

Program Assignment Overview

(23 U.S.C. 327)

What is Program Assignment?

- The Surface Transportation Project Delivery Program (Program) Assignment allows the Secretary of Transportation to assign, and the State to assume, the Secretary's responsibilities for highway projects under the National Environmental Policy Act (NEPA).

How does a State assume Program Assignment responsibilities?

- A State must waive its sovereign immunity under the Eleventh Amendment.
- NEPA decisions are assigned through a Memorandum of Understanding (MOU) between FHWA and the State as outlined in 23 U.S.C. 327(c).
- The State must submit an application to participate in the Program.

What is the State responsible for?

- NEPA decisions for assigned Categorical Exclusions (CEs), Environmental Assessments (EAs), and Environmental Impact Statements (EISs).
- Environmental responsibilities to comply with Federal laws other than NEPA (as determined in the MOU).
- Solely liable for assigned CE, EA and EIS decisions in Federal court.
- Legal sufficiency.
- Maintaining project files and documenting all actions.
- Maintaining professional and experienced staff.

Except for the statutes and regulations cited, the contents of this document do not have the force and effect of law and are not meant to bind the States or the public in any way. This document is intended only to provide information regarding existing requirements under the law or agency policies.



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- Government-to-Government Tribal consultation.
- NEPA decisions for projects not assigned.
- Oversight of Program Assignment (audits and monitoring).
- Project-level transportation conformity determinations.
- Program technical assistance and policy interpretation.
- Section 4(f) Constructive Use determinations.

What are the benefits of Program Assignment?

- Increased control over decision-making.
- Accelerated project delivery.
- Cost savings.
- State employee capacity building.
- Increased consistency.
- Stronger stakeholder relationships.

Where can I find more information?

- [23 U.S.C. 327](#) and [23 CFR 773](#)
- [FHWA's Environmental Toolkit](#)
- Contact FHWA's Office of Project Development and Environmental Review
 - FHWANepaAssignment@dot.gov

What responsibilities does FHWA retain?