

**Programmatic Agreement (PA)
Among the Federal Highway Administration,
the Indiana Department of Transportation,
the Advisory Council on Historic Preservation
and the Indiana State Historic Preservation Officer
Regarding the Implementation of the Federal Aid Highway Program
In the State of Indiana**

WHEREAS, the Federal Highway Administration (FHWA) administers the Federal Aid Highway Program in Indiana authorized by 23 U.S.C. §§ 101 et seq., through the Indiana Department of Transportation (INDOT) (23 U.S.C. § 315); and

WHEREAS, INDOT undertakes Federal minor highway projects that would qualify as Categorical Exclusions (CEs), including Local Public Agency Federal aid projects, as defined in 23 CFR 771, that do not individually or cumulatively have a significant impact on the environment, and therefore may not require the preparation of an environmental document; and

WHEREAS, FHWA has determined that certain types of minor highway projects typically have no effect upon historic properties included in or eligible for inclusion in the National Register and has consulted with the Advisory Council on Historic Preservation (Council), and the Indiana State Historic Preservation Officer (SHPO) pursuant to Section 800.14(b) of the regulations (36 CFR Part 800 Subpart C) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, INDOT participated in the consultation and has been invited to be a signatory to this PA; and

WHEREAS, INDOT maintains cultural resource staff and consultants meeting the Secretary of Interior's Professional Qualification standards (48 Federal Register (FR) 44716) and State of Indiana standards (Indiana Code 14-21-1 and 312 IAC 21) in the fields of archaeology, history and architectural history;

NOW, THEREFORE, FHWA, INDOT, the Council, and SHPO agree that the Federal Aid Highway Program shall be administered in accordance with the following stipulations to satisfy the FHWA Section 106 responsibility for all individual undertakings of the program.

STIPULATIONS

FHWA shall ensure that the following measures are carried out:

1. Purpose and Scope

A. This PA sets forth the process by which FHWA; with the assistance of INDOT; will meet its responsibilities for undertakings pursuant to Sections 106 and 110 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470f).

B. FHWA Responsibilities - In compliance with its responsibilities under the NHPA, and as a condition of its award to INDOT of any assistance under the Federal Aid Highway Program, FHWA will ensure that INDOT carries out the requirements of this agreement and Council policies and guidelines for undertakings subject to this agreement.

C. INDOT Responsibilities

1. Pursuant to this agreement, INDOT will ensure that all cultural resource staff and/or consultants, employed under its contract to conduct work in the field of cultural resources, meet the qualifications set forth in the Secretary of Interior's Professional Qualification standards (48 FR 44716) and State of Indiana standards (IC 14-21-1 and 312 IAC 21) for such work. These qualified INDOT cultural resources personnel shall have the primary responsibility for implementing this PA.

2. Prior to December 31, 2007, and in consultation with SHPO and FHWA, INDOT will prepare a Cultural Resources Manual detailing the procedures for implementing this agreement. Upon approval of the Cultural Resources Manual by INDOT, SHPO, and FHWA, this programmatic agreement will be appended to the INDOT Cultural Resources Manual and be fully explained therein.

2. Minor Projects

The following types of undertakings, listed in Appendices A and B, are activities in which INDOT routinely utilizes Federal Aid highway funds and consist of minor projects that generally do not affect historic properties. None of the minor projects listed below will require consultation with or review by the SHPO, provided the undertaking:

- is limited to the activities specified
- is not part of a larger project
- is on an existing transportation facility
- if ground disturbance in previously disturbed soils is specified, occurs in soils previously disturbed by vertical and horizontal highway construction activities
- has no known public controversy based on historic preservation issues

Such minor projects fall into two categories: minor projects that do not require review by INDOT Cultural Resources staff (Category A; Appendix A), and minor projects that do require documentation and review by INDOT Cultural Resources staff to assess the likelihood that historic properties exist in the area of potential effects or determine the degree of existing soil disturbance within the project area (Category B; Appendix B).

For undertakings in Category B, or where questions arise about the need for review of an undertaking in Category A, INDOT Cultural Resources staff shall determine whether a

particular project should be exempt from SHPO review. If the SHPO specifically requests a copy of the documentation for a particular undertaking covered by this stipulation, INDOT will provide SHPO with the requested documentation and, if the project has not already been approved, will review the project in accordance with Stipulation 4 of this Agreement. All of the minor projects listed in Appendices A and B will be subject to regular internal audit by INDOT.

3. Documentation of Minor Projects

- A. Any minor project listed in Appendices A or B shall be documented in the National Environmental Policy Act documentation. The documentation shall reference and include the description of the specific stipulation in the PA that qualifies the project as exempt from further Section 106 review.
- B. INDOT Cultural Resources staff will utilize the County Interim Reports, most current Bridge Inventory, as well as additional documentation to assure projects are not adjacent to a National Register eligible property or district. Documentation may include construction plans, project area descriptions, soil survey data, photographs, and archaeological documentation.

4. Section 106 Consultation for FHWA Undertakings Not Exempt from Review

For those projects not exempt from review under terms of Stipulation 2, INDOT and FHWA shall review the undertakings in accordance with the procedures found in 36 CFR Part 800. Upon completion of the Cultural Resources Manual required in Stipulation 1, INDOT, using staff and/or consultants meeting the *Secretary of the Interior's Professional Qualifications Standards* (48 FR 44738-9), may independently perform the work and consultation described in the following sections of 36 CFR Part 800 (including any succeeding revisions to the regulations) on behalf of FHWA as follows:

36 CFR § 800.3

- (1) Establish undertaking
- (2) Coordinate with other reviews
- (3) Identify the appropriate SHPO and/or THPO
- (4) Plan to involve the public
- (5) Identify other consulting parties
- (6) Expediting consultation

36 CFR § 800.4

- (1) Determine scope of identification
- (2) Identify historic properties
- (3) Evaluate historic significance

(4) Results of identification and evaluation

36 CFR § 800.5

- (1) Apply criteria of adverse effect
- (2) Finding of no adverse effect
- (3) Consulting party review
- (4) Results of assessment

In recognition of the unique government-to-government relationship between the Federal government and Indian tribes, FHWA shall take the lead in identifying and establishing consultation with the Indian tribes and Tribal Historic Preservation Officers (THPO) consistent with 36 CFR § 800.3(c) - (f). If the tribe is agreeable, further consultation may be conducted among the tribe and INDOT.

A. Finding of “No Historic Properties Affected”

If INDOT determines, in consultation with the SHPO and consulting parties, that no historic properties will be affected by the undertaking, INDOT will make a finding of “no historic properties affected,” and documentation (800.11[d]) will be forwarded to the SHPO for concurrence. Copies of this documentation will be provided to all consulting parties and will be made available for public inspection. INDOT may proceed with the project if the SHPO has agreed, in writing, with the finding or if within 30 days of receipt neither SHPO nor another consulting party has objected to the finding. If the SHPO or any consulting party objects, in writing, to INDOT's finding within 30 days of receipt of an adequately documented finding, the documentation will be submitted to FHWA for resolution. If, through consultation, consensus can be reached, the process will move forward in accordance with this agreement. If consensus is not achieved, the undertaking will not be developed under this agreement, but instead will proceed in accordance with 36 CFR Part 800.3 through 800.6. If INDOT determines, in consultation with the SHPO and consulting parties, that historic properties may be affected by the undertaking, INDOT shall apply the Criteria of Adverse Effect, 36 CFR Part 800.5(a)(1).

B. Finding of “No Adverse Effect”

If INDOT determines, in consultation with the SHPO and consulting parties, that the undertaking will have no adverse effect on historic properties, it will make a finding of “no adverse effect,” and documentation (800.11[e]) will be forwarded to the SHPO for concurrence. Copies of this documentation will be provided to all consulting parties and will be made available for public comment. INDOT may proceed with the project if the SHPO has agreed, in writing, with the finding or if within 30 days of receipt neither the SHPO nor another consulting party objects to the finding. If SHPO or any consulting party objects within 30 days of receipt of

adequate documentation, in writing, to INDOT's finding, the documentation will be submitted to FHWA for resolution. If, through consultation, consensus can be reached, the process will move forward in accordance with this agreement. If consensus is not achieved, the undertaking will not be developed under this agreement, but instead will proceed in accordance with 36 CFR Part 800.3 through 800.6.

C. Finding of “Adverse Effect”

If INDOT determines, in consultation with the SHPO and consulting parties, that the undertaking will have an adverse effect on historic properties, it will notify FHWA and FHWA will ensure the Section 106 process is completed in accordance with 36 CFR 800.6. FHWA will be responsible for making a finding of “adverse effect” and the resolution of those effects.

5. Unanticipated Discovery

If any unanticipated discoveries of historic properties, sites, artifacts, or objects are encountered during the implementation of any project exempted under this PA, INDOT and FHWA shall comply with 36 CFR 800.13 and IC 14-21-1-27 and 14-21-1-29 by stopping work in the immediate area and informing the SHPO, housed in the Indiana Department of Natural Resources (“DNR”) of such unanticipated discoveries or effects within two (2) business days. Any necessary archaeological investigations will be conducted according to the provisions of IC 14-21-1 and 312 IAC 21.

If any unanticipated effects on historic properties are found to be occurring during the implementation of any project exempted under this PA, INDOT and FHWA shall comply with 36 CFR 800.13 and inform the SHPO immediately.

If any human remains are encountered during the implementation of any project exempted under this PA, work shall cease in the immediate area and the human remains left undisturbed. INDOT and FHWA will contact the county coroner and law enforcement officials immediately, and the discovery must be reported to the SHPO within two (2) business days. The discovery must be treated in accordance with IC 14-21-1 and 312 IAC 22. If the remains are determined to be Native American, FHWA will notify the appropriate federally recognized Indian Tribes.

Work at the site shall not resume until a plan for the treatment of the human remains is developed and approved in consultation with the SHPO and any appropriate consulting parties. The plan will comply with IC 14-21-1, 312 IAC 22, the current Guidebook for Indiana Historic Sites and Structures Inventory--Archaeological Sites, and all other appropriate federal and state guidelines, statutes, rules, and regulations.

6. Monitoring

A. INDOT, FHWA and the SHPO will consult as needed to review implementation of the terms of the PA.

B. FHWA and INDOT may monitor activities carried out pursuant with this agreement, and the SHPO will be invited to participate. INDOT shall cooperate in carrying out the monitoring effort. Should monitoring or other activities result in evidence that the requirements of this PA need modification or are not being met, FHWA, the SHPO, and INDOT will meet to develop and implement corrective measures.

7. Dispute Resolution

A. If the Indiana SHPO, INDOT, the Council, or a consulting party for an individual undertaking carried out under the terms of this agreement objects in writing to the FHWA regarding any action carried out or proposed with respect to the implementation of this PA, then FHWA shall consult with the objecting party to resolve this objection. If after such consultation FHWA determines that the objection cannot be resolved through consultation, then FHWA shall forward all documentation relevant to the objection to the Council, including FHWA's proposed response to the objection. Within fifteen (15) days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

- 1) Advise FHWA that the Council concurs in FHWA's proposed response to the objection, whereupon FHWA will respond to the objection accordingly; or
- 2) Provide FHWA with recommendations, which FHWA shall take into account in reaching a final decision regarding its response to the objection.

B. Should the Council not exercise one of the above options within fifteen (15) days after receipt of all pertinent documentation, FHWA may assume the Council's concurrence with the proposed response to the objection.

8. Terminate, Modify, and Amend

A. Any party to this PA may terminate it by providing thirty (30) days written notice to the other parties, provided that the parties shall consult during the period prior to termination to seek agreement on amendments or other action that would avoid termination. In the event of termination, FHWA shall conduct individual project review pursuant to 36 CFR Part 800.

B. FHWA, INDOT, and the SHPO will review this PA every ten (10) years from the date of execution for modifications or termination. If no changes are proposed and no party objects, the term of the PA will be extended automatically for another ten years without re-execution.

- C. Any party to this agreement may request that it be amended, whereupon the parties shall consult to consider such amendment. The amendment will be effective on the date a copy is signed by all of the original signatories. The lists of minor projects in Appendices A and B may be modified by the mutual written agreement of FHWA, INDOT, and the SHPO, and shall not require a formal amendment to this agreement.

Execution and implementation of this PA evidences that the Federal Highway Administration has satisfied its Section 106 responsibilities for all individual undertakings of highway projects covered under this agreement.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

By: Robert F. Tally, Jr.
Robert F. Tally, Jr., P.E.
Division Administrator

Date: 10/3/06

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Fowler
John M. Fowler
Executive Director

Date: 10/12/06

INDIANA STATE HISTORIC PRESERVATION OFFICER

By: Kyle Huffer
Kyle Huffer
Director, Indiana Department of Natural Resources

Date: 9/26/06

INDIANA DEPARTMENT OF TRANSPORTATION

By: Thomas O. Sharp
Thomas O. Sharp
Commissioner

Date: 9/20/2006

APPENDIX A

**Category A Minor Projects
Requires No Review by INDOT Cultural Resources Office**

Category A consists of projects that, by their nature, have no effect on properties listed in or eligible for inclusion in the National Register of Historic Places (hereinafter referred to as the “National Register”) and do not require review by INDOT Cultural Resources Office. All of the work under this Category must occur in previously disturbed soils, which are defined as soils that have been completely altered or displaced by earthmoving or other modern manipulation.

1. Any work on bridges limited to substructure or superstructure elements without replacing, widening, or elevating the superstructure under the conditions listed below (***BOTH Conditions A and B must be met***). This category **does not** include bridge replacement projects (when both superstructure and substructure are removed):
 - A. The project takes place in previously disturbed soils; *AND*
 - B. With regard to the bridges, at least one of the conditions (i, ii or iii) listed below must be satisfied:
 - i. The latest Historic Bridge Inventory identified the bridge as non-historic (see <http://www.in.gov/indot/2531.htm>);
 - ii. The bridge was built after 1945, and is a common type as defined in Section V. of the *Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges* issued by the Advisory Council on Historic Preservation on November 2, 2012 for so long as that Program Comment remains in effect AND the considerations listed in Section IV of the Program Comment do not apply;
 - iii. The bridge is part of the Interstate system and was determined not eligible for the National Register under the Section 106 Exemption Regarding Effects to the Interstate Highway System adopted by the Advisory Council on Historic Preservation on March 10, 2005, for so long as that Exemption remains in effect.
2. All work within interchanges and within medians of divided highways in previously disturbed soils.
3. Replacement, repair, lining, or extension of culverts and other drainage structures that do not exhibit wood, stone or brick structures or parts therein and are in previously disturbed soils.
4. Roadway work associated with surface replacement, reconstruction, rehabilitation, or resurfacing projects, including overlays, shoulder treatments, pavement repair, seal coating, pavement grinding, and pavement marking within previously disturbed soils where replacement, repair, or installation of curbs, curb ramps or sidewalks will not be required.
5. Repair, in-kind replacement or upgrade of existing lighting, signals, signage, and other traffic control devices in previously disturbed soils.
6. Repair, replacement, or upgrade of existing safety appurtenances such as guardrails, barriers, glare screens, and crash attenuators in previously disturbed soils.
7. Repair or in-kind replacement of fencing and hardscape landscaping elements and/or replacement of existing plant materials in previously disturbed soils and installation of new fencing and hardscape landscaping elements and plant materials limited to locations within interstate right-of way within previously disturbed soils.
8. Installation of new or modification of existing traffic control devices and systems, including signs, signals, markings, illumination, other warning devices and their supports, to improve safety at railway crossings in previously disturbed soils.
9. Installation, repair, or replacement of erosion control measures along roadways, waterways and bridge piers within previously disturbed soils.

10. Routine roadside maintenance activities necessary to preserve existing infrastructure or maintain roadway safety in previously disturbed soils.
11. Rehabilitation of existing rest areas and truck weigh stations within previously disturbed soils.
12. Removal and disposal of hazardous waste.
13. Work on concrete and asphalt decks of bridges identified in the Historic Bridge Inventory as National Register-listed or National Register-eligible (see <http://www.in.gov/indot/2531.htm>), which is limited to pavement resurfacing, overlay, pavement repair, pavement grinding, pavement marking, seal coating, joint repair, and in-kind replacement or repair of existing concrete curbs, curb ramps or sidewalks in previously disturbed soils, provided none of these actions impact structural members of the bridge.
14. Repair and/or replace existing MSE walls, retaining walls and noise walls in previously disturbed soils, using similar design, dimensions and materials.

APPENDIX B

Category B Minor Projects Requires Documentation and Review by INDOT Cultural Resources Office.

The Minor Projects Programmatic Agreement (MPPA) determination form itself will be prepared by INDOT Cultural Resources Office when the scope of work for the project falls in its entirety under one or more of the MPPA Categories. All Archaeological Reports prepared to determine if projects fall under this Category will be submitted to the Indiana SHPO and available for viewing (Tribes only) on the Indiana Section 106 Consultation and Outreach Portal Enterprise (INSCOPE)

Category B consists of projects that require documentation and review by INDOT Cultural Resources Office to determine the degree of existing soil disturbance within the project area or assess if properties listed in or eligible for inclusion in the National Register of Historic Places (hereinafter referred to as the National Register) are present within or adjacent to the project area and will be impacted by the project.

1. Replacement, repair, or installation of curbs, curb ramps, or sidewalks, including when such projects are associated with roadway work such as surface replacement, reconstruction, rehabilitation, or resurfacing projects, including overlays, shoulder treatments, pavement repair, seal coating, pavement grinding, and pavement marking, under the following conditions [*BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied*]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be satisfied (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the Division of Historic Preservation and Archaeology (DHPA) and any archaeological site form information will be entered directly into the State Historic Architectural and Archaeological Database (SHAARD) by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

One of the two conditions listed below must be satisfied (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *OR*
- ii. Work occurs adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource under one of the two additional conditions listed below (*EITHER Condition a OR Condition b must be met and field work and documentation must be completed as described below*):
 - a. No unusual features, including but not limited to historic brick or stone sidewalks, curbs or curb ramps, stepped or elevated sidewalks and historic brick or stone retaining walls are present in the project area adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *OR*
 - b. Unusual features, including but not limited to historic brick or stone sidewalks, curbs or curb ramps, stepped or elevated sidewalks and historic brick or stone retaining walls are present in the project area adjacent to or within a National Register-listed or National Register-eligible individual above-ground resource or district and ANY ONE of the conditions (*1, 2, or 3*) listed below must be fulfilled:
 1. Unusual features described above will not be impacted by the project. Firm commitments regarding the avoidance of these features must be listed in the MPPA determination form and the NEPA document and must be entered into the INDOT Project Commitments Database. These projects will also be flagged for quality assurance reviews by INDOT Cultural Resources Office during/after project construction.

2. Unusual features described above have been determined not to contribute to the significance of the historic resource by INDOT Cultural Resources Office in consultation with the SHPO based on an analysis and justification prepared by their staff or review of such information from other qualified professional historians.
3. Impacts to unusual features described above have been determined by INDOT Cultural Resources Office to be so minimal that they do not diminish any of the characteristics that contribute to the significance of the historic resource, based on an analysis and justification prepared by their staff or review of such information from other qualified professional historians.

Field work and documentation required for fulfillment of condition B-ii:

When the project takes place adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource, it must be field checked by INDOT Cultural Resources Office staff or other qualified professional historian (meeting the Secretary of Interior's Professional Qualification standards [48 Federal Register (FR) 44716]) and photographic documentation must be prepared illustrating both the presence and/or absence of any unusual features along the project route adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource. This documentation must be submitted to INDOT Cultural Resources Office for review.

The only exception would be when it is determined that previous projects along the project route have eliminated the possibility that unusual features adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource exist. In this situation, documentation illustrating the modifications made through previous projects, such as replacement of curbs, curb ramps, or sidewalks, including plan sheets or contract documents and current photographs of the project area, must be submitted to the INDOT Cultural Resources Office for review. With such approved documentation, a site visit by a qualified professional is not required, unless questions arise during the review process. INDOT Cultural Resources Office has the discretion to require the project applicant's qualified professional conduct a site visit when it is not clear if unusual features may be present in the project area.

2. Installation of new lighting, signals, signage and other traffic control devices under the following conditions ***[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]***:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

3. Construction of added travel, turning, or auxiliary lanes (e.g., bicycle, truck climbing, acceleration and deceleration lanes) and shoulder widening under the following conditions ***[BOTH Condition A, which***

pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

4. Installation of new safety appurtenances, including but not limited to, guardrails, barriers, glare screens, and crash attenuators, under the following conditions ***[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]***:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

5. Emergency repairs to maintain the integrity of roadways and bridges that are not identified in the latest Historic Bridge Inventory as being National Register-listed or National Register-eligible (see <http://www.in.gov/indot/2531.htm>).
6. Other minor actions if deemed appropriate for coverage under this MPPA, by consultation and mutual agreement between INDOT, FHWA, and the SHPO. The Tribes shall be provided information on all projects proposed to be cleared under this category for review prior to an agreement being signed between the agencies.
7. This Category has been eliminated. The work type previously included in this category has been included in the revised Category B-1.

8. Construction of pedestrian facilities including trails, multi-use paths, greenways, and associated minor activities defined below, under the following conditions [***BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied***]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs within areas previously disturbed by vertical and horizontal construction activities, including existing roadway, sidewalk, or rail bed, and is not on, within or adjacent to a National Register listed or eligible site; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

Activities associated with this category include the following:

- Pavement surface installation, replacement, rehabilitation, resurfacing, and reconstruction work, including widening, laying down of crushed stone or gravel, shoulder treatments, pavement repair, seal coating, pavement grinding, pavement marking, etc.;
 - Installation of new signals, signage, and other traffic control devices;
 - Installation of new safety appurtenances such as guardrails and barriers;
 - Installation of plant materials and hardscape landscaping elements, including, but not limited to bike racks, benches, trash cans, lighting, and other amenities;
 - Trail heads and parking lots;
 - Installation of pipes, culverts, and pedestrian bridges.
9. Installation, replacement, repair, lining, or extension of culverts and other drainage structures under the conditions listed below [***BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied***]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

One of the conditions below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work does not involve installation of a new culvert and other drainage structure, and there are no impacts to unusual features, including but not limited to historic brick or stone sidewalks, curbs or curb ramps, stepped or elevated sidewalks and retaining walls, under one of the following conditions (*Condition a, Condition b, or Condition c must be satisfied*):
 - a. The structure exhibits no wood, stone, or brick structures or parts therein; *OR*
 - b. The structure exhibits only modern wood, stone, or brick structures or parts therein; *OR*
 - c. The structure exhibits non-modern wood, stone, or brick structures or parts therein and the following conditions are met (*BOTH Condition 1 AND Condition 2 must be met*):
 1. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *AND*
 2. The structure lacks sufficient integrity and/or a context that suggests it might have engineering or historical significance. Under this condition, a qualified professional (meeting the Secretary of Interior’s Professional Qualification standards [48 Federal Register (FR) 44716]) must prepare an analysis and justification that the structure lacks sufficient integrity and/or a context that suggests it might have engineering or historical significance. This documentation must be reviewed and approved by INDOT Cultural Resources Office.
 - ii. Work involves the installation of a new culvert and other drainage structures *AND/OR* there may be impacts to unusual features, including historic brick or stone sidewalks, curbs or curb ramps, stepped or elevated sidewalks and retaining walls, under the following conditions (*BOTH Condition a and Condition b must be satisfied*):
 - a. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *AND*
 - b. The subject structure exhibits one of the characteristics described below (*Condition 1, Condition 2 or Condition 3 must be satisfied*):
 1. The structure exhibits no wood, stone, or brick structures or parts therein; *OR*
 2. The structure exhibits only modern wood, stone, or brick structures or parts therein; *OR*
 3. The structure exhibits non-modern wood, stone, or brick structures or parts therein but lacks sufficient integrity and/or a context that suggests it might have engineering or historical significance. Under this condition, a qualified professional (meeting the Secretary of Interior’s Professional Qualification standards [48 Federal Register (FR) 44716]) must prepare an analysis and justification that the structure lacks sufficient integrity and/or a context that suggests it might have engineering or historical significance. This documentation must be reviewed and approved by INDOT Cultural Resources Office.
10. Slide corrections, slope repairs, and other erosion control measures, in undisturbed soils under the conditions listed below [*BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied*]:

Condition A (Archaeological Resources)

An archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register listed or potentially National Register eligible archaeological resources, then full Section 106 review will be required. Copies of any reports will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

11. Scour protection for bridges that are listed in or eligible for inclusion in the National Register that is limited to placement of riprap around and adjacent to abutments, piers, and wingwalls under the conditions listed below [***BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied***]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

12. Replacement, widening, or raising the elevation of the superstructure on existing bridges, and bridge replacement projects (when both the superstructure and substructure are removed), under the following conditions [***BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied***]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

The conditions listed below must be met (***BOTH Condition i and Condition ii must be satisfied***)

- i. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *AND*
- ii. With regard to the subject bridge, at least one of the conditions listed below is satisfied (*AT LEAST one of the conditions a, b or c, must be fulfilled*):
 - a. The latest Historic Bridge Inventory identified the bridge as non-historic (see <http://www.in.gov/indot/2531.htm>);
 - b. The bridge was built after 1945, and is a common type as defined in Section V. of the *Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges* issued by the Advisory Council on Historic Preservation on November 2, 2012 for so long as that Program Comment remains in effect *AND* the considerations listed in Section IV of the Program Comment do not apply;

- c. The bridge is part of the Interstate system and was determined not eligible for the National Register under the Section 106 Exemption Regarding Effects to the Interstate Highway System adopted by the Advisory Council on Historic Preservation on March 10, 2005, for so long as that Exemption remains in effect.
13. Construction and maintenance of environmental mitigation sites, including, but not limited to wetland and stream, forested floodway, and bat habitat under the following conditions ***[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]***:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

The conditions listed below must be met (*BOTH Condition i and Condition ii must be satisfied*):

- i. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *AND*
 - ii. No demolition of existing structures will occur.
14. Installation of new traffic signal controller cabinets, handholes, traffic detection loops and housing, and ADA-complaint accessible pedestrian pushbutton pedestal poles in close proximity to existing traffic signals adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource under the following conditions ***[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]***:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

No unusual features, including but not limited to historic brick or stone sidewalks, curbs or curb ramps are present at the location where such work will occur.

15. FHWA approval of the Broadband Access permit, issued by INDOT for installation of longitudinal broadband fiber optic cable duct, fiber optic conduit, fiber optic wire, hand holes, vaults and other related fiber optic equipment within the existing interstate right-of-way (r/w) in Indiana. The FHWA “permitted project area” is limited to the existing interstate r/w, which may be different from the “actual project area” for the broadband installation. ***[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]:***

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

The Section 106 Exemption Regarding Effects to the Interstate Highway System adopted by the Advisory Council on Historic Preservation on March 10, 2005 remains in effect and no element of the interstate system within the State of Indiana has been determined to possess “National Significance” in consultation with FHWA, INDOT, and SHPO and one of the two conditions listed below must be met (*EITHER Condition i OR Condition ii must be satisfied*):

- i. Work does not include the installation of micro or macro cellular structures along the interstate right-of-way; *OR*
- ii. Work includes the installation of micro and macro cellular structures along the interstate right-of-way under the following conditions (*EITHER Condition a OR Condition b must be satisfied*):
 - a. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *OR*
 - b. Work occurs adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource, and INDOT Cultural Resources Office in consultation with the SHPO has determined that this work does not have the potential to diminish any of the characteristics that contribute to the significance of the historic resource based on an analysis and justification prepared by qualified professional historians;

NOTE: Under 23 CFR 1.23, regarding the shared use of Interstate r/w, the FHWA must approve the Broadband Access permit, issued by the INDOT. The approval of Broadband Access permit by FHWA is for the non-highway alternative shared use of the Interstate right-of-way only and not for areas that may be used by broadband companies outside the Interstate corridor. Adherence to any applicable state and federal laws outside this r/w is the responsibility of the permittee and not included as part of FHWA’s approval.

16. Installation of MSE walls, retaining walls and noise barriers (including earth berms, ground mounted noise walls and structure mounted noise walls) not exceeding 30’ in height within the Interstate r/w under the following conditions ***[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]:***

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.