NEPA ASSIGNMENT

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WHAT IS NEPA ASSIGNMENT?

- Effective December 28, 2015
- No coordination with FHWA on environmental projects/actions, except for:
  - Tribal Coordination
  - Projects over state lines
  - Program Issues
  - Training
  - Audit/Performance Measurements

Under the NEPA Assignment program, ODOT assumes all of FHWA’s responsibilities for environmental review, interagency consultation, and other environmental related actions in Ohio.
STATUS UPDATE

- Self-Assessment #2
- Audit #2
- District Focus Areas
- Time and Cost Savings
- Proposed National Changes
SELF-ASSESSMENT #2 OBSERVATIONS

- Utilities and Right-of-Way
  - Right-of-Way and/or Utility impacts details need to be included in project details for all document levels (if known)
    - Whether temporary or permanent
SELF-ASSESSMENT #2 OBSERVATIONS

- Public Involvement
  - Improvement needed overall
    - NEPA Assignment Language must be included on PI Materials
      - Including those prepared by consultants and local public agencies
    - Contact with Emergency and Public Services must be initiated as part of Public Involvement during the NEPA process
Self-Assessment #2 Observations

- Environmental Justice (EJ)
  - EJ/Underserved Populations (UP) Form must be included in project file
  - Proper EJ/UP Mapping must be included in project file
- UP Guidance released July 2017
  - Replaces EJ Guidance June 2016
SELF-ASSESSMENT #2 OBSERVATIONS

- Environmental Commitments
  - Must be written in a manner that is enforceable and actionable
    - Environmental Commitments Quick Guidance issued July 2017
    - Additional guidance being developed
SELF-ASSESSMENT #2 OBSERVATIONS

- File Management
  - File Management Guidance Naming Conventions must be used
    - Including those prepared by consultants & local public agencies
Peer Review

- Peer review must be conducted for D1 and higher level documents
- Clarification provided to districts
SELF-ASSESSMENT #2 NON-COMPLIANCE

- Fiscal Constraint
  - Found by FHWA during Audit #2
    - Two districts approved projects not on STIP/TIP amendment

- Section 106 and Section 4(f)
  - District approved a project without finalizing SHPO coordination and without completing Section 4(f) process
AUDIT #2 OBSERVATIONS

Program Management

1. ODOT and SHPO are experiencing challenges to their relationship.

2. There are inconsistencies across the program related to implementation of various ODOT policies, manuals, and guidance (procedures).
   
a. Successful Practice: ODOT has effective program management processes in place resulting in successful project delivery.
AUDIT #2 OBSERVATIONS

- **Documentation and Records Management**

  3. FHWA identified non-compliance with the requirement in Section 3.1.3 of the NEPA Assignment MOU on the inclusion of the required disclosure language for 10 projects.

  “The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by ODOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 11, 2015 and executed by FHWA and ODOT.”
4. FHWA identified project-level compliance issues on 18 projects in five areas:
   a. Public Involvement
   b. Environmental Justice
   c. Environmental Commitments
   d. Fiscal Constraint
   e. Compliance with ODOT Quality Control Processes
AUDIT #2 OBSERVATIONS

○ Documentation and Records Management (cont’d)

5. FHWA identified 21 projects in 13 areas where the information included in EnviroNet did not follow ODOT standards.

○ QA/QC

6. There are variations in awareness, understanding, and implementation of QA/QC process and procedures.*

   a. Successful practice: EnviroNet serves as QA/QC in terms of process and consistency.
AUDIT #2 OBSERVATIONS

- **Legal Sufficiency**
  7. ODOT has developed guidance for legal sufficiency. To date, guidance on legal sufficiency is untested.*

- **Performance Measures**
  8. ODOT developed a set of performance measures. However, opportunities exist for continued improvements in the areas of document adequacy and relationships to agencies and the public.
AUDIT #2 OBSERVATIONS

- Training

9. ODOT has a robust environmental training program and provides adequate budget and time for staff to access a variety of internal and external training.

a. Successful practice: As noted in Audit 1, ODOT’s use of required and continuous training for staff and consultants remains a successful practice.

10. Opportunities exist to expand EJ training.*
Training (cont’d)

11. ODOT participates in various informal and ad-hoc external training with resource agencies. However, opportunities exist for ODOT to formally partner with resource agencies in the training plan.
DISTRICT FOCUS AREAS

- **District 1**
  - Right-of-Way/Utilities
  - Maintenance of Traffic
  - Environmental Commitments
  - Peer Reviews

- **District 2**
  - Right-of-Way/Utilities
  - Environmental Justice
  - Public Involvement
  - Environmental Commitment
  - File Management

- **District 3**
  - Project Description and Right-of-Way/Utilities
  - Need Elements
  - Environmental Commitments
  - Section 4(f) and Environmental Justice
  - Public Involvement
  - File Management
DISTRICT FOCUS AREAS

- **District 4**
  - Right-of-Way/Utilities
  - Maintenance of Traffic
  - Disposal of Excess Right-of-Way
  - File Management

- **District 5**
  - Right-of-Way/Utilities
  - Community Impacts
  - Environmental Justice
  - Environmental Commitments
  - Peer Reviews
DISTRICT FOCUS AREAS

- District 6
  - Right-of-Way/Utilities
  - Environmental Justice
  - Maintenance of Traffic/Public Involvement
  - Environmental Commitments
  - File Management

- District 7
  - Right-of-Way/Utilities
  - Environmental Commitments
  - File Management

- District 8
  - Project Description and Right-of-Way/Utilities
  - Environmental Commitments
  - File Management
  - Purpose & Need
  - Public Involvement
  - Environmental Justice
DISTRICT FOCUS AREAS

- **District 9**
  - Utilities
  - Community Impacts
  - Public Involvement
  - Environmental Commitments
  - Project File
  - Peer Reviews

- **District 10**
  - Utilities and Right-of-Way
  - Environmental Justice
  - Maintenance of Traffic/Public Involvement
  - Permits
  - Environmental Commitments
  - File Management
  - Peer Review
DISTRICT FOCUS AREAS

- **District 11**
  - Utilities and Right-of-Way
  - File Management

- **District 12**
  - Section 4(f)
  - Utilities and Right-of-Way
  - Environmental Justice
  - Maintenance of Traffic/Public Involvement
  - FIRM Mapping
  - Environmental Commitments
  - File Management
  - NEPA Assignment Language
## NEPA ASSIGNMENT TIME & COST SAVINGS

### Review Period 04/01/2016 through 03/31/2017

<table>
<thead>
<tr>
<th>Performance Measures</th>
<th>Goal</th>
<th>Pre-NEPA Assignment</th>
<th>Under NEPA Assignment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average number of days to process C1 level CE from Begin Environmental Studies (Date of 1st Study) to CE Approval</td>
<td>FHWA Approved Pre vs Post</td>
<td>48 days</td>
<td>39 days</td>
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<tr>
<td>Average number of days to process C2 level CE from Begin Environmental Studies (Date of 1st Study) to CE Approval</td>
<td>Pre vs Post</td>
<td>157 days</td>
<td>147 days</td>
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<tr>
<td>Average number of days to process D Level CE from Begin Environmental Studies (Date of 1st Study) to CE Approval</td>
<td>FHWA Approved Pre vs Post</td>
<td>707 days</td>
<td>179 days</td>
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<tr>
<td>Average number of days to process Section 4(f) de minimis determinations from date submitted to OES to determination date</td>
<td>FHWA Approved Pre vs Post</td>
<td>92 days</td>
<td>75 days</td>
</tr>
<tr>
<td>Average Number of days to submit Biological Assessment for Endangered Species</td>
<td>Pre vs Post</td>
<td>26 days</td>
<td>&lt;1 day</td>
</tr>
<tr>
<td>Average Number of Days to process Section 106 Adverse Effects from formal Submittal to final signed MOA</td>
<td>Pre vs Post</td>
<td>88 days</td>
<td>81 days</td>
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- Note: Further research will be conducted on some of the pre NEPA assignment baseline data. Exact review times weren't always kept in detail, so additional research is necessary to better refine this data.
- As additional processes are refined, post NEPA Assignment timeframes are expected to improve.
### NEPA ASSIGNMENT TIME & COST SAVINGS

Review Period 04/01/2016 through 03/31/2017

<table>
<thead>
<tr>
<th>Project Size</th>
<th>Total # Days Saved</th>
<th>Amount Saved (Millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small</td>
<td>1350</td>
<td>$5.70</td>
</tr>
<tr>
<td>Medium</td>
<td>1230</td>
<td>$1.87</td>
</tr>
<tr>
<td>Large</td>
<td>390</td>
<td>$5.55</td>
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<tr>
<td><strong>TOTAL SAVINGS</strong></td>
<td><strong>2970</strong></td>
<td><strong>$13.12</strong></td>
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*(Total saved since the beginning of NEPA Assignment: $17.7 million)*
NATIONALLY

- Proposed changes through AASHTO
  - Administrative Action
  - Improvements to the Ohio MOU
  - Legislative Action
NEPA ASSIGNMENT IMPROVEMENTS?

- Improve NEPA Assignment:
  - Allow expansion to other areas
  - Simplify Application Process
  - Improve Audit Process
  - Include areas that were omitted:
    - Noise, floodplain, PI, etc.
  - Increase MOU term to 10 years
  - Audit/Performance Measurements
  - State’s own policies/procedures
  - 327 notice language
QUESTIONS

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