# Indiana Categorical Exclusion Manual

**Indiana Department of Transportation**
**Office of Environmental Services**

**Federal Highway Administration**
**Indiana Division**

**March 2, 2006**

All Categorical Exclusions initiated after March 2, 2006 must follow the process outlined in this manual. For projects initiated before this date, the preparer may choose to use either this process or the August 2002 CE/EA form. After June 30, 2006, only Categorical Exclusions prepared under the process outlined in this manual will be accepted.

INDOT would like to thank the Ohio Department of Transportation for its assistance in preparing this manual.

Electronic editable copies of all forms may be found at:
http://www.in.gov/dot/div/pubs/manuals/ce_manual_forms.zip

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# INTRODUCTION

This manual has been developed to guide Indiana Department of Transportation (INDOT) environmental staff, Local Public Agencies (LPAs) and consultants in the confirmation and preparation of federally–funded categorical exclusions and state-funded categorical exemptions and as a scoping tool for Environmental Assessments (EAs) and Environmental Impact Statements (EIS). Standard forms have been designed to provide a consistent process resulting in a more thorough and efficient advancement of projects that are expected to have minor environmental involvement.

INDOT and the Federal Highway Administration (FHWA), through a Programmatic Agreement, have agreed to four levels of review and approval for Categorical Exclusion (CE) projects. The appropriate level of a CE is based on the type of action and the anticipated impacts of the project. The provisions of this Programmatic Agreement provide for:

1) INDOT Districts and INDOT's Office of Environmental Services (OES) to act on behalf of FHWA in assuring compliance with all applicable federal environmental and related requirements pertaining to CEs.
2) A process that will be consistent in documenting information that allows for defensible CEs on a statewide basis.
3) A process that is concise and easy to follow.
4) A process that allows those with limited exposure to the environmental process to follow, provide the proper information and make appropriate decisions within the bounds of the Programmatic Agreement; and
5) A process that ultimately uses technological advances by reducing the amount of paperwork and providing a digital format for processing.

INDOT will ensure that all coordination, evaluations and decisions are adequately documented under this process. Compliance with the process outlined in this manual will allow for consistent documentation review and approval procedures that are necessary for the efficient delivery of projects. The following forms are used to document the National Environmental Policy Act (NEPA) process for CEs:

- **Environmental Screening/CE-1 Form (Attachment 1)** -- All federal-aid projects developed or reviewed by INDOT must have an Environmental Screening/CE-1 Form completed. For CE Level 1 projects, the Environmental Screening/CE-1 Form completes the CE Process.
- **Categorical Exclusion Document Form (Attachment 2)** -- For CE Level 2, 3, and 4 projects, the Categorical Exclusion Document Form is completed.
- **Commitments Summary Form (Attachment 3)** – This form is used to document the commitments at the time of NEPA approval and is updated as the project is advanced. All levels of CEs will have this form attached.
- **Environmental Consultation Form (Attachment 4)** -- Prior to project letting, the Environmental Consultation Form is completed to determine whether conditions of the project have changed and whether the NEPA classification remains valid for the action.

Once INDOT's new Project Development Process (PDP) is approved, portions of this guidance may be modified. It is anticipated that this CE guidance and the PDP will be an integrated process. It will draw together the actions and responsibilities of every INDOT office involved from a project's inception through its construction and demonstrate how the activities are interrelated.

Categorical exclusions comprise a large majority of the environmental documents prepared for transportation projects in Indiana. To ensure that the environmental review process contributes to the overall success of highway improvements, project sponsors are encouraged to follow the PDP once it is finalized. This process will guide project sponsors through the critical decision making areas typically experienced in the preparation of CEs.

This manual was prepared with the combined efforts of the Indiana Department of Transportation, Office of Environmental Services (OES) and FHWA. If there are any questions regarding the contents of this manual, the CE form or attachments, please contact the OES Manager. This manual and other relevant forms can be downloaded from INDOT's publications list at http://www.in.gov/dot/pubs/.

# CLASSES OF ENVIRONMENTAL DOCUMENTS

The National Environmental Policy Act (NEPA) mandates that the type of documentation for federal actions be determined by the potential impacts projects may have on the surrounding natural, cultural, and social environment. The Council on Environmental Quality (CEQ) regulations implementing NEPA may be found at 40 CFR §§ 1500-1508, and FHWA regulations describing the policies and procedures for implementing NEPA and the CEQ regulations may be found at 23 CFR § 771.

There are three classes of action that prescribe the level of documentation required in the NEPA process for federal actions. These three classes of action are listed below and are described in 23 CFR 771.115:

Class I, Environmental Impact Statement (EIS): As described in the CEQ regulations, a detailed written report that provides "full and fair discussion on significant environmental impacts and [informs] decision-makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment."

Class II, Categorical Exclusion (CE): A classification given federal actions that do not have a significant effect on the environment either individually or cumulatively. Once a CE is approved for a project, requirements of the National Environmental Policy Act (NEPA) have been satisfied.

Class III, Environmental Assessment (EA): A document prepared for federal actions that is not eligible for a CE and does not appear to be of sufficient magnitude to require an EIS. An EA provides the analysis and documentation to determine whether an EIS or a finding of no significant impact (FONSI) should be prepared.

# CONSULTANT PREQUALIFICATION CRITERIA

Requirements for CE Document Preparation

Consulting firms desiring to function as the prime consultant for the NEPA phase of the PDP must have one or more employees meeting INDOT's prequalification requirements. This person will act as the environmental project manager, or if there is no environmental project manager, then the key professional managing the environmental process. Given the nature of NEPA as an interdisciplinary process, it is of value for the manager to have a wide knowledge of various environmental disciplines. Therefore, as prequalification criterion, a variety of disciplines and educational backgrounds are acceptable. The requirements reflect the most appropriate general educational backgrounds but are not exclusive to certain degrees or licenses.

1. **Formal Education** - The environmental project manager must be a graduate of a college or university with a bachelor's degree within the field of environmental science, planning, engineering or a closely related field.

2. **Qualifying Experience** - The environmental project manager must have three years of environmental work experience with a Bachelor of Science or Arts degree or two years of environmental work experience with a Master of Science or Arts degree in order to have qualifying experience. Qualifying experience is considered to be completion of acceptable Categorical Exclusions. "Acceptable" means documents that have been formally approved by INDOT or FHWA with minimum comments or revisions. CEs that require multiple revisions and re-submissions will not be considered acceptable for meeting prequalification requirements. Acceptable documents must meet all the requirements for environmental documentation.

3. **INDOT Training** – The environmental project manager must have current INDOT certification for CEs. This may be accomplished by successfully completing INDOT's one-day Categorical Exclusion Class. Until December 31, 2008, completion of the three-day INDOT NEPA course and re-certification may be substituted for the one-day CE Class.

Submittal Requirements

Prequalification materials must be submitted prior to responding to a Request for Proposals. Consultants must submit all pre-qualification materials to the Pre-Qualification Engineer in the Division of Contract Administration. A detailed description of each environmental project manager's education and experience must be submitted. Contact the Division of Contract Administration for details concerning pre-qualification.

# THE FOUR LEVELS OF CATEGORICAL EXCLUSIONS

CEs are actions which meet the definition contained in CEQ regulations in 40 CFR 1508.4 and

> *based on past experience with similar actions, do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic, or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts.* (23 CFR 771.117(a))

Any action may be classified as a CE if it meets the criteria from 23 CFR 771.117(a) and if it does not exhibit any of the criteria in 23 CFR 771.117(b). Section 23 CFR 771.117(b) reads as follows:

> *Any action which normally would be classified as a CE but could involve unusual circumstances will require the administration, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:*
>
> *(1) Significant environmental impacts;*
> *(2) Substantial controversy on environmental grounds;*
> *(3) Significant impact on properties protected by Section 4(f) of the DOT Act or Section 106 of the National Historic Preservation Act; or*
> *(4) Inconsistencies with any federal, state, or local law, requirement or administrative determination relating to the environmental aspects of the action.*

In consultation with the Office of Environmental Services (OES), the preparer should consider the class of action and demonstrate that the project will not involve any of the four unusual circumstances in 23 CFR 771.117(b) shown above. Documentation must be provided to clearly show that the project is properly classified as a CE.

INDOT and the FHWA have agreed to four levels in which a project may qualify as a CE. The appropriate level of a CE is based on the type of action and the anticipated impacts of the project. All federal-aid projects developed or reviewed by INDOT must have an Environmental Screening/CE-1 Form completed. The results of this initial screening will assist the preparer in determining the appropriate level of NEPA class, as well as the appropriate level of CE. Table 1 provides CE Level thresholds.

## Table 1: CE Level Thresholds

| | Level 1 | Level 2 | Level 3 | Level 4 |
|---|---|---|---|---|
| **Relocations** | None | ≤ 2 | > 2 | > 10 |
| **Right of way**[1] | < 0.5 acres | < 10 acres | ≥ 10 acres | N/A |
| **Length of added through lane** | None | < 1 miles | ≥ 1 mile | N/A |
| **Traffic pattern alteration** | None | None | Yes | N/A |
| **New alignment** | None | None | < 1 mile | ≥ 1 mile[2] |
| **Wetlands** | < 0.1 acres | < 1 acre | ≥ 1 acre | N/A |
| **Section 4(f)** | None | None | Programmatic/de minimis Findings[3] | Individual 4(f) |
| **Section 6(f)** | None | None | Any impacts | N/A |
| **Section 106** | "No Historic Properties Affected" | "No Historic Properties Affected" | "No Adverse Effect" or "Adverse Effect" | If ACHP involved |
| **Noise Analysis Required** | No | No | No | Yes[4] |
| **Threatened/Endangered Species** | Falls within Guidelines of USFWS 9/8/93 Programmatic Response | "No Effect" or "Not likely to Adversely Effect" | Formal Consultation resulting in "Not likely to Adversely Effect" | "Likely to Adversely Effect" |
| **Sole Source Aquifer Groundwater Assessment** | Detailed Assessment Not Required | Detailed Assessment Not Required | Detailed Assessment Not Required | Detailed Assessment Required |
| **Approval Level**<br>• **ESM**[5]<br>• **District Planning Director**<br>• **OES**<br>• **FHWA** | Yes | Yes<br>Yes | Yes<br>Yes<br><br>Yes | Yes<br>Yes<br><br>Yes<br>Yes |

[1]Permanent and/or temporary right of way.
[2]If the length of the new alignment is equal to or greater than one mile, contact FHWA's Air Quality/Environmental Specialist.
[3]FHWA must review and approve Programmatic and de minimis Section 4(f) prior to CE approval.
[4] In accordance with INDOT's Noise Policy.
[5] Environmental Scoping Manager

## ***CE LEVEL 1 PROJECTS***

INDOT and FHWA have identified specific project scopes that may qualify as CE Level 1 projects provided the project impacts do not exceed the thresholds identified in Table 1. Projects listed in Table 2 below are projects which normally do not require further NEPA approval by FHWA, pursuant to 23 CFR 771.117(c); therefore, INDOT and FHWA have agreed these project scopes may qualify as Level 1 CEs. Additionally, INDOT and FHWA have identified seven other project scopes that may be classified as Level 1 CEs denoted in Table 3. The project scopes in Table 3 are commonly minor road improvements that will not result in any significant impacts to the human or natural environment, based on INDOT's and FHWA's past experience.

**Note - CE level 1 projects must comply with all applicable state and federal laws and regulations. A project that meets the criteria of a CE Level 1 is not exempted from compliance with other laws and regulations such as the National Historic Preservation Act (Section 106) and the Endangered Species Act (Section 7).**

A project may still qualify as a CE Level 1 even if the scope is not consistent with the scopes listed in Tables 2 and 3. The project may qualify as a CE Level 1 if the project impacts do not exceed the impact thresholds established for Level 1 CEs. Contact OES if there are questions regarding the scope of the project and the appropriateness of the CE Level 1 classification.

The Environmental Screening/CE-1 Form is completed for all projects and is used to document potential impacts to resources in the project area to determine the appropriate CE Level. When completing the Environmental Screening/CE-1 Form, if there is no impact to a resource, simply check "No" and no further consideration is given to that resource. If, however, the response is "Possible" then the preparer should quantify the impact as described in this manual and enter it onto the Form. The completed Environmental Screening/CE-1 Form and quantification of impacts is used to determine what level of CE documentation is appropriate for the proposed action. **A project may only be classified as a Level 1 CE when the impacts do not exceed the maximum thresholds identified for Level 1 CEs in Table 1. If the project exceeds Level 1 thresholds, the project may qualify for a Level 2 CE or greater.**

If the project qualifies as a CE Level 1, then only the Environmental Scoping Manager's (ESM) signature is required on the Environmental Screening/CE-1 Form to approve the project as a CE Level 1. The OES requires that the CE Level 1 form (Environmental Screening/CE-1 Form) and necessary supporting documentation, including coordination and ensuing permits, be completed and kept on file by the district.

### Table 2
### CE Level 1 Projects Pursuant to 23 CFR 771.117(c)

(1) Activities which do not involve or lead directly to construction, such as planning and research activities; grants for training; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed;

and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.

(2) Approval of utility installations along or across a transportation facility.

(3) Construction of bicycle and pedestrian lanes, paths, and facilities.

(4) Activities included in the State's highway safety plan under 23 U.S.C. 402.

(5) Transfer of Federal lands pursuant to 23 U.S.C. 317 when the subsequent action is not an FHWA action.

(6) The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.

(7) Landscaping.

(8) [1] Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.

(9) Emergency repairs under 23 U.S.C. 125.

(10) Acquisition of scenic easements.

(11) Determination of payback under 23 U.S.C. 156 for property previously acquired with Federal-aid participation.

(12) Improvements to existing rest areas and truck weigh stations.

(13) Ridesharing activities.

(14) Bus and rail car rehabilitation.

(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

(16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.

(17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.

(18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.

(19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.

(20) Promulgation of rules, regulations, and directives.

[1] These activities may include general pavement markings, line painting, and installation of raised pavement markers, maintenance of signs, and maintenance of fencing.

## Table 3

## INDOT/FHWA CE Level 1 Projects

(A) Culvert and pipe replacement/reconstruction. (All permits and coordination are still required.)

(B) Modernization of a highway by resurfacing/reconstruction of pavement/sidewalks.

(C) Guardrail projects where no new bank stabilization is required (except for end treatment areas) as long as work is within previous construction limits.

(D) The replacement of traffic signals within existing rights-of-way.

(E) Bridge deck overlays, bridge deck replacements, bridge painting projects and other bridge maintenance activities, within existing rights-of-way.

(F) Herbicidal spraying within existing right-of-way.

(G) Mowing or brush removal/trimming within existing right-of-way.

There may be other types of projects that qualify for a CE Level 1 based upon meeting the CE Level 1 threshold limits, but are not listed above. If there are questions about applicability, please contact OES. Decisions as to the proper level of CE documentation will be made on these types of projects on a project-by-project basis.

## ***CE LEVELS 2 THROUGH 4***

Projects that do not qualify as CE Level 1 may still qualify as a CE. These actions typically fall within 23 CFR 771.117 (d). INDOT has categorized these projects into CE Levels 2 through 4.

The completed Environmental Screening/CE-1 Form will document the appropriate level of NEPA class, as well as the appropriate level of CE. Table 1 lists the thresholds for determining the appropriate CE level as well as required signatures. If the appropriate level is 2, 3 or 4, then the Environmental Categorical Exclusion Document Form is also required. All appropriate and necessary supporting documentation, including permits and coordination, must be completed and kept on file by the district. Copies of the CE, permits and all supporting documentation should be forwarded to OES as outlined in Table 2 of the CE Process Section. After completion of the

**Environmental Screening/CE-1 Form,** if projects exceed CE level 3 thresholds, **c**ontact OES for guidance concerning the type of document to be prepared. Level 4 CEs must be coordinated with OES and approved by FHWA. The OES or FHWA can elevate any CE to a higher level or different NEPA class.

## ***STATE FUNDED CE PROJECTS***

**Environmental process for State funded projects**:

For projects that are developed, designed and constructed using only state monies, the project sponsor must comply with state environmental laws. As per 327 IAC 11-1, the State of Indiana has an environmental process for these projects under the jurisdiction of the Indiana Department of Environmental Management (IDEM). Under 327 IAC 11-1-3(f) a list of Categorical Exemptions was prepared by INDOT and filed with IDEM (then called the Environmental Management Board) and on August 10, 1975 a list of accepted and not accepted "Categorical Exemptions" was issued. These were:

1. Pipe culvert replacement.
2. Bridge painting.
3. Mowing.
4. Installation, modernization or maintenance of signs, traffic signals, pavement markings, highway lighting, and channelization within the existing right-of-way.
5. Patching and crack sealing of roadway surfaces.
6. Resurfacing existing pavement.
7. Guardrail and fence installation or repairs.
8. **Herbicide treatment. (NOT ACCEPTED BY IDEM)**
9. **Storage and winter application of ice melting chemicals or sand. (NOT ACCEPTED BY IDEM)**
10. Right-of-way abstracting, engineering appraising, property management and administration.
11. Landscaping and erosion control.
12. Safety projects such as pavement grooving, flare screen, safety barriers, and energy attenuators.
13. Addition or reconstruction of railroad crossing protection.
14. **Rest area construction or modernization. (NOT ACCEPTED BY IDEM)**
15. Reconstruction or replacement of an existing bridge crossing a stream, railroad, or roadway.
16. Addition of special facilities to an existing highway for the exclusive use of buses.
17. Slide correction measures which are not emergencies but are necessary to preserve the highway facility.
18. Modernization of an existing highway by widening less than a single line (sic.) width, adding shoulders, adding auxiliary lanes for climbing, turning or weaving, and correcting substandard curves and intersections.

**19. Construction of a new rural two-lane highway which does not provide new access to a new area and which would not be likely to precipitate significant changes in land use or development patterns. (NOT ACCEPTED BY IDEM)**

Note that items listed in bold (NOT ACCEPTED BY IDEM) will require documentation using the Environmental Screening/CE-1 Form. Utilize the Environmental Screening/CE-1 Form to document the compliance with the State Environmental Policy for State CEs. Any state-funded project that is not categorically exempted requires either a State Environmental Assessment or a State Environmental Impact Statement to be prepared (see *Procedural Manual for Preparing Environmental Studies* for guidance).

## ***THE CATEGORICAL EXCLUSION PROCESS***

### Categorical Exclusions (CE) Development Process Defined

CEs comprise a large majority of the environmental documents prepared for highway projects in Indiana, as well as other States. INDOT follows the Project Development Process (PDP) in developing projects. Local Public Agencies (LPA) should follow INDOT's PDP, all applicable environmental manuals, and the environmental review processes to ensure all statutory and policy requirements are met. They will guide project sponsors through the critical decision making areas typically experienced in the preparation of CEs.

CE level 1 may not require as intense a level of study as level 2, 3 and 4 projects. Some of the steps and elements in this process may occur concurrently or some may not occur at all depending on the CE level of the project.

**All submittals from the districts to the Central Office (and Central Office to the district) must be submitted through the District Coordinator.**

### Step 1: Develop Purpose and Need

#### A. Work with Stakeholders to Understand Problems or Goals

At the onset of the project the project manager holds a "kick-off" meeting involving all appropriate INDOT/project sponsor disciplines. One meeting concerning several projects can serve as each individual project's "kick-off" meeting. The purpose of the meeting is to identify the project team and stakeholders, define the purpose of and need for the project and study/project area, program the project (cost estimates and milestones) and secure a consultant contract, if needed. Nearly all projects will also need a Public Involvement Plan (PIP) in accordance with INDOT's *Public Involvement Manual*.

Non-INDOT stakeholders include individuals and groups who have an interest in the project. This may include local government officials, permitting agencies, business and civic leaders, school officials, church leaders, the convention and visitor's bureau, chamber of commerce leadership, other persons who might be considered community leaders, property owners, property occupants and residents within the study area. Depending on the type and level of the

CE project, the project sponsor should keep stakeholders well informed on the process and issues that may be of concern to the community.

### B. Conduct Research/Technical Studies to Determine the Purpose and Need

The limits of the study area must be based on logical termini and the purpose of the project. The study area should be large enough to encompass a range of alternatives that meet the Purpose and Need. Both the study area and the logical termini should be established in such a manner that potential alternatives are not eliminated from consideration simply due to an overly restrictive choice of termini. The study area will serve as the boundary for identifying all environmental, social and cultural resources for the project.

The District Office of Planning or the LPA is responsible for collecting and analyzing existing data relevant to the project, assessing existing and future conditions in the project area, continuing to involve project stakeholders and developing a draft Purpose and Need statement.

The project Purpose and Need drives the process for considering alternatives, analyzing reasonable strategies and ultimately selecting the preferred alternative. The Purpose and Need statement must clearly demonstrate that a transportation need exists. The statement must provide tangible, quantifiable data to support the need for the project, and it should be comprehensive, specific, and concise. The goals and objectives of the proposed action also must be identified in the statement.

Confirmation of the Purpose and Need for the project, establishment of the logical termini and demonstration of its independent utility are critical to the overall process. (See Categorical Exclusion Preparation Section for basic ingredients of Purpose and Need statements). A clear, well-defined Purpose and Need statement also is an essential element for successful agency coordination during NEPA and permitting processes. Without a well-defined, well-established and well-justified Purpose and Need, it will be difficult to determine which alternatives are reasonable, prudent and practical.

### C. Notification of Landowners

Prior to conducting field studies, the project manager ensures letters are mailed to property owners and tenants notifying them of INDOT's intent to enter their property. As early as possible the district should identify potential parcels that could be impacted by the project to create an accurate list of names and addresses of residents. This list should be kept on file to be made available to Central Office as needed. At a minimum, a letter should be sent to all property owners in the project area. A sample of this letter is provided as Attachment 9. Modify the letter as appropriate concerning the address. Early coordination with the public is critical and notification of project activities is one of the first steps in the process. The project manager must ensure that the property owners and tenants have been notified in writing of the planned entry by first class U.S. mail not later than five (5) days before the date of entry. The employee or representative of the INDOT shall present written identification or authorization to the occupant of the property before entering the property (IC 8-23-7-26 and 27). Note that this notification applies to each entry onto private property during the PDP.

### D. Red Flags

Areas of concern within the study area are called "red flags." Upon starting the project, the ESM should submit the project location to OES requesting a red flag survey. The OES will screen the study area to identify points of concern, including environmental (such as hazardous materials and ecologically and culturally sensitive sites) and engineering issues. The red flag survey identifies areas that will entail additional study, coordination, design, right-of-way, or construction costs. Basic research is required in order to identify these potential red flags, as well as "fatal flaws" (areas that must be avoided). The appropriate specialist should be consulted to determine the level of concern for each red flag item.

### E. Site Visit

The project site should be visited to confirm the problem(s) identified by the Purpose and Need, and help define proposed solutions for the project. Typical attendees include the geotechnical engineer, pavement engineer, environmental scientist, scoping engineers, utilities, and design. Others should be invited as deemed appropriate, such as the area construction engineer, traffic engineer, and local representatives. It is during the site visit that both environmental and design "red flags" are identified. The site visit is best done as a group, but may be done individually and later reviewed jointly.

### F. Secondary Source Documentation

Identifying environmental resources in the study area involves documenting secondary source reviews and conducting a preliminary site survey of the study area. The secondary source documentation provides an inventory of known environmental, social, and cultural resources in the study area. Specific resources include, but are not limited to the following:

- historic and architecture sites (National Register of Historic Places) - http://www.nr.nps.gov/ ;
- archaeological sites (archaeological records checks at the university(ies) closest to the project site and Indiana Department of Natural Resources, Division of Historic Preservation);
- wetlands -National Wetland Inventory (NWI) maps, rivers and streams;
- threatened and endangered species – refer to the following web site - (http://eelink.net/EndSpp/lists-u.s.endangeredandthreatenedspecieslists.html) ;
- land uses;
- Section 4(f) resources (see Section 4(f) of the *Procedural Manual for Preparing Environmental Studies*);
- public water supplies;
- mines;
- hazardous materials.

One tool that might prove helpful is the GIS Atlas for Indiana at the following website: http://adamite.igs.indiana.edu/arcims/statewide/index.html. This INDOT funded site contains over 200 layers of information. Information from the technical studies, the environmental

secondary source review, site visits, and engineering review is presented on study area mapping, when possible.

**Step 2: Determine Scope, Schedule, and Budget**

**A. Identify and Evaluate Conceptual Alternatives**

The District Office of Planning, Central Office and Local Public Agencies (LPAs), as appropriate, are responsible for working with project stakeholders to identify, analyze and evaluate conceptual alternatives and scope of the project to ultimately identify the best alternative to meet the Purpose and Need for the project.

During the CE process, preliminary engineering is conducted to develop feasible alternatives concurrently with the environmental studies. The preliminary engineering includes:

- Use of traffic data to determine the location of interchanges and other access points, grade separations, trip generators, level of service, number of travel lanes, and other safety/capacity issues in the study area.
- Development of alignment and profiles to illustrate mainline curvature, number of lanes, approximate work limits, points of access, cross-road separations, railroad crossing separations, service roads, retaining walls and structures, complex/non-complex drainage conveyances, and landlocked properties.
- Identification of major utilities and determine whether they will require relocation. Identify possible sites for relocation. Estimate the total cost for the utilities to be relocated. Separately, state the project cost and utility owner cost.

**B. Present Recommendations/Conceptual Alternatives**

The Purpose and Need is further refined, alternatives are evaluated for geotechnical issues, a conceptual maintenance of traffic plan is developed and the project scope and amount of preliminary design are determined. Some simple projects, by their nature, have but two alternatives – the "do nothing" and the "build" alternatives. Others will have multiple alternatives. The District Office of Planning, Central Office, and LPAs, as appropriate, are responsible for working with the project stakeholders to identify, analyze and evaluate conceptual alternatives and identify the best alternative for the project. The Preliminary Alternatives Summary and the Purpose and Need statement are finalized by the District Office of Planning and a Public Involvement Plan (PIP) is produced that will be followed in the remaining steps.

**C. Determine Environmental Documentation**

If the project qualifies as a Categorical Exclusion Level 1 (CE-1) the NEPA requirements are completed during this step. For all projects, an Environmental Screening/CE-1 Form must be completed. For CE Level 1 projects, the INDOT District Environmental Scoping Manager approves the document and maintains files at the District. For higher-level CEs, the Environmental Screening/CE-1 Form should be used to identify which of the following documents will be required:

- A higher level CE (see the "Four Levels of CEs" Section, Table 1)
- An Environmental Assessment
- An Environmental Impact Statement

**Step 3: Perform Environmental Analysis and Preliminary Engineering.**

**A. Conduct Preliminary Engineering**

The primary purpose of preliminary engineering is to establish and develop the project design parameters to a level of detail comprehensive enough to generate an accurate scope, schedule and budget for the remainder of the design. On projects with multiple alternatives (other than the no-build alternative), preliminary engineering also should provide a level of design that allows for an informed selection of the preferred alternative. The preliminary engineering should provide enough detail so that the intent, design parameters, costs, and impacts of the project are clearly discernable. The detail should be such that a final design scope of services can be established.

The District Planning Office or LPA conducts preliminary engineering to develop feasible alternatives. This includes landowner identification and associated field survey work, soil borings, preliminary utility mapping, traffic certification, preliminary line, grade and typical cross section, conceptual drainage, preliminary structure issues, and assessment of access issues. The following activities are included in the preliminary engineering phase:

- Calculation of drainage areas and bridge/pipe sizes for major drainage ways based on the proposed alignment and profile. Develop a preliminary drainage plan.
- Cost estimation, including construction, right-of-way, mitigation and utilities. These cost estimates should be updated as needed.
- Calculation of right of way requirements, establishment of construction and right of way limits, identification of property owners, number and type of relocations, acreage to be taken and its location, residuals, etc.
- Collection of geotechnical data.
- Identification of utilities and coordination with railroads.
- Identification and mapping of "Red Flag" areas identified in previous steps.
- Determination of how traffic will be maintained during construction. Include costs in the project estimate;
- Creation of a common base map which shows the results of preliminary engineering as well as the location of environmental resources.

Developing these preliminary engineering details early builds the foundation for the project. Additionally, the preliminary engineering will aid the project sponsor in developing a realistic and practical project that meets the Purpose and Need.

### B. Early Coordination with Resource Agencies

CE Level 1 projects usually do not require coordination with resource agencies. If it is determined there are any possible impacts to historic resources, initiate the Section 106 process. Additionally, if waterway resources are impacted, then early coordination with the permitting agency is recommended. CEs level 2, 3 and 4 require some level of coordination. This process is initiated by the District or LPA with resource agencies as well as Consulting Parties for Section 106, to gain input on the various alternatives. During early coordination resource agencies are asked to provide information concerning impacts of the proposed project. Include in the early coordination letter the following information for each alternative under consideration:

- A description of the existing conditions of the project area, including the roadway deficiencies, alignment, right-of-way, and current land use.
- Draft purpose and need of the project;
- Project length;
- Vertical and horizontal alignment changes;
- Anticipated number of lanes and pavement widths;
- Proposed permanent and temporary right-of-way widths and total acreages of each type of land use required;
- Proposed in-stream work and channel changes;
- Access control;
- Environmental considerations;
- Project schedule.

Note that the early coordination should not include the magnitude (CE, EA, or EIS) of the project.

See the *Procedural Manual for Preparing Environmental Studies* for details concerning preparing early coordination letters and listing/addresses of the agencies to be contacted as part of the early coordination effort. Normally, a comment period of sixty days should be given to the resource agencies to review the proposed project. Attachments should include graphics of the project area. The location of the project should be shown on a topographical map, and aerial photos or plan sheets should be attached with proposed project limits, existing and proposed alignments, and locations of any potential areas of concern. Photographs of the existing roadway in multiple directions, all quadrants at any bridges, and up and downstream of all streams crossed should be included. A Programmatic Agreement exists between INDOT and USFWS concerning early coordination (see Attachment 15A/15B). Utilize this where appropriate. IDEM utilizes electronic coordination (www.in.gov/idem/enviroreview/hwy_earlyenviroreview.html). Any District/LPA meetings or conference calls with agencies **must** be coordinated with OES.

### C. Environmental Field Studies and Analysis

Based on the level of potential environmental impacts as documented in the secondary source search in Step 1, a determination is made as to the required level of environmental field studies and regulatory agency coordination.

This step involves mapping the inventoried information on a study area exhibit (aerial photography or other mapping as appropriate). Utilizing the base mapping developed for the project, the exhibit should show all features identified in the study area, including red flag areas identified earlier. Each resource should be labeled to assist in describing the resource and how it may be impacted. Information should be collected and verified in the field for inclusion in the environmental document. Carefully document all decisions that are made at this stage.

Field studies are conducted on the feasible alternatives to identify qualitatively and quantitatively the characteristics of the natural and man-made resources within the study area. The information gathered in the literature search and the field studies will be used to avoid or minimize (where avoidance is not possible) potentially adverse impacts to sensitive resources. Environmental studies are conducted as needed to identify and map resources within the study area. The amount of data collected and coordination will vary with the impacts associated with the project. Studies for this may include, but are not limited to the following:

- A cultural resources survey (reconnaissance) identifies both archaeological and historic sites that may be impacted. This includes documentation and analysis of the cultural resource investigations in a specific survey area. The survey should contain historic and/or prehistoric context, results of a literature review, results of the field survey project description, abstract, analysis, conclusion, photographic log and key, project location maps, historical maps (i.e. atlas, aerial, fire insurance, 15' USGS map) and appropriate tables.
- An ecological survey identifies the impacts of each alternative in the following areas: (1) aquatic, (2) terrestrial, (3) wetlands, (4) endangered species and (5) karst.
- A Phase I Initial Site Assessment (ISA) assesses liabilities in property acquisition and identifies properties impacted by regulated substances and/or hazardous waste. This assessment involves gathering parcel-specific information to determine whether further environmental site assessment(s) will be required.
- A community impact assessment addresses social and economic factors (environmental justice, community issues).
- Confirm Section 4(f) resources including publicly owned parks, recreation lands and wildlife and waterfowl refuges and historic resources within the study area.
- Relocation information should also be included either in the form of a complete conceptual relocation plan and/or business needs survey or as a summary that adequately explains the relocation situation along with a plan to resolve anticipated and/or known problems. If the relocation information is summarized, the document should reference the conceptual stage relocation plans. Secondary sources of information such as census data, economic reports, visual inspections and contact with community leaders may be used to obtain information for this analysis.

For further details on the above studies, see the *Procedural Manual for Preparing Environmental Studies* for details.

Once literature searches, environmental studies, and preliminary engineering are completed and resource areas are identified, potential impacts in the project area should be assessed. Understanding the location of environmental, social and cultural impacts will allow the project to

avoid critical or protected resources. The project should be analyzed to determine how impacts may be avoided (preferable) or minimized. In compliance with NEPA and CEQ regulations (40 CFR 1508), the indirect and cumulative impacts of a project also must be determined along with the direct impacts.

- Direct impacts are those that are caused by an action and occur at the same time and place as the action.
- Indirect impacts are those impacts that would result from the project but would occur later in time or farther removed in distance, but are reasonably foreseeable. They may include growth-inducing effects or other effects related to changes in the pattern of land use, population density, or growth rate.
- Cumulative impacts are those impacts on the environment that would result from the incremental impact of the project when added to other past, present, and reasonably foreseeable future actions, regardless of who undertook the action.

In determining the intensity of an impact, the following factors should be taken into consideration:

- Beneficial effects - a significant environmental effect may exist even though the proposed action has an overall beneficial effect.
- Public health - the degree to which the proposed action affects public health or safety.
- Unique characteristics - unique characteristics of the geographical area, such as proximity to historical or cultural resources, parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
- Degree of controversy - the degree to which the effects on the quality of the human environment are likely to be controversial.
- Degree of unique or unknown risk - the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
- Precedent-setting effect - the degree to which the action may establish a precedent for future actions with significant effects.
- Cumulative effect - whether the action is related to other actions with individually insignificant, but cumulatively significant, impacts.
- Cultural or historical resources - the degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in, or eligible for listing in, the National Register of Historic Places.
- Special-status species - the degree to which the action may adversely affect an endangered or threatened species or its habitat.
- Violations of federal, state, or local environmental law - whether the action threatens a violation of federal, state, or local law, or a requirement imposed for the protection of the environment.

### D. Public Involvement

A Public Involvement Plan (PIP) must be developed early in the process and it should be commensurate with the project's anticipated impacts. Level 1 CEs usually require no PIP. Public involvement must comply, at a minimum, with the current *INDOT Public Involvement*

*Procedures*. Public involvement might begin with news releases and newsletters, advising the public on transportation proposals. As transportation plans and projects are developed, the public should be informed of the progress and invited to comment. Public comments assist in identifying and evaluating alternatives for mitigation of adverse impacts and shaping proposals to meet community needs. In order to properly notify the public of project activity (project purpose and need, accessing property, etc.,) steps should be taken to keep people informed. Some type of public notification/involvement is appropriate for Level 2-4 CE projects (see the Categorical Exclusion Preparation Section, Part II-H for Public Involvement suggestions and information).

During the development of the CE document, a public meeting may be held to obtain input from the public on the project and the alternatives under consideration. Following the comment period, a summary of the comments that were received should be made, with a copy forwarded to the District/Central Office. PIP activities continue and the results of environmental studies are reviewed by the appropriate resource agency(ies). Depending on the outcome(s) of the field study(s) further public involvement activities could be necessary. In accordance with *INDOT Public Involvement Procedures,* a public hearing or opportunity to request a public hearing may be required. If a public hearing is required, that hearing must be held before the CE is approved.

### E. Selection of Alternatives for Further Study

The Preliminary Engineering Study should include a matrix or summary of advantages and disadvantages for each reasonable alternative from a design perspective, drawn from information in the environmental field studies and conceptual relocation studies. It is the combination of both design and environmental factors that contribute to the selection of the preferred alternative. Understanding the location of environmental, social and cultural impacts will allow the project to avoid critical or protected resources. In compliance with NEPA and CEQ regulations (40 CFR 1508), the indirect and cumulative impacts also should be taken into consideration when evaluating options for a preferred alternative. If no single preferred alternative can be selected, the alternatives that are to undergo further study are selected. For more complex projects, multiple alternatives are developed during this step. Reasonable alternatives are mapped and further environmental studies are initiated (if required).

### F. Identify Preferred Alignment

At this point, based upon information gathered during project development, a preferred alignment may be selected. For more complex projects, this step includes the first value engineering session or project review meeting, coordination with utilities and consideration of innovative designs to minimize right-of-way acquisitions impacts and/or costs.

### G. Prepare Draft Categorical Exclusion

The project manager ensures that a draft CE document is initiated during Step 3 for those projects not previously qualified as a Level 1 CE. If the feasible alternative field investigations result in a determination that no further environmental investigations are warranted (except archaeology), the CE document can be substantially completed in this step and the document can

be finalized in Step 4. A draft of the appropriate level of CE is prepared and reviewed by the ESM and as applicable, the DPD, OES and FHWA. The project manager should update the project cost estimate and schedule.

**Step 4: Prepare Categorical Exclusion and Develop Design**

**A. Environmental Field Studies**

Additional field studies are often required for the preferred alternative. If environmental staff concludes that additional studies are warranted, they should be conducted only within the area of the preferred alternative. The following are typical studies conducted for the preferred alternative:

- Detailed archaeology where needed
- Section 106 Studies (historical/archaeological)
- Section 4(f) evaluation
- Phase II Preliminary Site Assessment (PSI)
- Wetlands delineation/conceptual mitigation plan
- Completion of Section 7 (endangered species)
- Data for waterway permits
- Development of geometrics
- Preliminary drainage
- Interchange Justifications
- Finalization of surveys
- Preliminary utility locations
- Cost estimates for construction, utilities, mitigation and right-of-way
- Review of preliminary engineering plans by District Design.
- Verify that the project's preferred alternative is included in the appropriate Transportation Plan (TP) and Transportation Improvement Program (TIP)
- Conceptual right-of-way plans
- Detailed line and grade and typical cross sections
- Preliminary flood hazard evaluation studies
- Karst impact mitigation, if needed
- Noise analysis and noise barrier design, if warranted

**B. Approval of Environmental Documentation**

The draft CE document prepared in Step 3 is updated to include the results of further cultural and ecological resource investigations and mitigation plans developed in Step 4. Once all sections of the CE document are complete and have been reviewed, the project sponsor should submit one copy of the document to the appropriate office for approval. All CE documents must be submitted to the Environmental Scoping Manager (ESM) for approval or further processing. See Table 4 for the final signature authority. The project sponsor is responsible for submitting sufficient copies for distribution by the District Office.

**Table 4: Distribution of Approved CEs**

| | CE Level 1 | CE Level 2 | CE Level 3 | CE Level 4 |
|---|---|---|---|---|
| Signature Authority | ESM | ESM, District Planning Director (DPD) | ESM, DPD, OES | ESM, DPD, OES , FHWA |
| Distribution Requirements for Approved CEs | | | | |
| ESM | 1 | 1 | 1 | 1 |
| Project Sponsor | 1 | 1 | 1 | 1 |
| US Fish and Wildlife Service (Appropriate Offices)[1] | 0 | 1-2 | 1-2 | 1-2 |
| District Public Involvement | 1 | 3 | 3 | 3 |
| District Design | 1 | 2 | 2 | 2 |
| Construction | 1 | 1 | 1 | 1 |
| OES | 0 | 0 | 1 | 1 |
| FHWA | 0 | 0 | 0 | ≥ 1 |
| Total # of Copies provided | 5 | 9-10 | 10 - 11 | ≥ 11 |

[1]For projects located in the northern two tiers of counties in Indiana, the northern USFWS and Bloomington USFWS office both receive copies of the CE document. See the *Procedural Manual for Preparing Environmental Studies* for a list of the counties.

### C. Environmental Commitments Summary

During project development, the mitigation measures included in the CE must be incorporated in the project's plans, specifications and estimates. The ESM will complete the Commitment Summary Form and provide it to District Production. This form becomes a part of the CE document, and is a link between the environmental phase of the project and the later stages of the PDP to ensure follow through of commitments. The summary includes information about resources that were specifically avoided during preliminary development and a description of environmentally related actions such as NPDES Section 402 Permits. The summary also can include commitments for additional public meetings, as well as a reference table and associated mapping identifying the location of avoided resources. To assist with successful communication and incorporation of the mitigation measures, the ESM will review commitment(s) at various stages of plan preparation. The types of commitments may include, but are not limited to, the following:

- Wetland delineation (updated)/mitigation/monitoring plan.
- Section 106 mitigation, including archaeology.

- Cultural resource data recovery.
- Section 7, Endangered Species Act.
- Karst.
- Section 4(f) avoidance, minimization, and mitigation.
- Any other Memoranda of Agreement and/or unresolved commitments.
- ESA (hazardous materials) plan notes/commitments.
- All permit conditions.

The Commitments Summary Form must be forwarded to District Production upon document approval. District Production must note the commitments within the project plans/bidding documents. Commitments should be implemented and updated, as the project is developed. The District will enter the commitments into the INDOT electronic record-keeping system.

### D. Final Design

Prior to beginning final design, the project manager may conduct a project review meeting with, at minimum, representatives from the design, planning, and environmental staff to discuss outstanding issues. The project manager should consider including other discipline representatives such as utilities, railroads and construction. The project manager should update the project cost estimate and schedule.

### E. Mitigation Plans

INDOT may be required to perform mitigation associated with the project – such as data recovery from archaeological sites, archival recordation of historic buildings, stream mitigation and the creation of replacement wetlands prior to construction activities that impact the associated resource. Conceptual mitigation and monitoring plans are developed as needed to be submitted with permit applications. If Phase II Archaeological Surveys identify National Register of Historic Places (NRHP) potentially eligible sites then a Draft Data Recovery plan is prepared. If buildings or structures are subject to mitigation due to their eligibility for the NRHP, the approved mitigation plan must be carried out prior to the demolition.

### F. Final Permit Applications

INDOT projects requiring waterway permits must have permit information/plans forwarded to the OES Waterway Permit Unit for permits determination and review. For LPA projects, if permit information is available at the time of completion of the CEs, copies should be supplied to OES. For further information see the *INDOT Waterway Permits Manual*. The following are typical types of permits INDOT projects may require. Please note that this is not an all inclusive list:

- U.S. Army Corps of Engineers 404 permit.
- IDEM 401 Water Quality Certification.
- IDNR Construction in a Floodway Permit
- Rule 5 Erosion Control Permit
- Lake Preservation Act
- Navigable Waterways Permit

- Isolated Wetlands Permit

### G. Re-evaluations

Once a CE has been approved, a project and its accompanying CE must be re-evaluated before any further approvals are granted by the FHWA as described in 23 CFR 771.129 (c). Projects remaining within the limits of the original CE approval need no further NEPA coordination with OES or FHWA. The Environmental Consultation Form (Attachment 4) will be prepared by the District, or the LPA, prior to plan submission for final processing and letting or whenever the scope/impacts have substantially changed. This form determines whether or not conditions of the project have changed and whether the CE classification remains valid for the action.

When the Environmental Consultation Form is completed, and the CE is determined to be inconsistent with the scope or impacts, then a re-evaluation is completed. The Categorical Exclusion Document Form may be used to prepare the re-evaluation document. When the Categorical Exclusion Document Form is used to prepare the re-evaluation document, the block at the bottom of each page of the Categorical Exclusion Document Form should be labeled "Re-evaluation" and dated. The Re-evaluation only needs to address the impacts that have changed. The Re-evaluation should be attached to the original, approved Categorical Exclusion Document Form. If there are substantial changes compared to the original document, then a new Categorical Exclusion Document Form should be prepared. The review, concurrence and approval process for a re-evaluation document is the same as required for the approved CE.

Prior to Plans, Specifications & Estimates (PS&E) submission, the ESM will review the plans and re-evaluate the project to ensure the final design is consistent with the CE document. When necessary, environmental personnel should meet with the design team to further discuss mitigation measures.

### H. Post Design

During any pre-construction meetings that take place for a project with an approved CE, the ESM should discuss mitigation measures included in the project with the meeting attendees. If appropriate during the preconstruction conference, the following environmental topics should be discussed:

- Environmental permit requirements, waterway permits, and mitigation
- Soil and erosion control responsibilities
- All environmental commitments and associated plan notes
- Environmental monitoring during construction

Changes that involve environmental issues should be coordinated through the district's environmental office.

# CATEGORICAL EXCLUSION DOCUMENT FORM PREPARATION (CE Levels 2 through 4)

The Categorical Exclusion Document Form (Attachment 2) was developed to consistently document the NEPA decision-making process for Federal-Aid transportation projects in Indiana. It also documents that the project will not individually nor cumulatively have a significant impact on the human and natural environment, and that neither an Environmental Assessment (EA) nor Environmental Impact Statement (EIS) is required. The form also documents environmentally-related information that is important for design purposes. Once the CE is approved for a project, requirements of NEPA have been satisfied.

The Categorical Exclusion Document Form and supporting documentation must accurately reflect the decision-making process during project development. The preparer should include enough narrative to make the CE a stand-alone document. The following is a list of guidelines:

- The CE should be written for a reader not familiar with the project.
- Even in those instances where a resource is present, but there is no impact, be sure to provide enough information for the reader to draw the same conclusion.
- The existence of supporting documents for the Categorical Exclusion Document Form must be noted in the appropriate section with a summary of the conclusions.
- Additional pages that need to be added should be placed directly behind the section being expanded.

The rest of this Manual provides information concerning completing the Categorical Exclusion Document Form. In general, each section is divided into background information, process discussion and related information. The background information normally describes the legal basis for the data requested. The process section gives a brief explanation of the steps needed to be undertaken in the NEPA analysis. The information section describes what data should be included or attached to the Categorical Exclusion Document Form. The Categorical Exclusion Document Form has two parts:

**Part I** includes overall project description and identification information. This part also includes areas to describe project design criteria, roadway characteristics, structures, anticipated design exceptions and selected maintenance and protection of traffic measures. Engineering decisions should be made with consideration of environmental resources and the environmental consequences of implementing those decisions. A thorough evaluation of resource involvement cannot be efficiently performed without adequate engineering to produce a defined scope of work. The signature page is the cover page of the Categorical Exclusion Document Form.

**Part II** of the Categorical Exclusion Document Form is identification and evaluation of impacts of the proposed action. It is broken down into sections by resource area. Each section provides a means to document the presence (or absence) of that particular resource, and space to describe the level of impacts expected to be caused by the proposed action. These are sections included to describe anticipated public and agency involvement, permits, consistency determinations, mitigation measures, and resources to be avoided by a project.

The following is a list of some of the items that should be attached to the Categorical Exclusion Document Form, when applicable:

- Project location mapping and other illustrations to adequately visualize the area.
- Photos, aerials and USGS quadrangle maps.
- Applicable preliminary design information;
- Maintenance of Traffic/Detour mapping;
- Purpose and need data;
- All coordination responses and forms ;
- Environmental Site Assessment Screening/Checklist (Attachment 10);
- Section 4(f) evaluations;
- Section 106 Area of Potential Effect (APE), Eligibility and Effect findings
- Public involvement documentation.

**Categorical Exclusion Document Form – Cover Page and Signatory Requirements**

On the Categorical Exclusion Document Form, fill in what level the CE is (level 2, 3 or 4). Concurrence and approval for CE submission are as follows:

| | CE Level 1 | CE Level 2 | CE Level 3 | CE Level 4 |
|---|---|---|---|---|
| Signature Authority | Environmental Scoping Manager (ESM) | ESM/District Planning Director (DPD) | ESM/DPD/Office of Environmental Services (OES) | ESM/DPD/OES /Federal Highway Administration (FHWA) |

## ***Categorical Exclusion Document Form - PART I***

**General Project Identification, Description and Design Information**

The level of detail needed in the project description, purpose and need, and alternatives discussion sections of Part I of the Categorical Exclusion Document Form (Attachment 2) varies. For routine projects, these sections should be brief. However, for projects where the involvement of environmental and engineering features is not effectively conveyed by the Categorical Exclusion Document Form, more detailed information may be needed.

At the top of each page, the header information should be completed. Likewise, at the bottom of each page of the Categorical Exclusion Document Form is space to enter the date, the CE preparer, and CE Level. Enter here whether the project is a CE level 2, 3, 4 or a re-evaluation.

**Project Description (Preferred Alternative)**

The proposed improvement should completely or largely correct the problems or deficiencies identified in the "Purpose and Need for the Project". Therefore, describe or attach:

(1) Map of Indiana showing project location.

(2) Local map that shows legible street names, route numbers and project termini, etc.
(3) Aerial photography of project location.
(4) Reasons why termini are "logical termini"
(5) Changes in right-of-way width
(6) Changes in number of through lanes, shoulders and their widths.
(7) Added turn lanes
(8) Method of traffic maintenance
(9) Estimated cost, including Right-of-Way costs
(10) Estimated letting date (month/year)
(11) Appropriate sheets from preliminary design plans that show the area.

Describe in detail the scope of work for this project and the preferred alternative. Include a discussion on logical termini. Attach location map(s), including a United States Geological Survey (USGS) quadrangle map and aerial photo for the project area, and other illustrations (including photos) to adequately describe the project. Discuss any major issues associated with the project. Project location maps and aerials are required for all CEs. In consultation with the designer, indicate whether an Interchange Modification Study/Interchange Justification Study (IMS/IJS) is required.

**Purpose and Need for the Project**

Background - The Purpose and Need is a written description of the transportation problem(s) or other need(s) that the proposed project is intended to address. The Purpose and Need should not identify a solution. The level of detail in the Purpose and Need will vary with the scope of the proposed project.

The preparer should identify the key needs the project will address. The following is a list of items typically considered in the explanation of the need for a proposed action. It is by no means all-inclusive or applicable in every situation and is intended only as a guide.

- System linkage - Is the proposed project a "connecting link?" How does it fit in the transportation system?
- Capacity - Is the capacity of the present facility inadequate for the present traffic? Projected traffic? What capacity is needed? What is the level(s) of service for existing and proposed facilities?
- Transportation demand - Including relationship to any statewide plan or adopted urban transportation plan.
- Legislation - Is there a federal, state or local governmental mandate for the action?
- Social demands or economic development - New employment, schools, land use plans, recreation, etc. What projected economic development/land use changes indicate the need to improve or add to the highway capacity?
- Modal interrelationships - How will the proposed facility interface with and serve to complement airports, rail and port facilities, mass transit services, etc.?
- Safety - Is the proposed project necessary to correct an existing or potential safety hazard? Is the existing accident rate excessively high? Why? How will the proposed project improve it?

- Roadway deficiencies - Is the proposed project necessary to correct existing roadway deficiencies (e.g. substandard geometrics, load limits on structures, inadequate cross-section or high maintenance costs)? How will the proposed project improve it?

The key points to remember relative to the purpose and need section in a NEPA document are:

- Justify why improvement(s) must be implemented
- Establish logical termini and intermediate control points
- Establish the improvement's independent utility and independent significance
- Be as comprehensive and specific as possible
- Be re-examined and updated as appropriate throughout the project development process

In summary, the purpose and need section of the NEPA document should lay out why the proposed action, with its inherent costs and environmental impacts, is being pursued. If properly described, it will limit the range of alternatives which may be considered reasonable, prudent and practical. Further, it demonstrates the problems that will result if improvements are not made.

Process - This section should describe the underlying problem or deficiency (not the proposed action), and must be supported by facts and analyses. Therefore, describe:

(1) Crash data if safety is a problem (compare crash data to Statewide average of similar type of roadway)
(2) Traffic data, if congestion is a problem:
    a. ADT/LOS (for year of study, estimated ready for letting date, and 20 years beyond ready for letting date)
    b. Percent commercial vehicles
(3) Locations where roadway geometry is substandard and features that are substandard.
(4) For bridge projects:
    a. Sufficiency Rating
    b. Why the bridge is Structurally Deficient and/or Functionally Obsolete
    c. Estimated remaining life (years)
    d. Is there sufficient remaining life to warrant widening (if width is the problem)

Additional guidance can be found in INDOT's *Procedural Manual for Preparing Environmental Studies.*

Information – In the Purpose and Need box describe in detail the transportation problem or deficiency to be solved.

**Other Alternatives Considered**

Background – In its regulations implementing NEPA, the Council on Environmental Quality (CEQ) considers the alternatives evaluation the "heart" of environmental studies and requires that agencies shall:

- Rigorously explore and objectively evaluate all reasonable alternatives and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated;
- Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits;
- Include reasonable alternatives not within the jurisdiction of the lead agency;
- Include the alternative of no action;

The development and evaluation of alternatives is a key to the environmental documentation process. Evaluation of alternatives should present the alternatives in a comparative form which defines the issues and provides a clear basis for a selection of a preferred alternative.

Process – The alternatives evaluation should be able to give a clear indication of *why* the particular range of alternatives was developed, through what process and with what kind of public and agency input. Just as important is describing why alternatives have been eliminated from consideration during the NEPA process (through the use of what criteria, at what point in the process, and what parties were involved in establishing the criteria for assessing alternatives and measures of effectiveness).

In preparing NEPA documents, it is important to be candid about the rationale for generating, evaluating, and eliminating alternatives. Being as specific as possible is also essential - if an alternative is eliminated from further consideration because it "does not meet the purpose and need," there should be adequate explanation of how or why it doesn't meet the purpose and need.

The no-build alternative must always be considered for every CE level project and discussed in the alternatives section of the form. Although the "no-build alternative" (which might include short-term minor activities, like safety upgrading and maintenance projects) might not seem reasonable, it must always be included in the analysis. It can serve two purposes. First, it may be a reasonable alternative, especially for situations where the impacts are great and the need is relatively minor. More often, the no-build serves as a baseline against which the other alternatives can be compared.

A tool often utilized to further evaluate all alternatives under consideration is an Impacts Matrix. If utilized, the matrix should lay out the possible outcomes with each action/alternative, and compares each action with each other. This way the reader can easily understand the reasoning behind the preferred alternative given the substantial projected impacts associated with other alternatives.

Information – The preparer should describe in the Other Alternatives Considered box the non-preferred alternatives evaluated during the project development process. This discussion should give a clear indication of why the particular range of alternatives was developed. For each alternative, the preparer should discuss why the alternative was eliminated from further consideration. Dependent upon the CE Level of a particular project, a more detailed alternatives evaluation may be needed that explains the rationale for the preferred course of action.

Describe any other alternatives that were evaluated. Section 4(f), historic and Section 404 (Least Environmentally Damaging Practicable Alternative (LEDPA)) avoidance alternatives and measures to minimize harm must be evaluated. Therefore, in a few paragraphs describe or attach:

- Any alignment shifts and any design features, such as retaining walls or steeper side slopes, which would completely avoid the use of the Section 4(f) property or wetland. If the project involves a historic bridge, then also describe options for rehabilitating the bridge.
- An explanation of why avoiding each property is not "feasible and prudent." This may refer to issues such as:
    - Community or business impacts
    - Substantial increase in roadway or structure costs
    - Unique engineering, traffic, maintenance, or safety problems
    - Difficulties in acquiring permits from various permitting agencies
    - Avoidance alternatives not meeting the identified transportation needs of the project
- If avoidance is not practicable, mitigation measures to be used to "minimize harm," such as:
    - Replacement of lands used
    - Replacement of facilities used, i.e., sidewalks, lighting, etc
    - Restoration and landscaping of disturbed areas
    - Special design features

**Roadway Character**

List all design criteria necessary for this project. Although detailed design is usually not available at this stage of project development, estimate of a project's design criteria must be made as a basis to weigh the project's potential impacts to the environment. Careful consideration to design year average daily traffic (ADT) should be made. Attach additional sheets as necessary to discuss how traffic projections were made and what assumptions have been made.

In the "proposed" column, list what criteria are expected to be implemented if the design is still uncertain. If more than one roadway is impacted, attach additional sheets as necessary. List the following:

- Number of lanes: Enter the number of lanes including turning, climbing and thru lanes.
- Type of lanes: Enter the type of lanes planned (i.e., turning, climbing, passing, through lanes).
- Pavement, shoulder, median and sidewalk width: Enter the estimated width of each. Be sure to include any changes between existing and proposed and make sure that this section is consistent with the project's purpose and need as stated earlier.
- Setting: Enter the actual physical surroundings of the project area.
- Topography: Enter the surface features of the project area.

**Design Criteria for Bridges**

Enter the Des. No., structure number, and its sufficiency rating.

If the proposed action has multiple bridges, this section should be completed for each structure. In the "proposed" column, list what criteria are expected to be implemented if the design is still uncertain. List the following:

- Enter the bridge type: (existing and proposed) box culvert, single span prestressed box beam, etc.
- Enter the number of spans and any weight and height restrictions.
- Enter the curb to curb and shoulder width and the under clearance.
- Enter the outside to outside width
- Enter any channel work required to construct the replacement structure

**Maintenance of Traffic during Construction**

Discuss whether the project will utilize a temporary road, detour or closure during the construction. If so, discuss in the Remarks Section what impacts are associated with the temporary road (particularly impacts to Section 4(f) resources, historic resources and wetlands), detour or closure as well as any local concerns. When a project requires a detour, include a description and attach map of the detour route.

**Estimated Project Cost and Schedule**

Enter the approximate project costs associated with performing engineering, right-of-way, mitigation and construction. Enter the expected start date of actual project construction.

**Right-of-Way and Utility Involvement**

Provide right-of-way amounts, both permanent and temporary, in terms of acres. Break the proposed right-of-way amounts down into land use classification. Provide the typical and maximum right-of-way widths (existing and proposed). A discussion of utility coordination and impacts should also be included.

## ***CATEGORICAL EXCLUSION DOCUMENT FORM - PART II***

**Identification and Evaluation of Impacts of the Proposed Action**

This section should identify the range of issues of concern and the scope of the environmental resources that would be affected by the project. The preparer should consider both the level of impacts as well as the type (negative, neutral or beneficial). The document should be written in such a way that the level of detail is commensurate with the impact and the importance of the resource. The CE should clearly demonstrate that the project results in no significant impact to the environment as defined by CEQ regulations 40 CFR 1508.27.

## Section A - Ecological Resources

### Streams, Rivers, Watercourses and Jurisdictional Ditches

Background – There are many state and federal laws and regulations that protect water resources. Use this section of the Categorical Exclusion Document Form to list and describe these protected resources. In October of 1968, Congress created the National Wild and Scenic Rivers System. The Wild and Scenic Rivers Act pronounced the following:

> *It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dams and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.*

**Currently there are no National Wild and Scenic Rivers in Indiana.**

In 1993, the Natural Resources Commission adopted its "Outstanding Rivers List for Indiana." The listing was published in the Indiana Register on March 1 of that year as Information Bulletin #4 in Volume 16, Number 6, page 1677 through 1680 (sometimes cited as 16 IR 1677). To help identify the rivers and streams which have particular environmental or aesthetic interest, a special listing has been prepared by the Division of Outdoor Recreation of the Indiana Department of Natural Resources. The listing is a corrected and condensed version of a listing compiled by American Rivers and dated October 1990. There are about 2,000 river miles included on the listing, a figure which represents less than 9% of the estimated 24,000 total river miles in Indiana. The Natural Resources Commission has adopted the listing as an official recognition of the resource values of these waters. See Attachment 13 for a listing of Indiana's Outstanding Rivers and Streams. See the *Indiana Waterway Permits Manual* for a discussion of jurisdictional ditches.

Process – Determine whether any streams, rivers, and/or jurisdictional ditches are present, whether they will be impacted (i.e., work will occur below ordinary high water level). Also determine whether the stream is included in the listing for Indiana Outstanding Rivers and Streams, and if so, whether it will be impacted. Determine the presence of and whether there will be impacts on any navigable waterways. Indicate stream quality and the methodology used to determine its quality.

Information – List the streams, rivers and jurisdictional ditches in the project area and whether they will be impacted (both direct and indirect.). Describe any Indiana Outstanding Rivers and

Streams (see Attachment 13) or navigable waterways (See Attachment 12) in the project area and their impacts. In the Remarks Section, if a stream is present but no impacts are expected, state why there will be no impacts. If stream impacts will occur, discuss what type of structure(s) is/are proposed versus what is currently in place and quantify the impacts, if applicable. Describe the extent of in-channel work both up and downstream of the project. Include linear feet of work below ordinary high water. If stream work will be extensive, reference and attach additional sheets and include mapping and/or site plans to aid in impact interpretation. If a function and value methodology such as Headwaters Habitat Evaluation Index (HHEI) or Quality Habitat Evaluation Index (QHEI) was conducted for the project area streams, attach and reference the HHEI or the QHEI form(s) and state the score(s). Discuss what coordination has taken place to date and any commitments or design issues resulting from that coordination. Reference the location of the comment letter(s) within the CE.

Mitigation may be required for impacts to channels. Efforts to avoid, minimize and mitigate should be evaluated in the CE. Summarize any mitigation commitments in Section K (Environmental Commitments Including Resources to be Avoided).

**Other Surface Waters**

Background – There are many state and federal laws and regulations that protect water resources. Use this section of the Categorical Exclusion Document Form to list and describe these protected resources.

Process – Determine whether other surface waters are present, the type of water body (reservoirs, lakes, farm ponds, detention basins, etc.) and whether direct impacts (such as work within waters of the U.S. or waters of the State) or indirect impacts (such as runoff, siltation, or erosion) will occur.

Information – List all surface water in the project area and impacts to them (both direct and indirect), if any. In the Remarks Section, name the water body (if it has a name) and indicate the type and area of impact. Discuss the nature of the project's impact to these waters and any relevant issues. If a water body is present in the project area but no impacts are expected, state why there will be no impacts.

Summarize any mitigation commitments in Section K (Environmental Commitments Including Resources to be Avoided).

**Wetlands**

Background – Executive Order (EO)11990, issued on May 24, 1977, requires each Federal agency to develop procedures to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. The EO states that each Federal agency

> *...shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable*

*alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.*

The EO defines "new construction" to include "draining, dredging, channelizing, filling, diking, impounding, and related activities." This EO essentially required a wetland finding for all federal undertakings which had virtually any impact to a wetland. DOT Order 5660.1A, issued on August 24, 1978 clarified "new construction" by excluding only "routine repairs and maintenance of existing facilities." The DOT Order further states, "In carrying out any activities (including small scale projects which do not require documentation) with a potential effect on wetlands, operating agencies should consider the following factors ..." This requires USDOT agencies to consider the effects on wetlands for all projects (including CEs).

Process – Assessments of impacts to wetlands must be considered during the NEPA evaluation process. INDOT must coordinate with resource agencies (US Army Corps of Engineers (USACE), US Environmental Protection Agency, US Fish and Wildlife Service, and Indiana Department of Environmental Management). INDOT and FHWA must evaluate practicable avoidance alternatives or options to impacting wetlands. If avoidance alternatives are not practicable, then practicable measures to minimize harm are considered and must be included in the project. Therefore, as part of this CE documentation, avoidance and minimization issues are discussed in the Project Description, Preferred Alternative Section as well as in the Other Alternatives Considered Section.

The DOT Order requires USDOT agencies to make a formal wetland finding for major projects. The Indiana Division makes a formal wetland finding for all EAs and EISs. This formal wetland finding is made in the completed EA/Finding of No Significant Impact or Final EIS/Record of Decision. In accordance with Executive Order 11990, and based on the above procedures, the FHWA Indiana Division has made a "CE Wetland Finding", which is available on FHWA's website (http://www.fhwa.dot.gov/indiv/procedur.htm). This Wetland Finding applies to all CEs that do not require an individual 404 permit.

If wetlands will be impacted but an individual wetland finding will not be prepared by FHWA, the Remarks section should state that the project is in compliance with the Wetland Finding for Federal Aid Projects Covered under the Programmatic Categorical Exclusion Agreement signed by FHWA on August 1, 2002 (Attachment 11). To demonstrate that the project is in compliance with the programmatic wetland finding, the Remarks sections must discuss the following points outlined in the programmatic wetland finding:

1) The do nothing alternative is not practicable because:
   - (a) it would not correct existing or projected capacity deficiencies;
   - (b) it would not correct existing safety hazards;
   - (c) it would not correct existing deteriorated conditions and maintenance problems; or
   - (d) it would result in serious impacts to the motoring public and the general welfare of the economy in the area.

2) Improvements that will not result in any wetland impacts are not practicable because such avoidance would result in
   (a) substantial adverse community impacts to adjacent homes, businesses or other improved properties;
   (b) substantially increased project cost;
   (c) unique engineering, traffic, maintenance or safety problems;
   (d) substantial adverse social, economic or environmental impacts; or
   (e) the project not meeting identified needs.

Within this discussion, alternatives that would result in minor alignment shifts, use of minimum design requirements, use of retaining walls and/or other structures or alternative designs shall be assessed.

In addition, it must be documented that all practicable measures to minimize the wetland impact(s), both within and outside of the highway right of way, have been fully considered and incorporated into the project's design. Minimization measures that are incorporated into the design shall be listed as environmental commitments in the document and on the Commitments Summary Form (Attachment 3). The use of appropriate erosion and sedimentation control and other measures required by the current INDOT standard specifications and special provisions shall be a standing INDOT commitment.

Information – Indicate whether jurisdictional and state isolated wetlands are present in the project area and whether impacts are expected. Note the wetland classification determined by wetlands delineation utilizing Cowardin, et al. Wetlands should be delineated by using the *U.S. Army Corps of Engineers Wetland Delineation Manual*, January 1987. Indicate the size of each wetland, and the amount of area for each wetlands classification within each wetland. Include the total area impacted within each wetland. Also include amounts of impact to each classification type within each wetlands area. The table in the CE should indicate whether a formal determination of jurisdictional or isolated wetlands has been made. If a formal determination is obtained from the U.S. Army Corps of Engineers prior to the approval of the CE, it should be included. If no formal determination has been made, then the CE can be approved with an informal determination, but a formal determination will still be required prior to the permitting phase.

Sample Wetlands Table

| Wetland No. | Classification | Total Size (Acres) | Impacted Acres | Comments |
|---|---|---|---|---|
| 1 | PFO1A | 35.4 | 2.4 | wetlands functions as wildlife habitat, flood storage, and groundwater recharge |
| | R4SBF | N/A | 0.12 | Wetlands functions as fish habitat, wildlife corridor, and flood storage. |

In the Comments Section, discuss any appropriate information such as wetlands function and value using a methodology such as INWRAP or a floristic quality assessment. In the Remarks Section, discuss the measures investigated or proposed to avoid, minimize and mitigate the impact. Also discuss impacts to any remaining wetlands from drainage or other highway related features. If wetlands are present in the project area but no impacts are expected, state how such impacts are being avoided. Reference and attach maps to show the wetlands and their relationship to the project. Discuss any sites that are in close proximity to the project. If no wetlands are present, state how that determination was made (i.e. mapping, field review, etc.), and state who (e.g. INDOT personnel, consultant or other agency personnel) conducted the field review and when. Efforts to avoid, minimize and mitigate impacts to wetland should be described in the appropriate sections of the Categorical Exclusion.

Mitigation is required for the impacts that can not be avoided or minimized. Summarize any mitigation commitments in Section K (Environmental Commitments Including Resources to be Avoided). INDOT shall consider the mitigation of all wetland impacts and shall consider enhancement opportunities when they exist. Project mitigation measures shall be listed as environmental commitments in the document and on the Commitments Summary Form (Attachment 3).

**Terrestrial Habitat**

Background – NEPA requires that a systematic interdisciplinary approach be utilized in analyzing the economic, social and environmental effects of alternative courses of action. The Categorical Exclusion Document Form (Attachment 2) provides a venue for this analysis for projects that either individually or cumulatively do not have a significant effect on the environment. One aspect of this analysis includes impacts to the terrestrial habitat.

Process – Analyze the type of vegetation present (e.g., mature forest, young forest, scrub shrub, old field, lawn, scattered lawn trees, fence rows along cropland). Determine whether it will be impacted and whether the habitat is unique or of high quality. If more specific information is needed to describe the habitat and discuss the impacts, it should be provided in the Remarks section.

Information – Indicate on the form whether terrestrial habitat will be impacted by the project. Use the Remarks Section to identify each type of habitat, and for each type of habitat, the acres impacted. Summarize any mitigation commitments in Section K (Environmental Commitments Including Resources to be Avoided).

**Karst**

Background – Karst regions are characterized by the presence of limestone or other soluble rocks, where drainage has been largely diverted into subterranean routes. Sinkholes, sinking streams, large springs, and caves dominate the topography of such areas. On October 13, 1993, the Indiana Department of Transportation, the Indiana Department of Natural Resources, the Indiana Department of Environmental Management, and the U.S. Fish and Wildlife Service entered into a Memorandum of Understanding for the purpose of establishing guidelines for

construction of transportation projects in karst regions of Indiana. A map delineating potential karst features and the Memorandum of Understanding governing the treatment of karst features is available in INDOT's *Procedural Manual for Preparing Environmental Studies*.

Process – OES should be contacted if Karst features are anticipated within the project area. Sinkholes, caves, underground streams and other related karst features within the project area should be located. Their connectivity with other features should be determined. This will include research from available public and private sources for information relative to karst features in the area, as well as field reconnaissance of the area to verify all features identified from the research as well as any additional caves and karst features. The field reconnaissance should capture and record the data.

The results of these studies shall be compiled in a technical report that includes a description of the methodology and data sources used to identify potential karst features; agencies and other experts consulted in preparing the karst analysis; photographs and maps of the karst features; drainage areas, and land use of the drainage area for each sinkhole or karst feature; dye-tracing results, and/or other geotechnical or geological information used to determine subsurface flow patterns of the project area; and surface water drainage patterns of the project area. Calculations of estimated annual pollutant loading from the roadway and right-of-way drainage shall be reported for each karst feature/system. These estimates will be developed for preconstruction conditions, as well as during construction and post construction conditions. The report shall also identify potential mitigation measures/best management practices (BMPs) that may be applicable/warranted for each karst feature/system.

Information – Summarize the above data in the Remarks Section. Copies of the detailed Karst study should be submitted to OES for distribution with resource agencies and their approval. Once that is done a summarize version should be discussed in the environmental study. Include BMPs and mitigation commitments in Section K (Environmental Commitments Including Resources to be Avoided) of the Categorical Exclusion Document Form.

If a project modifies or improves an existing karst feature (sinkhole, swallowhole), the USEPA considers this a Class V injection well. USEPA is the agency responsible for Class V injection well documentation. Under existing federal regulations, Class V injection wells are "authorized by rule" (40 CFR 144). This means that Class V injection wells do not require a permit if they do not endanger underground sources of drinking water and they comply with other Underground Injection Control program requirements. See the *INDOT Waterway Permit Manual* for further guidance.

If impacting a Class V well, INDOT is required to do the following:

1) provide EPA with some basic inventory information about the well, and

2) not endanger any underground source of drinking water.

**Threatened and Endangered Species**

Background – Section 7 of the Endangered Species Act of 1973, as amended (Title 16 (Conservation), United States Code, Sections 1531 - 1543) requires that a biological evaluation be conducted to determine how any federally listed or proposed endangered species or critical habitat may be affected. Regulations that explain the U.S. Fish and Wildlife Service (USFWS) consultation process can be found at Title 50 (Wildlife and Fisheries), Code of Federal Regulations, Part 402, Subpart B. Additional information can be found in the FHWA Environmental Guidebook.

Process – As a part of the early coordination phase (see Step 3B Section of the Categorical Exclusion Process), the USFWS (federally-listed species) and Indiana Department of Natural Resources (IDNR) Office of Fish and Wildlife (state-listed species) must be informally consulted regarding this evaluation. Ultimately, the USFWS must issue a written statement stating their opinion detailing whether the project would jeopardize the continued existence of any listed species or results in the destruction or adverse modification of critical habitat. If the USFWS opinion is one of the following, then the environmental analysis with respect to the Endangered Species Act is complete:

- Protected species are known to not occur in the project area.
- Project would result in "No Effect" to any federally listed or proposed endangered species or critical habitat.
- Project is "Not likely to adversely affect" any federally listed or proposed endangered species or critical habitat.

Any of the above opinions will conclude Section 7 consultation.

If the USFWS opinion is that the project is “Likely to adversely affect” any federally listed or proposed endangered species or critical habitat, then contact OES and FHWA. They will initiate formal consultation with the USFWS and a Biological Assessment (BA) must be prepared. The CE cannot be approved until formal consultation is concluded with a Biological Opinion (BO) and a finding of “No Jeopardy”, both by USFWS.

INDOT currently has a Memorandum of Understanding (MOU) with USFWS which streamlines the Section 7 process for certain projects. At times, coordination with USFWS may consist only of project notification in accordance with the MOU, Streamlining and Reducing the Flow of Early Coordination Letters/Responses with the U.S. Fish and Wildlife Service dated September 1993 (see Attachment 15A). If the project meets the criteria of the MOU the appropriate USFWS letter dated September 8, 1993 (see Attachment 15B) may be used in the CE document.

Information – In the Categorical Exclusion Document Form, indicate whether:

- The project is within the known range of any federally-listed threatened or endangered species
- The project will impact any critical habitat
- Any federal or state-listed threatened or endangered species were found in the project area and whether they are expected to be impacted.

- Formal consultation (for federally-listed species) is required.

In Remarks, include a summary of:

- The informal consultation that has been done to date with the USFWS and the IDNR, including the "effect" opinion(s) for each species.
- Any avoidance or minimization options that were evaluated or will be further evaluated in later stages of project development.

Summarize any mitigation commitments in Section K (Environmental Commitments Including Resources to be Avoided).

## Section B – Other Resources

### Drinking Water Resources

Background – Construction projects may have the potential to impact drinking water resources. Drinking water resources may come from groundwater (such as an aquifer) or surface water. A Sole Source Aquifer is a federally regulated area where groundwater protection is of the utmost importance. The Sole Source Aquifer (SSA) Protection Program is authorized by Section 1424(e) of the Safe Drinking Water Act of 1974 (Public Law 93-523, 42 USC 300 et. seq). It states that:

> *"If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for federal assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer."*

Sole Source Aquifer designations are one tool to protect drinking water supplies in areas with few or no alternative sources to the ground water resource, and where if contamination occurred, using an alternative source would be extremely expensive. The designation protects an area's ground water resource by requiring U.S Environmental Protection Agency (USEPA) review of any proposed projects within the designated area that are receiving federal financial assistance. All proposed projects receiving federal funds are subject to review to ensure they do not endanger the water source.

Indiana currently has only one Sole Source Aquifer, the St. Joseph Aquifer System, located in northern Indiana. The St. Joseph Aquifer System serves as the “sole or principal source” of drinking water for some residents in Elkhart, St. Joseph, LaGrange, Noble, and Kosciusko Counties. The FHWA and USEPA signed a Memorandum of Understanding (MOU) in April

1989 to ensure that projects in the Sole Source Aquifer area are developed to prevent the introduction of contaminants into the aquifer that might create a significant hazard to public health. The MOU describes applicability criteria, projects exempt from review, and procedures for reviewing projects in the Sole Source Aquifer area.

Process – The preparer should locate the presence of community drinking water resources, residential wells if they will be directly impacted, public wellhead protection areas and water wells (public and private) within the project study area.

If the project is within Elkhart, St. Joseph, LaGrange, Noble or Kosciusko County, (see the map showing the aquifer location, available in the *Manual for the Preparation of Environmental Studies*) the preparer must refer to the MOU to determine whether the project is within the St. Joseph Aquifer System. If the project is within the St. Joseph Aquifer System, then the applicability criteria in the MOU should be reviewed to determine whether the MOU applies to the project, and if it is applicable, then the review procedures should be implemented as described in the MOU. If the project must be reviewed by the USEPA, the USEPA may determine that:

1. The project does not require further review;
2. A Groundwater Impact Assessment (GWIA) is necessary to determine the potential of the project to adversely affect the Aquifer, or;
3. The project has a significant potential to contaminate the Aquifer and requires modification to eliminate that potential before federal funds can be committed.

EPA will not review projects classified as categorical exclusions under 23 CFR 771.117 unless specifically requested to do so. FHWA Indiana Division and INDOT experience is that the only time there is potential for significant impacts to water resources is when the USEPA would require detailed groundwater impact assessment.

Information – Note the presence of community drinking water resources within the construction impact area or in close proximity to the project. Indicate the potential for impacts based on the proposed construction (i.e., installation of open drainage) and the location of the source water protection areas. Note residential wells only if they are directly impacted by the proposed construction or within close proximity. Note in the project file any public wellhead protection areas and water wells (public and private) but do not show them on general maps of the project area that will be distributed to the public.

For public water supplies, note whether a source water protection plan has been developed and whether the project is within the established protection zone (within the 1 and/or 5 year time of travel zones for wells and the isolation zone for surface water intakes). If the project is within a source water protection area, coordination with the local operator/owner is required. Any impacts or required mitigation measures should be discussed in the remarks section and included in the environmental commitments summary.

In the Remarks section, note whether the project is within the St. Joseph Aquifer System, whether the MOU is applicable, and a summary of coordination with USEPA. USEPA's review

and acceptance of the GWIA should be attached to the CE along with all coordination with the USEPA.

Summarize any mitigation commitments in Section K (Environmental Commitments Including Resources to be Avoided).

**Floodplains**

Background – EO 11988, "Floodplain Management," establishes requirements for federal agencies "…to avoid to the extent possible the long and short term adverse impacts associated with the occupance and modification of floodplain development whenever there is a practicable alternative…" Furthermore, federal agencies are required to take action to reduce the risk of flood loss, minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains. The EO11988 contains the following definition:

> *The term "floodplain" shall mean the lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year.*

IC 14-8-2-99 defines floodplain as "…the area adjoining a river or stream that has been or may be covered by floodwater." The amount of flooding used to establish permitting jurisdiction is known as the regulatory flood. The regulatory flood is defined in 312 IAC 10-2-35 as:

> *…a flood having a 1 % probability of being equaled or exceeded in a year as calculated by a method and procedure that is approved by the commission. The regulatory flood is equivalent to the base flood or the 100-year frequency flood.*

IC 14-8-2-102 defines the floodway as (1) the channel of a river or stream; and (2) the parts of the floodplain adjoining the channel that are reasonably required to efficiently carry and discharge the flood water or flood flow of a river or stream. The Indiana Department of Natural Resources Division of Water has jurisdiction in Indiana's floodways for most development activities. Typical examples of floodway projects subject to DNR review and approval are fills, excavations, bridge, utilities and non-residential structures. The regulatory floodplain is the area shown as Zone A on the local communities Flood Insurance Rate Map (FIRM). This area includes both the floodway and the fringe portions of the floodplain.

INDOT has established five (5) categories of projects based upon the impact to the floodplain. The five categories are:

- Category 1: Projects which will not involve any work below the 100 year flood elevation.
- Category 2: Projects which will not involve the replacement or modification of any drainage structures.
- Category 3: Projects involving modifications to existing drainage structures.

- Category 4: Projects involving replacement of existing drainage structures on essentially the same alignment.
- Category 5: Projects on new alignment.

INDOT developed the different levels of analysis for different categories of projects depending upon their size, scope and impact upon the floodplain.

Process – To satisfy the requirements of Executive Order 11988, the preparer should determine whether the proposed project will occur in a floodplain. The preparer should review the Department of Housing and Urban Development (HUD) floodplain map or a more detailed map to make the determination.

The Federal Emergency Management Agency (FEMA) also has flood maps available (see http://www.fema.gov/fima/nfip.shtm) as part of its National Flood Insurance Program. If a transverse encroachment is located in a FEMA designated flood plain (see flood insurance maps), coordination with the Local Flood Plain Administrator will be required during design phase to insure consistency with local flood plain planning. If no such maps are available, the preparer should make a determination of the location of the floodplain based on the best available information. If the project will be located in a floodplain, then alternatives to avoid adverse effects, minimize potential harm to or within the floodplain, and avoid incompatible development in the floodplains must be considered.

To satisfy Indiana State Law requirements, the preparer should also review the Flood Insurance Rate Map (FIRM) to determine the regulatory floodplain. The preparer should coordinate with IDNR to determine whether a permit will be required.

The preparer should determine which category the project falls into. More field work and analysis may be required based upon the category of the project, as follows:

- Category 1 – No additional field work is required.
- Category 2 – If a profile grade change is proposed, an inspection of the floodplain is required to determine whether such an increase will result in a substantial change in damage or risks.
- Category 3 – Modifications of existing structures may affect flood heights and flood limits and therefore an analysis may be needed to determine the effect of the modifications. Calculations should be made to determine any changes in capacity of existing structures and an inspection of the floodplain should be made to determine whether any expected increase in flood heights could result in substantial damage not expected under current conditions.
- Category 4 – The site must be inspected upstream and downstream to determine existing conditions that affect the design of the replacement structure. A Risk Assessment will be made and coordination must take place with the IDNR as required by Indiana State Law. The Risk Assessment is in the *INDOT Procedural Manual for Preparing Environmental Documents.*

- Category 5 – A Risk Assessment must be made to determine the potential flood risk at the project site and coordination with the Indiana Department of Natural Resources must take place as required by Indiana State Law.

Information – For projects not located in a floodplain, the following statement should be included, "This project does not encroach upon the HUD Special Flood Hazard Area." See (http://www.hud.gov/offices/cpd/energyenviron/environment/lawsandregs/flood.cfm) for HUD Special Flood Hazard Area.

If there are expected impacts to the floodplain, then the Remarks section should describe any affects the proposed action might have on floodplain(s). The discussion should describe how the floodplain was determined, for example, based on HUD or FEMA maps. If a longitudinal encroachment is involved, it is required that a discussion justifying the need for the encroachment and discussing impacts to the beneficial and natural values of the floodplain be included. Normally projects involving new, substantial longitudinal encroachments on FEMA designated flood plains do not qualify as a CE.

Transverse encroachments are expected for bridge projects over streams. If a transverse encroachment is located in a FEMA designated flood plain (see flood insurance maps), coordination with the Local Flood Plain Administrator will be required during design phase to insure consistency with local flood plain planning. Make a note in the environmental commitments section for the designer to complete this coordination. Each major drainage structure on the proposed project must be discussed and a determination made as to the significance of any encroachments.

Also in the Remarks section, indicate the Category of impact and include the appropriate language based on the impact assessment, as described below. It is possible that a single project will involve two or more of the categories. When this occurs it is necessary to include information for each of the categories involved. If a given situation does not fit a particular category, these guidelines should be used as a basis for developing a reasonable approach to fit that situation.

The appropriate statement or statements should be included in the Remarks section based on the Category of impact:

- Category 1 – "Although this project involves work within the horizontal limits of the 100 year floodplain, no work is being performed below the 100 year flood elevation and as a result this project does not encroach upon the base floodplain."

- Category 2 – "This project will not involve the replacement or modification of any existing drainage structures or the addition of any new drainage structures. As a result, this project will not affect flood heights or floodplain limits. This project will not increase flood risks or damage, and it will not adversely affect existing emergency services or emergency routes, therefore, it has been determined that this encroachment is not substantial."

- Category 3 – "The modifications to drainage structures included in this project will result in an insubstantial change in their capacity to carry flood water. This change could cause a minimal increase in flood heights and flood limits. These minimal increases will not result in any substantial adverse impacts on the natural and beneficial floodplain values; they will not result in substantial change in flood risks or damage; and they do not have substantial potential for interruption or termination of emergency service or emergency routes; therefore, it has been determined that this encroachment is not substantial."

- Category 4 – If no substantial impacts are predicted then a summary based on the risk assessment and the following comment will be included:

  *(#) homes are located within the base floodplain within 1000 feet upstream and (#) homes are located within the base floodplain within 1000 feet downstream. The proposed structure will have an effective capacity such that backwater surface elevations are not expected to substantially increase. As a result, there will be no substantial adverse impacts on natural and beneficial floodplain values; there will be no substantial change in flood risks; and there will be no substantial increase in potential for interruption or termination of emergency service or emergency evacuation routes; therefore, it has been determined that this encroachment is not substantial. A hydraulic design study that addresses various structure size alternates will be completed during the preliminary design phase. A summary of this study will be included with the Field Check Plans and also in the Design Summary.*

  If substantial impacts are determined, the following will be included:

  *Substantial impacts to the floodplain have been predicted, therefore, a hydraulic design study that addresses various structure size alternates will be completed during the preliminary design phase. A summary of this study will be included in the Field Check Plans and also in the Design Summary.*

- Category 5 – If the Risk Assessment evaluation finds no substantial encroachment to the floodplain, include the following statement:

  *There will be no substantial impacts on natural and beneficial floodplain values; there will be no substantial change in flood risks; and there will be no substantial increase in potential for interruption or termination of emergency service or emergency evaluation routes; therefore it has been determined that this encroachment is not substantial. A hydraulic design study that addresses various structure size alternates will be completed during the preliminary design phase. A summary of this study will be included with the Field Check Plans and also in the Design Summary.*

If substantial impacts are determined, the following will be included:

> *Substantial impacts to the floodplain have been predicted, therefore, a hydraulic design study that addresses various structure size alternates will be completed during the preliminary design phase. A summary of this study will be included in the Field Check Plans and also in the Design Summary.*

Attach the following:

- Floodplain map(s)
- Hydraulic Design Study(s), if any

Summarize any mitigation commitments in Section K (Environmental Commitments Including Resources to be Avoided).

**Farmland**

Background – Congress passed the Agriculture and Food Act of 1981 containing the Farmland Protection Policy Act (FPPA). The FPPA is intended to minimize the impact Federal programs have on the unnecessary and irreversible conversion of farmland to nonagricultural uses. It assures that—to the extent possible—Federal programs are administered to be compatible with state, local units of government, and private programs and policies to protect farmland. For the purposes of FPPA, farmland includes prime farmland, unique farmland, and land of statewide or local importance. Farmland subject to FPPA requirements does not have to be currently used for cropland. It can be forest land, pastureland, cropland, or other land, but not water or urban built-up land. Projects are subject to FPPA requirements if they may irreversibly convert farmland (directly or indirectly) to nonagricultural use and are completed by a Federal agency or with assistance from a Federal agency.

Process – If the project has the potential to convert important farmland to non-farm use, the local office of the Natural Resources Conservation Service (NRCS) or United States Department of Agriculture (USDA) Service Center must be contacted. The NRCS uses a land evaluation and site assessment system to establish a farmland conversion impact rating score on proposed sites of federally funded and assisted projects. This score is used as an indicator for the project sponsor to consider alternatives if the potential adverse impacts on the farmland exceed the recommended allowable level.

The *Procedural Manual for Preparing Environmental Studies* includes Form NRCS-CPA-106, the document that is used to evaluate the project's impact to important farmland. Originally, Form AD-1006 was utilized to evaluate the impacts to farmland, as required by the FPPA. However, NRCS developed Form NRCS-CPA-106 to be used on corridor-type projects. In consultation with NRCS, FHWA and INDOT determined that transportation-type projects should be evaluated as corridor-type projects. The *Procedural Manual for Preparing Environmental Studies* includes instructions for completing the Form NRCS-CPA-106 and coordinating with NRCS. The preparer must complete part of the form and send it to NRCS. NRCS will finish the form and return it.

Information – Indicate on the CE Form whether NRCS's Farmland Conversion Impact Rating - Form NRCS-CPA-106 Form is required. The completed Form NRCS-CPA-106 must be attached to the CE. The Remarks should discuss the project's impacts on farms.

Summarize any mitigation commitments in Section K (Environmental Commitments Including Resources to be Avoided).

**Section C – Cultural Resources**

Background – Section 106 of the National Historic Preservation Act and the associated regulations (36 CFR Part 800) promulgated by the Advisory Council of Historic Preservation (ACHP), requires Federal agencies to (1) take into account the effect of federal undertakings on historic properties and (2) provide the ACHP an opportunity to comment on the undertaking. FHWA-IN Section 106 Consultation Procedures explain how to implement these regulations for FHWA projects in Indiana. **Note – the preparer of the Section 106 documentation must meet minimal professional qualification standards**. These can be found in 36 CFR 800.2(a)(1). See http://www.cr.nps.gov/local-law/arch_stnds_9.htm for the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation. Additional information regarding Section 106 can be found in the FHWA Environmental Guidebook at the following website. (http://www.fhwa.dot.gov/environment/ ).

Section 106 and Section 4(f) of the USDOT Act of 1966 both provide protection to historic properties (any resource listed in or eligible for listing in the National Register of Historic Places), but they are completely separate laws. Section 106 is a procedural law which only requires federal agencies to evaluate the effect of federal undertakings on historic properties and give the ACHP an opportunity to comment on the undertaking. Section 4(f) applies only to activities approved or funded by USDOT agencies. Section 4(f) is a substantive law and requires the FHWA select an avoidance alternative, if the alternative is considered feasible and prudent. If there are no feasible and prudent alternatives to using the historic property, then all efforts to minimize harm and mitigation must be evaluated.

Very often, for CE projects, the Section 106 process is the critical path to completing the CE. Be sure to begin the Section 106 process as early as possible.

Process – The FHWA-Indiana Division (FHWA-IN) Section 106 Consultation Procedures explain how the FHWA-IN Division satisfies its responsibilities under Section 106 of the National Historic Preservation Act. To the extent the Section 106 regulations allow, FHWA has delegated to INDOT and consultants the ability to conduct Section 106 coordination with the Indiana State Historic Preservation Officer (SHPO) and consulting parties.

The essential steps to Section 106 include the following:

- Invite the Indiana SHPO and consulting parties to participate in consultation.
- Establish an Area of Potential Effect (APE).
- Identify Historic Properties within the APE.

- Evaluate effects on historic properties within the APE.
- Resolve adverse effects, if any, on historic properties.

These steps are done in consultation with appropriate "consulting parties" and the Indiana SHPO. Certain key groups and individuals will be invited to be a consulting party through the Early Coordination Letter sent out as one of the first tasks in the NEPA evaluation. Other individuals and groups may ask to be a consulting party any time during the Section 106 consultation process. If the project will require approval (such as permitting) from another federal agency, the agency issuing that approval should be invited to be a consulting party. FHWA-IN has developed guidance for coordinating with the Indiana SHPO and consulting parties (see http://www.fhwa.dot.gov/indiv/procedur.htm ).

For archaeological sites, every effort should be made prior to the completion of the CE to determine archaeological site eligibility, effect and appropriate mitigation. Consult with SHPO to determine whether the site is important chiefly for the information that it contains or whether the site is important for preservation in place. If the site is important for preservation in place, the site is a Section 4(f) resource and avoidance/minimization alternatives must be evaluated.

When assessing the historic significance of bridge types within the context of the United States, guidance has been developed by the National Cooperative Research Program (NCHRP) entitled *A Context For Common Historic Bridge Types.* See the following web site for guidance.
http://www4.trb.org/trb/crp.nsf/reference/boilerplate/Attachments/$file/25-25(15)_FR.pdf

A historic bridge inventory is currently being updated for Indiana bridges (state and local). Likewise a Section 106 Programmatic Agreement for Historic Bridges is being developed. When completed, these will be added to INDOT's web site.

Ultimately, after completing the appropriate Section 106 consultation, INDOT or their consultant is required to develop and propose to FHWA:

(1) A recommended APE,
(2) Suggested properties that are believed to be eligible for the National Register of Historic Places within the APE
(3) The suggested effect of the project on these Register-eligible properties, and
(4) Any mitigation to reduce adverse effects (if applicable).

FHWA must make a "Finding of Effect" on all Federal-aid undertakings. The public must be given an opportunity to comment on the undertaking's effect on historic properties before the CE is completed.

The FHWA-IN has developed guidance for support documentation that **must** accompany the recommendations for effect findings (No Historic Properties Affected and No Adverse Effect/Adverse Effect). For Adverse Effect Findings, FHWA-IN has also developed a Memorandum of Agreement template. These templates are available on FHWA's website at (http://www.fhwa.dot.gov/indiv/procedur.htm).

Information – Attach the following to the Categorical Exclusion Document Form:

1. FHWA approved APE, Eligibility determinations, and Effect finding. Include the date of each determination on the Form.
2. Documentation that supports the effect finding.
3. If FHWA has made an "Adverse Effect" finding, then attach a copy of the fully signed Memorandum of Agreement. Include the date the MOA was fully signed on the Form.
4. The completion of the Section 106 process requires that a Legal Notice be published in local newspapers. Please indicate the publication date, name of paper and the comment period deadline.

**Be certain that specific locations of archaeological sites are not circulated to the public.** Check all appropriate boxes to show which cultural resource documents were produced for the project. In the remarks section, discuss known cultural resources within the study area and the project's impacts (i.e., effects) to them. Discuss options considered to minimize harm and potential mitigation or enhancements. Discuss what coordination occurred and what were the results of any cultural resource studies or why none were required. Be sure to note in the remarks section if any objections were received to the findings issued by FHWA. Refer to the *Procedural Manual for Preparing Environmental Studies* for details.

Summarize any mitigation commitments in Section K (Environmental Commitments Including Resources to be Avoided).

**Section D - Section 4(f)/Section 6(f) Resources**

Background – Section 4(f) of the USDOT Act of 1966 (Title 49, USC, Section 303) requires special considerations be made regarding the "use" of any publicly owned park, recreation area, wildlife/waterfowl refuge or historic property that is listed in or eligible for the National Register of Historic Places. These properties are called "4(f) Properties." "Use" is defined as a permanent easement, fee taking, or "constructive use" of a Section 4(f) property. This law applies only to USDOT activities including funding or approvals (e.g., interchange justifications).

FHWA regulations regarding Section 4(f) can be found in Title 23, Code of Federal Regulations, Section 771.135. Additional information regarding Section 4(f) evaluations can be found in the FHWA Environmental Guidebook. Specifically, please refer to (1) *FHWA Technical Advisory 6640.8A*, dated October 30, 1987 and titled "*Guidance for Preparing and Processing Environmental and Section 4(f) Documents*," and (2) *FHWA Section 4(f) Policy Paper*, dated March 1, 2005 for more information.

Any use of 4(f) property will require INDOT to submit the Section 4(f) documentation to FHWA for review and approval. INDOT must show that there is no "feasible and prudent" alternative to the use of the 4(f) property. If there is no feasible and prudent alternative, then the project must include all possible planning to minimize harm to the 4(f) property. A section 4(f) evaluation requires coordination with the U.S. Department of Interior (USDOI), and Housing and Urban

Development (HUD) and USDA if required, and requires FHWA legal council to review the evaluation for legal sufficiency prior to approval.

Some uses of 4(f) property are so minimal that they may qualify for a Nationwide Programmatic Section 4(f) evaluation (Programmatic 4(f)). If the project qualifies for a Programmatic 4(f), then coordination of the 4(f) evaluation with other agencies (HUD, USDOI, USDA) and a legal sufficiency review are not required. Listed below are the five (5) Nationwide Programmatic 4(f)'s and a summary of the applicability requirements. Be sure to review the full Programmatic language to make sure the programmatic may be used for the project.

1. Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges – Applicability:
    a. Improvements only to existing facilities
    b. Does not impair the use of the Section 4(f) property
    c. Will not require the taking of more than 10% of each site or 1% if site is more than 10 acres
    d. Official having jurisdiction agrees in writing with assessment of effects and mitigation
2. Historic Sites – Applicability:
    a. Improvements only to existing facilities
    b. Does not impair the use of the Section 4(f) property
    c. Does not require the removal or alteration of historic objects
    d. Does not require the disturbance of archaeological resources that should be preserved in place
    e. SHPO agrees in writing with the assessment of effects and mitigation.
3. Historic Bridges – Applicability:
    a. Bridge is to be replaced with Federal funds
    b. Bridge is on or eligible for the National Register of Historic Places
    c. Bridge is not a National Landmark
    d. A Memorandum of Agreement has been executed between FHWA, SHPO and ACHP (if applicable) through the Section 106 process.
4. Bikeways or Walkways (or any trail project) – Applicability:
    a. Independent bikeway/walkway/trail projects, which require the use of recreation and park 4(f) properties.
    b. Does not apply to use of wildlife, waterfowl, or historic 4(f) properties.
    c. Official having jurisdiction agrees in writing with assessment of effects and mitigation.
    d. Does not require use of critical habitat of endangered species.
    e. Does not apply if project involves any residential or commercial displacements.
5. Net Benefit Programmatic – Applicability
    a. The proposed transportation project uses a Section 4(f) park, recreation area, wildlife or waterfowl refuge, or historic site;
    b. The project includes all appropriate measures to minimize harm and mitigation to preserve, rehabilitate and enhance the Section 4(f) property;

c. For historic properties, there is no demolition or major alteration of the characteristics that qualify it for inclusion in the National Register. For archaeological properties that are important for preservation in place, it does not require the disturbance or removal of these properties.
d. The SHPO must agree to the mitigation for historic properties in an MOA.
e. The officials with jurisdiction over the 4(f) resource agree, in writing, that the measures to minimize harm and mitigation enhance the 4(f) resource and a net benefit to the resource will be achieved.

Section 4(f) and Section 106 of the Historic Preservation Act overlap because they both address historic properties, but they are completely separate laws. Section 106 involves evaluating the effects of federal undertakings on cultural resources and providing the ACHP an opportunity to comment on the undertaking. Section 4(f) requires the consideration and selection of avoidance alternatives (if they are feasible and prudent) to using historic property for transportation purposes and measures to minimize harm if avoidance is not possible.

Process – The following process should be completed to analyze 4(f) resources:

1. Determine if 4(f) resources are present. Provide verification concerning applicability or non-applicability of potential 4(f) resources. Coordinate with official with jurisdiction over the 4(f) resource, for historic properties, the SHPO.
2. Determine whether there is a "use" of a Section 4(f) resource.
3. If there is a "use" then evaluate avoidance alternatives (this may include design variations).
4. If the resource cannot be avoided, evaluate impact minimization efforts.
5. Determine whether a programmatic is applicable. If not, complete an individual 4(f) document.

Please refer to the INDOT's *Procedural Manual for Preparing Environmental Studies* for details in preparing the Section 4(f) documentation.

Public Parks, Recreational Lands and Wildlife and Waterfowl Refuges

Determine whether publicly-owned parks, Wildlife and Waterfowl Refuges and Recreational Land, including public school playgrounds, athletic fields or bikeways are present within the project study area. Each 4(f) resource should be documented to determine whether there is a "use" of the resource. National Natural Landmarks is a nationally significant natural area that has been designated by the Secretary of the Interior. Attachment 17 shows a listing of these sites in Indiana. Go to the following website for detailed information on each landmark. (http://www.nature.nps.gov/nnl/Registry/USA_Map/States/Indiana/indiana.cfm). Please note that just because a property is listed as a National Natural Landmarks, it is not necessarily a Section 4(f) resource. Impacting the property must entail the "use" of a publicly owned park, recreation area, wildlife/waterfowl refuge or historic property that is either in or eligible for listing in the National Register of Historic Places. Because of the quality of these landmarks, they should given a high level of protection in the development of any project. Contact the OES for guidance.

Historic Resources

Determine whether there is a "use" of land of a historic site. Unlike parks, recreation areas, etc., public ownership of the historic site is not required. Section 4(f) applies to a historic site when the site is listed or eligible for listing in the National Register of Historic Places. Completion of Section 106 requirements does not complete Section 4(f). Section 106 must come to closure first so that the determination can be made regarding use under Section 4(f).

Under SAFETEA-LU provisions, the requirements of Section 4(f) of the Department of Transportation Act will be considered satisfied with respect to a Section 4(f) resource if it is determined that a transportation project will have only a "de minimis impact" on the 4(f) resource (Attachment 16). The provision allows avoidance, minimization, mitigation and enhancement measures to be considered in making the *de minimis* determination. The Agencies with jurisdiction must concur in writing with the determination. FHWA may make a "de minimis" finding for historic properties if (1) FHWA's Section 106 determination is either "No historic properties affected" or "No adverse effect" and (2) the FHWA has received written concurrence from the State Historic Preservation Officer; and (3) the "de minimis" finding is developed in consultation with Section 106 consulting parties. *De minimis* impacts on publicly owned parks, recreation areas or refuges are those that do not "adversely affect the activities, features and attributes" of the Section 4(f) resource.

**Each Section 4(f) evaluation (Programmatic or Final Individual, and de minimis finding) must be approved by FHWA before the CE is approved.** For de minimis findings and programmatic 4(f)s, the FHWA will review and approve the 4(f) portion of the Categorical Exclusion Document Form. The appropriate page of the Categorical Exclusion Document Form should be electronically submitted through OES to FHWA. FHWA will review, provide comments when necessary, and date and sign the appropriate page of the Categorical Exclusion Document Form. Individual Section 4(f) evaluations must also be reviewed by the Department of Interior, and if applicable HUD and USDA, and receive a "Legally Sufficient" determination from FHWA legal prior to FHWA approval of the CE.

If a CE project includes impacts or use that are covered by a programmatic Section 4(f), the ESM should submit a determination of applicability of programmatic Section 4(f) to the appropriate section (Policy or Cultural Resources) of OES for concurrence. A Level 3 or 4 CE may include areas of effect that require a determination of non-applicability of Section 4(f), a determination of applicability of programmatic Section 4(f), or an individual Section 4(f) evaluation. Since CE 4-level documents must be reviewed and approved by FHWA, the Section 4(f) documentation is submitted with the completed CE.

Information – If Section 4(f) property is being used, then the documentation should describe the Section 4(f) evaluation that applies and describe avoidance, minimization and coordination issues.

In this section indicate which type of Section 4(f) evaluation applies by selecting the appropriate box on the form, and in a few paragraphs describe or attach:

1. Section 4(f) properties near the project.
2. The Section 4(f) properties for which avoidance is not feasible and prudent and will, therefore, result in a fee taking or permanent easement.
3. Any plans and photographs of the 4(f) property that show how the property may be affected. Include property lines on these plans.
4. For Section 4(f) property, correspondence from the official having jurisdiction regarding their views with respect to assessment of effects and mitigation (SHPO, if historic property).

Please refer to the INDOT *Procedural Manual for Preparing Environmental Studies* for further detail. Information needs to be provided regarding avoidance and minimization in the "Other Alternatives Considered" Section. For questions regarding whether a property is a 4(f) resource or whether there is a use of a 4(f) resource, contact OES.

**Section 6(f)**

Background – The Land and Water Conservation Fund Act (LWCF) of 1965 was created to assist in preserving, developing and assuring accessibility to outdoor recreation resources and to strengthen the health and vitality of U.S. citizens by providing funds. The LWCF also authorized federal assistance to states in planning, acquiring and developing land and water areas and facilities, and provided funds for federal acquisition and development of lands and other areas.

Section 6(f) of the LWCF ensures that the Federal investments in LWCF are maintained in public outdoor recreation use. Section 6(f) assures that once an area is funded by LWCF, it is continually maintained in public recreation use unless the National Park Service (NPS) approves substitution property of reasonably equivalent usefulness and location and of at least equal fair market value. The Indiana Department of Natural Resources (IDNR) Division of Outdoor Recreation administers the program at the state level. The Section 6(f) regulations may be found at 36 CFR Section 59.

Process – In response to the early coordination letter sent out by the preparer, the NPS or IDNR will indicate whether the proposed project involves acquisition of land acquired or developed with the LWCF. The following summarizes the prerequisites that must be met before a conversation request is considered by IDNR and the NPS:

1. All practical alternatives to the conversion have been evaluated and rejected on a sound basis.
2. The fair market value of the property to be converted has been established and the property proposed for substitution is of at least equal fair market value as established by an approved appraisal.
3. The property proposed for replacement is of reasonably equivalent usefulness and location as that being converted.
4. The property proposed for substitution meets the eligibility requirements for LWCF assisted acquisition.

5. In the case of assisted sites which are partially rather than wholly converted, the impact of the converted portion on the remainder shall be considered.
6. All necessary coordination with other Federal agencies has been satisfactorily accomplished including, for example, compliance with section 4(f) of the Department of Transportation Act of 1966.
7. The guidelines for environmental evaluation have been satisfactorily completed and considered by NPS during its review of the proposed 6(f)(3) action.
8. State intergovernmental clearinghouse review procedures have been adhered to if the proposed conversion and substitution constitute significant changes to the original LWCF project.
9. The proposed conversion and substitution are in accord with the Statewide Comprehensive Outdoor Recreation Plan (SCORP) and/or equivalent recreation plans.

OES should be contacted for additional guidance if a Section 6(f) conversion is proposed. It is at the NPS discretion to approve or deny conversion of LWCF property.

Information – Indicate whether the project proposes to convert LWCF land. Describe in the Remarks the additional actions that are required to be taken to comply with the conversion of the LWCF land. Attach coordination with the NPS and IDNR-Division of Outdoor Recreation.

**Section E - Air Quality**

Background – The Clean Air Act (CAA) sets the framework and goals for improving air quality to protect public health. The CAA sets forth provisions for the attainment and maintenance of National Ambient Air Quality Standards (NAAQS) for criteria pollutants. Criteria pollutants are those that adversely affect human health and safety and the NAAQS are set at levels to ensure adequate protection of the public. NAAQS exist for the following pollutants:

- Ozone ($O_3$)
- Sulfur Dioxide ($SO_2$)
- Nitrogen Oxides ($NO_x$)
- Carbon Monoxide (CO)
- Lead (Pb)
- Particulate Matter ($PM_{2.5}$ and $PM_{10}$)

When an area violates a NAAQS standard it is designated as a "non-attainment area." Attainment and non-attainment designations are made individually for each NAAQS pollutant by the EPA. Once designated, the state must create a State Implementation Plan (SIP) to bring the area back into attainment. When an area achieves attainment of the NAAQS, the area is re-designated as a "maintenance area." Maintenance areas are required to have a plan to achieve attainment for 20 years.

The 1990 CAA amendments strengthened the relationship between air quality planning and transportation planning. Controlling mobile sources is critically important to meet the NAAQS. To ensure that transportation projects contribute to reaching the SIP's goal, which is to attain the NAAQS, transportation projects must be shown to "conform" to the SIP. Transportation

conformity is a process where transportation planning agencies demonstrate that plans, programs, and projects are consistent with the transportation-related elements of a SIP. The conformity process ensures that Federal funding and approval are given to activities that are consistent with air quality goals.

The responsibility of conformity falls upon the area Metropolitan Planning Organization (MPO) and the USDOT. These agencies must ensure that the Transportation Plan (TP) and Transportation Improvement Program (TIP) within the metropolitan planning boundaries conform to the SIP. In metropolitan areas, the policy board of each MPO must formally make a conformity determination on its TP and TIP prior to submitting them to the USDOT for review and approval.

Conformity determinations for projects outside of MPO boundaries are the responsibility of the USDOT and the project sponsor, usually the state DOT. Verification of project conformity for the approved TIP for both MPO and non-MPO projects is published and lists of qualifying projects in each Indiana MPO area are on file in the appropriate offices of Urban and Corridor Planning and the local MPO office. Project status is addressed in each MPO approved TIP as "exempt" or "analyzed", meaning that the project was included in the conformity analysis for the current year.

A project level conformity determination is required prior to approval of any NEPA decision, including CEs, for projects in non-attainment and maintenance areas. For projects in MPO areas, the project's design, concept and scope must be included in a conforming TP and TIP, if funds are to be authorized in next 4 years. A project that does not meet the conformity requirements cannot be funded by FHWA or INDOT.

Process – For projects that add capacity to the transportation system, a quantitative carbon monoxide (CO) "hot spot" analysis is required. CAL3QHC is the current Air Quality Computer Program approved by FHWA for quantitative carbon monoxide analysis. National Ambient Air Quality Standards are as follows for Carbon Monoxide (CO):

- 9 parts per million (ppm) average over an 8-hour period
- 35 ppm average over a 1-hour period

For projects that add capacity to the transportation system in non-attainment or maintenance areas for $PM_{2.5}$, a particulate matter ($PM_{2.5}$) "hot spot" analysis will be required on April 6, 2006. Currently there are no guidelines concerning this analysis.

For projects in the counties listed in the table below, the preparer must contact the appropriate organization responsible for demonstrating conformity for that county. For projects within an MPO's boundary, the preparer should confirm with the MPO that the project's current design, concept and scope are accurately reflected in the current TP and TIP and both have been found to conform to the SIP. For projects outside of an MPO, the preparer must coordinate with OES to ensure a valid project level conformity determination is completed prior to CE approval.

| County | Entity Responsible for Conformity Demonstration | NAAQS Exceeded |
|---|---|---|
| Allen | Northeastern Indiana Regional Coordinating Council (NIRCC) | $O_3$ |
| Boone | Indianapolis Metropolitan Planning Organization (IMPO) | $O_3$ |
| Clark | Kentuckiana Regional Planning and Development Agency (KIPDA) | $O_3$, $PM_{2.5}$ |
| Dearborn (Lawrenceburg Township only) | Ohio-Kentucky-Indiana Regional Council of Governments (OKI) | $O_3$, $PM_{2.5}$ |
| Delaware | Delaware-Muncie Metropolitan Plan Commission (DMMPC) | $O_3$ |
| Dubois | Evansville Urban Transportation Study (EUTS) | $PM_{2.5}$ |
| Elkhart | Michiana Area Council of Governments (MACOG) | $O_3$ |
| Floyd | KIPDA | $O_3$, $PM_{2.5}$ |
| Gibson (Montgomery Township only) | EUTS | $PM_{2.5}$ |
| Greene | NONE - Contact OES | $O_3$ |
| Hamilton | IMPO | $O_3$, $PM_{2.5}$ |
| Hancock | IMPO | $O_3$ |
| Hendricks | IMPO | $O_3$, $PM_{2.5}$ |
| Jackson | NONE – Contact OES | $O_3$ |
| Jefferson (Madison Township only) | KIPDA | $PM_{2.5}$ |
| Johnson | IMPO | $O_3$, $PM_{2.5}$ |
| Lake | Northwestern Indiana Regional Planning Commission (NIRPC) | CO, $O_3$, $PM_{2.5}$ |
| LaPorte | NIRPC | $O_3$ |
| Madison | IMPO | $O_3$ |
| Marion | IMPO | CO, $O_3$, $PM_{2.5}$ |
| Morgan | IMPO | $O_3$, $PM_{2.5}$ |
| Pike (Washington Township only) | EUTS | $PM_{2.5}$ |
| Porter | NIRPC | $O_3$, $PM_{2.5}$ |
| Shelby | IMPO | $O_3$ |
| Spencer (Ohio Township only) | EUTS | $PM_{2.5}$ |
| St. Joseph | MACOG | $O_3$ |
| Vanderburgh | EUTS | $O_3$, $PM_{2.5}$ |
| Vigo | West Central Indiana Economic Development District (WCIEDD) | $O_3$ |
| Warrick | EUTS | $O_3$, $PM_{2.5}$ |

Some projects are exempt from air quality conformity requirements. These types of projects are listed in 40 CFR Sections 93.126, 93.127, and 93.128. If the preparer believes a project is exempt from the air quality conformity requirements, consult with the appropriate MPO or OES and obtain concurrence that the project is consistent with an exempt project category. For detailed discussion on how to prepare and document air conformity, please refer to the *Procedural Manual for Preparing Environmental Studies*.

Information – If the project requires a quantitative carbon monoxide (CO) analysis, summarize the results in the Remarks section and attach the analysis to the CE. Note in the Remarks section whether the project is located in an $O_3$ or $PM_{2.5}$ non-attainment or maintenance area and whether an air quality conformity analysis is required. If it was determined the project was exempt, note it in the Remarks section and attach documentation demonstrating the appropriate entity (MPO or OES) concurred with that determination. If the project does require a conformity determination, in the remarks section list the specific reference (including document date and page number) to the latest approved conforming TP and TIP that includes the design concept and scope for the proposed project.

**Section F – Noise**

Background – FHWA noise regulations (23 CFR 772) require highway agencies to determine and analyze expected traffic noise impacts for certain types of projects. The analysis is required for Type I projects, which include Federal-aid highway projects on new location or when there will be an alteration to an existing highway that significantly changes either the horizontal or vertical alignment or increases the number of through traffic lanes. If there are traffic noise impacts for a Type I project, then the highway agency must analyze alternative noise abatement measures to mitigate the impacts, giving weight to the benefits and costs of abatement and to the overall social, economic and environmental effects. INDOT's noise policy implements the noise requirements of 23 CFR 772 and the policy must be followed for all federal-aid highway projects requiring a noise analysis (http://www.in.gov/dot/programs/environment/noise.html).

If the project has a "noise impact" as defined by INDOT's noise policy, NEPA approval of a project cannot be made until all "reasonable" and "feasible" noise abatement measures, which are likely to be incorporated in the project, have been identified. The terms reasonable and feasible (with respect to noise abatement) are discussed in the FHWA guidance. Feasibility relates to engineering considerations (e.g., constructability, topography, drainage, ability to achieve a substantial reduction in noise levels, access requirements for driveways and ramps, and the presence of local cross streets). Reasonableness is more subjective and is based on a number of factors, such as the increase of future noise levels over existing levels, the cost of noise abatement, and the views of affected residents.

Process – The preparer should determine whether the scope of the project will include any of the following elements, provided there are noise sensitive land uses in the project area:

1. Construction of a highway on new location
2. Physical alteration of an existing highway which significantly changes either the horizontal or vertical alignment
3. Increases the number of through-traffic lanes.

FHWA has determined, for noise analysis purposes, adding an additional lane that is at least 1.5 miles in length requires a noise analysis if noise sensitive land uses are in the project area. For auxiliary lanes, a noise analysis is required if the lane is long enough to function as a through-traffic lane and/or it increases capacity. Auxiliary lanes added between interchanges to improve operational efficiency will also need a noise analysis, provided it is at least 1.5 miles long, or if the lane is continuous through a series of successive interchanges. If the scope includes any of these elements, then a noise analysis will be required.

If a noise analysis is required, LPAs are responsible for completing their noise studies. For INDOT projects, the preparer should contact OES to coordinate the study. The noise analysis must be completed in accordance with FHWA guidance and the most current INDOT Noise Policy.

For projects requiring a noise analysis on fully or partially controlled access facilities, use the most current noise model (currently FHWA Traffic Noise Model (TNM) Version 2.5). On other facilities that require a noise analysis, the TNM Lookup Table may be used to determine noise impacts (http://www.trafficnoisemodel.org/tnmlookup.html).
The traffic noise analysis must include the following for each alternative under detailed study:

1. Identification of existing activities, developed lands, and undeveloped lands for which development is planned, designed and programmed, which may be affected by noise from the highway;
2. Prediction of traffic noise levels (future build and future no-build);
3. Determination of existing noise levels;
4. Determination of traffic noise impacts; and
5. Examination and evaluation of alternative noise abatement measures for reducing or eliminating the noise impacts.

Alternative abatement measures as listed in 23 CFR 772 should be addressed in every analysis that discusses noise abatement. In most cases, for non-access controlled facilities, breaks in the noise barrier will render it ineffective. Thus the use of noise barriers for these types of facilities will not be reasonable and feasible.

Information – If the project requires no noise analysis, the following statement should be included in the Remarks Section:

> *In accordance with the INDOT Highway Traffic Noise Policy approved by the Federal Highway Administration and effective on October 15, 1997, this action requires no formal noise analysis.*

If a noise analysis is required, then describe the noise impacts, if any, in the Remarks section. Discuss where noise mitigation may be reasonable and feasible, and identify the approximate length and height of any noise barriers if they are reasonable and feasible. Make a note that the

noise analysis should be refined when the design is completed and the appropriate coordination completed with the public. The noise analysis should be attached to the CE.

**Section G - Community Impacts**

Background – 23 CFR 771-772 assures that possible adverse economic, social, and environmental effects of proposed highway projects and project locations are fully considered and that final decisions on highway projects are made in the best overall public interest. Transportation projects often affect a community both positively and negatively. Community impacts from transportation projects may include affects on mobility, existing and proposed land use plans, safety and quality of life issues. It is critical that community impacts be given due consideration, along with environmental resources, during the NEPA decision-making process.

Process – The public involvement plan is critical to identify and address community impacts. Local elected officials, metropolitan planning organizations, local planning departments and the public are in the best position to identify the project's impact to the community and potential measures to avoid, minimize or mitigate the impacts. The community should be engaged early in the development of the project, and throughout the project development process, to ensure their input is considered.

Throughout the course of implementing the public involvement plan, seek feedback from the stakeholders to determine whether the project will impact community or neighborhood cohesion, the local tax base, property values, public facilities, community centers, or other resources important to the community that may not be readily identifiable by someone unfamiliar with the community.

Information – Describe community impacts identified through the implementation of the public involvement plan and any measures to be taken to avoid, minimize or mitigate the impacts. Any positive impacts should be identified in the Remarks section as well.

**Indirect and Cumulative Impacts**

Background – In addition to direct impacts to the human environment, the National Environmental Policy Act requires federal agencies to consider indirect and cumulative impacts associated with Federal actions. Indirect effects are defined as follows:

> *Effects that are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems. (40 CFR § 1508.8)*

An example of an indirect effect would be the expected conversion of farmland to commercial use after a new interchange or highway facility is constructed. If the highway was never constructed, the conversion of farmland to commercial use would not likely occur.

Cumulative impacts are defined as follows:

> *The impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. (40 CFR § 1508.7)*

An example of a cumulative impact would be the combined impact of converting farmland to highway use by a DOT project, the past impacts associated with converting farmland to commercial or residential uses in the project's study area, and the future indirect effects of converting farmland to commercial uses as a result of the highway project. Most often, indirect and cumulative impacts are relevant only for projects on new alignment.

Process – The preparer should determine whether the project scope is of a type that is likely to cause substantial indirect or cumulative impacts (for example, a project on new alignment). Most projects that qualify as CEs do not cause substantial indirect or cumulative impacts

If the preparer believes the project may cause substantial indirect or cumulative impacts (for example, substantial unplanned development along the corridor), then the preparer should contact OES for guidance in evaluating and documenting the indirect and cumulative effects of the project.

Information – If the project is not likely to cause substantial indirect or cumulative impacts, make a note in the Remarks section and explain why this conclusion was reached (for example, this project will not add capacity to the existing roadway network or this project adds capacity in an area already fully developed). If there are substantial indirect or cumulative effects resulting from the project, describe the impacts in the Remarks section and explain why the impacts are not considered significant.

**Public Facilities and Services**

Background – Highway projects have the ability to impact a number of public services. The impacts may be direct impacts, for example, taking right-of-way from a school, library or fire station, or indirectly impacting the school, library or fire station by causing a change in access. For example, a new freeway facility can impact the response time for emergency services due to the change to limited access and the closing of some local roads. These types of changes also can impact schools by changing their transportation plans associated with school bus routes.

Process – Determine what effect the project could have on public utilities; fire, police, emergency services; health, educational or public service facilities; religious institutions; and pedestrian and bicycle facilities by working with the appropriate local officials. Emergency service providers should be contacted for emergency routes and travel times or possible response delays. Public transit impacts and school bus routes (including pick-up points) should be coordinated with the proper authorities.

Information – In the remarks section, summarize any impacts to public facilities and services and the coordination that occurred with the appropriate local officials. Note any efforts to minimize or mitigate impacts to public facilities and services.

**Environmental Justice**

Background – EO 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," requires federal agencies to address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations in the United States. The Executive Order also directs federal agencies to conduct their programs, policies and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies and activities do not have the effect of excluding persons from participation in, denying persons the benefits of, or subjecting person to discrimination under such programs, policies and activities because of their race, color or national origin.

Process – At the project level, projects on new alignment have the greatest potential for causing disproportionately high and adverse effects on minority or low-income populations. As part of the public involvement plan, the preparer should work to identify and work with any minority and low-income populations that might be affected by the project. Local elected officials or planning organizations should be contacted to help identify minority or low-income populations that may be affected by the project. County human services departments, the Indiana Department of Development, regional planning organizations and libraries have local census information to aid in identifying minority or low-income populations within the study area.

Information – If the project has the potential to cause disproportionately high or adverse effects on minority or low-income populations, describe the efforts taken to identify these populations in the study area in the Remarks section. Describe actions that were taken, or will be taken, to avoid disproportionately high or adverse effects on minority or low-income populations. If there is no disproportionately high or adverse effect, then make a note of it in the Remarks. Also, make a note of all efforts taken to solicit and incorporate feedback from minority and low-income populations.

**Displacement of People, Businesses or Farms**

Background – Some highway projects require the acquisition of right-of-way resulting in the displacement of residential or commercial buildings, farming operations, or other institutions. All Federal, State and local government agencies, as well as others receiving Federal financial assistance for public programs and projects, that require the acquisition of real property, must comply with the policies and procedures set forth in 49 CFR 24 the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and amended in 1987. This law is commonly referred to as "the Uniform Act." The acquisition itself does not need to be federally-funded for the rules to apply. If Federal funds are used in any phase of the program or project, the rules of the Uniform Act apply. The rules encourage acquiring agencies to negotiate with property owners in a prompt and amicable manner so that litigation can be avoided.

Process – The preparer should work with the engineers to determine the right-of-way requirements for the project and identify any displacements of people, businesses, farms, or any other institution. Practicable efforts should be made to avoid displacements.

Information – If there will be no displacements as a result of the project, make a note of it in the Remarks section. If there are displacements, describe the number and type of proposed displacements in the Remarks section. Note any efforts to avoid or minimize displacements. Include a statement that all real property will be acquired in accordance with the Uniform Act.

**Section H - Public Involvement**

Background – FHWA regulations require each State DOT to establish procedures, approved by FHWA, to carry out a public involvement/public hearing program, pursuant to 23 U.S.C. and 40 CFR Parts 1500 through 1508. INDOT has an approved public involvement policy which can be viewed at INDOT's web site. The level of public involvement for CE projects is often determined by the level of potential impacts to the community and the amount of controversy expected with the project. Some level of public involvement is necessary for nearly all projects. INDOT will soon update the public involvement procedures and the revised procedures will require the development of a Public Involvement Plan for every project.

Process – The preparer should review INDOT's public involvement policy to determine what public involvement activities are required, based on the project's scope and potential impacts, and plan to implement them accordingly. Local government officials, Metropolitan Planning Organizations and other planning agencies should also be consulted early in the development of the CE to help determine the appropriate level of public involvement as well as the appropriate type of public involvement activities. For projects that may be locally controversial, INDOT may choose to establish a Community Advisory Committee (CAC) early in project development to identify and engage the controversy and address community issues to the extent practicable.

As early as possible during the processing of a CE project, the district should obtain landowner information identifying potential parcels that could be impacted by a specific project. This list can be used for notice of survey as well as to notify and invite affected landowners to public meetings.

Information – In the Remarks section, describe formal and informal public involvement that occurred during the development of the CE. Also describe additional public involvement activities that are planned after the CE is completed.

Attach to the CE:

- Public transcripts if any public meeting/hearing was held.
- Information distributed to the public at public hearings, information meetings, or any other type of meeting.
- Sign-in sheets for any meetings, including public hearings or informational meetings.
- Correspondence with locals, agencies and others

- For meetings with the public, if any, document who attended, who was invited, and how comments were addressed or describe how they will be addressed.
- Public notice issued for Section 106 findings.

**Section I - Hazardous Materials & Regulated Substances**

Background – Hazardous waste sites are regulated by the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and appropriate state laws.

Process – The preparer should send early coordination with the Indiana Department of Environmental Management to identify known or potential hazardous waste sites. The Potential Hazardous Waste Site Assessment Form (See *Procedural Manual for Preparing Environmental Studies*) must be filled out during the preliminary visit to the proposed project site. If known or potential waste sites are identified, further analysis will need to be conducted.

A Phase I Initial Site Assessments (ISA) is conducted to determine whether hazardous materials and/or regulated substances are present in the project area. The Phase I process is a stepped study to determine whether a property has been contaminated with regulated substances and/or hazardous materials. If a contaminated property is identified then avoidance, minimization or mitigation must be considered. Additional site test and report preparation is discussed in the Phase II Preliminary Site Assessment (PSI). It will include recommendations for avoidance, minimization or mitigation. The locations of any hazardous materials should be clearly marked on a map showing their relationship to the alternatives under consideration. LPAs are required to submit the both Phase I and Phase II as part of the CE. For INDOT projects, contact OES.

Information – If hazardous materials and/or regulated substances are not present in the project area, check the "No" box. If, hazardous materials and/or regulated substances are present and being impacted, check the "Yes" box. On the Categorical Exclusion Document Form, check the box(s) (screening, phase I, phase II, remedial design) of the studies which have been completed and accepted by OES. Check the appropriate box under impacts.

If there are known or potential hazardous waste sites within the project area, then describe in the Remarks section information about the site, the potential involvement, impacts and public health concerns of any affected alternative(s) as well as the proposed mitigation measures. The Remarks should address and resolve issues raised by government agencies.

Explain in the remarks section what hazardous materials and/or regulated substances were found within the study area and any impacts the hazardous materials will have on the project. A discussion of what environmental commitments are necessary (construction plan note) should also be in the remarks. If complicated hazardous material issues exist (such as a Remedial Investigation (RI)/Feasibility Study (FS) situation), then remedial design will be necessary to manage or remediate the contaminated zone. Attach additional pages as necessary.

**Section J - Permits Checklist**

Background – Some environmental impacts require permits from the agency charged with regulating the environmental resource. The *INDOT Waterways Permit Manual* describes the waterway permitting process in detail. The following permits are sometimes required by highway projects and the list is not all-inclusive:

- U.S. Army Corps of Engineers (USACE) 404 Permit
- USACE Section 10, Navigable Water Permit
- Indiana Department of Environmental Management (IDEM) Section 401 Water Quality Certification
- IDEM Isolated Wetland Permit
- IDNR Construction in a Floodway Permit
- IDEM Rule 5 Erosion Control Permit
- Coast Guard Section 9 permit

The Clean Water Act gives the USACE the responsibility for regulating the placement of fill in waters of the U.S., including wetlands. The USACE must make a jurisdiction determination for wetlands that may be impacted by a project. If the USACE determines a wetland a water of the U.S., then the wetland is considered "jurisdictional"; if it is not considered "jurisdictional" then the wetland is considered an "isolated" wetland. Indiana state law gives the IDEM the responsibility for regulating isolated wetlands.

If a project causes fill to be placed in more than 0.1 acre jurisdictional wetlands, a permit is required from the USACE. For INDOT projects, contact OES for assistance in determining the appropriate type of 404 Permit: regional, nationwide, or individual. LPA's are required to determine and obtain the appropriate 404 permit. A Preconstruction Notification (PCN) to the USACE may be required for projects authorized under nationwide permits. Projects which include more extensive work within the waters of the United States that cannot be authorized by a nationwide permit will require an Individual 404 permit from the USACE and a Section 401 Water Quality Certification from IDEM. For INDOT projects, contact OES for assistance in submitting the PCN to the USACE, if applicable.

For impacts to isolated wetlands, a permit is required from IDEM. For INDOT projects, contact OES for assistance in obtaining the isolated wetland permit. LPAs are required to obtain isolated wetland permits for their projects.

The USACE Section 10 Permit is required if fill material is placed in navigable waterways. This permit requires notification, or PCN, to the USACE to work in or place fill material in navigable waterways.

A Coast Guard Section 9 permit is required for bridges or other projects affecting commercially navigable waters of the United States.

Wetland or stream mitigation may be required for projects impacting those resources. Frequently these requirements are conditions of the 404 permit and/or the 401 water quality

certification. Post construction monitoring and annual reporting may be a part of the requirements for stream or wetland mitigation.

A Rule 5 Erosion Control Permit is required for any project that disturbs one (1) or more acres of land. This permit is handled during design in accordance with procedures developed by the IDEM and the Natural Resource Conservation Service (NRCS).

Process – INDOT obtains all necessary permits after the CE process is concluded, through OES. LPAs are responsible for obtaining all necessary permits. When project work is authorized under a 404 Permit and/or a 401 Water Quality Certification and/or a Construction in a Floodway Permit, the permit and/or certification will be made part of the contract plans as special provisions.

Information – In the Remarks, list all anticipated permits required for the project and note whose responsibility it will be to obtain the permits. If an Individual 404 Permit, IDEM 401 Water Quality Certification, or IDEM Isolated Wetland Permit is required; then a discussion of anti-degradation alternatives in accordance with anti-degradation rules and 401 Water Quality Certification rules (327 IAC 2-1.5-4) should be discussed in the Remarks.

When determining the types of waterway permits needed for a project, INDOT district offices are responsible for submitting Permit Determination (PD) packages to Office of Environmental Services Waterway Permits Unit that includes the following items:

- Title Sheet
- Applicable General Notes
- Plan and Profile Sheets
- Structure Detail Sheets
- Cross Section Sheets
- Drawings of any proposed temporary construction access fills
- Ecological information regarding types of streams and wetlands that may be impacted and estimation of impacts to those resources.
- Designed wetlands mitigation sites
- The delineation of the impacted wetlands
- The proposed mitigation plan
- The wetlands monitoring plan

Other tasks to be performed prior to submission of a preliminary PD package that are critical to OES review of a PD package may include:

- Ecological Coordination
- Section 106/SHPO Coordination
- Endangered Species literature searches/field investigations

It is the responsibility of local public agencies to obtain all appropriate permits and submit them to Contracts Division prior to the construction of their projects. INDOT will not process permits for local public agency projects.

When filling out the Categorical Exclusion Document Form, if a permit determination has been made by OES for a permit that is not listed, add the type of permit and the date of the determination to the "other permit" box (remarks section) and include the permit determination as an attachment.

**Section K - Environmental Commitments and Resources to Be Avoided**

Background – Environmental commitments are elements of the project that the project sponsor agrees to implement to mitigate impacts as part of the project. Environmental commitments may describe resources that will be avoided by the project. They also describe actions that will be taken to minimize and/or mitigate the environmental impact or enhance the resource that was impacted. Environmental commitments may be firm or items for further consideration. Examples of firm environmental commitments include avoiding a historic property, mitigating for the loss of wetlands, or completing additional archaeological investigation and recovery. An example of an item for further consideration is the planting of trees in excess right-of-way.

Process – Resource agencies and the public may identify or propose mitigation measures during the NEPA process. Prior to committing to any mitigation efforts, the ESM should coordinate with district production and construction personnel to ensure constructability.

Information – The environmental commitments section of the categorical exclusion form must include any commitments to avoid, minimize, or mitigate impacts to resources, or measures that will be implemented to enhance resources. Attach commitments made in agreements, such as a Section 106 Memorandum of Agreement. When the various permits are obtained, conditions or restrictions included in the permits should also be included in the Commitments Summary Form (Attachment 3). Clearly identify commitments that are firm and those that are to be considered further. Include any agency correspondence requesting special consideration of impacts or protection of sensitive areas during construction.

The preparer should develop Commitments Summary Form (Attachment 3) based on the commitment made in the NEPA process. The commitment sheet summary will follow the project through design and construction and must be updated as appropriate through the development process. ESM should provide a copy of the commitment sheet summary to district production personnel and to appropriate district construction personnel at or before a project's pre-construction meeting. The ESM also is responsible for coordinating and tracking these commitments through design, construction and maintenance.

**Section L – Early Coordination**

Background – Early coordination letters are sent to appropriate resource agencies and other interested parties to initiate the NEPA decision-making process.

Process – The preparer should check the *Procedural Manual for Preparing Environmental Studies* to determine who should be sent early coordination letters and for a sample early coordination letter. A Programmatic Agreement exists between INDOT and USFWS concerning early coordination (see Attachment 15A/15B). Utilize this agreement when appropriate.

Information – In the Remarks, list the agencies contacted, and include the date of the response or note whether there was no response provided. Attach to the CE all correspondence received as a result of early coordination.

# Attachments

| ENVIRONMENTAL SCREENING/CE-1 FORM | Date: |
|---|---|

☐ **Initial Version** ☐ **Revision to version dated** _____

**Purpose of this document**:

Scope of project (CE Level 2-4) ☐ Federal CE Level 1 approval/ optional documentation for exempted projects ☐ State-funded Categorical Exemption documentation ☐

| | |
|---|---|
| **Project No., County, Route** | **Des No:** |
| **Project Description:** | |
| **Purpose and Need for Action:** | |
| **Termini:** | |
| **Funding Source(s):** federal ___ state ___ local ___ | **Estimated Cost:** $ |
| **Project Sponsor:** | **Project Length:** |

| Scope of the Proposed Action: | No | Possible | Comments |
|---|---|---|---|
| Relocation of residences/businesses/etc.* | | | |
| Rights-of-way (acres)* | | | |
| Added through-traffic lanes – length* | | | |
| Permanent alteration of local traffic pattern* | | | |
| Facility on new location or realignment* | | | |
| Disruption to public facilities/services (such as schools, emergency service) | | | |
| Involvement with existing bridge(s)<br>Include structure number(s) | | | |

| Involvement with Resources: | No | Possible | Studies, Coordination, and Comments |
|---|---|---|---|
| Impacts to Sole Source Aquifer* | | | |
| Wetlands (acreage)* | | | |
| Section 4(f)/6(f) Resources * | | | |
| Cultural Resources (Section 106)* | | | |
| Noise Analysis Required* | | | |
| Threatened and Endangered Species Present/Impacted* | | | |
| Disturbance of natural terrestrial habitat (acreage) | | | |
| Watercourses Impacted | | | |

| | | | |
|---|---|---|---|
| **(Linear Feet)** | | | |
| **Flood Plains (Note Transverse Or Longitudinal Impact)** | | | |
| **Farmland (acreage)** | | | |
| **Karst Involvement** | | | |
| **Other Surface Waters Such As Ponds, Lakes, Reservoirs (Note Size)** | | | |
| **Air Quality Nonattainment Area** | | | |
| **Community/Economic Impacts** | | | |
| **Environmental Justice** | | | |
| **Public Involvement** | | | |
| **Hazardous Materials** | | | |
| **Permits** | | | |

*Criteria used for determination of CE Level. See Table 1.

| **Environmental Commitments Made and Resources to be Avoided** |
|---|
| |

## Table 1: CE Level Thresholds

| | Level 1 | Level 2 | Level 3 | Level 4 |
|---|---|---|---|---|
| **Relocations** | None | ≤ 2 | > 2 | > 10 |
| **Right of way**[1] | < 0.5 acres | < 10 acres | ≥ 10 acres | N/A |
| **Length of added through lane** | None | < 1 miles | ≥ 1 mile | N/A |
| **Traffic pattern alteration** | None | None | Yes | N/A |
| **New alignment** | None | None | < 1 mile | ≥ 1 mile[2] |
| **Wetlands** | < 0.1 acres | < 1 acre | ≥ 1 acre | N/A |
| **Section 4(f)** | None | None | Programmatic/de minimis Findings[3] | Individual 4(f) |
| **Section 6(f)** | None | None | Any impacts | N/A |
| **Section 106** | "No Historic Properties Affected" | "No Historic Properties Affected" | "No Adverse Effect" or "Adverse Effect" | If ACHP involved |
| **Noise Analysis Required** | No | No | No | Yes[4] |
| **Threatened/Endangered Species** | Falls within Guidelines of USFWS 9/8/93 Programmatic Response | "No Effect" or "Not likely to Adversely Effect" | Formal Consultation resulting in "Not likely to Adversely Effect" | "Likely to Adversely Effect" |
| **Sole Source Aquifer Groundwater Assessment** | Detailed Assessment Not Required | Detailed Assessment Not Required | Detailed Assessment Not Required | Detailed Assessment Required |
| **Approval Level**<br>• **ESM**[5]<br>• **District Planning Director**<br>• **OES**<br>• **FHWA** | <br>Yes | <br>Yes<br>Yes | <br>Yes<br>Yes<br><br>Yes | <br>Yes<br>Yes<br><br>Yes<br>Yes |

[1]Permanent and/or temporary right of way.
[2]If the length of the new alignment is equal to or greater than one mile, contact FHWA's Air Quality/Environmental Specialist.
[3]FHWA must review and approve Programmatic and de minimis Section 4(f) prior to CE approval.
[4] In accordance with INDOT's Noise Policy.

[5] Environmental Scoping Manager

| In accordance with the *Programmatic Categorical Exclusion Agreement* between INDOT and FHWA, the following type of environmental documentation is needed: | |
|---|---|
| | **State-Funded Project –** For projects that are 100% state-funded, and meets IDEM's approved list of Categorically Exempted Projects. |
| | **Categorical Exclusion, Level 1** – CE Level 1 form (Environmental Screening/CE-1 Form) and necessary supporting documentation, including coordination and ensuing permits, be completed and kept on file by the district. The Environmental Scoping Manager's (ESM) signature is required for CE Level 1 projects. Projects that do not meet the criteria for CE Level 1 shall be processed at the next appropriate higher level. |
| | From Indiana Categorical Exclusion Manual Tables 2 and 3, identify the item number(s) or letter(s) under which the CE was approved. For projects not listed on either table 2 or 3, but determined to be Level 1 CEs, then provide appropriate documentation. |
| | **Categorical Exclusion, Level 2 through 4** – The proposed action does not meet the criteria for Categorical Exclusion Manual Level 1 - table 1, CE Level Thresholds. Additional research and documentation are necessary to determine the effects on the environment. The Categorical Exclusion Form should be prepared. Once coordination and resource studies are completed, determination on the level of CE can be made using the threshold levels on Table 1. |
| | **EA** – An Environmental Assessment is to be prepared. |
| | **EIS** – An Environmental Impact Statement is to be prepared. |

**Form Prepared By:**

Name / Organization Date

**Programming of Project:**

Environmental Scoping Manager Date

**Approval of Exempt, CE-1 Level or State-Funded CE:**

Environmental Scoping Manager Date

# FHWA-Indiana Environmental Document

CATEGORICAL EXCLUSION DOCUMENT FORM

## GENERAL PROJECT INFORMATION

| | |
|---|---|
| **Road No./County:** | |
| **Designation Number:** | |
| **Project Description/Termini:** | |

## DOCUMENT APPROVAL

After completing this form, I conclude that this project qualifies for the following type of Categorical Exclusion (FHWA must review/approve if Level 4 CE):

| | |
|---|---|
| | **Categorical Exclusion, Level 2** – The proposed action meets the criteria for Categorical Exclusion Manual Level 2 - table 1, CE Level Thresholds. Additional research and documentation is necessary to determine the effects on the environment. Categorical Exclusion Form to be prepared. Projects that do not meet the criteria for CE Level 2 shall be processed at the appropriate higher level. Required Signatories: ESM, District Planning Director (DPD). |
| | **Categorical Exclusion, Level 3** – The proposed action meets the criteria for Categorical Exclusion Manual Level 3 - table 1, CE Level Thresholds. Additional research and documentation is necessary to determine the effects on the environment. Categorical Exclusion Form to be prepared. Projects that do not meet the criteria for CE Level 31 shall be processed at the appropriate higher level. Required Signatories: ESM, DPD, OES. |
| | **Categorical Exclusion, Level 4** – The proposed action meets the criteria for Categorical Exclusion Manual Level 4 - table 1, CE Level Thresholds. Additional research and documentation is necessary to determine the effects on the environment. Categorical Exclusion Form to be prepared. Projects that do not meet the criteria for CE Level 4 shall be processed at the appropriate higher level. Required Signatories: ESM, DPD, OES, FHWA. |

Approval _____ _____ _____ _____
ESM Signature Date DPD Signature Date

_____ _____ _____ _____
OES Signature Date FHWA Signature Date

Note: Do not approve until after Section 106 public involvement and all other environmental requirements have been satisfied.

CE Prepared By: _____

# Part I - General Project Identification, Description, and Design Information

Sponsor of the Project: _____ INDOT District: _____
Local Name of the Facility: _____

Funding Source: ☐ Federal ☐ State ☐ Local ☐ Private

**PROJECT DESCRIPTION (PREFERRED ALTERNATIVE):**

County: _____
Municipality: _____

Limits of Proposed Work:
Total Work Length: _____ mi

| | Yes[1] | No |
|---|---|---|
| Is an Interchange Modification Study / Interchange Justification Study (IMS/IJS) required? | | |
| If yes, when did FHWA grant a conditional approval for this project? | Date: | |

[1]*If an IMS or IJS is required, a copy of the approved CE document must be submitted to FHWA with a request for final approval of the IMS/IJS.*

## *Indiana Department of Transportation*

| County | Route | Section | Des. No. | Project No. |
|---|---|---|---|---|
| | | | | |

**PURPOSE AND NEED FOR THE PROJECT:**

**OTHER ALTERNATIVES CONSIDERED:**

**The Do Nothing Alternative is not feasible, prudent or practicable because** (Mark all that apply ):

| | |
|---|---|
| It would not correct existing capacity deficiencies; | |
| It would not correct existing safety hazards; | |
| It would not correct the existing roadway geometric deficiencies: | |
| It would not correct existing deteriorated conditions and maintenance problems, or | |
| It would result in serious impacts to the motoring public and general welfare of the economy. | |
| Other | |

This is page 4 of 19, which is part of: _____ Date: _____

## *Indiana Department of Transportation*

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

### ROADWAY CHARACTER:

Functional Classification: _____

Current ADT: _____ VPD 20( ) Design Year ADT: _____ VPD 20 ( )

DHV: _____ Trucks, _____ %

Designed Speed: _____ mph Legal Speed: _____ mph

| | Existing | Proposed |
|---|---|---|
| Number of Lanes: | | |
| Type of Lanes: | | |
| Pavement Width: | ft. | ft. |
| Shoulder Width: | ft. | ft. |
| Median Width: | ft. | ft. |
| Sidewalk Width: | ft. | ft. |

Setting: ☐ Urban ☐ Suburban ☐ Rural

Topography: ☐ Level ☐ Rolling ☐ Hilly

### DESIGN CRITERIA FOR BRIDGES:

Structure Number(s): _____ Sufficiency Rating: _____

| | Existing | | | Proposed | | |
|---|---|---|---|---|---|---|
| Bridge Type: | | | | | | |
| Number of Spans: | | | | | | |
| Weight Restrictions: | | ton | | | ton | |
| Height Restrictions: | | ft. | | | ft. | |
| Curb to Curb Width: | | ft. | | | ft. | |
| Outside to Outside Width: | | ft. | | | ft. | |
| Shoulder Width: | | ft. | | | ft. | |
| Length of Channel Work: | | ft. | | | ft. | |

Remarks:

Will the structure be rehabilitated or replaced as part of the project? **Yes** ☐ **No** ☐

*If the proposed action has multiple bridges this section should be filled out for each structure.*

This is page 5 of 19, which is part of: _____ Date: _____

## *Indiana Department of Transportation*

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

### MAINTENANCE OF TRAFFIC (MOT) DURING CONSTRUCTION:

| | Yes | No |
|---|---|---|
| Is a temporary bridge proposed? | | |
| Is a temporary roadway proposed? | | |
| Will the project involve the use of a detour or require a ramp closure? | | |
| Provisions will be made for access by local traffic and so posted. | | |
| Provisions will be made for through-traffic dependent businesses. | | |
| Provisions will be made to accommodate any local special events or festivals. | | |
| Will the proposed MOT substantially change the environmental consequences of the action? | | |
| Is there substantial controversy associated with the proposed method for MOT? | | |

Remarks:

### ESTIMATED PROJECT COST AND SCHEDULE:

Engineering: $ _____ Right-of-Way: $ _____ Construction: $ _____

Anticipated Start Date of Construction: _____

### RIGHT OF WAY AND UTILITY INVOLVEMENT:

| | Amount (acres) | |
|---|---|---|
| Land Use Impacts | Permanent | Temporary |
| Residential | | |
| Commercial | | |
| Agricultural | | |
| Forest | | |
| Wetlands | | |
| Other: | | |
| Other: | | |
| Other: | | |
| TOTAL | | |

| | Yes | No |
|---|---|---|
| Has Utility Coordination been completed? | | |
| Are large scale transmission facilities located within the project area? If Yes, explain. | | |
| Are there any private utility easements within the project area? | | |
| If YES, will it be impacted by the project? | | |

Remarks:

This is page 6 of 19, which is part of: _____ Date: _____

# Part II – Identification and Evaluation of Impacts of the Proposed Action

## SECTION A – ECOLOGICAL RESOURCES

| | Presence | | Impacts | |
|---|---|---|---|---|
| | Yes | No* | Yes*** | No** |
| **Streams, Rivers, Watercourses & Jurisdictional Ditches** | | | | |
| State Wild, Scenic or Recreational River | | | | |

Remarks:

| | Presence | | Impacts | |
|---|---|---|---|---|
| | Yes | No* | Yes*** | No** |
| **Other Surface Waters** | | | | |
| Reservoirs | | | | |
| Lakes | | | | |
| Farm Ponds | | | | |
| Detention Basins | | | | |
| Storm Water Management Facilities | | | | |
| Other: _____ | | | | |

Remarks:

| | Presence | | Impacts | |
|---|---|---|---|---|
| | Yes | No**** | Yes*** | No** |
| **Wetlands** | | | | |

Total wetland area: _____ acre(s) Total wetland area impacted: _____ acre(s)
(If a determination has not been made for non-isolated/isolated wetlands, fill in the total wetland area impacted above.)

This is page 7 of 19, which is part of: _____ Date: _____

## *Indiana Department of Transportation*

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

| Wetland No. | Classification | Total Size (Acres) | Impacted Acres | Comments |
|---|---|---|---|---|
| 1 | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| 2 | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| **Wetlands******* | **Documentation** Yes | No |
|---|---|---|
| Wetland Determination | | |
| Wetland Delineation Report | | |
| Individual Wetland Finding | | |
| **Improvements that will not result in any wetland impacts are not practicable because such avoidance would result in (Mark all that apply and explain):** | | |
| Substantial adverse impacts to adjacent homes, business or other improved properties; | | |
| Substantially increased project costs; | | |
| Unique engineering, traffic, maintenance, or safety problems; | | |
| Substantial adverse social, economic, or environmental impacts, or | | |
| The project not meeting the identified needs. | | |
| USACE Isolated Waters Determination | | |
| Mitigation Plan | | |

*Measures to avoid, minimize and mitigate wetland impacts need to be discussed in the remarks section*

Remarks:

**If the resource is not present, the remainder of this subject section will not be completed*
***If the resource is present but no impacts are anticipated, the reason why is described under Remarks.*
****Any impacts, mitigation, and agency coordination are described under Remarks and coordination letters are attached.*
*****If "no", discuss in the Remarks details how this determination was made.*
******If the proposed action has multiple wetlands, this section should be filled out for each wetland.*

This is page 8 of 19, which is part of: _____ Date: _____

## *Indiana Department of Transportation*

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

| | Presence | | Impacts | |
|---|---|---|---|---|
| | Yes | No**** | Yes*** | No** |
| **Terrestrial Habitat** | | | | |

*Use the remarks table to identify each type of habitat and the acres impacted (i.e. forested, grassland, farmland, lawn, etc).*

Remarks:

| | Presence | | Impacts | |
|---|---|---|---|---|
| | Yes | No**** | Yes*** | No** |
| **Karst**<br>Does the proposed project involve the Karst Region of Indiana? | | | | |

*Use the remarks table to identify any karst features within the project area. (Karst investigation must comply with the Karst MOU, dated October 13, 1998)*

Remarks:

| | Presence | | Impacts | |
|---|---|---|---|---|
| | Yes | No**** | Yes*** | No |
| **Threatened or Endangered Species** | | | | |
| Within the known range of any federal species? | | | | |
| Any critical habitat identified within project area? | | | | |
| Federal species found in project area (based upon informal consultation)? | | | | |
| State species found in project area (based upon consultation with IDNR)? | | | | |
| Is Section 7 formal consultation required for this action? | | | | |

This is page 9 of 19, which is part of: _____ Date: _____

## *Indiana Department of Transportation*

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

Remarks:

## SECTION B – OTHER RESOURCES

| | Presence | | Impacts | |
|---|---|---|---|---|
| | **Yes** | **No*** | **Yes** | **No** |
| **Drinking Water Resources** | | | | |
| Sole Source Aquifer (SSA) | | | | |
| Is the Project in the St. Joseph Aquifer System? | | | | |
| Is the FHWA/EPA SSA MOU Applicable? | | | | |
| Initial Groundwater Assessment Required? | | | | |
| Detailed Groundwater Assessment Required? | | | | |
| Source Water Protection Area(s) | | | | |
| Public Water System(s) | | | | |
| Residential Well(s) | | | | |

Remarks:

| | Presence | | Impacts | |
|---|---|---|---|---|
| | **Yes** | **No*** | **Yes** | **No** |
| **Flood Plains** | | | | |
| Longitudinal Encroachment | | | | |
| Transverse Encroachment | | | | |
| Is the project located in a FEMA designated floodplain? | | | | |
| Homes located in floodplain within 1000' up/downstream from project. | | | | |

*Discuss impacts according to classification system described in the "Procedural Manual for Preparing Environmental Studies".*

Remarks:

This is page 10 of 19, which is part of: _____ Date: _____

## *Indiana Department of Transportation*

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

| | Presence | | Impacts | |
|---|---|---|---|---|
| | Yes | No* | Yes | No |
| **Farmland** | | | | |
| Agricultural Lands | | | | |
| NRCS-CPA-106 Form scored ≥ 160? | | | | |

Remarks:

## SECTION C – CULTURAL RESOURCES

| | Results of Research: Eligible and/or Listed Resource Present | | Project Effect | | |
|---|---|---|---|---|---|
| | Yes | No | No Historic Properties Affected | No Adverse Effect | Adverse Effect |
| Prehistoric Archaeology | | | | | |
| Historic Archaeology | | | | | |
| History/Architecture | | | | | |
| NRHP Buildings/Site(s) | | | | | |
| NRHP District(s) | | | | | |
| NRHP Bridge(s) | | | | | |

| | Documentation Prepared | | |
|---|---|---|---|
| **Documentation** | **Yes** | **Not Applicable** | **SHPO/OES/FHWA Approval Dates** |
| Phase I Short Report | | | |
| Phase I Cultural Resources Survey Report | | | |
| Phase I History/Architecture Survey Report | | | |
| Phase I Archaeology Survey Report | | | |
| Phase II Cultural Resources Survey Report | | | |
| Phase II History/Architecture Survey Report | | | |
| Phase II Archaeology Excavation Report | | | |
| Phase III Archaeology Data Recovery | | | |
| APE, Eligibility and Effect Determination | | | |
| 800.11 Documentation | | | |
| Memorandum of Agreement | | | |

*The completion of the Section 106 process requires that a Legal Notice be published in local newspapers. Please indicate the publication date, name of paper and the comment period deadline. Likewise include any further Section 106 work which must be completed at a later date, such as mitigation or deep trenching.*

This is page 11 of 19, which is part of: _____ Date: _____

## *Indiana Department of Transportation*

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

Remarks:

## SECTION D – SECTION 4(F)/6(F) RESOURCES

| | Presence | | Use | | |
|---|---|---|---|---|---|
| | Yes | No**** | Yes*** | No** | FHWA / OES Approval/dates |
| **Parks & Other Recreational Land** | | | | | |
| Publicly owned park | | | | | |
| Publicly owned recreation area | | | | | |
| Programmatic Section 4(f) Evaluation | | | | | |
| Individual Section 4(f) | | | | | |
| Other (school, state/national forest, bikeway, etc.) | | | | | |
| "De minimis" Impact | | | | | |

| | Presence | | Use | | |
|---|---|---|---|---|---|
| | Yes | No**** | Yes*** | No** | FHWA / OES Approval/dates |
| **Wildlife & Waterfowl Refuges** | | | | | |
| Federal | | | | | |
| National Wildlife Refuge | | | | | |
| State | | | | | |
| State Fish & Wildlife Area – recreation or refuge areas only | | | | | |
| Programmatic Section 4(f) | | | | | |
| Individual Section 4(f) Evaluation | | | | | |
| "De minimis" Impact | | | | | |

| **Historic Properties** | Yes | No** | Yes*** | No** | FHWA / OES approval/dates |
|---|---|---|---|---|---|
| Sites eligible and/or listed on the NRHP | | | | | |
| Programmatic Section 4(f) | | | | | |
| Individual Section 4(f) Evaluation | | | | | |
| "De minimis" Impact | | | | | |

| | Yes | No | Yes | No |
|---|---|---|---|---|
| **Section 6(f) Involvement** | | | | |

This is page 12 of 19, which is part of: _____ Date: _____

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

*Discuss Programmatic Section 4 (f) impacts in the remarks section below. Individual Section 4(f) documentation must be separate Draft and Final documents. For further discussions on Programmatic and Individual Section 4(f) documents please refer to the "Procedural Manual for the Preparation of Environmental Studies". Discuss any Section 6(f) involvement.*

Remarks:

## SECTION E – AIR QUALITY

**Air Quality**

| | Yes | No |
|---|---|---|
| **Conformity Status of the Project** | | |
| Is the project in an air quality non-attainment or maintenance area? | | |
| Is this project in the INSTIP? | | |
| Is the current design for this project in the most current MPO air quality conforming TIP/TP? | | |
| If NO, is this project exempt from conformity analysis? | | |

| **Project-Level Analysis and Impacts** | **Yes** | **No** |
|---|---|---|
| Will the project add capacity? | | |
| If yes, does this project meet the NAAQS for CO? | | |

Remarks:

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

## SECTION F - NOISE

| **Noise** | **Yes** | **No** |
|---|---|---|
| Is a noise analysis required in accordance with FHWA regulations and INDOT's noise policy? | ☐ | ☐ |

Remarks:

## SECTION G – COMMUNITY IMPACTS

| **Regional, Community & Neighborhood Factors** | **Yes** | **No** |
|---|---|---|
| Will the proposed action comply with the local/regional development patterns for the area? | ☐ | ☐ |
| Will the proposed action result in substantial impacts to community cohesion? | ☐ | ☐ |
| Will the proposed action result in substantial impacts to local tax base or property values? | ☐ | ☐ |
| Will construction activities impact community events (festivals, fairs, etc.)? | ☐ | ☐ |

Remarks:

| | **Yes** | **No** |
|---|---|---|
| Will the proposed action result in substantial indirect or cumulative impacts? | ☐ | ☐ |

Remarks:

This is page 14 of 19, which is part of: _____ Date: _____

## *Indiana Department of Transportation*

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

**Public Facilities & Services**

| | Yes | No |
|---|---|---|
| Will the proposed action result in substantial impacts on health and educational facilities, public utilities, fire, police, emergency services, religious institutions, public transportation or pedestrian and bicycle facilities? | | |

Remarks:

**Environmental Justice (EJ)** (Presidential EO 12898)

| | Yes | No |
|---|---|---|
| During the development of the project were EJ issues identified? | | |
| Are any EJ populations located within the project area? | | |
| Will the project result in adversely high or disproportionate impacts to the EJ population? | | |

Remarks:

**Displacement of People, Businesses or Farms:**

| | Yes | No |
|---|---|---|
| Will the proposed action displace people, businesses or farms? | | |
| Is a business needs survey required? | | |

Number of displacements: Residences: ____ Businesses: _____ Farms: _____ Other: _____

Remarks:

This is page 15 of 19, which is part of: _____ Date: _____

## SECTION H – PUBLIC INVOLVEMENT

Every Federal action requires some level of public involvement, providing for early and continuous opportunities throughout the project development process. **The level of public involvement should be commensurate with the proposed action.**

Discuss what public involvement activities (letters to affected property owners and residents, meetings, special purpose meetings, newspaper articles, etc.) have occurred for this project.

Remarks:

| **Public Controversy on Environmental Grounds** | **Yes** | **No** |
|---|---|---|
| Will the project involve substantial controversy concerning community and/or natural resource impacts? | | |

Remarks:

## SECTION I – HAZARDOUS MATERIALS & REGULATED SUBSTANCES

| | **Documentation** | |
|---|---|---|
| | **Yes** | **No** |
| Potential Hazardous Waste Site Assessment Form | | |
| Phase I Initial Site Assessment (ISA) | | |
| Phase II Preliminary Site Investigation(PSI) | | |
| Design/Specifications for Remediation required? | | |

## *Indiana Department of Transportation*

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

Remarks:

## SECTION J – PERMITS CHECKLIST

| | Required | Not Required | Complete Yes | Complete No |
|---|---|---|---|---|
| **OES Preliminary Permit Determination** | | | | |
| **Army Corps of Engineers (404/Section10 Permit)** | | | | |
| Individual (IP) | | | | |
| Nationwide (NWP) | | | | |
| Regional General Permit (RGP) | | | | |
| Pre-Construction Notification (PCN) | | | | |
| Other | | | | |
| Wetland Mitigation required | | | | |
| **IDEM** | | | | |
| Section 401 WQC | | | | |
| Isolated Wetlands determination | | | | |
| Rule 5 | | | | |
| Other | | | | |
| Wetland Mitigation required | | | | |
| Stream Mitigation required | | | | |
| **IDNR** | | | | |
| Construction in a Floodway | | | | |
| Navigable Waterway Permit | | | | |
| Lake Preservation Permit | | | | |
| Other | | | | |
| Mitigation Required | | | | |
| **US Coast Guard Section 9 Bridge Permit** | | | | |
| **Others (Please discuss in the Remarks section below)** | | | | |
| | | | | |

This is page 17 of 19, which is part of: _____ Date: _____

County _____ Route _____ Section _____ Des. No. _____ Project No. _____

Remarks:

**SECTION K- ENVIRONMENTAL COMMITMENTS MADE INCLUDING RESOURCES TO BE AVOIDED**

*Information below must be included on Commitments Summary Form.*

Remarks:

## *Indiana Department of Transportation*

| County | Route | Section | Des. No. | Project No. |
|---|---|---|---|---|
| _____ | _____ | _____ | _____ | _____ |

**SECTION L- EARLY COORDINATION**

*Please list the date coordination was sent and all agencies that were contacted as a part of the development of this Environmental Study. Also, include the date of their response and if they failed to respond so indicate.*

Remarks:

**If the resource is not present, the remainder of this subject section will not be completed*
***If the resource is present but no impacts are anticipated, the reason why is described under Remarks.*
****Any impacts, mitigation, and agency coordination are described under Remarks and coordination letters are attached.*
*****If "no", discuss in the Remarks details how this determination was made.*
******If the proposed action has multiple wetlands, this section should be filled out for each wetland.*

This is page 19 of 19, which is part of: _____ Date: _____

## Commitments Summary Form

| | |
|---|---|
| **Des. No.:** | |
| **Project No.:** | |
| **County:** | |
| **Description:** | |
| **Project Termini:** | |
| **Average R/W Width:** | |

| **Committed Items**: (If implementation is not possible, section that made commitment must document review.) | **Implemented**: Yes/No (reason) |
|---|---|
| | |
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| | |
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| | |
| | |
| | |
| | |

| **Committed Items**: (If implementation is not possible, section that made commitment must document review.) | **Implemented**:<br>Yes/No (reason) |
|---|---|
| | |
| | |

| **Items for further consideration:** (Designer or other responsible party must briefly describe implement response.) | **Implemented**:<br>Yes/No (reason) |
|---|---|
| | |
| | |
| | |
| | |

| | |
|---|---|
| **Commitments by Office of Environmental Services by:** | |
| **Evaluated and/or Modified/Updated by Design by:** | |
| **Evaluated and/or Modified/Updated by Land Acquisition by:** | |
| **Final Design Evaluation and Preparation for Construction by:** | |
| **All Commitments have been Incorporated into the Project (PS/E):** | |

## *ENVIRONMENTAL CONSULTATION FORM*

### *Indiana Department of Transportation*

**County:** **Route:** **Designation Number:**

**Date of Plan Submission :**

**Funding Source(s):** ☐ Federal ☐ State ☐ Local ☐ Private

**Type of Environmental Document**:

☐ Exempt ☐ CE-1 ☐ CE-2 ☐ CE-3 ☐ CE-4 ☐ EA/FONSI ☐ EIS/ROD

**Date of Environmental Approval**: _____

**Environmental Reevaluation Screening:**

Are the scope and impacts still consistent with the approved CE and all subsequent re-evaluations (if any)? _____ Yes _____No
If "Yes", what is the date of the last approval (CE or Reevaluation)? _____
If "No", then an additional re-evaluation is required before completing this form.

If a Reevaluation was completed were there any changes to the environmental commitments?
_____ Yes _____ No
If yes, please address the changes on the attached Commitment Summary Form.

**If the type of approval was an EIS-ROD:**
Most recent date of an FHWA authorization for the project (final design, r/w acquisition): _____
Have more than three years passed between federal approvals? _____ Yes _____No
If "Yes", what date was the NEPA Reevaluation approved? _____

Has the funding been switched from 100% state and/or local, to now include federal participation or need a federal action (such as permit approval)?
_____ Yes _____No
If so, does the current environmental document and approval cover all of the applicable federal regulatory requirements? _____ Yes _____ No

**Commitments:**
Include all commitments and their disposition on the Commitments Summary Form.

## *Indiana Department of Transportation*

**County:** **Route:** **Designation Number:**

| Type of Permit: | | Required for this Project? Yes or No | Date Obtained | Expiration Date | Incorporated into the Construction Contract? Yes or No |
|---|---|---|---|---|---|
| Army Corps of Engineers (404/Section10 Permit) | | | | | |
| | **Individual (IP)** | | | | |
| | **Nationwide (NWP)** | | | | |
| | **Regional General Permit (RGP)** | | | | |
| | **Pre-Construction Notification (PCN)** | | | | |
| IDEM | | | | | |
| | **Section 401** | | | | |
| | **Isolated Wetlands determination** | | | | |
| | **Wetland Mitigation required** | | | | |
| | **Stream Mitigation required** | | | | |
| | **Rule 5** | | | | |
| | **Pre-Construction Notification (PCN)** | | | | |
| IDNR | | | | | |
| | **Construction in a Floodway** | | | | |
| | **Lake Preservation permit** | | | | |
| US Coast Guard Section 9 Bridge Permit | | | | | |
| Others (Please list below) | | | | | |

INDOT has reviewed the original Environmental Document and all subsequent reevaluations (if any) and hereby finds that the Document remains valid.

Prepared by: _____ Date:
INDOT Design Section

Approved by: _____ Date:
District ESM/DPD or OES

## GLOSSARY OF TERMS

### A

**Abutment:** A substructure supporting the ends of a single span or the extreme ends of a multi-span superstructure and, in general, retaining or supporting the approach embankment.

**Adjacent** - To lie near, adjoining, contiguous, tangent or neighboring. (33 CFR 328.3(c))

**Adjacent Wetlands** - Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes and the like. (33 CFR 328.3(c)).

**Adverse Effect** - In 36 CFR Part 800, this is one of the determinations of effect that can be made through consultation with the State Historic Preservation Office. This finding means that an undertaking has an effect on a historic property that alters the characteristics of the property that qualify it for inclusion in or eligibility for the National Register of Historic Places. It means that mitigation is required to resolve the undertaking's effect on a property.

**Advisory Council for Historic Preservation (ACHP)** - An independent federal agency responsible for the federal review process to ensure that cultural resources are considered during federal project planning and implementation.

**Affected Environment** - The physical features, land, area or areas to be influenced, impacted or created by a transportation improvement under consideration; also includes various social and environmental factors and conditions pertinent to an area.

**Agency Coordination** - Refers to the process whereby the Department of Transportation contacts, consults and maintains communication with various public and environmental resource agencies, affording such agencies an opportunity to review and comment upon specific transportation proposals.

**Alternative** - One of a number of specific transportation improvement proposals, alignments, options, design choices, etc. in a study. Following detailed analysis, one improvement alternative is chosen for implementation.

**Alternative Analysis** - A systematic review and evaluation of practicable alternatives including avoidance, minimization and/or compensatory mitigation for impacts to a wetland, historic or other type of resource.

**Approving Authority** - The individual or agency who approves a categorical exclusion.

**Applicability** - That which can be brought to bear upon a particular matter or problem; able to be applied, appropriate; applies to all projects that receive funding or require federal approval by an agency of the U.S. DOT. (23 CFR 771.135, Section 4(f)).

**Archaeological Investigations** - Studies of prehistoric and historic locales which provide understanding of past human behavior, culture change, and related topics through scientific and scholarly techniques such as literature research, excavation, analysis and interpretation.

**Archaeological Resource:** The location of a building, structure, district, site, or objects constructed or deposited at least 50 years ago where the location itself possesses research value.

**Archaeological Resource Table:** Format used to document archaeological resources identified within the survey area. Resources must be documented in the table and/or addressed in the survey report. The table is most effective when numerous sites are identified. Patterns and distribution of resource types become evident. Location, physical description, and level of integrity must be included in the table for each property.

**Area of Potential Effects (APE):** 36 CFR Part 800.16(d) defines the APE as "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking." The APE is determined by the local, state or federal agency taking primary responsibility for preparing an engineering or environmental document. It is the responsibility of the sponsoring agency to determine the APE in consultation with INDOT-OES and SHPO.

**Aerial Cover** - The percent of vegetation covering any area of vegetated wetland. Aerial measurements are those made as if the wetland were being viewed from air.

**Average Daily Traffic (ADT)** - The average number of vehicles that pass a point each day averaged over a specified period of time.

**Avoidance** - The first step in the alternatives analysis and means that the applicant must demonstrate that alternatives which fulfill the basic project purpose and have less impacts to the a resource are not practicable, so long as the alternative does not have other significant adverse environmental consequences.

## B

**Biological Criteria (Biocriteria)** - Numerical values or narrative expressions that describe the condition of aquatic, biological assemblages of reference sites of a give aquatic life use designation.

**Biological Diversity (Biodiversity)** - In an environment as indicated by numbers of different species of plants and animals; number of community types; genetic variants of species found in a given area.

**Biological Integrity** - The ability of an aquatic ecosystem to support and maintain a balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of natural habitats within a region.

**Biota** - The plants and animals living in a habitat.

**Bog** - A peat-accumulating wetland that has no significant inflows or outflows and supports acidophilic mosses, particularly Sphagnum spp.

**Boundary Justification:** An explanation of the reasons for selecting the boundaries of a historic property.

**Bridge:** A structure, including supports, erected over a depression or an obstruction such as water, highway, or a railway having a track or passageway for carrying traffic or other moving loads, and having a length measured along the center of the roadway of more than 20 ft (6.1 m) between undercopings of abutments or extreme ends of openings for multiple boxes. (INDOT definition)

**Building:** A resource created principally to shelter any form of human activity, such as a house.

**C**

**Capacity** - The maximum number of vehicles (average daily traffic, or ADT) that can reasonably be expected to pass over a lane of roadway during a given time period under prevailing roadway and traffic conditions.

**Captured Stream** - A drainage ditch constructed in an upland area that connects two Waters of the U.S. and maintains the surface water connection between those two Waters of the U.S. The captured stream is generally considered to be a Water of the U.S. if it continually maintains the connection between the other two (upstream and downstream) Waters of the U.S. Captured streams will generally carry water; however, they may be dry during certain times of the year. (Fed. Reg./Vol. 65, No 47, 3/9/00).

**Categorical Exclusion (CE):** A classification given to federally-aided projects or actions that do not have a significant effect on the environment either individually or cumulatively. Once a categorical exclusion is approved for a project, environmental clearance requirements of the National Environmental Policy Act have been satisfied.

**Categorical Exclusion Confirmation (CEC)** - A determination prepared to demonstrate that there are no significant environmental impacts, either individually or cumulatively on a project and does not require the preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS).

**CEQ Regulations** - Regulations issued by the Federal Council on Environmental Quality (40 CFR 1500-1508) that govern the development and issuance of environmental policy

and procedures for federal aid actions by public agencies. The regulations contain definitions, spell out applicability and responsibilities, and mandate certain processes and procedures to be followed by state agencies that administer federally funded programs.

**Clean Air Act Amendments of 1990 (CAAA 90)** - Federal legislation passed in 1990 to change both federal and state approaches to regulating air quality; mandating programs to curb acid rain, urban air pollution, and toxic air emissions. The CAAA's call for emission reduction measures in air quality nonattainment areas, including the consideration of transportation control measures (TCMs) as part of transportation improvement projects.

**Compensatory Mitigation** - Refers to the final step in the alternatives analysis and means restoration, creation, enhancement or, in exceptional circumstances, preservation of wetlands expressly for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization have been achieved.

**Comprehensive Plan** - The general, inclusive long-range statement of the future development of a community. The plan is typically a map accompanied by description and supplemented by policy statements that direct future capital improvements in an area.

**Conceptual Mitigation** - The early, generalized identification of design, operational or construction measures that would minimize or avoid anticipated adverse environmental consequences.

**Conformity** - The U.S. Clean Air Act stipulates that any approved transportation project, plan, or program must conform to the State Implementation Plan (SIP), a document which prescribes procedures for the implementation, maintenance and enforcement of primary and secondary pollutants.

**Constraints** - More commonly described as "environmental features". Significant resources, facilities or other features of a study area located in or adjacent to an existing or proposed transportation corridor that serve to restrain, restrict, or prevent the ready implementation of proposed transportation improvements in a given area; may include natural or physical resources, important structures, manner of payment and various administrative requirements which must be met.

**Constructed or Created Wetland** - The establishment of a wetland where one did not formerly exist. This would involve wetland construction on non-hydric soils. These wetlands are designated to meet a variety of human benefits including, but not limited to, the treatment of water pollution discharges (e.g. municipal wastewater, storm water, etc.) and the mitigation of wetland losses permitted under Section 404 of the Clean Water Act.

**Consultant** - An individual, partnership or firm with qualified expertise in engineering, environmental or public involvement disciplines who is contracted by the originating office to provide technical services.

**Consultant Agreement** - A binding legal agreement between the Department and an individual, partnership, or firm for the procurement of engineering, environmental, construction inspection, or other services; typically includes a scope of work, required staffing, schedules, manner of payment and various administrative requirements which must be met.

**Consultant Selection Process** - A process of selection for the most qualified consultant to perform work as specified within a designated scope.

**Consultation:** Process of seeking, discussing, and considering the views of other participants, and where feasible, seeking agreement with them regarding matters arising in the Section 106 process.

**Consulting Party:** Individual or entity, identified as a result of the NEPA and/or Section 106 public involvement activities, that have expressed an interest in the effects of the undertaking on historic resources. Consulting parties are invited to participate in the consultation process.

**Contract Documents** - Written material and engineering data required to put a highway construction project under contract, including: proposals, agreements, plans, specifications, estimates, and other information pertaining to the manner and method of furnishing materials and performing the work under binding agreement.

**Contributing Resource:** A building, site, structure, or object adding to the historic significance of a property.

**Cooperating Agency** - As defined in the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, "any organization other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involving...[a] major Federal action significantly affecting the quality of the human environment." CEQ emphasizes that agency cooperation should begin early in the NEPA process.

**Criteria-National Register of Historic Places:** Standards by which the historical significance of a property is evaluated.

**Critical Habitat** - (1) The specific areas within the geographical area currently occupied by a species, at the time it is listed in accordance with the Endangered Species Act on which are found those physical or biological features essential to the conservation of the species, and that may require special management considerations or protection; and (2) Specific areas outside the geographical are occupied by a species at the rime it is listed in accordance with the Endangered Species Act, upon a determination by the Secretary of the U.S. Department of Interior, that such areas are essential for the conservation of the species.

**Cultural Resource:** Archaeology and history/architecture resources (building, object, structure, or site).

**Cultural Resource Investigation:** A study concerning the identification, evaluation, and/or mitigation of archaeological and history/architecture resources.

**Culvert:** A structure not classified as a bridge which provides an opening under the roadway (INDOT definition).

**Cumulative Impact** - is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

**Curation:** The process of storing, managing and keeping track of artifacts and associated records from cultural resource investigations.

**D**

**Data Recovery** - Mitigation of an adverse effect on a National Register of Historic Places eligible or listed archaeological site via excavation. During the Section 106 consultation process, if a site is found to be a candidate for data recovery, Section 4(f0 does not apply.

**Design Approval** - An administrative action taken by either the Indiana Department of Transportation or by the Division Office of the Federal Highway Administration at the conclusion of the Preliminary Design Phase to officially certify the route location and major design features of a highway.

**Design Criteria** - Established state and national standards and procedures that guide the establishment of roadway layouts, alignments, geometry, and dimensions for specified types of highways in certain defined conditions. The principal design criteria for highways are traffic volume, design speed, the physical characteristics of vehicles, the classification of vehicles, and the percentage of various vehicle classification types that use the highway.

**Design Exception** - An approval issued by a state or federal agency to permit certain deviation from a specified, accepted design criteria granted on the basis of a report explaining the need for the exception and the consequences that will result from the action.

**Design Manual** - INDOT publication defining criteria, processes and procedures for the evaluation, assessment, engineering design and development of highway and bridge projects.

**Designated Use** - Classification designated in water quality in water quality standards for

each waterbody or segment that defines the optimal purpose for that waterbody. Examples are drinking water use and aquatic life use.

**Determination** - In Section 106 review, this is a decision of eligibility of a property and/or a determination of effect of an undertaking on a historic property.

**Determination of Effect** - A finding made by the Department for federal actions, in consultation with the State Historic Preservation Officer (and the Advisory Council for Historic Preservation), which determines whether a proposed project affects a property included on or eligible for the National Register of Historic Places.

**Determination of Eligibility** - The process of assembling documentation to render professional evaluation of the historical significance of a property. The Department, in consultation with the State Historic Preservation Officer applies National Register of Historic Places criteria when deciding matters of historical significance.

**Direct Effects** - Effects which are caused by a given action and occurring at the same time as the action. Changes in noise levels, traffic volumes or visual conditions are some examples of direct effects generated by transportation improvements.

**Discharge of Dredged Material** - Any addition of dredged material, in excess of one cubic yard when used in a single or incidental operation, into waters of the state. The term includes, without limitation, the addition of dredged material to a specified disposal site which is located in waters of the state, the runoff or overflow of dredged material from a contained land or water disposal area which enters the waters of the state. Discharges of pollutants into waters of the State resulting from the subsequent onshore processing of dredged material that is extracted for any commercial use (other than fill) are not included within this term and are subject to Section 402 of the Federal Water Pollution Control Act, even though the extraction of such material may require a permit from the Army Corps of Engineers under Section 10 of the Rivers and Harbors Act.

**Discharge of Fill Material** - The addition of fill material into waters of the state for the purpose of creating uplands, changing the elevation of land beneath waters of the state, or for creating impoundments of water. The term includes, but is not limited to, the placement of the following in waters of the state: fill that is necessary to the construction of any structure; structures of impoundments requiring rock, sand, dirt, or other pollutants for its construction; site-development fills for recreational, industrial, commercial, residential, or other uses; causeways or road fills; dams and dikes; artificial islands, property protection or reclamation devices such as riprap, groins, seawalls, breakwalls and bulkheads and fills; beach nourishment; levees; sanitary landfills; fill for structures such as sewage treatment facilities, intake and outfall pipes associated with power plants, and subaqueous utility lines; or artificial reefs.

**Dispersal Corridor** - A linear area that is used by organisms to move from one place of suitable habitat to another.

**District:** An area that possesses a significant concentration, linkage, or continuity of

sites, buildings, structures, or objects united historically or aesthetically by plan of physical development.

**District Office** - One of Indiana Department of Transportation offices throughout Indiana responsible for administering project development, design, construction and maintenance activities within their geographic regions.

**Documentation for Consultation:** Refers to documentation used to comply with 36 CFR 800.6(a)(1). Standards for documentation are described by 36 CFR 800.11(e).

**E**

**Ecological Survey Report** - A report summarizing the ecological field studies done to inventory ecological resources and product impacts of various project alternatives. Procedures and requirements are set forth in INDOT's Ecological Manual.

**Ecoregion** - A region defined by similarity of climate, landform, soil, potential natural vegetation, hydrology, and other ecologically relevant variables.

**Effect:** Alteration to the characteristics of a historic property qualifying it for inclusion in or eligible for the National Register.

**Eligibility:** Ability of a property to meet the National Register criteria.

**Eligible for Inclusion on the NRHP:** Includes both properties formally determined as such in accordance with the regulations of the Secretary of the Interior and all other properties that meet the National Register criteria.

**Emergency Relief (ER) Program** - This is intended to aid states in repairing road facilities which have suffered widespread serious damage resulting from a natural disaster over a wide area or serious damage from a catastrophic failure.

**Endangered Species** - Any species which is in danger of extinction throughout a;; pr a significant portion of its range as per Section 4 of the Endangered Species Act, 16 U.S.C.A. 1531 et seq., as amended.

**Enhancement** - Activities conducted in existing wetlands to improve or repair existing or natural wetland functions and values of that wetland.
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**Environmental** - In a scientific context, a combination of external or extrinsic conditions present in nature. In a planning context, a category of analytical studies of aesthetic values, ecological resources, cultural resources, sociological and economic conditions, etc.

**Environmental Assessment** - A document prepared for an action where the significance of the environmental impact is not clearly established. The primary purpose of an EA is to help FHWA decide whether or not an EIS is needed. The EA should be a concise

document and should not contain long descriptions or detailed information which may have been gathered or analysis which may have been conducted for the proposed action. After review, the FHWA may determine that the proposed action has no significant impacts. A Finding of No Significant Impact (FONSI) will be issued.

**Environmental Classification** - An internal determination as to which type of environmental documentation is appropriate for federal actions and 100 percent state funded projects. At the beginning of the Transportation Development Process, projects are systematically grouped into classes based on knowledge of the significance of the environmental effects. For federal actions: Class I projects require Environmental Impact Statements, Class II projects are Categorical Exclusions, and Class III projects require Environmental Assessments.

**Environmental Scoping Manager** - A professional in each of the Department's six district offices involved in overseeing and coordinating district efforts related to environmental issues, operations and evaluations.

**Environmental Document** - When all studies have been completed, potential impacts documented, avoidance alternatives have been evaluated and mitigation is planned, this information is complied into a written report. The significance of the impacts will determine what level of document is produced. These documents are titled EIS, EA or CE.

**Environmental Document Re-evaluation** - An update to an existing document prepared whenever changes occur over time to single or cumulative project conditions that might cause new or more severe environmental impacts or to evaluate a project with respect to new or changed environmental rules, regulations or laws.

**Environmental Impact Statement (EIS**) - The detailed statement required by the National Environmental Policy Act of 1969 when an agency proposes a federal action that significantly affects the environment. This report contains a summary of all environmental and engineering studies, noting the impacts and mitigation. After review, the FHWA will issue a Record of Decision (ROD).

**Environmental Justice** - Efforts to avoid disproportionately high and adverse impacts on minority and low-income populations with respect to human health and the environment. Reference - Executive Order 12898.

**Environmental Site Assessment (ESA)** - An environmental study conducted to assess the potential for contamination of a property or parcel with hazardous substances. The process by which a person or entity seeks to determine if a particular parcel of real property (including improvements) has been impacted by hazardous substances and/or petroleum products.

**Ephemeral Stream** - A stream with flowing water only during, and for a short duration after, precipitation events in a typical year. Streambeds are located above the water table

year-round. Precipitation is the primary source of water for stream flow. (Fed. Reg./Vol. 65, No 47, 3/9/00).

**Erosion and Sedimentation Control Plan** - A detailed plan developed to minimize accelerated erosion and prevent sedimentation damage.

**Evaluation:** Process by which the significance and integrity of a historic property are judged and eligibility for National Register listing is determined.

**F**

**Farmland** - As defined by the Farmland Protection Policy Act, "farmland" means prime or unique farmlands as defined in Section 1540(c)(1) of the Act or farmland that is determined by the appropriate state or local governmental agency or agencies with concurrence of the Secretary of Agriculture to be farmland of statewide or local importance. Such land may include more than actual cropland (i.e., it may include fallow or abandoned cropland, grazing land and forested land). It does not include land already in or committed to urban development or water storage, thereby excluding developed land with a density of 30 structures per 40-acre area; lands identified as "urbanized area" (UA) on the U.S. Census Bureau Map; lands shown as urban area (i.e. mapped with that "tint overprint") on USGS topographic maps; lands shown as "urban-built-up" on the USDA Important Farmland Maps ; and all assessment criteria on the Farmland Conversion Impact Rating Form.

**Farmland Conversion Impact Rating (FCIR) Form** - NRCS-CPA-106 of the U.S. Natural Resources Conservation Service, used for determining whether land to be taken by a federally-funded project is farmland subject to the Farmland Protection Policy Act.

**Farmland Protection Policy Act (FPPA) of 198**1 - A federal law requiring federal agencies to consider the adverse effects of federal programs on farmland preservation, consider alternative actions, and as appropriate, consider mitigation that could lessen adverse effects.

**Feasibility Study** - Refers to systematic evaluations to better assess the desirability or practicality of further developing a proposed action. Such studies are typically performed during the planning stage, or very early in the preliminary development phase when improvement proposals or design concepts need to be more fully investigated.

**Federal Action** - A highway or transit project proposed for FHWA or FTA funding. It also includes actions such as joint and multiple use permits, other federal permits and approvals, changes in access control, etc., which may or may not involve a commitment of Federal funds.

**Federal Highway Administration (FHWA)** - An agency of the U.S. Department of Transportation responsible for carrying out federal highway and transportation mandates through a network of several regional offices and a Division Office in each state.

**Federal Transit Administration (FTA)** - An agency of the U.S. Department of Transportation tasked with administering the federal transit program.

**Fen** - A carbon accumulating (peat, muck) wetland that is saturated, primarily by a discharge of free flowing ground water during most of the year. Fens are rarely inundated. Fens often have a sloped surface which prevents the accumulation of stagnant or ponded water. The water of fens is usually mineral rich and has a circumneutral pH (5.5-9.0). In calcareous fens, soil may be dominated by deposits of calcium carbonate rich sediments (marl). Characteristic indicator vegetation species may include, but are not limited to Potentilla fruticosa, Solidago ohioensis, Lobelia kalmii, Caclia phantaginea, Deschampsia cespitosa, Triglochin spp., Parnassia glauca, Gentianopsis spp., Rhynchospora spp., and some Eleocharis spp.

**Field Investigation:** A survey that describes the type, location and condition of properties in a specific geographic area combined with background research.

**Field Review** - A site visit conducted by the Department to gather or verify data, define scopes of work, perform analyses, and make decisions for specific projects.

**Fill Material** - State and federal regulations currently offer three definitions of "fill material." On April 20, 2000, USACE and USEPA jointly proposed to revise their Clean Water Act definition of "fill material" and provide a single. The proposed definition is "material (including, but not limited to, rock, sand, and earth) that has the effect of: 1) replacing any portion of water of the United States with dry land; or 2) changing the bottom elevation of any portion of a water of the United States" (Fed. Reg./Vol. 65, No 77). 33 CFR 323.2(e): Any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of an waterbody. The term does not include any pollutant discharged into the water primarily to dispose of waste, as that activity is regulated under Section 402 of the Clean Water Act. 40 CFR 232.2: Any pollutant which replaces portions of water of the United States with dry land or which changes the bottom elevation of a water body for any purpose.

**Final Design** - The development of detailed working drawings, specifications, and estimates for transportation projects. Final Design follows the receipt of necessary design and/or environmental approval, and it includes right-of-way acquisition, utility relocation, and contract advertisement and award.

**Final Development Phase** - The Final Development Phase is the design phase of project development. Construction details and plans are developed within this phase.

**Finding of No Significant Impact (FONSI)** - A determination by a Federal agency briefly presenting the reasons why an action/project will not have a significant effect on the human environment and for which an environment impact statement will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (CFR 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may

incorporate it by reference (40 CFR - 1508.3).

**Floodplain** - the relatively level land next to a stream or river channel that is periodically submerged by flood waters. It is composed of alluvium deposited by the present stream or river when it floods.

**Forested Wetland** - A wetland class characterized by woody vegetation that is 20 feet tall or taller.

**G**

**Geometric Design** - Pertains to those engineering activities involving standards and procedures for establishing the horizontal and vertical alignment and dimensions of slopes of a highway. It includes engineering work involved with proportioning the visible elements of a facility, tailoring the highway to the terrain, the controls of environmental and land space usage, and the requirements of the highway user, individually and collectively.

**Groundwater Discharge** - Water flowing out of a groundwater zone. In regards to wetlands, groundwater discharge occurs when water flows from a groundwater zone to a wetland.
**Groundwater Recharge** - Water flows into a groundwater zone. In regards to wetlands, groundwater recharge occurs when water flows from a wetland to a groundwater zone.
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**H**

**Habitat** - The sum of the physical, chemical, and biological environment occupied by individuals of a particular species, population, or community.

**Hardship Acquisition and Protective Buying** - In extraordinary cases or emergency situations, the State Highway Department may request and the Federal Highway Administrator may approve Federal participation in the acquisition of a particular parcel or a limited number of particular parcels within the limits of a proposed highway corridor prior to completion of processing of the final environmental impact statement or adoption of the negative declaration, but only after 1) the State Highway Department has given official notice to the public that it has selected a particular location to be the preferred or recommended alignment for a proposed highway, or 2) a public hearing has been held or an opportunity for such a hearing has been afforded. Proper documentation must be submitted to show that the acquisition is in the public interest and is necessary to 1) alleviate particular hardship to a property owner, on his request, in contrast to others because of an inability to sell his property, and/or 2) prevent imminent development and increased costs of a parcel which would tend to limit the choice of highway alternatives.

**Hazardous Substances** - As defined in the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 300.5.

**Headwaters** - Non-tidal rivers, streams, and their lakes and impoundments, including adjacent wetlands, that are part of a surface tributary system to an interstate or navigable water of the U.S. upstream of the point on the river or stream at which the average annual flow is less than five cubic feet per second. The U.S. Corps of Engineers (USACE) may estimate this point from available data by using the mean annual area precipitation, area drainage basin maps, and the average runoff coefficient, or by similar means. For streams that are dry for long periods of the year, the Corps may establish the point where headwaters begin as that point on the stream where a flow of five cubic feet per second is equaled or exceeded 50 percent of the time. (33 CFR - 330.2(d)).

**Headwater Habitat Evaluation Index (HHEI)** - A method to score physical habitat features that have been found to be statistically important determinants of biological community structure in Primary Headwater Habitat Streams (PHWH) with drainage area less than 1 square mil (259 ha). The HHEI is a component in determining PHWH aquatic life use designations for a stream at the point of crossing.

**Historic Bridge:** Bridges included in or eligible for inclusion in the National Register of Historic Places; considered a contributing element within a listed or eligible historic district.

**Historic Context:** An organizing structure for interpreting history that groups information about historic properties which share a common theme, common geographic location, and common time period. The development of historic contexts is a foundation for decisions about planning, identification, evaluation, registration, and treatment of historic properties, based upon comparative significance.

**Historic Integrity** - In the National Register of Historic Places criteria for eligibility, the concept of integrity is central to resource eligibility. A resource can be significant, but unless it has certain amount of integrity, it cannot be eligible. There are seven aspects of integrity which must be addressed in eligibility determination: location, design, setting, materials, workmanship, feeling and association.

**Historic Property** - In 36 CFR Part 800, any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of Interior. This includes artifacts, records, and remains that are related to and located within such properties.

**Historical/Architecture Investigations** - Studies that result in identification of resources (buildings, structures and sites) constructed over fifty years ago or of recent construction and demonstrably significant based on National Register of Historic Places guidelines, via literature research, photo documentation, analysis, and interpretation.

**History/Architecture Resource:** A building, structure, district, site, or object constructed at least 50 years ago. For definitions of these kinds of history/architecture resources, see the National Register Bulletin How to Apply the National Register Criteria for Evaluation (1998).

**History/Architecture Resource Literature Review Table:** Format used to document the results of the secondary source literature review. The table must include previously identified cultural resources within the study area.

**History/Architecture Resource Table:** Format used to document properties fifty years of age or older within the project area. All properties fifty years of age or older within the survey area must be documented on the History/Architecture Resource Table and/or addressed in the survey report. The table is most effective when numerous properties fifty years of age or older are identified. Patterns and distribution of property type become evident. Location, physical description and level of integrity must be included on the table for each property.

**Historical Significance:** Importance for which a property has been evaluated and found to meet the National Register criteria.

**Human Environment** - Interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment. (40 CFR - 1508.14).

**Hydrogeomorphic (HGM) Classification** - A wetland classification system based on the position of a wetland in the landscape (geomorphic setting), dominant sources of water, and the flow and fluctuation of water once in the wetland. Hydrogeomorphic classes include riverine, depressional, slope, mineral soil flats, organic flats, estuarine fringe, and lacustrine fringe.

**I**

**Identification:** Process through which information is gathered about historic properties.

**Identification of Alternatives** - The Department's engineering and environmental evaluations, in which the Department identifies and chooses an initial set of study alternatives that address the stated program objectives and the project need, and which are sensitive to the resources and land uses of a study area. The process involves a wide variety of possible options, assessing the merits and drawbacks, and choosing those that should be carried forward. Alternatives to be studied normally include the No-Build or no-action alternative, an upgrading of the existing roadway alternative, new transportation routes and locations, transportation systems management strategies, multimodal alternatives if warranted, and any combination of the above.

**Impacts** - Positive or negative effects upon the natural or human environment resulting from transportation projects.

**Impairment** - A detrimental effect on the biological integrity of a waterbody caused by an impact that prevents attainment of the designated use.

**In-kind** - Compensatory mitigation of wetland losses by restoring or creating a forested wetland for a forested wetland and a non-forested wetland for a non-forested wetland.

**Index of Biological Integrity (IBI)** - A measure of the biological condition that is composed of metrics that assess fish community attributes. Similar to economic indexes used for expressing the condition of the economy.

**Indian Tribe:** Means an Indian tribe, band, nation, or other organized group or community, Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**Indirect effects** - are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern or land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

**Integrity:** Authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period. The seven aspects of integrity are design, location, setting, materials, workmanship, feeling, and association.

**Interested Community** - A compilation of the names and addresses of persons or groups affected by or interested in a specific transportation project. This information is gathered and maintained by Department officials or LPAs during the course of transportation project studies.

**Intermittent Stream** - A stream that has flowing water during certain times of the year, when groundwater provides for stream flow. During dry periods, intermittent streams may not have flowing water. Precipitation is a supplemental source of water for stream flow. (Fed. Reg./Vol. 65, No 47, 3/9/00).

**Intermodal Surface Transportation Efficiency Act (ISTEA)** - Signed in 1991, this federal legislation (Public Law 102-240) established the policy of developing an economic, efficient, and environmentally sound national transportation system. To further this goal, ISTEA conceives transportation enhancement activities and requires transportation policy to advance the objectives of regional and metropolitan planning by considering the "overall social, economic, energy and environmental effects" of improvement projects.

**Invertebrate Community Index (ICI)** - A modification of the Index of Biological Integrity(IBI) for fish that measures the overall macroinvertebrate community condition using metrics associated with community structure and function. Similar to economic indexes used for expressing the condition of the economy.

**(Hydrologically) Isolated Wetlands** - Those wetlands: (1) Have no surface water connection to a surface water of the state; (2) Are outside of, and not contiguous to, any one hundred-year floodplain and (3) Have no contiguous hydric soil between the wetland and any surface water of the state.

**J**

**Joint Development** - The conception, planning and execution of improvements in the uses of land outside the normal right-of-way.

**Jurisdictional Determination (JD)** - A site survey or document review performed by the U.S. Army Corps of Engineers to officially determine whether or not a given parcel of land is subject to regulation as waters of the United States, and if so, the extent of the area. This is generally applied to wetlands, but may also be used to determine jurisdictional issues with respect to headwater streams, ditches and similar areas.

**Jurisdictional Wetland** - Any area that has the appropriate hydrology, soils, and plants to meet wetland criteria as defined in the 1987 Army Corps of Engineers' Wetland Delineation Manual.

**K**

**Keeper of the National Register of Historic Places (Keeper)** – The official responsible for the administration of the National Register within the National Park Service. One duty of the Keeper is to provide a formal determination of eligibility on cultural resources when there is a disagreement submitted on eligibility issues. The disagreement could occur between the federal agency and the State Historic Preservation Officer or between the agency and a private entity. The Keeper is the ultimate authority on issues of National Register eligibility and a formal determination resolves any such issues with finality.

**L**

**Lead Agency** - A state or federal agency taking primary responsibility for preparing an engineering or environmental document.

**Legal Notice** - A formal announcement published according to legal requirements by INDOT or a Local Project Sponsor Agency in a periodical or newspaper to provide official public notice of an action or approval of interest to the public.

**Level of Service (LOS) - A commonly used indicator of a highway's performance**. Levels of service range from A, which indicates unrestricted free flow conditions, to F which indicates high congestion and generally restricted operating speeds.

**Literature Review** -Secondary source review identifying the types of cultural resources,

that may be expected in the APE and establishes a comparative basis for evaluating cultural resources.

**Local Government:** A city, county, parish, township, municipality or other general purpose political subdivision of a State.

**Local Significance:** Importance of a property to the history of its community, such as a town or county.

**Location Map** - A graphic drawing used in study reports and meeting presentations to show the orientation and the relationship of the project with its study area in comparison with existing roadways, features, developments, municipalities, and principal land uses nearby. The graphic typically will be large enough to show all major roadways, major cities, and principal topographic controls in the region.

**Logical Termini** - Connecting points with known features (land uses, economic areas, population concentrations, cross route locations, etc.) at either end of a proposed transportation route that enhance good planning and which serve to make the route usable. Logical termini are considered rational end points for a transportation improvement.

**LPA Project** - Any highway improvement project or enhancement project that is funded through the Department and matched with local resources.

**M**

**Macroinvertebrates** - Animals without backbones that can be seen with the naked eye (caught with a 1 mm2 mesh net). Includes insects, crayfish, snails, mussels, clams, fairy shrimp, etc.

**Mapping** - A plan surface with graphic or photographic representation of land or water depicting the study area for a project. Existing alignments, alternatives, engineering design features, and environmental constraints are plotted on various types of mapping. Photogrammetric (aerial) mapping assists in resource identification and studies. Topographic (base) mapping provides a foundation in alignment layout. Property tax maps, and traffic data maps also are consulted in the transportation development process. The type and scale of mapping are selected to fit the terrain and land use intensity of the study area as well as the level of detail in the proposed design.

**Memorandum of Agreement:** The document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties.

**Metropolitan Planning Organization (MPO)** -The organization designated by the governor and local elected officials as responsible, together with the state, for transportation planning in an urbanized area. It serves as the forum for cooperative decision making by principal elected officials of general local government.

**Minimization** - Refers to a step in the alternatives analysis and means that unavoidable impacts are reduced to the maximum extent possible.

**Mitigation** - The restoration, creation, enhancement or, in exceptional circumstances, preservation of resources expressly for the purpose of compensating for impacts.

**Mitigation Bank** - A site where wetlands have been restored, created, enhanced or, in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation generally in advance of authorizing impacts.

**Mitigation Measures** - Specific design commitments made during the environmental evaluation and study process that serve to moderate or lessen impacts deriving from the proposed action. These measure, right-of-way improvements and agreements with resource or other agencies to affect construction or post-construction action.
Mitigation includes:
- Reducing and eliminating impacts.
- Avoiding the impact altogether by not taking a certain action or parts of an action.
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- Compensating for the impact by replacing or providing substitute resources or environments.

**Multiple Use** - The development of non-highway facilities within the right-of-way. "Multiple Use" means the non-highway use of the airspace above or below the highway gradeline between the horizontal highway right-of-way limits acquired by the highway agency.

**N**

**National Environmental Policy Act (NEPA)** - Passed in 1969, the federal legislation requiring states to document the environmental impact of transportation projects. Various approaches, steps, and approvals now used in the Indiana Transportation Development Process originated with the National Environmental Policy Act. The NEPA process is enforced by regulations of the Council on Environmental Quality (CEQ).

**National Historic Landmark:** A historic property evaluated and found to have significance at the national level and designated as such by the Secretary of the Interior.

**National Historic Preservation Act:** This is the primary legislation that governs historic and archaeological preservation in the United States. The Act, in its policy statement, emphasizes the importance of supporting the spirit and direction of the nation through its

links with the past, sustaining the people's sense of direction and ensuring future generations "a genuine opportunity to appreciate and enjoy the rich heritage of our nation." It is stated that the Federal Government would foster productive harmony between modern society and historic resources, provide preservation leadership, administer historic resources, encourage preservation of non-federally owned historic resources, and encourage preservation and use of the historic built environment. It set up a broad program to implement this policy, including the expansion and maintenance of the National Register of Historic Places, the formation of the Advisory Council on Historic Preservation, and the requirement that federal agencies take into account the effect of their activities and programs on historic properties.

**National Pollutant Discharge Elimination System (NPDES) Permit** - Mandated by Section 401 of the Clean Water Act for the discharge of pollutants from a point source into surface waters (including wetlands) for disposal purposes; intended to regulate the amount of chemicals, heavy metals, and biological wastes discharged in wastewater. Currently applies to stormwater discharges from construction projects disturbing 5 acres or more.

**National Register of Historic Places (NRHP)** - The national list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering, or culture. It is maintained by the Secretary of the Interior under authority of Section 101(a)(1)(A) of the National Historic Preservation Act, as amended.

**National Register of Historic Places- Criteria for Evaluation:** The criteria used to evaluate the eligibility of properties for listing on the National Register of Historic Places. The quality of significance on American history, architecture, archaeology, engineering and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association, and:
A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
B. That are associated with the lives of persons significant in our past; or
C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
D. That have yielded, or may be likely to yield, information important in prehistory or history.

**National Significance:** Importance of a property to the history of the United States as a nation.

**Nationwide Permit (NWP)** - A type of Section 404 general permit issued by the Army Corps of Engineers and designated to regulate certain activities which have minimal impacts and involve the discharge of dredged or fill material into waters of the U.S. If certain conditions are met, the specified activities can take place without the need for an

individual or regional 404 permit. See Section 404 Permit determination. (33 CFR 330)

**Native Species** - A species which, by scientific evidence, was present in Indiana just prior to European exploration and settlement.

**Natural Disaster** - A sudden and unusual natural occurrence, including but not limited to intense rainfall, floods, hurricanes, tornadoes, tidal waves, landslides, volcanic eruptions or earthquakes which causes serious damage.

**Navigable Waters of the U.S.** - Those waters of the United States that are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A detailed definition can be found in 33 CFR 329. These waters that are navigable in the traditional sense where permits are required for certain activities pursuant to Section 10 of the Rivers and Harbors Act. Waters of the United States is a broader term than navigable waters of the United States.

**No Adverse Effect** - In 36 CFR Part 800, this is one of the determinations of effect that can be made through consultation with the State Historic Preservation Office. This finding means that an undertaking may have an effect on a historic property, but the effect is not adverse, and, as such, does not require mitigation. It means the undertaking will not significantly alter the qualities of the property that make the property eligible for or listed.

**No-Build Alternative or "No-Action Alternative**" - Option of maintaining the status quo by not building transportation improvements. Usually results in eventual deterioration of existing transportation facilities. Serves as a baseline for comparison of "Build" Alternatives.

**No Historic Properties Affected** - In 36 CFR Part 800, this is one of the determinations of effect that can be made through consultation with the State Historic Preservation Office. This finding means that the undertaking will have no effect on any historic properties because (a) there are no historic properties in the area of the undertaking, or (b) there are historic properties in the area of the undertaking but the undertaking will have no effect on them.

**Non-native Species** - A species which, by scientific evidence, was not present in Indiana just prior to European exploration and settlement.

**Non-Attainment Areas** - Counties that do not meet national ambient air quality standards for the criteria pollutants; ranked by the severity of their problem as marginal, moderate, serious, severe or extreme. In accordance with the Clean Air Act Amendments of 1990, these areas must take specific emission reduction measures.

**Noncontributing Resource:** A building, site, structure, or object that does not add to the historic significance of a property.

**No Potential to Cause Effects:** In 36 CFR Part 800, this is one of the determinations of effect that can be made. This finding means an undertaking is a type of activity that does not have the potential to cause effect on historic properties, assuming such properties are present.

**Notice of Intent** - Announcement in the Federal Register advising interested parties that an Environmental Impact Statement will be prepared and circulated for a given project.

**Nuisance Organisms** - Organisms that are primarily vegetable organisms, that generally are non-native and opportunistic growth patterns, and that displace more diverse assemblages.

**O**

**Off-site Mitigation** - Wetland restoration, creation, enhancement or preservation occurring farther than one mile from the project boundary but within the same watershed.

**Office of Environmental Services (OES)** - An administrative unit of the Indiana Department of Transportation responsible for managing Department environmental programs, including developing and providing environmental policy procedures and technical guidance to other Department offices.

**Old-growth Forests** - Forests characterized by, but not limited to, the following characteristics: overstory canopy trees of great age (exceeding at least fifty per cent of a projected maximum attainable age for a species); little or no evidence of human-caused understory disturbance during the past eighty to one hundred years; an all-aged structure and multilayered canopies; aggregations of canopy trees interspersed with canopy gaps; and significant numbers of standing dead snags and downed logs

**On-site Mitigation** - Wetland restoration, creation, enhancement or preservation occurring within and not more than one mile from the project boundary and within the same watershed.

**Ordinary High Water (OHWM**) - 33 CFR 328.3(e) defines OHWM as "that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas." The OHWM is elevation at which Army Corps of Engineers jurisdiction begins.

**Originating Office** - The lead District, or LPA responsible for administering, developing, and implementing a given project.

**P**

**Perennial Stream** - A stream that has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the

primary source of water for stream flow. Precipitation is a supplemental source of water for stream flow. (Fed. Reg./Vol. 65, No 47, 3/9/00)

**Phase I Cultural Resource Survey:** Documentation and analysis of the cultural resource investigations in a specific survey area. The Phase I survey should contain: historic and/or prehistoric context, results of a literature review, results of the field survey, project description, abstract, analysis, conclusion, photographic log and key, project location maps, historical maps (i.e. atlas, aerial, fire insurance, 15' USGS map) and appropriate tables.

**Phase II Cultural Resource Survey:** Documentation and analysis of a detailed investigation of a specific property, properties, or site(s). It should include background research, precise locational information, photographs an photograph key, description of all building and landscape features, and a sketch plan of the site. An intensive survey may also include: floor plans of the buildings, boundary justification and description of historic boundaries (if applicable).

**Phase III Cultural Resource Survey:** Documentation and analysis of archaeological investigations as they pertain to data recovery.

**Photolog:** A photolog is a visual tool that provides project documentation of conditions within the project area concerning extent of ground disturbance and presence of architectural properties, and enables evaluation of cultural resources.

**Placard:** Plaque containing text with information about a bridge, i.e., builder, year built, designer and patents.

**Plans** - Technical drawings which show the location, character, and dimensions of prescribed project work, including layouts, profiles, cross-sections and other details.

**Pollutant** - Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials not covered by the Atomic Energy Act, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. 40 CFR 230.3 (o).

**Pollution** - The action of polluting, or condition of being polluted; defilement; uncleanness or impurity caused by contamination (physical or moral). spec. The presence in the environment, or the introduction into it, of products of human activity which have harmful or objectionable effects. The Clean Water Act (Section 502.19) defines pollution as "the [hu]man-made or [hu]man-induced alteration of chemical, physical, biological, and radiological integrity of water."

**Potential to Yield Information:** The likelihood of a property to provide information about an important aspect of history or prehistory through its physical composition and remains.

**Practicable** - Available and capable of being executed with existing technology and without significant adverse effect on the economic feasibility of the project in light of the overall project purposes and in consideration of the relative environmental benefit.

**Pre-Construction Notification (PCN) -** A document, generally a completed 404 Application, which must be submitted to the U.S. Army Corps of Engineers prior to commencing an activity authorized by a Section 404 Nationwide Permit.

**Predictive Model:** The use of background information about the surrounding region as a basis for predicting the kinds of properties that may exist within the area of potential effects.

**Pre-qualified Consultant:** Those individuals or firms who meet the criteria and have been approved by INDOT for pre-qualification for archaeological or and/or history/architecture or other types of environmental investigations under INDOT's Consultant Prequalification Requirements and Procedures. The individual or firm should be listed by INDOT as pre-qualified at the time investigations are undertaken.

**Preservation** - Protection of ecologically important wetlands in perpetuity through the implementation of appropriate legal mechanisms to prevent harm to the wetland. Preservation may include protection of adjacent upland areas as necessary to ensure protection of the wetland.

**Preservation in Place** - Regarding National Register of Historic Places eligible or listed archaeological sites, this refers to a site whose importance has been determined to lie in its preservation in place, as opposed to a site whose importance lies in the information that can be extracted form it via excavation (i.e. data recovery). This is the only situation wherein an archaeological site covered by Section 4(f) regulations and policy.

**Primary Consultant:** An individual, partnership or firm with qualified expertise in engineering, environmental or public involvement disciplines who is contracted by the originating office to provide technical services.

**Programmatic Agreements -** Agreement between agencies designed to accomplish all agency goals, including timely and efficient coordination. Establishment of a procedure that will reduce the paperwork and processing time for certain federal actions with minor impacts on the human and natural environment and effective communication, while reducing paperwork and time commitments for all involved agencies.

**Programming** - A general term to refer to a series of activities carried out by the Department, including data assessment, appraisal of identified planning needs and consideration of available or anticipated fiscal resources to result in the drawing up, scheduling and planning.

**Project Area:** That area involved in a highway improvement that will be directly impacted by the project. Direct impacts include land needed for construction or other highway related uses, i.e., the construction footprint. This area can either be within

existing right-of-way or include new right-of-way.

**Project File** - A compilation of all data and study materials associated with environmental documents, including all pertinent information gathered during the environmental evaluation, supporting reports, telephone memorandums and pertinent correspondence.

**Project Transportation Development Process:** The State of Indiana's procedures for advancing a transportation improvement project from concept to construction. The philosophy behind the process emphasizes the integration of engineering and environmental studies and coordination among INDOT offices, state and federal resource agencies, and the public. The ultimate goal is to select, design, and construct the most reasonable, practical, cost-effective, technically sound and environmentally sensitive transportation improvement option.

**P.S. & E. Submission** - The reference given to a transmittal of plans, specifications, and estimates made from a preparing office to the Department for review and processing. This transmittal includes all written material and engineering data necessary to place a highway construction project under contract. These submissions are reviewed for accuracy and completeness prior to bid, and for certain major federal aid projects are provided to the Federal Highway Administration for final approval.

**Public Hearing** - A meeting designed to afford the public the fullest opportunity to express support of, opposition to, or comment on a transportation project. Documentation is required.

**Public Involvement** - Coordination events and informational materials geared toward public participation in the Transportation Development Process.

**Public Meeting** - An announced meeting conducted by transportation officials designed to facilitate public participation in the decision-making process and to assist the public in gaining an informed view of a proposed project during the Transportation Development Process.

**Public Need** - An activity or project that provides important tangible and intangible gains to society, that satisfies the expressed or observed needs of the public where accrued benefits significantly outweigh reasonably foreseeable detriments.

## Q

**Qualified Cultural Resource Personnel:** Those persons who 1) meet the professional qualification standards published in 36 CFR 61 and the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation published in the Federal Register, 1983, Part IV, 48(190:44738-44739).

**Qualitative Analysis** - A general concept which categorizes a process used in certain types of environmental or route location studies where multiple factors are compared in a

systematic and comprehensive manner on the basis of sound judgment. Factors analyzed by using a qualitative analysis are such that they cannot be measured in monetary terms, have no apparent common denominators, and are not readily quantifiable.

**Qualitative Habitat Evaluation Index (QHEI) -** Index designed to provide a measure of habitat that generally corresponds to those physical factors affecting fish communities and which are generally important to other aquatic life (e.g. invertebrates). INDOT uses QHEI scores, among other methods, to determine the aquatic life habitat use designation of a stream at the point of crossing.

**Quantitative Analysis** - The process used in certain environmental, economic, cost benefit, engineering, or traffic studies where multiple factors, elements, and/or outcomes are evaluated and compared by the use of measurable data. Certain mathematical models, formulas, numerical indices, rankings, and value matrices may be used to assist with such a process.

**R**

**Record of Decision (ROD**) - A document prepared by the Division office of the Federal Highway Administration that presents the basis for selecting and approving a specific transportation proposal that has been evaluated through the various environmental and engineering studies.. Typically, the ROD identifies the alternative selected in the Final EIS, the alternatives considered, measures to minimize harm, monitoring or enforcement programs, and an itemized list of commitments and mitigation measures.

**Red Flags:** Identified points of concern, including environmental and engineering issues, within the project study area.

**Red Flag Cultural Resources:** Previously identified historic properties, i.e., listed in or eligible for listing in the NRHP, prehistoric or historic period cemeteries, or other cultural resources likely to meet the National Register Criteria.

**Reference Site** - A minimally impaired site that is representative of the expected ecological conditions and integrity of other sites of the same type and region.

**Reference Condition** - Set of selected measurements or conditions of minimally impaired waterbodies characteristic of a waterbody type in a region.

**Regulatory Agency** - An agency empowered to issue permits or recommend approval or denial of a permit or action.

**Resource Agencies** - Those agencies involved with review of environmental technical documents/reports generated for proposed development projects. These agencies are IDEM, USEPA, USFWS, USACE, and IDNR.

**Restoration** - An activity returning a wetland from a disturbed or altered condition with lesser acreage or functions to a previous condition with greater wetland acreage or functions. For example, restoration might involve the plugging of a drainage ditch to restore the hydrology to an area that was a wetland before the installation of the drainage ditch.

**Right-of-Way** - A strip of land occupied or intended to be occupied by certain transportation and public use facilities, such as roadways, railroads, and utility lines. The land is either owned outright or controlled by easement by the public agency.

**Riparian** - Areas next to or substantially influenced by water. These may include areas adjacent to rivers, lakes, or estuaries. These areas often include wetlands.

**S**

**Scope of Work** - A detailed, written listing of tasks prepared in advance of engineering and environmental work to define requirements of studies. A scope of work is provided to prospective consultant firms prior to the initiation of studies to aid in preparing estimates of working hours, schedules, and costs required to prepare, complete, and deliver the work described.

**Scoping Field Review** - A site visit conducted by the Originating Office and other appropriate parties to define a project's scope of work and to evaluate a variety of circumstances involved with the proposed project. These circumstances may include: engineering parameters, involvement of environmental resources, and required public involvement.

**Secondary (Indirect) Effects** - A general term to define impacts which are caused by a specific action and which take place later in time or further removed in distance but are still reasonably foreseeable. Secondary effects can be indeterminate, may not be easily recognized, and can be difficult to identify and evaluate.

**Section 106** - A section of the National Historic Preservation Act of 1966. This section of the act requires Federal agencies to take into account the effect of their undertakings on properties included in or eligible for inclusion in the National Register of Historic Places, and to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings.

**Section 106 Processs** - Procedures based on Section 106 of the National Historic Preservation Act of 1966 which governs the identification, evaluation, and protection of historical and archaeological resources affected by state and federal transportation projects. Principal areas identified include required evaluations to determine the presence or absence of sites, the eligibility based on National Register of Historic Places criteria and the significance of the effect of a proposed project upon such a site.

**Section 401 Water Quality Certification** - Required by Section 401 of the Federal

Clean Water Act for projects involving the discharge of materials into surface waters, including wetlands. The applicant must demonstrate that activities will comply with water quality standards and other provisions of federal and state law and regulations regarding conventional and non-conventional pollutants, new source performance standards, and toxic pollutants.

**Section 404 Alternatives Analysis** - Examines practical alternatives to the possible discharge of dredged or fill material into certain aquatic ecosystems, such as wetlands, mud flats, vegetated shallows or other special aquatic systems. "Practical" means "available and capable of being done after taking into consideration cost, existing technology and logistics in light of overall project purposes." Criteria guiding such an analysis are derived from the provisions of Section 404(b)(1) of the 1972 Federal Clean Water Act as amended in 1977. The analysis is performed during the environmental studies of the Transportation Development Process and is required before the issuance of a permit by the Corps of Engineers for the discharge of dredged or fill materials.

**Section 404 Permit** - A Department of the Army (DOA) Corps of Engineers permit to authorize the discharge of dredged or fill material into waters of the U.S. pursuant to section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). The types of permits that may be issued are:

**Individual Permit** - DOA authorization that is issued following a case-by-case evaluation of a specific project involving the proposed discharge(s) in accordance with the procedures of 33 CFR Parts 323 and 325 and a determination that the proposed discharge is in the public interest pursuant to 33 CFR Part 320. 33 CFR - 323.2(g).

**General Permit** - DOA authorization that is issued on a nationwide or regional basis for a category or categories of activities when:

1) Those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts;

2) The general permit would result in avoiding unnecessary duplication of regulatory control exercised by another Federal, state, or local agency provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal. (See 33 CFR - 325.2(e) and 33 CFR Part 330). 33 CFR --322.2(f) and 323.2(h).

**Regional Permit** - Regional permits are a type of general permit. They may be issued by a division or district engineer after compliance with the other procedures of the section 404 permit regulations. If the public interest so requires, the issuing authority may condition the regional permit to require a case-by-case reporting and acknowledgment system. However, no separate applications or other authorization documents will be required. 33 CFR -- 325.2(e)(2) and 325.5(c)(1).

**Nationwide Permit** - Nationwide permits are a type of general permit and represent DOA authorizations that have been issued by the regulation (33 CFR Part 330) for certain specified activities nationwide. If certain conditions are met, the specified activities can take place without the need for an individual or regional permit. 33 CFR - 325.2(e)(1).

**Section 4(f) -** Section 4(f) of the USDOT Act of 1966 (Title 49, USC, Section 303) requires special considerations be made regarding the "use" of any publicly owned park, recreation area, wildlife/waterfowl refuge or historic property that is listed in or eligible for the National Register of Historic Places. These properties are called "4(f) Properties." "Use" is defined as a permanent easement, fee taking, or "constructive use" of a Section 4(f) property. This law applies only to USDOT activities including funding or approvals (e.g., interchange justifications).

**Section 4(f) Determination** - Administrative action by which FHWA confirms that, on the basis of extensive studies and analysis, there are no "prudent and feasible" alternatives to the taking of land from resources protected under Section 4(f) of the U.S. Department of Transportation Act, as amended (49 USC 303). These resources include: parks or recreation areas that are publicly owned or open to the public, publicly owned wildlife or waterfowl refuges, or any significant historic sites.

**Section 6(f)** - A provision in the Federal Land and Water Conservation Fund Act that protects public recreational properties developed or enhanced using federal funding supplied to states or municipalities under the act by requiring replacement of lands converted to non-recreational uses. Proposed transportation projects which affect such lands require a study and an analysis of alternatives to serve as the basis for a Section 6(f) finding by the U.S. Department of the Interior. Specific state legislation for any proposed land transfer is also required in order to implement a Section 6(f) action. Generally requires replacement of 6(f) land taken for a project.

**Section 9 (of the Rivers and Harbors Act of 1899)** - Construction of bridges or causeways performed in or over navigable water of the U.S. must be authorized by the Army Corps of Engineers.

**Section 10 (of the Rivers and Harbors Act of 1899)** - All work (other than construction of bridges or causeways) performed in or over navigable water of the U.S. must by authorized by the Army Corps Engineers. Includes dredging operations and pier construction in these waters.

**Sensitive Receptor** - An area of frequent human use (i.e. residential property, church, school, library, hospital, park, hotel, motel, etc.)

**Sensitive Species** - Plant or animal species which are (1) Federal listed or proposed threatened or endangered species; (2) bird species protected under the Migratory Bird Treaty Act; (3) species protected under State endangered species laws and regulations, plant protection laws and regulations; Fish and Game codes, or species of special concern listings and policies, or (4) species recognized by national, state, or local environmental organizations (e.g. The Nature Conservancy).

**Significant Cultural Resource:** An archaeological or history/architecture resource listed in or eligible for listing in the NRHP. The NRHP refers to such resources as "historic

properties."

**Significant Impacts** - Any number of social, environmental, or economic effects or influences that may result from the implementation of a transportation improvement; classified as direct, secondary (indirect), or cumulative which significantly affect the human environment. The FHWA mandates environmental clearance documents based upon the significance of impacts. In most cases, Environmental Impact Statement projects involve significant impacts. Both context and intensity as described in 40 CFR 1508.27 are important when determining significance.

**Site:** The location of a significant event, a prehistoric or historic occupation or activity or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure.

**Sole Source Aquifer** - As defined by the Federal Safe Drinking Water Act, a groundwater source that represents the principle source of a water supply for a community or region that, if contaminated, would create a significant hazard to public health.

**Special Aquatic Sites** - Those sites identified in 40 CFR 230 Subpart E (i.e. sanctuaries and refuges, wetlands, mud flats, vegetated shallows, coral reefs, and riffle and pool complexes). They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region. 40 CFR - 230.3(q-1).

**Span:** The distance between the supports of a beam, arch or the like.

**State Historic Preservation Officer:** The Governor or his/her appointed representative responsible for directing the State Office of Historic Preservation.

**State Significance:** Importance of a property to the history of the state where it is located.

**Stream** - Any channel, which carries water for at least a minimal period of time and has an Ordinary High Water Mark (OHWM). This can include ephemeral, intermittent, and/or perennial streams. If a channel, ditch and/or ephemeral stream does not have an OHWM, it is not considered a water of the U.S. and it is not regulated by the Army Corps of Engineers. (Fed. Reg./Vol. 65, no 47, 3/9/00)

**Structure:** The term structure is used to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter.

**Structure Number** - The Structure Number is a permanent number assigned to the structure when the bridge is first conceived. This is the identification number for the

data on a particular structure. The first digits are the route number, the next digits are the Indiana county in which the structure is located. The last digits make up the specific number for that structure.

**Study Area** - A geographic area selected and defined at the outset of engineering and environmental evaluations which is sufficiently adequate in size to address all pertinent project matters occurring within it.

**Substructure:** The portion of the bridge below the pier and abutment seats, including footers and pilings. The substructure transmits the loads and stresses from the deck, superstructure, or other load supporting system to the ground.

**Summary of Environmental Commitments** - Commitments made during the environmental evaluation and study process to moderate or lessen impacts from the proposed action. These measures may include planning and development commitments, environmental measures, right-of-way improvements, and agreements with resource or other agencies to effect construction or post construction action.

**Superstructure:** The entire portion of a bridge above the abutment and pier seats, excluding the deck. The superstructure transmits the deck loads to the substructure. The superstructure and substructure are generally the two most important aspects of the bridge.

**T**

**Theme:** A trend or pattern in history or prehistory relating to a particular aspect of cultural development.

**Threatened Species** - any plant or animal species that is native to Indiana or that migrates or is otherwise reasonably likely to occur within the state and which has been listed as threatened pursuant to Section 4 of the Endangered Species Act (16 U.S.C.A. 1531 et seq., as amended.

**Transcript** - A typewritten record providing a verbatim account of the official proceedings that take place at all Public Hearings and some Public Meetings.

**Project Development Process (PDP)** - Indiana's procedures for advancing a transportation improvement project from concept to construction. The philosophy behind the process emphasizes the integration of engineering and environmental studies and coordination among Department offices, state and federal resource agencies and the public. The ultimate goal is to select, design, and construct the most reasonable, practical, cost-effective, technically sound and environmentally sensitive transportation improvement option.

**Tribal Lands:** All lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.

**U**

**Undertaking:** A project, activity, or program funded in whole or part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carrier out with federal assistance; those requiring a federal permit, license, or approval; and those subject to state or local regulations administrated pursuant to a delegation or approval by a federal agency.

**Upland** - Any area that does not qualify as wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, solid and/or hydrologic characteristics associated with wetlands, or is defined as open waters.

**Utility Clearance** - Before construction projects can proceed the right of way must be cleared of affected utilities or the utilities must be scheduled for relocation/abandonment. This is typically accomplished through the certification of right of way.

**UTM Reference:** A set of coordinates (easting and northing) that indicate a unique location according to the Universal Transmercator Grid appearing on maps of the United States Geological Survey.

**V**

**Verbal Boundary Description:** A statement that gives the precise boundaries of a historic property.

**Vernal Pools** - Shallow, temporarily flooded, depressional forested or forest edge wetlands, that are typically dry for most of the summer and fall. These wetlands are generally inundated in the late winter and spring when they are subject to a burst of biological activity, including amphibian breeding. When flooded, vernal pools are often comprised of areas of open water that are not densely vegetated. They also tend to accumulate organic (woody) debris.

**W**

**Water Quality Standard -** A legally established state regulation consisting of three parts: (1) designated uses, (2) criteria, and (3) antidegradation policy.

**Water Quality** - Refers to the physical, chemical, and biological integrity of any waters of the state.

**Waters of the State - "Waters of the state"** means such accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state. However, the term does not include any private pond, or any pond, reservoir, or facility built for reduction or control of pollution or cooling of water prior to discharge unless the discharge therefrom causes or threatens to cause water pollution..

**Waters of the United States** - Water bodies subject to Army Corps of Engineers jurisdiction through Section 404 of the Clean Water Act. They include all interstate waters such as lakes, rivers, streams (including intermittent streams) and wetlands. Water of the United States us a broader term than navigable waters of the U.S. A detailed definition can be found in 33 CFR 328.3(a).

**Watershed** - A watershed is all of the landscape that drains to a specific point.

**Well Head Protection Area** - The surface and subsurface area surrounding a water well, well field, spring or infiltration gallery supplying a public water system, through which contaminants are reasonably likely to move toward and reach the water well or well field.

**Wetlands** - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas that are delineated in accordance with the 1987 the USACE Wetland Delineation Manual. The report may be part of an Ecological Survey Report or a separate report for the specific purpose of wetland delineation. 33 CFR 328.3(b); 40 CFR 230.3(t); 40 CFR 232.2.

**Wetland Delineation Report** - Provides both written and illustrated data to define the boundaries of those topographic features within a study area and which meet the federal definition of "wetland" as contained in 33 CFR 328.3(b). A delineation report represents the first step in the overall wetland study process, which evaluates the importance of a wetland, and ultimately assesses the effects of a project on a wetland. Currently wetlands are delineated in accordance with the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual. The report may be a part of an Ecological Survey Report or a separate report for the specific purpose of wetland delineation.

**Wild & Scenic Rivers Act** - Establishes the policy that certain rivers of the nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geological, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. (16 USC 1271 et seq.)

**ACRONYMS**

| | |
|---|---|
| ACHP | Advisory Council of Historic Preservation |
| ADT | Average Daily Traffic |
| APE | Area of Potential Effect |
| BA | Biological Assessment |
| BO | Biological Opinion |
| BMP | Best Management Practices |
| CAA | Clean Air Act |
| CAAA | Clean Air Act Amended |
| CAC | Community Advisory Committee |
| CE | Categorical Exclusion |
| CEQ | Council on Environmental Quality |
| CERCLA | Comprehensive Environmental Response, Compensation, and Liability Act |
| CFR | Code of Federal Regulations |
| CO | Carbon Monoxide |
| DHPA | Division of Historic Preservation and Archaeology |
| DHV | Design Hourly Volume |
| DMMPC | Delaware-Muncie Metropolitan Plan Commission |
| DPA | District Planning Administrator |
| DOT | Department of Transportation |
| EA | Environmental Assessment |
| EIS | Environmental Impact Statements |
| EJ | Environmental Justice |
| EO | Executive Order |
| ER | Emergency Relief |
| ESA | Environmental Site Assessment |
| ESM | Environmental Scoping Manager |
| EUTS | Evansville Urban Transportation Study |
| FCIR | Farmland Conversion Impact Rating |
| FPPA | Farmland Protection Policy Act |
| FEMA | Federal Emergency Management Agency |
| FHWA | Federal Highway Administration |
| FHWA-IN | Federal Highway Administration, Indiana Division |
| FIRM | Flood Insurance Rate Map |
| FONSI | Finding of No Significant Impact |
| FS | Feasibility Study |
| FTA | Federal Transit Administration |
| GIS | Geographical Information Systems |
| GWIA | Groundwater Impact Assessment |
| HGM | Hydrogeomorphic |
| HHEI | Headwaters Habitat Evaluation Index |
| HUD | United States Department of Housing and Urban Development |
| IAC | Indiana Administrative Code |
| IBI | Index of Biological Integrity |

| | |
|---|---|
| IC | Indiana Code |
| ICI | Invertebrate Community Index |
| IDEM | Indiana Department of Environmental Management |
| IDNR | Indiana Department of Natural Resources |
| IJS | Interchange Justification Study |
| IMPO | Indianapolis Metropolitan Planning Organization |
| IMS | Interchange Modification Study |
| INDOT | Indiana Department of Transportation |
| INWRAP | Indiana Wetlands Rapid Assessment Protocol |
| IP | USACE Section 404 Individual Permit |
| IR | Indiana Register |
| ISA | Initial Site Assessments |
| ISTEA | Intermodal Surface Transportation Efficiency Act |
| JD | Jurisdictional Determination |
| KIPDA | Kentuckiana Regional Planning and Development Agency |
| LEDPA | Least Environmentally Damaging Practicable Alternative |
| LOS | Level of Service |
| LPA | Local Public Agency |
| LWCF | Land and Water Conservation Fund Act |
| MACOG | Michiana Area Council of Governments |
| MOT | Maintenance Of Traffic |
| MOU | Memorandum of Understanding |
| MPO | Metropolitan Planning Organization |
| N/A | Not Applicable |
| NAAQS | National Ambient Air Quality Standards |
| NEPA | National Environmental Policy Act |
| NIRCC | Northeastern Indiana Regional Coordinating Council |
| NIRPC | Northwestern Indiana Regional Planning Commission |
| $NO_2$ | Nitrogen Dioxide |
| NPDES | National Pollutant Discharge Elimination System |
| NPS | National Park Service |
| NRCS | Natural Resources Conservation Service |
| NRHP | National Register of Historic Places |
| NWP | USACE Section 404 Nationwide Permit |
| $O_3$ | Ozone |
| OES | Office of Environmental Services |
| OHWM | Ordinary High Water |
| OKI | Ohio-Kentucky-Indiana Regional Council of Governments |
| Pb | Lead |
| PCN | USACE Section 404 Permit Pre-Construction Notification |
| PD | Permit Determination |
| PDP | Project Development Process |
| PIP | Public Involvement Plan |
| $PM_{2.5}$ and $PM_{10}$ | Particulate Matter |
| PS&E | Plans, Specifications & Estimates |
| PSI | Preliminary Site Investigation |

| | |
|---|---|
| QHEI | Quality Habitat Evaluation Index |
| RCRA | Resource Conservation and Recovery Act |
| RI | Remedial Investigation |
| RGP | USACE Section 404 Regional General Permit |
| ROD | Record of Decision |
| R/W | Right-of-Way |
| SAFETEA-LU | Safe, Accountable, Flexible, Efficient Transportation Equity Act |
| SCORP | Statewide Comprehensive Outdoor Recreation Plan |
| SHPO | Indiana State Historic Preservation Officer |
| SIP | State Implementation Plan |
| $SO_2$ | Sulfur Dioxide |
| SSA | Sole Source Aquifer |
| TCM | Transportation Control Measures |
| TIP | Transportation Improvement Program |
| TNM | Traffic Noise Model |
| TP | Transportation Plan |
| UA | Urbanized Area |
| USACE | United States Army Corps of Engineers |
| USDA | United States Department of Agriculture |
| USDOI | United States Department of Interior |
| USDOT | United States Department of Transportation |
| USEPA | United States Environmental Protection Agency |
| USFWS | United States Fish and Wildlife Service |
| USGS | United States Geologic Survey |
| UTM | Universal Transmercator Grid |
| VPD | Vehicles per Day |
| WCIEDD | West Central Indiana Economic Development District |
| WQC | Section 401 Water Quality Certificate |

**REFERENCE SECTION**

- National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). as amended by Executive Orders 11514 and 11991.
- FHWA Notice TA 6640.8A, FHWA Technical Advisory: "Guidance for Preparing and Processing Environmental and 4(f) Documents," (October 30, 1987).
- CEQ Regulations for Implementing the Procedural Provisions of the NEPA (40 CFR 1500-1508, Nov 29, 1978.)
- CFR: Title 23-Highways; Chapter 1, "FHWA, DOT; Subchapter H, Right-of-way and Environment"; Part 7-7-1, "Environmental Impact Statements"; FHWA NEPA Regulations, (Dec. 29, 1980, amended Sept. 8, 1987).
- 23 CFR, Part 630, Subpart C, appendix A, Federal Aid Project Agreement, Form PR-2 Agreement Provisions.
- Clean Air Act Amendments (CAAA) of 1990 (42 U.S.C. 7400).
- Executive Order 11988, Evaluation of Flood Hazards.
- Executive Order 11990, Protection of Wetlands.
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority and Low Income Populations.
- FHWA Noise Analysis Guidance, 1995.
- Final Nationwide Section 4(f) Evaluation and Approval for Federally Aided Highway Projects with Minor Involvement with Historic Sites.
- INDOT Traffic Noise Policy, 1997.
- Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that necessitates the use of historic bridges.
- Section 4(f) of the U.S. DOT Act of 1966 [49 U.S.C. 303].
- Section 6(f) of the Land and Water Conservation Act (16 U.S.C. 460L-4 to 460L-11).
- Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1530-1543).
- Section 106 of the National Historic Preservation Act [16 U.S.C. 470 (f)].
- Section 401 of the U.S. Clean Water Act of 1977 (33 U.S.C. 1251-1376).
- Section 402 of the U.S. Clean Water Act of 1977.
- Section 404 of the U.S. Clean Water Act of 1972.(as amended in 1977).
- U.S. Army Corps of Engineers, Nationwide Permits. Corps of Engineers Regulatory Program, Reauthorization of the Nationwide Permits (most recent version).
- Sole Source Aquifer MOU Between FHWA, Region 5 and the USEPA, Region V
- FHWA Section 4(f) Policy Paper, dated March 1, 2005
- Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuge Nationwide Programmatic 4(f)
- Historic Sites Nationwide Programmatic 4(f)
- Historic Bridges Nationwide Programmatic 4(f)
- Bikeways or Walkways Nationwide Programmatic 4(f)
- Net Benefit Nationwide Programmatic 4(f)
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and amended in 1987

# Programmatic Categorical Exclusion Agreement
# Between the Federal Highway Administration
# And the Indiana Department of Transportation

Date

**Introduction**

The Indiana Department of Transportation (INDOT) and the Federal Highway Administration (FHWA) are both committed to addressing environmental requirements under the National Environmental Policy Act (NEPA) and doing so in a streamlined and efficient manner. In accordance with FHWA regulations (23 CFR Part 771), Categorical Exclusions (CEs) are actions which meet the definition contained in the Council on Environmental Quality (CEQ) regulations, 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. Most projects developed by INDOT do not have significant environmental impacts and therefore qualify as CEs. The INDOT and FHWA hereby establish this Programmatic Exclusion Agreement in order to address the development and approval of CEs in a streamlined and efficient manner. The agreement provides for the following:

- Establishment of four levels of Categorical Exclusions based on measurable environmental impact thresholds.
- Delegation of authority to the Indiana Department of Transportation (INDOT) to approve Categorical Exclusions for projects with minimal environmental impacts as identified by this agreement.
- Establishment of INDOT signature authority for each level of Categorical Exclusion.
- Establishment of a monitoring program to ensure the appropriate implementation of the terms of the agreement.

The agreement has been developed to be in conformation with the policy and procedures for environmental process of Class II – Categorical Exclusion (CE) Actions as defined in Section 23 CFR 771.117. INDOT and FHWA concur in advance with the classification of the four levels of CEs as shown on the following page which normally are found to have no significant social, economic and environmental effect.

**Four Levels of CE Documentation**

INDOT and the FHWA hereby agree to four levels in which a project may qualify as a CE. The appropriate level of a CE is based on the type of action and the anticipated impacts of the project. All federal-aid projects developed or reviewed by INDOT must have an Environmental Screening/CE-1 Form completed. The results of this initial screening will assist in determining the appropriate level of NEPA class, as well as the appropriate level of CE. Table 1 provides CE Level thresholds.

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## Table 1: CE Level Thresholds

| | Level 1 | Level 2 | Level 3 | Level 4 |
|---|---|---|---|---|
| **Relocations** | None | ≤ 2 | > 2 | > 10 |
| **Right of way**[1] | < 0.5 acres | < 10 acres | ≥ 10 acres | N/A |
| **Length of added through lane** | None | < 1 miles | ≥ 1 mile | N/A |
| **Traffic pattern alteration** | None | None | Yes | N/A |
| **New alignment** | None | None | < 1 mile | ≥ 1 mile[2] |
| **Wetlands** | < 0.1 acres | < 1 acre | ≥ 1 acre | N/A |
| **Section 4(f)** | None | None | Programmatic/de minimis Findings[3] | Individual 4(f) |
| **Section 6(f)** | None | None | Any impacts | N/A |
| **Section 106** | "No Historic Properties Affected" | "No Historic Properties Affected" | "No Adverse Effect" or "Adverse Effect" | If ACHP involved |
| **Noise Analysis Required** | No | No | No | Yes[4] |
| **Threatened/Endangered Species** | Falls within Guidelines of USFWS 9/8/93 Programmatic Response | "No Effect" or "Not likely to Adversely Effect" | Formal Consultation resulting in "Not likely to Adversely Effect" | "Likely to Adversely Effect" |
| **Sole Source Aquifer Groundwater Assessment** | Detailed Assessment Not Required | Detailed Assessment Not Required | Detailed Assessment Not Required | Detailed Assessment Required |
| **Approval Level** | | | | |
| • **ESM**[5] | Yes | Yes | Yes | Yes |
| • **District Planning Director** | | Yes | Yes | Yes |
| • **OES** | | | Yes | Yes |
| • **FHWA** | | | | Yes |

[1]Permanent and/or temporary right of way.
[2]If the length of the new alignment is equal to or greater than one mile, contact FHWA's Air Quality/Environmental Specialist.
[3]FHWA must review and approve Programmatic and de minimis Section 4(f) prior to CE approval.
[4] In accordance with INDOT's Noise Policy.
[5] Environmental Scoping Manager

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## ***CE LEVEL 1 PROJECTS***

INDOT and FHWA have identified specific project scopes that may qualify as CE Level 1 projects provided the project impacts do not exceed the thresholds identified in Table 1. Projects listed in Table 2 below are projects which normally do not require further NEPA approval by FHWA, pursuant to 23 CFR 771.117(c); therefore, INDOT and FHWA have agreed these project scopes may qualify as Level 1 CEs. Additionally, INDOT and FHWA have identified seven other project scopes that may be classified as Level 1 CEs denoted in Table 3. The project scopes in Table 3 are commonly minor road improvements that will not result in any significant impacts to the human or natural environment, based on INDOT's and FHWA's past experience.

**Note - CE level 1 projects must comply with all applicable state and federal laws and regulations. A project that meets the criteria of a CE Level 1 is not exempted from compliance with other laws and regulations such as the National Historic Preservation Act (Section 106) and the Endangered Species Act (Section 7).**

A project may still qualify as a CE Level 1 even if the scope is not consistent with the scopes listed in Tables 2 and 3. The project may qualify as a CE Level 1 if the project impacts do not exceed the impact thresholds established for Level 1 CEs. Contact OES if there are questions regarding the scope of the project and the appropriateness of the CE Level 1 classification.

The Environmental Screening/CE-1 Form is completed for all projects and is used to document potential impacts to resources in the project area to determine the appropriate CE Level. When completing the Environmental Screening/CE-1 Form, if there is no impact to a resource, simply check "No" and no further consideration is given to that resource. If, however, the response is "Possible" then the preparer should quantify the impact as described in this manual and enter it onto the Form. The completed Environmental Screening/CE-1 Form and quantification of impacts is used to determine what level of CE documentation is appropriate for the proposed action. **A project may only be classified as a Level 1 CE when the impacts do not exceed the maximum thresholds identified for Level 1 CEs in Table 1. If the project exceeds Level 1 thresholds, the project may qualify for a Level 2 CE or greater.**

If the project qualifies as a CE Level 1, then only the Environmental Scoping Manager's (ESM) signature is required on the Environmental Screening/CE-1 Form to approve the project as a CE Level 1. The OES requires that the CE Level 1 form (Environmental Screening/CE-1 Form) and necessary supporting documentation, including coordination and ensuing permits, be completed and kept on file by the district.

### Table 2
### CE Level 1 Projects Pursuant to 23 CFR 771.117(c)

(1) Activities which do not involve or lead directly to construction, such as planning and research activities; grants for training; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.

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(2) Approval of utility installations along or across a transportation facility.

(3) Construction of bicycle and pedestrian lanes, paths, and facilities.

(4) Activities included in the State's highway safety plan under 23 U.S.C. 402.

(5) Transfer of Federal lands pursuant to 23 U.S.C. 317 when the subsequent action is not an FHWA action.

(6) The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.

(7) Landscaping.

(8)[1] Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.

(9) Emergency repairs under 23 U.S.C. 125.

(10) Acquisition of scenic easements.

(11) Determination of payback under 23 U.S.C. 156 for property previously acquired with Federal-aid participation.

(12) Improvements to existing rest areas and truck weigh stations.

(13) Ridesharing activities.

(14) Bus and rail car rehabilitation.

(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

(16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.

(17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.

(18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.

(19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.

(20) Promulgation of rules, regulations, and directives.

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[1] These activities may include general pavement markings, line painting, installation of raised pavement markers, maintenance of signs, and maintenance of fencing.

## Table 3

## INDOT/FHWA CE Level 1 Projects

(A) Culvert and pipe replacement/reconstruction. (All permits and coordination are still required.)

(B) Modernization of a highway by resurfacing/reconstruction of pavement/sidewalks.

(C) Guardrail projects where no new bank stabilization is required (except for end treatment areas) as long as work is within previous construction limits.

(D) The replacement of traffic signals within existing rights-of-way.

(E) Bridge deck overlays, bridge deck replacements, bridge painting projects and other bridge maintenance activities, within existing rights-of-way.

(F) Herbicidal spraying within existing right-of-way.

(G) Mowing or brush removal/trimming within existing right-of-way.

There may be other types of projects that qualify for a CE Level 1 based upon meeting the CE Level 1 threshold limits, but are not listed above. If there are questions about applicability, please contact OES. Decisions as to the proper level of CE documentation will be made on these types of projects on a project-by-project basis.

**CE LEVELS 2 THROUGH 4**

Projects that do not qualify as a CE Level 1 may still qualify as a CE. These actions are normally consistent with the project scopes identified in 23 CFR Section 771.117 (d). INDOT and FHWA hereby categorize these projects into CE Levels 2 through 4 based upon the level of impacts.

The completed Environmental Screening/CE-1 Form will determine the appropriate level of NEPA class, as well as the appropriate level of CE. If the appropriate CE level is 2, 3 or 4, then the Environmental Categorical Exclusion Document Form is required. All appropriate and necessary supporting documentation, including permits and coordination, must be completed and kept on file by the district. Table 1 lists the thresholds for determining the appropriate CE level as well as required signatures. CE Level 4 documents must be coordinated with OES and

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approved by FHWA. The OES or FHWA can elevate any CE to a higher level or different NEPA class at any time.

**Signature Authority**

Table 2 lists the signature authority for each CE level.

**Table 2: Signature Authority for CEs**

| | CE Level 1 | CE Level 2 | CE Level 3 | CE Level 4 |
|---|---|---|---|---|
| Signature Authority | ESM | ESM, District Planning Director (DPD) | ESM, DPD, OES | ESM, DPD, OES, FHWA |

**Monitoring**

Compliance with this agreement will be determined through a process review to be jointly conducted by FHWA, INDOT OES and INDOT District staff. The results of such reviews will be used to determine what agreement modifications, if any, will be made. The first review shall occur within the first 12 months of this Agreement and, at a minimum, every two (2) years thereafter.

On a semi-annual basis, INDOT will provide FHWA with a list of projects (including county, route and section, Des Number, Date of Action, level of CE and a short project description) that were processed pursuant to this Agreement.

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**APPROVAL**

INDOT agrees that all the conditions stated in this Programmatic CE Agreement will be satisfied for all projects processed under this agreement. This agreement supersedes all previous CE processing agreements held between FHWA and INDOT.

It is hereby determined that projects that fall within the bounds of this agreement are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. They are actions which do not:

- induce significant impacts to planned growth or land use for the area;
- require the relocation of significant numbers of people,
- have a significant impact on any natural, cultural, recreational, historic, or other resource,
- involve significant air, noise or water quality impacts,
- have significant impacts on travel patters,
- otherwise, either individually or cumulatively, have any significant environmental impacts.

Therefore, projects that fall within the bounds of this agreement are excluded for the requirement to prepare an Environmental Assessment or Environmental Impact Statement.

_____
Robert F. Tally, Jr. date
Division Administrator
Indiana Federal Highway Administration

_____
Thomas O. Sharp date
Commissioner
Indiana Department of Transportation

_____
Janice Osadczuk date
OES, Indiana Department of Transportation

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INDIANA DEPARTMENT OF TRANSPORTATION
*Environmental Assessment Section*
*100 North Senate Avenue*
*Room N848*
*Indianapolis, Indiana 46204-2249*
*VOICE: (317) 232-5303* *FAX: (317) 232-5478*
*An Equal Opportunity Employer ● http://www.state.in.us/dot*

*MITCHELL E. DANIELS, JR., Governor*
*THOMAS O. SHARP, Commissioner*

«First_Name» «Last_Name»
«Address_Line_1»
«Address_Line_2»
«City», «State» «ZIP_Code»

RE: Des. No. 0101277:, SR 18 Bridge Replacement over Little Pine Creek, 5.13 Miles West of US 231, Benton County

**Notice of Entry for Survey or Investigation**
April 26, 2005

Dear Property owner:

Our information indicates that you own property near the above proposed transportation project. Representatives of the Indiana Department of Transportation will be conducting environmental surveys of the project area in the near future. It may be necessary for them to enter onto your property to complete this work. This is permitted under Indiana Code § 8-23-7-26. Anyone performing this type of work has been instructed to identify him or herself to you, if you are available, before they enter your property. If you no longer own this property or it is currently occupied by someone else, please let us know the name of the new owner or occupant so that we can contact them about the survey.

**Please read the attached notice to inform you of what the "Notice of Entry for Survey or Investigation" means**. The survey work may include the identification and mapping of wetlands, archaeological investigations (which may involve the survey, testing, or excavation of identified archaeological sites), and various other environmental studies. The information we obtain from such studies is necessary for the proper planning and design of this highway project. It is our sincere desire to cause you as little inconvenience as possible during this survey.

If any problems do occur, please contact the field crew or call XXX at 317-ZZZ-ZZZZ. You may also write to me at ADDRESS. Thank you, in advance, for your cooperation.

Sincerely,

NAME
TITLE

Attachment

SAMPLE

# Indiana Department of Transportation
# Notice of Entry for Survey or Investigation
### Indiana Department of Transportation

If you have received a "Notice of Entry for Survey or Investigation" from INDOT or an INDOT representative, you may be wondering what it means. In the early stages of a project's development, INDOT must collect as much information as possible to ensure that sound decisions are made in designing the proposed project. Before entering onto private property to collect that data, INDOT is required to notify landowners that personnel will be in the area and may need to enter onto their property. Indiana Code, Title 8, Article 23, Chapter 7, Section 26 deals with the department's authority to enter onto any property within Indiana.

Receipt of a Notice of Entry for Survey or Investigation does not necessarily mean that INDOT will be buying property from you. It doesn't even necessarily mean that the project will involve your property at all. Since the Notice of Entry for Survey or Investigation is sent out in the very early stages and since we want to collect data within AND surrounding the project's limits more landowners are contacted than will actually fall within the eventual project limits. It may also be that your property falls within the project limits but we will not need to purchase property from you to make improvements to the roadway. Another thing to keep in mind is that when you receive a Notice of Entry for Survey or Investigation, very few specifics have been worked out and actual construction of the project may be several years in the future.

Before INDOT begins a project that requires them to purchase property from landowners, they must first offer the opportunity for a public hearing. If you were on the list of people who received a Notice of Entry for Survey or Investigation, you should also receive a notice informing you of your opportunity to request a public hearing. These notices will also be published in your local newspaper so interested individuals who are not adjacent to the project will also have the opportunity to request a public hearing. If a public hearing is to be held, INDOT will publicize the date, location, and time. INDOT will present detailed project information at the public hearing, comments will be taken from the public in spoken and written form, and question and answer sessions will be offered. Based on the feedback INDOT receives from the public, a project can be modified and improved to better serve the public.

So, if you have received a "Notice of Entry for Survey or Investigation", remember:

1. You do not need to take any action at this time. It is merely letting you know that people in orange/lime vests are going to be in your neighborhood.
2. The project is still in its very early planning stages.
3. You will be notified of your opportunity to comment on the project at a later date.

**ENVIRONMENTAL SITE ASSESSMENT: SCREENING CHECKLIST**

Road: _____ Des # _____
Description: _____ Parcel #/Owner/Address: _____

1. **Right-of-Way Requirements:**
   No New ROW – Strip ROW – Minor Take – Whole Parcel Take – Not Available
   Notes:

2. **Land Use History and Development:**
   Setting (rural or urban):

   Current Land Uses:

   Previous Land Uses:

   Adjacent Land Uses:

   Describe any structures on the property:

   (Industrial, Light Industry, Commercial, Agricultural, Residential, Other - indicate source of data, i.e. visual inspection, aerial photos, U.S.G.S. quad maps, etc.)

3. **Visual Inspection:**

| **Storage Structures:** | Property | Adjoining Property | **Evidence of Contamination:** | Property | Adjoining Property |
|---|---|---|---|---|---|
| Underground Tanks | _____ | _____ | Junkyard | _____ | _____ |
| Surface Tanks | _____ | _____ | Auto Graveyard | _____ | _____ |
| Transformers | _____ | _____ | Surface Staining | _____ | _____ |
| Sumps | _____ | _____ | Oil Sheen | _____ | _____ |
| Ponds/Lagoons | _____ | _____ | Odors | _____ | _____ |
| Drums | _____ | _____ | Vegetation Damage | _____ | _____ |
| Basins | _____ | _____ | Dumps | _____ | _____ |
| Landfills | _____ | _____ | Fill Dirt Evidence | _____ | _____ |
| Other | _____ | _____ | Vent pipes or fill pipes | _____ | _____ |
| | | | Other | _____ | _____ |

Field Review Completed By: _____ Date: _____

**ENVIRONMENTAL SITE ASSESSMENT: SCREENING CHECKLIST**

4. **Records Review**

| **Sources Consulted:** | **Search Distance:** | **Results:** |
|---|---|---|
| National Priorities List (NPL) | 1.0 mile | _____ |
| Fed. CERCLIS list | 0.5 mile | _____ |
| Fed. RCRA | 1.0 mile | _____ |
| Fed. ERNS list | property | _____ |
| IDEM Hazardous Waste List | 1.0 mile | _____ |
| Volunteer Clean-Up List | 0.5 mile | _____ |
| IDEM landfill list | 0.5 mile | _____ |
| IDEM LUST list | 0.5 mile | _____ |
| IDEM UST list | property and adjoining | _____ |
| Fire Insurance Maps | | _____ |

Record Review Completed By: _____ Date: _____

5. **Interview**

Current owner of the property or occupant of the property

Current land use? _____

Previous land use? _____

Evidence of contamination? _____

Environmental violations? _____

Has a Site Assessment been done previously? _____

Notes:

Interview Completed By: _____ Date: _____

6. **Is a Phase I, Initial Site Assessment required?** Yes No

Notes:

# FHWA-Indiana

## Indiana Categorical Exclusion

## Wetland Finding

*Introduction*

This wetland finding is made on a program-wide basis and has been prepared for transportation improvement projects, which are classified as a categorical exclusion (CE). It satisfies the requirements of Executive Order 11990 (EO) titled "Protection of Wetlands" and U.S. Department of Transportation Order 5660.1A (DOT Order) titled "Preservation of the Nation's Wetlands." No individual wetland finding needs to be prepared for such projects. An individual wetland finding shall be made for each Environmental Assessment (EA) and Environmental Impact Statement (EIS).

*Background*

EO 11990, issued on May 24, 1977, requires each agency to develop procedures for Federal actions whose impact is not significant enough to require the preparation of an EIS under Section 102(2)(c) of the National Environmental Policy Act (NEPA), as amended. The EO states that each Federal agency "shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use."

The EO defines "new construction" to include "draining, dredging, channelizing, filling, diking, impounding, and related activities." This EO essentially requires a wetland finding for all federal undertakings, which have virtually any impact to a wetland. DOT Order 5660.1A, issued on August 24, 1978 clarified "new construction" by excluding only "routine repairs and maintenance of existing facilities."

The U.S. DOT Order states, "In carrying out any activities (including small scale projects which do not require documentation) with a potential effect on wetlands, operating agencies should consider the following factors ..." This requires USDOT agencies to consider the effects on wetlands for all projects (including CEs).

Federal-aid applicants consider these effects at the NEPA evaluation process and further consider these effects through the wetland permitting process and associated meetings with resource agencies (US Army Corps of Engineers (ACOE), US Environmental Protection Agency, US Fish and Wildlife Service, and Indiana Department of Environmental Management). The Indiana Department of Transportation (INDOT) and FHWA evaluates practicable avoidance alternatives or options. If avoidance alternatives are not practicable, then practicable measures to minimize harm are considered and included in the project.

The DOT Order requires USDOT agencies to make a formal wetland finding for major projects. The Indiana Division will make a formal wetland finding for all EAs and EISs. This formal wetland finding will be made in the Final EA/Finding of No Significant Impact or Final EIS/Record of Decision.

Finding:

In accordance with Executive Order 11990, and based on the above procedures, the FHWA Indiana Division finds for all Federal-aid projects classified as a categorical exclusion with an approved ACOE permit that:

1. there will be no practicable alternative to the proposed construction in wetlands, and

2. the proposed project will include all practicable measures to minimize harm to the involved wetlands which may result from such use.

Any Federal-aid transportation project requiring an EA or EIS shall require an individual wetland finding.

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Last Updated: July 29, 2002

ROSTER OF INDIANA WATERS DECLARED NAVIGABLE OR NONNAVIGABLE
(LISTED BY WATERWAY NAME)

**Anderson River** (including Middle Fork): Navigable in Spencer County from its junction with the Ohio River for 28.4 river miles to the Perry-Spencer County Line. The Middle Fork is navigable from its junction with the Anderson River for 3.3 river miles.
**Armuth Ditch**: See Black Creek.
**Arnold Creek**: Navigable in Ohio County from its junction with the Ohio River for 4.4 river miles.
**Baker Creek**: Navigable in Spencer County from its junction with Little Pigeon Creek 1.8 river miles.
**Bald Knob Creek**: Navigable in Perry County from its junction with Oil Creek for 0.5 river miles.
**Banbango Creek**: See Baugo Creek.
**Baugo Creek**: Navigable from its junction with the St. Joseph River in South Bend for 15.2 river miles to the main forks (near Wakarusa).
**Bayou Creek**: Navigable in Vanderburgh County from its junction with the Ohio River for 1.5 river miles.
**Beanblossom Creek**: Navigable in Monroe County from its junction with the West Fork of the White River for 17.7 river miles to Griffy Creek.
**Bear Creek**: Navigable in Perry County from its junction with the Ohio River for 1.6 river miles.
**Big Blue River**: Navigable from its junction with Sugar Creek (to form the Driftwood River) for 55.46 river miles to the Henry-Rush County Line.
**Big Blue River**: See, also, Blue River.
Big Creek: Navigable in Posey County from its junction with the Wabash River for 25.4 river miles (near Cynthiana). See, also, Little Fork of Big Creek.
**Big Deer Creek**: See Deer Creek.
**Big Indian Creek**: See Indian Creek (Morgan County).
**Big Oil Creek**: Navigable in Perry County from its junction with the Ohio River for 10.6 river miles.
**Big Poison Creek**: Navigable in Perry County from its junction with the Ohio River for 6.3 river miles.
**Big Raccoon Creek**: Navigable from its junction with the Wabash River for 42.35 river miles to the Parke-Putnam County Line (now Cecil M. Harden Lake). The dam for Harden Lake is located at river mile 33.7.
**Big Saluda Creek**: Navigable in Jefferson County from its junction with the Ohio River for 1.0 river miles.
**Big Sandy Creek**: See Sandy Creek.
Big Vermillion River: Navigable from its junction with the Wabash River for 10.8 river miles to the Illinois State Line. (This river is navigable to Carmargo, Illinois.)
**Black Creek**: Navigable from its junction with the West Fork of the White River (near Edwardsport) for 11.8 river miles (near Marco).

**Blue River**: Navigable from its junction with the Ohio River for 57.15 river miles to Fredricksburg.
**Blue River**: See, also, Big Blue River.
**Bryant Creek**: Navigable in Switzerland County from its junction with the Ohio River for 2.6 river miles.
**Buck Creek**: Navigable in Harrison County from its junction with the Ohio River for 5.8 river miles.
**Buck Creek**: Navigable in Perry County from its junction with the Ohio River for 0.7 river miles.
**Buck Run**: Navigable in Ohio County from its junction with the Ohio River for 1.1 river miles.
**Bull Creek**: Navigable in Clark County from its junction with the Ohio River for 1.1 river miles.
**Bull Hollow**: Navigable in Perry County from its junction with Big Oil Creek for 0.7 river miles.
**Burns Ditch**: Navigable as a channelization of the Little Calumet River.
**Burns Waterway Harbor**: Navigable as an extension of Lake Michigan for 1.3 river miles to the Little Calumet River.
**Busseron Creek**: Navigable from its junction with the Wabash River in Knox County for 20.96 river miles. A channelization and relocation of Busseron Creek is navigable from its junction with the Wabash River in Sullivan County (near Rogers Ditch) for 2.85 river miles to its junction with the original channel.
**Busserou Creek**: See Busseron Creek.
**Cagles Mill Lake**: See Eel River, and see Mill Creek.
**Calumet River**: See Grand Calumet River; also Little Calumet River.
**Calumet River Canal**: See Indiana Harbor Canal.
**Cammie Thomas Ditch**: Navigable for 7.45 river miles as a channelization of the Muscatatuck River.
**Camp Creek**: Navigable in Clark County from its junction with the Ohio River for 1.7 river miles.
**Caney Branch**: Navigable in Perry County from its junction with Big Poison Creek for 0.2 river miles.
**Caney Branch**: Navigable in Perry County from its junction with Little Deer Creek for 0.8 river miles.
**Caney Creek**: Navigable in Spencer County from its junction with the Ohio River for 2.8 river miles.
**Carman's Creek**: See Turman Creek.
**Cecil M. Harden Lake**: See Big Raccoon Creek.
**Clear Creek**: Navigable in Monroe County from its junction with Salt Creek for 2.55 river miles (near Harrodsburg).
**Clear Creek**: Navigable from its junction with Little Pigeon Creek for 2.4 river miles.
**Clover Lick Creek**: Navigable in Perry County from its junction with Big Oil Creek for 0.7 river miles.

**Conns Creek**: Navigable (although with private ownership of the creek bed) from its junction with the Flatrock River for 11.5 river miles to the Rush-Shelby County Line.
**Crooked Creek**: Navigable in Spencer County from its junction with the Ohio River for 7.7 river miles.
**Cypress Creek** (including Cypress Creek Diversion Channel): Navigable in Warrick County from its junction with the Ohio River for 6.6 river miles. (The original bed of Cypress Creek is also navigable west of Cypress Creek Diversion Channel for 1.95 river miles, except where the creek bed has emerged and is no longer inundated.)
**Deer Creek**: Navigable in Perry County from its junction with the Ohio River for 5.9 river miles.
**Driftwood River**: Navigable from its junction with the East Fork of the White River (near Columbus) 15 river miles to its junction with the Big Blue River (near Edinburgh).
**Dry Run Creek**: Navigable in Crawford County from its junction with the Big Blue River for 1.4 river miles.
**East Calumuck River**: See Little Calumet River.
**East Deer Creek**: Navigable in Perry County from its junction with Deer Creek for 0.6 river miles.
**East Fork of the White River**: Navigable from its junction with the White River 189 river miles to its junction with the Flatrock and Driftwood Rivers (near Columbus).
**East Fork of the Whitewater River**: Navigable from its junction with the Whitewater River for 26.25 river miles to the Union-Wayne County Line.
**Eel River**: Navigable from its junction with the West Fork of the White River for 51.2 river miles to its junction with Mill Creek (now within Cagles Mill Lake).
**Elk Creek**: Navigable in Washington County from its junction with the Cammie Thomas Ditch for 3.0 river miles.
**Fanny Creek**: Navigable in Perry County from its junction with the Ohio River for 0.8 river miles.
**Fawn River**: Navigable for 13.45 river miles within Indiana. The Fawn River has two navigable segments in Indiana, separated by segments in Michigan. Navigability commences at the Indiana-Michigan state line (near Gilmore Lake and two miles south of Sturgis, Michigan) and continues downstream.
**Flat Creek**: Navigable from its junction with the Patoka River for 12.0 river miles (near Otwell).
**Flatrock River**: Navigable from its junction with the East Fork of the White River (Columbus) 93 river miles to its uppermost point in Henry County (near Mooreland).
Fourteen Mile Creek: Navigable in Clark County from its junction with the Ohio River for 2.9 river miles.
**Garrett Creek**: Navigable in Spencer County from its junction with the Ohio River for 2.2 river miles.
**Goose Creek**: Navigable in Switzerland County from its junction with the Ohio River for 1.5 river miles.
**Grand Calumet River**: Navigable from the Illinois State Line (near Hammond) for 15.4 river miles to Marquette Park. (The river is also navigable in Illinois.)

**Grants Creek**: Navigable in Switzerland County from its junction with the Ohio River for 2.5 river miles.
**Great Miami River**: Navigable for 1.4 river miles in Dearborn County. (Most of this river lies within Ohio; and the Great Miami River has been determined to be navigable from its junction with the Ohio River for 117 river miles. The waterway enters Indiana at two locations.)
**Harden Lake**: See Big Raccoon Creek.
**Harris Ditch**: Navigable in Posey County from its junction with the Ohio River for 0.9 river miles to Little Pitcher Lake.
**Hogan Creek** (including North Fork and South Fork): (The Main Stem of) Hogan Creek is navigable in Dearborn County from the junction on the Ohio River for its entire length of 0.4 river miles. The North Fork is navigable from the junction with Hogan Creek for 4.9 river miles. The South Fork is navigable from the junction with Hogan Creek for 5.0 river miles.
**Honey Creek**: Navigable in Spencer County from its junction with the Ohio River for 1.8 river miles.
**Houchins Ditch**: See Patoka River.
**Hurricane Fork**: See Little Fork of Big Creek.
**Independence Creek**: See Indian Creek (Harrison County).
**Indian Creek**: Navigable in Harrison County from its junction with the Ohio River for 4.8 river miles.
**Indian Creek**: Navigable in Martin County from its junction with the East Fork of the White River for 15.0 river miles to the Lawrence-Martin County Line.
**Indian Creek**: Navigable in Morgan County from its junction with the West Fork of the White River for 3.3 river miles (near Martinsville).
**Indian Creek**: Navigable in Switzerland County from its junction with the Ohio River for 4.1 river miles.
**Indian Fork**: Navigable in Perry County from its junction with Big Oil Creek for 1.4 river miles.
**Indian-Kentuck Creek**: Navigable in Jefferson County from its mouth on the Ohio River for 3.8 river miles.
**Indiana Harbor**: Navigable as an extension of Lake Michigan.
**Indiana Harbor Canal** (including Calumet River Branch and Lake George Branch): The (Main Stem of the) Indiana Harbor Canal is navigable in Lake County for 3.0 river miles from the Indiana Harbor to where it branches into the Calumet River Canal and the Lake George Canal. The Calumet River Canal is navigable in Lake County from the Indiana Harbor Canal for 1.95 river miles to the Grand Calumet River. The Lake George Canal is navigable in Lake County from the Indiana Harbor Canal for 0.85 river miles (near White Oak Avenue if extended southerly).
**Iroquios River**: Navigable from the Indiana-Illinois State Line for 39 river miles to the Dexter Ditch (near Parr).
**Island Branch**: Navigable in Ohio County from its junction with the Ohio River for 1.0 river miles.

**Jackson Creek**: Navigable in Spencer County from its junction with the Ohio River for 1.8 river miles.
**Kankakee River**: Navigable from the Indiana-Illinois State Line for 86.3 river miles to the Indiana-Michigan State Line. (This river is also navigable downstream in Illinois.)
**Kelly Bayou**: Navigable in Sullivan County from its downstream junction with an oxbow of the Wabash River for 5.8 river miles to its upstream junction with the Wabash River.
**Kelly Hollow**: Navigable in Perry County from its junction with Millstone Creek for 1.0 river miles.
**Kemper Ditch**: See Little Calumet River.
**Kingly Creek**: Navigable in Perry County from its junction with the Ohio River for 0.2 river miles.
**Knob Creek**: Navigable in Perry County from its junction with the Ohio River for 0.2 river miles.
**Lake Drain**: Navigable in Spencer County from its junction with the Ohio River for 1.6 river miles.
**Lake George Canal**: See Indiana Harbor Canal.
**Lake Michigan**: Navigable throughout Indiana.
**Lancassange Creek**: Navigable in Clark County from its junction with the Ohio River for 0.3 river miles.
**Laughery Creek**: Navigable from its junction with the Ohio River for 10.8 river miles (near Milton).
**Lick Creek**: Navigable in Orange County from its junction with the Lost River for 19.5 river miles to Old Spring Mill (near Paoli).
**Little Blue River**: Navigable in Crawford County from its junction with the Ohio River (near Alton) for 10.6 river miles.
**Little Blue River**: Navigable from its junction with the Big Blue River (Shelbyville) for 25.6 river miles to its junction with Ball Run.
**Little Calumet River**: Navigable from the Indiana-Illinois State Line for 21.24 river miles to Burns Waterway Harbor; and navigable for an additional 17.75 river miles to its junction (as Kemper Ditch) with Interstate 94. (The river is also navigable in Illinois.)
**Little Creek**: See Little Fork of Big Creek.
**Little Deer Creek**: Navigable from its junction with Deer Creek for 3.9 river miles.
**Little Fork of Big Creek**: Navigable in Posey County from its junction with Big Creek for 5.1 river miles.
**Little Oil Creek**: Navigable from its junction with Big Oil Creek for 4.4 river miles.
**Little Pigeon Creek**: Navigable from its junction with the Ohio River for 15.8 river miles.
**Little Pitcher Lake**: Navigable in Posey County as an extension of Harris Ditch.
**Little Raccoon Creek**: Navigable in Parke County from its junction with Big Raccoon Creek for 5.3 river miles (Nevins Covered Bridge).
**Little River**: Navigable from its junction with the Wabash River 20.2 river miles to Ellison Road (near Fort Wayne).

**Little Sandy Creek**: Navigable in Spencer County from its junction with the Ohio River for 2.0 river miles.
**Little Wabash River**: See Little River.
**Locust Creek**: Navigable in Vanderburgh County from its junction with Pigeon Creek for 1.5 river miles.
**Log Lick Creek**: Navigable in Switzerland County from its junction with the Ohio River for 2.3 river miles.
**Lost River**: Navigable from its junction with the East Fork of the White River for 48.87 river miles (near Orangeville).
**McFadden Creek**: Navigable in Posey County from its junction with the Ohio River for 2.3 river miles.
**Marble Powers Ditch**: See Kankakee River.
**Maumee River**: Navigable from the Indiana-Ohio State Line 27.05 river miles to the Hosey Dam, Fort Wayne. (The river is also navigable in Ohio; and the river may be alternatively described as navigable to total river mile 134.9. The Indiana-Ohio State Line is located at total river mile 107.85.)
**Mill Creek:** Navigable from its junction with the Eel River (now Cagles Mill Lake) for 32.45 river miles to the Hendricks-Morgan County Line. See, also, Mill Creek Ditch.
**Mill Creek**: Navigable in Crawford County from its junction with the Little Blue River for 1.4 river miles.
**Mill Creek Ditch**: Navigable from its junction with Mill Creek upstream for 1.35 river miles to the Hendricks-Morgan County Line.
**Millstone Creek**: Navigable in Perry County from its junction with the Ohio River for 1.4 river miles.
**Mississinewa River**: Navigable from its junction with the Wabash River for 109.75 river miles to the Indiana-Ohio State Line.
**Monroe Lake**: See Salt Creek.
**Mosquito Creek**: Navigable in Harrison County from its junction with the Ohio River for 2.8 river miles.
**Mud Creek**: Navigable from its junction with Mill Creek (near Little Point) for 5.6 river miles to Tudor Road (near Hazelwood).
**Muscatatuck River**: Navigable from its junction with the East Fork of the White River for 24.25 river miles to the main forks. See, also, Vernon Fork of Muscatatuck River and South Fork of Muscatatuck River.
**Neglie Creek**: Navigable in Perry County from its junction with Little Deer Creek for 0.5 river miles.
**North Fork of Muscatatuck River**: See Vernon Fork of Muscatatuck River.
**Ohio River**: Navigable throughout the state (from total river mile 491.34 to total river mile 848.0).
**Oil Creek**: See Big Oil Creek.
**Patoka River**: Navigable from its junction with the Wabash River for 146.6 river miles (within Greenfield Township, Orange County).

**Pickamink River**: See Iroquois River.
**Pigeon Creek**: Navigable from its junction with the Ohio River for 5.9 river miles.
**Plum Creek**: Navigable in Switzerland County from its junction with the Ohio River for 2.9 river miles.
**Poison Creek**: See Big Poison Creek.
**Potato Run**: Navigable in Harrison County from its junction with the Ohio River for 0.4 river miles.
**Raccoon Creek**: See Big Raccoon Creek.
**Rock River**: See Sugar Creek.
**Rider Ditch**: Navigable in Jackson County as a channelization of the Vernon Fork of the Muscatatuck River.
**St. Joseph River**: Navigable throughout Indiana (Elkhart and St. Joseph Counties) for 39.57 river miles. The river enters Indiana from Michigan and returns to Michigan. (The river is also navigable downstream in Michigan; and the river may be alternatively described as navigable from total river mile 49.93 to total river mile 89.5.)
**Salt Creek**: Navigable from its junction with the East Fork of the White River for 63.6 river miles to the upstream boundary of Monroe Lake along the North Fork.
**Sample Run**: Navigable in Perry County from its junction with the Ohio River for 0.2 river miles.
**Sand Creek**: Navigable in Switzerland County from its junction with Bryant Creek for 0.9 river miles.
**Sand Run**: See Sand Creek.
**Sandy Creek**: Navigable in Spencer County from its junction with the Ohio River for 2.6 river miles.
**Silver Creek**: Navigable in Clark County from its junction with the Ohio River for 3.0 river miles.
**Smart Ditch**: Navigable in Jackson County as a channelization of the Muscatatuck River (and the Vernon Fork of the Muscatatuck River).
**South Fork of Big Creek**: See Little Fork of Big Creek.
**South Fork of Muscatatuck River**: Navigable from its junction with the Muscatatuck River 28.1 river miles to its junction with Graham Creek.
**Sugar Creek**: Navigable from its junction with the Big Blue River (to form the Driftwood River) for 24.4 river miles (near Boggstown).
**Sugar Creek**: Navigable from its junction on the Wabash River (near West Union) for 56.83 river miles to the Montgomery-Boone County Line.
**Tanners Creek**: Navigable from its junction with the Ohio River in Lawrenceburg for 10.6 river miles.
**Tate's Hollow**: Navigable in Perry County from its junction with the Ohio River for 0.3 river miles.
**Thomas Ditch**: See Cammie Thomas Ditch.
**Trail Creek**: Navigable in LaPorte County from its junction with Lake Michigan for 1.0 river miles.

**Turman Creek**: Navigable in Sullivan County from its junction with the Wabash River for 7.9 river miles (near Dodds Bridge).
**Turtle Creek**: Navigable in Switzerland County from its junction with the Ohio River for 1.3 river miles.
**Twin Creek**: Navigable in Washington County from its junction with the East Fork of the White River for 7.98 river miles to the Cox Ferry Road Bridge near the Jefferson-Brown Township Line.
**Vermillion River**: See Big Vermillion River.
**Vernon Fork of Muscatatuck River**: Navigable from its junction with the Muscatatuck River for 39.3 river miles to Vernon (S.R. 7).
**Wabash River**: Navigable from its junction with the Ohio River for 441.9 river miles to the Wells-Adams County Line.
**Webb Branch**: Navigable in Perry County from its junction with Big Oil Creek for 0.9 river miles.
**West Fork of the White R**iver: Navigable from its junction with the White River 277 river miles to Smithfield, Delaware County.
**West Fork of the Whitewater River**: Navigable from its junction with the Whitewater River for 64.3 river miles to the three forks (near Connersville).
**White River**: Navigable from its junction with the Wabash River for 49.5 river miles to where it branches into the East Fork of the White River and the West Fork of the White River.
**Whitewater River**: Navigable from the Ohio State Line for 29.65 river miles to where it branches into the East Fork of the Whitewater River and the West Fork of the Whitewater River. (The river is also navigable downstream in Ohio; and the river may be alternatively described as navigable from total river mile 7.9 to total river mile 96.9.)
**Wilson Creek**: Navigable in Dearborn County from its junction with the Ohio River for 1.9 river miles.
**Yellow River**: Navigable from its junction with the Kankakee River for 41.0 river miles to Plymouth.

# LISTING OF OUTSTANDING RIVERS AND STREAMS

| River | Significance | County | Segment |
|---|---|---|---|
| **Bear Creek River** | 11, 18, EUW | Fountain | C.R. 250W to confluence with the Wabash |
| **Big Blue*** | 5, 11, | Johnson, Rush, Shelby | Flatrock River to Carthage |
| **Big Creek** | 17 | Jefferson | East side of Jefferson Military Reservation boundary to Graham Creek |
| **Big Pine Creek** | 7, 11, 13,18,20, EUW | Warren | S.R. 18 to confluence with Wabash River |
| **Big Walnut Creek** | 5, 7, 11, 13, 19, 20 | Putnam | Hendricks/Putnam Co. Line to Greencastle |
| **Black River** | 11 | Posey | Confluence with Higginbotham Ditch to confluence with Wabash River |
| **Blue*** | 4, 5, 7, 11, 13, 16, 18, HQW | Crawford, Harrison, Washingto | Confluence of Middle Fork Blue to confluence with Ohio River |
| **Blue, South Fork** | 11, EUW | Washington | S.R. 135 to confluence with Blue River |
| **Buck Creek*** | 11 | Harrison | Headwaters to confluence with Ohio River |
| **Cedar Creek** | 4, 7, 11, 18 HQW | Allen, Dekalb | Dekalb C.R. 68 to St. Joseph River |
| **Clifty Creek** | 11, 18, EUW | Montgomery | Headwaters to confluence with Indian Creek |
| **Cypress Slough Creek** | 11 | Posey | Confluence with Castleberry Creek to Southwind Maritime Center |
| **Deep** | 13, 17 | Lake, Porter | 1 mile south of U.S. 30 to Little Calumet River |
| **Driftwood** | 11, 13 | Bartholomew | Atterbury Fish and Wildlife Area to Columbus |

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|---|---|---|---|
| **Eel, North** | 13 | Miami, Wabash | South Whitley to Logansport |
| **Elkhart** | 13 | Elkhart, Noble | S.R. 13 to Island Park in Elkhart |
| **Elkhart, South Branch** | 7, 11, 13,20 | Noble | C.R. 100N to U.S. 6 |
| **Fall Creek** | 11, 18, EUW | Warren | U.S. 41 to confluence with Big Pine Creek |
| **Fawn*** | 11, 13 | Lagrange, Steuben | Nevada Mills to Indiana/Michigan Line and Indiana/Michigan to Indiana/Michigan line |
| **Fish Creek** | 11 | Dekalb, Steuben | Ohio/Indiana line to Indiana/Ohio Line |
| **Flatrock*** | 13 | Bartholomew, Shelby | S.R. 9 to East Fork White River |
| **Fourteen-Mile Creek*** | 11 | Clark | Confluence of East and West Forks to confluence with Ohio River |
| **Graham Creek** | 17 | Jefferson, Jennings, Ripley | New Marion to confluence with Big Creek |
| **Indian Creek*** | 11 | Harrison | Floyd/Harrison Co. Line to confluence with Ohio River |
| **Indian Creek** | 11, 18, EUW | Montgomery | C.R. 475W to confluence with Sugar Creek |
| **Indian-Kentuck Creek*** | 17 | Jefferson, Ripley | Confluence with Vestal Branch to confluence with Ohio River |
| **Iroquois*** | 13 | Newton | S.R. 16 to Indiana/Illinois line |
| **Kankakee*** | 11, 13 | LaPorte, Newton, Porter | Upstream boundary of Kingsbury Fish and Wildlife Area through LaSalle State Fishand Wildlife Area to |

| | | | |
|---|---|---|---|
| | | | Indiana/Illinois line |
| **Kilmore Creek** | 17 | Clinton | U.S. 421 to confluence with South Fork Wildcat Creek |
| **Laughery Creek*** | 5, 9, 11 | Dearborn, Ohio, Ripley | Source just east of Morris in Ripley Co. to confluence with Ohio River |
| **Little Blue*** | 5, 11 | Crawford | Town of English to confluence with Ohio |
| **Little Calumet East Fork** | 10, 13, SS | Porter | C.R. 600E to S.R. 249 |
| **Little Creek** | 17 | Jefferson | Kent to Big Creek |
| **Little Indian Creek** | 11 | Harrison | Pfrimmer Church to confluence with Indian Creek |
| **Little Mosquito** | 11 | Harrison | Headwaters to confluence with Mosquito Creek |
| **Little Pine Creek** | 11 | Warren | Bridge SW of Green Hill to confluence with Wabash River |
| **Little River*** | 22 | Allen, Huntington | Source to confluence with the Wabash River |
| **Lost River*** | 9,11,19,EUW | Martin, Orange | Potato Road to confluence with East Fork White River |
| **Mosquito Creek*** | 11 | Harrison | Buena Vista to confluence with East Fork White River |
| **Mississinewa*** | 17 | Miami | Mississinewa Reservoir to confluence with Wabash River |
| **Mud Pine Creek** | 11,18, EUW | Warren | S.R. 352 to confluence with Big Pine Creek |
| **Muscatatuck*** | 5 | Jackson,Jennings,Scott | Confluence of Graham Creek and Big Washington Creek to confluence with |

| | | | |
|---|---|---|---|
| | | | East Fork White River |
| **Muscatatuck, Vernon** | 11, 13 | Jackson, Jennings | Zenas to confluence with Muscatatuck Fork* |
| **Oil Creek*** | 11 | Perry | St. Croix to confluence with Ohio River |
| **Otter Creek** | 17 | Jennings, Ripley | Covered Bridge North of Holton to confluence with Vernon Fork Muscatatuck |
| **Patoka River** | 17 | Dubois, Gibson, Pike | Patoka Reservoir to confluence with Wabash River |
| **Pigeon** | 11, 13 | Lagrange | S.R. 327 to Indiana/Michigan Line |
| **Rattlesnake Creek** | 18, EUW | Fountain | C.R. 350W to confluence with Bear Creek |
| **Rattlesnake Creek** | 11 | Parke | C.R. 400/450S to confluence with Sugar Creek |
| **Roaring Creek** | 11 | Parke | 1 mile upstream of S.R. 41 ro confluence with Sugar Creek |
| **Sand Creek** | 17, 20 | Bartholomew, Decatur, Jackson, Jennings | Confluence with Cobbs fork to confluence East Fork of White River |
| **Stinking Fork** | 11 | Crawford | Headwaters to confluence with Little Blue River |
| **Sugar Creek** | 5,7,11,13,16,20 | Montgomery, Pike | Darlington Covered Bridge to confluence with Wabash River |
| **Sugar Creek*** | 11 | Johnson, Shelby | Inclusive within Johnson and Shelby Counties |
| **Sugar Mill Creek** | 17 | Fountain, Parke | Wallace to confluence with Sugar Creek |
| **Tippecanoe** | 5, 13, 16 | Carroll, Fulton, Kosciusko, Marshall, Pulaski, Tippecanoe, White | Source (Lake Tippecanoe) to |

| | | | |
|---|---|---|---|
| | | | Norway and from Oakdale Dam to the confluence with Wabash River |
| **Turkey Fork** | 11 | Crawford | I-64 to confluence with Little Blue River |
| **Wabash*** | 22 | Adams, Allen, Carroll, Cass, Fountain, Gibson, Huntington,Jay,Knox, Miami,Parke,Posey, Sullivan,Tippecanoe,Vermillion, Vigo,Wabash,Warren, Wells, | Indiana/Ohio Line to confluence with the Ohio River including the Little River and the portage between the Little River and the Maumee River |
| **West Branch Mosquito** | 11 | Harrison | Headwaters to confluence with Mosquito Creek |
| **White, East Fork** | 5, 11, 13 | Bartholomew, Daviess, Dubois,Jackskon,Lawrence White River,Martin, Pike | Columbus to confluence with West Fork |
| **White, West Fork*** | 5, 11, 13 | Daviess, Delaware,Gibson, Knox, Greene,Hamilton,Madison,Marion,Morgan,Owen,Randolph | Farmland to confluence with Wabash River |
| **Whitewater*** | 7,11,13,20 | Dearborn,Fayette,Franklin | Cambridge City to Indiana/Ohio line Wayne (West Harrison, OH) |
| **Wildcat Creek** | 4,7,13,1,7,18 HQW | Carroll, Tippecanoe | S.R. 29 to confluence with Wabash River |
| **Wildcat Creek, Middle** | 17 | Clinton,Tippecanoe | S.R. 26 (Edna Mills) to confluence with Fork Wildcat, South Fork |
| **Wildcat Creek, South** | 4,7,11,13,17, 18, HQW | Clinton,Tippecanoe | U.S. 421 to confluence with Wildcat Creek Fork |

# BIOLOGICAL ASSESSMENT FORM

Road: _____ Des. No: _____ Project No: _____ County: _____
Project Description: _____
Project Location: _____

Natural Region and Section: _____
8-Digit Watershed: _____ USGS Quadrangle: _____ Soil Survey Map Sheet _____

## RIGHT-OF-WAY BY LAND USE TYPE

Permanent Right-of-way

| Land Use Type | R/W (ha) | R/W (ac) |
|---|---|---|
| Commercial | | |
| Industrial | | |
| Residential | | |
| Agricultural | | |
| Wooded | | |
| | | |
| **Total Perm R/W** | | |

Temporary Right-of-way

| Land Use Type | R/W (ha) | R/W (ac) |
|---|---|---|
| Commercial | | |
| Industrial | | |
| Residential | | |
| Agricultural | | |
| Wooded | | |
| | | |
| **Total Temp R/W** | | |

Is the project located in an urban or a rural setting? _____
Is land use in the project changing? Yes No If yes, explain: _____
_____
_____

## QUADRANT DESCRIPTION

Northeast _____
Northwest _____
Southeast _____
Southwest _____

## STREAM INFORMATION

Channel Width:_____ Channel Depth:_____ Maximum Water Depth in Channel: _____
Substrate Material: (circle one) silt sand gravel loose rock bedrock
Flow Velocity: (circle one) stagnant slow moderate swift rapid
Does the stream contain riffle/pool complexes? Yes No
Does the stream contain meanders within the proposed right-of-way? Yes No
Is channel work proposed as part of this project? Yes No If yes, describe: _____
_____
Is aquatic flora present? Yes No If yes, please list: _____
_____
Is aquatic fauna present? Yes No If yes, please list: _____
_____
Comments: _____
_____
_____
_____

## TERRAIN

Immediate Area: Depressed Flat Gently Rolling Rolling Hilly
Extended Area: Depressed Flat Gently Rolling Rolling Hilly

## TERRESTRIAL WILDLIFE

Fauna Observed or Indicated

| Class[1] | Common Name | Scientific Name | Indication[2] |
|---|---|---|---|
| | | | |
| | | | |
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| | | | |

[1]Mammal, Bird, Reptile, or Amphibian
[2]Observed Animal, Tracks, Scat, Homes, and/or Markings

Dominant Flora Observed

| Strata[1] | Common Name | Scientific Name | Wetland Indicator[2] | Location[3] |
|---|---|---|---|---|
| | | | | |
| | | | | |
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[1]Overstory, Understory, Vine, or Herbaceous
[2]UPL, FACU-, FACU, FACU+, FAC-, FAC, FAC+, FACW-, FACW, FACW+, or OBL
[3]Floodplain, Depression, or Upland

## SOILS INFORMATION

| Abbreviation | Soil Name | Soil Texture | Drainage Class[1] | Hydric Soil Status[2] | Location[3] |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
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| | | | | | |
| | | | | | |

[1]ED-Excessively Drained, WD-Well Drained, MWD-Moderately Well Drained, SWPD-Somewhat Poorly Drained, PD-Poorly Drained, VPD-Very Poorly Drained
[2]H-Hydric Soil, HI-Contains Hydric Inclusions, NH-Non-Hydric
[3]Floodplain, Depression, or Upland

## ENDANGERED AND THREATENED SPECIES

Is this project located within the range of any Federally Endangered or Threatened Species? Yes No
If yes, please list below.

| Common Name | Scientific Name | Status | Suitable Habitat Present |
|---|---|---|---|
| | | | Yes No |
| | | | Yes No |
| | | | Yes No |
| | | | Yes No |
| | | | Yes No |

Will any of the above listed species be impacted by the planned improvements? Yes No

## NATURAL AREAS

Are there any natural areas located within 5 miles of the project area? Yes No
If yes, please list below.

| Property Name | Ownership | Proximity to Project |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |

Will any of the above listed properties be impacted by the planned improvements? Yes No

## WETLAND INFORMATION

Are wetlands mapped within or adjacent to project limits? Yes No
If yes, please list below.

| Wetland Type | Abbreviation | Location within Project | Confirmed in Field? |
|---|---|---|---|
| | | | Yes No Undetermined |
| | | | Yes No Undetermined |
| | | | Yes No Undetermined |
| | | | Yes No Undetermined |
| | | | Yes No Undetermined |
| | | | Yes No Undetermined |
| | | | Yes No Undetermined |
| | | | Yes No Undetermined |

Were any of the following wetland indicators observed in or adjacent to project limits?

| | Yes | No | Location within Project |
|---|---|---|---|
| Standing Water | ___ | ___ | _____ |
| Saturated Soil | ___ | ___ | _____ |
| Depressional Areas | ___ | ___ | _____ |
| Water Marks on Trees | ___ | ___ | _____ |
| Drift Lines | ___ | ___ | _____ |
| Fluted Tree Trunks/Roots | ___ | ___ | _____ |
| Sediment Deposits | ___ | ___ | _____ |
| Water Stained Leaves | ___ | ___ | _____ |
| Other_____ | ___ | ___ | _____ |

Is there a potential for impacts to jurisdictional wetlands as a result of the planned improvements? Yes No
Comments: _____
_____
_____
_____

## GENERAL PROJECT COMMENTS

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

## ATTACHMENTS

State/Location Map
USGS Quad Map
NWI Map
Soils Map
Aerial Photograph
Project Graphics or Written Description
Photographs
Hydraulics Report

Performed by: _____
Date: _____

United States Department of the Interior

FISH AND WILDLIFE SERVICE
BLOOMINGTON FIELD OFFICE (ES)
620 South Walker Street
Bloomington, Indiana 47403-2121
(812) 334-4261 FAX 334-4273

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:

September 8, 1993

RECEIVED
SEP 27 1993
PROGRAM DEVELOPMENT DIVISION
ENVIRONMENTAL ASSESSMENT SECTION

Mr. James E. Juricic
Environmental Assessment Section
Department of Transportation
100 North Senate Avenue, Room N808
Indiana Government Center North
Indianapolis, Indiana 46204-2249

Dear Mr. Juricic:

The U.S. Fish and Wildlife Service (FWS) has determined that certain projects subject to Federal Highway Administration funding result in minimal impacts to fish and wildlife resources. Our review of such projects typically results in a response letter with a standard set of conditions to mitigate environmental impacts. To expedite the early coordination process, the FWS is providing a programmatic review for all such projects, as defined in this letter. The programmtic response applies only to projects with minimal impacts to fish and wildlife resources and no adverse effects on federally endangered or threatened species, as defined in this document.

For all projects to which this programmatic response applies, the following standard set of conditions will be in effect, and the FWS will not send an individual response to early coordination letters. For all projects in the "Programmatic Coordination" category of the accompanying Memorandum of Understanding (MOU), we request to be sent an early coordination letter; for projects in the "No Coordination Required" category, no letter will be sent.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et. seq.) and are consistent with the intent of the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the U. S. Fish and Wildlife Service's Mitigation Policy.

Standard Conditions

1. Post DO NOT DISTURB signs at the construction zone boundaries and do not clear trees or understory vegetation outside the boundaries.

2. Restrict below low-water work to placement of piers, pilings and/or footings, shaping of the spill slopes around the bridge abutments, and placement of riprap.

3. Restrict channel work and vegetation clearing to within the width of the normal approach road right-of-way. In rural areas this should be feasible under current Indiana Natural Resources Commission policy, whereby it is not necessary

for a new bridge in a rural area to reduce the amount of headup compared to the existing bridge (when replaced on essentially the same alignment).

4. Minimize the extent of artificial bank stabilization.

5. If riprap is utilized for bank stabilization, extend it below low-water elevation to provide aquatic habitat.

6. Implement temporary erosion and siltation control devices such as placement of straw bales in drainage ways and ditches, covering exposed areas with burlap, jute matting or straw, and grading slopes to retain runoff in basins.

7. Revegetate all disturbed soil areas immediately upon project completion.

8. Avoid all work within the inundated part of the stream channel during the fish spawning season (April 1 through June 30), except for work within sealed structures such as caissons or cofferdams that were installed prior to the spawning season.

Projects for which Programmatic Coordination Applies

This programmatic coordination letter applies to all projects which are within the criteria described in the "Programmatic Coordination" section of the attached MOU. In general, it applies to all projects for which coordination is required, but which are not in any of the prohibited categories described in the MOU.

If information becomes available concerning federally endangered/threatened species, or other significant fish and wildlife resources, which might preclude the programmatic response for a specific project, it will be the responsibility of the FWS to inform INDOT within 60 days of receiving the early coordination letter that additional consultation will be necessary. If new endangered species information which would affect the project becomes available between early coordination and construction, the FWS will inform INDOT as soon as possible.

A permit under Section 404 of the Clean Water Act may be needed for the proposed project. We would probably not object to issuance of such a permit if the applicable aforementioned recommendations are incorporated into final project plans as currently proposed.

If you have any questions about our recommendations, please call (812) 334-4261.

Sincerely yours,

David C. Hudak,
Supervisor

September, 1993

MEMORANDUM OF UNDERSTANDING

Re: Streamlining and reducing the flow of early coordination letters/responses with the U.S. Fish and Wildlife Service

The goal for these revisions is the streamlining and reduction of early coordination responses needed from the USFWS for both INDOT and local public agency transportation projects. The potential to impact natural areas will be the guiding criteria on when and how coordination is to be done for USFWS. Any revisions to the current early coordination method must meet U.S. Fish and Wildlife's as well as the Indiana Department of Transportation's regulatory and legal needs, such as permitting, the Endangered Species Act, and various federal regulations and review authority.

There will be three types of coordination with the U.S. Fish and Wildlife Service - no coordination needed based upon the potential impacts of the project, programmatic coordination, and standard early coordination. As additional information becomes available concerning endangered species and other significant resources, the following data is subject to revision.

No Coordination Required

1. Bridge rehabilitation, widening and reconstruction projects within existing right-of-way. *

2. Improving railroad grade crossings. *

3. Small structure replacements. *

4. Access control (consolidation or elimination of access points). *

5. Road resurfacing, restoration, rehabilitation, reconstruction added shoulders, or added auxiliary lanes (e.g. parking, weaving, turning, climbing) within existing permanent right-of-way. *

6. Intersection improvements. *

7. Erosion control projects. *

8. Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes that requires additional right-of-way if all of the right-of-way is currently in urban land usage. *

9. Highway safety or traffic operations improvement projects including installation of ramp metering control devices as long as within existing right-of-way. *

10. Acquisition of land for hardship or protective purposes. *

*All criteria discussed below in the programmatic coordination section must also be satisfied for no coordination to be necessary.

## Programmatic Coordination

Certain types of impacts would allow a project to fall under a programmatic coordination where programmatic early coordination would occur, but the coordination would normally elicit no individual response. The programmatic response would be included in the Procedural Manual for Preparing Environmental Studies. This programmatic response from the U.S. Fish and Wildlife Service would supply generalized conditions, etc. required for the project as well as Section 7 clearance (see attached programmatic response). Should special, unforeseen circumstances occur requiring a response from the U.S. Fish and Wildlife Service, they will respond within 60 days. The following permit projects would be one criteria or "red button". The following list of criteria would disallow a project being programmatically coordinated and thus would require standard early coordination:

Projects requiring a Section 404 Permit (individual or nationwide) with jurisdictional wetlands contiguous to the roadway.
-The disturbance of natural areas in certain geographical regions (see attached list) - possible rare, threatened, and endangered species habitat.
-Any project that is located in the Karst region (see attached map)
-Any channel work below low water beyond that actually necessary for the installation of the structure.
Any channel work above low water greater than 70' from the edge of the structure.
-Any new road alignment affecting more than one acre of natural habitat.
-Any project requiring a Section 4(f) (except for historic or archaeological 4(f)'s).

These criteria would apply only to those types of projects that fall under a regular categorical exclusion or require an Environmental Assessment/Finding of No Significant Impacts. Projects requiring a DEIS/FEIS would require standard early coordination.

## INFORMATION NEEDED IN THE EARLY COORDINATION BY USFWS

Early coordination often includes too much of the wrong information and too little of the right information. To rectify this the following guidelines should be met:

-do not include engineer's reports or unnecessary engineering details.
-do include a biological report that minimally includes:
- description of the habitats of the project area.
- Dominant species for each habitat type.
- any possible rare or endangered species habitat.
- photographs of the project site.
- aerial photography of the site at such a scale that existing and proposed right-of-way and natural features can be shown.
- any unique, sensitive or unusual biological features or conditions that exist at the site.
- describe any water features present.

do include a basic description of the proposed project:
- type of project.
- length of project
- existing and proposed right-of-way width.
- maintenance of traffic
- any impacts to surface waters or drainage of the project - work in or near streams, lakes, ditches, etc.

do include past, current and proposed land uses in the proximity of the project.

do include adequate graphics - U.S.G.S. quadrangle maps, aerial photographs, well labeled photographs of the site and NWI and County Soil maps if available.

David C. Hudak 9/17/93

Mr. David C.Hudak, Field Supervisor
U.S. Fish and Wildlife Service

James E. Juricic 9/28/93

Mr. James E. Juricic, Manager
Environmental Assessment Section
Indiana Department of Transportation

List of Geographic Locations Excluded from Programmatic Coordination Between the Indiana Department of Transportation and the U.S. Fish and Wildlife Service

County Locations

Lake, Porter, LaPorte (all locations within Lake Michigan watershed)
Clark (all locations within Silver Creek watershed)
Ohio, Ripley, Switzerland (bottomland meadows)

Streams and Rivers

Bear Creek and tributaries (Fountain County)
Big Walnut Creek (Putnam, Hendricks Counties)
Big Creek (Jefferson County)
Big Pine Creek (Warren County)
Big Blue River (Johnson, Rush, Shelby Counties)
Black River (Posey County)
Blue River, including South Fork (Crawford, Harrison, Washington Counties)
Buck Creek (Harrison County)
Cedar Creek (Allen, Dekalb Counties)
Clifty Creek (Montgomery County)
Cypress Slough Creek (Posey County)
Deep River (Lake, Porter Counties)
Driftwood River (Bartholomew County)
Eel River (Miami, Wabash Counties)
Elkhart River (Elkhart, Noble Counties)
Fall Creek (Warren County)
Fawn Creek (Lagrange, Steuben Counties)
Fish Creek (Dekalb, Steuben Counties)
Flatrock River (Shelby County)
Graham Creek (Jefferson, Jennins, Ripley County)
Grand Calumet River (Lake County)
Indian Creek (Harrison County)
Indian Creek (Montgomery County)
Indian-Kentuck Creek (Jefferson, Ripley Counties)
Iroquois River (Newton County)
Kankakee River
Kilmore Creek (Clinton County)
Laughery Creek (Dearborn, Ohio, Ripley Counties)
Little Blue River (Crawford County)
Little River (Allen, Huntington Counties)
Little Mosquito Creek (Harrison County)
Little Pine Creek (Warren County)
Little Indian Creek (Harrison County)
Little Calumet River East Fork (Porter County)
Little Creek (Jefferson County)
Lost River (Martin, Orange Counties)
Mississinewa River
Mosquito Creek, including West Branch (Harrison County)

Mud Pine Creek (Warren County)
Muscatatuck River, including Vernon Fork
Ohio River
Oil Creek (Perry County)
Otter Creek (Jennings, Ripley County)
Patoka River (Gibson, Pike Counties)
Pigeon River (Lagrange County)
Rattlesnake Creek (Fountain County)
Rattlesnake Creek (Parke County)
Roaring Creek (Parke County)
Sand Creek (Barrtholomew, Decatur, Jackson, Jennings Counties)
South Branch Elkhart River (Noble County)
St. Joseph River (Elkhart, St. Joseph County)
Stinking Fork (Crawford County)
Sugar Mill Creek (Fountain, Parke Counties)
Sugar Creek (Montgomery, Parke Counties)
Sugar Creek (Johnson, Shelby Counties)
Tippecanoe River
Turkey Fork (Crawford County)
Wabash River
White River Mainstem (Gibson, Pike, Knox Counties)
White River West Fork
White River East Fork
Whitewater River (Fayette, Franklin Counties)
Wildcat Creek, all branches (Carroll, Clinton, Tippecanoe Counties)

Karst areas

See accompanying map

## EXPLANATION

PENNSY

Pm — McLeansboro Group
*Shale sandstone limestone, thin coals*

Carbondale Group
*Shale sandstone limestone thick coals*

Pr — Raccoon Creek Group
*Sandstone shale clay limestone, thin coals*

West Baden and Stephensport Groups and upper Chesterian rocks
*Shale sandstone limestone*

MISSISSIPPIAN

Blue River Group
*Limestone dolomite*

Sanders Group
*Limestone*

Mb — Borden Group and Rockford Limestone
*Shale siltstone limestone*

Mc — Coldwater Shale
*Gray shale*

DMe — Ellsworth and Sunbury Shales
*Gray green and black shales*

DM — New Albany Shale
*Black shale*

DEVONIAN

Da — Antrim Shale
*Black shale*

D — Middle Devonian rocks
*Limestone dolomite*

SILURIAN

Salina Formation
*Limestone, dolomite*

Lower and middle Silurian rocks
*Limestone dolomite siltstone, shale*

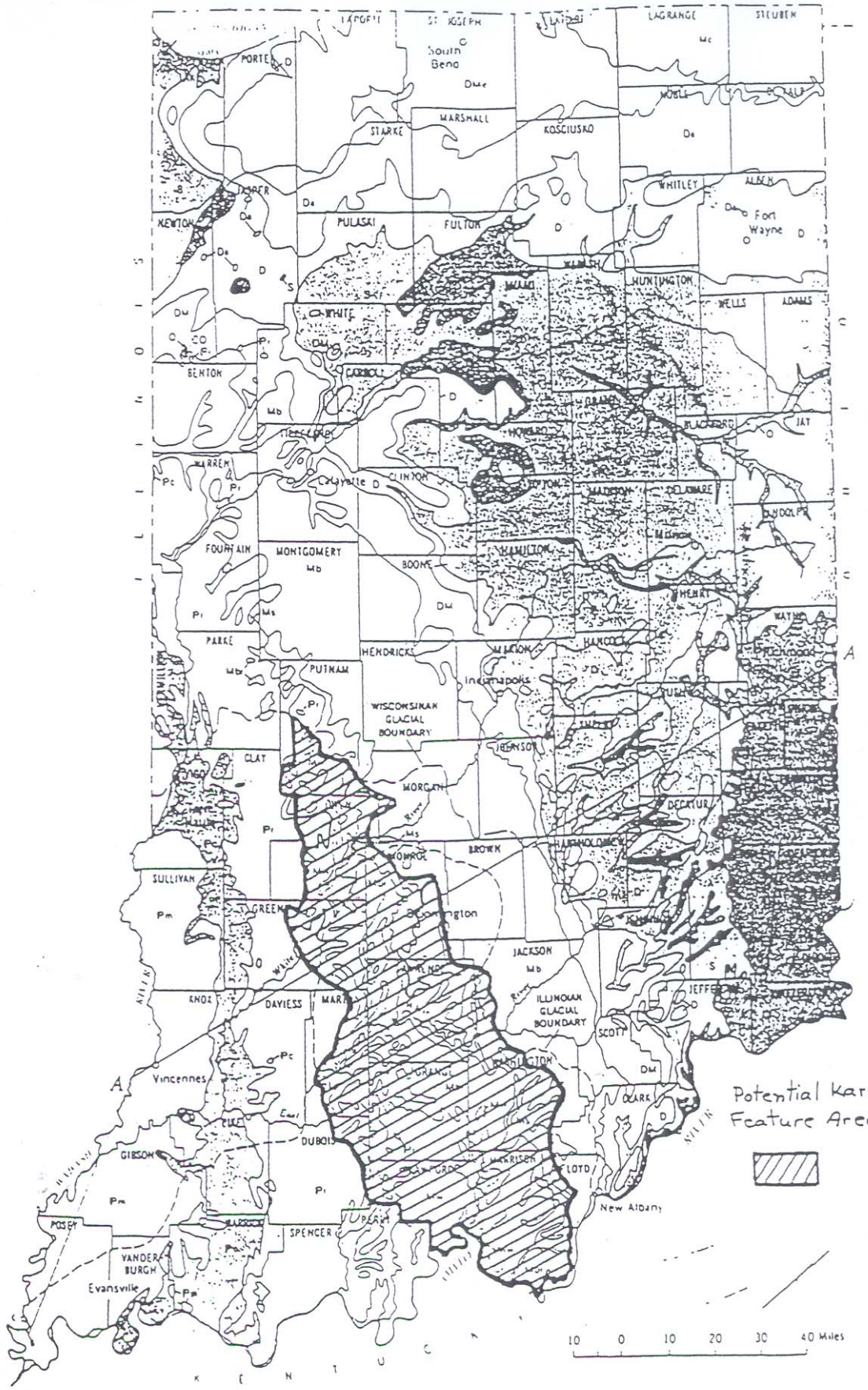
ORDOVICIAN

Upper Ordovician rocks
*Shale limestone*

Uppermost Cambrian and lower and middle Ordovician rocks
*Dolomite limestone sandstone*

C — Upper Cambrian rocks
*Sandstone shale dolomite*
*Shown on cross section only*

PC — Granitic basaltic and metasedimentary rocks
*Shown on cross section only*



# Potential Karst Area of Indiana

1. Approximate Boundaries:

North: southern boundary of Wisconsin glaciation
East: Spickert Knob Formation (Borden group)
South: Ohio River
West: Western edge of Mw (West Baden and Stephensport Groups and upper Chesterian rocks) outcrop area

2. Counties Included: (13)

| | | | |
|---|---|---|---|
| Putnam | Greene | Dubois | Crawford |
| Morgan | Martin | Washington | |
| Owen | Lawrence | Floyd | |
| Monroe | Orange | Harrison | |

Note: Four (4) counties (Clay, Jackson, Spencer and Perry) which have either Ms or Mw mapped within their borders are not included in the potential karst are for mainly two (2) reasons. The first is that no caves are listed in them in the 1961, Caves of Indiana by Richard Powell. The second is that Clay, Jackson and Spencer counties also had but very small intrusions of these rocks at the bedrock surface.

Although the Mw rocks do not contain the massive limestones in which karst features typically develop, it was selected as the western map boundary because it matched up very well with the cave location map included in the Caves of Indiana report.

U.S. Department of Transportation
**Federal Highway Administration**

# Memorandum

**Sent Via E-mail**

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Subject: **ACTION**: Guidance for Determining *De Minimis* Impacts to Section 4(f) Resources

Date: December 13, 2005

***Original Signed by:***
From: Cynthia J. Burbank
Associate Administrator, Planning, Environment and Realty, FHWA
Brigid Hynes-Cherin, Associate Administrator for Planning and Environment, FTA

Reply to Attn. of:
HEPE

To: FHWA Division Administrators
FTA Regional Administrators

Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, amended existing Section 4(f) legislation at Section 138 of Title 23 and Section 303 of Title 49, United States Code, to simplify the processing and approval of projects that have only *de minimis* impacts on lands protected by Section 4(f). This is the first substantive revision of Section 4(f) legislation since passage of the U.S. Department of Transportation Act of 1966. This revision provides that once the U.S. Department of Transportation (DOT) determines that a transportation use of Section 4(f) property, after consideration of any impact avoidance, minimization, and mitigation or enhancement measures, results in a *de minimis* impact on that property, an analysis of avoidance alternatives is not required and the Section 4(f) evaluation process is complete.

Section 6009(c) of SAFETEA-LU requires the U.S. DOT to conduct a study and issue a report on the implementation of the new Section 4(f) provisions. The study will include evaluation of: 1) the implementation processes developed and the resulting efficiencies; 2) the post-construction effectiveness of any impact mitigation and avoidance commitments adopted as part of the projects; and 3) the number of projects determined to have *de minimis* impacts, including information on the location, size, and cost of the projects. The initial study and report will address the first three years of implementation. The Federal Highway Administration (FHWA) Division and Federal Transit Administration (FTA) Regional Offices should maintain a record of the projects for which *de minimis* findings were made and track the progress of those projects in order to facilitate the future evaluation of the post construction effectiveness of any commitments of mitigation made as part of the *de minimis* finding. Additional guidance and information regarding the study and report will be provided in the future.

BUCKLE UP AMERICA

## Questions and Answers on the Application of the Section 4(f) *De Minimis* Impact Criteria

### Introduction

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) amendment to the Section 4(f) requirements allows the U.S. Department of Transportation (DOT) to determine that certain uses of Section 4(f) land will have no adverse effect on the protected resource. When this is the case, and the responsible official(s) with jurisdiction[1] over the resource agrees in writing, compliance with Section 4(f) is greatly simplified, as explained in this guidance.

The *de minimis*[2] impact criteria and associated determination requirements specified in Section 6009(a) of SAFETEA-LU[3] are different for historic sites than for parks, recreation areas, and wildlife and waterfowl refuges. *De minimis* impacts related to historic sites are defined as the determination of either "no adverse effect" or "no historic properties affected" in compliance with Section 106 of the National Historic Preservation Act (NHPA)[4]. *De minimis* impacts on publicly owned parks, recreation areas, and wildlife and waterfowl refuges are defined as those that do not "adversely affect the activities, features and attributes" of the Section 4(f) resource.

The following questions and answers provide information and guidance on the process of determining *de minimis* impacts of highway and transit projects that propose the use of Section 4(f) property. A diagram of the determination process for parks, recreation areas, and wildlife and waterfowl refuges is included for illustration following the questions and answers.

### 1. General Information Regarding Application of the *De Minimis* Impact Criteria.

**Question A. Are *de minimis* impact findings limited to any particular type of project or National Environmental Policy Act (NEPA) document?**

**Answer:** No. The *de minimis* impact criteria may be applied to any project, as appropriate, regardless of the type of environmental document required by the NEPA process as described in the FHWA and FTA Environmental Impact and Related Procedures[5].

**Question B. What effect does the *de minimis* impact provision have on the application of the existing FHWA nationwide programmatic evaluations?**

**Answer:** Existing FHWA programmatic Section 4(f) evaluations[6] remain in effect and may be applied, as appropriate, to the use of Section 4(f) property by a highway project. However, since FTA does not have its own or share FHWA's programmatic evaluations, the programmatic option applies only to FHWA projects and to multimodal projects in which FHWA and FTA are co-lead agencies.

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[1] "Official(s) with jurisdiction" means the SHPO, THPO and ACHP, if participating in the consultation, for historic resources, and is defined in Question 3C for other Section 4(f) resources.

[2] Black's Law Dictionary (8th ed. 1999) defines de minimis as 1. Trifling, minimal. 2. (Of a fact or thing) so insignificant that a court may overlook it in deciding an issue or case. 3. *De Minimis Non Curat Lex, The law does not concern itself with trifles.*

[3] Section 6009 amends 49 U.S.C. § 303 and 23 U.S.C § 138; see specifically 49 U.S.C. § 303(d) and 23 U.S.C §138(b)

[4] 16 U.S.C. 470f, with implementing regulation at 36 CFR part 800

[5] 23 CFR 771.115

[6] http://environment.fhwa.dot.gov/projdev/4fnspeval.htm

**Question C. Is it appropriate to apply the *de minimis* impact criteria to projects that are already in the project development process?**

**Answer:** Yes. The Section 4(f) statutory amendment was effective immediately upon enactment of SAFETEA-LU and the *de minimis* impact criteria may be applied to projects currently in the project development process, where the requirements of a *de minimis* impact finding have been or will be satisfied. The decision to apply the *de minimis* impact criteria to those projects is a matter of agency choice and professional judgment. The factors that should be considered in decisions to apply the *de minimis* impact criteria to projects in the "pipeline" include, but are not limited to: 1) the stage of the NEPA or project development process the project is in; 2) the benefits to the project delivery schedule realized by applying the *de minimis* impact criteria; 3) the impact to the project delivery schedule due to other agency (e.g., SHPO and/or THPO and park authorities) or public concern; 4) the overall benefit to the project realized by the reevaluation of a more viable alternative through a *de minimis* impact finding; 5) the degree and type of controversy and/or public scrutiny related to the project; and 6) the resulting benefits realized to a Section 4(f) resource by the *de minimis* impact finding.

While the *de minimis* impact criteria may be applied to any project meeting the specified requirements, Section 6009(a) of SAFETEA-LU does not require the U.S. DOT to re-open decisions already made concerning Section 4(f) impacts of individual projects. Project sponsors are encouraged to examine projects currently in the environmental process to see if any would benefit from application of the *de minimis* impact criteria, but the decision must be made on a case-by-case basis.

**Question D. Can a *de minimis* impact finding be made for a project as a whole, where multiple Section 4(f) resources are involved?**

**Answer:** No. Where multiple Section 4(f) resources are present in the study area and potentially used by a transportation project, *de minimis* impact findings must be made for the individual Section 4(f) resources. The impacts to Section 4(f) resources and any impact avoidance, minimization, and mitigation or enhancement measures must be considered on an individual resource basis and *de minimis* impact findings made individually for each Section 4(f) resource. However, when there are multiple resources for which *de minimis* impact findings are appropriate, the procedural requirements of Section 4(f) can and should be completed in a single process, document and circulation, so long as it is clear that distinct determinations are being made. Also in these cases, the written concurrence of the official(s) with jurisdiction may be provided for the project as a whole, so as long as the *de minimis* impacts findings have been made on an individual resource basis.

**Question E. What role does mitigation play in the *de minimis* impact finding?**

**Answer:** The *de minimis* impact finding is based on the degree or level of impact including any avoidance, minimization, and mitigation or enhancement measures that are included in the project to address the Section 4(f) use. The expected positive effects of any measures included in a project to mitigate the adverse effects of a Section 4(f) resource must be taken into account when determining whether the impact to the Section 4(f) resource is *de minimis*. The purpose of taking such measures into account is to encourage the incorporation of Section 4(f) protective measures as part of the project[7]. *De minimis* impact findings must be expressly conditioned upon the implementation of any measures that were relied upon to reduce the impact to a *de minimis* level. The implementation of such measures will become the responsibility of the project sponsor, with FHWA or FTA oversight[8].

---

[7] Conference Report of the Committee of Conference on H.R. 3, Report 109-203, page 1057.

[8] 23 CFR 771.109(b)

**Question F. How should the *de minimis* impacts to Section 4(f) resources be considered in the alternative selection process when all feasible and prudent alternatives result in Section 4(f) use?**

**Answer:** For those situations in which multiple Section 4(f) resources will be used by a project and it has been determined that no feasible and prudent avoidance alternatives exist, the *de minimis* impacts of Section 4(f) resources must be factored into the analysis to determine which alternative results in the least overall harm as described in the FHWA Section 4(f) Policy Paper[9].

In most cases, the *de minimis* impacts will have little or no influence on the determination of overall harm because the activities, features and attributes of the Section 4(f) resources will not be adversely affected. Also, because potential adverse impacts to the Section 4(f) resources will be completely mitigated or enhanced by inclusion of such measures as part of the project in making *de minimis* impact findings, the Section 4(f) benefit should be included in the least harm analysis. Where it is not clear which alternative results in the least overall harm, consultation with the FHWA or FTA Headquarters or the FHWA or FTA Office of the Chief Counsel is recommended.

**Question G. Can a *de minimis* impact finding be made for a "constructive use" of Section 4(f) property?**

**Answer:** No. A *de minimis* impact finding can only be made where the transportation use would not adversely affect the activities, features, and attributes that qualify a property for protection under Section 4(f). Constructive use, by definition, involves impacts to a Section 4(f) resource such that the protected activities, features, and attributes would be substantially impaired[10]. Therefore, a *de minimis* impact finding would not be appropriate where there is a constructive use. Furthermore, if a potential constructive use can be reduced below a substantial impairment, with the inclusion of mitigation measures, then Section 4(f) would not apply.

**Question H. Can a *de minimis* impact finding be made for a "temporary occupancy" of Section 4(f) property?**

**Answer:** Yes. As long as the *de minimis* impact criteria are met, the impacts associated with a temporary occupancy of a Section 4(f) resource could be determined to be *de minimis*. It should be noted, however, that Section 4(f) does not apply to the temporary occupancy of Section 4(f) property when the conditions set forth in the FHWA and FTA Environmental Impact and Related Procedures[11] are satisfied. Therefore, application of the *de minimis* impact provision for these situations should only be considered when the project does not meet the temporary occupancy exception criteria.

**Question I. Who makes the *de minimis* impact findings?**

**Answer:** The FHWA Division Administrator or FTA Regional Administrator makes the *de minimis* impact findings. In the determination, FHWA or FTA shall consider any impact avoidance, minimization, and mitigation or enhancement measures that are included in the project to address the impacts and adverse effects on the Section 4(f) resource. The FHWA Division Administrator or FTA Regional Administrator must consider the facts supporting the determination of a *de minimis* impact, the record that was compiled in the coordination that must precede the determination of *de minimis* impact, the concurrence of the official(s) with jurisdiction, and use his or her own best judgment in making the *de minimis* impact finding. It is ultimately the

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[9] March 1, 2005, pages 6, 7; http://www.environment.fhwa.dot.gov/projdev/4fpolicy.htm

[10] 23 CFR 771.135(p)(2)

[11] 23 CFR 771.135(p)(7)

responsibility of the FHWA or FTA to ensure that *de minimis* impact findings and required concurrences are reasonable.

Coordination with the FHWA or FTA Headquarters or the FHWA or FTA Office of the Chief Counsel is not required for routine *de minimis* impact findings but is recommended for controversial projects and complex situations.

## 2. *De Minimis* Impact Findings for Section 4(f) Uses of Historic Properties.

**Question A. What are the requirements for a finding of *de minimis* impact on a historic site?**

**Answer:** A finding of *de minimis* impact on a historic site may be made when:

1) The process required by Section 106 of the National Historic Preservation Act[12] results in the determination of "no adverse effect" or "no historic properties affected" with the concurrence of the SHPO and/or THPO, and ACHP if participating in the Section 106 consultation;
2) The SHPO and/or THPO, and ACHP if participating in the Section 106 consultation, is informed of FHWA's or FTA's intent to make a *de minimis* impact finding based on their written concurrence in the Section 106 determination; and
3) FHWA or FTA has considered the views of any consulting parties participating in the Section 106 consultation.

**Question B. How should the concurrence of the SHPO and/or THPO, and ACHP if participating in the Section 106 determination, be documented when the concurrence will be the basis for a *de minimis* finding?**

**Answer:** Section 4(f)[13] requires that the SHPO and /or THPO, and ACHP if participating, must concur in writing in the Section 106 determination of "no adverse effect" or "no historic properties affected." The request for concurrence in the Section 106 determination should include a statement informing the SHPO or THPO, and ACHP if participating, that the FHWA or FTA intends to make a *de minimis* finding based upon their concurrence in the Section 106 determination.

Under the Section 106 regulation, concurrence by a SHPO and/or THPO may be assumed if they do not respond within a specified timeframe, but Section 4(f) explicitly requires their written concurrence. It is recommended that transportation officials share this guidance with the SHPOs and THPOs in their States so that these officials fully understand the implication of their concurrence in the Section 106 determinations and the reason for requesting written concurrence.

**Question C. Certain Section 106 programmatic agreements (PAs) allow the lead agency to assume the concurrence of the SHPO and/or THPO in the determination of "no adverse affect" or "no historic properties affected" if response to a request for concurrence is not received within a period of time specified in the PA. Does such concurrence through non-response, in accordance with a written and signed Section 106 PA, constitute the "written concurrence" needed to make a *de minimis* finding?**

**Answer:** In accordance with the provisions of a written and signed programmatic agreement, if the SHPO and/or THPO does not respond to a request for concurrence in the Section 106

[12] 16 U.S.C. 470f, with implementing regulation at 36 CFR part 800

[13] 49 U.S.C 303(d)(2)

determination within the specified time, the non-response together with the written agreement, will be considered written concurrence in the Section 106 determination that will be the basis of the *de minimis* finding by FHWA or FTA.

FHWA or FTA must inform the SHPOs and THPOs who are parties to such PAs, in writing, that a non-response that would be treated as a concurrence in a "no adverse effect" or "no historic properties affected" determination will also be treated as the written concurrence for purposes of the FHWA or FTA *de minimis* impact finding. It is recommended that this understanding of the parties be documented by either appending the written notice to the existing PA, or by amending the PA itself.

**Question D. For historic properties, will a separate public review process be necessary for the determination of a *de minimis* impact?**

**Answer:** No. Section 6009(a) of SAFETEA-LU requires the U.S. DOT to consult with the parties participating in the Section 106 process but does not require additional public notice or opportunity for review and comment. Documentation of consulting party involvement is recommended. For projects requiring the preparation and distribution of a NEPA document, the information supporting a *de minimis* impact finding will be included in the NEPA documentation and the public will be afforded an opportunity to review and comment during the formal NEPA process.

### 3. *De Minimis* Impact Findings for Parks, Recreation Areas, and Wildlife and Waterfowl Refuges

**Question A. What constitutes a *de minimis* impact with respect to a park, recreation area, or wildlife and waterfowl refuge?**

**Answer**: An impact to a park, recreation area, or wildlife and waterfowl refuge may be determined to be *de minimis* if the transportation use of the Section 4(f) resource, including consideration of impact avoidance, minimization, and mitigation or enhancement measures, does not adversely affect the activities, features, and attributes that qualify the resource for protection under Section 4(f). Language included in the SAFETEA-LU Conference Report[14] provides additional insight on the meaning of *de minimis* impact.

> "The purpose of the language is to clarify that the portions of the resource important to protect, such as playground equipment at a public park, should be distinguished from areas such as parking facilities. While a minor but adverse effect on the use of playground equipment should not be considered a *de minimis* impact under section 4(f), encroachment on the parking lot may be deemed *de minimis*, as long as the public's ability to access and use the site is not reduced."

This simple example helps to distinguish the activities, features, and attributes of a Section 4(f) resource that are important to protect from those which can be used without resulting adverse effects. Playground equipment in a public park may be central to the recreational value of the park that Section 4(f) is designed to protect. When impacts are proposed to playground equipment or other essential feature, a *de minimis* impact finding will, at a minimum, require a commitment to replace the equipment with similar or better equipment at a time and in a location that results in no adverse effect to the recreational activity. A parking lot encroachment or other similar type of land use, on the other hand, could result in a *de minimis* impact with minimal mitigation, as long as there are no adverse effects on public access and the official(s) with jurisdiction agree.

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[14] Conference Report of the Committee of Conference on H.R. 3, Report 109-203, page 1057.

**Question B. What are the requirements for a finding of *de minimis* impact with respect to a park, recreation area, or wildlife and waterfowl refuge?**

**Answer**: The impacts of a transportation project on a park, recreation area, or wildlife and waterfowl refuge that qualifies for Section 4(f) protection may be determined to be *de minimis* if:

1) The transportation use of the Section 4(f) resource, together with any impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project, does not adversely affect the activities, features, and attributes that qualify the resource for protection under Section 4(f);
2) The official(s) with jurisdiction over the property are informed of FHWA's or FTA's intent to make the *de minimis* impact finding based on their written concurrence that the project will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f); and
3) The public has been afforded an opportunity to review and comment on the effects of the project on the protected activities, features, and attributes of the Section 4(f) resource.

**Question C. What officials are considered to be "officials with jurisdiction" over a park, recreation area, or wildlife or waterfowl refuge for the purposes of the *de minimis* impact finding?**

**Answer:** The officials with jurisdiction are the officials of an agency or agencies that own or administer a Section 4(f) property and who are empowered to represent that agency on related matters. In some cases, the agency that owns or administers the land has either delegated or relinquished its authority to another agency. In those cases, FHWA or FTA should review the applicable agreements to determine which agency or agencies have the authority to concur in the assessment of impacts to the property.

**Question D. How should Section 6(f) of the Land and Water Conservation Fund Act (LWCFA) or other U.S. Department of Interior (DOI) grants-in-aid programs be treated in *de minimis* impact findings?**

**Answer:** *De minimis* impact findings will satisfy Section 4(f) requirements only. For projects that propose the use of land from a property or site purchased or improved with funds under the LWCFA, the Federal Aid in Fish Restoration Act (Dingell-Johnson Act), the Federal Aid in Wildlife Act (Pittman-Robertson Act), or other similar law, or the lands are otherwise encumbered with a Federal interest, coordination with the appropriate Federal agency is required to ascertain the agency's position on the land conversion or transfer. Other federal requirements that may apply to the Section 4(f) land should be determined through consultation with the officials with jurisdiction or appropriate DOI or other federal official. These federal agencies may have regulatory or other requirements for converting land to a different use. These requirements are independent of the *de minimis* impact finding and must be satisfied.

**Question E. Is consultation with DOI routinely required for *de minimis* impact findings?**

**Answer:** No. As a routine matter, FHWA and FTA do not need to consult with the DOI on *de minimis* impact findings. Where the Section 4(f) resource involved is owned or administered by the DOI, FHWA or FTA will need the written concurrence of the appropriate DOI official as the official with jurisdiction. If the Section 4(f) resource is encumbered with a Federal interest as a result of a DOI grant, then the answer to Question D applies.

**Question F. Does the concurrence of the official(s) with jurisdiction over the Section 4(f) resource need to be in writing?**

**Answer:** Yes. The concurrence of the official(s) with jurisdiction that the protected activities, features, and attributes of the resource are not adversely affected must be in writing. The written

concurrence can be in the form of a signed letter on agency letterhead, signatures in concurrence blocks on transportation agency documents, agreements provided via e-mail or other method deemed acceptable by the FHWA Division Administrator or FTA Regional Administrator. Obtaining these agreements in writing is consistent with effective practices related to preparing project administrative records.

**Question G. What constitutes compliance with the public notice, review and comment requirements related to *de minimis* impact findings?**

**Answer:** Information supporting a *de minimis* impact finding should be included in the appropriate NEPA document prepared for the project. This information includes, at a minimum, a description of the involved Section 4(f) resource(s), the impact(s) to the resources and any impact avoidance, minimization, and mitigation or enhancement measures that are included in the project as part of the *de minimis* impact finding. The public involvement requirements related to the specific NEPA document and process will, in most cases, be sufficient to satisfy the public notice and comment requirements for the *de minimis* impact finding.

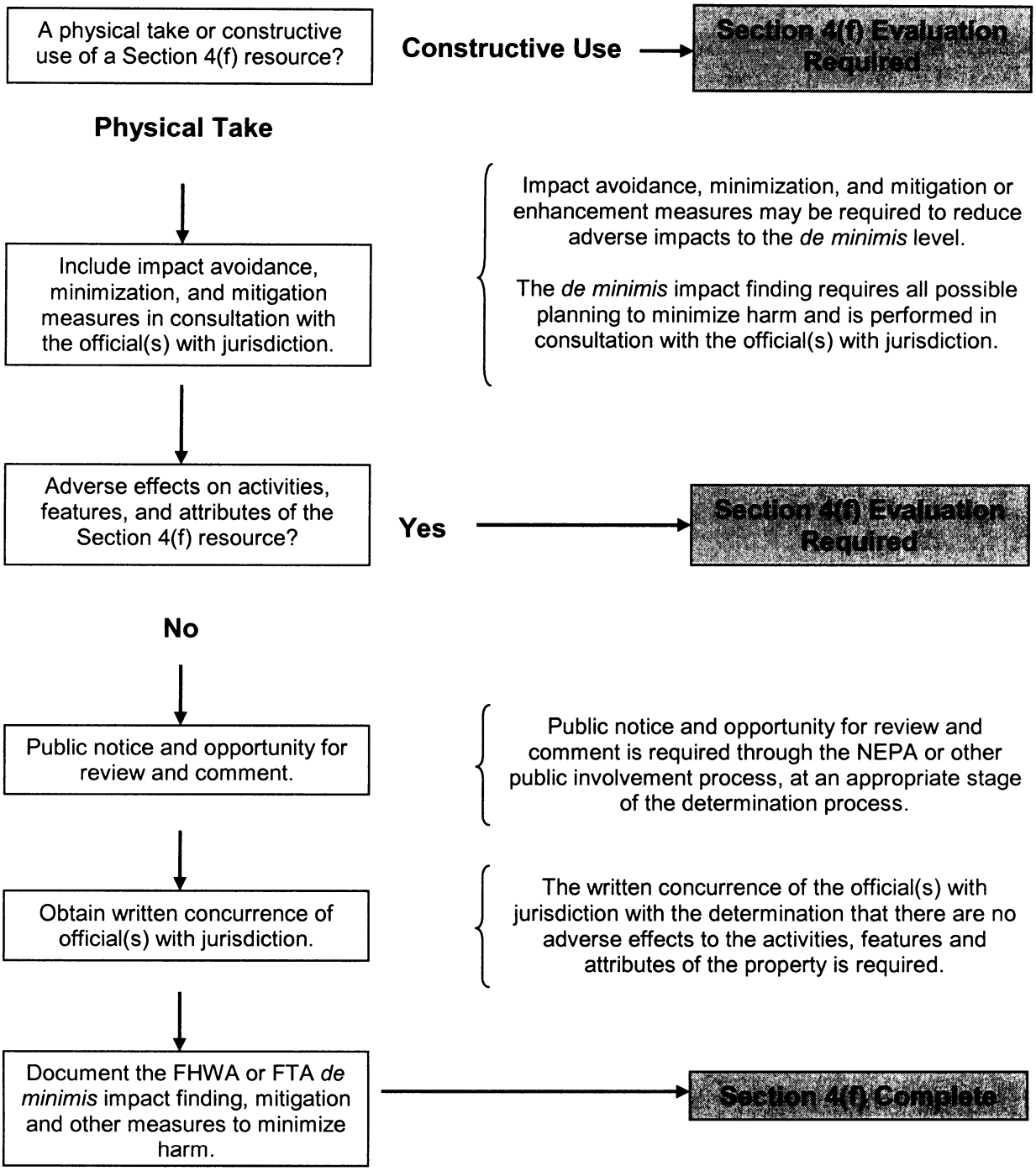
In general, for highway projects, the public notice and comment process related to *de minimis* impact findings will be accomplished through the State DOT's approved public involvement process[15].

For those actions that do not routinely require public review and comment (e.g., certain categorical exclusions and reevaluations) but for which a *de minimis* impact finding will be made, a separate public notice and opportunity for review and comment will be necessary. In these cases, appropriate public involvement should be based on the specifics of the situation and commensurate with the type and location of the Section 4(f) resource(s), impacts and public interest.

All comments received and responses thereto, shall be documented in the same manner that other comments on the proposed action would be handled. Where public involvement was initiated solely for the purpose of a *de minimis* impact finding, responses or replies to the public comments may not be required, depending on the substantive nature of the comments. All comments and responses shall be documented in the administrative record.

[15] 23 CFR 771.111(h)(1))

**Suggested Section 4(f) *De Minimis* Impact Determination Process for Parks, Recreation Areas, and Wildlife and Waterfowl Refuges**



# National Natural Landmarks

Big Walnut Creek
Cabin Creek Raised Bog
Calvert and Porter Woods Nature Preserve
Cowles Bog
Davis-Purdue Agriculture Center Forest
Donaldson Cave System and Woods
Dunes Nature Preserve
Fern Cliff
Hanging Rock and Wabash Reef
Harrison Spring
Hemmer Woods
Hoosier Prairie
Hoot Woods
Kramer Woods
Marengo Cave
Meltzer Woods
Officer's Woods
Ohio Coral Reef (Falls of the Ohio)
Pine Hills Natural Area
Pinhook Bog
Pioneer Mother's Memorial Forest
Portland Arch Nature Preserve
Rise at Orangeville
Rocky Hollow-Falls Canyon Nature Preserve
Shrader-Weaver Woods
Tamarack Bog Nature Preserve
Tolliver Swallowhole
Wesley Chapel Gulf
Wesselman Park Woods
Wyandotte Cave