

Environmental Evaluation and Compliance within the SMART Planning Framework

The purpose of this discussion paper is to highlight and clarify opportunities to encourage efficient and thorough environmental evaluation and compliance in support of the SMART Planning framework.

This paper will explain how the environmental evaluation and compliance process fits appropriately into the SMART Planning framework, discuss what's different from the "legacy" approach to feasibility studies, and show how the major National Environmental Policy Act (NEPA) milestones fit into the SMART Planning phases. SMART Planning offers opportunities to encourage efficient, thorough, environmental reviews that will result in quicker and better-informed decisions. This approach falls in line with the White House [Council on Environmental Quality \(CEQ\) steps to modernize and reinvigorate NEPA](#) emphasized in a memorandum dated March 6, 2012 for Federal agencies on improving the efficiency and timeliness of their environmental reviews under NEPA.

The Corps environmental evaluation and compliance process falls under the NEPA umbrella, which is where this paper will focus. The NEPA compliance process is typically used as the vehicle for achieving compliance not only with the CEQ regulations (40 CFR parts 1500-1508), but also with a range of other environmental laws and executive orders, including Section 7 of the Endangered Species Act, Section 106 of the National Historic and Preservation Act, Section 404(b) of the Clean Water Act, air quality conformity requirements under the Clean Air Act, just to name a few.

SMART Planning has taken a fresh look at the Feasibility Study Process as a key element of the Corps' Planning Modernization efforts. The timing is in sync with the Administration's efforts to modernize and reinvigorate NEPA review. SMART Planning will meet the requirements of NEPA and other applicable environmental laws and policies, including [Engineer Regulation \(ER\) 200-2-2 \(Procedures for Implementing NEPA\)](#) and [ER 1105-2-100 \(Planning Guidance Notebook\)](#).

The key differences between the SMART Planning approach and the "legacy" approach is that SMART Planning takes on a risk informed decision-making approach, focusing on the level of detail necessary to make decisions as the team progresses toward identifying a recommended plan. With SMART Planning the level of detail should be commensurate with the issues being evaluated. A risk register will be used to identify risks up front, including environmental risks, identify early data gaps and the necessary data required to reduce unacceptable uncertainty in alternative evaluation and comparison.

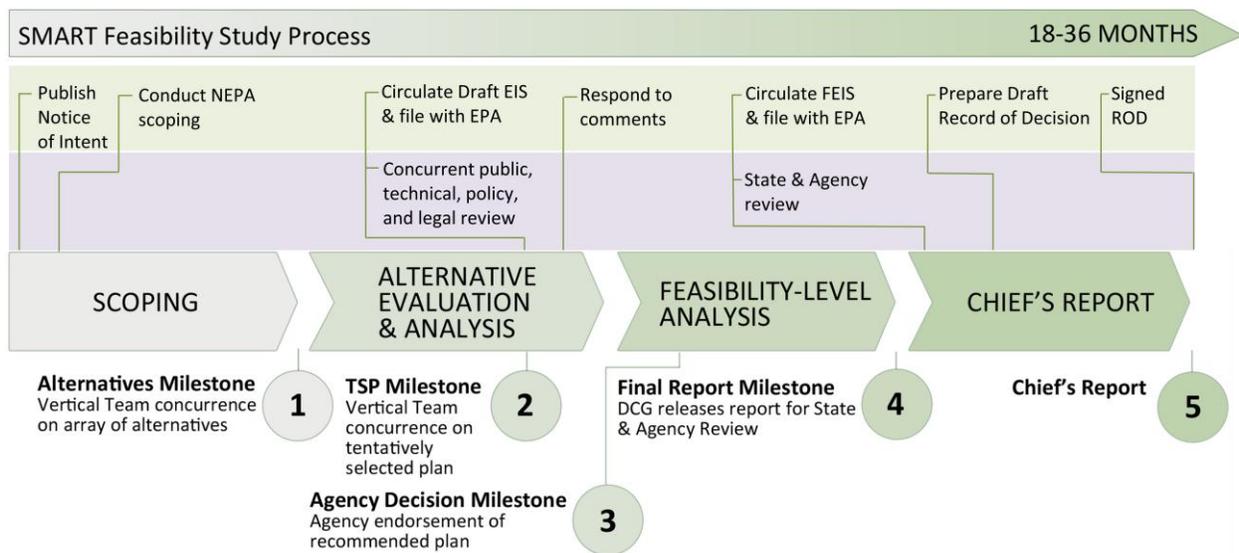
Collecting the right level of detail at the right time is important in SMART Planning. Getting to the right level of detail requires early and often engagement of resource agencies and the public throughout the process. As the study progresses, it is expected that the level of detail will increase as the team gets closer to selecting the preferred alternative.

It's important to note for NEPA purposes that the new process does not eliminate detail from the integrated feasibility report/NEPA document; it is about developing the data at the right time and for the right alternatives as the study is conducted. A rigorous and credible comparison of alternatives will still be required. However, instead of a "rigorous" comparison of numerous alternatives, some of which would never be carried out based on technical, economic or environmental reasons, only those

alternatives that are implementable would get the rigorous review. This is in alignment with NEPA, which indicates that when faced with a very large number of possible alternatives, you need only evaluate a reasonable range of alternatives.

In addition to the above differences, a key theme for SMART Planning is writing quality documents, including the NEPA documentation. The environmental writer must “tell the project story” through clear, concise, and effective writing. The feasibility study report as well as the NEPA documentation should tell the story of the *project*---but also tell the story of the *process* used to reach good decisions.

Following is a breakdown of how the NEPA and environmental evaluation process fits into the SMART Planning feasibility study process. It is important to keep in mind that the phases outlined in SMART Planning are not of equal duration. Additionally, SMART Planning is an iterative process and at any point in the process you may find it necessary to revisit items such as screening out a particular measure or alternative as the environmental analysis is developed.



SCOPING PHASE

Scoping in general is a useful tool for discovering problems, opportunities, alternatives and potential significant impacts early in the study. SMART Planning identifies scoping as a formulation activity within the first months of the study, concluding the phase with the identification of a final array of reasonable alternatives, as well as the criteria that would be used to evaluate and compare those alternatives. The NEPA scoping process should fit appropriately within the scoping phase of SMART Planning.

The NEPA scoping process is a formal process that must be followed, in accordance with CEQ regulations ([40 CFR Sec. 1501.7](#)), when preparing an Environmental Impact Statement (EIS). NEPA scoping should occur as early as possible after there is a decision to prepare an EIS. Typically, *workshops or public meetings* are held after the *Notice of Intent* to solicit public comments and discuss the project. While the Notice of Intent and Scoping are required process steps for preparation of an EIS, CEQ guidance recommends the use of scoping to help frame issues and engage the public for an Environmental

Assessment (EA) as well. Engaging the public, Tribes, and other agencies to identify environmental resources and associated project concerns early in the planning process is not only desirable, but consistent with the spirit of NEPA. Early public and agency engagement helps to incorporate environmental considerations into the project formulation, prior to evaluating solutions. It is assumed in SMART Planning, concurrent with the scoping period, that public and agency engagement would take place to solicit information and concerns and feed into the formulation of project alternatives.

Alternative Development: The following are key points in the NEPA process to consider when developing alternatives.

Purpose and Need: The project *purpose* and *need* section of a feasibility report/NEPA document is important because it drives the selection of alternatives. The purpose and need should not be too narrow or too broad. If too broad, it creates unnecessary alternatives. If too narrow, it can lead to criticism that the range of alternatives was improperly narrowed.

Alternative Screening: By following the SMART Planning approach, the scoping phase will allow the range of alternatives to be reduced by following a systematic alternatives formulation and screening process. If properly documented, this approach leading to the alternative formulation and analysis phase can reduce time and effort for the study team.

Mitigation is an important mechanism to minimize the potential for adverse environmental impacts associated with alternatives to implement a proposed action. In formulating alternatives, mitigation measures should be a part of the alternative development process with emphasis placed on avoiding, minimizing and lastly compensating for unavoidable significant adverse environmental impacts.

Reasonable Alternatives: Under NEPA, “reasonable alternative” is generally understood to mean those technically and economically feasible alternatives that would satisfy the primary objectives of the project defined in the *purpose* and *need* statement. Information obtained through the Scoping phase should assist with this process. How the feasibility study report tells the story of screening through the use of criteria to recommend a final array of alternatives is extremely important for compliance with NEPA. During the environmental analysis, a reasonable array of alternatives should be considered and discussed at a comparable level of detail to avoid any indication of a bias towards a particular alternative(s). The “no action” alternative would also be evaluated, and serves as the baseline, against which the other alternatives are compared. This is in alignment with the SMART Planning approach where a final array of alternatives, i.e. *reasonable range* in NEPA terms, would be evaluated equally with an increased level of detail as you get closer to making the final selection. The level of detail necessary for environmental impact analysis and mitigation planning of the alternative plans would increase with each screening toward a selection of a reasonable array of alternatives.

ALTERNATIVE EVALUATION PHASE

The identification, consideration, and analysis of alternatives are key to the NEPA process and goal of objective decision-making. Consideration of alternatives leads to a solution that satisfies the water resource need while protecting the environment. Alternatives analysis should clearly indicate why and how the particular range of project alternatives was developed, including what kind of public and agency input was utilized. In addition, alternatives analysis should explain why and how alternatives were eliminated from consideration. It must be made clear what criteria were used to eliminate (screen out) alternatives, at what point in the process the alternatives were removed, how the criteria were

established for assessing alternatives, and the measures for assessing the alternatives' effectiveness. The result of this process would lead to identifying the agency's **tentatively selected plan** in the draft feasibility report/NEPA document that would be released concurrently for public, technical, policy and legal review.

Documentation: An EA or EIS may be the most scrutinized part of the Corps' feasibility study documentation. It provides evidence to the public and agencies of the Corps' commitment to, and satisfaction of, the NEPA requirements. The environmental documentation must communicate clearly the results of the alternative formulation and screening process, impact analysis, environmental commitments and decision process toward identifying a tentatively selected plan. It is important that the documentation clearly communicates: the purpose of, and need for, the project; the screening criteria used to develop and compare alternatives; the results of analysis for direct, indirect, and cumulative impacts analysis; and any mitigation commitments.

The NEPA document must concentrate on the *issues that are truly significant to the action in question*, rather than amassing needless detail on issues or resources that do not apply. Over time, environmental documents have grown in size but have not necessarily improved in quality. SMART Planning offers the opportunity to reverse this trend and falls in line with the recent CEQ released guidance provided in March of 2012. For example, the integration of the NEPA document with the Feasibility Report would reduce duplication and paperwork and would align with CEQ guidance and SMART Planning principles. Incorporation by reference of other NEPA documents, planning reports, etc., provides efficiency and time savings, reduces the size of the report and duplicative effort. In line with preparing concise quality reports, detailed technical discussions such as environmental modeling methodology, baseline environmental studies, biological opinions, cultural resource survey reports and Hazardous, Toxic, and Radiologic Waste (HTRW) phase I assessments, to name just a few, are best reserved for an appendix. In other words, if only technically trained individuals are likely to understand a particular discussion then it should go into an appendix with a plain language summary of the analysis added to the text of the integrated feasibility report/NEPA document.

FEASIBILITY-LEVEL ANALYSIS PHASE

This phase of the study includes development of the Final Report and fine-tuning the design of the agency recommended plan to reduce risk and uncertainty with cost data, engineering effectiveness, environmental impacts, and economic benefits. Prior to this phase, and before making the tentatively selected plan the agency recommended plan, there will be an Agency Decision Milestone that takes into consideration concurrent public/agency comments and technical, policy and legal review comments on the draft integrated feasibility report/NEPA document. At this stage, the agency has considered all impacts from the proposed plan and compared alternatives before making the final recommendation and documentation.

CHIEF'S REPORT PHASE

After the final feasibility report is submitted to HQUSACE, a Chief's Report will be drafted for signature. If the study contains an EA leading to a Finding of No Significant Impact (FONSI), then the signed FONSI will be part of the Chief's Report package. If an EIS is done, then the draft Record of Decision (ROD) is part of the Chief's Report package. The ROD will be signed by the Assistant Secretary of the Army for Civil Works (ASA (CW)).