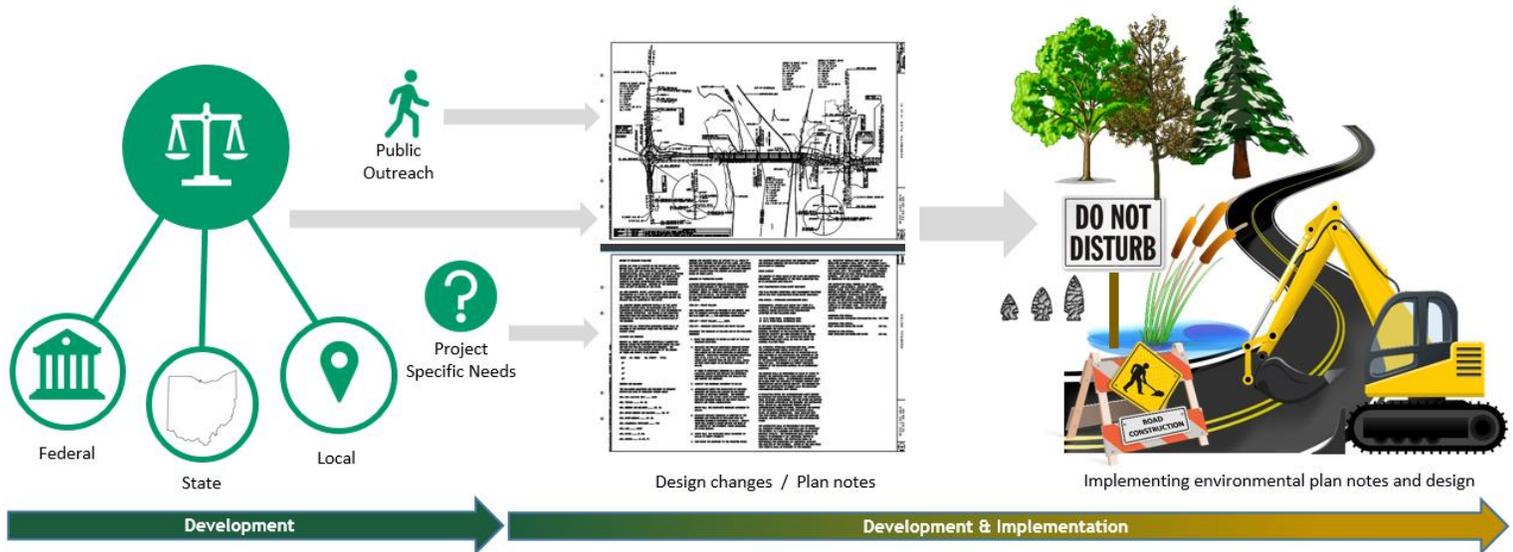


Environmental Commitments: Overview for Designers

Environmental commitments are agreed-upon actions to *mitigate* (restore, enhance, avoid, minimize, and/or compensate) impacts of ODOT projects to the human environment. The human environment includes social, economic, natural, and cultural resources. These commitments are recorded in ODOT's NEPA document and must be adhered to. As a Designer, your role in ensuring compliance with NEPA environmental commitments includes: 1. Communicating project needs, opportunities for minimizing impacts, and feasibility of mitigation options with the DEC 2. Incorporating design changes into the project to mitigate impacts 3. Incorporating necessary plan notes directing the Contractor how to be compliant with environmental commitments and 4. Updating commitments in EnviroNet.



Below is an example of an environmental commitment that came out of coordination under the Endangered Species Act. First we commit to the Designer incorporating a resource protection commitment into the plans as a note. Second the commitment, as a plan note, is implemented during Construction by the Contractor.

The Project Designer shall incorporate the following note into the plans: The project is located within the known habitat ranges of the federally listed and protected Indiana bat and northern long-eared bat. The Contractor shall not remove trees under this project from April 1 through September 30. All necessary tree removal shall occur from October 1 through March 31. This requirement is necessary to avoid and minimize impacts to these species as required by the Endangered Species Act. For the purposes of this note, a tree is defined as a live, dying, or dead woody plant, with a trunk three inches or greater in diameter at a height of 4.5 feet above the ground surface, and with a minimum height of 13 feet.

Here is another example of an environmental commitment. The Designer must delineate the archaeological resource on the plans, which is essential for protecting the resource. The Contractor must be able to identify the correct location in order to appropriately place the geosynthetic fabric during Construction and protect the resource.

The Project Designer shall delineate in the plans the areas requiring geosynthetic fabric for protection of archaeological resources and incorporate the following note into the plans: In order to protect and minimize harm to archaeological resources, the Contractor shall place geosynthetic fabric over the existing ground prior to any earth disturbing activities/placing fill as per the plans.

Environmental commitments can potentially be developed and implemented at any point in the Project Development Process and operations & maintenance. Commitments include mitigation actions for all environmental resources including, but not limited to, ecological, cultural, air, noise, recreational facilities, and regulated materials.

Failure to communicate and comply with environmental commitments can result in loss of federal funds and approvals, degraded public and agency relations, fines, project schedule delays, or potential criminal charges against individuals associated with the action. Non-compliance with environmental commitments diminishes the resources agencies' faith in ODOT's ability to follow-through on promises, which slows down the entire capital program.

Most environmental commitments are actions ODOT agrees to perform to comply with state and federal laws.

Environmental Commitments: Overview for Designers

Project Designers may have various roles associated with environmental commitments:

1. **Discuss with DEC to determine if a comment from a resource agency is appropriate and feasible for a project.** The DEC or other environmental staff will coordinate agency comments with the Designer.
 - a. Example: using vegetative riprap or bioengineering techniques for stream bank stabilization.
2. **Make required design changes to impact the positive outcome of a project.**
 - a. Example: including wetland and stream delineations and labels on plan sheets (per the L&D Manual V. 3, Section 1308.2) so the Contractor knows what they can and cannot impact.
 - i. Improves compliance with environmental regulations and reduces chances of environmental degradation, non-compliance, and violation of the law.
 - b. Example: alter alignment to avoid impacts to environmental resources.
 - i. Sometimes resource agency approval depends on ODOT avoiding certain resources, most commonly ecological (endangered species habitat, wetlands, and streams), cultural (historic buildings, archaeological sites), and recreational areas (parks and wildlife refuges).
 - ii. If ODOT does not avoid these resources even though it is feasible and practicable, resource agencies may not provide their approval, which means the project cannot move forward.
 - iii. ODOT may also be required to spend extra time coordinating with resource agencies and extra money (tens - hundreds of thousands of dollars) to mitigate unnecessary impacts to protected environmental resources so the project can proceed.
 - c. Project Designers may also need to coordinate plans with the DEC for Environmental or resource agency approval prior to finalization to be sure all the requirements were captured.
3. **Include a plan note to communicate required information to the Contractor.**
 - a. Environmental commitments may come to Designers in the form of adding plan notes. Most of the time, Environmental will have already written the plan note for the purposes of protecting a resource and directing a Contractor to perform, or not perform, certain actions.
 - b. If a Contractor is not provided this information, ODOT may end up in non-compliance with environmental laws and approvals, resulting in fines and project delays.
4. **Review and closeout commitments in EnviroNet.**
 - a. DEC's will assign Designers commitments in EnviroNet, and Designers are responsible for implementing those assigned actions.
 - b. Designers can review the Compliance Measures and update the Status of the commitment in EnviroNet.
 - i. Once a designer has completed the required action (adding plan note, incorporating a specific design feature, etc.), update the Status as complete to close out that portion of the commitment.