



# **Environmental Process Basics, Strengthening and Streamlining Tools**

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# Introduction

- The environmental review process:
  - for transportation projects is complex and must be completed for each project.
  - more than just “NEPA.”
  - compliance with State and Federal environmental laws, regulations and agreements.
  - requires public involvement and coordination.
  - results in permits and other approvals.
  - need both document clearance and permits and other approvals to be released for construction.
  - continue to strengthen and streamline



# State and Federal Laws and Regulations

- Major federal and state umbrellas: Two separate processes.
  - NEPA. The process followed by FHWA.
  - 43 TAC 2. The state process that is NEPA-like.
  - There are many challenges in determining which process to follow.



# State and Federal Laws and Regulations

- Other Substantive and Complex Environmental Requirements
  - 33 major federal laws and regulations
  - 25 major state laws and regulations
  - 27 programmatic agreements



# Types of Environmental Documents

- There are several types of environmental documents.
  - Blanket Categorical Exclusion (BCE) (State and Federal)
  - Programmatic Categorical Exclusion (PCE) (Federal)
  - Categorical Exclusion (CE) (State and Federal)
  - Environmental Assessment (EA) (State and Federal)
  - Environmental Impact Statement (EIS) (State and Federal)
  - Re-evaluations (State and Federal)
  - Supplementals (State and Federal)



# Project Type Historical Data

Type	Historical Processing Time	% of Total Projects Processed by TxDOT
BCE	5 to 195 days	35
PCE	165 to 455 days	45
CE	384 days (1/2 FY 2010-26 CEs)	15
EA	1,316 days (1/2 FY 2010-11EAs)	4+
EIS	2,045 days (2009-1 EIS)	>1



# Two Pronged Process

- Document and Public Involvement Clearance
  - NEPA and 43 TAC 2 process documents decisions
  - Includes compliance with other state and federal laws, regulations and agreements.
  - Includes public involvement and coordination.
  - Framework for considering trade-offs relative to need and purpose.
- Permitting and other Approvals Clearance
- Need both clearances to proceed to construction

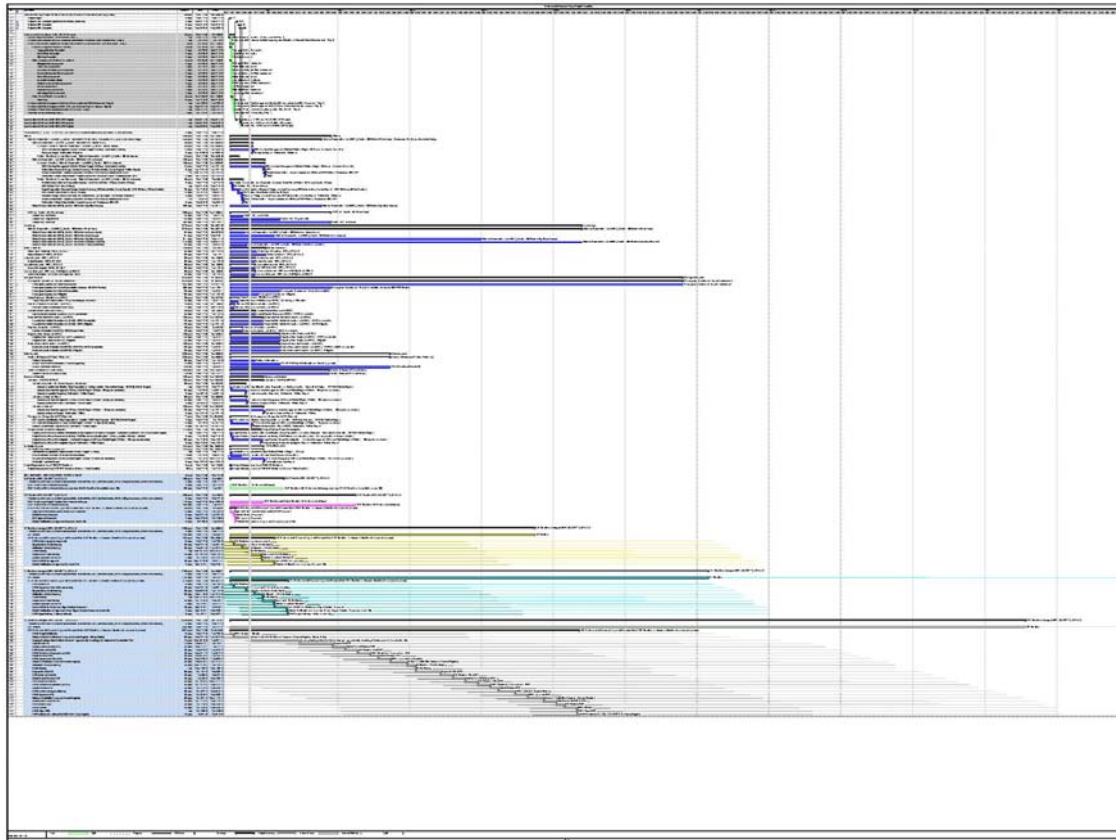


# Strengthening and Streamlining Tools

- Templates to assist with the development of schedules
- Based on timeframes to accomplish specific environmental tasks
  - Wetlands delineation
  - Permitting
  - Remediation
  - 4(f) analysis
  - Consistency
  - etc
- Schedules considering only NEPA classification may lead to missed deadlines

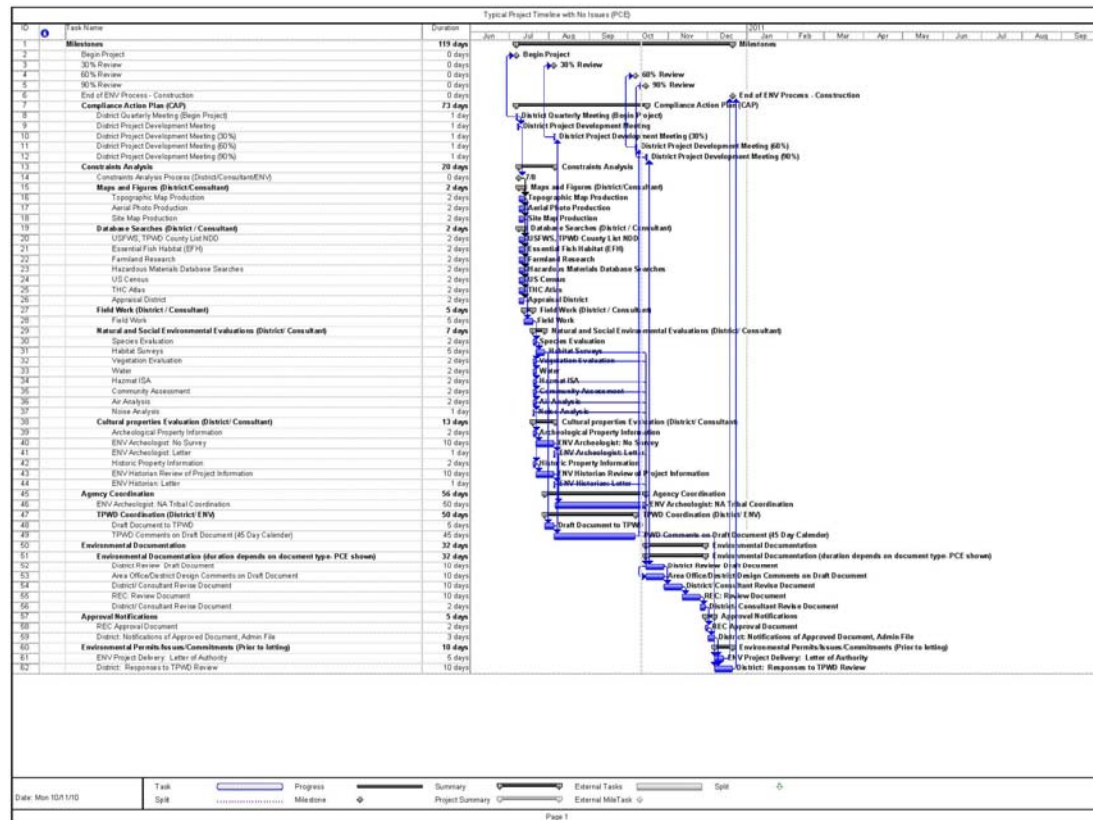


# Strengthening and Streamlining Tools





# Strengthening and Streamlining Tools





# Strengthening and Streamlining Tools

- Technical Assistance from ENV
  - To assist in the risk assessment
  - Develop and implement action plan to resolve risks (low, medium, high)
- Risk Assessment
  - What are risks
  - Environmental issues in your project area
    - Contamination
    - Cemetery
    - Endangered species
    - Historic district
    - Wetlands
    - Karsts
    - Aquifer
    - E.J. populations
    - etc
  - Identifying what requirements apply



# Strengthening and Streamlining Tools

- Manage your risks
  - Develop Environmental Compliance Action Plan (ECAP)
  - ECAP defines roles and responsibilities (who is responsible for doing what)
  - ECAP defines requirements
  - Plan for the possibility of known and unknown risks
  - Require quality through-out the process
- Re-baseline as needed to consider new information as it unfolds (30/60/90)



# Strengthening and Streamlining Tools

- Programmatic type agreements
- Purpose
  - Establish criteria and thresholds that streamline project review and coordination
  - May result in TxDOT certifying for compliance
  - Will result in more streamlined reviews and approvals by approving agency
  - Establish expectations and agreement



# Strengthening and Streamlining Tools

- TxDOT has 27 Programmatic type agreements



# Strengthening and Streamlining Tools

- PCE w/FHWA
- MOU w/THC
- PA w/ SHPO&FWHA
- 3 MBI (wetlands)
- MOU w/TPWD
- MOA w/TPWD (habitat)
- MOA w/TPWD (NDD)
- PAFBE  
w/USFWS&FHWA
- 14 PAs w/Tribes&FHWA
- MOU w/ TCEQ
- IAC w/ TCEQ (WPAP)
- Emergency Procedures  
w/USACE



# Strengthening and Streamlining Tools

- PCE w/ FHWA
- Establishes PCE criteria and allows ENV/RECs to certify PCEs if they meet the established criteria



# Strengthening and Streamlining Tools

- MOU w/THC and PA w/SHPO&FHWA
- Establishes staff and reporting standards
- Establishes review thresholds and review time (20 days)
- Allows for completing certain activities: after NEPA; before construction; during construction; or, within a certain timeframe
- Allows ENV staff to approve certain projects
- Allows ENV staff (in Lieu of FHWA) to coordinate projects with SHPO



# Strengthening and Streamlining Tools

- Three Mitigation Banking Instruments
- Establishes criteria for using mitigation banks for mitigating impacts to wetlands
- Criteria includes demonstrating avoidance/minimization
- Project must be within certain watersheds



# Strengthening and Streamlining Tools

- MOU w/TPWD
- Provides for review thresholds and review time (45 days)
- MOA w/ TPWD (Habitat)
- Describes the information that must be provided in documents for TPWD reviews
- MOA w/ TPWD (NDD)
- Provides for TPWD sharing data in order for TxDOT to properly assess impacts to species and habitat



# Strengthening and Streamlining Tools

- PAFBE w/USFWS&FHWA
- Allows TxDOT (in lieu of FHWA) to consult with USFWS for informal Section 7 consultation



# Strengthening and Streamlining Tools

- 14 PAs/ with Tribes&FHWA
- Allows ENV staff (in lieu of FHWA) to coordinate with Tribes
- Describes Tribe areas of interest/non-interest
- Describes the information needed by the Tribe
- Provides Tribes 30 days for review and comment



# Strengthening and Streamlining Tools

- One and Almost Done Policy Intent
- Minimize Back and Forth
- What Generates Comments
  - Missing information
  - Incomplete information
  - Conclusionary statements
  - Old data
  - Inconsistency in data
  - Poor quality
- Comments Will be Categorized
  - Editorial
  - Substantive
  - Critical
- Technical Assistance/Critical Comments Must Be Addressed



# Strengthening and Streamlining Tools

- What is a Quality Management Plan (QMP)?
- Goal of Having a QMP
  - Define quality
  - Who is responsible for quality
  - Build-in quality
- Require the Development of a QMP



# Strengthening and Streamlining Tools

- QMP Composed of Three Sections
- Section I: Collect All Requirements
- Section II: Quality Assurance
  - Build-in quality in project analysis and public involvement
  - Use most current procedures, protocols
  - Develop and implement procedures that will help you build in quality
  - Conduct peer reviews / use technical committees
  - Develop action plans to resolve issues
  - Identify roles and responsibilities
- Section III: Quality Control
  - Develop and implement checklist to see if standards were met
  - Identify roles and responsibilities



# Conclusion

- TxDOT is committed to working with our local government and state and federal resource agency partners to streamline these processes while ensuring compliance with all applicable state and federal environmental laws, rules, and regulations.