



**INDIANA DEPARTMENT
OF TRANSPORTATION
AND
FEDERAL HIGHWAY ADMINISTRATION**

**STREAMLINED
ENVIRONMENTAL IMPACT
STATEMENT
PROCEDURES**

SEPTEMBER 2007

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Introduction

The purpose of “INDOT and FHWA Streamlined Environmental Impact Statement Procedures” is to establish a coordinated planning and project development process for major transportation projects in Indiana.

These procedures are intended primarily to address projects for which the Federal Highway Administration (FHWA) is or may be required to prepare an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA). The Section 6002 requirements of SAFETEA-LU have been incorporated into the environmental development process. In some instances, FHWA will proceed directly to preparation of an EIS, but in other instances, the NEPA process will begin with the preparation of an Environmental Assessment (EA)/Corridor Study, which may transition to an EIS. These procedures supersede the Indiana NEPA/404 (Section 404 of the Clean Water Act) Agreement, dated May 1996.

Use these procedures to:

- Allow documentation developed by FHWA, in compliance with NEPA, to serve as a substantial part of the documentation required by other permitting and funding agencies in accordance with applicable laws and regulations.
- Implement the environmental streamlining requirement in Section 1309 of the Transportation Equity Act of the 21st Century (TEA-21) to establish a coordinated environmental review process, with time limitations, concurrent reviews, and a dispute resolution process. This document also incorporates Section 6002 requirements of SAFETEA-LU into the environmental development process. All EISs for which the Notice of Intent was published in the *Federal Register* after August 10, 2005 must follow SAFETEA-LU’s requirements. For EA/Corridor projects, the decision on the use of Section 6002 will be made by the FHWA Indiana Division, with the concurrence of the other lead agency(ies), on a case-by-case basis for individual projects or classes of projects. The decision to follow the Section 6002 procedures for EA/Corridor Studies should be documented in the coordination plan or other project record.

This process is intended to achieve the timely and efficient identification, evaluation and resolution of environmental and regulatory issues. They establish “**one decision-making process**” to identify and address both public and agency issues at three (3) key milestones as part of the planning/NEPA process for major transportation projects. By early identification of agency issues this process is intended to ensure that basic issues concerning project Purpose and Need (P&N) and the Range of Alternatives can be resolved prior to approval of the Draft Environmental Impact Statement (DEIS). The DEIS can then focus on addressing outstanding public and agency concerns regarding avoidance, minimization, and mitigation.

These procedures are intended to be flexible and adaptable and have been developed in consultation with resource agencies. They may be revised from time to time by

FHWA and the Indiana Department of Transportation (INDOT) to achieve further improvements in the planning and project development processes. In addition, FHWA and INDOT may adopt different procedures, in the context of a particular project, without modifying this document. However, any modifications of the process must comply with Section 6002 requirements of SAFETEA-LU. Lastly, except for regulatory requirements, such as Section 6002 of SAFETEA-LU, these procedures are intended only as a general guide; they are not intended to create any new binding legal requirements, nor are they intended to create enforceable legal rights or obligations on the part of FHWA, INDOT, MPOs, or any other party.

Additional procedures that govern the FHWA/INDOT decision-making process for transportation projects in Indiana include: (1) Indiana Categorical Exclusions (CE) Manual; (2) INDOT Procedural Manual for Preparing Environmental Studies, INDOT's Cultural Resources Manual; (3) the Indiana Traffic Noise Policy; and (4) the INDOT Public Involvement Manual. All of these documents are available from INDOT. The current versions of this document and those mentioned above are on the INDOT website - <http://www.in.gov/dot/pubs/>. They can be viewed or downloaded.

INDOT's Project Development Process

INDOT has developed and implemented a Project Development Process (PDP). Depending on project size, complexity, and/or potential impact to the environment, INDOT transportation projects are categorized as Maintenance, Minor, or Major. The assigned program and project managers will select one of the three categories based on the project complexity. The PDP consists of a certain number of steps depending on the project category.

Project Categories, Numbers of Steps, and Responsibilities

Project Category	Number of Steps	Example Project	Typical Project Management Responsibility
Maintenance	4	Crack Sealing	Districts
Minor	9	Repave	Districts or Central Office
Major	12	New Interstate	Central Office – All EISs

Selection of the appropriate project classification is based on the anticipated level of project development complexity. The project classification identifies the recommended level of analysis, amount of stakeholder involvement and activities performed during each step. For information on this PDP process, see INDOT's PDP Manual.

All Major PDP projects will have a dedicated project manager. INDOT usually assigns a central office staff member to this leadership role. When feasible, for project continuity, the project manager should continue through project development and construction.

INDOT Central Office, Office of Urban and Corridor Planning and Office of Environmental Services will assign a staff liaison to every Major planning study. Because Major Projects must deal with varying issues and stakeholders during the planning process steps, the project manager should work closely with the central office staff liaisons to insure that the activities and products fulfill the intent of the PDP step.

Planning Process

Per the Statewide and Metropolitan Planning requirements and the associated Clean Air Act requirements, all Federal-aid projects find their origin in a comprehensive planning process (per Section 134 and 135 of Title 23 of the United States Code, Section 8 of the Federal Transit Act, and Sections 174 and 176 (c) and (d) of the Clean Air Act - CAAA). INDOT and the MPOs utilize travel demand models to forecast future transportation needs, based on 20-year projections of population and employment that have been allocated based on adopted land use plans. After extensive analysis of needs, evaluation of various project proposals, consideration of environmental and community issues, and coordination between INDOT, agencies, the public and local elected officials, INDOT and the MPOs adopt 20-year Statewide and Metropolitan Transportation Plans (TP). These plans present a coordinated, fiscally constrained, and CAAA conforming program of expansion projects that address their competing needs within available financial resources. In air quality non-attainment or maintenance areas (as designated under the CAAA), FHWA and Federal Transit Administration (FTA), in consultation with EPA and IDEM, jointly issue a formal finding based on an air quality analysis, to demonstrate that the mix of programmed projects “conform” to the requirements of the CAAA and the associated State Implementation Plan (SIP).

Need for Planning/NEPA Process Improvement

Prior to implementation of these procedures, the general public and elected officials expressed dissatisfaction with the INDOT/FHWA project development process. INDOT planning studies (Major Investment Study, Feasibility Study, Scoping Study, Engineers Report, or Corridor Study) involved extensive outreach to communities and associated elected officials. The general public and elected officials became frustrated when the NEPA “decision-making” process was initiated and controversial alternatives that they thought had been eliminated were being reevaluated. This resulted in a duplication of effort and an inefficient use of taxpayer dollars. Additionally, agencies had the perception that significant project decisions were made during the planning study prior to initiating NEPA.

INDOT and FHWA Streamlined Environmental Impact Statement Procedures

These procedures are intended to eliminate the duplication of effort between the planning study and the NEPA study for major transportation projects by combining them into one study, “**one decision-making process.**” This is accomplished by initiating NEPA earlier in the planning process, i.e., by conducting the planning/corridor study in the context of NEPA. In this context, the word “corridor” is used in the broad planning

sense to mean an entire travel-shed or sub area in which multiple transportation facilities are experiencing congestion, safety or other problems. The potential solution to these transportation problems may involve multiple facilities and multi-modal actions.

Planning Study in context of EIS

If the statewide and metropolitan planning process results in clear consensus between INDOT and the MPO regarding the design concept and scope for a project with independent utility, and there is agreement to fund the proposed action, the project will be programmed into the INDOT Scheduling Production Management System (SPMS) and MPO 20-year Transportation Plan (TP). The proposed action also will be programmed into the MPO Transportation Improvement Program (TIP)/Indiana Statewide Transportation Improvement Program (INSTIP), if federal funds are to be used for preliminary engineering (PE). If significant impacts are anticipated, INDOT will forward a hard copy or e-mail with signature of a **Letter of Project Initiation, (LOPI)** to FHWA prior to the start of NEPA and the issuance of a Notice of Intent.

Planning Study in context of EA/Corridor Study

When the statewide and metropolitan planning process does not result in clarity or consensus between INDOT and the MPO (if applicable) regarding design concept and scope, as well as agreement to fund the proposed action, or when the perceived need for improvement is uncertain, then the planning study generally will be initiated as an EA/Corridor Study. For EA/Corridor projects, the decision on the use of Section 6002 will be made by the FHWA Indiana Division, with the concurrence of the other lead agency(ies), on a case-by-case basis. For projects with a high degree of uncertainty such as funding source, following Section 6002 may not be appropriate. The decision to follow the Section 6002 procedures for EA/Corridor Study should be documented in the coordination plan or other project record. For fiscal constraint and conformity purposes, the “no build” will be assumed for TIP/INSTIP programming purposes. The MPO may include its concept of the desired action as an “illustrative project” in its 20-year TP for informational purposes if it wishes, but it must be clear that the project is not included in the fiscally constrained conforming element of the TP.

The EA/Corridor Study officially initiates NEPA and is developed using primarily existing data sources. The fact that this is a NEPA study should be made clear to the public and the resource agencies at the beginning of the process. In some cases, a pre-study (outside of NEPA) may be conducted by INDOT to determine if an EA/Corridor Study is warranted. A pre-study would determine any mobility issues, their feasibility and how they can be best addressed from a planning perspective. Except for the publication of a Notice of Intent (NOI) in the Federal Register and the transmittal of a LOPI, the process followed for an EA/Corridor Study will generally mirror that of an EIS.

If the project is following the Section 6002 requirements, a Coordination Plan must be developed. The EA/Corridor Study will develop a P&N/Conceptual Solutions and identify a Range of Preliminary Alternatives to be screened. See the Procedural Manual for

Preparing Environmental Studies for details. The P&N and Alternative analysis needs to be conducted at the same level of detail as if it were an EIS. Should the EA/Corridor Study (or a portion of the study) transition into an EIS, then the P&N and Alternatives Analysis will not have to be redone.

After the Range of Preliminary Alternatives has been screened to those that will undergo further study, the EA/Corridor Study will conclude. The study may identify one or more projects of independent utility within the corridor. The NEPA process will continue after the EA/Corridor study is complete. Information for each project of independent utility will include:

1. Design concept and scope of reasonable alternative(s) retained for further study. All reasonable alternatives that resulted from the alternative screening must be carried forward to the next NEPA stage.
2. Estimated design, right-of-way and construction costs
3. NEPA Class (CE, EA, or EIS)
4. Estimated timeframe to implement

The EA/Corridor Study will be concluded with a letter from FHWA to INDOT stating FHWA's support for the overall corridor P&N and Preliminary Alternatives Screening in the study and summarize the four (4) items identified above. All resource agencies will be sent a copy of the letter.

The final NEPA evaluations for each Project of Independent Utility will pick up where the EA/Corridor Study left off. In the typical process, there should be no need to "redo" any of the work accomplished under the previous EA/Corridor Study. Rather, the final NEPA evaluation augments, as appropriate, the P&N and Range of Preliminary Alternatives Analysis that previously was completed in the EA/Corridor Study. All reasonable alternatives should be carried forward for further study. Additional fieldwork and evaluation will be done, as needed, in conducting the more detailed analysis of impacts in the final NEPA evaluation.

FHWA and INDOT may conclude NEPA for each Project of Independent Utility identified in the EA/Corridor Study utilizing a separate NEPA evaluation (CE, EA, or EIS). Alternately, INDOT and FHWA may choose to conclude NEPA on two or more of the Projects of Independent Utility by evaluating them together in one NEPA evaluation. If FHWA determines at any time that a project examined in an EA/Corridor Study involves significant impacts and therefore requires preparation of an EIS, a Finding of No Significant Impact (FONSI) will not be issued. INDOT will then submit a LOPI, and request FHWA publish a NOI to initiate an EIS in the Federal Register.

FHWA and INDOT will consult to determine whether consensus has been reached regarding the design concept and scope for the Project. Once consensus is reached regarding design concept and scope, the project is programmed into the INDOT SPMS, MPO 20-year TP, and TIP/INSTIP (if federal funds are used for design). Although a single design concept and scope must be identified for planning purposes, it must be

made clear in the EA/Corridor Study that the only decision at that stage of NEPA is to carry forward all the reasonable alternatives for further study. The design concept and scope may change during the further NEPA process.

Concepts and Terminology of SAFETEA-LU

For detailed information concerning the following terminology, consult *SAFETEA-LU Environmental Review Process – Final Guidance* at this web site – <http://www.fhwa.dot.gov/hep/section6002/section6002.pdf>.

Lead Agencies

FHWA must serve as the Federal lead agency for the transportation project. The direct recipient of Federal funds for the project (usually INDOT) must serve as a joint lead agency. If so desired by INDOT and FHWA, a local governmental agency that is the project sponsor may be invited to serve as a joint lead agency. It is, however, not required to serve. INDOT remains legally responsible for the performance of local governmental agencies. Private entities, either acting as sponsors or co-sponsors of projects, cannot serve as lead agencies, and their role is limited to providing environmental or engineering studies and commenting on environmental documents.

Participating Agencies

Participating agencies include Federal, State, tribal, regional, and local government agencies that may have an interest in the project and should be invited to serve as participating agencies. Nongovernmental organizations and private entities cannot serve as participating agencies. Although the project sponsor initially identifies potential participating agencies, the lead agencies collectively decide which agencies to invite to serve as participating agencies. The list of participating agencies should, at a minimum include the following agencies (as applicable):

- Corps of Engineers (COE)
- Environmental Protection Agency (EPA)
- Fish and Wildlife Service (FWS)
- Coast Guard (CG)
- National Park Service (NPS)
- Natural Resources Conservation Service (NRCS)
- Indiana Department of Natural Resources (IDNR)
- Indiana Department of the Environment Management (IDEM)
- Metropolitan Planning Organization (MPO) and associated Transit Agencies

Cooperating Agency

According to CEQ ([40 CFR 1508.5](#)), "cooperating agency" means any Federal agency, other than a lead agency, that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposed project or project alternative. A state

or local agency of similar qualifications may, by agreement with the lead agencies, also become a cooperating agency.

Project Management Team

A Project Management Team (PMT) will be assembled at the beginning of each project. The purpose of the PMT will be to provide guidance to the project consultant at each step of the project development process of the NEPA document. The PMT will include representatives from INDOT, Indiana Division of FHWA, Region 5 FTA (if an FTA New Start may be involved), and the MPO (if the project study area is in an MPO area). INDOT representatives include the project manager, and a representative from the Division of Production Management and District Planning & Production.

The MPO has been included in the PMT so that the MPO can assure that the project specific modeling is consistent with the adopted land-use plan and transportation plan (both highway and transit) for its metropolitan planning area and ensure due consideration of multi-modal solutions. The creation of the PMT is intended to facilitate better coordination among the agencies with primary responsibility for the planning process (namely, the MPO and INDOT) and the Lead agencies with primary responsibility for the NEPA process (namely, FHWA and INDOT). The creation of the PMT is *not* intended to change in any way the existing roles and responsibilities of the various entities involved in each process.

Coordination Plan

SAFETEA-LU requires that the lead agencies establish a plan for coordinating public and agency participation and comment during the environmental review process. The coordination plan includes a schedule for the completion of the environmental review process. In Indiana the Project Development Process (PDP) will dictate much of the project schedule. These procedures serve as the Coordination Plan (except for the schedule and the PDP). Concurrence in the schedule by the participating agencies is not required. As with all joint responsibilities, the lead agencies must agree on the coordination plan.

The purposes of the coordination plan are to facilitate and document the lead agencies' interaction with the public and other agencies as well as inform them of how the coordination will be accomplished. The coordination plan should outline how the lead agencies:

- (1) have divided the responsibilities for compliance with the various aspects of the environmental process, such as the issuance of invitations to participating agencies, and
- (2) will provide opportunities for input from the public and agencies, in accordance with applicable laws, regulations, and policies. The plan also should identify coordination points, such as:

- Notice of Intent publication and scoping activities.
- Development of purpose and need.
- Identification of the range of preliminary alternatives.
- Collaboration on methodologies.
- Completion of the DEIS.
- Identification of the preferred alternative and the level of design detail.
- Completion of the Final Environmental Impact Statement (FEIS).
- Completion of the Record of Decision (ROD).
- Completion of permits, licenses, or approvals after the ROD.

The coordination plan establishes a schedule of regular meetings and may identify which persons, organizations, or agencies should be included for each coordination point. The plan sets timeframes for input by these entities. A schedule will be used on all EA and EIS projects processed under section 6002. The schedule should include decision making deadlines for each agency approval, such as permits, licenses, and other final decisions, consistent with statutory and regulatory requirements, in order to encompass the full environmental review process. The coordination plan should be fully integrated into the Project Management Plan, if applicable.

One objective of SAFETEA-LU is expediting project delivery. FHWA has an objective of reducing the median time for completing EISs. If that objective is to be achieved, then schedules, though realistic, must also be aggressive. The lead agencies may modify the schedule. The lead agencies may lengthen the schedule for good cause, which should be documented in the administrative record. The schedule may be shortened only with the concurrence of the affected cooperating agencies, and evidence of these concurrences should be included in the administrative record. Only the affected cooperating agencies, not the participating agencies, must concur in the shortened schedule, but consultation with the participating agencies on the shortened schedule should be considered. If the schedule is modified, then the modified schedule must be shared with the public and other participants.

SAFETEA-LU mandates the DEIS comment period not exceed 60 days, unless a different comment period is established by agreement of the lead agencies, the project sponsor, and all participating agencies. The DEIS comment period begins on the date that EPA publishes the notice of availability of the DEIS in the *Federal Register*. For any other point within the environmental review process at which the lead agencies seek comment by the public or participating agencies, the lead agencies shall establish a deadline for comment of not more than 30 days. A shorter period commensurate with the volume and complexity of the materials may be used if appropriate. The comment period is measured from the date the participating agencies receive the materials (5 working days over and above the 30 days from the date the materials were mailed should be added to the comment period to ensure delivery of the materials). All comment periods should be specified in the coordination plan and the lead agencies must provide participating agencies and the public with notice of comment periods.

Purpose and Need (P & N)

Lead agencies are responsible for the development of the project's P & N. The lead agencies must provide opportunities for the involvement and consider the input of participating agencies and the public. The opportunity for involvement must be provided prior to the lead agencies' decision regarding the P & N that will be incorporated into the NEPA document. Decisions on P & N and their considerations in making that decision should be documented and shared with participating agencies to ensure that any disputes are surfaced as early as possible.

The level of involvement will be determined by the overall size and complexity of the project. The opportunity for involvement must be publicized and may occur in various formats such as public workshops/meetings, solicitations of input, conference calls, electronic postings, distribution of printed materials, or any other involvement technique. The project's coordination plan establishes the timing and form of the required involvement and the timing of the decision on P & N.

After considering this input, the lead agencies will decide the project's P & N. Per previous guidance issued by CEQ, which was affirmed by Congress, other Federal agencies should afford substantial deference to the USDOT's articulation of the P & N for a transportation action.

SAFETEA-LU requires a clear statement of identified objectives that the proposed project is intended to achieve for improving transportation conditions. The objectives should be derived from needs and may include, but are not limited to, the following outlined in SAFETEA-LU:

- Achieving a transportation objective identified in an applicable statewide or metropolitan transportation plan;
- Supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans;
- Serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies.

Although many transportation studies have established these listed or similar objectives in the past, SAFETEA-LU affirms the use of these objectives in establishing the purpose and need for a transportation project.

The FHWA/FTA guidance on linking planning and NEPA describes considerations for using planning information in the NEPA process. In accordance with that guidance:

- The P & N for a project can be shaped by goals and objectives established in a corridor or subarea study carried out by INDOT, MPO, or transit agency as part of the statewide or metropolitan planning process;

- A general travel corridor or general mode or modes (i.e., highway, transit, or a highway/transit combination) resulting from transportation planning analyses may be part of the project's P & N statement; and
- If the financial plan for an MPO's long-range transportation plan indicates that funding for a specific project will require special funding sources (e.g., tolls or public-private financing), such information may be included in the P & N.

General direction on developing concise and understandable purpose and need statements is found in the [CEQ-USDOT letter exchange](#) and at [FHWA-FTA Joint Guidance](#) issued July 23, 2003.

Alternatives Analysis

The lead agencies are responsible for the development of the range of preliminary alternatives. In developing the alternatives, as early as practicable, the lead agencies must provide opportunities for the involvement of participating agencies and the public and must consider the input provided by these groups. The level of involvement takes into account the overall size/complexity of the project. After considering this input, the lead agencies will decide the range of preliminary alternatives for analysis. The lead agencies' decision on the range of alternatives and their considerations in making that decision should be documented and shared with participating agencies to ensure that any disputes are surfaced as early as possible.

The required involvement opportunities for P & N and range of preliminary alternatives may be concurrent or sequential. If the opportunities are concurrent, and if the P & N is substantially altered as a result of the public and participating agency involvement, then the lead agencies must consider whether an opportunity for involvement in the range of preliminary alternatives that derive from the new P & N is warranted. The opportunity for involvement must be provided prior to the lead agencies' decision regarding the range of alternatives to be evaluated in the NEPA document.

Under SAFETEA-LU, the lead agencies must determine, in collaboration with the participating agencies, the appropriate methodologies to be used and the level of detail required in the analysis of alternatives. Accordingly, the lead agencies must work with the relevant participating agencies on the methodology and level of detail to be used in a particular analysis. Consensus is not required, but the lead agencies must consider the views of the participating agencies with relevant interests before making a decision on a particular methodology. Well-documented, widely accepted methodologies, such as those for noise impact assessment and Section 106 (historic preservation) review, should require minimal collaboration. The project's coordination plan will establish the timing and form of the required collaboration with participating agencies in developing the methodologies. In accordance with [40 CFR 1503.3\(b\)](#), if a participating agency criticizes the proposed methodology to be used in the analysis of an alternative, then the participating agency should describe the alternate methodology that it prefers and state why.

The lead agencies will make the decision on the methodology and level of detail to be used. The lead agencies' decisions on methodologies and level of detail and their considerations in making those decisions should be documented and shared with participating agencies in writing. The lead agencies may define a comment period on the methodology. At the discretion of the lead agencies, methodologies may be developed incrementally, with the initial methodology that is developed during scoping being refined with further collaboration after an initial impact analysis has been performed. Unless a participating agency objects to the selected, duly communicated methodology as described above, the lead agencies can reasonably assert in most cases that comments on methodology received much later in the process (e.g., after issuance of the DEIS) are not timely and will therefore not be acted upon. Exceptions should be based on significant and relevant new information or circumstances that are materially different from what was foreseeable at the time that the lead agencies made and communicated the decision on methodology. The lead agencies may revise a methodology at any time, but if the reason is other than to respond to the concerns of a participating agency, then collaboration with the participating agencies with an interest in that methodology is needed when the methodology is revised.

Three (3) Key Coordination Points with Agencies

The streamlined process provides numerous opportunities for agency input and includes requests for formal agency comment at three (3) key milestones:

1. P&N/Conceptual Solutions,
2. Range of Preliminary Alternatives Screening, and
3. Preferred Alternative and Mitigation.

A coordination package will be distributed and an Agency Review Meeting will be held at each of these three (3) Coordination Points. Public Information meetings will also be held at P&N/Conceptual Solutions and Range of Preliminary Alternatives Screening coordination points. The agency packages for P&N/Conceptual Solutions and Range of Preliminary Alternatives Screening will include the Public Information Meeting Summary for the associated coordination point so agencies have the benefit of public comment. These Coordination Points are in addition to the initial early coordination letter and the official review that agencies routinely conduct on the approved DEIS.

Agency Review Meetings

The Project Management Team will review each coordination package and assure that it represents the INDOT and FHWA position. Once the package is acceptable, the consultant will forward the package to the Participating/Cooperating Agencies for review and comment. The cover letter transmitting the Package will establish a deadline for written comments (30-day review period) and a date for the Agency Review Meeting (approximately halfway into 30-day review period). The comment period is measured, from the date the participating agencies receive the materials on which comment is requested (5 working days over and above the 30 days from the date the materials were

mailed should be added to the comment period to ensure delivery of the materials). The Project Management Team will determine if a given Agency Review Meeting can be by conference call. At least one Agency Meeting should be near the project site so there can be a field trip to acquaint agencies with the project area and issues.

The consultant will send a summary of the agency issues identified during the Agency Review Meeting to the Participating/Cooperating Agencies within 7-days via e-mail (including to those not in attendance). The agencies will have the benefit of the meeting summary in preparing their written comments. Since some agencies prefer to provide their comments verbally at the agency meeting in lieu of providing written comments, therefore, accurate notes will be taken at all agency meetings.

If agency concerns have been effectively captured in the meeting summary, Participating/Cooperating Agencies may choose not to submit written comments or may submit a letter simply concurring in the meeting summary. If a Participating Agency believes a meeting summary is not accurate, or has additional issues, the agency is encouraged to submit written comments by the designated deadline.

The project administrative record must show how agency comments have been addressed. This does not mean that there needs to be a response made to each statement made by an agency, but all substantive issues that are raised by agencies and the public must be identified and addressed by FHWA and INDOT and documented in the project administrative record.

The coordination points will not serve as a barrier to proceeding to the next stage of project development. The P&N/Conceptual Solutions will continue to be refined through the development of the Final Environmental Impact Statement (FEIS) as new information comes available.

Public Involvement

The Project Management Team likewise conducts Public Involvement at the P&N/Conceptual Solutions Coordination Point and the Range of Preliminary Alternatives Screening Coordination Point. No public meetings should be held prior to concurrence with the Project Management Team on the material to be presented to the public. Any presentations made by consultants at public meetings should be representing the Project Management Team's recommendations. The consultant will prepare a meeting summary of these public meetings to document the issues and concerns expressed at the public meeting and how they will be addressed.

The INDOT project manager is responsible for development and coordination of the Public Involvement Plan (PIP) with the Public Hearings Office and the Office of Environmental Services. The PIP outlines the strategy and responsibilities for informing and involving stakeholders during all the Steps of the Project Development Process (PDP). INDOT convenes a Community Advisory Committee (CAC) for each EIS and EA/Corridor Study project. For projects being developed as Environmental

Assessments (EAs), the INDOT Environmental Policy Administrator will consult with the FHWA Environmental Program Manager to determine which EAs will require a Community Advisory Committee (CAC) and public/agency meeting(s) during the development of P&N/Conceptual Solutions and Range of Preliminary Alternatives Screening. The Office of Environmental Services will assure that these PIP activities are included in the associated project PIPs.

The CAC is a group of citizens, convened by the project sponsor, who represent different public perspectives. The CAC meets regularly during the project development and design process to provide input to the sponsor regarding the transportation need to be addressed, the alternative(s) to be considered, the potential impacts of the alternative(s), the means to address these impacts, and design considerations to accomplish context sensitive solutions. CAC members serve as channels of information to and from their respective organizations.

Whereas public involvement meetings are held just prior to major milestones, CAC involvement is held at the beginning of each process. For example, instead of holding a CAC meeting at the same time of the public information meeting when the draft P&N/Conceptual Solutions report is finished, the CAC would be involved from the beginning to provide guidance on the development of P&N/Conceptual Solutions.

Therefore, INDOT convenes a CAC when an EA/Corridor Study or EIS is initiated. Citizens from the community will be identified for potential membership on the CAC and will be invited to serve as liaisons to their respective groups/organizations and the community at large. Following completion of the EIS, the CAC may be continued in order to provide input through the design phase and construction.

See the INDOT Public Involvement Manual for more information about public hearings, public involvement plans, public involvement meetings, CACs, and how public involvement must be conducted for EISs.

Development of the Preferred Alternative to a Higher Level of Detail

The lead agencies will decide whether to develop the preferred alternative, after it has been officially identified, to a higher level of detail than the other alternatives. The lead agencies must determine that:

1. this would not prevent an impartial decision on the appropriate course of action and
2. is necessary to facilitate the development of mitigation measures or concurrent compliance with other environmental laws.

The lead agencies must agree that a particular alternative is the preferred alternative and that the relevant conditions are met, before developing that alternative in greater detail.

SAFETEA-LU permits the preferred alternative to be developed to a higher level of detail than the other alternatives for only the following reasons:

1. to facilitate the development of mitigation measures, or
2. to facilitate concurrent compliance with other applicable environmental laws.

Normally, INDOT initiates the request to develop the preferred alternative to a higher level of detail. The request should be made by letter (electronic or hard copy) from INDOT's Commissioner or his authorized delegate, to the FHWA Division Office and to other lead agencies, if any. The request may be included in a letter requesting acceptance of the identification of a preferred alternative, if appropriate. The letter should request the concurrence of the other lead agencies in developing the preferred alternative to a higher level of detail. The request should provide the following information:

- Reasons why INDOT wants to develop the preferred alternative to a higher level of detail before completion of NEPA review, including the specific Federal laws, impacts, resources, and mitigation measures whose processing would be facilitated by the proposed differential treatment of the alternatives;
- The general nature and extent of the work INDOT would perform on the preferred alternative if the request is approved; and
- The reasons why greater design detail will not prejudice the lead agencies' consideration of other alternatives.

The FHWA should document its determination that the relevant conditions described in Section 6002 are met before any work is done to develop a preferred alternative in greater detail. This documentation may be in the form of a response letter (electronic or hard copy) to INDOT's request. The key question is whether developing the preferred alternative more fully would cause, in the mind of the NEPA decisionmakers, an imbalanced comparison among alternatives because of time, money, or energy expended. FHWA must be confident that the lead agencies will be able to make a different choice of alternative, if warranted, at the end of the NEPA process.

When the preferred alternative is developed at a higher level of detail, the lead agencies should take particular care to ensure that the evaluation of alternatives reflects the required rigorous and objective analysis. Each alternative must be explored at a sufficient level of detail to support a reasoned choice. Key issues for the NEPA alternatives evaluations in these cases will be the use of "apples-to-apples" comparisons of alternatives, and the assurance that additional information developed on the preferred alternative is evaluated to identify and address any new or different information that might affect the choice of alternatives. If there are substantial differences in the levels of information available for the alternatives, it may be necessary to apply assumptions about impacts or mitigation to make the comparisons fair. For example, if mitigation is designed only for the preferred alternative, then assumptions that comparable measures can be taken to mitigate the impacts of the other alternatives

should be included in the comparative analysis of the alternatives even though those other alternatives are not designed to the same level of detail. This will ensure that the preferred alternative is not presented in an artificially positive manner as a result of its greater design detail. The NEPA document should disclose the additional design work and the changes in impacts arising out of that design detail. If the impacts identified at the higher level of design detail are substantially different, they should be reviewed to determine whether additional work on other alternatives and/or reconsideration of the identification of the preferred alternative is warranted.

Statute of Limitations

Section 6002 of SAFETEA-LU establishes a 180-day statute of limitations (SOL) on claims against USDOT and other Federal agencies for certain environmental and approval actions. The [SOL established by SAFETEA-LU](#) applies to a permit, license, or approval action by a Federal agency if the action relates to a transportation project. A SOL notification is published in the *Federal Register* (FR) announcing that a Federal agency has taken an action on a transportation project that is final under the Federal law pursuant to which the action was taken.

This provision establishes a category of final action by Federal agencies that can be made subject to a 180-day time limitation for seeking judicial review. The law applies to Federal agency decisions on highway projects. If a SOL notice is published in the *Federal Register* (FR) that declares that there have been final Federal agency actions, then claims covered by the notice must be filed within 180 days after the date of the FR notice. A decision not to publish a SOL notice does not prevent an action from being final for other purposes. If no SOL notice is published, the period for filing claims is not shortened from what is provided by other parts of Federal law. If other Federal laws do not specify a statute of limitations, then a 6-year claims period applies. The Federal lead agencies handle the publication of all SOL notices under Section 6002.

FHWA Process for Implementing the Statute of Limitations

The decision whether to use the SOL notice process is one that the FHWA Division Office will make in consultation with the other lead agencies. Federal agencies other than FHWA may publish the notices. However, as a practical matter it is preferable for FHWA, as Federal lead agency, to handle the publication for all affected Federal agencies regardless of the amount of time that may pass between the FHWA ROD/FONSI and the last Federal agency decision.

The FHWA Division also should ensure that there is coordination with other Federal agencies whose decisions are covered by a notice. It is important for those agencies to be aware of the intention to publish a notice, especially if the notice directs readers to those other agencies for information about their actions on the project. Such coordination also is important because it permits the FHWA to confirm that there are no other pending actions or proceedings at the other Federal agency that might affect that agency's project decision.

Issue Resolution Process

For minor disagreements, the lead agencies may, after due consideration, decide to proceed without resort to any dispute resolution process. When there is disagreement on important issues of concern, the lead agencies may decide that the most effective approach would be to work out the disagreement in some formal or informal way. In 2002, FHWA issued [guidance](#) to facilitate the resolution of interagency disputes at lower levels of decision making. The methods presented in that guidance, such as the use of qualified neutral mediators, remain valid and should be considered by the lead agencies when appropriate.

SAFETEA-LU provides a formal process for resolving serious issues that may delay the project or result in a denial of a required approval for the project. The project sponsor or the Governor may invoke the Section 6002 process for issue resolution at any time. There are also other options that are available to lead and participating agencies. Those options include procedures embodied in a coordination plan, and the CEQ referral process under [40 CFR Part 1504](#).

An issue of concern that may trigger the issue resolution process in SAFETEA-LU is any issue that could delay the project or could prevent an agency from granting a permit or other approval that is needed for the project. Resolution of the issue of concern means that the agencies involved agree on how to proceed so that they are able to reach decisions on matters within their authority. For example, the resolution may be an agreed upon framework or process for proceeding with the issuance of the permit or other approval needed for a project. This agreement should be in the form of a signed document.

EIS Development Process

Regardless of whether the proposed action is initiated as an EIS or EA/Corridor Study, the following processes will be utilized. The Project Management Team may choose to combine certain steps or otherwise modify these procedures on a case-by-case basis.

Initiate NEPA with FHWA - Step 2 in INDOT's PDP for Major Projects

Submitting Letter of Project Intention (LOPI)

Once the Project Management Team has been assembled, and a consultant is given a notice to proceed with the environmental study, a LOPI must be issued to FHWA by INDOT including the following information:

- Type of work, termini, length, and general location of the proposed project.
- A list of any other Federal approvals (e.g. Section 404 permits) anticipated to be necessary for the proposed project, to the extent such approvals are known at the outset.

- The notice also should indicate the timeframe within which the environmental review process should be started.
- The LOPI should be signed by INDOT's Commissioner or his authorized delegate.

Publish Notice of Intent (NOI)

A draft Notice of Intent (NOI) under 40 CFR 1501.7 and 1508.22 sent to the Indiana Division of FHWA may serve as the LOPI under Section 6002 as long as the information required by Section 6002 is contained in the Draft Notice of Intent. If the LOPI is sent separately from the NOI, the LOPI should be sent to FHWA prior to the NOI. The NOI for an EIS will be published in the Federal Register.

Inviting Participating/Cooperating Agencies

The lead agencies should send invitations (hard copy or e-mail – track to ensure delivery) to potential participating/cooperating agencies. Keep a copy of the invitations and their responses in the project file. The lead agencies may send invitations at or after the time of the LOPI. If, as the project advances, the lead agencies identify additional entities that should be invited to serve as participating/cooperating agencies, then they should invite those entities promptly.

The invitation letter to potential participating agencies should include the following information.

- Basic project description and map of the project location.
- A request for the involvement of the agency as a participating agency stating the reasons why the project is expected to interest the invited agency. Reflect all areas of jurisdiction of the invited agency. Bear in mind that some invited agencies may have obligations under several authorities.
- Identify the lead agencies.
- Describe the roles and responsibilities of a participating agency.
- Specify a deadline for responding to the invitation. A response deadline of no more than 30 days is suggested.
- Request a response either accepting or declining the role of participating agency.
- If a Federal agency qualifies as a cooperating agency, it should be invited to serve in that capacity as well as the participating agency capacity. A non-federal agency that qualifies under CEQ regulations to serve as a cooperating agency may be invited to serve in that capacity or as a participating agency, at the discretion of the lead agencies.

A State, tribal, or local agency must respond affirmatively to the invitation to be designated as a participating agency. If the State, tribal, or local agency fails to respond by the stated deadline or declines the invitation, regardless of the reasons for declining, the agency should not be considered a participating agency.

A Federal agency invited to participate shall be designated as a participating agency unless the agency declines the invitation by the specified deadline. If a Federal agency chooses to decline, their response letter (electronic or hard copy) must state that the agency

1. has no jurisdiction or authority with respect to the project,
2. has no expertise or information relevant to the project, and
3. does not intend to submit comments on the project.

If the Federal agency's response does not state the agency's position in these terms, the agency should be treated as participating agency. If an agency has an interest but declines to be a participating agency, it is free to comment on the project in the same manner that a member of the public may comment. The declining agency forgoes the opportunity to provide early input on several project issues such as the development of purpose and need, the range of alternatives, and methodologies.

The scoping process may be conducted concurrently with the invitation process as long as the potential participating agencies are provided with sufficient scoping information and opportunity for involvement.

See [SAFETEA-LU Environmental Review Process Final Guidance](#) for further information concerning this process.

The Coordination Plan

Coordination plans should be developed early in the environmental review process after project initiation. The initial coordination plan may be changed by the lead agencies as additional participating agencies are identified or the complexity of issues becomes clearer. The coordination plan must be shared with the public and with participating agencies so that they know what to expect and so that any disputes are surfaced as early as possible. See the previous discussion of the Coordination Plan for further details.

The coordination plan must include a project schedule. The project schedule must be provided to all participating agencies, the INDOT, and the project sponsor, and must be made available to the public. The method by which the schedule is made available to the public is flexible. It may be posted on a project web site, distributed to the people on a well-advertised project mailing list, or handed out at public and agency coordination meetings.

Contact Resource Agencies (Early Coordination) Step 2 in INDOT's PDP for Major Projects

An Early Coordination Letter will be issued to solicit input from participating/cooperating agencies. The Early Coordination Letter will include a map of the study area, and a

description of the proposed action. This request may be included in the Invitation to Participating/Cooperating Agencies.

In the case of an EIS, the proposed action can be described in terms of the design concept and scope that is included in the INDOT Scheduling Production Management System (SPMS) and the MPO 20-year Transportation Plan. In the case of an EA/Corridor Study, the description of the proposed action may be described in more general terms – e.g., “proposed transportation improvements that provide additional capacity in the corridor”.

At approximately the same time and per the INDOT Cultural Resources Manual, another letter should be issued inviting consulting parties for initiation of Section 106.

Refine Draft Purpose and Need - Step 2 in INDOT's PDP for Major Projects

For projects requiring an EIS, the lead agencies are responsible for the development of the project's Purpose and Need. The lead agencies must provide opportunities for the involvement of participating agencies and the public and must consider the input provided by these groups. The opportunity for involvement must be provided prior to the lead agencies' decision regarding the Purpose and Need that will be incorporated into the NEPA document. The lead agencies' decision on Purpose and Need and their considerations in making that decision should be documented and shared with participating agencies to ensure that any disputes are surfaced as early as possible.

Collect Traffic Data and Analyze - Step 2 in INDOT's PDP for Major Projects

At this stage, the consultant is collecting a wide variety of baseline information. The type of baseline information needed will vary from project to project, but could include the following items:

1. Project history/background
2. Design concept and scope of project in the Statewide and Metropolitan Transportation Plans or local agency Master Plans where they exist
3. Limits of the study area for NEPA purposes (and area of potential effect for Section 106 purposes)
4. Existing traffic (AADT) and peak-hour level-of service
5. Initial estimate of 20-year projected traffic/peak-hour level-of-service for design-year of project for no-build (include committed projects in MPO 20-year TP, less action being evaluated) based on INDOT Statewide Model or MPO Model
6. Traffic safety data, geometric deficiencies and accident data
7. System efficiency/connectivity
8. Areas of interest to local citizens and elected officials
9. Legislative policies and mandates
10. Economic initiatives
11. Intermodal relationships, including bicycle/pedestrian systems, transit (rail and bus), port facilities and airport facilities

12. Congestion Management System (CMS) status (identify how the project was analyzed in the State/MPO CMS process)
13. NWI wetlands identified in project study area, including prior converted and farmed wetlands where possible (consult NRCS)
14. Floodplains, streams, and rivers
15. Threatened and endangered species
16. Historic structures and assessment of archeological potential
17. Consulting parties for Section 106 purposes
18. Parklands, wildlife lands, and nature preserves
19. Existing land use map and locally adopted land use plan (including horizon year)
20. Environmental Justice data (census information and interpretation is needed)
21. Clean Air Act conformity status
22. Sites identified on the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) list and other potential hazardous sites
23. Indirect/Cumulative impacts (for certain resources or functions that may be “significantly” impacted by the proposed action)

Develop Conceptual Solutions/Analyze Conceptual Solutions – Step 3

Identification and analysis of conceptual solutions should begin with specifying needs to be addressed as identified in the Purpose and Need Statement. The number and range of solutions considered should be appropriate to the identified needs. The types and location of resources should also be considered. It is important to continue working with agencies and the public during this phase to seek and address their ideas and concerns.

Prepare Purpose and Need/Conceptual Solution Screening Package Report – Step 3

The consultant will prepare the P&N/Conceptual Solutions Package and include the following, unless otherwise specifically approved by FHWA:

1. 2-3 page P&N/Conceptual Solutions Summary that:
 - Describes the core objectives of the proposed action, as well as any secondary objectives.
 - Explains the underlying basis for the project objectives in terms of (1) relevant federal, state, and/or local policies, which may include transportation, economic development, land use, and other policies; (2) relevant data, which may include data regarding transportation conditions, economic conditions, land use conditions, and other conditions; and (3) public and agency comments regarding the definition of the project’s objectives.
 - Describes the evaluation criteria that will be used to evaluate the effectiveness of an alternative in meeting P&N, and explains how those evaluation criteria will be used.

- Describes any other factors, beside P&N, that will be considered in the screening of alternatives, such as cost or environmental factors.
 - Includes a map showing the Conceptual Solutions
2. P&N supporting narrative and technical documentation
 3. Initial range of Conceptual Solutions to be considered

Once the Project Management Team is satisfied with the contents of the Coordination Package, the consultant will forward the package to Participating/Cooperating Agencies for review and comment. The cover letter should include the following information:

1. List the specific feedback that is being sought.
2. Establish a deadline for written comment and identify the date of the Agency Review Meeting (30-day review period with Agency Review Meeting halfway through the review period). The comment period is measured from the date the participating agencies receive the materials on which comment is requested (5 working days over and above the 30 days from the date the materials were mailed should be added to the comment period to ensure delivery of the materials).
3. Identify the official title of the project, and provide a statement that the project is following the FHWA/INDOT EIS Streamlined Procedures.
4. Identify the specific EIS Streamlined Procedures review package (e.g., Purpose and Need documentation) that is enclosed for the participating agencies to review.
5. Provide a statement that FHWA/INDOT has approved the enclosed information for the participating agencies' review and comment.
6. Identify the names, phone number and e-mail address of FHWA/INDOT project managers.
7. Provide the consultant's phone number and e-mail address.
8. Provide the most recent project schedule.

Hold Public Information Meetings Purpose and Need/Conceptual Solution – Step 3

The Project Management Team conducts a Public Information Meeting on the P&N/Conceptual Solutions Package prior to the Agency Review meeting so the agencies have the benefit of public comment. The consultant will prepare a meeting summary of the public involvement to document the major issues and concerns expressed and how they will be addressed.

Resource Agency Consultation – Step 3

Ideally, the P&N/Conceptual Solutions Agency Review Meeting will be held near the project location and a field trip will be offered in conjunction with the meeting. Subsequent meetings can be by conference call, if this is acceptable to the Project Management Team. Specific feedback that is being sought from the Participating Agencies includes comments addressing the following issues:

1. Statement of core project objectives
2. Evaluation criteria for alternatives
3. Additional Conceptual Solutions that should be considered
4. Modifications to Conceptual Solutions
5. Modifications to the study area or termini
6. Specific resource issues
7. Agency response to FHWA invitation to be a Participating/Cooperating Agency
8. Any additional key information
9. The Agency Review Package should include a summary of Public Information Meeting comments.

The consultant will send a summary of agency issues identified during the Agency Review Meeting to the Participating/Cooperating Agencies within seven (7) days via e-mail (including to those not in attendance). The Participating Agencies will have the benefit of the meeting summary in preparing their written comments. The project administrative record must document any issues identified by the Participating Agencies and the public and how they were addressed.

Revise Purpose and Need Statement and Screening of Conceptual Solutions – Step 3

Based on feedback from Participating Agencies and the public, the Project Management Team will meet with the consultant and agree on revisions to the project study area, termini, P&N and Conceptual Solutions to be evaluated. Major investments in transit are normally addressed as part of the MPO planning process, and so transit alternatives analysis will largely build on the MPO transit analysis and reaffirm or expand on that analysis as appropriate.

Confirm with FHWA – Type of Environmental Document – Step 3

This step can be completed by the formal electronic submittal of the final concept solution report. The final report will be forwarded to Federal Highway for confirmation of type of environmental document.

Develop Preliminary Alternatives – Step 4

A preliminary alternatives analysis will be done on a wide range of feasible alternatives that have evolved from the various public/agency/community advisory committee (CAC) contacts. This initial analysis will serve to determine if there is a fundamental engineering, safety, or environmental fatal flaw, or failure to meet basic P&N (by applying the evaluation criteria identified in the P&N) that would render a given alternative not “reasonable” for NEPA consideration. This analysis can usually be completed based on data that is available from existing data sources. The evaluation criteria must be consistently applied to the full range of preliminary alternatives.

For highway projects, the number of potentially reasonable alternatives can be extremely large, if each distinctly different alignment is considered as a separate alternative. In such cases, the goal of the screening process should be to identify a range of Reasonable Alternatives representing the full range of Preliminary Alternatives. One way to achieve this goal is to screen a set of similar alternatives down to one alignment that can be considered “best in the family”. In this way, it is anticipated that the wide range of Preliminary Alternatives generally can be narrowed to approximately 2-5 “Reasonable Alternatives” for further DEIS analysis.

Perform Environmental Field Studies – Step 4

At this point a variety of environmental field studies are undertaken to assist in determining potential impact to the environment by the Preliminary Alternatives. The type of information needed will vary from project to project, but could include the following items:

1. Historical/archaeological investigations
2. Ecological surveys
3. Environmental site assessments
4. Relocation conceptual survey
5. Preliminary air hot spot analyses
6. Social and Economic Resources analyses.

Analyze and Screen Preliminary Alternatives – Step 4

This is the second phase of analysis. The practicality of the various conceptual solutions due to cost and overall effectiveness and environmental impact will be determined.

Prepare Preliminary Alternative Screening Package – Step 4

Once the Preliminary Alternatives Screening is completed, the consultant will prepare the “Preliminary Alternatives Screening Package.” The Package will include:

1. Revised 2-page P&N/Conceptual Solutions Summary
2. 2-page Preliminary Alternatives Screening Summary Table and a map that shows the location of the preliminary alternatives, their effectiveness in addressing P&N (objectives/evaluation criteria), and why alternatives are being dropped from further consideration.
3. Proposed Methodology for the analysis of Reasonable Alternatives
4. Results of the preliminary alternatives analysis and environmental impacts analysis (based on existing data sources/GIS inventories)
5. Narrative describing the rationale why each preliminary alternative “is” or “is not” being carried into the DEIS for further analysis
6. Where significant impacts are anticipated, scopes and methodologies of studies, including the spatial & temporal limits of any indirect/cumulative impacts analyses

7. The Agency Review Package should include a summary of Public Information Meeting comments.

Hold Public Information Meeting – Step 4

The Project Management Team conducts the Public Information Meeting on the Preliminary Alternatives Screening Package prior to the Agency Review Meeting so the agencies have the benefit of public input. The consultant will prepare a meeting summary of the public involvement to document the major issues and concerns expressed and how they will be addressed.

Resource Agency Consultation – Step 4

Once the Project Management Team is satisfied with the contents of the Package, the consultant will forward the Package to the Participating Agencies for review and comment. A summary of public comments and issues should be prepared and included in the Package that goes to the agencies. The cover letter should include the following information:

1. List the specific feedback that is being sought.
2. Establish a deadline for written comment and identify the date of the Agency Review Meeting (30-day review period with Agency Review Meeting halfway through the review period). The comment period is measured from the date the participating agencies receive the materials on which comment is requested (5 working days over and above the 30 days from the date the materials were mailed should be added to the comment period to ensure delivery of the materials).
3. Identify the official title of the project, and provide a statement that the project is following the FHWA/INDOT EIS Streamlined Procedures.
4. Identify the specific EIS Streamlined Procedures review package (e.g., Preliminary Alternatives Screening documentation) that is enclosed for the participating agencies to review.
5. Provide a statement that FHWA/INDOT has approved the enclosed information for the participating agencies' review and comment.
6. Identify the names, phone number and e-mail address of FHWA/INDOT project managers.
7. Provide the consultant's phone number and e-mail address.
8. Provide the most recent project schedule.

Specific feedback that is being sought from the Participating/Cooperating Agencies includes comments addressing the following issues:

1. Clarity of the results of the preliminary alternatives analysis
2. Alternatives to be retained for further analysis in the Draft Environmental Impact Statement (DEIS)
3. Rationale of scopes/methodologies for evaluating impacts

4. Where significant impacts are anticipated, scopes and methodologies of studies, including the spatial & temporal limits of any indirect/cumulative impact analyses

The consultant will send a summary of the agency issues identified during the Agency Review Meeting to the Participating Agencies within seven (7) days via e-mail (including to those not in attendance). The Participating Agencies will have the benefit of the meeting summary in preparing their written comments. Ultimately, the project record must document issues identified by the public and Participating Agencies and generally how they were addressed.

Select Reasonable Alternatives with FHWA Concurrence – Step 4

Based on comments received from the public, stakeholders, the Agency Review Meetings, and the associated formal written agency comments, FHWA and INDOT will decide which preliminary alternatives will be retained for further study and the scope of additional studies to be undertaken. The studies will focus on resources and functions that may influence the decision.

Environmental Review – Step 5

Any environmental studies needed to prepare the DEIS are finalized and reviewed. The type of information needed will vary from project to project, but could include completing the following items:

1. Phase 1 Environmental Site Assessment
2. Preliminary Noise Analysis
3. Farmland Coordination
4. Determination of Effects for Historic Properties
5. Preliminary Air Hot Spot Analyses

If appropriate, an agency wetland field review meeting will be held to:

1. Determine jurisdictional wetland boundaries
2. Discuss any avoidance and minimization measures already incorporated into the project alignments, as well as potential future measures that should be investigated
3. Review any potential wetland mitigation sites that may be noted during the delineation effort
4. Begin preliminary discussions regarding mitigation goals and the types of wetlands to be created

Prepare Draft Environmental Document – Step 5

At this point, the consultant proceeds with development of the DEIS or finalizing the EA/Corridor Study.

DEIS

The DEIS will include a detailed environmental analyses of the impacts to communities, natural, socio-economic and cultural resources (including Section 4(f)), including avoidance, minimization and potential mitigation measures. Special attention should be given to addressing the potential for indirect and cumulative impacts. This effort will require coordination with the Participating/Cooperating Agencies, local governments, Section 106 consulting parties and the public to address their concerns and refine the alternatives.

For all impacted resources, the Participating/Cooperating Agencies will coordinate with the consultant regarding concerns about avoidance, minimization and mitigation. The consultant will document the avoidance and minimization efforts (including best available data on bridge lengths, retaining walls, cross-section revisions, alignment shifts, etc.) in the preliminary DEIS and will include a general discussion of potential mitigation strategies and anticipated future agency coordination in each subsection of the Environmental Impacts chapter of the DEIS, e.g., wetlands, historic, forest, etc.. (The Final EIS will include a separate chapter in the FEIS that will include those mitigation measures that are firm commitments and those that will be further evaluated in the design phase.)

The DEIS will include a summary of the major issues raised by Participating Agencies and the public and generally how each issue was addressed in the document. This section can include summaries from Agency Review Meetings, public meetings and any written comments received.

It is recommended that the Affected Environment chapter and the Environmental Consequences chapter be combined into one new chapter titled *Environmental Resources, Impacts and Mitigation* in order to make the document easier to read. The *Environmental Resources, Impacts and Mitigation* chapter should generally have the following subsections for each resource discussed:

1. Introduction – Generally describes what the resource is and its importance
2. Methodology – Generally describes the methods used in identifying the resource and evaluating the impacts
3. Analysis – Describes the analyses conducted, the results and relative comparison of alternatives
4. Mitigation – Describes potential mitigation strategies. (Any final commitments to mitigation will be identified in a separate chapter in the FEIS.)
5. Summary – Long subsections may need to be summarized

Commitments are made throughout the project development processes to the public, resource agencies, community leaders, and property owners on how a project will be developed and implemented and how impacts will be mitigated and project enhancements considered. These commitments come in many forms. They may include:

- avoidance of a sensitive or protected resource,
- resource replacement at a particular ratio,
- inclusion of certain context sensitive design features,
- commitment to certain aspect of access control, etc.

FHWA and INDOT must ensure that commitments are documented in a manner that allows further project development to easily verify that the commitments have been considered and incorporated into the project. In developing mitigation it is important to differentiate between mitigation measures that are (1) firmly committed to being implemented through the approval of the environmental document and (2) those that will be further evaluated in later phases of project development. These two types of commitments are to be clearly differentiated.

Transition of EA/Corridor Study to EIS

For EA/Corridor Studies, INDOT and the MPO (if project is in MPO planning area) will determine if there is consensus to support programming a given design concept and scope into the INDOT Scheduling Production Management System (SPMS) and MPO 20-year TP. This programming action indicates the associated elected officials are committed to funding the proposed action. This planning decision may result in one project of independent utility (Project), or multiple Projects of independent utility.

If a Project has more than one “Reasonable Alternative” that resulted from the alternative screening process, then ALL of these are carried forward to the next NEPA stage. However, per 23 CFR 450, INDOT and the MPO (if applicable) must identify a single design concept and scope, and therefore one alternative may be selected for planning purposes. However, in this situation, any presentation made to the public and the final EA/Corridor Study Report must be clear that none of the Reasonable Alternatives have been eliminated, that all will be carried forward to the next phase of the NEPA evaluation, and any alternative selected for planning purposes could change in the next phase of the NEPA evaluation.

The final EA/Corridor Study will be made available to the public and sent to all Participating Agencies. The EA/Corridor Study will be concluded with a letter from FHWA to INDOT stating FHWA’s support for the overall corridor P&N and alternatives analysis in the study and will be sent to all resource agencies. The letter will also summarize the following four (4) items:

1. Design concept and scope of alternative(s) retained for further study
2. Estimated design, right-of-way and construction costs
3. NEPA Class (CE, EA, or EIS)
4. Estimated timeframe to implement

The final NEPA evaluations for a Project will pick up where the EA/Corridor Study left off. In the typical process, there should be no need to “redo” any of the work

accomplished under the previous EA/Corridor Study. Rather, the final NEPA evaluation augments, as appropriate, the P&N and screening of preliminary alternatives that previously was completed in the EA/Corridor Study. Additional fieldwork and evaluation will be done, as needed, in conducting the more detailed analysis of impacts for the final NEPA evaluation.

FHWA and INDOT may conclude NEPA for each Project identified in the EA/Corridor Study utilizing a separate NEPA evaluation (CE, EA, or EIS). Alternately, INDOT and FHWA may choose to conclude NEPA on two or more of the Projects by evaluating them together in one NEPA evaluation.

If FHWA determines at any time that a Project examined in an EA/Corridor Study involves significant impacts and therefore requires preparation of an EIS, a Finding of No Significant Impact (FONSI) will not be issued. Once consensus is reached between INDOT and the MPO regarding design concept and scope, and the project is programmed into the INDOT Scheduling Production Management System (SPMS), MPO 20-year TP, and TIP/INSTIP (if federal funds are used for design), INDOT will submit a LOPI, and FHWA will publish a Notice of Intent (NOI) to initiate an EIS in the Federal Register for each EIS.

Analyze and Screen Feasible Alternatives and Identify Preferred Alternative – Step 5

The preferred alternative may be officially identified in the DEIS, which is signed by the appropriate authority within each lead agency. This approach is appropriate whether or not the intent is to develop that alternative to a higher level of detail. The preferred alternative must be identified in the FEIS in accordance with CEQ regulations (40 CFR 1502.14(e)).

Another approach to officially identifying the preferred alternative is available when INDOT wants to develop an alternative, which has not yet been identified in a signed NEPA document as the preferred alternative, to a higher level of detail. The preferred alternative may be identified by means of a separate letter or other decision document issued by INDOT and accepted by the other lead agencies. The INDOT Commissioner may send a letter (electronic or hard copy) to the other lead agencies identifying INDOT's preferred alternative and briefly stating the reasons for that preference. If the other lead agencies accept the identification of the preferred alternative at that time, each one will so indicate to the other lead agencies. In deciding whether to accept the identification of the preferred alternative, the FHWA will consider its ability to comply with Federal requirements such as Section 4(f), the Section 404(b)(1) guidelines, the Executive Order on Floodplain Management, etc. Once a preferred alternative is officially identified, the subsequent NEPA document should disclose that preference.

If the FHWA accepts the identified alternative as the preferred, it does so in accordance with CEQ regulations (40 CFR 1502.14(e)) regarding the identification of the preferred alternative. Such acceptance is not a commitment to issue a Record of Decision (ROD) for that alternative or to fund that alternative. In addition, the decision to accept the

identification of a preferred alternative and the decision to develop that alternative in greater detail are separate decisions subject to different considerations as detailed herein.

INDOT and FHWA have agreed to make every effort to identify a preferred alternative in the DEIS. After the DEIS public and agency comment responses have been posted on the INDOT website, the INDOT Commissioner may send a letter to the FHWA Indiana Division Administrator requesting approval to perform detailed design (up to 60%) on the preferred alternative described in the draft environmental document.

Publish and Distribute Draft Environmental Document – Step 5

Once the preliminary DEIS is prepared, the consultant will distribute it to the Project Management Team and any Cooperating Agencies. (Note: The preliminary DEIS will be distributed only to Cooperating Agencies, not to all Participating Agencies.) If there is heightened sensitivity regarding release of the preliminary DEIS prior to addressing FHWA comments, the agencies may be asked to review the document in an INDOT or FHWA Office (INDOT Central Office, FHWA Indiana Division Office, FHWA Midwest Resource Center Office, or FHWA Chicago Metro Office). The reviewers will have thirty (30) calendar days from receipt to review the document and provide comments to the consultant.

The consultant will revise the DEIS based on any comments received from the Project Management Team and/or other agencies and present the updated DEIS to the Project Management Team. The consultant will “walk through” the comments received on the preliminary DEIS and discuss how the issues have been addressed. Once the revisions have been finalized, the DEIS will be forwarded to FHWA for approval.

Once FHWA is satisfied that the comments have been satisfactorily addressed, FHWA will sign the DEIS and return it to INDOT for printing and distribution. The printing and distribution of the approved DEIS can be accomplished by the consultant, but copies of the distribution letters should be provided by both INDOT and FHWA.

Hold Public Hearing – Step 5

The formal Public Hearing will be scheduled and held in accordance with the “INDOT Public Involvement Procedures.” For the NEPA hearing, a 45 day comment period is required for EIS projects and a 30 day comment period is required for EA projects. SAFETEA-LU mandates that the DEIS comment period not exceed 60 days unless a different comment period is agreed upon by the lead agencies, the project sponsor, and all participating agencies.

Address Comments – Step 5

All substantive comment resulting from the public hearing and circulation of the DEIS will be analyzed. Responses will be prepared for the comments. These issues/responses will be given to the INDOT Project Manager, and reviewed by FHWA

and the appropriate INDOT managers so the issues are responded to correctly and with consistency.

The INDOT Commissioner may at this time send a letter to the FHWA Indiana Division Administrator requesting approval to perform detailed design (up to 60%) on the preferred alternative described in the draft environmental document. See the Development of the Preferred Alternative to a Higher Level of Detail Section for details.

Develop Stage 1 Design to Avoid/Minimize Environmental Impacts – Step 6

When preparing detailed design plans (30% complete) the DEIS should be used to minimize or avoid sensitive areas identified by the Office of Environmental Services i.e. 4(f) properties, wetlands, critical habitat, endangered species, hazardous waste sites, cemeteries, etc.

Environmental Studies – Step 6

Once the preferred alternative has been chosen and all of the public hearing comments have been addressed, the final environmental studies should be completed. The type of information needed will vary from project to project, but could include completing the following items:

1. Archaeological survey
2. Noise analysis
3. Final Section 4(f)
4. Ecological survey
5. Permit determination
6. Section 106 documentation/Memorandum of Agreement
7. Air quality hot spot analysis
8. Phase 2 environmental site assessment.

Review Air Quality Conformity with MPO/Complete Air Quality Conformity Analysis for Rural Non-Attainment Areas – Step 6

Once the stage 1 detailed design plans and preliminary phasing of the project are complete, the designer will request a Conformity Analysis from the local MPO through the Manager of Urban and Corridor Planning. If the project is in Greene or Jackson County, a Conformity Analysis for Rural Non-Attainment Area will need to be requested through the Manager of Urban and Corridor Planning. Keep in mind that MPOs normally do Conformity Analysis once or twice a year. The results of this analysis should be incorporated into the FEIS.

Resource Agency Consultation – Preferred Alternative & Mitigation Package (PAMP) – Step 7

Based on feedback from the Project Management Team, the consultant will prepare the Preferred Alternative and Mitigation Package (PAMP) and include the following:

1. 2-page Preferred Alternative and Mitigation Summary that:
 - a. Describes the various elements of the Preferred Alternative and any modifications since the DEIS
 - b. Describes the various element of the proposed mitigation
 - c. Includes a map locating the elements of the Preferred Alternative and mitigation
2. Narrative describing the various elements of the Preferred Alternative
3. Rationale for recommending Preferred Alternative and not others
4. Identify potential mitigation measures that are:
 - a. **Firmly committed** to being implemented through the approval of the environmental document
 - b. Those that will be **further evaluated** in later phases of the project for potential implementation
5. Summary of major public and agency issues and generally how they will be addressed in the FEIS

Once the Project Management Team is satisfied with the contents of the Package, the consultant will forward the Package to the Participating Agencies and Community Advisory Committee for review and comment. The cover letter should include the following information:

1. List the specific feedback that is being sought.
2. Establish a deadline for written comment and identify the date of the Agency Review Meeting (30-day review period with Agency Review Meeting halfway through the review period). The comment period is measured from the date the participating agencies receive the materials on which comment is requested (5 working days over and above the 30 days from the date the materials were mailed should be added to the comment period to ensure delivery of the materials).
3. Identify the official title of the project, and provide a statement that the project is following the FHWA/INDOT EIS Streamlined Procedures.
4. Identify the specific EIS Streamlined Procedures review package (e.g., Preferred Alternative and Mitigation Package documentation) that is enclosed for the participating agencies to review.
5. Provide a statement that FHWA/INDOT ha approved the enclosed information for the participating agencies” review and comment.
6. Identify the names, phone number and e-mail address of FHWA/INDOT project managers.
7. Provide the consultant’s phone number and e-mail address.
8. Provide the most recent project schedule.

Agency Feedback

Specific feedback that is being sought from the Participating Agencies includes:

1. Response to agency issues
2. Rationale for selecting the Preferred Alternative and Mitigation

The consultant will send a summary of the agency issues identified during the Agency Review Meeting to the Participating Agencies within seven (7) days via e-mail (including to those not in attendance). The Participating Agencies will have the benefit of the meeting summary in preparing their written comments. Ultimately, the project record must document any issues identified by the Participating Agencies and generally how they were addressed.

Noise Analysis Results Reviewed by the INDOT Noise Committee, Final Detailed Noise Analysis and Hold Public Information Meeting (Noise Wall and Design) – Step 7

Once the Noise Analysis is completed, the results are submitted to INDOT Noise Committee for verification and approval. The results are summarized, and final noise wall recommendations are developed. INDOT will hold a Public Information Meeting to provide and obtain information on the proposed design and the potential for the use of noise wall if the project warrants the use of sound walls.

Final Environmental Document Activities – Step 7

The FEIS will respond to all substantive public and agency comments on the DEIS. The formal agency comments received on the DEIS will be included in the Comments and Response part of the FEIS and responded to along with all other substantive comments received on the DEIS. In addition to providing the specific responses, a summary of all substantive issues with general responses will be provided in the FEIS. This summary can be an update of that provided during the PAMP coordination. An excellent resource for guidance in this matter is the [AASHTO Practitioner's Handbook 2, Responding to Comments on an Environmental Impact Statement.](#)

Additionally, the agency and public coordination part of FEIS will include a brief summary of each major coordination meetings with the CAC, agencies, elected officials, advocacy groups, and others. An appendix could include any formal letters or reports of meetings.

Although the environmental impacts chapter of the DEIS and FEIS includes a general discussion of potential mitigation strategies, the FEIS will include a chapter that focuses only on mitigation measures that are (1) firmly committed to being implemented through the approval of the environmental document and (2) those that will be further evaluated in later phases of the project for potential implementation. These two types of commitments are to be clearly differentiated and will reference other parts of the FEIS for more information. The preparer must review the whole preliminary FEIS from “cover to cover” to be certain that the commitments listing is thorough and complete. This

chapter may be in the form of the Commitments Summary form. The Commitments Summary form will assist others to ensure in later phases of project development that all environmental commitments have been incorporated into the project plans and specifications, or otherwise implemented.

Should the decision be made that the SOL provision will be utilized for the project, the following statement summarizing the SOL provision should be included in the FEIS:

A Federal agency may publish a notice in the Federal Register, pursuant to 23 USC §139(l), indicating that one or more Federal agencies have taken final action on permits, licenses, or approvals for a transportation project. If such notice is published, claims seeking judicial review of those Federal agency actions will be barred unless such claims are filed within 180 days after the date of publication of the notice, or within such shorter time period as is specified in the Federal laws pursuant to which judicial review of the Federal agency action is allowed. If no notice is published, then the periods of time that otherwise are provided by the Federal laws governing such claims will apply.

The preliminary FEIS will be provided to FHWA for review, and one copy will be forwarded to FHWA legal counsel for a 30-day legal sufficiency review.

Publish and Distribute Final Environmental Document, Step 8

Once the FHWA comments have been adequately resolved, INDOT will forward the FEIS to FHWA in final form for signature. INDOT will then distribute the FEIS per FHWA instructions.

Obtain FONSI or ROD, Step 8

The alternative selected in the ROD should be referred to in the ROD, and after the ROD is issued, as the “Selected Action” (or “Selected Alternative”). The ROD will include a final version of the Commitments Summary form. INDOT will then issue a public notice to the general public in the project area and the Participating Agencies to inform them that the ROD has been issued. FHWA will also send a copy of the ROD to all the Participating Agencies, thereby bringing closure to the NEPA decision-making process. The 30-day waiting period between the FEIS notice in the *Federal Register* and the signing of the ROD is required by CEQ regulations [[40 CFR 1506.10\(b\)](#)] but is not a required comment period. The 30-day wait provides time for other Federal agencies that find the project environmentally unsatisfactory to refer the decision to CEQ [[40 CFR 1504](#)].

Occasionally, the lead agencies will seek comment on a specific unresolved issue discussed in the FEIS. In those cases, the comment deadline provisions of SAFETEA-LU ([Question 54](#)) apply and the comment period should run concurrently with the required 30-day waiting period. Even if the lead agencies do not request comments on a FEIS, they will address any new and substantive comments submitted during the 30 days following the FEIS publication [[40 CFR 1503.1](#)].

Note, however, that an effective environmental review process results in the submission of comments when they are most useful to decisionmaking by the lead agencies. After the FEIS, comments typically should focus on commitments discussed in the FEIS and on conditions that parties want the lead agencies to include in the ROD. The process should avoid duplication, and the lead agencies are not required to re-address comments that present issues specifically raised during the DEIS comment period and addressed in the FEIS.

Comments to which the lead agencies respond would be addressed in the ROD or in an attachment to the ROD. Neither the need to solicit further comments on an issue unresolved in the FEIS, nor the receipt of unsolicited comments that require a response, can be anticipated. Therefore, these contingencies would not be addressed in a coordination plan.

Upon approval of the ROD, the consultant will electronically (in word processing form) transmit the Commitments Summary form to the INDOT Office of Environmental Services. The Office of Environmental Services will then electronically attach the Commitments Summary form to the proper datafield and transmit copies of the approved FEIS and ROD to the INDOT Production Management Division. The Production Management Division (and subsequently the Office of Real Estate, Contracts Administration Division, and the Division of Construction Management) will then update the Commitments Summary form as the project is designed and constructed to ensure that the environmental commitments are implemented. INDOT must be sure to produce enough FEISs and RODs for a given project so these sections can ultimately have a copy of their own.

Publish Notice of Statute of Limitations in Federal Register, Step 8

SAFETEA-LU Section 6002 established a 180-day statute of limitations (SOL) on claims against USDOT and other Federal agencies for certain environmental and other approval actions. The SOL established by SAFETEA-LU applies to a permit, license, or approval action by a Federal agency if:

1. The action relates to a transportation project (as defined above); and
2. A SOL notification is published in the *Federal Register* (FR) announcing that a Federal agency has taken an action on a transportation project that is final under the Federal law pursuant to which the action was taken.

The decision whether to use the SOL notice process is one that the FHWA Division Office will make in consultation with the other lead agencies. The INDOT Office of Environmental Services will forward a draft *Federal Register Notice of Limitation on Claims* to FHWA for review and action. FHWA will review and approve the Notice and forward it to the Federal Register for publication to invoke the 180-day statute of limitation provision included in SAFETEA-LU.

Develop Stage 3 Design – Step 11

Once the ROD is approved, INDOT will conduct final design of the project(s). INDOT will continue to refine the design of the Selected Action to further minimize impacts to the natural and human environment. Mitigation for unavoidable impacts will continue to be refined. For example, Phase III archeology, additional noise abatement studies, and searches for replacement parkland and wetlands may be required during final design.

The Production Management Division will use the Commitments Summary form (and the FEIS/ROD for additional information) during final design to keep track of how each of the environmental commitments have been implemented or considered. Additional commitments (either firm commitments or others to consider in later phases) may be made during design, land acquisition, or construction and should be added to the Commitments Summary form. This may occur as a result of design hearings or field checks where the public, local public officials, or resource agencies are present and request other commitments. Permits may also require additional commitments.

For those mitigation items with **firm commitments** to implement through the approval of the environmental document, the Production Management Division will ensure that they are incorporated into the project plans and specifications or otherwise implemented. If the Production Management Division determines that any of these listed firm commitments cannot be implemented, then the reasons will be formally documented and agreed to by the Office of Environmental Services Section or the originating office.

For those mitigation items with a commitment to **further evaluate** in final design its implementation, the Production Management Division will ensure that they are thoroughly evaluated to determine the feasibility and prudence of implementation. All mitigation items that are determined to be feasible and prudent to implement will be incorporated into the project plans and specifications or otherwise implemented. If the Production Management Division determines that any of these listed commitments to consider in final design are not feasible and prudent, then the reasons will be formally documented and agreed to by the Environmental Services Section.

A similar process will be followed when the project proceeds through subsequent project development phases of Office of Real Estate, Contract Administration, and Division of Construction. The INDOT Design Manual and the INDOT General Instructions to Field Employees has more information on implementing environmental commitments. The Final INDOT Design Summary and Commitments Summary form will document the final status of all the environmental commitments made in or subsequent to the FEIS/ROD, including any commitments associated with required permits.

Any CAC established during the environmental review process may want to continue through design and possibly through construction. INDOT will consider the desires of

the CAC members in deciding whether to continue the CAC into design or construction.

All construction field offices will have a copy of the FEIS and ROD. The Commitments Summary form for Construction will ultimately be signed by INDOT at the end of construction signifying that all environmental commitments have been implemented.

FHWA will conduct process reviews periodically to assure that environmental commitments are being effectively implemented.