PART II
CHAPTER 3
Minor Projects Programmatic Agreement
(Minor Projects PA)

September 2018
## REVISIONS

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<td>December 2017</td>
<td>Section 1.0</td>
<td>updated link</td>
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<td>Sections 2.0, 2.2, 3.4</td>
<td>updated text to reflect changes in the MPPA</td>
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<tr>
<td>May 2018</td>
<td>Section 3-2.1</td>
<td>additional guidance re Category A projects</td>
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Appendix: Minor Projects Programmatic Agreement
3-1.0 Overview

The procedures through which Section 106 is administered by FHWA in Indiana are stipulated in the Programmatic Agreement Among the Federal Highway Administration, the Indiana Department of Transportation, the Advisory Council on Historic Preservation and the Indiana State Historic Preservation Officer Regarding the Implementation of the Federal Aid Highway Program in the State of Indiana (also known as the Minor Projects PA), executed in 2006.

Understanding the provisions of the Minor Projects PA prior to the initiation of Section 106 consultation is vital. In addition to specifying how Section 106 is administered in Indiana, the PA provides a list of minor projects that are exempt from full Section 106 review. Therefore, the list of minor projects exempt from full Section 106 review should be referenced prior to the initiation of the Section 106 process. (Minor projects categories are discussed in more detail in Chapter 3-2.0.)

3-2.0 Minor Projects

A key provision of the Minor Projects PA is the list of minor projects that are exempted from the normal (and sometimes lengthy) full Section 106 review process. Minor projects, as defined in the Minor Projects PA, are those that have little or no potential to cause effect to historic properties. If a project type, activity, or undertaking is listed in the Minor Projects PA, little or no further cultural resource investigation is needed, and the project is exempt from the normal Section 106 consultation process.

None of the minor projects listed in the PA require consultation with or review by the SHPO or consulting parties, provided the project:

- is limited to the activities specified;
- is not part of a larger project;
- meets all the conditions of the applicable category(ies); and
- has no known public controversy based on historic preservation issues.

Without the Minor Projects PA, all FHWA-funded projects would have to go through the entire Section 106 process. This process, including review time by multiple agencies, may take months to complete. Under the Minor Projects PA, common projects are exempt from the normal Section 106 process.

Projects covered by the Minor Projects PA fall into two categories: minor projects that do not require review by INDOT-CRO (Category A); and minor projects that do require documentation and review by INDOT-CRO in order to assess the likelihood that historic properties exist in the area of potential effects, or to determine the degree of existing soil disturbance within the project area (Category B).
Minor projects implemented under the PA are listed in Appendices to the document so that the list may be easily modified or added to by the mutual written agreement of FHWA, INDOT, and the SHPO. If you become aware of minor highway projects that should be on the list, please contact the CRO.

A full list of the projects under each category can be found in Appendices A and B of the Minor Projects PA (The Appendices were revised August 23, 2017).

3-2.1 Category A

In general, Category A projects are small in scope, do not include major expansion or alteration of the current roadway footprint, and do not include the addition of new elements (such as light poles, sidewalks, curb ramps, etc. in locations where they do not currently exist). If the project manager, project sponsor, the INDOT District office in charge of the environmental document, and/or INDOT-CRO determines that a project is consistent with Category A of the PA, then no further work needs to be produced for review by SHPO or FHWA under Section 106.

- Consultant/INDOT engineers, cultural resource and environmental specialists, or project managers can make Category A determinations.
- Section 106 Qualified Professionals are not required to prepare or apply Category A determinations.
- Questions regarding Category A applicability should be directed towards the appropriate INDOT District Environmental staff. INDOT District Environmental staff will contact INDOT-CRO if necessary. INDOT District Environmental staff contact information can be found on INDOT’s website: [http://www.in.gov/indot/2527.htm](http://www.in.gov/indot/2527.htm).
- If there are questions about applying Category A in unique situations or where the level of soil disturbance is unclear, then please continue to direct those to CRO.
- If the project scope or limits change for a project previously determined to meet the conditions of Category A and these changes result in the project no longer meeting the conditions of Category A, INDOT-CRO must review the project to determine if the project can meet the conditions of Category B. INDOT-CRO should be notified of any changes to scope/limits ASAP in order to avoid delays to the project schedule.

3-2.2 Category B

In general, Category B projects could have a larger scope, may include some expansion or alteration of the current roadway footprint, and may include the addition of new elements, such as curb ramps and sidewalks. When a project may fall within Category B, project information should be submitted to INDOT-CRO to make the final determination. Archaeological Reports prepared to determine if projects fall under this category will be submitted to the DHPA for their records and available for review by Tribes on the Indiana Section 106 Consultation and Outreach Portal Enterprise (INSCOPE). If INDOT-CRO agrees that the project falls within the Minor
Projects PA, INDOT-CRO will provide a determination form that concludes the Section 106 review. Please refer to Chapter 3-3.0 for information required for INDOT-CRO’s determination.

3-2.3 NEPA Documentation

This PA does not exempt a minor project from the normal NEPA process and documentation. Any minor project listed in the PA shall be documented in the NEPA documentation. The documentation shall reference and include the description of the specific stipulation in the PA that qualifies the project as exempt from further Section 106 review.

3-2.4 Monitoring

FHWA and INDOT may visit construction sites at any time--and the SHPO will be invited to participate--in order to monitor any project approved under the Minor Projects PA. Should monitoring or other activities result in evidence that the requirements of the PA need modification or are not being met, FHWA, the SHPO, and INDOT-CRO will meet to implement corrective measures. Should monitoring or other activities result in evidence that a project is not meeting the requirements of the Minor Projects PA, then that project will no longer fall under the PA, and must fulfill the normal Section 106 requirements.

3-3.0 Submitting Information for a Minor Projects Determination

All MPPA Category B Submissions should use the MPPA Category B Submission Form and Flowchart, located here. Before completing any documentation or fieldwork for the submission, applicants should read the directions below and consult the MPPA Category B Submission Form and Flowchart.

- Before submitting a project to INDOT-CRO for review, applicants should consult the Minor Projects PA in order to determine if the proposed project meets the conditions of the categories listed in Appendix A. Projects that meet the conditions listed in Appendix A do not need to be reviewed by INDOT-CRO (see above).
- The MPPA Submission Form has three sections (1, 2, and 3).
- All submissions to INDOT-CRO must include a completed Section 1.
- Most submissions to INDOT-CRO only require Section 1 to be completed.
- Section 1 may be completed by an INDOT Project Manager, INDOT Environmental Staff, Environmental or Design Consultant, Local Public Agency Official, or other person associated with the project. A qualified professional historian (QP) is not required to complete Section 1.
- If applicable, Section 2 and Section 3 must be completed by a QP.
- Consult the MPPA flowchart to determine if Section 2 or Section 3 need to be completed.
- Please provide all the information requested in the MPPA submission forms. INDOT-CRO will reject incomplete submissions.
• Please do not provide more information than what is requested in the MPPA submission forms. Providing information beyond what is required creates unnecessary project costs and delays.

• Applicants should email MPPA submissions to all of the following: the CRO Manager, History Team Lead, and Archaeology Team Lead (see CRM Pt 1, Ch. 3 for contact info).

• The submission form should be submitted to INDOT-CRO as a Microsoft Word file.

**Important things to remember about the MPPA submission and review process:**

• After reviewing the applicant’s submission, INDOT-CRO may determine that the project cannot meet the conditions of the MPPA and must go through full Section 106.

• INDOT-CRO may request additional information in order to determine if the project meets the conditions of the MPPA.

• INDOT-CRO may require firm project commitments in order to approve the project under the MPPA. Resolution of these commitments may require unique special provisions (USPs) or notes on the plans. See below for more information

• Submit project information for MPPA review as early as possible. This will help to ensure that Section 106 compliance does not cause delays to the project schedule.

• If the project scope or limits change for a project that was previously determined to meet the conditions of Category B, INDOT-CRO must review the revised project scope/limits in order to determine if the project still meets the conditions of the MPPA. INDOT-CRO should be notified of any changes to scope/limits ASAP in order to avoid delays to the project schedule.

• MPPA submissions should not include an Area of Potential Effects (APE). An APE is needed only if the project proceeds to full Section 106.

• For the purposes of the MPPA, INDOT-CRO prefers to take a conservative approach and assume that most of the properties rated ‘notable’ or ‘outstanding’ in the IHSSI as well as all IHSSI-surveyed historic districts are National Register-eligible. In rare cases, INDOT-CRO will determine otherwise if the project is unlikely to cause impacts to the resource and there is clear and overwhelming evidence that the resource is not eligible for the National Register of Historic Places (National Register) or that the resource has been demolished. QP consultants should work under the same assumption regarding the eligibility of ‘notable’ and ‘outstanding’ properties and IHSSI-surveyed historic districts.

• Detailed National Register evaluations and analyses should not be included in an MPPA submission.

After reviewing the documentation, the INDOT-CRO staff will return the determination form to the project applicant or consultant, indicating whether the project is exempt from further Section 106 consultation. A copy of the determination form must be included in the environmental document. If the project should change, the INDOT-CRO staff would need to reexamine the information to see if the Minor Projects determination still applies.

3-3.1 MPPA Project Commitments

INDOT-CRO may require firm project commitments in order to approve the project under the MPPA. If INDOT-CRO requests a firm project commitment, the applicant must coordinate with the INDOT Project Manager and the project designer to confirm that the requested commitment is feasible and will be maintained. Before returning the MPPA Determination Form, INDOT-CRO will request proof of this
coordination and a screenshot of the project commitment entry in INDOT Project Commitment Database. In addition, it should be noted that resolution of these commitments often requires notes on the plans and sometimes requires unique special provisions (USPs). INDOT-CRO may request further coordination with respect to project commitments. MPPA project commitments will be flagged for INDOT-CRO quality assurance reviews.

3-4.0 Minor Projects PA for Archaeologists

All Category B project types allow for archaeological fieldwork when proposed activities impact undisturbed soils. INDOT-CRO will approve archaeological reports prepared for review under the MPPA before a determination form is completed. QP archaeologists are expected to be aware of these categories in order to assist their clients in applying the MPPA whenever applicable, to determine whether or not archaeological fieldwork is necessary under the conditions of applicable categories, and to reference the appropriate category(ies) in reports. Archaeological records check are not to be completed under the MPPA; if a project is confined to previously disturbed soils, INDOT-CRO will perform a desktop review to assess archaeological impacts and complete the MPPA Determination Form. Please contact INDOT-CRO if there is a question regarding the need for archaeological fieldwork.

It is expected that archaeological work conducted to meet criteria set forth in the Minor Projects PA will follow all standard practices outlined in the INDOT Cultural Resources Manual and DHPA Guidelines. Reports of investigations are to be submitted to INDOT-CRO for review and approval. Once accepted, the archaeologist and consultant will receive a completed MPPA Determination Form for inclusion into the NEPA document and will be directed to transmit one hard copy of the report to DHPA for their records. The cover letter to DHPA must clearly indicate that the report was prepared for INDOT’s review under the PA, is for their records only, and that formal review under Section 106 is not being requested. Archaeological reports prepared for review under the MPPA must also be posted to IN SCOPE; INDOT-CRO will notify the appropriate Tribes of its availability for their review.