Streamlining and Programmatic Approaches

MnDOT Environmental Workshop

May 7, 2013

Your Destination...Our Priority
Existing Streamlining and PA’s

Lynn Clarkowski
MnDOT OES
Existing Streamlining & PA’s

- NEPA and 4(f)
- Section106
- DNR, PCA and Corps Liaison Positions
- Wetland Banking
- Early Involvement & ENM’s
MAP-21 – Acceleration of Project Delivery

- Section 1302: Advance acquisition of real property interests
- Section 1316: CE…projects within operational right-of-way
- Section 1317: CE…projects of limited Federal assistance
- Section 1318: Programmatic agreements and categorical exclusions
- Section 1319: Accelerated decision-making in environmental reviews
MAP-21 – Section 1302

- **Advance acquisition of real property interest (R/W)**
  - State-fund acquisition prior to completion of NEPA
    - May not prejudice the outcome of the NEPA process
    - Assessment of impacts during NEPA

- **Federal-funded acquisition prior to completion of NEPA**
  - Requires a distinct NEPA document from that for physical construction
  - May not prejudice the outcome of the future NEPA process for physical construction
  - NEPA & Fiscal Constraint
MAP-21 – Section 1318

• Perception
  • We do too many Environmental Assessments (EA)
  • We do too many Environmental Impact Statements (EIS)
  • The NEPA process takes too long

• Section 1318
  • Survey USDOT use of CEs since 2005
  • Publish results of survey
  • Solicit requests for new CEs
MAP 21: Section 1316

- **Overview**
  - “…project…within existing operational right-of-way…”

- **What is ‘operational right-of-way’?**
  - “…real property interests acquired for the construction, **operation**, and **mitigation** of a project, including the locations of the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, and any rest areas with a direct access to a controlled access highway.”
MAP-21: Section 1317

• Overview – Limited Federal Assistance
  • “…projects that receive less than $5M of Federal funds or with a total estimated cost of not more than $30M and Federal funds … less than 15 percent of the total estimated project cost.”
MAP-21: Section 1316 & 1317

• What doesn’t this NRPM do?
  • Eliminate compliance with existing Federal laws
  • Eliminate the requirements of other Federal agencies that could trigger a different level of NEPA analysis
  • Eliminate compliance with NEPA requirements for connected actions and segmentation

• Status & Next steps
  • NPRM issued February 28, 2013
  • Comments on NPRM due April 29, 2013
  • Final Rule….?
MAP-21: Section 1319

• **Two parts**
  • Section 1319(a)
    • Provides for the preparation of a Final Environmental Impact Statement (FEIS) via errata sheets
  • Section 1319(b)
    • Makes possible a single document that combines the FEIS and ROD

• **Guidance issued**
  • Joint FHWA/FTA interim guidance issued on January 14, 2013
MAP-21: Section 1319(a) – Errata Sheets

- **Applicability**
  - Comments received on a draft EIS are minor
  - Lead agency’s responses to those comments are limited to factual corrections or explanations of why the comments do not warrant further response
MAP-21: Section 1319(b) – FEIS/ROD

“…to the maximum extent practical, to combine the FEIS and ROD into a single document…” unless:

1. The FEIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or
2. There are significant new circumstances or information relevant to environmental concerns and that bear on the proposed action or impacts to the proposed action.”

HOWEVER, the decision is up to the lead Federal agency and the guidance provides a lot of illustrative considerations that feed into the practical aspect of the decision.
MAP-21: Section 1319

- Things to keep in mind for projects with EISs
  - Establish appropriate project milestones & schedule
  - Communication early and often with cooperating and participating agencies
  - The decision to use errata sheets and/or a combined FEIS/ROD is made on a project-by-project basis
MAP-21: Summary

• Does not appear to be a ‘sea change’ change in law
• Unknowns – the Final Rule for 1316 and 1317

Want more info?
• See more at http://www.fhwa.dot.gov/map21/
• Emergency Relief – Final Rule issued February 2013
Water Permit Streamlining

Gary Reihl
Office of State Aid
Streamlining Efforts in Cultural Resources

Elizabeth Abel
Teresa Martin
MnDOT OES Cultural Resources Unit
Cultural Resources Unit (CRU)

Kristen Zschomler, new CRU Supervisor, 651-366-3633, kristen.zschomler@state.mn.us

email for submitting review requests:
• culturalresources.dot@state.mn.us
New MnDOT CRU Liaison with the Corps of Engineers

Linda Pate, Historian

Contact information:
• Email address: linda.pate@state.mn.us
• Phone number: 651-245-8276
• Mailing Address: Minnesota DOT,
  395 John Ireland Blvd, MS 620
  St. Paul, MN  55155
General Section 106 Programmatic Agreement (PA) with the State Historic Preservation Office (SHPO)
- Over 70% of cultural resources reviews no longer require consultation with the SHPO

Historic Bridges PA
- Based on statewide studies of pre-1956 and 1956-1970 structures
- Only 3% of Minnesota’s several thousand bridges are “historic”

Both PAs are being updated this year
MnDOT projects only

No Federal funds used

Maintenance and repair projects with little potential to impact historical and archaeological resources

A comprehensive list of exempt work types will be distributed to districts and posted on CRU’s website when compiled.
Cultural Resources Information System (CRIS) – soon to be named the **Office of Environmental Stewardship Information System (OESIS)**

- Web-based Early Notification Memo Submittal
- Log onto System – Different User Rights
- Upload documents and photos
- Build maps using a GIS interface
- Track project reviews
- Online “Interested Party” Consultation
CRIS/OESIS

CRIS/OESIS

CRU Review

Staff

CRU Review Manager, Historical or Archaeological consultant
- Access inventory for reviews and surveys

Other Review

Other Review

SHPO Manager
- Approve new property forms
- Approve changes
- Manage data

New Inventory Forms
- Electronically submitted and approved through the SHPO portal

SHPO Portal

Outside Users
Academics
Public
Other Agencies

OSA Portal

Outside Users
Academics
Public
Other Agencies
(DNR, COE, etc.)

New Inventory Forms
- Electronically submitted and approved through the OSA portal

OSA Manager
- Approve new site forms
- Approve changes
- Manage data

Project Proposer
- Enters project data into CRIS
- Tracks review through CRIS

CRU. April, 2013.
Streamlining Efforts with Minnesota’s Tribal Governments

- Section 106 Consultation Agreements – 6 in place and 3 pending
- MnDOT/Tribal Environmental Indexes
- Permitting within Tribal Reservation Boundaries
- FHWA & MnDOT sponsored Tribes & Transportation Conferences
Questions?