

U.S. DOT Procedures for Revising the CREATE Program

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A. Background

When the Chicago Region Environmental and Transportation Efficiency (CREATE) Program was initially reviewed by the Federal Highway Administration (FHWA), it was determined that a tiered environmental process would be required to ensure that the overall proposed program was analyzed from an environmental perspective, consistent with National Environmental Policy Act (NEPA) requirements, prior to analyzing the project-specific proposals. In order to meet the intent of tiering, the FHWA developed a program-specific environmental strategy, known as the SPEED Strategy, for the CREATE Program. Integral components of the SPEED Strategy are the Feasibility Plan and Preliminary Screening (FP&PS) documents. The FP&PS were prepared in lieu of preparing a Tier 1 Environmental Impact Statement for the CREATE Program.

The FP&PS contains a list of projects that includes the scope (objective/intent, work description, and preliminary purpose and need) of each project, the goals and objectives of the CREATE Program, and the resultant net benefits realized through the implementation of the entire CREATE Program. Revisions to the CREATE Program have the potential to invalidate the FP&PS through changing the overall scope of the program, changing the goals and objectives of the program, and/or changing the net benefits of the program.

If CREATE Program revisions are necessary due to unforeseen circumstances, the process for revising the program needs to ensure that the integrity of the FP&PS is maintained as a legally grounded basis for subsequent project-level NEPA decisions. Revisions include deleting proposed projects, adding proposed projects or revising the proposed projects within the CREATE Program. During implementation of the CREATE program, FHWA recognized that some revisions were small and the overall impact was minor and easily discerned. Consequently, more than one process for documenting changes was established. A major revision would be considered an FP&PS amendment while a minor one would be considered a FP&PS modification. These terms are also used in the planning process for changes to a Transportation Improvement Plan, and the concept is similar. A third process is also available to accommodate emergency revisions where time is critical and the revisions may occur due to unforeseeable events.

B. FP&PS Revisions

The following changes to the CREATE Program will require the FP&PS Revisions to be documented in order to demonstrate the integrity of the FP&PS and the SPEED Strategy are maintained:

- A project(s) is revised so the preliminary purpose and need of the project as described in the FP&PS no longer accurately describes the project as proposed.
- A project(s) is revised so the general geographic location of the project as described in the FP&PS no longer accurately describes the project as proposed.
- A project(s) is revised so the interdependency of projects is no longer accurately described in the FP&PS.

- A project(s) is revised so the general scope of the project as described in the FP&PS no longer accurately describes the project as proposed.
- A project's scope revision, or the cumulative affect of one or more projects' scope revisions (both proposed scope revisions and previously approved scope revisions), cause the CREATE Program to no longer meet the CREATE Program goals and objectives as described in the FP&PS.
- A project's scope revision, or the cumulative affect of one or more projects' scope revisions (both proposed scope revisions and previously approved scope revisions), change the national, regional and/or local benefits of the CREATE Program as described in the FP&PS.
- A project(s) is added to the CREATE Program.
- A project(s) is deleted from the CREATE Program.

C. Decision-making Process to Determine the Extent of An FP&PS Revision

If a proposed project(s) revision meets any of the criteria in Section B., a determination will be made on how to process the revision, either as an amendment, a modification, or an emergency revision. Generally, these revision types can be distinguished as follows:

- Amendments are substantial changes. They require high level approval, and they require an opportunity for public input, or public involvement.
- Modifications are minor changes. They require working level approval, and they require public notification, or public information.
- Emergency revisions are urgent changes typically necessitated by unforeseen events. They require expedited working level approval.

D. Procedures for Amending the Feasibility Plan and Preliminary Screening Documents

An amendment to the FP&PS will include the following information (as applicable):

1. A coversheet similar to the cover of the FP&PS that includes the date of the amendment, and the numeric identification of the amendment (e.g., Amendment #1).
2. A signature page that includes the signatures of the Illinois Department of Transportation's Secretary of Transportation, the Chicago Department of Transportation's Commissioner, the Association of American Railroad's President, and the FHWA's Illinois Division Administrator.
3. A statement that includes the reason for the amendment.
4. A statement that indicates whether the CREATE Program goals and objectives, as described in the August 2005 Feasibility Plan continue to be met as a result of the revision. If they are not met, a revised list of goals and objectives will be included. (Feasibility Plan)

5. A complete list of components projects. This includes a revised/updated project list that includes the List of Component Projects for each corridor, the Other Projects list, and the List of Chicago Area Road Crossings for Grade Separation Projects. (Feasibility Plan amendment)
6. A statement that indicates whether the CREATE Program's national benefits continue to be met as a result of the revision. If they are not met, a revised/updated National Public Benefits discussion paper that contains the revised national benefits of the CREATE Program will be included. (Feasibility Plan amendment)
7. A statement that indicates whether the CREATE Program's regional and local benefits continue to be met as a result of the revision. If they are not met, a revised/updated Local and Regional Benefits paper that contains the revised local and regional benefits will be included. (Feasibility Plan amendment)
8. A revised, updated Project Summary Table. (Preliminary Screening amendment)
9. A Component Project Preliminary Screening Worksheet for any revised or added project, as well as the original Component Project Preliminary Screening Worksheet for any revised project. (Preliminary Screening amendment)
10. A proposal on how public involvement will be conducted and a summary of the comments and their resolution. (The public must be allowed a thirty-day opportunity to comment on the documentation used to support the amendment. This opportunity could be accomplished by posting the documentation on the CREATE website and requesting comments.)

E. Procedures for Modifying the Feasibility Plan and Preliminary Screening Documents

A modification to the FP&PS will include the following actions:

1. FHWA, the Illinois Department of Transportation (IDOT), the Chicago Department of Transportation (CDOT), and the Railroads will discuss the modification and concur the change is appropriate and qualifies as a modification.
2. A Component Project Preliminary Screening Worksheet for the directly affected project (Preliminary Screening amendment) will be completed. (The documentation does not require editing of references to the project in other parts of the FP&PS.)
3. After FHWA, IDOT, CDOT, and the Railroads concur in the changes and the adequacy of the documentation, the documentation will be published for public information. (This publication could be accomplished by posting the documentation on the CREATE website.)
4. The modification process is considered complete on the date of publication.

F. Revisions to the CREATE Program Necessitated by an Emergency

During the life of the CREATE Program, circumstances may occur that require a CREATE Program project, or a portion of a project, to be implemented prior to the time required to prepare an ECAD for the project (e.g., degradation of a portion of track causing it to be non-functional, or safety needs). In these circumstances, it will be determined if there is time to prepare a Categorical Exclusion (CE) for the project. If there is sufficient time to prepare a CE, a CE will be prepared and the reason for not following the SPEED Strategy (i.e., an ECAD not being prepared) will be documented in the project file. The project will be eligible for reimbursement as long as the project activities are included in a project authorization issued prior to the initiation of work activities and other applicable federal and state laws and regulations are followed.

If there is not sufficient time to prepare a CE, the project may proceed, however; the construction activities, the current environmental and preliminary design expenditures, and any remaining design expenditures, will not be eligible for federal reimbursement unless concurrence from FHWA is received that the emergency actions are necessary to restore essential travel resulting from a catastrophic failure.

In these circumstances, the FP&PS will not need to be amended. These projects are still considered to be included in the CREATE Program, even though they are not processed through the SPEED Strategy. The basis for the emergency will be presented at a working level meeting, and summarized in the meeting minutes.