



Northern Border Regional Commission

OVERVIEW OF GUIDANCE FOR CREATING AN NBRC ENVIRONMENTAL ASSESSMENT

Purpose: This guidance is intended to assist grantees and their National Environmental Policy Act (NEPA) contractors in developing Environmental Assessments (EAs) that meet the Northern Border Regional Commission's (NBRC) standards. By adhering to this guidance and utilizing the provided resources, contractors can ensure that all components of the EA are included and can facilitate an efficient review process by NBRC's environmental consultants at The Clark Group LLC (TCG).

HIRING A CONTRACTOR AND NEXT STEPS:

1. Hiring a NEPA-Experienced Contractor:

- Grantees should hire a contractor with experience in NEPA compliance to develop their Environmental Assessment (EA). It's important to note that a NEPA Environmental Assessment (EA) is different from a Phase 1 Environmental Site Assessment (ESA). Therefore, grantees must find a contractor who is specifically familiar with EAs for NEPA and not just the ESA process. This expertise is crucial to ensure that the EA meets all regulatory requirements and passes through the review process smoothly.

2. Next Steps After Securing a Contractor:

- Once the grantee has secured a contractor to develop the EA, they should promptly reach out to NBRC's NEPA consultants, The Clark Group (TCG). This early communication will ensure that everyone is on the same page and that the EA development process proceeds smoothly. At that time, TCG will provide the NBRC EA Template, the 8-Step guidance document, and other resources (listed below) that may be helpful for the NEPA contractor.
- **EA Template:** NBRC **requires** that all NEPA contractors use the NBRC EA Template when developing EAs. This template ensures that all necessary elements of the EA are consistently included, allowing for a thorough and efficient review by TCG.

3. Partial Notice to Proceed – Optional for Incomplete Project Details

- In cases where there is not enough project information to complete a thorough EA, a Partial Notice to Proceed (PNTP) can be requested from NBRC. Recommendation to pursue a PNTP may come from the NEPA contractor or NBRC.
- **What a PNTP allows:**
 - Up to 30% project design completion
 - Administrative costs
 - Feasibility studies

ADDITIONAL RESOURCES:

1. Section 106 Consultation:

- Section 106 consultations are required for any project that could potentially impact cultural resources, including historic buildings, structures, or archaeological sites. This will be determined as a part of the EA process. This requirement also applies to any structures that are listed or eligible for listing on the National Register of Historic

Places (NRHP). These consultations ensure compliance with the National Historic Preservation Act (NHPA) and assess potential impacts on cultural and historic resources.

- **Action:** Please share the Section 106 consultation documentation with NBRC for TCG review and approval prior to submission to the State Historic Preservation Office (SHPO). TCG then takes the lead with the SHPO, although the grantee may be required to answer additional questions as needed.

2. 8-Step Decision-Making Process for Floodplains and Wetlands:

- If the Proposed Action is located either partially or entirely in floodplains and/or wetlands, the project requires completion of the 8-Step Decision-Making Process. This process analyzes the potential impacts associated with floodplain and/or wetland development and aligns with Executive Orders 11990 and 11988.
- **Action:** The 8-Step process includes two required public notice periods: an Early Notice (15 days) and a Final Notice (7 days). Please share the 8-Step Early Notice and Final Notice with NBRC for TCG review and approval before posting, as well as the entire 8-Step document before it is finalized and incorporated into the EA.
- **Resource:** NBRC strongly recommends the 8-Step template and example provided to guide this process.

3. Section 7 Consultation:

- For projects potentially affecting endangered species or their habitats, a Section 7 Consultation must be completed as part of the EA. This process analyzes the project's potential impacts on threatened and endangered species to ensure compliance with the Endangered Species Act (ESA).
- **Resource:** Section 7 Consultations should be initiated using the USFWS's [Information for Planning and Consultation \(IPaC\)](#) online tool.
- **Action:** Incorporate the Section 7 process into the EA development and ensure the Section 7 Consultation is properly documented.

If the Section 7 review determines that a Biological Assessment (BA) is required, or that informal or formal consultation will be initiated with the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), the contractor must submit the draft BA and/or consultation materials to NBRC and TCG for review and approval prior to submission to the Services.

When informal or formal consultation is required, the contractor may request designation as a non-federal representative to conduct consultation on behalf of NBRC. In such cases, NBRC may provide a designation memo authorizing the contractor to submit consultation materials to USFWS or NMFS. This designation does not remove NBRC or TCG oversight; all consultation materials must be reviewed and approved prior to submission.

STEPS FOR DEVELOPING THE EA:

This high level of oversight is designed to ensure that everyone is aligned throughout the Environmental Assessment (EA) process, leading to a smoother review with fewer required edits. TCG understands that every federal agency has its own NEPA procedures and requirements, which is why TCG prioritizes clear communication and mutual understanding of NBRC's specific process. TCG will work closely with the NEPA contractors to ensure the draft EA meets all of NBRC's compliance requirements and will determine when the document is ready to proceed to the public comment process.

1. Initial Meeting:

- The NEPA grantees (along with their contractors) should schedule an initial meeting with TCG to discuss the scope of the project and the EA process. This meeting will allow the grantees and contractors to address any questions and ensure alignment on expectations.

2. Approval of Chapters 1-2 and the Affected Environment Boundary:

- Before beginning Chapter 3 of the EA, the contractors should submit Chapters 1-2 and the proposed Affected Environment (AE) boundary to TCG for approval. This step ensures that:
 - The Proposed Action description is detailed enough to support a thorough impact analysis later in the document.
 - The AE boundary is properly defined to capture the full area that may be impacted by the project.

3. **Review of Chapters 1-3:**

- Contractors should submit Chapters 1-3 of the EA to TCG for review and feedback before proceeding with Chapter 4. This iterative process helps identify and address any issues early on, ensuring smoother development of the subsequent chapters.

4. **Final Review of Chapters 1-4:**

- Contractors should submit chapters 1-4 of the EA to TCG for final review and feedback.
- Additionally, contractors should provide a folder containing the Administrative Record for the project, which will be retained for NBRC's records (see below for details on required content for the Administrative Record).
- Once TCG determines that the draft EA is sufficient to ensure NBRC's environmental compliance, TCG will notify NBRC that the document is ready to proceed to the public comment process.

5. **Public Comment Period and Finalization:**

- The Notice of Availability (NOA) announces the availability of the draft EA for public review. Following draft EA approval, TCG will prepare the NOA and provide it to the grantee for posting.
- The NOA must be posted for one full day to officially start the 30-day public comment period. Once the NOA is posted, the grantee must submit proof of posting to NBRC.
- Public comments will be sent to nepa@nbrc.gov for initial review by TCG and NBRC. The contractor will then draft responses to these comments, which TCG and NBRC will review before advising on the next steps.
- Following the 30-day public comment period and any necessary comment adjudication, TCG will finalize the EA and draft the Finding of No Significant Impact (FONSI). The final EA and FONSI will then be submitted to NBRC for final review and approval.

6. **Restrictions on Spending if the Project Scope Changes**

- Once NEPA is completed for the original project scope, no NBRC or match/cost share funds should be committed or expended until NBRC confirms the NEPA hold is lifted, and the project has secured a Notice to Proceed.
- If the project scope changes after the EA is completed, the grantee must notify NBRC immediately. NBRC will then determine if the existing NEPA documentation is sufficient to cover the new scope, or if additional analysis is needed.
- Please note that any funds spent on a revised scope before proper NEPA review and authorization from NBRC will *NOT* be reimbursed.

PROPER DOCUMENTATION AND RECORD-KEEPING:

1. **Structuring the EA Appendices**

The appendices should be limited to key supporting documents essential for public and agency review. Administrative records, email correspondence, and other documentation not directly referenced in the EA should be stored separately in the Administrative Record (see below).

- **Recommended for Appendices:**
 - Section 106 concurrence letter
 - IPaC report
 - NRCS Soils Report
 - 8-Step Analysis for Wetlands and Floodplains
 - Maps and figures illustrating project location and scope – Ideally, figures should be embedded within the body of the EA. If they are too cumbersome, they may be placed in the appendix with clear references in the EA text.
 - Summary data tables – Ideally, these should be nested in the body of the EA, but if they are too large or detailed, they can be placed in the appendix and referenced accordingly.
- **Not Recommended for Appendices:**
 - Lengthy email correspondence
 - Excessive site photos or detailed construction drawings (only include those specifically referenced in the EA)
 - Administrative documents that belong in the project record

2. Organizing the Administrative Record

The Administrative Record should be a *well-organized* digital folder that contains all supporting documentation that substantiates claims in the EA. This record ensures transparency and compliance while keeping the EA itself clear and focused. To maintain clarity, the Administrative Record should be structured with clearly labeled subfolders.

- **Documents for the Administrative Record:**
 - Section 106 consultation package sent to SHPO
 - All email correspondence supporting assertions in the EA
 - Detailed construction site plans
 - Photo documentation of site conditions (beyond what is included in the EA)
 - Any additional reports, studies, or background materials that inform the EA but are not necessary for public review

3. Final Notes on Record-Keeping and Communication

- All correspondence related to the EA should be copied to NBRC (admin@nbrc.gov) to maintain a full administrative record.

CONTRACTOR CHECKLIST FOR EA DEVELOPMENT:

The following checklist provides a step-by-step breakdown of tasks that contractors must complete throughout the EA process. Use this as a quick reference to ensure all requirements are met and compliance obligations are fulfilled.

TASK TYPE	TASK	COMPLETION
HIRING & INITIAL COORDINATION	HIRE CONTRACTOR: Hire a NEPA-experienced contractor to develop the EA. EA RESOURCES: Notify TCG once a contractor is secured to receive the NBRC EA Template and other resources.	<input type="checkbox"/>
	PNTP: If project details are insufficient for impact assessment, consider requesting a Partial Notice to Proceed (PNTP). Refer to the guidance document for when a PNTP may be appropriate.	<input type="checkbox"/>
INITIAL MEETING & EARLY COORDINATION	KICKOFF MEETING: Schedule an initial meeting with NBRC/TCG to discuss the EA scope and expectations.	<input type="checkbox"/>
EA DEVELOPMENT – STEP 1	SUBMIT CHAPTERS 1-2: Submit Chapters 1-2 and the Affected Environment (AE) boundary to TCG for approval before starting Chapter 3.	<input type="checkbox"/>
REGULATORY COMPLIANCE – STEP 1	SUBMIT SECTION 106: Submit the Section 106 consultation package to NBRC for review before sending to SHPO.	<input type="checkbox"/>
REGULATORY COMPLIANCE – STEP 2 (IF APPLICABLE)	SECTION 7: Confirm with NBRC whether a TCG review is required for Section 7 Consultation (project-dependent). If applicable, submit Section 7 Consultation to USFWS or NOAA.	<input type="checkbox"/>
REGULATORY COMPLIANCE – STEP 3 (IF APPLICABLE)	8-STEP EARLY NOTICE: Prepare the 8-Step Early Notice and submit it to TCG for review.	<input type="checkbox"/>
	POST 8-STEP EARLY NOTICE: (If applicable) Post the 8-Step Early Notice (15-day early notice period). Grantee to submit proof of posting to NBRC.	<input type="checkbox"/>
	PREPARE 8-STEP DOCUMENT: (If applicable) Prepare the full 8-Step Decision-Making Document and submit it to TCG for review.	<input type="checkbox"/>
	PREPARE 8-STEP FINAL NOTICE: (If applicable) Prepare the Final 8-Step Notice and submit it to TCG for review.	<input type="checkbox"/>
	POST 8-STEP FINAL NOTICE: (If applicable) Post the 8-Step Final Notice (7-day final notice period). Alternatively, this can be posted at the same time as the NOA for the Draft EA. Grantee to submit proof of posting to NBRC.	<input type="checkbox"/>
EA DEVELOPMENT – STEP 2	SUBMIT CHAPTERS 1-3: Submit Chapters 1-3 to TCG for review and feedback before proceeding with Chapter 4.	<input type="checkbox"/>
EA DEVELOPMENT – STEP 3	SUBMIT CHAPTERS 1-4: Submit Chapters 1-4 to TCG for final review.	<input type="checkbox"/>
	PROVIDE ADMIN RECORD: Provide a folder containing the Administrative Record for NBRC's records.	<input type="checkbox"/>
PUBLIC COMMENT & FINALIZATION – STEP 1	PREPARE NOA: TCG will prepare the Notice of Availability (NOA) once the draft EA is approved.	<input type="checkbox"/>
	POST NOA: The grantee must post the NOA for one day to start the 30-day public comment period. Grantee to submit proof of posting to NBRC.	<input type="checkbox"/>
PUBLIC COMMENT & FINALIZATION – STEP 2	PUBLIC COMMENTS: Following the 30-day public comment period, if comments are received, the contractor will draft responses to comments for TCG and NBRC review.	<input type="checkbox"/>
FINAL EA & FONSI COMPLETION	FINALIZE EA & FONSI: TCG will finalize the Final EA and FONSI (with potential assistance from the contractor), submit them to NBRC, and notify NBRC once the NEPA hold has been lifted.	<input type="checkbox"/>