

CHAPTER 27

CONCURRENCE AND CONFLICT RESOLUTION



27.1 Concurrence Meetings and Documentation

27.2 Conflict Resolution

CONCURRENCE AND CONFLICT RESOLUTION

This chapter describes the concurrence and conflict resolution during the National Environmental Policy Act of 1969 (NEPA) process. The District of Columbia Department of Transportation (DDOT) and the lead federal agency, the Federal Highway Administration (FHWA), will seek concurrence from the cooperating and participating agencies at four points during the project development process. Upon review of the information, the agencies will provide concurrence that DDOT is properly considering and addressing any potential natural resource impacts related to the development of the project in balance with social and economic impacts. The goal is to identify and address agency concerns throughout the development process while precluding the routine revisiting of decisions that have been agreed to earlier in the process.

The four concurrence points are:

1. Purpose and need
2. Alternatives to be considered
3. Alternatives to be carried forward
4. Preferred alternative

27.1 Concurrence Meetings and Documentation

At appropriate points during the project development process, DDOT will schedule concurrence meetings with the cooperating and participating agencies. DDOT will notify cooperating and participating agencies of upcoming meetings at least one month ahead of the planned meeting date. DDOT staff members will be responsible for the logistical arrangements for the meeting and/or packet of meeting materials, unless assigned to a consultant.

Prior to each meeting, DDOT will provide the agencies with a packet containing the meeting materials necessary for the review and response to the appropriate concurrence point. This packet may contain some or all of the items listed below, depending on their availability and the stage of project development at the time of the meeting. For some projects, one meeting may be sufficient, and the initial packet will contain all of the following materials. For others, several meetings may be necessary, and the packets may contain a combination of these items.

- Transmittal/invitation letter
- Location map of the proposed project
- Information regarding the project development process
- Summary of the purpose and need for the project (only for the first concurrence point)
- Drawings and descriptions of the proposed alternatives
- Evaluation criteria for the alternatives
- Summaries of public involvement activities and materials
- Minutes of previous concurrence meetings on the project
- At least a summary of field data collected since the last meeting
- Staff recommendations (if any) for additional field studies

Minutes will be taken at the meeting to document coordination with agencies and concurrence.

27.2 Conflict Resolution

The assumption is that agreement at each of the four concurrence points will usually be achieved. However, the project development process may continue at the discretion of FHWA and DDOT, whether attempts to reach concurrence among the agencies are successful or not. The probability of nonconcurrence increases in more controversial projects. For such projects, dispute resolution will consist of informal efforts to reach a general consensus

among the participating agencies. Attempts will be made to resolve issues at the lowest possible level in each agency, with the involved agencies agreeing upon the direction for resolution.

However, if the dispute remains unresolved, any agency in nonconcurrence can elevate its concerns, as described below.

Conflicts arising between any parties shall be resolved as follows:

- The parties in conflict shall make a good-faith effort to resolve the issue between them.
- If the parties are not able to resolve the conflict between them within 5 working days of the concurrence meeting, they shall jointly prepare a written statement of the nature of the conflict. They will share the statement with DDOT, FHWA, and other agencies or consultants who are involved in the conflict. The statement will be presented within 10 working days of identification of the conflict at the concurrence meeting.
- The disagreeing parties will again consult in a good faith effort to resolve the conflict. Other parties who received the written statement shall be invited to join the discussion. This step will take no more than 5 working days from the availability of the written statement.
- If the conflicting parties are unable to resolve the conflict, the directors of the respective agencies or their designated representatives shall meet and resolve the differences.