document) creates a Review of the historical studies research design under this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff or ENV SME (depending on who prepared the document):

- prepares a new, revised version of the historical studies research design that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

4. Once the ENV SME has no further comments and has finalized his or her Review, the district environmental staff or the ENV SME (depending on who prepared the document) uploads the final historical studies research design with the word, "Approved," at the beginning of the file name, and finalizes this Activity.

5. The ENV SME creates one or more of the following Activities, as appropriate based on the ENV SME's determination in accordance with **ENV's Historical Studies Analysis Tool**, assigns it to the district environmental staff (if responsible for performing the survey) or to the ENV SME (if responsible for performing the survey), and notifies the district environmental staff of the newly created Activity:

- "Perform Historical Studies Windshield Survey"
- "Perform Historical Studies Reconnaissance Survey"
- "Perform Historical Studies Intensive Survey"

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; 36 CFR 61; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Historical Studies Windshield Survey" Activity

1. District environmental staff prepares an historical studies windshield survey according to **ENV's Documentation Standard and Report Template for Preparing an Historic Resources Survey Report.** Alternatively, district environmental staff may request that the appropriate ENV SME prepare the historical studies windshield survey.

Regardless of whether the historical studies windshield survey is prepared by district environmental staff or an ENV SME, it must be prepared by a professional that meets the Secretary of the Interior's Professional Qualification Standards.

2. District environmental staff or the ENV SME (depending on who prepared the document) uploads the historical studies windshield survey under this Activity using this file naming convention: HIST WS CSJ MM-YY (e.g., HIST WS 2222-15-027 02-19).

3. District environmental staff or the ENV SME (depending on who prepared the document) creates a Review of the historical studies windshield survey under this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff or ENV SME (depending on who prepared the document):

- prepares a new, revised version of the historical studies windshield survey that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

4. Once the ENV SME has no further comments and has finalized his or her Review, the district environmental staff or the ENV SME (depending on who prepared the document) uploads the final historical studies windshield survey with the word, "Approved," at the beginning of the file name.

5. If, based on the results of the historical studies windshield survey, the ENV SME determines that a reconnaissance survey and/or an intensive survey is required, then the ENV SME does the following:

- finalizes this Activity;
- creates the "Perform Historical Studies Reconnaissance Survey" and/or "Perform Historical Studies Intensive Survey" Activity;
- creates the "Obtain Section 4(f) Approval" Activity (if appropriate);
- creates the "Perform Chapter 26 Analysis" Activity (if appropriate); and
- notifies the district environmental staff of the newly created Activity(ies).

5. If, based on the results of the historical studies windshield survey, the ENV SME determines that neither a reconnaissance survey nor an intensive survey is required, then the ENV SME does the following:

- creates one or more of the following Coordinations based on **ENV's Historical Studies Analysis Tool**:
  - Environmental – Historical (ENV-H)
  - Texas Historical Commission – Historical (THC-H)
  - Texas Historical Commission – Architecture (THC-R)
  - Advisory Council on Historic Preservation (ACHP)
  - County Historical Commission (CHC)
  - Certified Local Government (CLG)
  - Historical Consulting Parties (CPL-H)
- proceeds according to the Coordination instructions below;
- creates the "Perform Historical Studies Mitigation" Activity (for any adverse effects);
- creates the "Perform Historical Studies Monitoring Commitment" Activity (for non-adverse effects, if appropriate);
- creates the "Obtain Section 4(f) Approval" Activity (if appropriate);
- creates the "Perform Chapter 26 Analysis" Activity (if appropriate);
- notifies the district environmental staff of any newly created Activity(ies)); and
- after all Coordinations are finalized, finalizes this Activity.

<u>ENV-H In-House Coordination Process</u>

If the ENV SME determines that the project can be coordinated internally based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Signed memo from ENV SME

Follow the steps below to conduct the coordination.

1. The ENV SME prepares a memo according to **ENV's Template for Stipulation IX Memo**.

2. The ENV SME emails the memo to the ENV SME team lead for review and signature.

3. Once the ENV SME team lead has signed the memo, the ENV SME team lead returns the memo to the ENV SME.

4. In the Coordination, the ENV SME selects the drop-down response "Environmental – Historical (ENV-H)" for the "Agency Name" field.

5. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details as follows:

- For the "Correspondence Status" field, the ENV SME selects, "Response received – no further action", using the drop-down menu.
- For the "Correspondence Method" field, the ENV SME selects, "Letter", using the drop-down menu.

- For the "Correspondence Date" field, the ENV SME enters the date the memo was signed by the ENV CRM Section Director.
- For the "Correspondence From" field, the ENV SME enters "TxDOT."
- For the "Correspondence To" field, the ENV SME enters "TxDOT."

6. The ENV SME uploads a copy of the signed memo under the Coordination using the following naming convention: "Approved_HIST IM CSJ MM-YY" (e.g. Approved_HIST IM 2222-15-027 02-19).

7. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

8. The ENV SME finalizes the Coordination.

<u>THC/TSHPO Coordination process</u>

If the ENV SME determines that the project must be coordinated with the Texas Historical Commission/Texas State Historic Preservation Officer (THC/TSHPO) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Consultation letter signed by the THC/TSHPO
- Any other correspondence documenting decision-making to or from TxDOT or the THC/TSHPO

Follow the steps below to conduct the coordination.

1. The ENV SME prepares a consultation letter as appropriate using one of the following templates:
- **ENV's Template for Section 106 Projects Letter**
- **ENV's Template for 4f Exception Letter (Joint 106 and 4f)**
- **ENV's Template for 4f De Minimis Letter (Joint 106 and 4f)**
- **ENV's Template for Programmatic Bridge 4f Letter (Joint 106 and 4f)**

2. The ENV SME emails the consultation letter to the ENV SME team lead for review and approval.

3. Once the ENV SME team lead has approved the consultation letter by initialing it, the ENV SME team lead returns the consultation letter to the ENV SME.

4. The ENV SME emails the consultation letter to the ENV CRM Section Director for review and approval.

5. Once the ENV CRM Section Director has approved the consultation letter by initialing it, the ENV CRM Section Director returns the consultation letter to the ENV SME.

6. The ENV SME signs the consultation letter and transmits the consultation letter and historical studies windshield survey to the THC/TSHPO via the THC eTRAC System.

7. The THC/TSHPO reviews the letter and historical studies windshield survey and requests clarifications from the authoring ENV SME as necessary.

8. The ENV SME transmits to THC/TSHPO any requested responses or clarifications.

9. The THC/TSHPO signs the consultation letter and returns the original, signed consultation letter to the ENV SME.

10. In the Coordination, the ENV SME selects the drop-down response "Texas Historical Commission – Historical (THC-H)" or "Texas Historical Commission – Architecture (THC-R)" for the "Agency Name" field, depending on **ENV's Historical Studies Analysis Tool**.

11. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the THC/TSHPO, using "TxDOT" to refer to TxDOT and "THC" to refer to the THC/TSHPO in the "Correspondence From" and "Correspondence To" fields.

12. The ENV SME uploads the consultation letter signed by the THC under the Coordination using the following file naming convention: "Approved_HIST THC CSJ MM-YY" (e.g., Approved_HIST THC 2222-15-027 02-19).

13. The ENV SME uploads each email or letter to or from TxDOT and the THC/TSHPO under the Coordination.

14. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

15. The ENV SME finalizes the Coordination.

<u>Advisory Council on Historic Preservation (ACHP) Coordination process</u>

If the ENV SME determines that the project must be coordinated with the Advisory Council on Historic Preservation (ACHP) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME uploads the following documentation under the Coordination:

- Completed ACHP consultation form
- Consultation letter signed by the ACHP
- Any other correspondence documenting decision-making to or from TxDOT or the ACHP

Follow the steps below to conduct the coordination.

1. The ENV SME completes the ACHP's consultation form.

2. The ENV SME emails the completed ACHP consultation form to the ENV SME team lead for review and approval.

3. Once the ENV SME team lead has approved the completed ACHP consultation form, the ENV SME team lead returns the completed ACHP consultation form to the ENV SME.

4. The ENV SME emails the completed ACHP consultation form to the ENV CRM Section Director for review and approval.

5. Once the ENV CRM Section Director has approved the completed ACHP consultation form, the ENV CRM Section Director returns the completed ACHP consultation form to the ENV SME.

6. The ENV SME transmits the completed ACHP consultation form to the ACHP at the following address: e106@achp.gov and uploads the completed ACHP consultation form under the Coordination.

7. The ACHP reviews the completed ACHP consultation form and requests clarifications from the ENV SME as necessary.

8. The ENV SME transmits to the ACHP any requested responses or clarifications.

9. The ACHP issues a signed letter concluding the consultation.

10. In the Coordination, the ENV SME selects the drop-down response "Advisory Council on Historic Preservation (ACHP)" for the "Agency Name" field,

11. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the ACHP.

12. The ENV SME uploads the ACHP's signed letter concluding the consultation using the following file naming convention: "Approved_HIST ACHP CSJ MM-YY" (e.g., Approved_HIST ACHP 2222-15-027 02-19).

13. The ENV SME uploads each email or letter to or from TxDOT and the ACHP under the Coordination.

14. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status."

15. The ENV SME finalizes the Coordination.

<u>County Historical Commission (CHC) Coordination process</u>

If the ENV SME determines that the project must be coordinated with the County Historical Commission (CHC) based on **ENV's Historical Resources Studies Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the CHC

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the CHC by email, telephone conversation, or letter. Depending on the project, the ENV SME or district environmental staff could, but is not required to use the one following templates:
    - **ENV's Template for CHC General Correspondence 106**
    - **ENV's Template for CHC Letter Non-Truss Bridges 106**
    - **ENV's Template for CHC Letter Truss Bridges 106**

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response "County Historical Commission (CHC)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the CHC under the Coordination using the following file naming convention: "HIST CHC CSJ MM-YY" (e.g., HIST CHC 2222-15-027 02-19).

5. Once either all comments from the CHC have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME or district environmental staff finalizes the Coordination.

<u>Certified Local Government (CLG) Coordination process</u>

If the ENV SME determines that the project must be coordinated with the Certified Local Government (CLG) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the CLG

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the CLG by email, telephone conversation, or letter.

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response "Certified Local Government (CLG)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the CLG under the Coordination using the following naming convention: "HIST CLG CSJ MM-YY" (e.g. HIST CLG 2222-15-027 02-19).

5. Once either all comments from the CLG have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME or district environmental staff finalizes the Coordination.

Historical Consulting Parties (CPL-H) Coordination process

If the ENV SME determines that the project must be coordinated with historical consulting parties (CPL-H) based on **ENV's Historical Studies Analysis Tool**, then the ENV SME or district environmental staff uploads the following documentation under the Coordination:

- Any correspondence documenting decision-making to or from TxDOT or the historical consulting parties

Follow the steps below to conduct the coordination.

1. The ENV SME or the district environmental staff provides information regarding the project to the historical consulting parties by email, telephone conversation, or letter.

2. In the Coordination, the ENV SME or the district environmental staff selects the drop-down response "Historical Consulting Parties (CPL-H)" for the "Agency Name" field.

3. In the Coordination, the field labeled, "Are Correspondence Detailed Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME or district environmental staff fills-in the correspondence details.

4. The ENV SME or district environmental staff uploads any correspondence to or from TxDOT and the historical consulting parties under the Coordination using the following naming convention: "HIST CPL CSJ MM-YY" (e.g. HIST CPL 2222-15-027 02-19).

5. Once either all comments from the historical consulting parties have been addressed or no response has been received within the review period (30 days), the ENV SME or district environmental staff selects "Completed" from the drop-down menu for the field labeled, "Coordination Status."

6. The ENV SME or district environmental staff finalizes the Coordination.

Citation(s): National Historic Preservation Act, Section 106; 36 CFR 800; 36 CFR 61; Texas Natural Resources Code, Chapter 191; 43 TAC Chapter 2, Subchapter H

"Perform Hot Spot Analysis" Activity

1. District environmental staff prepares a draft methodology for performing a hot spot analysis in compliance with the latest available versions of the following EPA guidance documents, as applicable:

- Transportation Conformity Guidance for Quantitative Hot-Spot *A*nalyses in PM2.5 and PM10 Nonattainment and Maintenance Areas
- Using MOVES in Project-Level Carbon Monoxide Analyses

2. District environmental staff completes **ENV's Hot Spot Pre-Analysis Consensus form** and uploads the form under this Activity.

3. District environmental staff creates a Review of this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of **ENV's Hot Spot Pre-Analysis Consensus form** that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

4. Once the ENV SME has no further comments and has finalized his or her Review, the district environmental staff contacts the local MPO and requests that they schedule a conference call with the Consultation Partners (TxDOT District, ENV, FHWA, EPA, TCEQ, and MPO).

<u>Coordination process for hot spot pre-analysis consensus form</u>

District environmental staff creates a Coordination under this Activity, and uploads all of the following documentation under the Coordination:

- Correspondence with the Consultation Partners
- Meeting minutes from the Consultation Partners conference call

Follow the steps below to conduct the coordination.

5. After the conference call with the Consultation Partners has been scheduled, the district environmental staff provides the Hot Spot Pre-Analysis Consensus form to the Consultation Partners, and uploads the correspondence with the Consultation Partners under the <u>Coordination</u>.

6. District environmental staff conducts the conference call and prepares meeting minutes for the Consultation Partners conference call, which must include getting approval for the following items:

- the overall methodology for the hot spot analysis,
- the future years to be analyzed,
- the methodology for identifying applicable background concentrations,
- the models to be used,

- additional point-sources that should be included in the analysis,
- applicable receptor locations,
- sources for the input data to be used in the modeling, and
- identification of any State Implementation Plan (SIP) mitigation measures that this project is required to incorporate.

7. District environmental staff distributes the meeting minutes to each Consultation Partner for comments and corrections, and uploads the correspondence with the Consultation Partners and the final meeting minutes (with the word, "Approved," at the beginning of the file name) under the Coordination.

Conducting hot spot modeling

8. In accordance with the methodology approved by the Consultation Partners, the district environmental staff models the future year emissions associated with the build alternative,[1] and determines if the modeled emissions exceed the NAAQS for the applicable pollutant.

- If modeled emissions for the build alternative do not exceed the NAAQS, then the analysis is complete.
- If modeled emissions for the build alternative exceed the NAAQS, the district environmental staff models the future year emissions associated with the no-build alternative, and determines whether the modeled emissions for the build alternative exceed the modeled emissions for the no-build alternative in the future years modeled. If the modeled emissions for the build alternative are less than the modeled emissions for the no-build alternative, then the analysis is complete.
- If modeled emissions for the build alternative exceed both the NAAQS and the modeled emissions for the no-build alternative, then the district environmental staff identifies mitigation measures or project design changes that can reduce the applicable pollutant emissions and quantifies and re-models until modeled emissions for the build alternative are lower than either the NAAQS or the no-build alternative, in which case the analysis is complete.

9. After the analysis is complete, district environmental staff prepares a technical report in accordance with **ENV's Documentation Standard for a Hot Spot Analysis Technical Report**, and uploads it under this Activity. Ensure that any mitigation measures or project design changes accounted for in the modeling are identified in the mitigation commitments in the technical report.

10. District environmental staff creates a new Review of the hot spot analysis technical report under this Activity and assigns it to the ENV SME. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the hot spot analysis technical report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

[1] These emissions will include additional nearby point-sources and background concentrations.

Coordination process for hot spot analysis technical report

Once the ENV SME has no further comments and has finalized his or her Review, the district environmental staff creates a Coordination under this Activity, and uploads all of the following documentation under the Coordination:

- Correspondence with the Consultation Partners
- Correspondence with FHWA

Follow the steps below to conduct the coordination.

11. District environmental staff provides the hot spot analysis technical report to the Consultation Partners for review, and uploads the correspondence with the Consultation Partners under the Coordination.

12. After any comments made by the Consultation Partners have been addressed, at least 60 days prior to the public involvement conducted for the environmental review of the project, the district environmental staff provides the hot spot analysis technical report to FHWA for final approval, and uploads the correspondence with FHWA under the Coordination.

13. After FHWA has approved the hot spot analysis technical report, the district environmental staff uploads the final report under this Activity with the word, "Approved," at the beginning of the file name, and, if there any related mitigation commitments, creates the "Perform Air Quality Commitments" Activity.

14. If an EA or EIS is being prepared for the project, then district environmental staff prepares a summary of the hot spot analysis to be included in the appropriate section of the EA or EIS using the standardized language provided in **ENV's Guidance for Preparing Air Quality Statements**.

It is recommended that the same person or persons who prepared the hot spot analysis technical report prepare the summary of the hot spot analysis to be included in the EA or EIS.

15. District environmental staff must inform the public of the hot spot analysis as part of the public involvement conducted for the environmental review of the project by customizing the following statement and including it in any notice of public meeting, notice affording an opportunity for public hearing, or notice of public hearing for the project.

"The project is located within a <PM10 non-attainment area/CO maintenance area>; therefore, the conformity consultation process was conducted. On <insert date of hot-spot decision>, the conformity Consultation Partners made the determination that a hot-spot analysis is required. The hot-spot analysis is available for public review."

16. District environmental staff addresses, in writing, any conformity-related comments received from the public, shares the comments and responses with the Consultation Partners, and uploads the transmittals to and from the Consultation Partners under the Coordination.

17. District environmental staff finalizes the Coordination and this Activity.

Citation: 40 CFR 93.102, 30 TAC 114.260

"Perform Induced Growth Analysis" Activity

1. District environmental staff uses **ENV's Induced Growth Indirect Impacts Decision Tree** to determine if no induced growth impacts are anticipated, or if a more detailed six-step induced growth analysis ("six-step analysis") is required.

If **ENV's Induced Growth Indirect Impacts Decision Tree** indicates that no induced growth impacts are anticipated, then district environmental staff identifies in the "Comments" field of this Activity the path through the decision tree that led to the conclusion that no induced growth impacts are anticipated, and finalizes this Activity. District environmental staff will also include an explanation of how it was determined that no induced growth impacts are anticipated in the appropriate section of the EA or EIS.

If **ENV's Induced Growth Indirect Impacts Decision Tree** indicates that a six-step analysis is required, then proceed as indicated below.

2. District environmental staff consults the ENV core team member to determine whether the six-step analysis will be prepared separately from the EA or EIS and then only summarized in the EA or EIS, or if it will be included in its entirety in the EA or EIS.

<u>Six-step analysis prepared separately from EA or EIS and then summarized in EA or EIS</u>

3. District environmental staff prepares the six-step analysis in accordance with **ENV's Guidance: Indirect Impacts Analysis**, and uploads it under this Activity.

4. District environmental staff creates a Review of the six-step analysis under this Activity, and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the six-step analysis that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

5. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the final six-step analysis with the word, "Approved," at the beginning of the file name, and finalizes this Activity.

6. District environmental staff includes a summary of the six-step analysis in the appropriate section of the EA or EIS.

It is recommended that the same person or persons who prepared the six-step analysis prepare the summary of the six-step analysis to be included in the EA or EIS.

Six-step analysis included in its entirety in EA or EIS

3. District environmental staff notes in the "Comments" field of this Activity that the six-step analysis will not be prepared as a separate deliverable, but rather will be written as part of the EA or EIS.

4. District environmental staff finalizes this Activity.

5. District environmental staff prepares the six-step analysis as part of the EA or EIS in accordance with **ENV's Guidance: Indirect Impacts Analysis**. The appropriate resource area ENV SME assigned to the respective district will review the six-step analysis as part of his or her review of the EA or EIS.

Citation: NEPA (42 USC 4332)

"Perform Marine Mammal Protection Act (MMPA) Analysis" Activity

1. District environmental staff determines whether the project has the potential to cause an incidental take of marine mammals.

"Take" means "to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal, including, without limitation, any of the following: The collection of dead animals or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; or the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in the disturbing or molesting of a marine mammal." 50 CFR 18.3, 216.3.

Activities such as removing or driving pilings or any other activities in the water that may create noise or vibration may be considered as causing harassment of marine mammals.

The only marine mammals living in waters off the Texas coast are the following:

- Manatees*
- Whales
- Dolphins
- Porpoises

* The United States Fish and Wildlife Service has regulatory jurisdiction over manatees under the Marine Mammal Protection Act. The rest of the marine mammals listed above are under the regulatory jurisdiction of the National Marine Fisheries Service (NMFS) (also known as "National Oceanic and Atmospheric Administration (NOAA) Fisheries").

2. If district environmental staff is <u>uncertain as to whether the project has the potential to cause an incidental take of marine mammals</u>, then district environmental staff must contact staff from USFWS (for manatees) or NMFS (for any other marine mammals listed above) to explain the project and ask whether an incidental take permit is required. For manatees, district environmental staff must contact the TxDOT transportation liaison at USFWS.

District environmental staff may contact USFWS or NMFS staff by phone or by email; however, email is recommended in order to document the position of USFWS or NMFS staff. Upload any email correspondence with USFWS or NMFS staff under this Activity, or describe any telephone conversations with USFWS or NMFS staff in the "Comments" field of this Activity.

3. If any marine mammals were included in the species analysis spreadsheet prepared under the "Perform Species Analysis" Activity, then district environmental staff ensures that its determination regarding whether the project has the potential to cause an incidental take of marine mammals is consistent with the effect determination (for federally listed species) or impact determination (for state-listed species) recorded on the species analysis spreadsheet.

4. If district environmental staff determines that the project does not have the potential to cause an incidental take of marine mammals, then district environmental staff:

- indicates in the "Comments" field of this Activity that the project will not have the potential to cause an incidental take of marine mammals,
- provides an explanation in the "Comments" field for concluding that the pr**o**ject will not have the potential to cause an incidental take of marine mammals, and
- finalizes this Activity.

5. If district environmental staff determines that the project does have the potential to cause an incidental take of marine mammals, then an incidental take permit from USFWS and/or NMFS is required, depending on whether the project has the potential to cause an incidental take of manatees, and/or one or more of the other marine mammals listed above.

District environmental staff indicates in the "Comments" field of this Activity that the project does have the potential to cause an incidental take of marine mammals and that an incidental take permit is required. Identify the specific marine mammal(s) that will require an incidental take permit, and the specific marine mammal(s) for which the project does not have the potential to cause an incidental take, including an explanation of why the project will not have the potential to cause an incidental take of that or those marine mammal(s).

To obtain the incidental take permit, follow the instructions for the Coordination below, depending on whether an incidental take permit is required from USFWS for manatees, and/or whether an incidental take permit is required from NMFS for other marine mammals.

Note that district environmental staff must proceed as indicated below even if federally listed marine mammals were included in a consultation with USFWS under the Endangered Species Act.

Coordination with USFWS to obtain incidental take permit for **manatees**

1. District environmental staff creates a "Coordinate Marine Mammal Protection Act (MMPA)" Activity, and selects "U.S. Fish and Wildlife Service (USFWS)" as the agency with whom coordination is being conducted.

2. District environmental staff confers with the appropriate ENV SME assigned to the respective district to determine whether the request for an incidental take permit will be prepared by district environmental staff or ENV.

3. District environmental staff or the ENV SME prepares a request for an incidental take permit including the 8 pieces of information listed at 50 CFR §18.27(d).

4. District environmental staff or the ENV SME creates individuals Reviews of the request for an incidental take permit and assigns them to the district environmental staff and the ENV SME. Once the district environmental staff and the ENV SME have finalized their Reviews, if there are pending comments, the district environmental staff or the ENV SME:

- prepares a new, revised version of the request for an incidental take permit that is responsive to the comments made and uploads it under this Activity;

- completes a comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the district environmental staff and the ENV SME.

5. Once the district environmental staff and the ENV SME have no further comments and has finalized his or her Review, the ENV SME mails the request and supporting documentation to both the TxDOT transportation liaison at USFWS and the USFWS Jacksonville, FL, Field Office at jaxregs@fws.gov. Emails with attachments are limited to a maximum size of 20 megabytes (20MB). If you chose or need to submit via multiple emails please use same subject line for each email and note numerical sequence in the subject line such as 1 of 3, 2 of 3, etc.

6. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from USFWS in connection with the request for an incidental take permit.

7. The ENV SME staff uploads the transmitted request, any additional correspondence with USFWS, and the incidental take permit issued by USFWS under this Coordination.

8. In the Coordination, the district environmental staff selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

<u>Coordination with NMFS to obtain incidental take permit for **other marine mammals**</u>

1. District environmental staff confers with the appropriate ENV SME assigned to the respective district to determine whether the application for an incidental take permit will be prepared by district environmental staff or ENV.

2. District environmental staff creates a "Coordinate Marine Mammal Protection Act (MMPA)" Activity, and selects "National Marine Fisheries Service (NMFS)" as the agency with whom coordination is being conducted.

3. District environmental staff or the ENV SME prepares an application for an incidental take permit using NMFS's template cover letter and including the 14 pieces of information listed at 50 CFR § 216.104(a)). Further instructions regarding the preparation and submittal of an application for an incidental take permit are provided on NMFS's website (which is under the name "NOAA Fisheries").

4. District environmental staff or the ENV SME creates individual Reviews of the application for an incidental take permit and assigns them to the district environmental staff and the ENV SME. Once the district environmental staff and the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff or ENV SME:

- prepares a new, revised version of the application for an incidental take permit that is responsive to the comments made and uploads it under this Activity;
- completes a comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and

- creates a new Review under this Activity, and assigns it to the ENV SME.

5. Once the district environmental staff and ENV SME have no further comments and have finalized their Reviews, the ENV SME transmits the application to NMFS (both electronically and in hard copy – see the instructions provided on the NOAA Fisheries website).

6. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from NMFS in connection with the application for an incidental take permit.

7. The ENV SME uploads the transmitted application, any additional correspondence with NMFS, and the incidental take permit issued by NMFS under this Coordination.

8. In the Coordination, the ENV SME selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

Finalizing this Activity

1. After TxDOT has obtained any required incidental take permit from USFWS and/or NMFS, district environmental staff indicates in the "Comments" field of this Activity the date on which the incidental take permit(s) was issued.

2. If applicable, district environmental staff creates a "Perform Non-Endangered Species Act (ESA) Biology Commitments" Activity to track any resulting commitment that will be carried-out by district environmental staff related to marine mammals. This Activity is not used to record and track BMPs and other commitments that will be the responsibility of design, construction, or maintenance personnel. Those commitments must be included in project plans, general notes, and specifications as appropriate.

3. District environmental staff finalizes this Activity.

Citation: 16 USC 1361–1423h; 50 CFR Part 18; 50 CFR Part 216, Subpart I

"Perform Mobile Source Air Toxics (MSAT) Analysis" Activity

1. District environmental staff determines if <u>any</u> of the following conditions apply:

- the project affects a major intermodal facility or port located in proximity to a populated area;
- public concern has been raised regarding MSAT emissions associated with the project; <u>or</u>
- the project adds capacity[1] <u>and</u> is an FHWA/FTA project, <u>and</u> has an AADT[2] of greater than 140,000 vpd.

If <u>any</u> of the above conditions apply, then district environmental staff must obtain the base[3] and design year[4] NEPA traffic data[5] for both the build and the no-build alternatives. Then conduct an MSAT conference call to determine whether a qualitative or quantitative MSAT analysis will be required.

If <u>none</u> of the above conditions above apply, then there is no need for an MSAT conference call, and the district environmental staff performs a qualitative MSAT analysis.

<u>MSAT conference call</u>

2. District environmental staff obtains the following:

- project description
- document type
- aerial map identifying the project
- any available schematics
- build and no-build base and design year traffic data

3. District environmental staff arranges the MSAT conference call with the following participants, and provides them with the information listed above:

- ENV air specialist
- TxDOT district traffic expert TxDOT district environmental coordinator
- TxDOT district project manager
- contractor responsible for preparing the MSAT analysis

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[1] Consult the project engineer to determine whether the project is considered to add capacity.
[2] This refers to AADT for the entire cross-section of the roadway, including main lanes and frontage roads.
[3] The initial year of the MSAT analysis for which both traffic data is available and the project has not yet been constructed.
[4] The design year can be either the project's estimated time of completion (ETC) year plus 20 years, or the horizon year of the applicable MTP.
[5] For an EA or EIS project, this is the traffic data developed and used in support of the project's purpose and need. Typical sources of the traffic data include from the Transportation Planning and Programming (TPP) division or from a consultant. TPP's Form 2124 can be used to both request traffic data from TPP or to submit a consultant packet for review. The NEPA traffic data may need to be refined to obtain parameters specific to air quality analyses.

4. District environmental staff leads and takes minutes for the MSAT conference call, covering the following topics:

- reason for initiating the MSAT conference call (i.e., which of the conditions listed above applies to the project)
- brief project description
- determination about whether project will require a quantitative or qualitative MSAT analysis

If it is determined that the project will require a quantitative MSAT analysis, also cover the following topics:

- What NEPA traffic data is available
- Whether the traffic data includes both build and no-build alternatives
- Whether the traffic data includes a study area or corridor that is larger than just the links of the project
- Obtaining vehicle miles travelled (VMT) breakdowns for various timeframes (peak and off-peak hours at a minimum)
- Obtaining congested speeds for each timeframe (peak and off-peak hours at a minimum)
- anticipated environmental approval date
- estimated time of completion ("ETC") year
- appropriate base year and design year to analyze in the MSAT analysis
- whether an interim year[6] is recommended for this project
- methodology for determining the affected network[7]
- emissions model that will be used
- identification of whether MSAT emission rate tables are available or, if not, identification of appropriate methodology for the environmental consultant to use in developing the emission rates

5. District environmental staff distributes draft meeting minutes to participants for comments and corrections.

6. District environmental staff uploads the final meeting minutes under this Activity with the word, "Approved," at the beginning of the file name.

7. District environmental staff performs either a quantitative or qualitative MSAT analysis, depending on the outcome of the MSAT conference call.

<u>Quantitative MSAT Analysis</u>

[6] The interim year is typically the same as the ETC year.
[7] At a minimum this will consist of the links of the project; however, in cases where the NEPA traffic analysis is more robust than just the project links, one or more of the options in FHWA's Frequently Asked Questions for Conducting Quantitative MSAT Analysis for FHWA NEPA Documents may be used to further refine the affected network for non-project links.

8. District environmental staff consults **ENV's Emission Rates Lookup Table (ERLT) for MSAT**. If it contains MSAT emission rates for the relevant TxDOT district, use those rates.[8] If not, develop applicable emission rates for each priority MSAT using the MOVES emission factor model.

9. District environmental staff conducts quantitative MSAT analysis by completing the following:

- Develop an affected network for the base, interim,[9] and design years using the methodology established in the MSAT conference call minutes.[10]
- For each of the affected networks, multiply the applicable emission rates for each priority MSAT by the VMT for each time period for each network link. Aggregate the results to determine the total emissions for each priority MSAT for each network link.
- For each of the affected networks, aggregate the VMT for each of the affected network links to determine the total VMT.
- For each of the affected networks, aggregate the VMT for each of the affected network links to determine the total MSAT emissions.

10. District environmental staff analyzes the modeling results by completing the following:

- Determine whether the total MSAT emissions in the future years analyzed are less than the total MSAT emissions in the base year.
- If the total MSAT emissions in the future years analyzed are more than the total MSAT emissions in the base year, consult with the ENV air specialist to determine if there was a flaw in the analysis.
- If the total MSAT emissions in the future years analyzed are more than the total MSAT emissions in the base year, and there was no flaw in the analysis, consult with the ENV air specialist on how to proceed.

11. District environmental staff documents the quantitative MSAT analysis in an individual document uploaded under this Activity. The documentation of the quantitative MSAT analysis must include all information listed in **ENV's Documentation Standard for a Quantitative MSAT Technical Report**.

12. District environmental staff creates a Review of the quantitative MSAT technical report under this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the quantitative MSAT technical report that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

13. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the final quantitative MSAT technical report with the word, "Approved," at the beginning of the file name, and finalizes this Activity.

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[8] Both TxDOT and some MPOs have an emissions table.
[9] During the MSAT conference call, it will be determined if an interim year is required.
[10] Often this will only be the links of the project.

14. If an EA or EIS is being prepared for the project, then district environmental staff prepares a summary of the quantitative MSAT analysis to be included in the appropriate section of the EA or EIS. The summary must contain the required elements set forth in **ENV's Guidance for Preparing Air Quality Statements**.

It is recommended that the same person or persons who prepared the quantitative MSAT technical report prepare the summary of the quantitative MSAT analysis to be included in the EA or EIS.

Qualitative MSAT Analysis

8. District environmental staff prepares a customized qualitative MSAT analysis statement using **ENV's Guidance for Preparing Air Quality Statements**.

9. District environmental staff uploads the customized qualitative MSAT analysis statement under this Activity.

10. District environmental staff may, at its discretion, create a Review of the customized qualitative MSAT analysis statement under this Activity and assign it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the customized qualitative MSAT analysis statement that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

11. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff uploads the final qualitative MSAT analysis statement with the word, "Approved," at the beginning of the file name, and finalizes this Activity.

12. If an EA or EIS is being prepared for the project, district environmental staff includes the customized qualitative MSAT analysis statement in the appropriate section of the EA or EIS.

Citation: NEPA (42 USC 4332)

"Perform Native American Graves Protection and Repatriation Act (NAGPRA) Analysis" Activity

This Activity is used by an ENV SME to track compliance with the Perform Native American Graves Protection and Repatriation Act (NAGPRA), when NAGPRA is triggered for a project.

1. The ENV SME self-assigns the Activity.

2. The ENV SME describes the NAGPRA issue in the "Comments" field.

3. The ENV SME completes the associated work and consultation in accordance with 43 CFR 10.9-11, uploads all associated documentation under this Activity, and finalizes the Activity.

Citation(s): Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001 et seq.; 43 CFR 10

"Perform Noise Analysis" Activity

1. District environmental staff conducts a traffic noise analysis in accordance with **ENV's Traffic Noise Policy Implementation Guidance**.

Note that if the project is a "Super 2 project" (a project that just installs passing lanes), then district environmental staff first contacts the ENV SME assigned to the respective district to determine the level of analysis required.

2. District environmental staff prepares a traffic noise analysis report in accordance with **ENV's Traffic Noise Policy Implementation Guidance.**

3. District environmental staff uploads the following under this Activity:

- Traffic noise analysis report (and all required attachments per **ENV's Traffic Noise Policy Implementation Guidance**)
- Traffic noise model (TNM) files

Refer to **ENV's Traffic Noise Policy Implementation Guidance** for the required file structure for the TNM files. District environmental staff may, at its discretion, upload additional documentation in support of the traffic noise analysis.

4. If the traffic noise analysis report is prepared for an EIS project, or if the traffic noise analysis report indicates predicted noise impacts, then district environmental staff creates a Review of this Activity and assigns it to the appropriate resource area ENV SME assigned to the respective district.

Additionally, even if the traffic noise analysis report does not indicate predicted noise impacts, district environmental staff may, at its discretion, create a Review of this Activity and assign it to the appropriate resource area ENV SME assigned to the respective district.

5. Once the ENV SME has finalized his or her Review (if a Review was created), if there are pending comments, the district environmental staff:

- prepares a new, revised version of the traffic noise analysis report (and any new or revised supporting documentation) that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling in the "How Addressed," "New Page," and "New Section columns and uploads the matrix under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

6. Once the ENV SME has no further comments and has finalized his or her Review (if a Review was created), district environmental staff uploads the final traffic noise analysis report with the word, "Approved," at the beginning of the file name, and finalizes this Activity.

7. District environmental staff creates the "Perform Notification of Noise Information to Local Officials" Activity, unless noise contours were not calculated because there were no undeveloped areas adjacent to the project.

8. If the traffic noise analysis report included a preliminary barrier proposal for one or more noise abatement barriers, and such barrier(s) were not ruled out as being not constructible or cost-reasonable due to site constraints or other factors as part of the traffic noise analysis report uploaded under this Activity, then district environmental staff creates the "Perform Noise Workshop" Activity.

9. If an EA or EIS is being prepared for the project, then district environmental staff uses the traffic noise analysis report to complete the appropriate section of the EA or EIS.

Citation(s): 23 CFR 772

"Perform Noise Mitigation" Activity

1. District environmental staff identifies the noise barriers approved for construction during the noise workshop(s) held for the project in the "Comments" field of this Activity. For each such barrier, provide the Noise Barrier ID, which is the unique name for the constructed barrier that was used in the traffic noise analysis report and the noise workshop summary report.

2. After each noise barrier has been constructed, district environmental staff completes **ENV's Noise Barrier Tracking Spreadsheet** and uploads it under this Activity.

3. If it is determined that any of the noise barriers approved for construction during the noise workshop(s) held for the project will not actually be constructed, district environmental staff provides in explanation in the "Comments" field of this Activity.

4. Once all noise barriers have been constructed, and the information required by 23 CFR 772.13(f) has been uploaded for all constructed barriers, district environmental staff finalizes this Activity.

Citation(s): 23 CFR 772.13(f)

"Perform Noise Workshop" Activity

1. District environmental staff determines how many noise workshops will be held for the project on any preliminarily proposed barrier or grouped set of barriers. It may be possible to hold a single noise workshop for a grouped set of preliminarily proposed barriers.

District environmental staff creates a separate "Perform Noise Workshop" Activity for each noise workshop it intends to hold.

2. If there are any concerns regarding the constructability of any preliminarily proposed barrier or grouped set of barriers, then district environmental staff must conduct a constructability assessment to determine whether such barrier(s) are or are not constructible based on site constraints. Additionally, if there are concerns regarding the cost reasonableness of any preliminarily proposed barrier or grouped set of barriers based on site-specific factors, then district environmental staff must conduct an alternate barrier cost assessment. Any constructability assessment or alternate barrier cost assessment must be conducted prior to scheduling and holding a noise workshop (note that a constructability assessment and/or alternate barrier cost assessment may have already been documented as part of the traffic noise analysis report uploaded under the "Perform Noise Analysis" Activity).

3. In the "Comments" field of each "Perform Noise Workshop" Activity, district environmental staff indicates the Noise Barrier ID, location of the preliminarily proposed barrier, and any other identifying information from the traffic noise analysis report, such as neighborhood name, and/or side of roadway.

4. For each "Perform Noise Workshop" Activity created, district environmental staff proceeds as indicated below, depending on whether a constructability assessment and/or alternate barrier cost assessment is first going to be conducted prior to scheduling and holding the noise workshop, or whether the noise workshop will be scheduled and held without the need for a constructability assessment and/or alternate barrier cost assessment.

Constructability assessment and/or alternate barrier cost assessment

5. If district environmental staff, project engineering staff, or project design staff determines that a constructability assessment or alternate barrier cost assessment for the preliminarily proposed noise barrier(s) is needed, then project engineering or design staff performs the constructability assessment or alternate barrier cost assessment. The assessment must be completed prior to distributing the solicitation packet for the noise workshop, and must conclude whether the preliminarily proposed barrier(s) is/are constructible based on site constraints or other factors (constructability assessment) or whether the preliminarily proposed barrier(s) is/are cost-reasonable (alternate barrier cost assessment).

6. District environmental staff uploads the constructability assessment and/or alternate barrier cost assessment and any supporting documentation, which may include:

- a constructability assessment memo,

- additional noise modeling to confirm that the proposed noise barrier is still reasonable and feasible, and/or
- **ENV's Alternate Barrier Cost Assessment Worksheet**.

7. District environmental staff notifies the ENV SME assigned to the respective district by email to notify him or her that the constructability assessment and/or alternate barrier cost assessment has been uploaded.

8. If <u>any</u> of the preliminarily proposed barrier(s) that would have been presented at the noise workshop is/are <u>not</u> constructible and/or <u>not</u> cost-reasonable, then district environmental staff enters the reason for not building the proposed barrier(s) in the "Comments" field, including reference(s) to the applicable Noise Barrier ID(s).

9. If <u>all</u> of the preliminarily proposed barrier(s) that would have been presented at the noise workshop is/are <u>not</u> constructible and/or <u>not</u> cost-reasonable, then district environmental staff enters the reason for not building the proposed barrier(s) in the "Comments" field, including reference(s) to the applicable Noise Barrier ID(s), explains that no noise workshop will be held, and also finalizes this Activity.

10. If district environmental staff determined that at least one the preliminarily proposed barrier(s) that will be presented at the noise workshop <u>is/are</u> constructible and cost-reasonable, then district environmental staff follows the steps under "Noise Workshop" below.

<u>Noise Workshop</u>

11. District environmental staff plans and holds a noise workshop meeting, following policies and recommended best practices in **ENV's Traffic Noise Policy Implementation Guidance**. The primary components of a noise workshop are as follows:

- Identifying eligible voters
- Distribution of solicitation materials (notice, ballot, and barrier information)
- Holding the workshop meeting

12. In accordance with **ENV's Traffic Noise Policy Implementation Guidance**, district environmental staff receives ballots from eligible voters and determines voting results. If fewer than 25% of eligible voters cast a timely ballot, district environmental staff conducts a second round of voting with a second mail-out.

13. District environmental staff prepares the documentation of noise workshop in accordance with **ENV's Template: Documentation of Noise Workshop Cover Page** and uploads it under this Activity.

14. District environmental staff creates a Review of this Activity and assigns it to the appropriate ENV SME assigned to the respective district.

15. Once the ENV SME has finalized his or her Review of the documentation of noise workshop, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the documentation of noise workshop that is responsive to the comments made and uploads it under this Activity.

- completes the comment response matrix by filling in the "How Addressed," "New Page," and "New Section columns and uploads the matrix under this Activity, and
- creates a new Review under this Activity, and assigns it to the ENV SME.

16. Once the ENV SME has no further comments and has finalized his or her Review, district environmental staff:

- uploads under this Activity the final documentation of noise workshop with the word, "Approved," at the beginning of the file name;
- enters the decision to build or not build the proposed barrier(s) resulting from the noise workshop in the "Comments" field of this Activity; and
- finalizes this Activity.

17. If the decision resulting from the noise workshop is to build one or more barriers, then district environmental staff creates the "Perform Noise Mitigation" Activity. Note that, if more than one noise workshops are held, each of which results in a decision to build one or more barriers, it is <u>not</u> necessary to create multiple "Perform Noise Mitigation" Activities. There must only be one "Perform Noise Mitigation" Activity for any given project.

Citation(s): 23 CFR Part 772

"Perform Non-Endangered Species Act (ESA) Biology Commitments" Activity

1. District environmental staff may, at their discretion, use this Activity to document any commitments related to protecting plant or animal species that do not result from a consultation with USFWS under the Endangered Species Act, but that will be carried-out by district environmental staff. This Activity is not used to record and track BMPs and other commitments that will be the responsibility of design, construction, or maintenance personnel. Those commitments must be included in project plans, general notes, and specifications as appropriate.

If there are multiple commitments, district environmental staff may either document them all under one Activity, or, if the district environmental staff intends to track each commitment separately, they may document them under separate, individually created "Perform Non-Endangered Species Act (ESA) Biology Commitments" Activities.

2. Once the commitment(s) are complete, district environmental staff finalizes this Activity.

"Perform Notice and Opportunity to Comment" Activity

1. NOTE: If a property owner has already transferred ownership of the property to the entity advancing the project (advance acquisition by TxDOT or a local government), or formally consented to acquisition of their property in writing (e.g., agreement, letter, etc.), then there is no need to issue a notice and opportunity to comment to that property owner. Explain in the "Comments" field of this Activity any such situation.

2. District environmental staff prepares a written notification using **ENV's Template: Notice and Opportunity to Comment** informing the recipient of the project, and inviting the recipient to submit comments by a deadline specified in the notification.

3. For an open-ended (d)-list CE, district environmental staff emails the draft notice to the ENV project delivery manager assigned to their district for review to confirm that the open-ended (d)-list CE classification remains valid.

4. If the project would require acquisition of new right-of-way (including a temporary or permanent easement), district environmental staff provides the written notification to the owner or owners of real property that would be acquired for the project.

5. If the project would involve either added capacity or construction of a highway at a new location, district environmental staff also provides the written notification to owners of real property that is adjacent to the project, and to affected local governments and public officials.

6. District environmental staff may provide the notification by U.S. Mail or email.

If the notification is provided by U.S. mail, the comment deadline specified in the notification must be at least 18 days after notification is mailed.

If the notification is provided by email, the comment deadline specified in the notification must be at least 15 days after the date of the email.

7. After expiration of the comment deadline specified in the notification, district environmental staff prepares Documentation of Notice and Opportunity to Comment using **ENV's Template: Documentation of Notice and Opportunity to Comment**.

Note that if the documentation of notice and opportunity to comment will be disclosed to the public (e.g., posted on the project website), then email addresses for members of the public must be redacted from the documentation of notice and opportunity to comment that is uploaded; original copies of emails or other documents showing email addresses for members of the public must be retained by district environmental staff, but are not uploaded.

8. District environmental staff uploads the Documentation of Notice and Opportunity to Comment under this Activity, creates a Review of the Documentation of Notice and Opportunity to Comment under this Activity, and assigns it to the district employee with delegated authority to approve the

CE. Once the district employee has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the Documentation of Notice and Opportunity to Comment that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

Once the district employee with delegated authority to approve the CE has no further comments and has finalized his or her Review, district environmental staff uploads the Documentation of Notice and Opportunity to Comment under this Activity with the word, "Approved," at the beginning of the file name, and finalizes this Activity.

9. If, as part of the environmental review process, the district environmental staff has conducted other outreach with members of the public such as meetings, telephone conferences, or emails with individuals or groups, and the district environmental staff intends for such outreach to be included as part of the environmental review process, then the district environmental staff creates the "Perform Additional Public Outreach" and uploads documentation of such outreach under that Activity.

Citation: 43 TAC 2.104

"Perform Notice of Availability (NOA) for Final EA listed at 23 CFR 771.115(a)" Activity

1. District environmental staff drafts the NOA of the Final EA using **ENV's Template: Final EA Notice of Availability**.

2. District environmental staff:

- provides the NOA to the MPO (by U.S. Mail or email);
- provides the NOA to affected units of federal, state, and local government (by U.S. Mail or email);
- provides the NOA to any entities that have requested in writing to receive notices regarding the environmental review (by U.S. Mail or email);
- provides the NOA to any other entities with which environmental review of the project is being coordinated (by U.S. Mail or email), except that if the project is being coordinated under a memorandum of understanding (MOU), the terms of the MOU govern;
- publishes the NOA in a local newspaper having general circulation in the area affected by the project (or if there is no local newspaper in the area affected by the project, the project sponsor publishes the NOA in any newspaper having general circulation in the area affected by the project); and
- posts the NOA on TxDOT's website.

3. District environmental staff uploads documentation of compliance with the above requirements under this Activity.

4. District environmental staff finalizes this Activity.

5. District environmental staff emails the ENV core team member when the 30-period following issuance of the NOA of the Final EA has expired to request that the FONSI be signed.

Citation: 23 CFR 771.115(a) and 771.119(h), and 40 CFR 1501.4(e)(2).

"Perform Notice of Intent (NOI)" Activity

The steps for completing this Activity are different depending on whether the project is a state project or FHWA project:

NOI for a state project

1. District environmental staff prepares a draft NOI using **ENV's Template: Notice of Intent for a State Project**, and emails it to the ENV core team member for review.

2. After the ENV core team member has approved the draft NOI, district environmental staff publishes the approved NOI in a local newspaper having general circulation in the area affected by the project. If there is no local newspaper in the area affected by the project, district environmental staff will publish the NOI in any newspaper having general circulation in the area affected by the project. District environmental staff uploads the newspaper clipping showing publication of the NOI in the newspaper under this Activity.

3. After the ENV core team member has approved the draft NOI, the ENV core team member emails the NOI to the General Counsel Division (GCD) for publication in the Texas Register at least two weeks prior to the intended publication date. Once the NOI has been published in the Texas Register, the ENV core team member:

- indicates the date the NOI was published in the Texas Register in the "Comments" field,
- notifies the district core team member that the NOI has been published,
- uploads the Texas Register-published NOI under this Activity,
- confirms that the newspaper notice has been uploaded, and
- finalizes this Activity.

NOI for an FHWA project

1. District environmental staff prepares a draft NOI using **ENV's Template: Notice of Intent for an FHWA Project**, and emails it to the ENV core team member for review.

2. After the ENV core team member has approved the draft NOI, the ENV core team member forwards the draft NOI to TxDOT's GCD for legal sufficiency review, and provides at least three days for GCD to review. GCD's comments, response to GCD's comments, revisions to the NOI made in response to GCD's comments, and correspondence regarding GCD's comments and associated revisions and responses are not tracked in ECOS.

3. ENV core team member uploads GCD's legal sufficiency determination email under this Activity.

4. After GCD has approved the draft NOI, district environmental staff publishes the approved NOI in a local newspaper having general circulation in the area affected by the project. If there is no local newspaper in the area affected by the project, district environmental staff will publish the NOI in any newspaper having general circulation in the area affected by the project. District environmental staff uploads the newspaper clipping showing publication of the NOI in the newspaper under this Activity.

5. After GCD has approved the draft NOI, the ENV core team member coordinates publication of the NOI in the Federal Register as follows:

- ENV core team member prepares:
  - Three single-sided copies of the NOI
  - Transmittal letter indicating the date TxDOT is requesting publication in the Federal Register, which should be approximately two weeks after the anticipated date of submittal (contact FHWA, Texas Division for the correct Federal Register address)
  - CD-ROM with the notice saved as a doc or docx file
- ENV core team member physically hand-delivers the three materials listed above to FHWA's Texas Division office for signature.
- After the representative from FHWA's Texas Division has signed the transmittal letter and each of the three single-sided copies of the NOI, at least two weeks prior to the requested publication date, the ENV core team member uses FedEx or UPS to mail the three materials indicated above to the Office of the Federal Register in Washington, D.C.

6. When the NOI has been published in the Federal Register, the ENV core team member:

- indicates the date the NOI was published in the Federal Register in the "Comments" field,
- notifies the district core team member that the NOI has been published,
- uploads the Federal Register-published NOI under this Activity,
- confirms that the newspaper notice has been uploaded, and
- finalizes this Activity.

Citation: 43 TAC 2.102, 23 CFR 771.123, 40 CFR 1508.22

"Perform Notification for Environmental Protection Agency (EPA) Edwards Aquifer MOU" Activity

1. At or around the same time that the draft EA or draft EIS is made available for public review (and after the draft EA or draft EIS has been approved for public review by ENV), district environmental staff mails the following items to EPA Region 6:

- Notice of availability of the draft EA or draft EIS
- Paper or electronic copy (flash drive or CD) of the draft EA or draft EIS

2. District environmental staff uses the following mailing address for EPA Region 6:

Mr. Omar T. Martinez
Sole Source Aquifer Coordinator, Ground Water/Underground Injection Control Section
Mail Code: 6WQ-SG
USEPA Region 6
1445 Ross Avenue
Suite 1200
Dallas, TX 75202

3. District environmental staff indicates in the "Comments" box the date on which the notice of availability was mailed to EPA Region 6, and the format of the draft EA or draft EIS that was mailed to EPA Region 6 (e.g., paper copy, flash drive, or CD).

4. District environmental staff uploads a copy of the notice of availability mailed to EPA Region 6 under this Activity.

5. District environmental staff uploads any written responses provided by EPA Region 6, and any further correspondence between TxDOT and EPA Region 6 regarding EPA's review of the project under the sole source aquifer program, under this Activity.

6. If EPA Region 6 provides a written response that does <u>not</u> raise any concerns about the project's impact on the Edwards Aquifer, then district environmental staff finalizes this Activity.

If EPA Region 6 provides a written response that <u>does</u> raise concerns about the project's impact on the Edwards Aquifer, then district environmental staff contacts the appropriate ENV SME assigned to the respective district to discuss how to proceed.

If EPA Region 6 has not provided a written response within 48 days after the notice availability and draft EA or draft EIS was mailed to EPA Region 6, then district environmental staff finalizes this Activity. Note that if EPA Region 6 provides a response after the 48-day period, it must still be considered by district environmental staff and uploaded under this Activity.

Citation: Safe Drinking Water Act, §1424(e)

"Perform Notification of Noise Information to Local Officials" Activity

The instructions for this Activity differ depending on whether a CE determination is made for the project, or an environmental assessment (EA) or environmental impact statement (EIS) was prepared for the project.

CE

1. District environmental staff prepares a customized letter using **ENV's Template: Letter Related to Noise Contours for Land Use Planning**.

2. After the CE determination for the project is made, but no later than 30 days after the CE determination for the project is made, district environmental staff transmits the customized letter to the applicable mayor's office if the project is in an incorporated area, or to the county judge's office if the project is in an unincorporated area. If the project extends into multiple jurisdictions, then all applicable mayors' offices and county judges' offices must be sent the customized letter.

3. District environmental staff uploads copy of signed letter(s) under this Activity and finalizes this Activity.

EA or EIS

1. If the project was the subject of an EA, then district environmental staff ensures that the notice of availability of the FONSI includes the paragraph regarding noise impacts that is provided in **ENV's Template: FONSI Notice of Availability**.

2. If the project was the subject of an EIS, then district environmental staff ensures that the notice of availability of the FEIS/ROD includes the paragraphs regarding noise impacts that are provided in **ENV's Template: FEIS-ROD Notice of Availability**.

3. District environmental staff ensures that the notice of availability of the FONSI or FEIS/ROD is transmitted to the applicable mayor's office if the project is in an incorporated area, or to the county judge's office if the project is in an unincorporated area. If the project extends into multiple jurisdictions, then all applicable mayors' offices and county judges' offices must be sent the notice of availability.

4. District environmental staff indicates in the comments field that the paragraph(s) regarding noise impacts was/were included in the notice of availability of the FONSI or FEIS/ROD as applicable, and indicates to which mayor's and/or county judge's office(s) the notice of availability was sent.

Citation(s): 23 CFR 772.17

"Perform Opportunity for Public Hearing (OPH)/ Public Hearing (PH)" Activity

This Activity may be used for an Opportunity for Public Hearing or Public Hearing for a CE, EA, or EIS.

CE PROJECT

Opportunity for Public Hearing for a CE project

1. District environmental staff prepares a notice of opportunity for public hearing using **ENV's Template: Notice Affording an Opportunity for a Public Hearing**.

2. For an open-ended (d)-list CE, district environmental staff emails the draft notice to the ENV project delivery manager assigned to their district for review to confirm that the open-ended (d)-list CE classification remains valid.

3. District environmental staff:

- provides the notice to landowners abutting the roadway within the proposed project limits (by U.S. Mail or email);
- provides the notice to affected local governments and public officials (by U.S. Mail or email);
- provides the notice to any public official, individual, or affected interest group that has expressed interest in the project (by U.S. Mail or email);
- publishes the notice in a local newspaper having general circulation in the area affected by the project (or if there is no local newspaper in the area affected by the project, district environmental staff publishes the notice in any newspaper having general circulation in the area affected by the project); and
- provides notice to the public using at least one additional public outreach method.

4. All notices required above must be provided or published at least 15 days prior to the deadline specified in the notice for requesting a hearing. For notices provided by U.S. Mail, the notice is considered to be provided on the third day after the date of mailing.

5. District environmental staff determines whether a hearing is required.

- If less than 10 requests for a hearing and no request for a hearing from an agency with jurisdiction is received by the deadline specified in the notice (which must be at least 15 days after the date the notice is provided), then no hearing is required.
- If 10 or more requests for a hearing or if a request for a hearing from an agency with jurisdiction is received by the deadline specified in the notice, then a public hearing is required.
- If the number of requests received exceeds 10 (but is not substantially more than 10), or if a request from an agency with jurisdiction is received, then district staff should contact the submitter(s) and discuss whether their concerns can be addressed without a hearing.

- Any submitted requests that are subsequently withdrawn in writing by the requester are not counted in determining whether a hearing is required, and the written withdrawal must be included in the documentation of opportunity for public hearing.

5. If a hearing is required, district environmental staff prepares the documentation of opportunity for public hearing using **ENV's Template: Documentation of Public Hearing Opportunity** (without the certification), and uploads the documentation of opportunity for public hearing under this Activity.

Note that if the documentation of opportunity for public hearing will be disclosed to the public (e.g., posted on the project website), then email addresses for members of the public must be redacted from the documentation of opportunity for public hearing that is uploaded; original copies of emails or other documents showing email addresses for members of the public must be retained by district environmental staff, but are not uploaded.

District environmental staff proceeds as instructed below under "Public Hearing for a CE Project," and includes any written comments received in response to the noticed opportunity for public hearing in the documentation of public hearing.

6. If no hearing is required, district environmental staff prepares the documentation of opportunity for public hearing using **ENV's Template: Documentation of Public Hearing Opportunity**, and uploads the documentation of opportunity for public hearing under this Activity, creates a Review of the documentation of opportunity for public hearing under this Activity, and assigns it to the district employee with delegated authority to approve the CE.

Note that if the documentation of opportunity for public hearing will be disclosed to the public (e.g., posted on the project website), then email addresses for members of the public must be redacted from the documentation of opportunity for public hearing that is uploaded; original copies of emails or other documents showing email addresses for members of the public must be retained by district environmental staff, but are not uploaded.

Once the district employee has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the documentation of opportunity for public hearing that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the district employee with delegated authority to approve the CE.

Once the district employee with delegated authority to approve the CE has no further comments and has finalized his or her Review, district environmental staff uploads the documentation of opportunity for public hearing under this Activity with the word, "Approved," at the beginning of the file name.

7. District environmental staff selects "OPH" from the drop-down responses for the "An OPH or PH was conducted" field.

8. District environmental staff finalizes this Activity.

Public Hearing for a CE project

1. District environmental staff prepares a notice of public hearing using **ENV's Template: Notice of a Public Hearing, ENV's Template: Notice of a Virtual Public Hearing, or ENV's Template: Notice of a Virtual Public Hearing with In-Person Option**, depending on which form of public hearing is appropriate in light of health and safety considerations.

2. For an open-ended (d)-list CE, district environmental staff emails the draft notice to the ENV project delivery manager assigned to their district for review to confirm that the open-ended (d)-list CE classification remains valid.

3. District environmental staff:

- provides the notice to landowners abutting the roadway within the proposed project limits (by U.S. Mail or email);
- provides the notice to affected local governments and public officials (by U.S. Mail or email);
- provides the notice to any public official, individual, or affected interest group that has expressed interest in the project (by U.S. Mail or email);
- publishes the notice in a local newspaper having general circulation in the area affected by the project (or if there is no local newspaper in the area affected by the project, district environmental staff publishes the notice in any newspaper having general circulation in the area affected by the project);
- provides notice to the public using at least one additional public outreach method; and
- posts the notice on TxDOT's website.

4. All notices required above must be provided or published at least 15 days prior to the hearing. For notices provided by U.S. Mail, the notice is considered to be provided on the third day after the date of mailing.

5. If the hearing is being held to satisfy Transportation Code, Section 203.021 (bypass of a municipality), then the following notice requirements must also be followed:

- There must be an additional newspaper notice between 3 and 10 days prior to the hearing.
- At least seven days before the date of the public hearing, district environmental staff provides the governing body of the county or municipality with the design and schematic layout of the project.

6. If the hearing is being held to satisfy Chapter 26 of the Parks and Wildlife Code (the taking of public land designated and used as a park, recreation area, wildlife refuge, historic site, or scientific area), then the following notice requirements must also be followed:

- At least 30 days before the public hearing, district environmental staff provides the notice to the person, organization, department, or agency that has supervision of the land proposed to be used or taken.
- Notice of the hearing also must be published in a newspaper once a week for three consecutive weeks, with the last day of publication not less than one week or more than

two weeks before the date of the hearing. The newspaper must be one that is published at least six days a week.

7. For an open-ended (d)-list CE, district environmental staff emails the anticipated hearing presentation materials to the ENV project delivery manager assigned to their district for review to confirm that the open-ended (d)-list CE classification remains valid.

8. District environmental staff conducts the hearing in accordance with **ENV's Environmental Handbook for Public Involvement**.

9. After the expiration of the comment period following the public hearing (at least 15 days), district environmental staff prepares the documentation of public hearing using **ENV's Template: Documentation of Public Hearing**, uploads the documentation of public hearing under this Activity, creates a Review of the documentation of public hearing under this Activity, and assigns it to the district employee with delegated authority to approve the CE.

Note that if the documentation of public hearing will be disclosed to the public (e.g., posted on the project website), then email addresses for members of the public must be redacted from the documentation of public hearing that is uploaded; original copies of sign-in sheets, emails, or other documents showing email addresses for members of the public must be retained by district environmental staff, but are not uploaded.

Once the district employee has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the documentation of public meeting that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the district employee with delegated authority to approve the CE.

Once the district employee with delegated authority to approve the CE has no further comments and has finalized his or her Review, district environmental staff uploads the documentation of public hearing under this Activity with the word, "Approved," at the beginning of the file name.

10. District environmental staff:

- selects "PH" from the drop-down responses for the "An OPH or PH was conducted" field;
- selects the date of the public hearing in the "Date of PH" field;
- fills-in the "Total number of attendees for the PH" field with the number indicated on the cover of the Public Hearing Documentation;
- selects "N/A" from the drop-down responses for the "This PH addressed Texas PWC Chapter 26 requirements" field if the requirements of Chapter 26 of the Texas Parks and Wildlife Code are <u>not</u> triggered by the project;
- selects "Yes" from the drop-down responses for the "This PH addressed Texas PWC Chapter 26 requirements" field if the requirements of Chapter 26 of the Texas Parks and Wildlife Code <u>are</u> triggered by the project, <u>and</u> if the public hearing <u>was</u> noticed and held

in accordance with the requirements of Chapter 26 of the Texas Parks and Wildlife Code (e.g., weekly newspaper notices for three consecutive weeks);

- selects "No" from the from the drop-down responses for the "This PH addressed Texas PWC Chapter 26 requirements" field if the requirements of Chapter 26 of the Texas Parks and Wildlife Code are triggered by the project, and if the public hearing was not noticed and held in accordance with the requirements of Chapter 26 of the Texas Parks and Wildlife Code (in which case a separate public hearing must be held by either TxDOT or the relevant local government in order to satisfy Chapter 26).

11. District environmental staff finalizes this Activity.

EA PROJECT

Determination of whether a public hearing will be held, or whether an opportunity for a public hearing will be afforded

1. District environmental staff determines whether any of the following conditions apply. If any of these conditions apply then a public hearing is required:

- Ten or more individuals submit a written request for a hearing, or an agency with jurisdiction over the project submits a written request for a hearing that is supported by reasons why a hearing will be helpful. However, a public hearing is not required if:
    - a public hearing was held concerning the project before the requests are received,
    - the hearing request(s) are received after the environmental review document or CE determination for the project is approved
    - the hearing request(s) are received after the deadline specified in an notice affording an opportunity for a public hearing, or
    - district environmental staff has addressed all of the concerns of the agency or persons requesting the hearing.
- The project involves substantial public interest or controversy
- The project substantially changes the layout or function of a connecting roadway or an existing facility, including the addition of managed lanes, high-occupancy vehicle lanes, bicycle lanes, bus lanes, and transit lanes
- TxDOT determines it is in the public interest
- The project bypasses a municipality (see Transportation Code, Section 203.021)
- The project requires the taking of public land designated and used as a park, recreation area, wildlife refuge, historic site, or scientific area, as covered under Chapter 26 of the Texas Parks and Wildlife Code
- The project requires the use or taking of private land encumbered by an agricultural conservation easement purchased under Chapter 84 of the Parks and Wildlife Code

If none of these conditions apply, then district environmental staff may proceed with affording an opportunity for a public hearing.

Opportunity for Public Hearing for an EA project

1. District environmental staff prepares a combined notice of opportunity for public hearing/notice of availability (NOA) of the draft EA using **ENV's Template: Draft EA Notice of Availability and Opportunity for Public Hearing**.

2. District environmental staff distributes the combined notice as indicated below (the requirements are organized by those applicable to an NOA and those applicable to an OPH notice, but the combined notice must meet all of the requirements listed below):

NOA requirements:

- provides the notice to the appropriate metropolitan planning organization (by U.S. Mail or email);
- provides the notice to any other affected units of federal, state, and local government (by U.S. Mail or email);
- provides the notice to any entities that requested in writing to receive notices regarding the environmental review of the project (by U.S. Mail or email);
- provides the notice to any other entities with which environmental review of the project is being coordinated, except that if the project is being coordinated under a memorandum or understanding, the terms of the memorandum of understanding govern the provision of notice (by U.S. Mail or email);
- provides the notice to TCEQ by emailing it to the following email address: NEPA@tceq.texas.gov (subject line: "Draft environmental assessment for a highway project", body of email: "Attached please find a Notice of Availability of a DRAFT environmental assessment for a highway project.");

OPH notice requirements:

- provides the notice to landowners abutting the roadway within the proposed project limits (by U.S. Mail or email);
- provides the notice to affected local governments and public officials (by U.S. Mail or email);
- provides the notice to any public official, individual, or affected interest group that has expressed interest in the project (by U.S. Mail or email);
- publishes the notice in a local newspaper having general circulation in the area affected by the project (or if there is no local newspaper in the area affected by the project, district environmental staff publishes the notice in any newspaper having general circulation in the area affected by the project); and
- provides notice to the public using at least one additional public outreach method.

3. All notices required above must be provided or published at least 30 days prior to the deadline specified in the notice for requesting a hearing. For notices provided by U.S. Mail, the notice is considered to be provided on the third day after the date of mailing.

4. District environmental staff determines whether a hearing is required.

- If less than 10 requests for a hearing and no request for a hearing from an agency with jurisdiction is received by the deadline specified in the notice (which must be at least 30 days after the date the notice is provided), then no hearing is required.

- If 10 or more requests for a hearing or if a request for a hearing from an agency with jurisdiction is received by the deadline specified in the notice, then a public hearing is required.
- If the number of requests received exceeds 10 (but is not substantially more than 10), or if a request from an agency with jurisdiction is received, then district staff should contact the submitter(s) and discuss whether their concerns can be addressed without a hearing.
- Any submitted requests that are subsequently withdrawn in writing by the requester are not counted in determining whether a hearing is required, and the written withdrawal must be included in the documentation of opportunity for public hearing.

5. If a hearing is required, district environmental staff prepares the documentation of opportunity for public hearing using **ENV's Template: Documentation of Public Hearing Opportunity** (without the certification), and uploads the documentation of opportunity for public hearing under this Activity.

Note that if the documentation of opportunity for public hearing will be disclosed to the public (e.g., posted on the project website), then email addresses for members of the public must be redacted from the documentation of opportunity for public hearing that is uploaded; original copies of emails or other documents showing email addresses for members of the public must be retained by district environmental staff, but are not uploaded.

District environmental staff proceeds as instructed below under "Public Hearing for an EA Project," and includes any written comments received in response to the noticed opportunity for public hearing in the documentation of public hearing.

5. If no hearing is required, district environmental staff prepares the documentation of opportunity for public hearing using **ENV's Template: Documentation of Public Hearing Opportunity**, and uploads the documentation of opportunity for public hearing under this Activity.

Note that if the documentation of opportunity for public hearing will be disclosed to the public (e.g., posted on the project website), then email addresses for members of the public must be redacted from the documentation of opportunity for public hearing that is uploaded; original copies of emails or other documents showing email addresses for members of the public must be retained by district environmental staff, but are not uploaded.

6. District environmental staff creates a Review of the documentation of opportunity for public hearing under this Activity and assigns it to the ENV core team member. Once the ENV core team member has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the documentation of opportunity for public hearing that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV core team member.

7. Once the ENV core team member has no further comments and has finalized his or her Review, district environmental staff uploads the documentation of opportunity for public hearing under this Activity with the word, "Approved," at the beginning of the file name.

8. District environmental staff selects "OPH" from the drop-down responses for the "An OPH or PH was conducted" field.

9. District environmental staff finalizes this Activity.

Public Hearing for an EA project

1. District environmental staff prepares a combined notice of public hearing/notice of availability (NOA) of the draft EA using **ENV's Template: Draft EA Notice of Availability and Public Hearing, ENV's Template: Draft EA Notice of Availability and Virtual Public Hearing, or ENV's Template: Draft EA Notice of Availability and Virtual Public Hearing with In-Person Option**, depending on which form of public hearing is appropriate in light of health and safety considerations.

2. District environmental staff distributes the combined notice as indicated below (the requirements are organized by those applicable to an NOA and those applicable to a PH notice, but the combined notice must meet all of the requirements listed below):

NOA requirements:

- provides the notice to the appropriate metropolitan planning organization (by U.S. Mail or email);
- provides the notice to any other affected units of federal, state, and local government (by U.S. Mail or email);
- provides the notice to any entities that requested in writing to receive notices regarding the environmental review of the project (by U.S. Mail or email);
- provides the notice to any other entities with which environmental review of the project is being coordinated, except that if the project is being coordinated under a memorandum or understanding, the terms of the memorandum of understanding govern the provision of notice (by U.S. Mail or email);
- provides the notice to TCEQ by emailing it to the following email address: NEPA@tceq.texas.gov (subject line: "Draft environmental assessment for a highway project", body of email: "Attached please find a Notice of Availability of a DRAFT environmental assessment for a highway project.");

Public hearing notice requirements:

- provides the notice to landowners abutting the roadway within the proposed project limits (by U.S. Mail or email);
- provides the notice to affected local governments and public officials (by U.S. Mail or email);
- provides the notice to any public official, individual, or affected interest group that has expressed interest in the project (by U.S. Mail or email);
- publishes the notice in a local newspaper having general circulation in the area affected by the project (or if there is no local newspaper in the area affected by the project, district

environmental staff publishes the notice in any newspaper having general circulation in the area affected by the project);
- provides notice to the public using at least one additional public outreach method; and
- posts the notice on TxDOT's website.

3. All notices required above must be provided or published at least 15 days prior to the hearing. For notices provided by U.S. Mail, the notice is considered to be provided on the third day after the date of mailing.

4. If the hearing is being held to satisfy Transportation Code, Section 203.021 (bypass of a municipality), then the following notice requirements must also be followed:
- There must be an additional newspaper notice between 3 and 10 days prior to the hearing.
- At least seven days before the date of the public hearing, district environmental staff provides the governing body of the county or municipality with the design and schematic layout of the project.

5. If the hearing is being held to satisfy Chapter 26 of the Parks and Wildlife Code (the taking of public land designated and used as a park, recreation area, wildlife refuge, historic site, or scientific area), then the following notice requirements must also be followed:
- At least 30 days before the public hearing, district environmental staff provides the notice to the person, organization, department, or agency that has supervision of the land proposed to be used or taken.
- Notice of the hearing also must be published in a newspaper once a week for three consecutive weeks, with the last day of publication not less than one week or more than two weeks before the date of the hearing. The newspaper must be one that is published at least six days a week.

6. District environmental staff conducts the hearing in accordance with **ENV's Environmental Handbook for Public Involvement**.

7. After the expiration of the comment period following the public hearing (at least 15 days), district environmental staff prepares the documentation of public hearing using **ENV's Template: Documentation of Public Hearing**, and uploads the documentation of public hearing under this Activity.

Note that if the documentation of public hearing will be disclosed to the public (e.g., posted on the project website), then email addresses for members of the public must be redacted from the documentation of public hearing that is uploaded; original copies of sign-in sheets, emails, or other documents showing email addresses for members of the public must be retained by district environmental staff, but are not uploaded.

8. District environmental staff creates a Review of the public hearing documentation under this Activity and assigns it to the ENV core team member. Once the ENV core team member has finalized his or her Review, if there are pending comments, the district environmental staff:
- prepares a new, revised version of the public hearing documentation that is responsive to the comments made and uploads it under this Activity;

- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV core team member.

9. Once the ENV core team member has no further comments and has finalized his or her Review, district environmental staff uploads the public hearing documentation under this Activity with the word, "Approved," at the beginning of the file name.

10. District environmental staff:

- selects "PH" from the drop-down responses for the "An OPH or PH was conducted" field;
- selects the date of the public hearing in the "Date of PH" field;
- fills-in the "Total number of attendees for the PH" field with the number indicated on the cover of the Public Hearing Documentation;
- selects "N/A" from the drop-down responses for the "This PH addressed Texas PWC Chapter 26 requirements" field if the requirements of Chapter 26 of the Texas Parks and Wildlife Code are <u>not</u> triggered by the project;
- selects "Yes" from the drop-down responses for the "This PH addressed Texas PWC Chapter 26 requirements" field if the requirements of Chapter 26 of the Texas Parks and Wildlife Code <u>are</u> triggered by the project, <u>and</u> if the public hearing <u>was</u> noticed and held in accordance with the requirements of Chapter 26 of the Texas Parks and Wildlife Code (e.g., weekly newspaper notices for three consecutive weeks);
- selects "No" from the from the drop-down responses for the "This PH addressed Texas PWC Chapter 26 requirements" field if the requirements of Chapter 26 of the Texas Parks and Wildlife Code <u>are</u> triggered by the project, <u>and</u> if the public hearing was <u>not</u> noticed and held in accordance with the requirements of Chapter 26 of the Texas Parks and Wildlife Code (in which case a separate public hearing must be held by either TxDOT or the relevant local government in order to satisfy Chapter 26).

11. District environmental staff finalizes this Activity.

EIS PROJECTS

<u>Public Hearing for an EIS project</u>

1. District environmental staff prepares a combined notice of public hearing/notice of availability (NOA) of the draft EIS using **ENV's Template: Draft EIS Notice of Availability and Public Hearing, ENV's Template: Draft EIS Notice of Availability and Virtual Public Hearing, or ENV's Template: Draft EIS Notice of Availability and Virtual Public Hearing with In-Person Option**, depending on which form of public hearing is appropriate in light of health and safety considerations.

2. District environmental staff distributes the <u>combined</u> notice as indicated below (the requirements are organized by those applicable to an NOA (generally), those specifically applicable to an EIS NOA, and those applicable to a PH notice, but the <u>combined</u> notice must meet <u>all</u> of the requirements listed below):

NOA requirements:

- provides the notice to the appropriate metropolitan planning organization (by U.S. Mail or email);
- provides the notice to any other affected units of federal, state, and local government (by U.S. Mail or email);
- provides the notice to any entities that requested in writing to receive notices regarding the environmental review of the project (by U.S. Mail or email);
- provides the notice to any other entities with which environmental review of the project is being coordinated, except that if the project is being coordinated under a memorandum or understanding, the terms of the memorandum of understanding govern the provision of notice (by U.S. Mail or email);
- provides the notice to TCEQ by emailing it to the following email address: NEPA@tceq.texas.gov (subject line: "Draft environmental impact statement for a highway project", body of email: "Attached please find a Notice of Availability of a DRAFT environmental impact statement for a highway project.");

EIS-specific NOA requirements:

- emails the notice to the ENV core team member, so that the ENV core team member can arrange for publication in the Texas or Federal Register as indicated below;
- provides the notice to any federal, state, and local government agencies expected to have jurisdiction or responsibility over, or interest or expertise in, the project (by U.S. Mail or email);
- provides the notice to any state and federal land management entities that may be significantly affected by the proposed action or any of the alternatives (by U.S. Mail or email);

Public hearing notice requirements:

- provides the notice to landowners abutting the roadway within the proposed project limits (by U.S. Mail or email);
- provides the notice to affected local governments and public officials (by U.S. Mail or email);
- provides the notice to any public official, individual, or affected interest group that has expressed interest in the project (by U.S. Mail or email);
- publishes the notice in a local newspaper having general circulation in the area affected by the project (or if there is no local newspaper in the area affected by the project, district environmental staff publishes the notice in any newspaper having general circulation in the area affected by the project);
- provides notice to the public using at least one additional public outreach method; and
- posts the notice on TxDOT's website.

3. All notices required above must be provided or published at least 15 days prior to the hearing. For notices provided by U.S. Mail, the notice is considered to be provided on the third day after the date of mailing.

4. If the hearing is being held to satisfy Transportation Code, Section 203.021 (bypass of a municipality), then the following notice requirements must also be followed:

- There must be an additional newspaper notice between 3 and 10 days prior to the hearing.

- At least seven days before the date of the public hearing, district environmental staff provides the governing body of the county or municipality with the design and schematic layout of the project.

5. If the hearing is being held to satisfy Chapter 26 of the Parks and Wildlife Code (the taking of public land designated and used as a park, recreation area, wildlife refuge, historic site, or scientific area), then the following notice requirements must also be followed:

- At least 30 days before the public hearing, district environmental staff provides the notice to the person, organization, department, or agency that has supervision of the land proposed to be used or taken.
- Notice of the hearing also must be published in a newspaper once a week for three consecutive weeks, with the last day of publication not less than one week or more than two weeks before the date of the hearing. The newspaper must be one that is published at least six days a week.

6. For a state project, the ENV core team member submits the combined hearing notice/NOA to the General Counsel Division for publication in the Texas Register at least two weeks prior to the intended publication date. The combined hearing notice/NOA in the Texas Register must specify a comment period of 45 days. Once the notice has been published in the Texas Register, ENV core team member fills-in the "Date of Publication in the Texas or Federal Register" field in this Activity, and notifies the district environmental staff that the notice has been published. District environmental staff includes documentation of compliance with the above requirement in the documentation of public hearing.

7. For an FHWA project, ENV core team member uses e-NEPA to publish a notice of availability of the DEIS in the Federal Register (specifying a comment period of 45 days), fills-in the "Date of Publication in the Texas or Federal Register" field in this Activity, and uploads the published notice under this Activity.

8. District environmental staff conducts the hearing in accordance with **ENV's Environmental Handbook for Public Involvement**.

9. After the public hearing comment period expires (which is on a date that is both 15 days after the hearing and 45 days after the notice of availability in the Federal Register, or for a state project, the Texas Register), district environmental staff prepares the documentation of public hearing using **ENV's Template: Documentation of Public Hearing**, and uploads the documentation of public hearing under this Activity.

Note that if the documentation of public hearing will be disclosed to the public (e.g., posted on the project website), then email addresses for members of the public must be redacted from the documentation of public hearing that is uploaded; original copies of sign-in sheets, emails, or other documents showing email addresses for members of the public must be retained by district environmental staff, but are not uploaded.

10. District environmental staff creates a Review of the public hearing documentation under this Activity and assigns it to the ENV core team member. Once the ENV core team member has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the public hearing documentation that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV core team member.

11. Once the ENV core team member has no further comments and has finalized his or her Review, district environmental staff uploads the public hearing documentation under this Activity with the word, "Approved," at the beginning of the file name.

12. District environmental staff:

- selects "PH" from the drop-down responses for the "An OPH or PH was conducted" field;
- selects the date of the public hearing in the "Date of PH" field;
- fills-in the "Total number of attendees for the PH" field with the number indicated on the cover of the Public Hearing Documentation;
- selects "N/A" from the drop-down responses for the "This PH addressed Texas PWC Chapter 26 requirements" field if the requirements of Chapter 26 of the Texas Parks and Wildlife Code are <u>not</u> triggered by the project;
- selects "Yes" from the drop-down responses for the "This PH addressed Texas PWC Chapter 26 requirements" field if the requirements of Chapter 26 of the Texas Parks and Wildlife Code <u>are</u> triggered by the project, <u>and</u> if the public hearing <u>was</u> noticed and held in accordance with the requirements of Chapter 26 of the Texas Parks and Wildlife Code (e.g., weekly newspaper notices for three consecutive weeks);
- selects "No" from the from the drop-down responses for the "This PH addressed Texas PWC Chapter 26 requirements" field if the requirements of Chapter 26 of the Texas Parks and Wildlife Code <u>are</u> triggered by the project, <u>and</u> if the public hearing was <u>not</u> noticed and held in accordance with the requirements of Chapter 26 of the Texas Parks and Wildlife Code (in which case a separate public hearing must be held by either TxDOT or the relevant local government in order to satisfy Chapter 26).

13. District environmental staff finalizes this Activity.

Citation: 43 TAC 2.106, 2.107, & 2.108; 23 CFR 771.119 & 771.123; and 40 CFR 1506.10.

"Perform Post-Environmental Clearance File Correction" Activity

This Activity is used when it is discovered after environmental clearance that some documentation is missing from the ECOS file.

Documentation was created but not properly uploaded

If, after environmental clearance, it is discovered that some documentation was created prior to environmental clearance, but was not properly uploaded to ECOS prior to environmental clearance (e.g., it was omitted, or a defective electronic or incorrect version of a file was uploaded), then district environmental staff proceeds as follows:

1. District environmental staff will upload the previously omitted information under the appropriate Activity, if one exists, and proceeds to Step 3 below.

2. If no appropriate Activity exists, then district staff environmental staff uploads the previously omitted documentation under this Activity, and proceeds to Step 3 below.

3. District environmental staff provides an explanation in the "Comments" field of this Activity regarding the documentation that was discovered as not having been properly uploaded to ECOS prior to environmental clearance, including the date that it was created, and identification of the Activity under which the documentation has now been uploaded. If multiple documents are being uploaded on the same day, provide separate explanations in the "Comments" field for each uploaded document.

4. Finalize this Activity. If, on a later date, it is determined that additional documents need to be uploaded, create an additional second "Perform Post-Environmental Clearance File Correction" Activity.

Documentation was created but is unable to be recovered

If, after environmental clearance, it is discovered that some documentation was created prior to environmental clearance, but was not properly uploaded to ECOS prior to environmental clearance (e.g., it was omitted, or a defective electronic or incorrect version of a file was uploaded), and the documentation cannot be recovered and uploaded (e.g., the TNM files are missing), then district environmental staff proceeds as follows:

1. District environmental staff provides an explanation in the "Comments" field of this Activity regarding the documentation that was discovered as not having been properly uploaded to ECOS prior to environmental clearance, including the date (or approximate date) that it was created, and an explanation of why it is unable to be recovered and uploaded. If multiple unrecoverable documents were discovered as not having been uploaded, provide separate explanations for each.

2. Finalize this Activity. If, on a later date, additional unrecoverable documents are discovered as having not been uploaded, create an additional “Perform Post-Environmental Clearance File Correction” Activity.

Failure to perform required work

If, after environmental clearance, it is discovered that some required work was not performed, then district environmental staff consults with the appropriate resource area ENV SME(s) assigned to the respective district to determine the appropriate course of action.

"Perform Protected Lands Mitigation" Activity

1. District environmental staff fills-in the "Comments" field with an explanation of any protected lands mitigation commitments for the project (i.e., mitigation required by Section 4(f) of the Department of Transportation Act of 1966, Section 6(f) of the Land and Water Conservation Act, or Chapter 26 of the Texas Parks and Wildlife Code).

2. District environmental staff uploads any documentation associated with protected lands mitigation commitments for the project under this Activity.

3. After all protected lands mitigation commitments for the project have been completed, district environmental staff finalizes this Activity.

Citation: 23 USC 138; 23 CFR 774; Texas Parks and Wildlife Code, Chapter 26; 36 CFR 59.3

"Perform Public Involvement Analysis" Activity

1. District environmental staff determines whether the project involves <u>any</u> of the following conditions requiring a public hearing:

- Ten or more individuals submit a written request for a hearing, or an agency with jurisdiction over the project submits a written request for a hearing that is supported by reasons why a hearing will be helpful. However, a public hearing is not required if:
  - a public hearing was held concerning the project before the requests are received,
  - the hearing request(s) are received after the environmental review document or CE determination for the project is approved,
  - the hearing request(s) are received after the deadline specified in a notice affording an opportunity for a public hearing, or
  - district environmental staff has addressed all of the concerns of the agency or persons requesting the hearing.
- The project involves substantial public interest or controversy
- The project is the subject of an environmental impact statement
- The project substantially changes the layout or function of a connecting roadway or an existing facility, including the addition of managed lanes, high-occupancy vehicle lanes, bicycle lanes, bus lanes, and transit lanes
- TxDOT determines it is in the public interest
- The project bypasses a municipality (see Transportation Code, Section 203.021)
- The project requires the taking of public land designated and used as a park, recreation area, wildlife refuge, historic site, or scientific area, as covered under Chapter 26 of the Texas Parks and Wildlife Code
- The project requires the use or taking of private land encumbered by an agricultural conservation easement purchased under Chapter 84 of the Parks and Wildlife Code.

If <u>any</u> of these conditions apply, a public hearing is required; therefore, district environmental staff:

- explains in the "Comments" field of this Activity which condition(s) requiring a public hearing apply;
- finalizes this Activity; and
- creates the "Perform Opportunity for Public Hearing (OPH)/Public Hearing (PH)" Activity.

If none of these conditions apply, proceed to #2 below.

2. District environmental staff determines whether the project involves <u>any</u> of the following conditions requiring an <u>opportunity</u> for public hearing:

- The project requires the acquisition of significant amounts of right-of-way
- The project has a substantial adverse impact on or abutting real property
- The project is the subject of an environmental assessment

If any of these conditions apply, an opportunity for a public hearing is required; therefore, district environmental staff:

- explains in the "Comments" field of this Activity which condition(s) requiring an opportunity for public hearing apply;
- finalizes this Activity; and
- creates the "Perform Opportunity for Public Hearing (OPH)/Public Hearing (PH)" Activity."

NOTE: The district environmental staff may determine to hold a public hearing for the project rather than merely affording the opportunity for one, in which case district environmental staff:

- o explains in the "Comments" field of this Activity which condition(s) requiring an opportunity for public hearing apply, and explains that a hearing will be held;
- o finalizes this Activity; and
- o creates the "Perform Opportunity for Public Hearing (OPH)/Public Hearing (PH)" Activity.

If the project does not require a public hearing or opportunity for public hearing, proceed to #3 below.

3. District environmental staff determines whether the project involves any of the following conditions:

- Acquisition of new right-of-way
- Added capacity
- Construction of a highway at a new location

If any of these conditions apply, a notice and opportunity to comment is required; therefore, district environmental staff:

- explains in the "Comments" field of this Activity which condition(s) requiring a notice and opportunity to comment apply;
- finalizes this Activity; and
- creates the "Perform Notice and Opportunity to Comment" Activity.

NOTE: The district environmental staff may determine to hold a public meeting, afford an opportunity for public hearing, or hold a public hearing rather than merely providing a notice and opportunity to comment, in which case district environmental staff:.

- o explains in the "Comments" field of this Activity which condition(s) requiring a notice and opportunity to comment apply, and explains that a meeting, opportunity for hearing, or hearing will instead be held/afforded;
- o finalizes this Activity; and
- o creates the "Perform Public Meeting" Activity or "Perform Opportunity for Public Hearing (OPH)/Public Hearing (PH)" Activity," as appropriate.

4. District environmental staff determines whether a public meeting is justified based on the project's type, complexity, and level of public concern. If so, district environmental staff creates the "Perform Public Meeting" Activity, and finalizes this "Perform Public Involvement Analysis Activity."

Citation: 43 TAC 2.104, 2.105, 2.106, & 2.107; and 23 CFR 771.111(h)

"Perform Public Meeting (PM)" Activity

1. District environmental staff prepares a notice of public meeting, notice of virtual public meeting, or notice of a public meeting with virtual component, depending on which form of public meeting is appropriate in light of health and safety considerations, in accordance with **ENV's Public Involvement Handbook.** Note that use of one of ENV's templates (**ENV's Template: Notice of a Public Meeting, ENV's Template: Notice of a Virtual Public Meeting, or ENV's Template: Notice of a Public Meeting with Virtual Component**) in preparing the public meeting notice is optional – it is not required.

2. For an open-ended (d)-list CE, district environmental staff emails the draft notice to the ENV project delivery manager assigned to their district for review to confirm that the open-ended (d)-list CE classification remains valid.

3. District environmental staff:

- provides notice to any public official, individual, or affected interest group that has expressed interest in the relevant transportation project (by U.S. Mail or email);
- posts the notice on TxDOT's website (the TxDOT website notice must be posted at least 15 days before the meeting); and
- notifies the public using additional outreach methods to the extent determined appropriate by district environmental staff.

4. If the meeting will be held to satisfy the requirement to provide a notice and opportunity for comment, the district environmental staff also:

- provides the notice to the owner or owners of real property that would be acquired for the project (by U.S. Mail or email), and
- provides the notice to owners of real property that is adjacent to the project and to affected local governments and public officials (added capacity or construction of a highway at a new location only) (by U.S. Mail or email).

5. For an open-ended (d)-list CE, district environmental staff emails the anticipated meeting presentation materials to the ENV project delivery manager assigned to their district for review to confirm that the open-ended (d)-list CE classification remains valid.

6. District environmental staff holds the public meeting in accordance with **ENV's Environmental Handbook for Public Involvement**.

7. After the public meeting, district environmental staff prepares the documentation of public meeting using **ENV's Template: Documentation of Public Meeting**.

Note that if the documentation of public meeting will be disclosed to the public (e.g., posted on the project website), then email addresses for members of the public must be redacted from the documentation of public meeting that is uploaded as instructed below; original copies of sign-in sheets, emails, or other documents showing email addresses for members of the public must be retained by district environmental staff, but are not uploaded.

8. For a CE project, the district environmental staff uploads the documentation of public meeting under this Activity, creates a Review of the documentation of public meeting under this Activity, and assigns it to the district employee with delegated authority to approve the CE. Once the district employee has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the documentation of public meeting that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the district employee with delegated authority to approve the CE.

Once the district employee with delegated authority to approve the CE has no further comments and has finalized his or her Review, district environmental staff uploads the documentation of public meeting under this Activity with the word, "Approved," at the beginning of the file name; completes the "Date of the PM" and "Total number of attendees for this PM;" and finalizes this Activity.

5. For an EA or EIS project, the district environmental staff uploads the documentation of public meeting under this Activity, creates a Review of the documentation of public meeting under this Activity, and assigns it to the ENV core team member. Once the ENV core team member has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the documentation of public meeting that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV core team member.

Once the ENV core team member has no further comments and has finalized his or her Review, district environmental staff uploads the documentation of public meeting under this Activity with the word, "Approved," at the beginning of the file name; completes the "Date of the PM" and "Total number of attendees for this PM;" and finalizes this Activity.

6. If one or more additional public meetings are held for the project, district environmental staff creates a new "Perform Public Meeting" activity for each one.

7. If, as part of the environmental review process, the district environmental staff has conducted other outreach with members of the public such as meetings, telephone conferences, or emails with individuals or groups, and the district environmental staff intends for such outreach to be included as part of the environmental review process, then the district environmental staff creates the "Perform Additional Public Outreach" and uploads documentation of such outreach under that Activity.

Citation(s): 43 TAC 2.105

"Perform Recreational Trails Analysis" Activity

1. The designated ENV Project Delivery Manager (PDM) uploads any email correspondence with TPWD or FHWA regarding the project under this Activity.

2. The ENV PDM creates Reviews of the packet of documents provided by TPWD under this Activity, and assigns them to the appropriate ENV SMEs for biology, archeology, and historical studies.

If the cover letter provided by TPWD indicates that the project is subject to air conformity requirements, the ENV PDM also creates a Review and assigns it the appropriate ENV SME for air.

3. If coordination with the Texas Historical Commission is required, it will be done by TxDOT ENV CRM Staff. If surveys or field work is required, it will be done by the grant applicant per instructions provided by TxDOT ENV CRM Staff.

4. If TxDOT ENV NRM Staff determines that consultation with USFWS is required, the consultation will be done by TxDOT ENV NRM Staff, unless TxDOT designates TPWD to perform informal consultation or prepare a biological assessment under 50 CFR 402.08, in which case TPWD will perform the designated task.

5. Each of the three (or four if the ENV SME for air was assigned a Review) ENV SMEs will finalize their respective Reviews by indicating, "Approved," once they have determined that the project will have no significant environmental impact and requires no further coordination with the Texas Historical Commission or USFWS or other actions.

6. Once all three ENV SMEs (or four) have finalized their respective Reviews by indicated, "Approved," the ENV PDM finalizes this Activity.

Citation(s): NEPA (42 USC 4332), 23 USC 206

"Perform Reevaluation" Activity

1. If district environmental staff or an ENV SME created the "Perform Reevaluation" Activity solely as a workaround to create one or more other Activities with a milestone of either "Prior to Env Clearance*" or "Prior to LOA," then district environmental staff or the ENV SME:

- selects "Omission/new information" for the field labeled, "Reason for Reevaluation;"
- selects "Yes" from the drop-down menu for the field labeled, "Was the applicable deadline at Transportation Code 201.759 met?;"
- selects "Original Environmental Decision Remains Valid" from the drop-down menu for the field labeled, "Reevaluation Result;"
- enters the following statement in the "Comments" field of this Activity: "No reevaluation is actually required under Environmental Guide: Volume 1 Process, Chapter 18. This "Perform Reevaluation" Activity was created in order to allow the creation of one or more other Activities that should have been created prior to environmental clearance or LOA clearance, but were not."
- creates the other Activity or Activities that should have been created prior to environmental clearance or LOA clearance, but were not; and
- after all of the other Activity or Activities (and associated Reviews and Coordinations) have been finalized, assigns this "Perform Reevaluation" Activity to ENV's Project Delivery Section Director, who then finalizes this Activity.

If district environmental staff created the "Perform Reevaluation" Activity because a reevaluation was actually required under Environmental Guide: Volume 1 Process, Chapter 18, then district environmental staff proceeds as indicated below.

2. If district environmental staff determines that any additional Activities must be completed in order to confirm the validity of the original environmental clearance, or to comply with any other environmental law or regulation, then district environmental staff:

- completes Sections I., II., and III. of ENV's Reevaluation Form and uploads it under this Activity (only if the additional Activities will require involvement by ENV SMEs), and
- creates the needed additional Activities.

When creating additional Activities in connection with a reevaluation, "Reevaluation" will not be visible as a selection in the drop-down menu for the "Milestone" field in the new Activity. Instead, the drop-down menu will just show the default milestone for that Activity highlighted in gray (e.g., "Prior to Env Clearance*"), and it will not let the user select any other value. Just create the Activity like normal (click the "save" icon"). If the Activity has a default milestone of "Prior to Env Clearance*", ECOS will automatically change the milestone to "Reevaluation," locked. Also, if the project has already been LOA-cleared, and the Activity you are creating has a default milestone of "Prior to LOA," ECOS will automatically change the milestone to "Reevaluation," locked.

If district environmental staff is not sure whether a particular Activity needs to be created in connection with a reevaluation, then he or she may discuss with the appropriate ENV SME assigned to the respective district, and document the decision whether or not to create the Activity using the appropriate "_____ SME Consultation" Activity.

Any additional Activities that need to be created at the reevaluation stage must be created in the main CSJ, regardless of whether any work was previously tracked in an associate CSJ. Do not create a "Perform Reevaluation" Activity or any other Activities associated with the reevaluation in an associate CSJ.

Identify in the "Comments" field of each newly created Activity the reevaluation with which the Activity is associated (e.g., "Reevaluation 1").

3. After any newly created Activities needed for the reevaluation have been finalized (if any were created), district environmental staff completes **ENV's Reevaluation Form** and uploads the completed reevaluation form under this Activity.

Note that only those Activities that normally have a milestone of "Prior to Env Clearance*" (e.g., "Perform Community Impacts Assessment" or "Perform Surface Water Analysis") need to be finalized during the reevaluation stage. Activities that normally have other milestones and therefore are not normally completed until after environmental clearance (e.g., "Obtain Section 404/10 Permit") may remain open; however, they must be created during the reevaluation stage.

Note that TxDOT's environmental review rules refer to two different forms of reevaluations: "documented reevaluations" and "consultation reevaluations," however **ENV's Reevaluation Form** is now used for both.

4. District environmental staff creates a Review of the completed reevaluation form under this Activity and assigns it to the ENV Project Delivery staff assigned to the respective district. Once the ENV Project Delivery staff has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the completed reevaluation form that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV Project Delivery staff.

5. Once the ENV Project Delivery staff has no further comments and has confirmed that all Activities associated with this reevaluation have been finalized, he or she finalizes his or her Review.

6. ENV Project Delivery staff does the following in this "Perform Reevaluation" Activity:

- for the field labeled, "Reason for Reevaluation," selects one of the drop-down options based on which reason is indicated on **ENV's Reevaluation Form**;
- selects "Yes" or "No from the drop-down menu for the field labeled, "Was the applicable deadline at Transportation Code 201.759 met?;"
- selects "Original Environmental Decision Remains Valid" or "New Environmental Decision Needed" from the drop-down menu for the field labeled, "Reevaluation Result;" and
- assigns this "Perform Reevaluation" Activity to ENV's Project Delivery Section Director.

7. ENV's Project Delivery Section Director may, at his or her discretion, assign this "Perform Reevaluation" Activity to the ENV Deputy Director if he or she would like a higher level of authority to review the reevaluation.

8. If ENV's Project Delivery Section Director does not assign this "Perform Reevaluation" Activity to the ENV Deputy Director, and agrees with the reevaluation result, he or she finalizes this Activity.

If ENV's Project Delivery Section Director does assign this "Perform Reevaluation" Activity to the ENV Deputy Director, then the ENV Deputy Director finalizes this Activity if he or she agrees with the reevaluation result.

If the reevaluation was done for work that will be performed under a new CSJ that will need to be "added" to the previously cleared main CSJ, then this "Perform Reevaluation" Activity must be finalized before attempting to add the new CSJ using the "Add CSJ After Environmental Clearance" Activity.

9. If the result of the reevaluation is "New Environmental Decision Needed," then district environmental staff creates the "Revoke Environmental Clearance" in the same main CSJ in which the reevaluation was conducted, and follows the steps in the Activity Instructions for that Activity to revoke the environmental clearance.

Citation(s): 23 CFR 771.129; 43 TAC 2.85

"Perform Section 4(f) Analysis" Activity

This Activity is used to determine whether the project will use any park, recreation area, or wildlife or waterfowl refuge protected by Section 4(f), and therefore will require a Section 4(f) approval (i.e., Section 4(f) exception, *de minimis* Section 4(f) determination, programmatic Section 4(f) determination, or individual Section 4(f) determination).

This Activity is not used to make any determinations regarding whether the project will use any historic site. (Determinations regarding whether the project will use any historic site are made by ENV SMEs in the course of completing other Activities specific to the Historic Resources and Archeology resource areas. Note that some properties may qualify as both a park, recreation area, or wildlife or waterfowl refuge and an historic site. The Activity Instructions for "Obtain Section 4(f) Approval" explain what happens when a property that will be used by the project is both a park, recreation area, or wildlife or waterfowl refuge and an historic site.)

Listing all parks, recreation areas, and wildlife or waterfowl refuges within or adjacent to the project area.

1. District environmental staff lists individual parks, recreation areas, and/or wildlife or waterfowl refuges in the "Comments" field of this Activity. Each park, recreation area, and/or wildlife or waterfowl refuge within or adjacent to the project area must be listed, regardless of whether district environmental staff believes the property to be protected under Section 4(f) or will be subject to a "use."

Determination of whether property is "public"

1. For each property, district environmental staff determines whether the property is "publicly owned land from a public park, recreation area or wildlife and waterfowl refuge." 23 USC 138. For guidance in making this determination see FHWA's Section 4(f) Policy Paper, July 20, 2012, Section II.1, "Identification of Section 4(f) Properties."

2. If the property is determined not to be a "publicly owned land from a public park, recreation area or wildlife and waterfowl refuge," district environmental staff explains in the "Comments" field how it was determined that the property is not "publicly owned land from a public park, recreation area or wildlife and waterfowl refuge."

3. If the property is determined to be "publicly owned land from a public park, recreation area or wildlife and waterfowl refuge," continue to the next section.

Determination of whether property is of "national, State, or local significance"

1. For each property that is "publicly owned land from a public park, recreation area or wildlife and waterfowl refuge," district environmental staff determines whether the property is of "national, State, or local significance." For guidance in making this determination see FHWA's Section 4(f) Policy Paper, July 20, 2012, Section II.1, "Identification of Section 4(f) Properties."

2. If district environmental staff believes that the property is not of "national, State, or local significance," district environmental staff requests a letter from the governmental entity that owns

or otherwise has jurisdiction over the property confirming that the property is not of "national, State, or local significance." The property may be considered as being not of "national, State, or local significance" only if the governmental entity that owns or otherwise has jurisdiction over the property agrees in writing.

3. If the property is not "of national, State, or local significance," and the governmental entity that owns or otherwise has jurisdiction over the property has agreed in writing, then district environmental staff explains in the "Comments" field how it was determined that the property is not "of national, State, or local significance" including a reference to the date and author of the letter from the governmental entity that owns or otherwise has jurisdiction over the property, and uploads the letter from the governmental entity that owns or otherwise has jurisdiction over the property under this Activity.

4. If the property is determined to be "of national, State, or local significance," continue to the next section.

Determination of whether property will be subject to a "use"

1. For each property that is "publicly owned land from a public park, recreation area or wildlife and waterfowl refuge of national, State, or local significance," district environmental staff determines whether the project would "use" the property. For purposes of this Activity, a "use" occurs when any of the following apply:

- land is permanently incorporated into a transportation facility;
- there is a temporary occupancy of land; or
- there is a constructive use of a Section 4(f) property (see 23 CFR 774.15).

Note that, even if one of the above conditions applies, it may be possible for the project to fall under a Section 4(f) exception, in which case, technically speaking, there is no "use" as defined in FHWA's rules – see 23 CFR 774.17. However, for purposes of this Activity, do not consider whether the project will fall under a Section 4(f) exception. Instead, just consider whether any of the three above-listed conditions applies. If so, there is a "use" for purposes of this Activity, and whether an exception applies will be determined under the "Obtain Section 4(f) Approval" Activity.

2. If the property is determined to not be subject to a "use" as defined by the three bullet points listed above, then district environmental staff explains in the "Comments" field how it was determined that the project will not "use" the property. The explanation must conclude with the following statement:

> "No part of the property will be permanently incorporated into a transportation facility; there will be no temporary occupancy of any part of the property; and the project's proximity impacts are not so severe that the protected activities, features, or attributes that qualify the property for protection under Section 4(f) will not be substantially impaired (i.e., no constructive use)."

3. If the property is determined to be subject to a "use" as defined by the three bullet points listed above, then district environmental staff explains in the "Comments" field that a Section 4(f)

approval is required for the property, and creates the "Obtain Section 4(f) Approval" Activity, unless it has already been created.

Finalizing Activity

1. After all parks, recreation areas, and wildlife or waterfowl refuges within or adjacent to the project area have been listed in the "Comments" field, and all required explanations have been added to the "Comments" field, district environmental staff finalizes this Activity.

Citation: 23 USC 138, 23 CFR 774

"Perform Species Analysis" Activity

If the project meets the requirements of the categorical exclusion criterion listed at 23 CFR 771.117(c)(1) regarding activities that do not involve or lead directly to construction such as planning and research activities, or the categorical exclusion criterion listed at 23 CFR 771.117(c)(29) regarding the purchase, construction, replacement or rehabilitation of ferry vessels, then district environmental staff inserts the following statement in the "Comments" field of this Activity: "This project does not require a species analysis," and finalizes this Activity.

If neither of the above-listed categorical exclusion criteria apply, but district environmental staff nevertheless believes that the project does not warrant a species analysis, then district environmental staff must contact the ENV SME assigned to the respective district to discuss the project. If the ENV SME agrees that a species analysis is not warranted, then district environmental staff inserts the following statement in the "Comments" field of this Activity: "This project does not require a species analysis per [insert name], ENV SME, because, given the nature and location of the project, there is no potential to affect any protected species" and finalizes this Activity.

If none of the above-described scenarios apply, then proceed as indicated below.

There are two parts to this Activity: (1) preparation of the project-specific species analysis spreadsheet, and (2) completion of **ENV's Species Analysis form**.

<u>Preparation of project-specific species analysis spreadsheet</u>

1. District environmental staff downloads **ENV's Species Analysis Spreadsheet** from ENV's on-line toolkit. District environmental staff saves a local copy of **ENV's Species Analysis Spreadsheet** and follows the steps below to customize it for the project.

2. On the first tab (labeled "Project") district environmental staff does the following:

- Fill-in the "Project Name" using the same name that has been entered into the "Project Name" field on WPD I.
- Fill-in the "CSJ(s)" using this format: xxxx-xx-xxx. If there are multiple CSJs for the project, list the main CSJ first before listing the other CSJs, and separate the CSJs from each other with commas.
- Select the correct "TxDOT District" district from the drop-down menu. If the project spans two or more TxDOT districts, select the "MultiDistrict" option from the bottom of the drop-down menu.
- Select the "County(ies)" in which the project will take place from the drop-down menu. Multiple counties can be selected.
- Fill-in the "Prepared by" field with the name of the individual who is completing the spreadsheet.
- Fill-in the "Date Completed" field with the current date. If the spreadsheet is completed over the course of multiple days, update the "Date Completed" field so it shows the latest date on which information was entered into the spreadsheet.
- Check to make sure that all the information entered in the six fields is correct. If any of it is incorrect, click that field and hit "Delete" to erase it and start over in that field.

- Click the gray box labeled, "After entering project information on this 'Project' tab, click within this gray box to generate the species list on the 'Species' tab." This will automatically update the second tab (labeled "Species") to show only those federally or state-listed species known to the specific county(ies) selected on the first tab. This can take several minutes. Wait for the blue circle to stop spinning before moving on to the "Species" tab as instructed below. Do not click the gray box multiple times.

Note that, after clicking the gray box as described in the bullet above, you can still make changes to the "Project Name," "CSJ(s):," "Prepared by:" and "Date Completed" fields. You can also add new counties to the "County(ies)" field and click the gray box again to re-generate the species list on the "Species" tab. However, if you need to delete a county from the "County(ies)" field, then you must start over with a fresh copy of **ENV's Species Analysis Spreadsheet**.

3. District environmental staff proceeds as instructed below to complete the second tab (labeled "Species").

4. District environmental staff downloads the list of federally listed species and critical habitat for the project from the USFWS Information for Planning and Conservation (IPaC) system, and uploads it under this Activity.

District environmental staff uses the list of federally listed species and critical habitat for the project from the IPaC system to confirm that the correct federally-listed species and their respective federal statuses (threatened, endangered, or candidate) are included on the spreadsheet.

If there is a discrepancy regarding the federal status of a species between the spreadsheet and the IPaC system, district environmental staff contacts the appropriate resource area ENV SME assigned to the respective district to discuss and make any needed changes to the **ENV's Species Analysis Spreadsheet**.

5. District environmental staff downloads the TPWD RTEST county list for the county(ies) in which the project is located, and uploads it under this Activity.

District environmental staff uses the TPWD RTEST county list to confirm that the correct state-listed species and their respective statuses (threatened or endangered) are included on the spreadsheet.

If there is a discrepancy regarding the inclusion or state status of a species between the spreadsheet and the TPWD RTEST county list, district environmental staff contacts the appropriate resource area ENV SME assigned to the respective district to discuss and make any needed changes to the **ENV's Species Analysis Spreadsheet**.

6. For each species in spreadsheet, district environmental staff selects either "Y" or "N" from the drop-down menu in the column labeled, "Suitable Habitat Present?," to indicate whether suitable habitat for that species is present in the project area (click on the little box at the bottom of the cell with the down arrow to bring-up the drop-down menu). This determination may be based on any appropriate resources or methodologies, including one or more of the following:

- Aerial Photography

- Topographic Map
- Ecological Mapping System of Texas (EMST)
- USFWS Critical Habitat Maps
- Coastal Areas Maps
- Species Study Conducted
- Species Expert Consulted
- Site Visit
- Karst Zone Maps
- Natural Diversity Database (NDD)

Note that if the same species is known to multiple counties in which the project will occur, the answer to this question must be the same for all rows for that species.

If you select the wrong value and need to change it, click out of the cell and then back in the cell, instead of trying to re-type in the cell.

7. For each species in the spreadsheet, district environmental staff explains the basis for concluding that there is or is not suitable habitat in the project area in the column labeled, "Explanation for determination regarding suitable habitat."

8. In accordance with **ENV's Endangered Species Act Handbook**, for each species in the spreadsheet listed as "C," "T," or "E" under "Federal Status" (indicating candidate, threatened, or endangered) district environmental staff selects "No effect," "May affect," or "No take" from the drop-down menu in the column labeled, "Effect/Take Determination for Federally Listed Species:" (click on the little box at the bottom of the cell with the down arrow to bring-up the drop-down menu).

- If the project requires federal authorization or approval, select either "No effect" or "May affect."
- If the project does <u>not</u> require federal authorization or approval, select either "No take," or if district environmental staff believes there is a possibility of a take, contact the appropriate resource area ENV SME assigned to the respective district to discuss how to proceed.

If you select the wrong value and need to change it, click out of the cell and then back in the cell, instead of trying to immediately re-type in the cell.

If a species does not have "C," "T," or "E" under "Federal Status," the spreadsheet will be automatically fill-in "N/A" under the column labeled, "Effect/Take Determination for Federally Listed Species.

9. For each species in the spreadsheet listed as "T" or "E" under "State Status" (indicating threatened or endangered), district environmental selects "No impact" or "May impact" from the drop-down menu in the column labeled, "Impact Determination for State-Listed Species" (click on the little box at the bottom of the cell with the down arrow to bring-up the drop-down menu).

If you select the wrong value and need to change it, click out of the cell and then back in the cell, instead of trying to immediately re-type in the cell.

If a species does not have "T" or "E" under "State Status," the spreadsheet will automatically fill-in "N/A" under the column labeled, "Impact Determination for State-Listed Species."

10. For each species in the spreadsheet, district environmental staff provides an explanation for his or her conclusion regarding the effect/take and/or impact determination. If the basis was that no suitable habitat present, then district environmental staff simply enters, "No suitable habitat present," under this column.

11. For each species in the spreadsheet, district environmental staff selects either "Y" or "N" from the drop-down menu in the column labeled, "Presence/Absence survey?," to indicate whether or not such a survey was conducted (click on the little box at the bottom of the cell with the down arrow to bring-up the drop-down menu).

If you select the wrong value and need to change it, click out of the cell and then back in the cell, instead of trying to immediately re-type in the cell.

For purposes of answering this question, a "presence/absence survey" means a formal, documented survey by a qualified scientist to determine whether the species is present in a defined area. If such a survey was conducted, then the documentation of the survey must be uploaded under this Activity.

12. District environmental staff creates a pdf of the "Species" spreadsheet and bibliography by clicking the gray "PRINT TO PDF" box in the upper right-hand corner of the "Species" tab. This will create a pdf of both the "Species" and "References" tabs.

13. District environmental staff uploads the pdf of the "Species" and "References" tabs under this Activity.

<u>Completion of ENV's Protected Species Analysis form</u>

14. District environmental staff completes **ENV's Species Analysis form** and uploads it under this Activity.

15. District environmental staff may, at its discretion, create a Review of the project-specific species analysis spreadsheet <u>and</u> completed Species Analysis form and under this Activity (including the IPaC and RTEST county list) and assign it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the project-specific species analysis spreadsheet and completed Species Analysis form that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

16. Once the ENV SME has no further comments and has finalized his or her Review (if a Review was created), district environmental staff uploads the final project-specific species analysis

spreadsheet and final Species Analysis form, each with the word, "Approved," at the beginning of the respective file name.

Potential next steps

17. If Section I of the completed Species Analysis form ("Endangered Species Act") indicates that consultation with or authorization from the USFWS is required, then the district environmental staff creates the "Obtain Endangered Species Act (ESA) Consultation" Activity.

18. If Section II of the completed Species Analysis form ("TPWD Coordination") indicates that a Tier I Site Assessment is required, then district environmental staff completes **ENV's Tier I Site Assessment** form and uploads it and any attachments to the Tier I Site Assessment under this Activity.

If the result of the Tier I Site Assessment is that coordination with TPWD is required, then district environmental staff also creates the "Coordinate Species Analysis (TPWD or BGEPA)" Activity. Additional information about the TPWD coordination process is provided below.

19. If Section III of the completed Species Analysis form ("Bald and Golden Eagle Protection Act (BGEPA)") indicates that construction activities will not occur within 660 feet of a nest during the nesting season and the project will adhere to the National Bald Eagle Management Guidelines of 2007, then the district environmental staff may, at their discretion, create the "Perform Non-Endangered Species Act (ESA) Biology Commitments" Activity to record these commitments.

If Section III of the completed Species Analysis form indicates that coordination with USFWS to obtain a Non-Purposeful Take Permit is required, then the district environmental staff creates the "Coordinate Species Analysis (TPWD or BGEPA)" Activity and assigns it to the appropriate ENV SME assigned to the respective district. Additional information about the BGEPA coordination process is provided below.

20. If, in accordance with Section IV of the completed Species Analysis form, any field investigations will be conducted for the presence or absence of migratory birds, then district environmental staff creates the "Perform Non-Endangered Species Act (ESA) Biology Commitments" Activity to record the results of any field investigations.

21. If more than six months have passed since district environmental staff first downloaded the list of federally listed species and critical habitat for the project from the USFWS IPaC system and the TPWD RTEST county list, then prior to finalizing this Activity, district environmental staff must check both of those on-line resources for any changes.

If no species have been added to the USFWS IPaC system and/or the TPWD RTEST county list, then district environmental staff uploads the new list of federally listed species and critical habitat for the project from the USFWS IPaC system and the TPWD RTEST county list under this Activity, and indicates in the "Comments" field of this Activity the date(s) on which the USFWS IPaC system and/or the TPWD RTEST county list were updated and that no species were added.

If one or more species have been added to the USFWS IPaC system and/or the TPWD RTEST county list, then district environmental staff must do the following:

- District environmental staff uploads the new list of federally listed species and critical habitat for the project from the USFWS IPaC system and the TPWD RTEST county list under this Activity,
- District environmental staff creates a new version of the project-specific species analysis spreadsheet by manually adding just the new species to the "addendum" tab of the project-specific species analysis spreadsheet.
- District environmental staff uploads the new version of the project-specific species analysis spreadsheet.
- If the new version of the project-specific species analysis spreadsheet affects the conclusions on the Species Analysis form, district environmental staff must update the Species Analysis form and upload the revised version under this Activity.
- District environmental staff may, at its discretion, create a Review of the new version of the project-specific species analysis spreadsheet (and the updated Species Analysis form if there is one) under this Activity and assign it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:
    - prepares a new, revised version of the new version of the project-specific species analysis spreadsheet (and the updated Species Analysis form if there is one) that is responsive to the comments made and uploads it under this Activity;
    - completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
    - creates a new Review under this Activity, and assigns it to the ENV SME.

- Once the ENV SME has no further comments and has finalized his or her Review (if a Review was created), district environmental staff uploads the final new version of the project-specific species analysis spreadsheet (and the updated Species Analysis form if there is one) with the word, "Approved," at the beginning of the respective file name.
- If the Species Analysis form was updated to indicate that consultation with or authorization from the USFWS is required, whereas the previous version of the form indicated that no consultation with or authorization from the USFWS is required, then the district environmental staff creates the "Obtain Endangered Species Act (ESA) Consultation" Activity.
- For any federally listed species included in the new version of the project-specific species analysis spreadsheets, if the effect call is "may affect," then district environmental staff ensures that the species is addressed in consultation with the USFWS (which may have already been initiated and/or completed, in which case consultation will need to be updated or re-initiated).

22. After all steps listed above have been completed, and after TPWD or BGEPA coordination has been completed (if applicable), district environmental staff finalizes this Activity.

Note that if, after this Activity is finalized, more than six months pass before environmental clearance of the project (i.e., a CE determination, FONSI, or FEIS/ROD), then, prior to environmental clearance, district environmental staff must create this Activity again, and check the IPaC and TPWD RTEST county lists for any changes and follow the instructions in the immediately preceding step.

TPWD Coordination Process

District environmental staff uploads all of the following documentation under the Coordination:

- Written exchanges with TPWD

Follow the steps below to conduct the coordination.

1. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The district environmental staff fills-in the correspondence details for each letter or email sent to or from TPWD.

2. If more than six months have passed since district environmental staff first downloaded the list of federally listed species and critical habitat for the project from the USFWS IPaC system and the TPWD RTEST county list, then prior to proceeding as instructed below, district environmental staff must check both of those on-line resources for any changes (see above instructions for updating documentation to reflect changes to the IPaC or TPWD RTEST lists).

3. District environmental staff emails a notification that the Tier I Site Assessment has been uploaded and is ready for TPWD's review to TPWD at the following email address: WHAB_TxDOT@tpwd.texas.gov. The email must contain the following information:

- CSJ
- Expected environmental clearance date

4. District environmental staff uploads the email to TPWD under the Coordination.

5. If TPWD provides written comments, district environmental staff uploads the written comments under the Coordination.

6. If TPWD provides written comments, district environmental staff prepares a written response to TPWD's comments and emails them to the TPWD staff who provided the comments. Per statute (Texas Parks and Wildlife Code, 12.0011(c)), the written response must contain the following:

- a description of any modification made to the proposed project, fish and wildlife resource decision, or water flow schedule resulting from the recommendation or comment;
- any other disposition of the recommendation or comment; and
- as applicable, any reason the agency disagreed with or did not act on or incorporate the recommendation or comment.

7. District environmental staff uploads the email responding to TPWD's comments, and finalizes the Coordination.

BGEPA Coordination Process

District environmental staff uploads all of the following documentation under the Coordination:

- Written exchanges with USFWS
- Non-Purposeful Take Permit issued by USFWS

Follow the steps below to conduct the coordination.

1. The appropriate ENV SME assigned to the respective district contacts the USFWS transportation liaison to discuss the process for obtaining a Non-Purposeful Take Permit.

2. District environmental staff prepares any materials needed to obtain a Non-Purposeful Take Permit.

3. ENV SME conducts the coordination with USFWS, fills-out the "Correspondence Details" for any transmittals and uploads any exchanges with USFWS and the Non-Purposeful Take Permit issued by USFWS, under the Coordination.

4. Once USFWS has issued a Non-Purposeful Take Permit, the ENV SME finalizes the Coordination.

Citation: 16 USC 1531 et seq., 50 CFR 402 (Endangered Species Act and implementing rules); 43 TAC Chapter 2, Subchapter G (TPWD MOU); 16 USC 668a-d (BGEPA); 16 USC 703 – 712 (MBTA); Texas Parks and Wildlife Code Chapter 64 (Birds)

"Perform Surface Water Analysis" Activity

1. District environmental staff completes **ENV's Surface Water Analysis form** and uploads it under this Activity.

2. District environmental staff may, at its discretion, create a Review of the completed surface water analysis form under this Activity and assign it to the appropriate resource area ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the completed surface water analysis form that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

3. Once the ENV SME has no further comments and has finalized his or her Review (if a Review was created), district environmental staff uploads the final completed surface water analysis form with the word, "Approved," at the beginning of the file name.

4. If Section II of the completed surface water analysis form ("Section 404 of the Clean Water Act") has a checkmark for, "Some or all regulated activity in jurisdictional waters cannot be authorized under a non-reporting nationwide permit; therefore, <u>a nationwide permit with pre-construction notification, individual permit, letter of permission, or regional general permit will be required</u>", then district environmental staff:

- creates the "Obtain Section 404/10 Permit" Activity.

5. If Section V of the completed surface water analysis form ("General Bridge Act/Section 9 of the Rivers and Harbors Act") has a checkmark for "This project <u>will</u> require a permit, bridge lighting authorization, or exemption from the United States Coast Guard under Section 9 of the Rivers and Harbors Act, which outlines the requirements for approval to construct dams, dikes, bridges, or causeways in or over a navigable waterway," then district environmental staff:

- creates the "Obtain Section 9 Bridge Permit" Activity.

6. If Section VI of the completed surface water analysis form ("Section 10 of the Rivers and Harbors Act") has a checkmark for "This project does require authorization from the USACE under Section 10 of the Rivers and Harbors Act. Some or all regulated activity in a navigable waterway cannot be authorized under a non-reporting nationwide permit; therefore, <u>a nationwide permit with pre-construction notification, individual permit, letter of permission, regional general permit, or individual Section 10 permit will be required</u>", then district environmental staff:

- creates the "Obtain Section 404/10 Permit" Activity (if it has not already been created).

7. District environmental staff finalizes this Activity.

Citation(s): Clean Water Act Sections 303(d), 401, 402, and 404; General Bridge Act/Section 9 of the Rivers and Harbors Act; Section 10 of the Rivers and Harbors Act; Section 14 of the Rivers and Harbors

Act (33 USC 408); Executive Order 11990, Protection of Wetlands; and Executive Order 11988, Floodplain Management.

"Perform Texas Coastal Management Program (TCMP) Analysis" Activity

1. District environmental staff determines whether or not the project would have a "direct and significant adverse effect" on a coastal natural resource area (CRNA). "Direct" refers to "impacts that are causally linked to an activity," and "significant" refers to "appreciable impacts on CNRAs." 31 TAC 505.30(b).

It would be unusual for district environmental staff to determine that a project would have a direct and significant adverse effect on a CNRA because compliance with TxDOT policies and applicable laws such as the Clean Water Act virtually ensures that such an adverse effect will be avoided.

2. If the project would avoid and not have a direct and significant adverse effect on a coastal natural resource area (CRNA), then district environmental staff inserts this statement into the "Comments" field of this Activity:

"The Texas Department of Transportation reviewed this proposed action for consistency with the Texas Coastal Management Program (Texas CMP) goals and policies in accordance with the regulations of the Coastal Coordination Advisory Council and determined that the proposed action will not have a direct and significant adverse effect on the coastal natural resource areas (CNRAs) identified in the applicable policies (31 TAC 505.30(b)(2))."

3. If the project would have a direct and significant adverse effect on a CNRA (again, this would be unusual), but the project is otherwise consistent with Texas CMP goals and policies, then district environmental staff inserts this statement into the "Comments" field of this Activity:

"The Texas Department of Transportation reviewed this proposed action for consistency with the Texas Coastal Management Program (Texas CMP) goals and policies in accordance with the regulations of the Coastal Coordination Advisory Council and determined that the proposed action is consistent with the applicable CMP goals and policies (31 TAC 501.31(a)(1))."

4. If the project will be the subject of a CE or EA, then district environmental staff finalizes this Activity.

Additional steps for an EIS project

5. If the project will be subject of an EIS, then district environmental staff also prepares a written explanation supporting the selected statement. The written explanation must:

- provide the basis for TxDOT's determination;
- include a description of the proposed action and its probable impacts on CNRAs;
- identify the CMP goals and policies applied to the proposed action; and
- explain how the proposed action is consistent with the applicable goals and policies or why the proposed action does not adversely affect any CNRAs.

6. District environmental staff ensures that the written explanation is included in the body of the draft and final EIS.

7. District environmental staff finalizes this Activity.

Citation: 31 TAC 505.30

"Perform Texas Commission on Environmental Quality (TCEQ) Edwards Aquifer Rules Analysis" Activity

There are three parts to this Activity: (1) analysis of project; (2) preparation of application materials; and (3) coordination with the Texas Commission on Environmental Quality (TCEQ) to obtain authorization under TCEQ's Edwards Aquifer rules.

Analysis of project

1. District environmental staff determines whether or not the project will involve a "regulated activity."

"Regulated activity" includes:

- construction or installation of buildings, utility stations, utility lines, roads, highways, or railroads on either the recharge or contributing zone; and
- clearing, excavation, or any other activities that alter or disturb the topographic, geologic, or existing recharge characteristics of a site on either the recharge or contributing zone.
- installation of aboveground or underground storage tank facilities with a capacity of greater than 500 gallons on the recharge, contributing, or transition zone.

"Regulated activity" does not include:

- clearing of vegetation without soil disturbance;
- routine maintenance that does not involve additional site disturbance, such as, but not limited to:
    - the resurfacing of existing paved roads, parking lots, sidewalks, or other development-related impervious surfaces; or
    - the building of fences, or other similar activities in which there is little or no potential for contaminating groundwater, or there is little or no change to the topographic, geologic, or existing sensitive features.

2. If the project does not involve a "regulated activity," district environmental staff indicates in the "Comments" field of this Activity that the project does not involve a "regulated activity," and finalizes this Activity.

If the project does involve a "regulated activity," proceed as indicated below.

3. If the project is located only within the Edwards Aquifer contributing zone and does not involve a regulated activity that disturbs 5 or more acres, then explain in the "Comments" field of this Activity that the project is located only within the Edwards Aquifer contributing zone and does not involve a regulated activity that disturbs 5 or more acres and therefore no authorization under TCEQ's Edwards Aquifer Rules is required, and finalize this Activity.

Otherwise, proceed as indicated below.

Preparation of application materials

4. If the project involves regulated activity in the Edwards Aquifer recharge zone (or in both the recharge zone and contributing zone or recharge zone and transition zone), then district environmental staff prepares and submits a Water Pollution Abatement Plan (WPAP) application to TCEQ for TCEQ's approval.

District environmental staff uses the following forms available on TCEQ's website:

- TCEQ-20705 - Edwards Aquifer Application Cover Page
- TCEQ-0574 – Application Fee Form
- TCEQ-0584 - Water Pollution Abatement Plan Application
- TCEQ-0584 Checklist - Water Pollution Abatement Plan Application – Checklist

5. If the project involves a regulated activity that disturbs 5 acres or more acres in the Edwards Aquifer contributing zone only, then district environmental staff prepares and submits a Contributing Zone Plan (CZP) to TCEQ for TCEQ's approval.

District environmental staff uses the following forms available on TCEQ's website:

- TCEQ-20705 - Edwards Aquifer Application Cover Page
- TCEQ-0574 – Application Fee Form
- TCEQ-10257 - Contributing Zone Plan Application
- TCEQ-10257 Checklist - Contributing Zone Plan Application – Checklist

6. In some instances, an exception request application may be submitted in lieu of the WPAP (see 43 TAC 213.9) or in lieu of the CZP (see 43 TAC 213.26). An exception can be granted only if TxDOT demonstrates equivalent water quality protection for the Edwards Aquifer.

To request an exception for a project that is on the recharge zone (or on both the recharge zone and contributing zone), district environmental staff prepares and submits a Recharge and Transition Zone Exception Request using the following forms available on TCEQ's website:

- TCEQ-20705 - Edwards Aquifer Application Cover Page
- TCEQ-0574 – Application Fee Form
- TCEQ-0628 – Recharge and Transition Zone Exception Request Form
- TCEQ-0628 Checklist – Recharge and Transition Zone Exception Request Form -- Checklist

To request an exception for a project that is on the contributing zone, district environmental staff prepares and submits a Contributing Zone Exception Request using the following forms available on TCEQ's website:

- TCEQ-20705 - Edwards Aquifer Application Cover Page
- TCEQ-0574 – Application Fee Form
- TCEQ-10262 – Contributing Zone Exception Request Form
- TCEQ-10262 Checklist – Contributing Zone Exception Request Form -- Checklist

7. If the project involves only the installation of a tank in the transition zone (as described above), then district environmental staff prepares and submits an Aboveground Storage Tank Facility Plan Application using the following forms available on TCEQ's website:

- TCEQ-20705 - Edwards Aquifer Application Cover Page
- TCEQ-0574 – Application Fee Form
- TCEQ-0575 – Aboveground Storage Tank Facility Plan Application
- TCEQ-0575 Checklist – Aboveground Storage Tank Facility Plan Checklist
- TCEQ-0583 – Underground Storage Tank Facility Plan Application
- TCEQ-0583 Checklist – Underground Storage Tank Facility Plan Checklist

8. Prior to environmental clearance of the project, district environmental staff indicates in the "Comments" field of this Activity which type of application/exception is required (WPAP Application, CZP Application, Recharge and Transition Zone Exception Request, Contributing Zone Exception Request, or Aboveground Storage Tank Facility Plan Application). District environmental staff follows the steps below to conduct the coordination with the TCEQ.

Coordination process

9. Prior to environmental clearance of the project, district environmental staff creates a "Coordinate Texas Commission on Environmental Quality (TCEQ) Edwards Aquifer Rules Approval" Coordination, and selects "Texas Commission on Environmental Quality (TCEQ)" as the agency with whom coordination is being conducted.

10. District environmental staff submits the application materials to TCEQ in accordance with the instructions on TCEQ's website.

11. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The district environmental staff fills-in the correspondence details for each letter or email sent to or from TCEQ.

12. District environmental staff uploads the transmitted application materials, any additional correspondence with the TCEQ, and the approval issued by TCEQ under this Coordination. If changes were made to a WPAP or CZP in response to a TCEQ request for information, district staff will upload the final approved plan under this Coordination.

13. In the Coordination, the district environmental staff selects "Completed" or "Completed with Conditions" from the drop-down menu for the field labeled, "Coordination Status," and finalizes the Coordination.

Finalizing this Activity

14. District environmental staff ensures that the approved WPAP or CZP, or any commitments made in a request for an exception, are communicated to the design and construction contractor.

15. District environmental staff finalizes this Activity.

Citation(s): 30 TAC 213

"Perform Water Compensatory Mitigation" Activity

This Activity is only used to record water compensatory mitigation under Section 404 of the Clean Water Act.

1. District environmental staff determines whether a TxDOT mitigation bank can be used.

2. If a TxDOT mitigation bank cannot be used, district environmental staff determines whether a third-party mitigation bank can be used.

3. If neither a TxDOT mitigation bank nor a third-party mitigation bank can be used, then district environmental staff determines whether an in-lieu fee program can be used (as of mid-2019, there are no such programs in Texas).

4. If none of the above-listed compensatory mitigation options are available, then permittee-responsible mitigation (PRM) will be required.

This is an option of last resort, as it is typically more expensive and time-consuming than the other options. With PRM, TxDOT is responsible for identifying and acquiring the appropriate mitigation parcel(s), performing mitigation activities on the parcel (e.g., planting and maintaining vegetation, hydraulic engineering, etc.), monitoring the mitigation site for an extended period of time, and taking appropriate steps to protect the parcel(s) in perpetuity.

Before proceeding with PRM as a compensatory mitigation option, district environmental staff must ensure that all reasonable and feasible design options have been considered to avoid the impacts requiring the compensatory mitigation, including a complete re-design of the project.

3. If district environmental staff determined that either a TxDOT mitigation bank or a third-party mitigation bank could be used, then district environmental staff does the following:

- follows the instructions in **ENV's Standard Operating Procedure For Acquiring and/or Purchasing Section 404 Compensatory Mitigation** to secure the mitigation credits and apply them to the project;
- uploads the cover letter and copy of the mitigation bank ledger reflecting the deduction (for a TxDOT mitigation bank) or the letter from the mitigation bank confirming purchase of the mitigation credits (for a third-party mitigation bank) under this Activity; and
- finalizes this Activity.

4. If district environmental staff determined that PRM was required, then district environmental staff does the following:

- follows the instructions in **ENV's Standard Operating Procedure For Conducting Section 404 Permittee Responsible Mitigation** to perform the PRM;
- uploads the mitigation plan approved by the United States Army Corps of Engineers under this Activity;
- uploads all documentation showing compliance with the USACE-approved mitigation plan for the project (e.g., plant monitoring reports, photographs, etc.) under this Activity;
- confirms that the PRM has been completed to USACE's satisfaction; and
- finalizes this Activity.

Citation(s): Clean Water Act Section 404, 33 CFR 332

"Perform Wild and Scenic Rivers Act (WSRA) Analysis" Activity

1. District environmental review staff determines whether the project will involve work below the ordinary high water mark (OHWM) of the reach of the Rio Grande that is designated as a Wild and Scenic river of National Importance, which is from **(a)** river mile 842.3 above Mariscal Canyon in Brewster County (at the boundary between the Mexican states of Chihuahua and Coahuila) to **(b)** river mile 651.1 at the Terrell-Val Verde county line.

If the project will not involve work below the OHWM of this reach of the Rio Grande, then district environmental staff explains in the "Comments" field of this Activity that the project will not involve work below the OHWM of this reach of the Rio Grande, and finalizes this Activity.

If the project will involve work below the OHWM of this reach of the Rio Grande, then the district environmental staff must obtain a "Section 7" determination from the National Park Service regarding whether the project will have a direct and adverse effect on the values for which the river segment was established ("Section 7" here refers to section 7 of the WSRA, not Section 7 of the Endangered Species Act).

2. District environmental staff prepares a letter requesting a Section 7 determination from the National Park Service in accordance with "A Compendium of Frequently Asked Questions Relating to Transportation & Infrastructure Projects, A Technical Report of the Interagency Wild and Scenic Rivers Coordinating Council," (July 2018).

In accordance with that guidance, the letter must include basic project information, including:

- Name and contact information of the project proponent;
- Map of the project area showing the location of the project; and
- Brief project description, including the type of project and structures involved, basic physical specifications (length, width, grading, etc.), and duration and timing of construction.

3. District environmental staff creates a Review of the draft letter and assigns it to the appropriate ENV SME assigned to the respective district. Once the ENV SME has finalized his or her Review, if there are pending comments, the district environmental staff:

- prepares a new, revised version of the draft letter that is responsive to the comments made and uploads it under this Activity;
- completes the comment response matrix by filling-in the "How Addressed," "New Page," and "New Section" columns and uploads it under this Activity; and
- creates a new Review under this Activity, and assigns it to the ENV SME.

4. Once the ENV SME has no further comments and has finalized his or her Review, the ENV SME creates a Coordination and follows the steps below to conduct the coordination with the NPS.

Coordination Process

5. In the Coordination, the field labeled, "Are Correspondence Details Included?," will be automatically filled-in with "Yes" indicating that correspondence details are required. The ENV SME fills-in the correspondence details for each letter or email sent to or from the NSPS.

6. The ENV SME submits the letter to the NPS.

7. The ENV SME uploads the submitted letter under the Coordination.

8. The ENV SME uploads all correspondence between TxDOT and the NPS under the Coordination.

9. The ENV SME uploads the signed approval letter issued by the NPS under the Coordination.

10. After the NPS issues the signed approval letter, the ENV SME finalizes the Coordination.

Finalizing this Activity

11. After the ENV SME finalizes the Coordination, the ENV SME finalizes this Activity.

Citation: 16 USC 1274

"Protected Lands SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of protected lands.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding protected lands, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding protected lands.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

"Public Involvement SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of public involvement.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding public involvement, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding public involvement.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.

5. This Activity may also be used to record any important notes or details regarding public involvement.

"Review _____ (generic)"

1. The reviewer selects his or her name from the drop-down menu for the field labeled, "Reviewed By."

2. The reviewer fills-in the "Document Name" field with the exact file name of the documentation that is being reviewed (suggest using copy and paste). The document(s) that require review will have been identified by the individual who assigned the Review in the "Assignment Details" field of the Review, and uploaded under the same Activity for which the review was assigned. To see which documents have been uploaded under the relevant Activity, the reviewer may click on the "upload" icon next to the Activity on the "Activities" screen.

If the reviewer reviews multiple documents under a single Review, the reviewer fills-in the exact file name of the primary document reviewed, and identifies in the "Comments" field of the Review the exact file name of any additional documents reviewed.

If there is no documentation being reviewed, and the reviewer is only reviewing the information provided in the Activity (e.g., the "Comments" field), then the reviewer fills-in the "Document Name" field with a notation indicating the information being reviewed (e.g., "IIR data for 'LPST #3'").

3. The reviewer clicks on the calendar icon next to the "Upload Date" field and selects the date that the documentation that is being reviewed was uploaded to ECOS.

If the reviewer reviews multiple documents under a single Review, the reviewer selects the upload date for the primary document reviewed, and identifies in the "Comments" field of the Review the upload date of any additional documents reviewed.

If there is no documentation being reviewed, and the reviewer is only reviewing the information provided in the Activity (e.g., the "Comments" field), then the reviewer clicks on the calendar icon next to the "Upload Date" field and selects the date that the Activity being reviewed was created.

4. The reviewer reviews the documentation or information provided in the Activity.

5. If he or she has comments on the documentation or information provided in the Activity, the reviewer records his or her comments using **ENV's Technical Review Comment Response Matrix**, and uploads the completed Technical Review Comment Response Matrix under the Review.

If the reviewer has only very minimal comments on a document or an Activity (e.g., no more than a couple lines of text), he or she may record the comments in the "Comments" field of the Review instead of using **ENV's Technical Review Comment Response Matrix**.

6. The reviewer selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Approved with comments"
- "Not Approved"

Select “Approved with comments” only if the comments are so minor and straightforward that the reviewer, in his or her judgment, does not believe that an additional review to back-check the response to the comments is necessary.

7. The reviewer finalizes this Review, and emails the individual who assigned the Review to let him or her know that the Review has been finalized.

"Review Draft EA"

1. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director selects his or her name from the drop-down menu for the field labeled, "Reviewed By."

2. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director fills-in the "Document Name" field with the exact file name of the draft EA that is being reviewed (suggest using copy and paste).

3. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director clicks on the calendar icon next to the "Upload Date" field and selects the date that the draft EA that is being reviewed was uploaded to ECOS.

4. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director reviews the draft EA.

5. If they have comments on the draft EA, the district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director records his or her comments on the draft EA using **ENV's Technical Review Comment Response Matrix**. The district core team member, ENV SME, ENV core team member, or ENV Project Delivery Section Director follows the instructions below for completion of the Review based on his or her role.

District core team member's completion of Review

6. The district core team member selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Approved with comments"
- "Not Approved"

Select "Approved with comments" only if the comments are so minor or straightforward that the reviewer, in his or her judgment, does not expect that an additional review will be assigned to him or her to back-check the response to the comments.

7. If they have comments on the draft EA, the district core team member uploads his or her completed Technical Review Comment Response Matrix under the district core team member's Review.

8. The district core team member finalizes this Review.

ENV SME's completion of Review

6. The ENV SME selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Approved with comments"

- "Not Approved"

Select "Approved with comments" only if the comments are so minor or straightforward that the reviewer, in his or her judgment, does not expect that an additional review will be assigned to him or her to back-check the response to the comments.

7. If they have comments on the draft EA, the ENV SME uploads his or her completed Technical Review Comment Response Matrix under the ENV SME's Review.

8. The ENV SME finalizes this Review

<u>ENV core team member's completion of Review</u>

6. After the district core team member and ENV SMEs finalize their respective Reviews, the ENV core team member compiles his or her own comments, and any comments uploaded by the district core team member and the ENV SMEs, into a single Technical Review Comment Response Matrix. In preparing the master TxDOT comment response matrix, the ENV core team member removes repetitive comments, and reconciles any conflicting comments.

7. The ENV core team member selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Not Approved"

The ENV core team member must not select "Approved with comments" for this particular review because the ENV core team member must review and approve the final version of the EA that will be provided for public review. In other words, there must not be any further changes to the document after the ENV core team member approves.

8. The ENV core team member uploads the master TxDOT comment response matrix under the ENV core team member's Review using the following file-naming convention: "TxDOT combined comments on draft EA (<insert date matrix is finalized>)."

9. The ENV core team member finalizes this Review.

<u>ENV Project Delivery Section Director's completion of Review</u>

6. The ENV Project Delivery Section Director selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Not Approved"

The ENV Project Delivery Section Director must not select "Approved with comments" for this particular review because the ENV Project Delivery Section Director must review and approve the final version of the EA that will be provided for public review. In other words, there must not be any further changes to the document after the ENV Project Delivery Section Director approves.

7. If they have comments on the draft EA, the ENV Project Delivery Section Director uploads his or her completed Technical Review Comment Response Matrix under the ENV Project Delivery Section Director's Review.

8. The ENV Project Delivery Section Director finalizes this Review.

"Review Draft EIS"

1. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director selects his or her name from the drop-down menu for the field labeled, "Reviewed By."

2. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Manager fills-in the "Document Name" field with the exact file name of the draft EIS that is being reviewed (suggest using copy and paste).

3. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Manager clicks on the calendar icon next to the "Upload Date" field and selects the date that the draft EIS that is being reviewed was uploaded to ECOS.

4. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Manager reviews the draft EIS.

5. If they have comments on the draft EIS, the district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Manager records his or her comments on the draft EIS using **ENV's Technical Review Comment Response Matrix**. The district core team member, ENV SME, ENV core team member, or ENV Project Delivery Section Manager follows the instructions below for completion of the Review based on his or her role.

District core team member's completion of Review

6. The district core team member selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Approved with comments"
- "Not Approved"

Select "Approved with comments" only if the comments are so minor or straightforward that the reviewer, in his or her judgment, does not expect that an additional review will be assigned to him or her to back-check the response to the comments.

7. If they have comments on the draft EIS, the district core team member uploads his or her completed Technical Review Comment Response Matrix under the district core team member's Review.

8. The district core team member finalizes this Review.

ENV SME's and ENV Project Delivery Section Director's completion of Review

6. The ENV SME or ENV Project Delivery Section Director selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"

- "Approved with comments"
- "Not Approved"

Select "Approved with comments" only if the comments are so minor or straightforward that the reviewer, in his or her judgment, does not expect that an additional review will be assigned to him or her to back-check the response to the comments.

7. If they have comments on the draft EIS, the ENV SME or ENV Project Delivery Section Director uploads his or her completed Technical Review Comment Response Matrix under the ENV SME's Review.

8. The ENV SME or ENV Project Delivery Section Director finalizes this Review.

<u>ENV core team member's completion of Review</u>

6. After the ENV Project Delivery Section Director, district core team member and ENV SMEs close their respective Reviews, the ENV core team member compiles his or her own comments, and any comments uploaded by the ENV Project Delivery Section Director, district core team member and the ENV SMEs, into a single Technical Review Comment Response Matrix. In preparing the master TxDOT comment response matrix, the ENV core team member removes repetitive comments, and reconciles any conflicting comments.

7. The ENV core team member selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Not Approved"

The ENV core team member must not select "Approved with comments" for this particular review because the ENV core team member must review and approve the final version of the draft EIS that will be provided for public review. In other words, there must not be any further changes to the document after the ENV core team member approves.

8. The ENV core team member uploads the master TxDOT comment response matrix under the ENV core team member's Review using the following file-naming convention: "TxDOT combined comments on draft EIS (<insert date matrix if finalized>)."

9. The ENV core team member finalizes this Review.

"Review Final EA"

1. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director selects his or her name from the drop-down menu for the field labeled, "Reviewed By."

2. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director fills-in the "Document Name" field with the exact file name of final EA that is being reviewed (suggest using copy and paste).

3. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director clicks on the calendar icon next to the "Upload Date" field and selects the date that the final EA that is being reviewed was uploaded to ECOS.

4. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director reviews the final EA.

5. If they have comments on the final EA, the district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director records his or her comments on the final EA using **ENV's Technical Review Comment Response Matrix**. The district core team member, ENV SME, ENV core team member, or ENV Project Delivery Section Director follows the instructions below for completion of the Review based on his or her role.

District core team member's completion of Review

6. The district core team member selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Approved with comments"
- "Not Approved"

Select "Approved with comments" only if the comments are so minor or straightforward that the reviewer, in his or her judgment, does not expect that an additional review will be assigned to him or her to back-check the response to the comments.

7. If they have comments on the final EA, the district core team member uploads his or her completed Technical Review Comment Response Matrix under the district core team's Review.

8. The district core team member finalizes this Review.

ENV SME's completion of Review

6. The ENV SME selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Approved with comments"

- "Not Approved"

Select "Approved with comments" only if the comments are so minor or straightforward that the reviewer, in his or her judgment, does not expect that an additional review will be assigned to him or her to back-check the response to the comments.

7. If they have comments on the final EA, the district core team member or ENV SME uploads his or her completed Technical Review Comment Response Matrix under the district core team member or ENV SME's Review.

8. The district core team member or ENV SME finalizes this Review.

<u>ENV core team member's completion of Review</u>

6. After the district core team member and ENV SMEs finalize their respective Reviews, the ENV core team member compiles his or her own comments, and any comments uploaded by the district core team member and the ENV SMEs, into a single Technical Review Comment Response Matrix. In preparing the master TxDOT comment response matrix, the ENV core team member removes repetitive comments, and reconciles any conflicting comments.

7. The ENV core team member selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Not Approved"

The ENV core team member must not select "Approved with comments" for this particular review because the ENV core team member must review and approve the final version of the EA that will be used for the FONSI. In other words, there must not be any further changes to the document after the ENV core team member approves.

8. The ENV core team member uploads the master TxDOT comment response matrix under the ENV core team member's Review with the following file-naming convention: "TxDOT combined comments on final EA (<insert date matrix is finalized>)."

9. The ENV core team member finalizes this Review.

<u>ENV Project Delivery Section Director's completion of Review</u>

6. The ENV Project Delivery Section Director selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Not Approved"

The ENV Project Delivery Section Director must not select "Approved with comments" for this particular review because the ENV Project Delivery Section Director must review and approve the final version of the EA that will be used for the FONSI. In other words, there must not be any further changes to the document after the ENV Project Delivery Section Director approves.

7. If they have comments on the final EA, the ENV Project Delivery Section Director uploads his or her completed Technical Review Comment Response Matrix under the ENV Project Delivery Section Director's Review.

8. The ENV Project Delivery Section Director finalizes this Review.

"Review Final EIS/Record of Decision (ROD)"

1. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director selects his or her name from the drop-down menu for the field labeled, "Reviewed By."

2. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director fills-in the "Document Name" field with the exact file name of the final EIS/ROD that is being reviewed (suggest using copy and paste).

3. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director clicks on the calendar icon next to the "Upload Date" field and selects the date that the final EIS/ROD that is being reviewed was uploaded to ECOS.

4. The district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director reviews the final EIS/ROD.

5. If they have comments on the final EIS/ROD, the district core team member, ENV core team member, ENV SME, or ENV Project Delivery Section Director records his or her comments on the final EIS/ROD using **ENV's Technical Review Comment Response Matrix**. The district core team member, ENV SME, ENV core team member, or ENV Project Delivery Section Director follows the instructions below for completion of the Review based on his or her role.

District core team member's completion of Review

6. The district core team member selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Approved with comments"
- "Not Approved"

Select "Approved with comments" only if the comments are so minor or straightforward that the reviewer, in his or her judgment, does not expect that an additional review will be assigned to him or her to back-check the response to the comments.

7. If they have comments on the final EIS/ROD, the district core team member uploads his or her completed Technical Review Comment Response Matrix under the district core team member's Review.

8. The district core team member finalizes this Review.

ENV SME's and ENV Project Delivery Section Director's completion of Review

6. The ENV SME or ENV Project Delivery Section Director selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Approved with comments"

- "Not Approved"

Select "Approved with comments" only if the comments are so minor or straightforward that the reviewer, in his or her judgment, does not expect that an additional review will be assigned to him or her to back-check the response to the comments.

7. If they have comments on the final EIS/ROD, the ENV SME or ENV Project Delivery Section Director uploads his or her completed Technical Review Comment Response Matrix under the ENV SME's Review.

8. The ENV SME or ENV Project Delivery Section Director finalizes this Review.

<u>ENV core team member's completion of Review</u>

6. After the ENV Project Delivery Section Director, district core team member, and ENV SMEs finalize their respective Reviews, the ENV core team member compiles his or her own comments, and any comments uploaded by the ENV Project Delivery Section Director, district core team member and the ENV SMEs, into a single Technical Review Comment Response Matrix. In preparing the master TxDOT comment response matrix, the ENV core team member removes repetitive comments, and reconciles any conflicting comments.

7. The ENV core team member selects one of the following drop-down responses under the "Review Results" field in this Review:

- "Approved no comments"
- "Not Approved"

The ENV core team member must not select "Approved with comments" for this particular review because the ENV core team member must review and approve the final version of the EIS/ROD. In other words, there must not be any further changes to the document after the ENV core team member approves.

8. The ENV core team member uploads the master TxDOT comment response matrix under the ENV core team member's Review using the following file-naming convention: "TxDOT combined comments on final EIS/ROD (<insert date matrix if finalized>)."

9. The ENV core team member finalizes this Review.

"Review Recreational Trails Analysis"

1. ENV SME selects his or her name from the drop-down menu for the field labeled, "Reviewed By."

2. ENV SME fills-in the "Document Name" field with the exact file name of the documentation that is being reviewed (suggest using copy and paste). The document(s) that require review will have been identified by the individual who assigned the Review in the "Assignment Details" field of the Review, and uploaded under the same Activity for which the review was assigned. To see which documents have been uploaded under the relevant Activity, the reviewer may click on the "upload" icon next to the Activity on the "Activities" screen.

If the ENV SME reviews multiple documents under a single Review, the ENV SME fills-in the exact file name of the primary document reviewed, and identifies in the "Comments" field of the Review the exact file name of any additional documents reviewed.

3. The ENV SME clicks on the calendar icon next to the "Upload Date" field and selects the date that the documentation that is being reviewed was uploaded to ECOS.

If the ENV SME reviews multiple documents under a single Review, the ENV SME selects the upload date for the primary document reviewed, and identifies in the "Comments" field of the Review the upload date of any additional documents reviewed.

4. ENV SME reviews the packet of information uploaded under the "Perform Recreational Trails Analysis" Activity, and determines, based on the information in that packet of information, if there is reason to believe that the project would not qualify as a categorical exclusion because it does not meet the requirements at 23 C.F.R. §771.117(a) and (b).

5. If the ENV SME determines that there is reason to believe that the project would not qualify as a categorical exclusion because it does not meet the requirements at 23 C.F.R. §771.117(a) and (b), then the ENV SME selects "Not Approved" from the drop-down menu under the "Review Results:" field in this review activity, and then finalizes this review activity.

6. If the ENV SME determines that there is not reason to believe that the project would not qualify as a categorical exclusion because it does not meet the requirements at 23 C.F.R. §771.117(a) and (b), then the ENV SME proceeds as follows.

7. If the ENV SME determines, based on the packet of information uploaded under the "Perform Recreational Trails Analysis" Activity, that no additional Activities under his or her respective discipline needs to be created, then the ENV SME selects "Approved" from the drop-down menu under the "Review Results:" field in this review activity, and then finalizes this review activity.

8. If the ENV SME determines, based on the packet of information uploaded under the "Perform Recreational Trails Analysis" Activity, that an additional Activity or Activities under his or her respective discipline need to be created, then the ENV SME creates the appropriate Activity or Activities, and leaves this review activity open.

9. The ENV SME for biology must upload the following under the “Perform Recreational Trails Analysis” Activity:

- list of federally listed species and critical habitat for the project from the USFWS Information for Planning and Conservation (IPaC) system;
- TPWD RTEST county list for the county(ies) in which the project is located;
- PDFs of the “Species” and “References” tabs of the project-specific species analysis spreadsheet; and
- completed **ENV’s Form Biological Impact Evaluation for Recreational Trails Fund Grant.**

10. Once any additional Activities created by the SME have been completed and finalized, the ENV SME selects “Approved” from the drop-down menu under the “Review Results:” field in this review activity, and then finalizes this review activity.

"Revoke Environmental Clearance" Activity

This Activity is used by district environmental staff to request that ENV revoke an environmental clearance. This Activity can only be created in a main CSJ. It cannot be created in a CSJ that is associated with a main CSJ.

1. District environmental staff clicks on "Assignment Details," and enters the following information in the "Comments" field of the "Assignment Details" screen:

- state whether the environmental clearance for all CSJs associated with the main CSJ should be revoked, or whether only some of the CSJs associated with the main CSJ should be revoked;
- if the environmental clearances for only some of the CSJs associated with the main CSJ should be revoked, list the specific CSJs for which the environmental clearance should be revoked; and
- provide an explanation for the revocation.

2. District environmental staff assigns this Activity to the ENV project delivery manager assigned to the respective district.

3. If the ENV project delivery manager approves of the request to revoke, he or she assigns this Activity to the ENV Project Delivery Section Director or an ENV Deputy Director.

4. If the ENV Project Delivery Section Director or ENV Deputy Director approves the request to revoke, he or she proceeds as indicated below, depending on whether only some or all CSJs associated with the main CSJ are being revoked:

To revoke a main CSJ that has no associate CSJs, the ENV Project Delivery Section Director or ENV Deputy Director:

- enters an explanation for revoking in the "Comments" field (which may be copied over from the explanation on the "Assignment Details" screen); and
- finalizes this Activity.

To revoke only some or all of a main CSJ's associate CSJs, but leave the main CSJ environmentally cleared, the ENV Project Delivery Section Director or ENV Deputy Director:

- uses the checkboxes to select the associate CSJs to be revoked;
- enters an explanation for revoking in the "Comments" field (which may be copied over from the explanation on the "Assignment Details" screen); and
- finalizes this Activity.

To revoke a main CSJ and all of its associate CSJs, the ENV Project Delivery Section Director or ENV Deputy Director:

- selects the "Select All" checkbox to indicate that all associate CSJs should be revoked;

- enters an explanation for revoking in the "Comments" field (which may be copied over from the explanation on the "Assignment Details" screen); and
- finalizes this Activity.

- creates a second "Revoke Environmental Clearance" Activity in the main CSJ;
- in that second "Revoke Environmental Clearance" Activity, enters an explanation for revoking in the "Comments" field (which may be copied over from the explanation on the "Assignment Details" screen of the first "Revoke Environmental Clearance" Activity); and
- finalizes that second Activity.

Finalizing this Activity will revoke the environmental clearance, and the LOA clearance if it has already been granted, for all selected CSJs (for expedited CEs, this will also remove the "Anticipated Environmental Classification" from WPD I). Finalizing this Activity will also break the associations for all CSJs for which the environmental clearance has been revoked. A new environmental clearance will have to be issued in order for the any of the CSJs for which the CE clearance was revoked to receive LOA-clearance, proceed to letting or construction, or continue construction if construction has already begun.

5. ECOS will send an email to all of the project contacts listed on WPD I notifying them of the revocation.

"Water SME Consultation" Activity

1. District environmental staff uses this Activity to formally record any particularly noteworthy telephone conversations, meetings, or email exchanges with subject matter experts ("SMEs") on the topic of water resources.

2. This Activity need not be created for every conversation, meeting, or email exchange with an SME regarding water resources, but only those that district environmental staff believes should be formally recorded in ECOS for purposes of preserving a decision or instruction regarding water resources.

3. To record a telephone conversation, meeting, or email exchange, the district environmental staff summarizes the substance of the discussion in the comments field (include date and names) or upload relevant meeting minutes, notes, or emails under this Activity, and finalizes this Activity.

4. For each new telephone conversation, meeting, or email exchange that district environmental staff intends to record in ECOS, the district environmental staff creates a new Activity.