

Policy: 4415-10- GA Environmental Protection Act - GEPA

Section: Environment

Office/Department: Office of Env Services

Reports To: Division of Engineering

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In 2016, Article 1, Chapter 16, Title 12 of the Official Code of Georgia Annotated, the "Environmental Policy Act" (GEPA), was amended by adding the following new Code Section (12-16-9), "When a project of a department, municipality, county, or authority to construct or improve a public road or airport does not exceed \$100 million in costs, such project shall not constitute a proposed governmental action which may significantly adversely affect the quality of the environment and the requirements of this article shall not be applicable, except that an environmental evaluation shall be considered in the decision-making process, consistent with paragraph (3) of code section 12-16-2, when it is probable to expect significant adverse impact on historical sites, or buildings, and cultural resources". This code section is effective July 1, 2016.

STATE FUNDED PROJECTS NOT EXCEEDING \$100 MILLION IN COSTS

Pursuant to the 2016 GEPA amendment, all state funded Georgia Department of Transportation (GDOT) projects which do not exceed \$100 million in costs will not constitute a proposed governmental action which may significantly adversely affect the quality of the environment and the requirements of GEPA shall not be applicable. However, some environmental evaluations, consistent with GDOT's existing GEPA policy where "a project which will cause land disturbance and for which there is no anticipation whether the action may significantly adversely affect the quality of the environment, environmental evaluations will be undertaken", will be completed for the types of projects listed in [4415-10\(C\)](#) noted below. These studies will include environmental evaluations for historic sites, buildings, and cultural resources **and will be** considered in the decision-making process, consistent with paragraph (3) of code section 12-16-2, when it is probable to expect significant adverse impact on historical sites, or buildings, and cultural resources".

STATE FUNDED PROJECTS EXCEEDING \$100 MILLION IN COSTS

Pursuant to the 2016 GEPA amendment, all state funded GDOT projects which exceed \$100 million in costs will constitute a proposed governmental action which may significantly adversely affect the quality of the environment and the requirements of GEPA will be applicable. If the proposed action has received federal approval of an environmental document prepared in accordance with the National Environmental Policy Act (NEPA), GDOT shall be deemed to have complied with the requirements of GEPA. GDOT adopts the following procedures noted below for projects exceeding \$100 million in cost in order to comply with GEPA.

The "responsible official of the government agency" will determine if a proposed governmental action that exceeds \$100 million in cost, after considering the project's context and totality of environmental impacts, is one which may significantly adversely affect the quality of the environment. The "responsible official" for GDOT is the Commissioner. When an Environmental Effects Report (EER) is prepared, documents for the Commissioner's signature will first be approved by the State Environmental Administrator, Director of Engineering and the Chief Engineer. The State Environmental Administrator will approve governmental actions with GEPA Type A or Type B letters on behalf of the Commissioner.

THE COMMISSIONER HAS DETERMINED THAT:

- A.** GEPA Type A projects include non-land-disturbing activities and minor land-disturbing activities which would not be anticipated to significantly adversely affect the quality of the environment and therefore would not require an environmental

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evaluation or a public hearing. For such projects, a GEPA Type A letter would be prepared in accordance with the Environmental Procedures Manual after consultation with the Office of Environmental Services. An Environmental Commitments Table/Green Sheet will not be provided with the GEPA Type A letter. The types of projects for which a GEPA Type A letter would be prepared include, but are not limited to:

- 1.** Minor roadway and non-historic bridge projects.
 - a.** Modernization of an existing highway by resurfacing, restoration, rehabilitation, adding shoulders, widening a single lane or less in each direction, and the addition of a median within existing right-of-way (including driveway easement);
 - b.** Adding auxiliary lanes for localized purposes (weaving, climbing, speed changes, etc.), and correcting substandard curves and intersections within existing right-of-way;
 - c.** Non-historic bridge replacement projects in existing alignment with no detour bridge as long as there is no disturbance in the water or buffer area and no prohibited action under the Endangered Species Act (ESA) is required, or a field ecology inspection determined "no effect" to the protected species, waters and buffers.
 - 2.** Lighting, signing, pavement marking, signalization, freeway surveillance and control systems, and railroad protective devices.
 - 3.** Safety projects such as grooving, glare screen, safety barriers, energy attenuators, median barriers, etc.
 - 4.** Highway landscaping and landscape modification, rest area projects, vegetation management/timber activity (right-of-way reclamation), and truck weigh stations within existing right-of-way so long as no prohibited action under the ESA is required or a field ecology inspection determined "no effect" to the protected species.
 - 5.** Construction of bus shelters and bays within existing right-of-way.
 - 6.** Temporary replacement of a highway facility which is commenced immediately after the occurrence of a natural disaster or catastrophic failure to restore the highway for the health, welfare, and safety of the public.
- B.** In Section 12-16-8 of GEPA, the issue is raised as to the preparation of a single EER for a project that consists of a number of phases as compared to preparing a report for each phase. While GEPA does not place a responsibility on the government agency to prepare such a single program report, it certainly recognizes the existence of the possibility.
- C.** For a project which will cause land disturbance and for which there is no anticipation whether the action may significantly adversely affect the quality of the environment, environmental evaluations will be undertaken. These environmental evaluations will serve to document whether or not GDOT should anticipate that the project, after considering the action's context and totality of environmental impacts, may significantly adversely affect the quality of the environment. The types of projects that would fall under this category include, but are not limited to:
- 1.** Bridge replacement project on new location or with a detour bridge; which require additional rights-of-way.

2. Passing lanes, median additions and widening projects; which require additional rights-of-way.
 3. Safety and intersection improvements which require additional rights-of-way.
 4. Rest area projects and truck weigh stations; which require additional right-of-way.
 5. New location projects.
 6. Surplus of state property over five (5) acres or more on state property (excludes right-of-way reclamation; see [4415-10\(A\)\(4\)](#) above).
- D.** If studies demonstrate that the project will not significantly adversely affect the quality of the environment, project files will be documented and a GEPA Type B letter and checklist will be prepared in accordance with the Environmental Procedures Manual. An Environmental Commitments Table/Green Sheet shall accompany a GEPA Type B letter. A public hearing will not be held for these types of projects, but a public information open house may be held if determined appropriate by GDOT.
- E.** If studies demonstrate that the project will significantly adversely affect the quality of the environment, an EER will be prepared in accordance with the Environmental Procedures Manual.

EER Procedure

1. During preparation of an EER, GDOT or its agent will consult with and solicit comments from agencies/parties which have jurisdiction by law, special expertise, or other interest with respect to environmental impact (where applicable and when consultation wasn't completed during the environmental evaluation). The comment period will be 30 days. If no response is received within the comment period, GDOT will continue with the EER process.
2. In compliance with GEPA the following will be contained in the EER, at a minimum:
 - a. Cover sheet;
 - b. Executive Summary;
 - c. Alternatives, including the no-build;
 - d. Relevant environmental setting; geology, soils, water supply and wetlands, flora, fauna, archaeology/history, economic environment, energy, cultural resources;
 - e. The environmental impact of the proposed action to the relevant setting and mitigation measures proposed to avoid or minimize adverse impacts;
 - f. Unavoidable adverse environmental effects;
 - g. Value of short-term uses of the environment, and maintenance and enhancement of its long-term value;
 - h. Beneficial aspects, both long term and short term, and its economic advantages and disadvantages;
 - i. Comments of agencies/parties which have jurisdiction by law, special expertise, or other interest with respect to any environmental impact or resource; ~~and~~
 - j. An Environmental Commitments Table/Green Sheet.
3. The EER will be routed for approval to the State Environmental Administrator, Director of Engineering, Chief Engineer, and then to the Commissioner for signature.

4. At least 45 days prior to a decision on the proposed governmental action, GDOT will publish legal notice that an EER has been prepared. The legal notice must be published in the legal organ of each county in which the proposed project is to occur, or in a newspaper of general circulation if the county legal organ is not sufficient to provide timely notice to the public.
5. The GDOT will send a copy of the EER and all other comments received to the Director of the Environmental Protection Division (EPD).
6. The GDOT will make the EER available to public and agencies, upon request.
7. A public hearing open house will be held in each affected county if at least 100 residents of the State of Georgia request one within 30 days of publication in the legal organ of an affected county. The responsible official or his designee may hold a public hearing open house if less than 100 requests are received and if determined appropriate. Under no circumstances is GDOT relieved of other State legal requirements for public hearing open houses.
8. Following the public notice period and/or public hearing open house, a summary of the EER, comments received, and recommendation as to whether to proceed with the action as originally prepared, to proceed with changes, or not to proceed will be prepared [Notice of Decision (NOD)].
9. After the public comment period has expired, and all written and oral comments have been considered, the NOD will be routed for approval to the State Environmental Administrator, Director of Engineering, Chief Engineer, and then to the Commissioner for signature. The NOD, when signed by the Commissioner, will be sent to the Director of the EPD, and an abbreviated NOD will be published in the legal organ of each county in which the proposed project is to occur or in a newspaper of general circulation if the county legal organ is not sufficient to provide timely notice to the public.

A copy of the NOD, the EER, and public hearing comments (if any) will be sent to the appropriate design office for their files. Any mitigation measures identified in the EER shall be incorporated into the Environmental Commitments Table/Green Sheet and the final project plans

F. GEPA Reevaluations

The GDOT will validate all project design/concept changes that occur after approval of the original GEPA Type B and EER documentation to determine whether or not a project might significantly adversely affect the quality of the environment. Projects cleared with GEPA Type A letters do not require Reevaluations unless changes have occurred that disqualify the project from GEPA Type A designation. The procedures are as follows:

1. If the project originally required a GEPA Type B letter, project changes will be evaluated, after considering the action's context and totality of environmental impacts, to determine if the impacts continue to not significantly adversely affect the quality of the environment. If the evaluation continues to be valid, a memo to the file will be prepared to document this finding. Should the changes result in impacts which significantly adversely affect the quality of the environment, an EER and NOD will be prepared in accordance with Section [4415-10\(E\)](#).

2. If the project originally required an EER, project changes will be evaluated, after considering the action's context and totality of environmental impacts, to determine if impacts reported in the original EER continue to be valid. If the evaluation continues to be valid, a memo to file will be prepared to document this finding. Should the changes result in new impacts which significantly adversely affect the quality of the environment, an updated EER and NOD will be prepared in accordance with Section [4415-10\(E\)](#).
3. Prior to letting, the project will be reviewed to ensure that the project plans accurately reflect the environmental findings identified in the approved GEPA document. The project file will be documented with these findings to ensure that the commitments made in the approved document are accurately reflected in the Environmental Commitments Table/Green Sheet.

References:

None.

History:

annual review: 12/04/19;

added to TOPPS: 04/30/96;

revised: 09/01/95;

added to Manual of Guidance: 07/25/91

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