

Navigating the Environmental Review Process

For many people, the most daunting part of getting their project off the ground is completing the environmental review. This includes the comprehensive compliance required under the National Environmental Policy Act of 1969 (NEPA) (42 U.S. Code § 4321 et seq.) and New Jersey Executive Order No. 215 of 1989. Here are a few tips to help you navigate smoothly through the environmental review process.

1. Project Site – You might think that you need to pick the location for your project before you hire your environmental consultant. However, this might be a mistake that could cost you extra time and money, and possibly keep you from bringing your project to fruition. There are many reasons to include your environmental consultant early on in your project planning. The most important reason is to have their assistance and input in picking the optimal project site location. A preliminary environmental review of your proposed project site location(s) can give insight into the challenges you might face in choosing that location. For example, you might pick a project site location, your engineer draws up the design plans, and perhaps performs studies only to later hire an environmental consultant who informs you that the site is unlikely to get agency approvals or has environmental conditions present that could delay your desired project timeline. Don't invest time and money into a project site only to learn that you might have to go back to the drawing board and find a new project site location. The expenditure of time, money and resources on a problematic location could be detrimental or fatal to the success of completing your project. There are many environmental challenges a project site might pose that are not always evident to an untrained eye. Examples of environmental challenges that could affect your project include: environmental contamination; protected areas at or adjacent to your site; threatened and endangered species and/or habitat; historic buildings, districts and archaeologically sensitive areas; and locations that might be ineligible for federal funding of certain projects, such as Coastal Barrier Resource Systems. For projects where individual sites will be identified at a later time, such as housing rehabilitation, the environmental consultant can perform a tiered environmental review. This allows grant recipients to conduct a programmatic review of potential environmental hazards or conditions. The Tier 1 programmatic review will establish a protocol to be followed when individual sites are selected and a site-specific Tier 2 environmental review is completed. In these situations, do not wait to get the environmental review process started in order to stay on target for your desired timeline.
2. Project Description – The project description is very important, along with the project site location, to the environmental review process. There are many benefits of sharing early design plans with your environmental consultant. Preliminary designs can be submitted to agencies for invaluable early feedback on your design plans. This is especially useful when permits are required from these agencies (USACE, NJDEP, etc.). The agency feedback will provide insight into any project design elements that are unlikely to be approved or will require modification, additional studies, or permit conditions. If your project includes activities that are not receiving federal funding or will be completed in phases (including future unknown phases), then all of these activities should be included in the project description for a review of the project as a whole. The project description should contain enough information so that the environmental consultant can conduct a meaningful assessment of the project's impacts. If you have elements of your preliminary project design that might later be removed, then it is best to keep those elements

included in the project description when obtaining early agency approvals. Any additions to the scope after submission to the agencies, will likely require re-submission for agency approval and potentially re-publication of public notices. Thus, keep your environmental consultant informed of any anticipated changes or changes when they become evident and the engineer's proposed design plan timeline. The project description should contain a sufficient amount of details and be reviewed for accuracy and approved by you and the engineer, along with the project location, before submission to the agencies. It also can be advantageous to incorporate sustainability measures and green infrastructure practices into your project design, when possible. The environmental consultant should be able to help you identify agency-preferred design components and environmental best management practices (BMPs) which can be incorporated into the project. Examples include natural drainage features, such as vegetated swales; open bottom culverts that facilitate the passage of aquatic species; natural, native streambank stabilizers; elevation of fuel tanks above the best available Base Flood Elevation (BFE); and other environmental BMPs. Many of which can be utilized as avoidance, remedial, protective, sustainable and mitigative measures in response to potential adverse environmental impacts.

3. Timing – Early on in the project planning process, inform your environmental consultant of your timeline, goals, and expectations for the project. There might be environmental conditions at the project site that can alter your expected project construction timeline. Examples of environmental conditions that could affect the timing of project construction include: threatened and endangered species' use of habitat at your project site (i.e., breeding, roosting or other critical use); additional studies that might be required in order to move forward, such as archaeological surveys, hazardous building material surveys, and environmental site assessments (Preliminary Assessment, Phase I and II ESAs, etc.); and lengthy agency or tribal consultations. Start communications early in the process with your environmental consultant to develop a realistic timeline and guide expectations.
4. Project Objectives (Purpose and Need) – The first step in your project planning was likely identifying the need for the project. The objectives of your project should be written down and an informal or formal analysis performed on the feasibility of this project versus any identified alternatives. Also, be prepared to explain to the public and the funding source what your project hopes to accomplish and, if completed, that it will work in successfully accomplishing those goals.
5. Alternatives – The NEPA environmental review process requires the consideration of reasonable alternatives that could achieve the purpose and need of your project. You likely have invested much time, energy and resources into planning your project. Make sure that you have identified, assessed and documented alternatives to your project. Sometimes the only alternative to your project is no action. However, you most likely have identified and discussed alternative site locations, repair and rehabilitation versus new construction, or even acquisition of properties versus mitigation work. Document these alternatives and your analysis early on and share them with your environmental consultant to be incorporated into their review.
6. Contracts/Expenditures – Make sure to check with your funding source on restrictions which could prevent you from entering contracts and expending funds prior to completion of the environmental review. Sometimes costs incurred for construction, purchase of equipment, transfer of property, inventory, working capital, purchase orders for material, labor costs or even entering contracts might be ineligible for reimbursement if issued prior to the official release of funds (after the final environmental review).

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In addition to these tips, hiring an environmental consultant who is a knowledgeable expert is critical to understanding how to smoothly navigate the environmental review process and successfully complete your project. The environmental process will definitely be easier if you follow the above tips and hire a good consultant, incorporate them early in your project planning phase, keep them informed of any changes, and provide them with your expectations, desired timeline and key data items described above (project site location[s], project description, objectives, alternatives, etc.). This will end up saving you time and money and make it more likely your project is a successful one.

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