What is NEPA?

National Environmental Policy Act
What led to the passage of NEPA?

- Air pollution from industrialization of America

Pittsburgh 1940's
Corner of Liberty and Fifth Avenues at 8:38 AM in Pittsburg in 1940
What led to the passage of NEPA?

- Air pollution from industrialization of America
- Water Pollution
Cuyahoga River on fire

SEE A RIVER THAT CATCHES ON FIRE

Water pollution isn't a new phenomenon. This is 1969 Cleveland.
What led to the passage of NEPA?

- Air pollution from industrialization of America
- Water Pollution
- Misuse of Resources
What led to the passage of NEPA?

- Air pollution from industrialization of America
- Water Pollution
- Misuse of Resources
- Highway Revolts

Highway Building Contributed too?

- Post WW11 - Major drive to build freeway network
  - Design & Construction began in earnest in 1950's
  - Many proposed freeway routes were drawn up without considering local interests; or
  - Freeway system was considered a regional (or national) issue that trumped local concerns.
- Public park land = No Eminent Domain.
- Wetlands = Cheap land
- Low income Neighborhood = Cheap land
Plan to cross-hatch San Francisco with Freeways

In the face of public pressure, which began as early as 1955, more than 80% of these roads never got built.

Resistance was mounting.
Section 4(f) of the Department of Transportation Act of 1966

- Section 4(f) requires consideration of
  - Parks and recreational areas of national, state, or local significance that are both publicly owned and open to the public
  - Publicly owned wildlife and waterfowl refuges of national, state, or local significance that are open to the public to the extent that public access does not interfere with the primary purpose of the refuge
  - Historic sites of national, state, or local significance in public or private ownership regardless of whether they are open to the public

Overton Park

- Interstate 40 in Tennessee was planned to go through Memphis’s Overton Park but public opposition, combined with a United States Supreme Court victory by opponents Citizens to Preserve Overton Park v. Volpe, forced abandonment.
- Section 4(f) was the reason.
Eastern portion of the road had already been built. This non-interstate highway is now named Sam Cooper Boulevard.
Northern portion of the I-240 loop was re-designated as I-40

What led to the passage of NEPA?

- Air pollution from industrialization of America
- Water Pollution
- Misuse of Resources
- Highway Revolts
- 1962 – Rachel Carson’s Book “Silent Spring”
- 1969 – Santa Barbara Oil Spill
Laws and Regulations

- National Environmental Policy Act of 1969 as Amended

Preamble reads:
“To declare national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.”
Laws and Regulations

- National Environmental Policy Act of 1969 as Amended
  - Productive Harmony
  - Systematic, Interdisciplinary Approach to Decision Making
  - Very Conceptual
  - Calls out the need for a Written Statement (EIS)
  - Creates the Council On Environmental Quality!
- How do we actually accomplish the stuff laid out in the Act?
  - 40 CFR 1500-1508

Laws and Regulations

- How will FHWA meet the requirements?
  - 23 CFR 771 – Environmental Impact and Related Procedures
    - EIS or Categorical Exclusion?
    - Unsure? Try an EA
  - 23 CFR 771.117 Categorical Exclusions
    - 23 CFR 771.117 (c)
    - 23 CFR 771.117 (d)
  - Section 4(f)
How does MDT Fit in?

- MDT is Joint Lead Agency with FHWA.
- Delegated responsibility to comply with NEPA.

**MDT Environmental Services Bureau**

**MDT Environmental Services Bureau Structure**

- Resources Section
- Reclamation and Assessment Section
- Engineering Section
Resources Section

- Biologists
  - Biological Resources Reports
  - Wetland Finding Reports
  - T&E Consultation
  - SPA 124
- Cultural
  - Historian & Archeologist
  - Section 106 National Historic Preservation Act
  - Montana Historic Preservation Act

Remediation & Assessment Section

- Noise
  - MDT Noise Policy
- Hazardous Materials
  - LUST & UST – Underground Storage Tank Issues
  - Subsurface Sediment & Groundwater Contamination
  - Asbestos & Naturally Occurring Fibrous Minerals
- Air Quality
  - Clean Air Act
  - Attainment vs. Nonattainment Areas
- Other
  - Facilities cleanup
  - Spill Cleanup Issues
  - Carcass Composting
Engineering Section

- Champion for NEPA/MEPA process
  - Write all categorical Exclusions
  - Review EA, FONSI, EIS, ROD
  - Social, Economic, Environmental Justice, Visual Impacts
  - Farmland Protection Policy Act
- Section 4(f) Documentation
- Section 6(f) Documentation
- MS4 Permit Compliance
- Clean Water Act
  - 404 Permit, 401 Water Quality Cert, MS4 Permit

Where Does NEPA Fit in the Design Process?

- Preliminary Field Review
- Alignment and Grade Review
- E-doc Complete
- Scope of Work
- Plan in Hand Review
- Final Plan Review
Figure 1 — ENVIRONMENTAL DOCUMENT PROCESS

Legend
DB = District Engineer
DT = Design Team
FHWA = Federal Highway Administration
PDE = Project Development Engineer

Figure 1 — ENVIRONMENTAL DOCUMENT PROCESS (Continued)

Types of Categorical Exclusions

- Narrative Categorical Exclusion (d)
- Programmatic Categorical Exclusion (c) or (d)

Programmatic Cat Ex (c) or (d)

- Preliminary Field Review
  - First look at project area
  - Determine Level of Environmental Document (Notify FHWA)
- Develop Resource Reports
  - Biological Resource Report
  - Cultural Resource Report
  - Initial Site Assessment
  - Farmland Protection Act Analysis
- Etc...
- Internal Worksheet or New Programmatic Form
- Final Document
### Cultural

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*The proposed project would not impact the likelihood, to a 4% evaluation is not necessary.*

- [ ] 2. The proposed project would not impact the likelihood, to a 4% evaluation is not necessary.
- [ ] 5. The structure would have a minimum effect on the likelihood, to a 4% evaluation is not necessary.

### Biological

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- [ ] 2. Impacts in wetlands, including but not limited to those referred to under Executive Order 11990, regulations issued pursuant to Section 9 of the Rivers and Harbors Act (33 U.S.C. 402) would be met.

### Haz Mat

- [ ] 1. No Haz Mat is associated with the project.
- [ ] 2. No Haz Mat is associated with the project.

### Special Comments

- [ ] 1. Special Comments:
- [ ] 2. Special Comments:

---

**Internal Worksheet**

Date: 1/27/2017

**Intended Use:**

- **Title:** Internal Worksheet
- **Page 2 of 3**

**Internal Worksheet**

Page 4 of 6

**Intended Use:**

- **Title:** Internal Worksheet
- **Page 4 of 6**
### Internal Worksheet

#### 8/6/2013

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1. There would be compliance with the provisions of Title 22, CCR, Sections 17200 and 17210 on Voluntary noise impact analyses and NMT’s Noise Policy.
2. There would be substantial changes in noise control equipment involved with the proposed project.
3. Noise control would be adjusted to any noise impacts of the proposed project.
4. Noise control would be adjusted to any noise impacts of the proposed project.
5. Noise control would be adjusted to any noise impacts of the proposed project.
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1. There are Wetlands or Habitat 3 (Wetlands) designated by the Natural Resources Conservation Service or of adjacent to the proposed project area.
2. The proposed work would affect Habitat 3 (Wetlands) from an A.D. 1980 Federal/Conversational Data Base (WDMA) or Conveyance Data Base (WWMDA) or of adjacent to the proposed project area.
3. There are Federal/Conversational Data Base (WDMA) or Conveyance Data Base (WWMDA) or of adjacent to the proposed project area.
4. The proposed work would affect Habitat 3 (Wetlands) from an A.D. 1980 Federal/Conversational Data Base (WDMA) or Conveyance Data Base (WWMDA) or of adjacent to the proposed project area.
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## Final Programmatic CE

### Project Details:

- **Project Name:** [Project Name]
- **Project Number:** [Project Number]
- **Location:** [Location]
- **Fiscal Year:** [Fiscal Year]
- **Severity Level:** [Severity Level]

### Programmatic Considerations:

1. **Mitigation Measures:**
   - [List of Mitigation Measures]
2. **Environmental Impacts:**
   - [List of Environmental Impacts]
3. **Project Summary:**
   - [Summary of Project]

### Approvals and Notifications:

- **Funding:** [Funding Information]
- **Permits:** [Permit Information]
- **Public Notice:** [Public Notice Information]

### Technical Support:

- **Contact:** [Contact Information]
- **Website:** [Project Website]

## New Programmatic CE

### Environmental Services:

- **Project Name:** [Project Name]
- **Project Number:** [Project Number]
- **Location:** [Location]
- **Fiscal Year:** [Fiscal Year]
- **Severity Level:** [Severity Level]

### Programmatic Considerations:

1. **Mitigation Measures:**
   - [List of Mitigation Measures]
2. **Environmental Impacts:**
   - [List of Environmental Impacts]
3. **Project Summary:**
   - [Summary of Project]

### Approvals and Notifications:

- **Funding:** [Funding Information]
- **Permits:** [Permit Information]
- **Public Notice:** [Public Notice Information]

### Technical Support:

- **Contact:** [Contact Information]
- **Website:** [Project Website]
Overview of Documents Processed Annually

- How many of the following occur per year (estimate)
  - Categorical Exclusions - 150
  - Environmental Assessments - 1
  - Environmental Impact Statements – 0
  - Other…
    - Utility Encroachments
    - Approach Permits
    - Excess Land Sales

Benefits of Programmatic CE Process

- MDT responsible for keeping Official Record
- Less work for FHWA & MDT
  - Resource reports retain detailed information
  - Length of final document reduced
    - Narrative = 15-20 pages
    - Programmatic CE = 6 pages
  - Streamlines the process
Environmental Assessment

- Administrative Draft EA (Resource Agencies)
- Publish Environmental Assessment
  - Public Notice
  - Public Comment Period (minimum 30 days)
- Finding of No Significant Impact
  - Includes comments and responses from public


Environmental Impact Statement

- Section 6002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- Coordination Plan for Agency & Public Involvement
  - Scoping/Purpose and Need
  - Range of Alternatives
  - Impact Assessment Methodologies
- Administrative Draft EIS
- Draft EIS
  - Public Notice
  - Public Hearing
  - Available >45 days and <60 days
- FEIS
  - Goes through FHWA Legal Sufficiency Review Prior to Notice
  - Public Notice
- ROD published no sooner than 30 days after FEIS Notice
Other NEPA/MEPA reviews

- Right of Way Actions
  - Disposal of excess property
  - Leasing MDT property
- Approach Permits
- Utility Occupancy and Location Agreements
- Maintenance Projects

Corridor Planning Studies

- Perform high level environmental scan to determine if there are fatal flaws
- Include resource agencies early to identify any possible issues
- Final product
  - Provide a list of possible improvements
  - Individual improvements can be Cat Ex
  - If no project results from the study then no federal payback is necessary
Questions?

Thanks for coming!