



FHWA and State EA Comparison Chart

This comparison chart includes two tables to help environmental practitioners understand the requirement differences between Federal Highway Administration (FHWA) environmental assessment (EA) projects, state EA projects with a federal permit, and state EA projects. Table 1 identifies the requirements that apply to the different types of EAs, and Table 2 lists the key differences between types of EAs. These tables do not apply to projects with a lead federal agency other than FHWA.

Table 1 Requirement Comparison

- X Requirement may apply if project meets triggers
- N/A Requirement does not apply
- * Requirement applies in permitted area; permitting agency is responsible for compliance

Requirement	FHWA EA	State EA with Federal Permit	State EA
Environmental Process			
National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) Implementing Regulations	X	*	N/A
FHWA NEPA Regulations	X	N/A	N/A
TxDOT Environmental Rules	X	X	X
Quality Assurance/Quality Control (QA/QC) Forms (Environmental Document Review Checklist, Environmental Document Certification)	X	X	X
Transportation Planning Consistency Requirements	X	X	X
Air Quality			
Transportation Conformity	X	X	X
Qualitative Mobile Source Air Toxics (MSAT) Analysis	X	X	X
Quantitative MSAT Analysis	X	N/A	N/A
Carbon Monoxide Analysis	X	X	X
Congestion Management Process	X	N/A	N/A
Carbon Monoxide or Particulate Matter Hotspot Analysis	X	N/A	N/A
Texas Commission on Environmental Quality (TCEQ) Memorandum of Understanding (MOU)	X	X	X
Construction Emissions	X	X	X
Cultural Resources			
National Historic Preservation Act (NHPA), Section 106	X	*	N/A



TxDOT Programmatic Agreement (PA) for Section 106	X	N/A	N/A
Antiquities Code	X	X	X
TxDOT MOU for Antiquities Code	N/A	X	X
Health and Safety Code, Title 8, Chapter 711 (Cemeteries)	X	X	X
Protected Lands			
U.S. Department of Transportation (DOT) Act, Section 4(f)	X	N/A	N/A
Texas Parks and Wildlife Code, Chapter 26	X	X	X
Natural Resources Code, Chapter 183	X	X	X
Ecological Resources			
Endangered Species Act	X	X	X
Migratory Bird Treaty Act	X	X	X
Fish and Wildlife Coordination Act	X	*	N/A
Magnuson-Stevens Fisheries Conservation Management Act (Essential Fish Habitat)	X	*	N/A
Farmland Protection Policy Act	X	*	N/A
Executive Order 13112, Invasive Species	X	*	N/A
Presidential Executive Memorandum on Environmentally and Economically Beneficial Landscaping	X	*	N/A
Marine Mammal Protection Act	X	X	X
TPWD MOU	X	X	X
Bald and Golden Eagle Protection Act (BGEPA)	X	X	X
Coastal Barrier Resources Act (CBRA)	X	N/A	N/A
Community Impacts			
Civil Rights Act /Civil Rights Restoration Act, Title VI	X	X	X
Executive Order 12898, Federal Actions to Address Environmental Justice in Minority and Low-Income Populations	X	X	X
Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency	X	X	X
Right-of-Way, Displacements, and Relocation			
The Uniform Relocation Assistance and Real Property Acquisition Policies Act ¹	X	*	N/A

¹ Noncompliance may jeopardize federal funding for future projects on the roadway.



Minute Orders (MO) 65185 and 78183 referring to statutes (citation refers to Vernon’s Civil Statutes) and regulations similar to the Uniform Act	N/A	X	X
Hazardous Materials			
TxDOT hazardous materials policy and procedures (numerous state and federal statutes)	X	X	X
Noise Impacts			
TxDOT traffic noise policy and procedures (23 CFR 772)	X	X	X
Water Resources			
General Bridge Act and Rivers and Harbors Appropriation Act, Section 9	X	X	X
Rivers and Harbors Appropriation Act, Section 10	X	X	X
Rivers and Harbors Appropriation Act, Section 14 (commonly referred to as Section 408)	X	X	X
Clean Water Act, Section 404	X	X	X
Clean Water Act, Section 401 (Water Quality Certification)	X	X	X
Clean Water Act, Section 402	X	X	X
Clean Water Act, Section 303(d)	X	X	X
Executive Order 11990: Protection of Wetlands	X	*	N/A
Executive Order 11988: Floodplain Management	X	*	N/A
Safe Drinking Water Act	X	X	X
22 USC 7 (especially §277) 1944 Water Treaty of the United States International Boundary and Water Commission	X	X	X
Wild and Scenic Rivers Act	X	X	X
Coastal Zone Management Act	X	X	X
TCEQ MOU	X	X	X
Edwards Aquifer Rules (30 TAC 213)	X	X	X
TPDES Construction General Permit (CGP)	X	X	X
Texas Water Code, Chapter 26.121: Unauthorized Discharges Prohibited	X	X	X
Municipal Separate Storm Sewer (MS4) Program	X	X	X
Trinity River Corridor Development Regulatory Zone – Corridor Development Certificate (CDC)	X	X	X
Public Involvement			
TxDOT Public Involvement Rules	X	X	X

Table 2 Key Differences

Requirement	FHWA EA	State EA with Federal Permit	State EA
Transportation Planning Consistency Requirements	Project must be consistent with the Transportation Improvement Program (TIP), Statewide Transportation Improvement Program (STIP), Metropolitan Transportation Plan (MTP)	Project must be consistent with the STIP, Unified Transportation Program (UTP)	Project must be consistent with the STIP, UTP
Transportation Conformity	Required	The rule does not apply IF the project is not regionally significant. If it is regionally significant, the project must be consistent, but no project-level conformity determination is required.	The rule does not apply IF the project is not regionally significant. If it is regionally significant, the project must be consistent, but no project-level conformity determination is required.
MSAT	Qualitative or quantitative	Qualitative only	Qualitative only
Cultural Resources Coordination	ENV is responsible	The designated local government project sponsor is responsible, or ENV is responsible for TxDOT-sponsored projects.	The designated local government project sponsor is responsible, or ENV is responsible for TxDOT-sponsored projects.
Endangered Species Act	Determine whether the project would have an effect on species or critical habitat, and coordinate under Section 7.	Determine whether the project would have a take of species or critical habitat, and provide information to the permitting agency. Authorization under Section 10 may be	Determine whether the project would have a take of species or critical habitat. Authorization under Section 10 may be required if there is a take.



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		required if there is a take and the entire project is not federalized.	
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The following table shows the revision history for this document.

Revision History	
Effective Date Month, Year	Reason for and Description of Change
September 2015	Version 1 was released.