



MEMORANDUM

INTRODUCING FEDERAL NATIONAL ENVIRONMENTAL POLICY ACT PRACTITIONERS TO THE TAHOE REGIONAL PLANNING COMPACT

This fact sheet is designed to familiarize Federal [National Environmental Policy Act](#) (NEPA) practitioners with the [Tahoe Regional Planning Compact](#) (TRPC). When a proposed NEPA action also requires compliance with TRPC, it is critical that these practitioners familiarize themselves with TRPC and understand how TRPC compares to and contrasts with NEPA.

Both statutes are designed to facilitate informed decision-making and environmental review. TRPC requires that the [Tahoe Regional Planning Agency](#) (TRPA) study the environmental consequences of its actions, including permitting. It also requires TRPA to take all feasible measures to avoid, minimize, and mitigate damage to the environment. This fact sheet compares TRPC and the resulting TRPA [Code of Ordinances](#) (Code) and [Rules of Procedures](#) (Procedures) with CEQ's regulations for implementing the procedural provisions of NEPA, [40 CFR Parts 1500-1508](#).

This fact sheet only provides basic information and is intended to serve as a springboard for discussion with TRPA staff when proposed projects trigger both Federal and state environmental review requirements. Project proponents are strongly encouraged to contact TRPA in the early stages of project planning so that Federal and state environmental review processes, if applicable, can be appropriately aligned.

It is important to note that, if a project must comply with NEPA and/or the [California Environmental Quality Act](#) (CEQA) as well as TRPC, the TRPA is instructed to coordinate its environmental review with the other process(es). Procedures 6.2. This coordination would include jointly conducting scoping, selecting consultants, publishing notices, and holding public comment periods. *Id.* The TRPC also states that if an applicant has already completed a publically available EIS for NEPA or an Environmental Impact Report for CEQA, the information contained in that EIS does not need to be repeated in its entirety in a TRPC EIS. TRPC Article VII(c). The data in the original EIS, however, must be briefly described in the TRPC EIS. *Id.* TRPA and federal, state and local partner agencies routinely prepare joint NEPA/CEQA/TRPC documents for major projects in the Tahoe Basin. See e.g. <http://www.trpa.org/get-involved/major-projects/>.

Introduction

In 1969, Congress ratified California and Nevada's bi-state TRPC, which created the TRPA and tasked it to oversee development at Lake Tahoe. The TRPA adheres to the TRPC, Code, and Procedures to coordinate environmental reviews. TRPC mandates an environmental review of all proposed actions in the Lake Tahoe Region that may affect the environment. Applicants are required to complete an Initial Environmental Checklist (IEC) or an Environmental Assessment (EA) and, if necessary, an Environmental Impact Statement (EIS). The TRPA Governing Board reviews environmental documents and approves and permits projects that will not contradict the



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Regional Plan for Lake Tahoe or exceed the environmental threshold carry capacities. Code 4.4.1.

The TRPC applies to all proposed actions within the boundaries, as defined in the compact, of the Lake Tahoe Basin. Environmental review is required for any matters that may have a significant effect on the environment. Code 3.2.1. The TRPC, however, states that the TRPA may create a list of actions exempt from extensive review. TRPC Article VII(f); Code 3.2.2. These exemptions are classes of projects that will not have a significant effect on the environment, such as actions involving single-family homes, minor increases in vehicle trips, and development rights transfers. Code 3.2.2(A). If an action is not exempt, the applicant must complete either an IEC or an EA.

The TRPA uses IECs and EAs to determine if the proposed project will likely have a significant effect on the environment. Code 3.3. Based on the information provided in an IEC or an EA, the TRPA issues one of three determinations about the significance of a project's environmental effects: Finding of No Significant Effect (FONSE), Mitigated Finding of No Significant Effect (Mitigated FONSE), or a finding that the project may have a significant effect and thus an EIS must be completed. Code 3.3.2. If the TRPA issues a FONSE or a Mitigated FONSE, the TRPC environmental documentation process ends. Additionally, when an EA is the only required environmental document, it must be made available for public review not less than five work days before the TRPA intends to act on the project. Code 3.4.3.

Key Points of Comparison

The table below compares NEPA terms and several procedural requirements to TRPC terms and procedural requirements.

NEPA	TRPC
	Exemption, TRPC Article VII(f); Code 3.2.2
Categorical Exclusion (CE), 40 CFR 1508.4 , 40 CFR 1507.3	
Environmental Assessment, 40 CFR 1508.9 , 40 CFR 1501.3	Environmental Assessment, Code 3.4
Notice of Intent, 40 CFR 1508.22	N/A
Draft Environmental Impact Statement (DEIS), 40 CFR 1502 , 40 CFR 1508.11	Draft Environmental Impact Statement (DEIS), Code 3.7
Final Environmental Impact Statement (FEIS), 40 CFR 1502 , 40 CFR 1508.11	Final Environmental Impact Statement (FEIS), Procedures 6.14
Finding of No Significant Impact (FONSI), 40 CFR 1508.13	Finding of No Significant Effect (FONSE), Code 3.5
Record of Decision, 40 CFR 1505.2	Findings for EIS, Code 3.7.4

The bullets below provide a general comparison of processes:



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- Applicants are required to complete an Initial Environmental Checklist (IEC) or an Environmental Assessment (EA) to determine if the proposed project will likely have a significant effect on the environment. Code 3.3. Ordinarily, an applicant merely attaches an IEC to their other project materials when they submit an initial application to the TRPA. This is simply a checklist of environmental issues; for any answers of “yes” or “no with mitigation” the applicant must describe and evaluate the significance of all impacts relating to the specific issue. Code 3.3.1. If the TRPA believes that an IEC will not provide sufficient data to determine if the project will have significant environmental effects, they will request that an EA be completed. Code 3.4.
- The TRPA only requires an EA when an IEC does not provide sufficient information for a determination of significance. Code 3.4. In contrast, an EA is completed under NEPA whenever the lead agency is unclear on whether significant impacts will result from development of the project. Both TRPA and NEPA documents, however, briefly describe the need for the project, alternatives, and the environmental impacts of the proposed project and considered alternatives.
- A FONSE issued by the TRPA or a FONSI issued by the lead NEPA federal agency serve the same purpose, but the public review process for these documents differs. TRPC does not mandate that a FONSE undergo public review, while NEPA requires a 30-day public review of a FONSI in two circumstances: (1) when the type of proposed action has not been done by the agency before or (2) when the action would typically require an EIS. [40 CFR 1501.4\(e\)\(2\)](#).
- TRPC and NEPA require a scoping process to occur before an EIS can be conducted, but the level of public involvement in these processes varies. TRPC states that the particular scope of a TRPC EIS is determined by the Executive Director of TRPA who, based on their discretion, may consult with the Advisory Planning Commission, and other relevant agencies and parties. Procedures 6.11.
- The particular scope of a TRPC EIS is determined by the Executive Director of TRPA, who may consult with other agencies who have jurisdiction, the Advisory Planning Commission, and other interested parties. Procedures 6.11.
- TRPC specifically requires the following information in an EIS in addition to information to information in a NEPA EIS: (1) a description of the relationship between local short-term uses and the enhancement of long-term productivity and (2) details about any growth-inducing impacts. TRPC Article VII(a)(2).
- When a determination on a project is made under TRPC, the TRPA governing board is not required to issue an official Record of Decision (ROD). TRPC requires the TRPA to issue a written finding that the project is in line with the environmental plan for the region. Code 4.4.1. NEPA requires the lead agency to issue a formalized ROD which describes the determination, alternatives considered, and mitigation plans. [40 CFR 1505.2](#).



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Contact Information and Resources

- Ms. Wendy Jepson
Current Planning Manager
(775) 589-5269
wjepson@trpa.org
- General Email: trpa@trpa.org
- General Telephone: (775) 588-4547
- General Fax: (775) 588-4527
- General Mailing Address: P.O. Box 5312, Stateline, NV 89449