NEPA

• Outline
  ➢ NEPA What and When
  ➢ Levels of Documentation/Thresholds
  ➢ Select Resource Categories
  ➢ Timelines
  ➢ Tips to Avoid Delays
  ➢ Questions, Comments, and Suggestions
What is NEPA?

• National Environmental Policy Act
  ➢ Boring Legal Definition and Date

• Types of NEPA Documents
  ➢ Federal Highway Administration (INDOT)
  ➢ Office of Community and Rural Affairs (OCRA)
  ➢ Federal Transit Authority (FTA)
  ➢ Department of Housing and Urban Development (HUD)
When is NEPA Needed

• When federal or state money is used on a project

• “Any local project, financed, assisted, conducted or approved by a federal agency”
Levels of NEPA Documentation

• **Categorical Exclusion (CE)**
  - Programmatic CE (PCE)
  - Level 1 (CE1)
  - Level 2 (CE2)
  - Level 3 (CE3)
  - Level 4 (CE4)

• Environmental Assessment (EA)

• Environmental Impact Statement (EIS)

• Additional Information Documents (AI)
## INDOOT / FHWA CE Threshold Chart

<table>
<thead>
<tr>
<th></th>
<th>Level 1</th>
<th>Level 2</th>
<th>Level 3</th>
<th>Level 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relocations</td>
<td>None</td>
<td>≤ 2</td>
<td>&gt; 2</td>
<td>&gt; 10</td>
</tr>
<tr>
<td>Right-of-Way¹</td>
<td>&lt; 0.5 acre</td>
<td>&lt; 10 acres</td>
<td>≥ 10 acres</td>
<td>≥ 10 acres</td>
</tr>
<tr>
<td>Length of Added Through Lane</td>
<td>None</td>
<td>None</td>
<td>Any</td>
<td>Any</td>
</tr>
<tr>
<td>Permanent Traffic Pattern Alteration</td>
<td>None</td>
<td>None</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>New Alignment</td>
<td>None</td>
<td>None</td>
<td>&lt; 1 mile</td>
<td>≥ 1 mile²</td>
</tr>
<tr>
<td>Wetlands</td>
<td>&lt; 0.1 acre</td>
<td>&lt; 1 acre</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Stream Impacts*</td>
<td>≤ 300 linear feet of stream impacts, no work beyond 75 feet from pavement</td>
<td>&gt; 300 linear feet impacts, or work beyond 75 feet from pavement</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Section 4(f)</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>Any impacts</td>
</tr>
<tr>
<td>Section 6(f)</td>
<td>None</td>
<td>None</td>
<td>Any impacts</td>
<td>Any impacts</td>
</tr>
<tr>
<td>Section 106*</td>
<td>&quot;No Historic Properties Affected&quot; or falls within guidelines of Minor Projects PA</td>
<td>&quot;No Adverse Effect&quot; or &quot;Adverse Effect&quot;</td>
<td>N/A</td>
<td>If ACHP involved Or Historic Bridge Involvement⁷</td>
</tr>
<tr>
<td>Noise Analysis Required</td>
<td>No</td>
<td>No</td>
<td>Yes³</td>
<td>Yes³</td>
</tr>
<tr>
<td>Threatened/Endangered Species</td>
<td>&quot;Not likely to Adversely Affect&quot;, or Falls within Guidelines of USFWS 9/8/93 Programmatic Response</td>
<td>N/A</td>
<td>N/A</td>
<td>&quot;Likely to Adversely Affect&quot; ⁴</td>
</tr>
<tr>
<td>Sole Source Aquifer Groundwater Assessment</td>
<td>Detailed Assessment Not Required</td>
<td>Detailed Assessment Not Required</td>
<td>Detailed Assessment Not Required</td>
<td>Detailed Assessment Required</td>
</tr>
<tr>
<td>Approval Level</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

- Level 1
- Level 2
- Level 3
- Level 4

¹ Right-of-Way

² Length of Added Through Lane

³ Threatened/Endangered Species

⁴ Sole Source Aquifer Groundwater Assessment

⁵ Approval Level

⁶ ESM

⁷ ES

⁸ FHWA
### The CE / EA Form

- Public Involvement
- Purpose & Need
- Project Description
- Other Alternatives Considered
- Roadway Character
- Design Criteria for Bridges
- Maintenance of Traffic During Construction
- **Estimated Project Cost and Schedule**
- Right-of-Way
- **Streams, Rivers, Watercourses, and Jurisdictional Ditches**
- Other Surface Waters
- **Wetlands**
- Terrestrial Habitat
- Karst
- **Threatened and Endangered Species**
- Ground Water, Surface Water, Drinking Water, Wellhead Protection Areas, and Sole Source Aquifers
- Floodplains
- Farmland
- **Cultural Resources**
- Section 4(f)
- Section 6(f)
- Air Quality
- **Noise Impacts**
- Regional, Community & Neighborhood Factors
- Indirect and Cumulative Impacts
- Public Facilities and Services
- **Environmental Justice**
- Relocation of People, Businesses, or Farms
- Joint Development
- **Hazardous Materials and Regulated Substances**
- Permits
- Environmental Commitments
- Early Coordination
Questions?
Streams, Rivers, Watercourses, Jurisdictional Ditches, & Wetlands

• **Waters Report / Wetland Delineation**
  - Identifies the presence/absence of potentially jurisdictional resources
  - Performed during the growing season (generally May to October)
  - Can include piped waterways (captured streams)

• **Identify worst-case scenario impacts**
  - Linear feet of stream impact
  - Acreage of wetland impact

• **Identify the need for and anticipated quantity of mitigation**
Permits

- Environmental document approval only requires the identification of resources and potential impacts

- Anticipated permits and associated levels
  - IDEM 401
  - USACE 404
  - IDNR Construction in a Floodway
  - Rule 5

- PERMITS DO NOT HAVE TO BE ISSUED TO OBTAIN ENVIRONMENTAL DOCUMENT APPROVAL
Threatened & Endangered Species

• Federal and state species

• Potential species identified during early coordination
  ➢ US Fish and Wildlife & IDNR

• Indiana bat and Northern long-eared bat
  ➢ Restricted tree clearing
    • Typically April 1 to Sept. 30
    • Time of year restrictions may vary depending on region – coordinate with USFWS

• Mussels
Cultural Resources

• **Section 106**
  - Above Ground and Below Ground Resources Evaluated
    - Minor Project PA
  - Indiana Historic Bridge Inventory
    - Select and Non-Select
  - Determination of Effect
    - No Historic Properties, No Adverse Effect, Adverse Effect
      - Signed by INDOT concurred with by SHPO
  - Adverse Effect
    - Acquisition of property, visual, replacement of historical features...
    - Memorandum of Agreement
    - Consulting Parties
Section 4(f)

- Section 4(f) of the US Department of Transportation Act of 1966
  - Applies only to US Transportation Agencies
  - Publicly owned park, recreational, and refuge lands and National Register [of Historic Places] listed or eligible properties
  - Prohibits conversion of such properties to transportation uses without analysis and coordination
  - 4(f) Documentation (level determined by lead Federal Agency)
    - Individual Evaluation
    - Programmatic (5 Types)
      - Historic Sites
      - Historic Bridges
      - Public Parks, Rec. Lands & Refuges
      - Independent Bikeways or Walkways
      - Net Benefit
    - De minimis
Section 6(f)

• Lands purchased with or improved using funds from the Land and Water Conservation Fund Act of 1965

• Cannot acquire land from these properties unless replacement land is approved through the National Park Service
  ➢ Replacement property must be determined equal in function and value
Hazardous Materials & Regulated Substances

• Step 1 – Red Flag

• Step 2 - Phase I Initial Site Assessment
• Step 3 - Phase II Preliminary Site Investigation
• Phase I/II not required to complete Environmental Document
Environmental Justice

• EJ analysis required for projects with more than two relocations or more than one-half acre of permanent right-of-way

• Identify elevated minority and low-income populations

• If elevated EJ populations are present, determine if project impacts disproportionately when compared to non-EJ populations

• Disproportionately high and adverse impacts could require additional public outreach targeted specifically to the impacted EJ population
Noise

- Required for all Type I projects
- Evaluate noise levels at sensitive noise receptors (FHWA Traffic Noise Model)
- If impacted receptors identified – consideration of mitigation (even without limited access r/w)
- Mitigation may be required if determined **feasible & reasonable**
Public Involvement

Why Needed:

- NEPA requires the encouragement and facilitation of public involvement affecting the quality of the human environment
- Consensus not needed, just demonstration of open public communication

Hearing Requirements:

- Environmental Assessments & Environmental Impact Statements
  - Hearing is always required before the environmental document can be approved
- Categorical Exclusions
  - Opportunity to request a hearing required if project meets one of the conditions identified in INDOTs Public Involvement Manual (IV.C.4, pg. 36)
- Categorical Exclusions involving Historic Bridges
  - Requires a hearing
Process

Section 106 Process

Technical Studies

Start NEPA
- Check on TIP/Funding
- Preliminary Determination of CE Level

Early Coordination

Resource Investigations
- Verify CE Level

Draft CE

Public Involvement
- Release for Public Involvement (Requires Signature)

CE Approval

Committments Summary

Scoping Report/Engineer's Report

Design Contracting

Preliminary Design

Final Design

R/W Engineering

Appraisals APA Buying

Bidding
Schedule

- Schedule varies depending on complexity of project
- Consideration needs to be given for length of time for INDOT reviews

<table>
<thead>
<tr>
<th>CE LEVEL</th>
<th>AVG. COMPLETION TIME</th>
<th>REVIEWED BY</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>LPA Projects</td>
</tr>
<tr>
<td>CE-1</td>
<td>6 to 8 weeks</td>
<td>ES Only</td>
</tr>
<tr>
<td>CE-2</td>
<td>4 to 6 months</td>
<td>ES Only</td>
</tr>
<tr>
<td>CE-3</td>
<td>5 to 8 months</td>
<td>ES Only</td>
</tr>
<tr>
<td>CE-4</td>
<td>6 to 12 months</td>
<td>ES &amp; FHWA</td>
</tr>
<tr>
<td>EA</td>
<td>18 to 24 months</td>
<td>ES &amp; FHWA</td>
</tr>
<tr>
<td>EIS</td>
<td>3 to 5 Years</td>
<td>ES &amp; FHWA</td>
</tr>
</tbody>
</table>
What Can We Do About the Timeline?

• Start coordination early
• Know the critical resources and try to avoid them
• Ensure project is listed in the State Transportation Improvement Program (STIP) & Transportation Improvement Program (TIP)
  - Fiscal constraints
  - Air quality conformity demonstration
Tips to Avoid Delays

• Avoid R/W acquisition from critical resources:
  ➢ Historic properties
  ➢ Parks and recreational areas
  ➢ Wetlands and Waterways

• Start involving the public early

• **Start NEPA process early** – assume worst-case scenario if project details aren’t clear

• Ensure proper project listing on the STIP and TIP

• Avoid defining preferred alternative and level of environmental documentation in contract language
Resources

- 2008 Procedural Manual for Environmental Studies

- CE Preparation Manual (June, 2013)

- LPA Manual

- Indiana Cultural Resources Manual (March, 2014)

- Public Involvement Manual
Contact Information

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Questions?