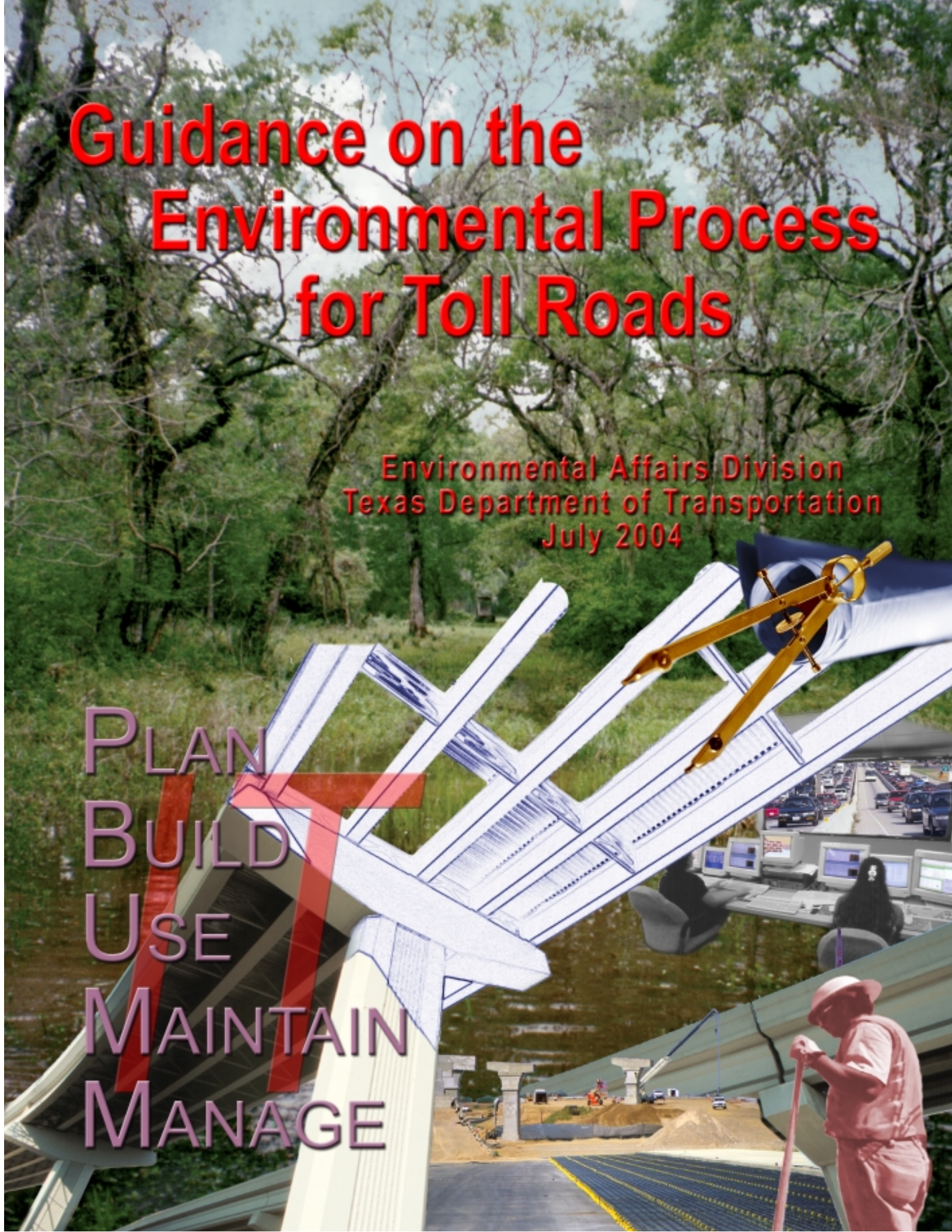


Guidance on the Environmental Process for Toll Roads

Environmental Affairs Division
Texas Department of Transportation
July 2004

PLAN
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Guidance on the Environmental Process for Toll Roads

Introduction

This guidance is provided to assist in determining what environmental processes will be needed in the development of toll projects in Texas. The Transportation Commission (Commission) has directed the Texas Department of Transportation (TxDOT) to evaluate all controlled-access mobility projects, in any phase of development or construction, for tolling (Minute Order 109519). This includes new location facilities and increased capacity projects such as adding additional main lanes or constructing new main lanes, as well as evaluating the conversion of non-toll highways to toll. Districts should contact the Texas Turnpike Authority Division (TTA) concerning initial toll feasibility assessments.

In addition to projects undertaken by TxDOT, other entities such as Regional Mobility Authorities (RMAs), private developers, Counties, and Regional Tollway Authorities, may also be involved in the development of toll projects. The rules governing these projects can be found in 43 TAC chapters 26 and 27. This guidance will focus on TxDOT toll projects.

The following consists of general guidance for District staff responsible for satisfying the environmental requirements for candidate toll projects during the project development and public involvement process. For project-specific environmental guidance for toll projects, consult with the Environmental Affairs Division (ENV) and TTA.

Tolling considerations may be initiated at different times during project development or even after project completion, including:

- during regional or statewide planning;
- prior to undertaking the environmental studies and public involvement for a specific transportation project;
- as part of the environmental studies and public involvement for a specific transportation project;
- after the environmental studies and public involvement for a specific transportation project have been completed but prior to letting/construction;
- during construction; and
- when a facility is under traffic as a non-toll road.

Definitions

The following is a list of terms and brief definitions often associated with tolling:

Categorical Exclusion (CE): Categorical exclusion means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in adoption of these procedures and for which, neither an environmental assessment nor an environmental impact statement is required.

Environmental Assessment (EA): a document used to determine the nature and extent of social, economic, and environmental impacts for projects that don't meet the requirements for a CE, and for which the extent of impacts is not readily discerned. An EA should provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement (EIS) or whether a finding on no significant impact (FONSI) is sufficient.

Environmental Impact Statement (EIS): a document prepared for projects or actions which may significantly affect the quality of the human environment.

Electronic Toll Collection (ETC): Account information on an electronic tag installed in your car and read by a receiving antenna at the toll plaza or on a toll gantry. Toll is deducted from drivers' prepaid account or drivers are sent a bill.

FAIR lanes: "Fast and Intertwined Regular Lanes" or "FAIR lanes" involves separating freeway lanes, typically using plastic pylons and striping, into two sections: "fast" lanes and "regular" lanes. The fast lanes would be electronically tolled express lanes where tolls may change dynamically to manage demand. In the regular lanes, constricted flow would continue, but drivers with transponders would be compensated with credits. Credits could be used as toll payments on days when they choose to use the fast lanes, or as payment for transit, para-transit or parking at commuter park-and-ride lots in the corridor. "Fast And Intertwined Regular Lanes," or FAIR

lanes, may be used to overcome equity concerns about High Occupancy Toll (HOT) lanes. HOT lanes have sometimes faced opposition due to perceived negative impacts on low-income groups. FAIR lanes, like HOT lanes, increase freeway throughput, speed transit service, generate funds for enhanced transportation services, and let motorists bypass congestion as they choose. But unlike HOT lanes, FAIR lanes provide credits to those stuck in traffic on the regular lanes. FAIR lanes also allow for more than one express lane, by making it more acceptable to take an existing adjacent free lane for use as an express lane. With more capacity available for paying motorists, tolls can be kept affordable and more motorists can make use of this premium service.

Finding of No Significant Impact (FONSI): A document by a federal agency briefly presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared

HOT lanes: "HOT" is the acronym for "High Occupancy Toll lanes." On HOT lanes, low occupancy vehicles are charged a toll, while High-Occupancy Vehicles (HOVs) are allowed to use the lanes free or at a discounted toll rate. HOT lanes create an additional category of eligibility for people wanting to use HOV lanes. People can either meet the minimum vehicle passenger requirement, or they can choose to pay a toll to gain access to the HOV lane. The toll can vary by time of day or level of congestion

Managed lanes is a term used to refer to a facility that increases freeway efficiency by packaging various operational and design actions. Lane management operations may be adjusted at any time to maximize person moving capacity, optimize vehicle carrying capacity, provide travel options and increase flexibility, and achieve community and corridor goals.

Pass-through toll: A local government or private entity (a developer) funds and constructs needed

improvements to the state highway system. The developer is reimbursed later by the state through payments based on a per vehicle fee or a per vehicle-mile fee that is determined by the number of vehicles using a highway

Priced new express lanes involve tolls on added lanes that vary by time-of-day and are collected at highway speeds using electronic toll collection technology. Tolls may be fixed or variable

Record of Decision (ROD): A Record of Decision is the final agency action and decision document rendered during the National Environmental Policy Act (NEPA) process.

Toll equity: state and/or federal funds are combined with toll bond funds to construct a facility. Toll equity stretches limited state and federal dollars by allowing highway funds to be combined with other funds to build public and private toll roads.

Toll Feasibility: The amount of projected toll revenue necessary to cover the required costs as defined for the project (i.e. total construction costs, partial construction costs; maintenance costs; operation costs; toll collection costs, etc.). Toll feasibility at 100% would require a project to cover all construction, maintenance, operations and debt service; however with the new tools afforded under HB3588, toll equity may be used to further project development

Transportation Demand Management (TDM), improving transportation system efficiency by attempting to alter transportation system demand through management of pricing, services, etc, rather than capital improvements

Variable tolls (also known as dynamic tolls, value pricing, or congestion pricing): Tolls may vary by day of week, time of day, or level of congestion, to encourage travelers to use the roadway during less congested periods, to shift to another mode of transportation, or to change routes. With less people traveling during congested periods, the remaining peak period travelers will have fewer delays. To be eligible for the variable toll programs, vehicles must use electronic toll collection.

Environmental Considerations during System Planning

Identification of candidate toll projects should occur as early in the system planning process as possible. The purpose of and need for the project as well as its goals and objectives should be the outcome of the planning process. TxDOT, toll authorities, RMAs, metropolitan planning organizations (MPO's), or metropolitan transit agencies may have the lead role or a supporting role during transportation planning for a toll project, possibly including a major investment study.

Toll facilities must eventually be considered in state, metropolitan, and local planning studies and must be included in the local MPO Long Range Transportation Plan (LRTP), the local MPO Transportation Improvement Program (TIP) and the Statewide Transportation Improvement Program (STIP). Note that the local TIPs and the STIP must be fiscally constrained and, for non-attainment areas, must meet air-quality conformity. More detailed assessments are usually done at the corridor, area, and project level.

As with current system planning, the developing entity should examine, at the appropriate level of detail, environmental issues for toll projects. Environmental consideration in toll projects can be acknowledged by the developing entity in a variety of ways depending on the specific type of project, the purpose of the toll (congestion management versus revenue generation) and its stage in the project development process.

The type of proposed project (e.g. toll facility on new location versus tolling an existing facility) will provide an indication of the environmental issues that will be of greater or lesser concern. Since the cross section and the general operation for toll and non-toll facilities are relatively similar, especially if electronic toll collection is planned, the major differences in

considering toll and non-toll options in the project planning process relate to additional impacts that may result from construction and operation of a tolled facility. A tolled facility with toll plazas may require additional right-of-way, may require changes in access, and may have differing impacts in terms of natural and cultural resources, air quality, noise, visual, and socio-economic impacts. For any toll project, issues of environmental justice and traffic diversion onto local streets or into neighborhoods may also need to be considered. Examining these potential issues during the system planning process may save time later if a toll option is added as an alternative or identified as the preferred alternative.

The following is a summary of potential tolling related issues that should be assessed, including environmental review and Public Involvement.

- purpose/need, objectives, and scope of the project
- status of environmental review
- change in access
- additional ROW for toll booths (minimized by electronic tolling) and resulting additional environmental impacts
- noise impacts
- air quality impacts
- air quality conformity (for non-attainment areas only)
- project description in LRTP/TIP/STIP
- light impacts from toll booths
- social/economic impacts
- Environmental Justice (impacts to low-income & minority populations and neighborhoods)
- public support/opposition
- traffic diversion through neighborhoods
- tolling options (HOT lanes, subsidies, no tolls for buses, congestion-pricing, etc.)
- ROW (donated vs. acquired)
- connections to the interstate and other on-system facilities
- interstate access request and requirements

Environmental Process for Tolling

The environmental process is a critical part of the project development process. The project that results from the environmental review/public involvement process must be consistent with the project description in the LRTP/TIP/STIP. The project design concept and scope and construction timing must agree with these plans. If the project does not agree, then appropriate revisions to the LRTP/TIP/STIP must be made. If the project is located within a non-attainment area, a new conformity determination on the revised LRTP/TIP/STIP would have to be completed before the environmental document could be approved by TxDOT. The timing of updated conformity determinations in non-attainment areas and the availability of MPO traffic modeling data for toll projects may become an important factor in project schedules.

The project that is built must be as described, assessed, and selected during the environmental review and public involvement processes. If changes are made in the project (design, right of way requirements, construction timing, etc.) after the environmental review and public involvement process is complete and the resulting environmental decision has been made (either under the National Environmental Policy Act (NEPA) or 43 TAC Part 1, Chapter 2, Subchapter C, §§2.40-2.43), those changes may be evaluated to determine if they are substantial enough to warrant additional environmental review, resource agency coordination, public involvement, and approval. Adding tolling to a project will require this type of evaluation. For example, if FHWA/TxDOT issued a FONSI or a ROD on a non-toll facility, the LRTP/TIP/STIP will reflect the project as a non-toll facility. If the decision is made to toll the facility after the ROD or FONSI is issued, additional environmental studies would be necessary to determine whether or not tolling will result in significant impacts to the human or natural environment. Further, additional public involvement (possibly including a public hearing) may be required prior to a final decision to toll since the project was originally presented

to the public as a non-toll project. Revisions to the LRTP/TIP/STIP could also be required and, in non-attainment areas, a new conformity determination will be required before the project can be authorized and constructed.

Specific issues that may need to be discussed and

evaluated in relation to the impacts of tolling include Environmental Justice/Title VI issues, noise, light impacts from toll plazas, traffic diversion/increased congestion through neighborhoods. Additional environmental permitting and approvals may be required related to the modifications that are necessary for the tolling operation.

Purpose and Need - Goals and Objectives

Depending on the purpose and need of the project, toll feasibility can be included in the environmental analysis as either an essential element of the purpose and need statement or it can be included in the second set of criteria for analysis and comparison, as a part of the project goals and objectives. In sum, by including toll feasibility as an essential element of the purpose and need we would be specifically “requiring” that (all) alternatives carried forward through the environmental analysis must be toll feasible at the required level. The purpose and need statement can establish how the toll feasibility (qualitative and/or quantitative) will be evaluated. By including toll feasibility as a desirable rather than an essential element of the goals and objectives, we, in essence, would be evaluating toll feasibility as part of a second set of criteria that includes other considerations including environmental impacts. The tolling option will be studied during the NEPA process for all alignment alternatives that survived the first cut. When defined as a critical part of purpose and need, tolling options are an integral part of the range of alignment alternatives discussed (along with and including the no-build and TSM/TDM alternatives). When toll feasibility is desirable but not essential, the tolling option can be an add-on to the more traditional non-toll options for each alignment alternative considered (along with and including the no-build, TSM/TDM alternatives).

The purpose and need of the project will also determine the type of tolling option that should be evaluated. If the purpose of the project is to produce revenue to pay for the construction of the facility, to fund future projects, or to provide some of the operation and maintenance costs of the facility, then traditional tolling for revenue gen-

eration could be appropriate. If the purpose and need is to reduce or manage congestion during peak hours, a form of value pricing such as variable tolls, high occupancy toll lanes, FAIR lanes, or a combination of managed lanes would be more appropriate. Tolling could also be used to reach the goals and objectives of the project. For example, your Purpose & Need could be to reduce congestion, etc; however your goal and objective could be to do it within ten years and tolling may be the mechanism necessary to accomplish this goal and objective. The type of tolling option being considered may affect the ultimate alignment decision as well.

Please note that during the NEPA process, if it is determined that an alternative under consideration does not meet the purpose and need to resolve an identified transportation problem(s) it must be eliminated from further study.

In the following section we will discuss the various scenarios you are likely to encounter as you respond to the directive from The Transportation Commission (Commission) to evaluate all controlled-access mobility projects, in any phase of development or construction, for tolling (Minute Order 109519). Please note that, regarding Scenarios 2, 3 and 4, at this time the Commission does not feel it would be prudent to define the specific circumstances to which the toll conversion rules would apply. Under these circumstances, a decision regarding toll conversion will be made on a case by case basis. In addition, please refer to the attached flow charts illustrating the various scenarios.

Toll Road Scenarios

This guidance discusses five scenarios for toll facility implementation:

1. **Environmental Studies are being initiated for a toll project;**
2. **Environmental studies have begun, but the decision whether to toll has not been made;**
3. **The decision to toll is made after the environmental studies are completed, but prior to letting/construction;**
4. **The decision to toll is made during construction;**
5. **Conversion of an existing road under traffic.**

1. Environmental studies are being initiated for a toll project

As stated before, the purpose and need and goals and objectives should clearly explain how tolling accomplishes either your purpose and need or your project goals and objectives. For the highway project, consider only the toll option and conduct the environmental review and public involvement accordingly. Examine impacts from tolling on all project alignment alternatives considered. Based on your initial data collection, determine whether the project action and the total project impacts are minimal enough to qualify for a CE or conduct an EA if the potential impacts are uncertain. If necessary, conduct an EIS. If the project was originally planned as a non-tolled road, adjust the LRTP/TIP/STIP as necessary in order to have the environmental document approved.

2. Environmental studies have begun, but the decision whether to toll has not been made

Consider both a toll road and a non-toll road options for all alignment alternatives considered. Conduct the environmental review and public involvement considering both a non-toll road and a toll road option. Structure the purpose and need of the project to support both.

Solicit public input on the non-toll and toll options. Analyze and describe the negative impacts and benefits of both. Select and identify the route alternatives based on balancing the ability of the alternatives to meet the purpose and need, the environmental impacts and the public input. Prior to the NEPA decision, determine if the project is to be tolled. Adjust the LRTP/TIP/STIP as necessary in order to have the environmental document approved. Please be aware that fully disclosing tolling issues as early as possible maximizes our options since it is easier to go forward with alternatives that have already gone through environmental review and public involvement.

3. The decision to toll is made after the environmental studies are completed, but prior to letting/construction

The decision to consider a toll road is made sometime after completing the environmental review and public involvement processes for a proposed improvement as a non-toll road but prior to initiating the letting/construction of the non-toll road improvement. Depending on the type of environmental review, the public involvement undertaken to date and the Purpose and Need, you may need to do some of the following:

- start the environmental process over;
- revise the Purpose and Need and consider/analyze toll options for the alternatives under consideration;
- conduct necessary environmental studies and regulatory coordination, as necessary, for toll impacts and include in document;
- provide additional opportunities for public involvement;
- develop an environmental re-evaluation to determine significance of toll impacts;
- develop supplemental environmental documentation if necessary;
- re-do air quality conformity if necessary;
- adjust the LRTP/TIP/STIP;
- get approval of re-evaluation document for CE, FONSI or FEIS to confirm that the CE, FONSI or EIS designation remains valid;
- get approval of final environmental documentation.

4. The decision to toll is made during construction

The determination must be made whether the decision to toll the facility under construction will result in substantive changes to the environmental impacts, regulatory requirements, and if it the project continues to meet the purpose and need that the original environmental document was based on. You may need to do some or all of the following:

- Revise the Purpose and Need and consider/analyze toll options;
- Conduct necessary environmental studies and resource agency coordination as necessary and include in the re-evaluation document;
- conduct additional appropriate public involvement;
- complete the environmental Re-evaluation;

- develop supplemental environmental documentation if necessary
- re-do air quality conformity if necessary
- Adjust the LRTP/TIP/STIP
- Issue/confirm/reissue approval (CE, FONSI, ROD)

NOTE: Design changes required by the decision to toll (i.e. construction of toll gantries or toll plazas, additional ROW, changes in access, etc.) may NOT be initiated prior to obtaining the appropriate environmental approvals.

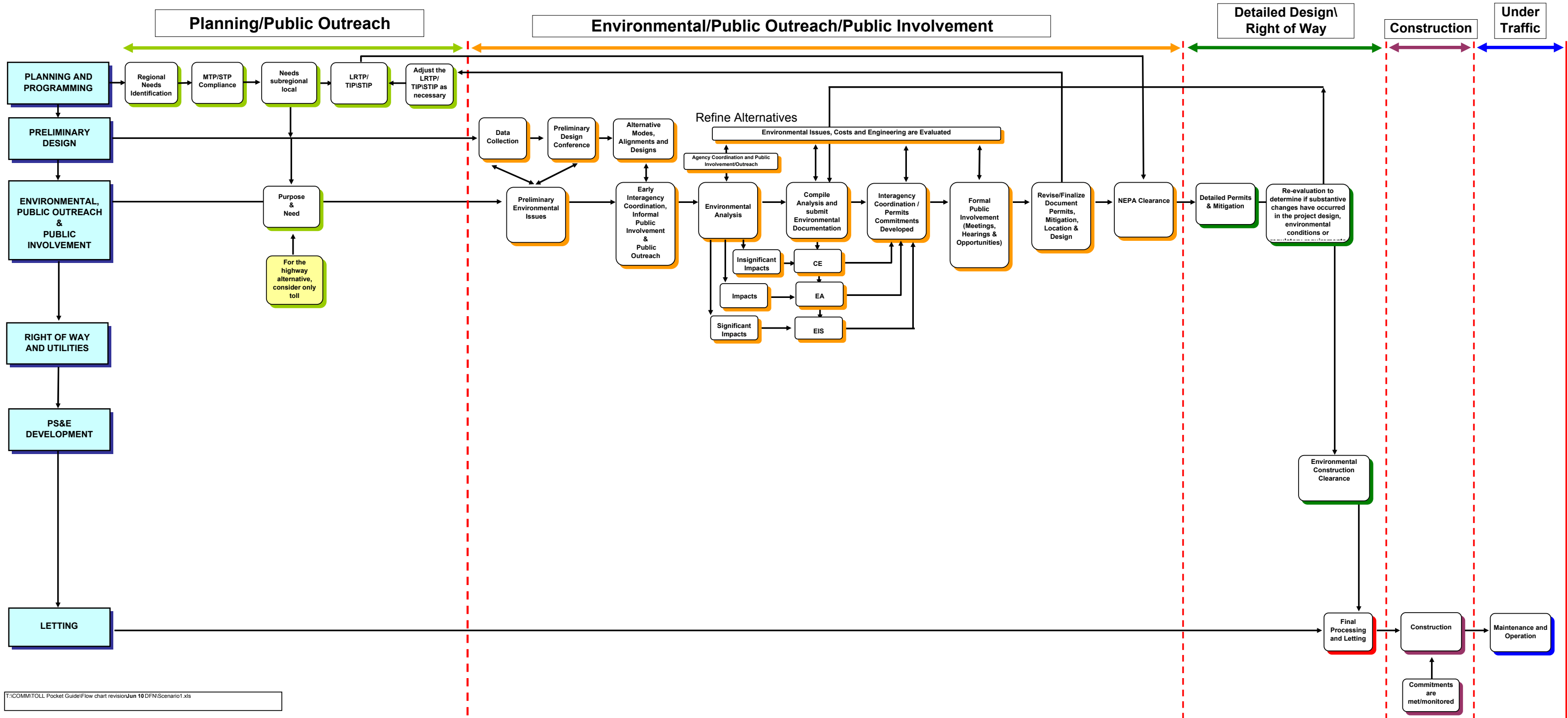
5. Decision to toll an existing roadway under traffic

When the decision is made to consider tolling an existing non-toll road (open to traffic and with no immediate proposed improvement other than the tolling), the appropriate public involvement will be required. Studies and public involvement should focus on tolling and the changes and modifications to the existing non-toll facility that will be necessary if the tolling is to occur. Specific issues that may need to be discussed and evaluated are Environmental Justice/Title VI issues, noise, and traffic diversion/increased congestion through neighborhoods. Environmental permitting and regulatory approvals may be required related to the modifications that are necessary for the tolling operation. The approval of the County Commissioners Court(s) of the counties in which the facility is located and the Transportation Commission is necessary and a Public Hearing is required. For specific requirements, refer to 43 TAC §27.14.



Scenario 1: Environmental Studies are about to be initiated

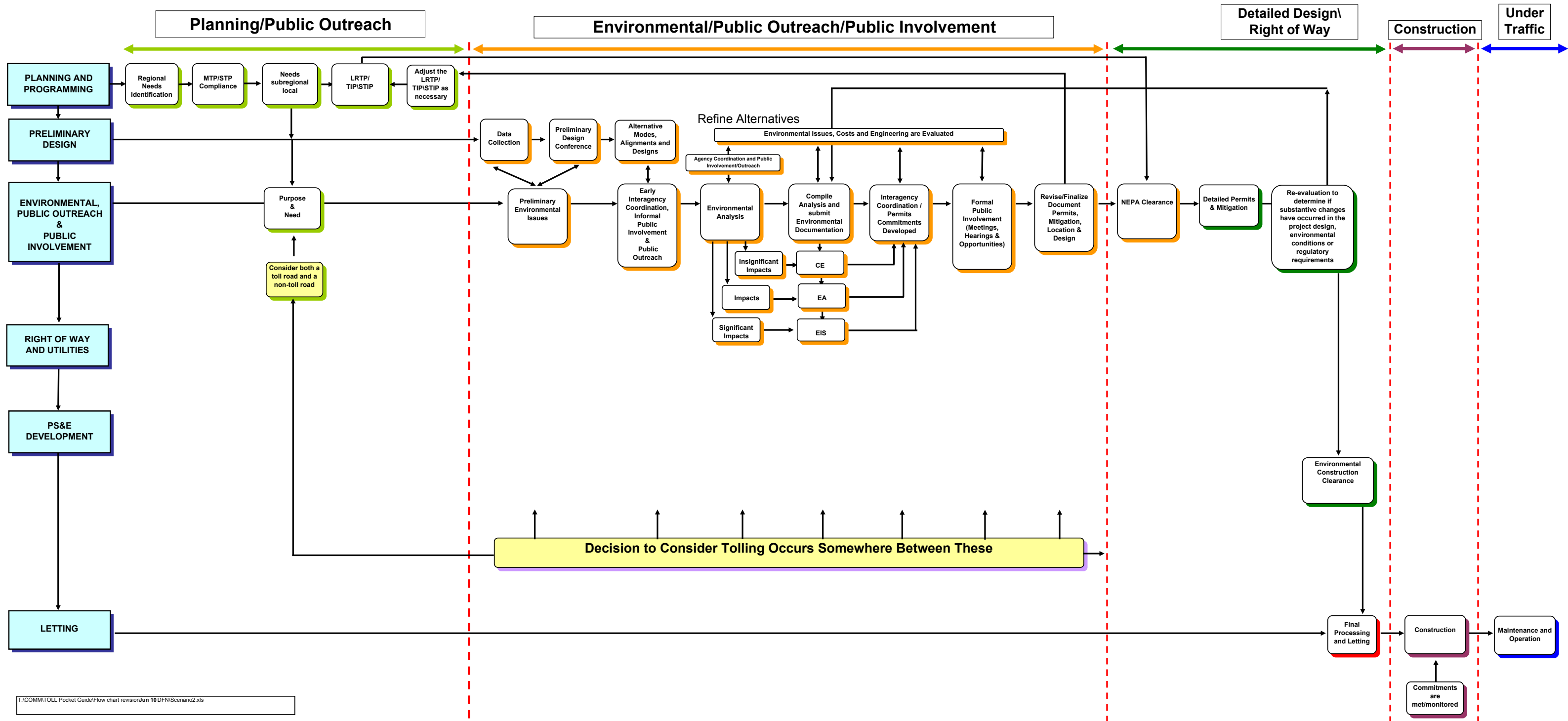
PROJECT DEVELOPMENT PROCESS



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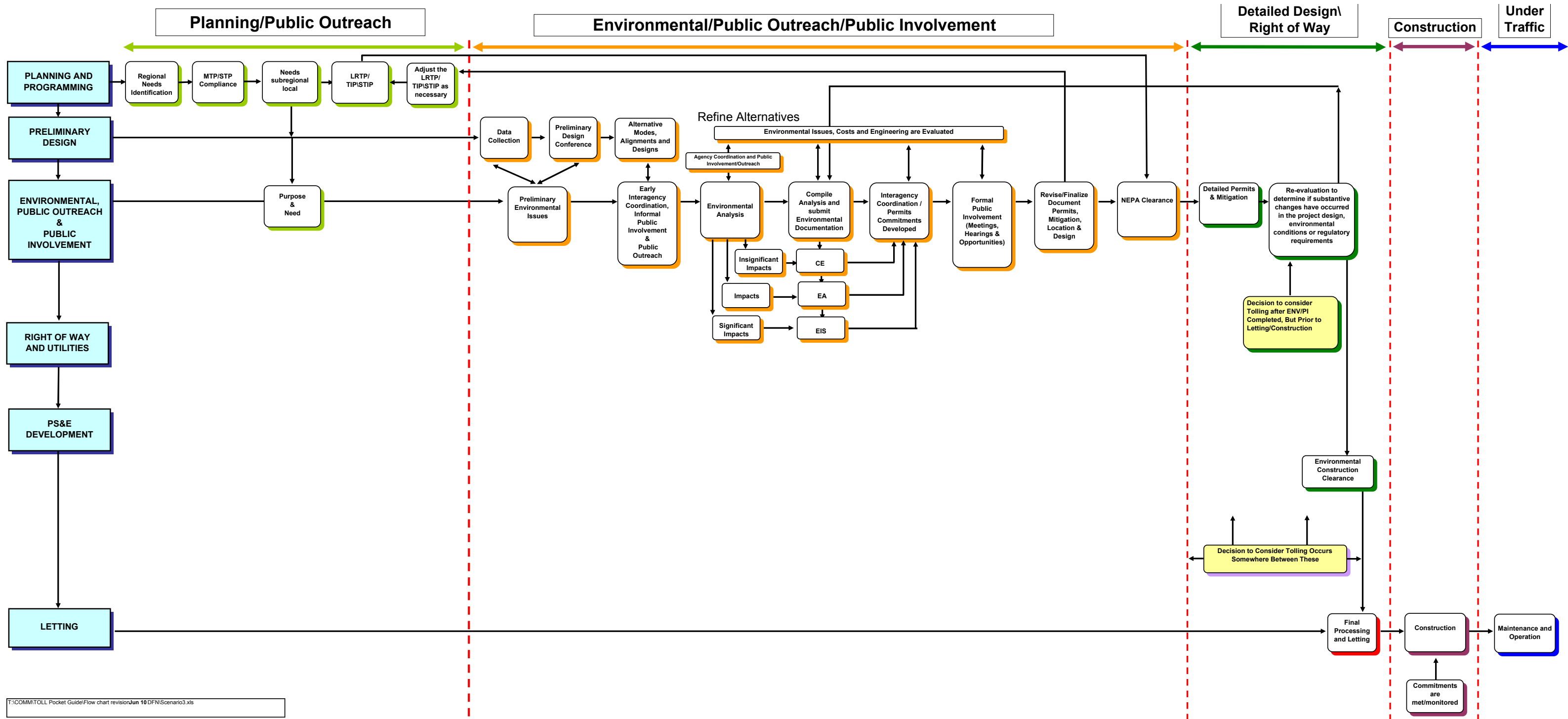
Scenario 2: Environmental Studies have begun - Toll Decision Not Yet Made

PROJECT DEVELOPMENT PROCESS



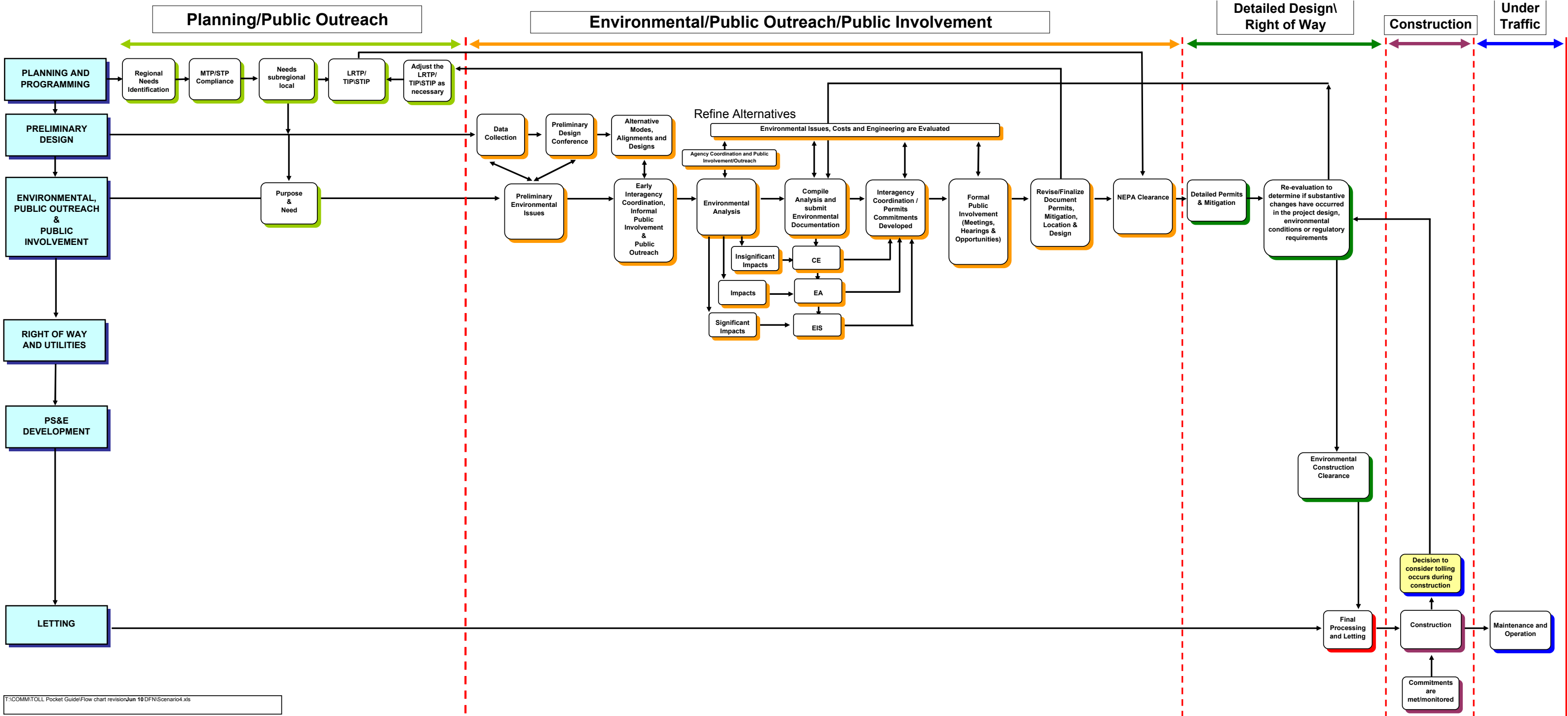
Scenario 3: Environmental Studies Complete, but Before Letting/Construction

PROJECT DEVELOPMENT PROCESS



Scenario 4: Toll Decisions Made During Construction

PROJECT DEVELOPMENT PROCESS



Scenario 5: Decision to Toll Existing Roadway

PROJECT DEVELOPMENT PROCESS

