



NORTH CAROLINA
Department of Transportation

Environmental Policy & Documents

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April 2023

Connecting people, products and places safely and efficiently with customer focus, accountability and environmental sensitivity to enhance the economy and vitality of North Carolina

OUR MISSION

Connecting people, products and places safely and efficiently with customer focus, accountability and environmental sensitivity to enhance the economy and vitality of North Carolina

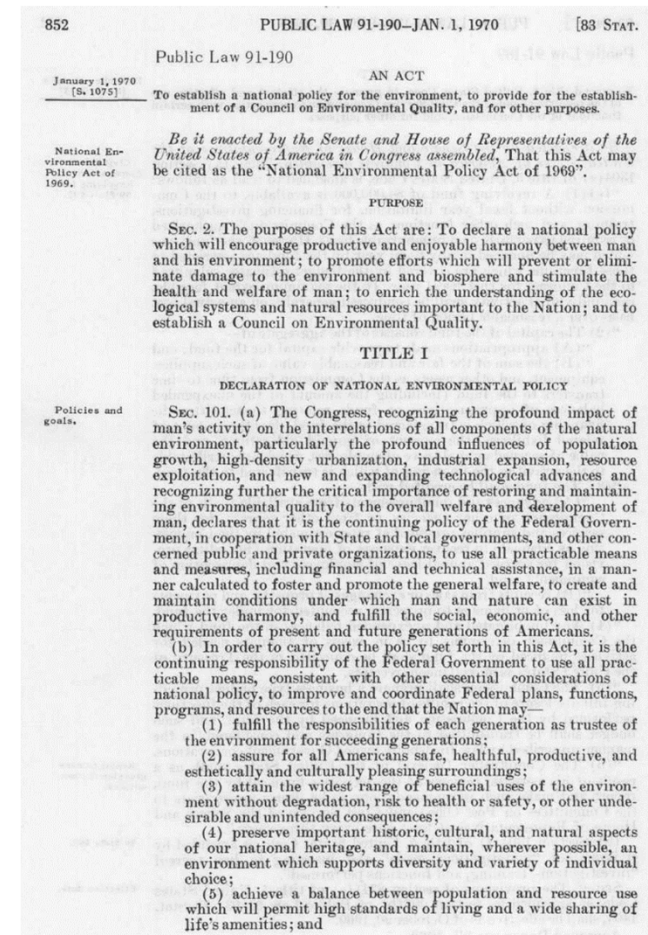


What is Environmental Policy?

At the Federal level...

National Environmental Policy Act (NEPA) of 1969

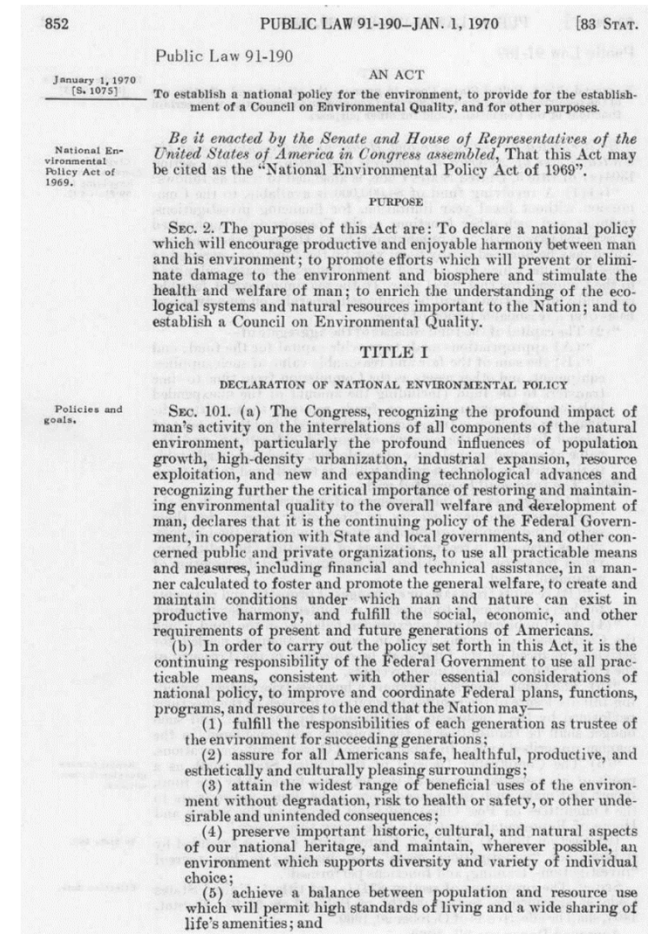
- January 1, 1970
- “Recognizing the profound impact of man’s activity on...the natural environment...and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man...”
- “...to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.”



At the Federal level...

National Environmental Policy Act (NEPA) of 1969

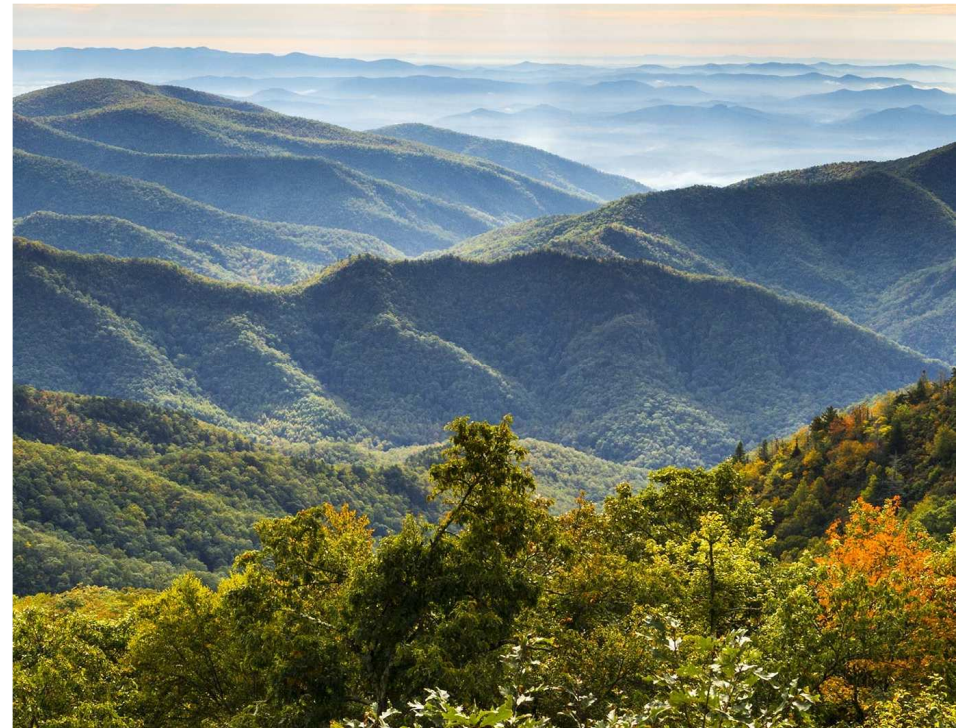
- Establishes procedures for major actions
- Requires Federal agencies to prepare a detailed statement on
 - (1) the environmental impacts;
 - (2) any unavoidable adverse effects;
 - (3) alternatives;
 - (4) the relationship between local short-term effects and the maintenance and enhancement of long-term productivity; and
 - (5) any irreversible and irretrievable resource commitments



At our state level...

NC Environmental Policy Act of 1971

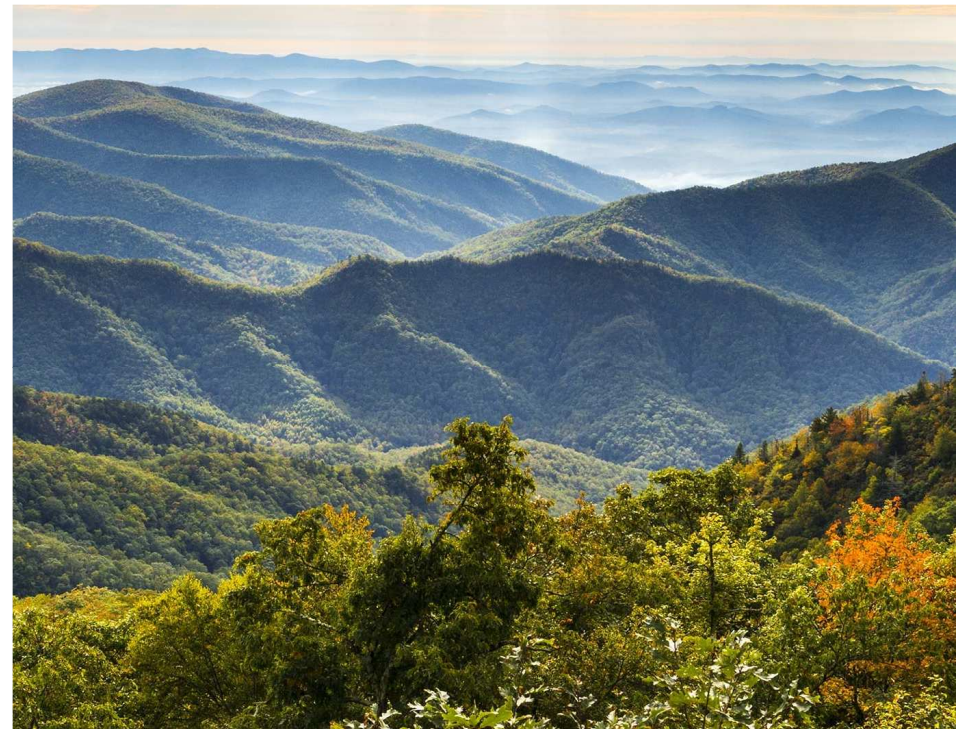
- “Recognizing the **profound influence of man's activity on the natural environment**, and desiring, in its role as trustee for future generations, to assure that an environment of high quality will be maintained for the health and well-being of all, declares...policy of the State of North Carolina to conserve and protect its natural resources and to create and maintain conditions under which man and nature can exist in productive harmony.”



At our state level...

NC Environmental Policy Act of 1971

- “Further...to seek, for all of its citizens, safe, healthful, productive and aesthetically pleasing surroundings; to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety; and to preserve the important historic and cultural elements of our common inheritance.”



OUR MISSION

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What does this mean for NCDOT?

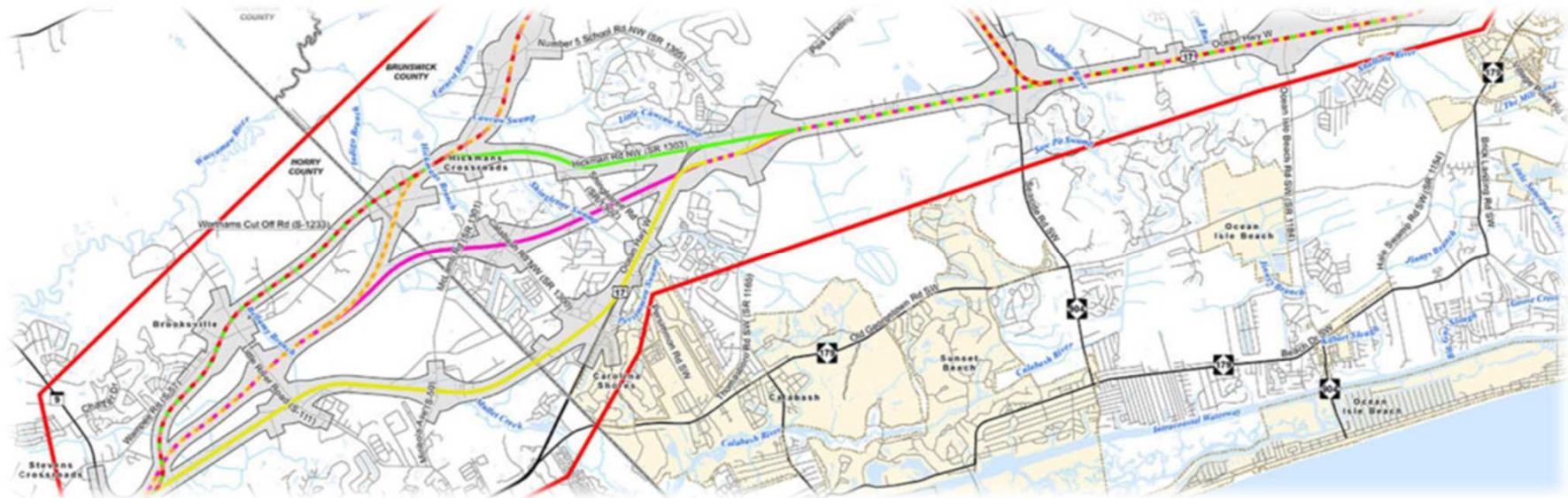
And how do we address it day in and day out?

Agency Processes

- Interpreting Regulations & Policies
- Training Staff
- Writing Procedures
- Responding to Regulatory and Political Changes

Project Development

- Integrating Requirements into Project Delivery
- Writing/Reviewing EISs, EAs, CEs, and MCDCs
- Documenting Project Decisions



ncdot.gov

Policies & Processes

What are some examples?

- Resiliency & Climate Change
- Interagency Coordination
- Funded Agency Positions
- Project Commitments Guidance (green sheets)
- 404/NEPA Merger Process MOU
- Project Initiation & Screenings
- Wildlife Passage MOU

Environmental Policy & Documents



NORTH CAROLINA ZEV PLAN

A Strategic Plan for Accelerating
Electric Vehicle Adoption in
North Carolina



OCTOBER 1, 2019

VERSION 1.0

*Prepared by the North Carolina Department of Transportation
for the North Carolina Climate Change Interagency Council*

Project Development

How do we implement our policies and processes each day?

The screenshot shows the ncdot.gov website navigation menu with 'Resources' selected. Below the menu, the 'Environmental Policy' page is displayed. The page title is 'Environmental Policy' with a subtitle 'Helping staff ensure compliance with the National Environmental Policy Act and other environmental policies and regulations'. The breadcrumb trail is 'Connect NCDOT > Resources > Environmental > Environmental Policy'. The main content area has four sections: 'Merger Process', 'NEPA/SEPA Guidance', 'Policies, Guidance and Initiatives', and 'Training and Other Topics'. A sidebar on the right contains 'Customer Service' and 'Quick Links' sections.

Environmental Policy
Helping staff ensure compliance with the National Environmental Policy Act and other environmental policies and regulations

Connect NCDOT > Resources > Environmental > Environmental Policy

Merger Process
NCDOT's NEPA/404 Merger Process is used to achieve regulatory concurrence on project decisions to garner streamlined permit approvals.

NEPA/SEPA Guidance
EPU provides guidance based on FHWA policies and internal procedures to help staff meet NEPA and SEPA regulatory requirements.

Policies, Guidance and Initiatives
EPU helps NCDOT staff interpret our policies and guidance.

Training and Other Topics
EPU facilitates training opportunities in environmental compliance across the Department.

FAQs

Customer Service
EPU Customer Service

Quick Links

FEDERAL REGULATION
Upload form for CE's v
Sharepoint or ATLAS
only)
In support of FHWA's and
NEPA Categorical Excl
need to capture all of the
documentation without a
libraries or the ATLAS W
include research activities
landscaping, guardrail re
and other similar actions.

- Websites
- Staff Training & Coordination
- Lots of Emails!
- Consultant Outreach
- Merger Pre-Screening
- Project Initiation or “Scoping”
- NEPA/SEPA Documentation
- Permitting

connect.ncdot.gov/resources/Environmental/EPU

Why do we have to do so much?

Lead Federal Agency

- Could be FHWA or the Corps of Engineers (or FAA for Aviation or FRA for Rail or FTA for IMD)
- Driven by the federal agency action (a “nexus”)
 - Funding
 - Approvals
 - Permits
- Up to NCDOT to determine
- Sets us on a path for technical studies based on that agency’s regulations

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
69 Darlington Avenue
Wilmington, North Carolina 28403-1343

Regional General Permit No. SAW-2019-02350 (RGP 50)
Name of Permittee: North Carolina Department of Transportation
Effective Date: May 26, 2020
Expiration Date: May 25, 2025

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT

A regional general permit (RGP) to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby issued by authority of the Secretary of the Army by the

District Commander
U.S. Army Engineer District, Wilmington
Corps of Engineers
69 Darlington Avenue
Wilmington, North Carolina 28403-1343

TO AUTHORIZE THE DISCHARGE OF DREDGED OR FILL MATERIAL IN WATERS OF THE UNITED STATES (U.S.), INCLUDING WETLANDS, ASSOCIATED WITH MAINTENANCE, REPAIR, AND CONSTRUCTION PROJECTS CONDUCTED BY THE VARIOUS DIVISIONS OF THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT), INCLUDING THE NCDOT DIVISION OF HIGHWAYS, RAIL, BICYCLE/PEDESTRIAN, ETC.

Which regulations matter?

And which ones require we follow a particular process?

Procedural Laws

- Nat'l Historic Preservation Act – Section 106 process
- Administrative Procedures Act
- CERCLA (Superfund)

Substantive Laws

- Clean Water Act
- Endangered Species Act
- Wild and Scenic Rivers Act
- USDOT Act of 1966 – Section 4(f)
- Clean Air Act

National Environmental Policy Act



Most, including NEPA, have a foot in each
Procedural for EISs
Substantive in its broader goals
Procedural regulations from each agency

What is an Environmental Document?

Basic Contents



- Project Needs
- Project Purpose
- Alternatives Analysis
- Impacts
- Mitigation
- Interagency Participation
- Public Involvement
- Documentation/Disclosure

Document vs. Documentation

Documents are more formal and include:

- Environmental Impact Statement (EIS)
- Record of Decision (ROD)
- Environmental Assessment (EA)
- Finding of No Significant Impact (FONSI)

Documentation is less formal and include:

- Categorical Exclusion (CE)
- Minimum Criteria Determination Checklist (MCDC)

Environmental Policy & Documents

ADMINISTRATIVE ACTION


I-26 ASHEVILLE CONNECTOR
Buncombe County, North Carolina
Federal Aid Project No. NHF-26-1(53)
WBS Element 34165.1.2
STIP I-2513


FINAL ENVIRONMENTAL IMPACT STATEMENT

VOLUME 1 OF 2

U.S. Department of Transportation
Federal Highway Administration
and
North Carolina Department of Transportation

Submitted Pursuant to the National Environmental Policy Act 42 U.S.C. 4332(2)(c)

1/9/2020 
Date of Approval Derrick Weaver, P.E.
Environmental Policy Unit -Unit Head
North Carolina Department of Transportation

1/9/2020 
Date of Approval John F. Sullivan, III, P.E.
Division Administrator
Federal Highway Administration

The following persons may be contacted for additional information concerning this document:

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North Carolina Department of Transportation
1582 Mail Service Center
Raleigh, NC 27699-1582
(919) 707-6253

The documented needs for the transportation project in Buncombe County are presented in the report. The existing conditions of the study area are described and the alternatives are assessed in terms of environmental

What's the difference in document types?

EIS/ROD

- Most formal and detailed
- EIS culminates with a ROD
- Allows for “significant impacts”
- Regulations are fairly stringent
- Requires a formal public hearing

EA/FONSI

- EA culminates with a FONSI or an EIS/ROD
- Less formal, less detail
- Summarizes impacts
- Regulations are less stringent
- Requires advertisement for need of a public hearing

Most (~95%) NCDOT actions are Categorically Excluded

“Documents” not required

CE documentation references technical reports

Does not exempt us from adhering to other regulations

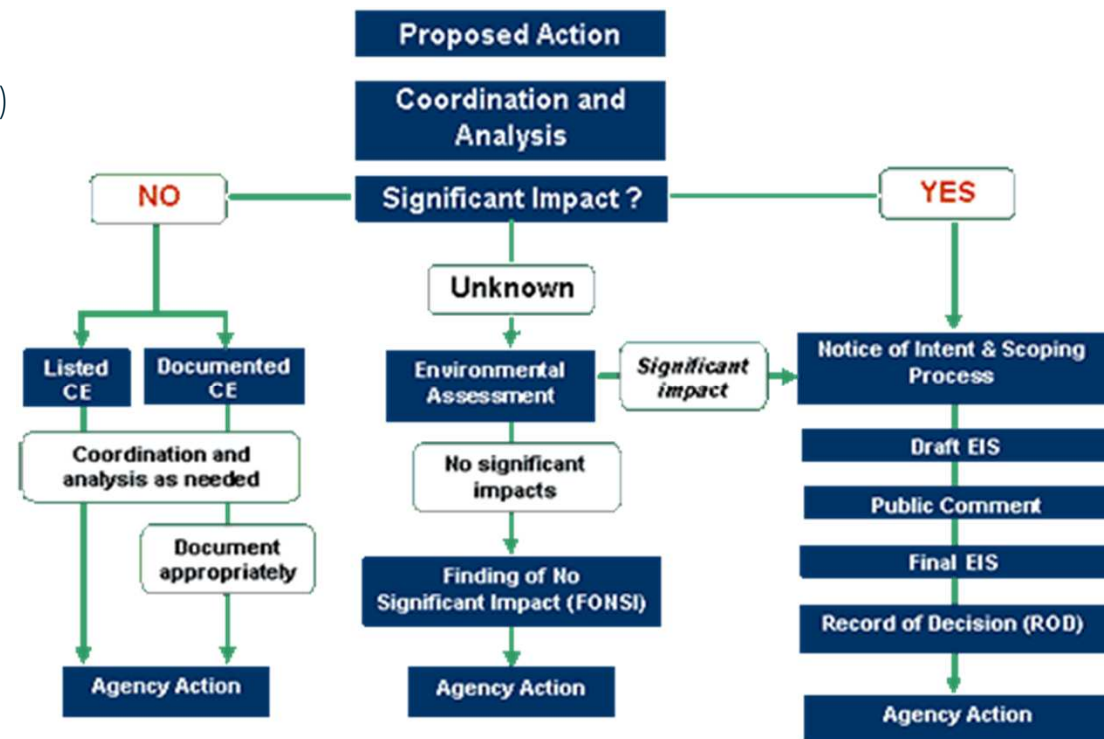
Provides public disclosure

(assuming FHWA for simplicity's sake)

What is a Significant Impact?

It depends! (this is why we have NEPA Practitioners!)

- Context (societal, regional, local, affected interests)
- Intensity (severity)
- Unique characteristics
- Controversy
- Indirect/Cumulative effects



CE or MCDC?

What are the basic differences?

Categorical Exclusion (CE)

- FHWA-specific regulations
- Checklist varies depending on type of project & impacts
- May require FHWA signature
- Must meet FHWA requirements
- Can be audited by FHWA
- Provides federal documentation for other cooperating agencies

Minimum Criteria Determination Checklist (MCDC)

- NCDOT-specific form
- Verifies we fall below SEPA thresholds for our “Minimum Criteria”
- Less-detailed than a CE
- Does not meet many federal requirements

What does a CE look like?

Is it just a checklist?

Non-Ground Disturbing

This form is titled 'Type I Non-Ground Disturbing Categorical Exclusion Action Classification Form'. It includes fields for 'CE# Project No.' (0488), 'WSP District' (0488.1), and 'Project Name' (D44466756). Section A, 'Project Description', states the project is for 'Road Operations Support for Exchange Carolina Route east'. Section B, 'Description of Road and Project', notes it is a 'Maintenance project on existing pavement'. Section C, 'Categorical Exclusion Action Classification - Type I', lists 'Disturbed Environment - Drain Action Classification not to be used'. Section D, 'Disturbed Environment - Drain Action Classification not to be used', includes a table with columns for 'Type I' and 'Type II' and rows for 'Disturbed Environment - Drain Action Classification not to be used' and 'Disturbed Environment - Drain Action Classification not to be used'. Section E, 'Special Disturbance - Not Applicable', and Section F, 'Special Disturbance - Not Applicable', are also present.

Ground Disturbing

This form is titled 'Type II Ground Disturbing Categorical Exclusion Action Classification Form'. It includes fields for 'CE# Project No.' (4401), 'WSP District' (4401.1), and 'Project Name' (4401.0000). Section A, 'Project Description', states the project is for 'Road Operations Support for Exchange Carolina Route east'. Section B, 'Description of Road and Project', notes it is a 'Maintenance project on existing pavement'. Section C, 'Categorical Exclusion Action Classification - Check one', has a table with columns for 'Type I' and 'Type II' and rows for 'Disturbed Environment - Drain Action Classification not to be used' and 'Disturbed Environment - Drain Action Classification not to be used'. Section D, 'Disturbed Environment - Drain Action Classification not to be used', includes a table with columns for 'Type I' and 'Type II' and rows for 'Disturbed Environment - Drain Action Classification not to be used' and 'Disturbed Environment - Drain Action Classification not to be used'. Section E, 'Special Disturbance - Not Applicable', and Section F, 'Special Disturbance - Not Applicable', are also present.

Type III

This form is titled 'Type III Categorical Exclusion Action Classification Form'. It includes fields for 'CE# Project No.' (0488), 'WSP District' (0488.1), and 'Project Name' (D44466756). Section A, 'Project Description', states the project is for 'Road Operations Support for Exchange Carolina Route east'. Section B, 'Description of Road and Project', notes it is a 'Maintenance project on existing pavement'. Section C, 'Categorical Exclusion Action Classification - Type III', lists 'Disturbed Environment - Drain Action Classification not to be used'. Section D, 'Disturbed Environment - Drain Action Classification not to be used', includes a table with columns for 'Type I' and 'Type II' and rows for 'Disturbed Environment - Drain Action Classification not to be used' and 'Disturbed Environment - Drain Action Classification not to be used'. Section E, 'Special Disturbance - Not Applicable', and Section F, 'Special Disturbance - Not Applicable', are also present.

What it is and is not

What it is

- Documentation that we followed a process
- **Summary** of relevant issues/impacts
- Explains our decision
- Method for notifying public
- Clock-starter (for lawsuit challenges)
- A snapshot of what we currently know

What it isn't

- A permit
- A statement that there are no impacts
- A free pass throughout the life of the project
- Something to file away and forget about



Let's Revisit



These pieces are scalable!

- Purpose can range from 1 sentence to a 5-page report
- Alternatives analyses vary widely
- Public involvement effort could be very targeted or widespread across a region
- Interagency coordination may be very informal via email, but could be formal in Merger across many meetings
- Mitigation – that means promises we made that we must keep

What kinds of impacts?

It depends on the project!

STIP R-5763 | Transylvania County

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F3. Type III Actions

Proposed improvement(s) that fit Type III Actions (NCDOT-FHWA CE Programmatic Agreement, Appendix C) answer questions below.

- * NCDOT will certify the *Categorical Exclusion for FHWA approval.*
- * If any questions are marked "Yes" then additional information will be required for those questions in Section G.

		Yes	No
1	Does the project involve potential effects to Threatened or Endangered species listed by the US Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2	Does the project result in impacts subject to the conditions of the Bald and Golden Eagle Protection Act (BGEPA)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3	Does the project generate substantial controversy or public opposition, for any reason, following appropriate public involvement?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4	Does the project cause disproportionately high and adverse impacts relative to low-income and/or minority populations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5	Does the project involve substantial residential or commercial displacements or right of way acquisition?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6	Does the project include a determination under Section 4(f)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7	Is a project-level analysis for direct, indirect, or cumulative effects required based on the NCDOT community studies screening tool?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8	Does the project impact anadromous fish spawning waters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9	Does the project impact waters classified as Outstanding Resource Waters (ORW), High Quality Waters (HQW), Water Supply Watershed Critical Areas, 303(d)-listed impaired water bodies, buffer rules, or submerged aquatic vegetation (SAV)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10	Does the project impact Waters of the United States in any of the designated mountain trout streams?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
11	Does the project require a US Army Corps of Engineers (USACE) Individual Section 404 Permit?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12	Will the project require an easement from a Federal Energy Regulatory Commission (FERC) licensed facility?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13	Does the project include Section 106 of the National Historic Preservation Act (NHPA) effects determination other than a No Effect, including archaeological remains?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14	Does the project involve GeoEnvironmental Sites of Concerns such as gas stations, dry cleaners, landfills, etc.?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15	Does the project require work encroaching and adversely effecting a regulatory floodway or work affecting the base floodplain (100-year flood) elevations of a water course or lake, pursuant to Executive Order 11988 and 23 CFR 650 subpart A?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16	Is the project in a Coastal Area Management Act (CAMA) county and substantially affects the coastal zone and/or any Areas of Environmental Concern (AEC)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Type III Actions (continued)

		Yes	No
17	Does the project require a US Coast Guard (USCG) permit?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
18	Does the project involve construction activities in, across, or adjacent to a designated Wild and Scenic River present within the project area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
19	Does the project involve Coastal Barrier Resource Act (CBRA) resources?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
20	Does the project impact federal lands (e.g., US Forest Service (USFS), US Fish and Wildlife Service (USFWS), etc.) or Tribal (Trust) Lands?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
21	Does the project involve any changes in access control or the modification or construction of an interchange on an interstate?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
22	Does the project have a permanent adverse effect on local traffic patterns or community cohesiveness?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
23	Will maintenance of traffic cause substantial disruption?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
24	Is the project inconsistent with the STIP, and where applicable, the Metropolitan Planning Organization's (MPO's) Transportation Improvement Program (TIP)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
25	Does the project require the acquisition of lands under the protection of Section 6(f) of the Land and Water Conservation Act, the Federal Aid in Fish Restoration Act, the Federal Aid in Wildlife Restoration Act, TVA, Tribal Lands, or other unique areas or special lands that were acquired in fee or easement with public-use money and have deed restrictions or covenants on the property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
26	Does the project involve Federal Emergency Management Act (FEMA) buyout properties under the Hazard Mitigation Grant Program (HMGP)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
27	Is the project considered a Type I under the NCDOT's Noise Policy?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
28	Is there prime or important farmland soil impacted by this project as defined by the Farmland Protection Policy Act (FPPA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
29	Is the project in an Air Quality non-attainment or maintenance area for a National Ambient Air Quality Standard (NAAQS)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
30	Are there other issues that arose during the project development process that affected the project decision?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Why do our NEPA documents get challenged?

- Administrative Procedures Act
- Alternatives analysis
- Permit issuance
- Endangered Species Act consultation
- Public controversy
- Outdated data or assumptions



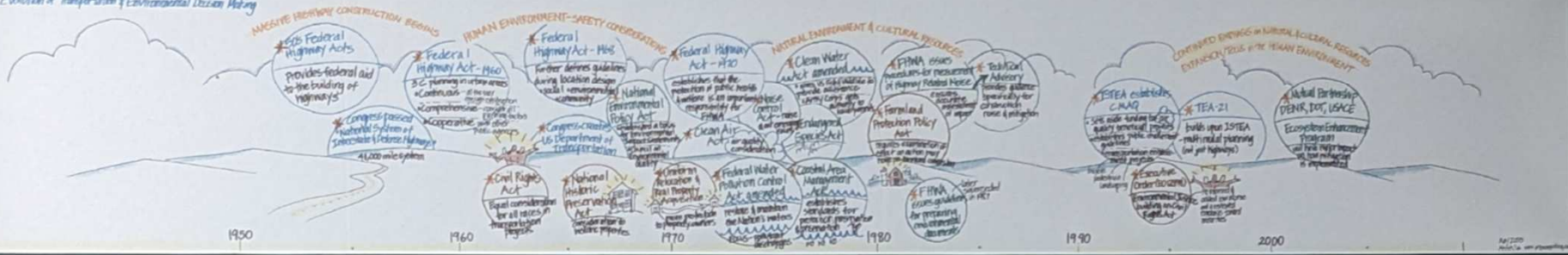
What have we learned over the years?



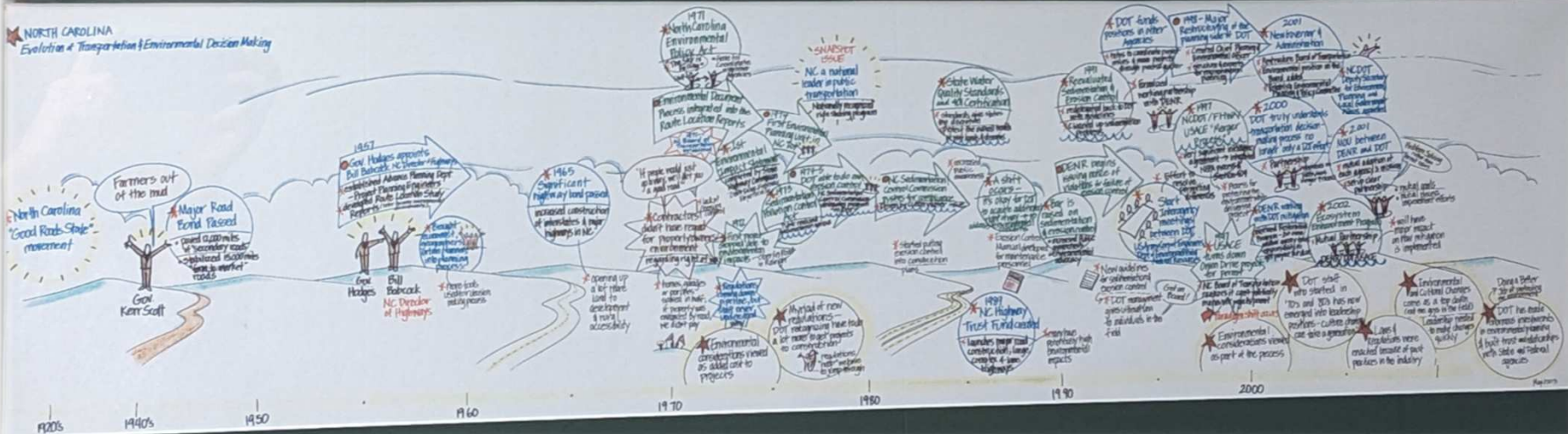
- Relationships Matter
- Collaboration Works (Coordination isn't enough)
- Institutional Knowledge is Important
- Teamwork is Imperative! (no one person can do everything)
- Requirements will Evolve
- There's More than One Way to Achieve Success
- Understanding Risks and Opportunities is Integral
- Document Everything
(if it isn't written down, then it didn't happen)

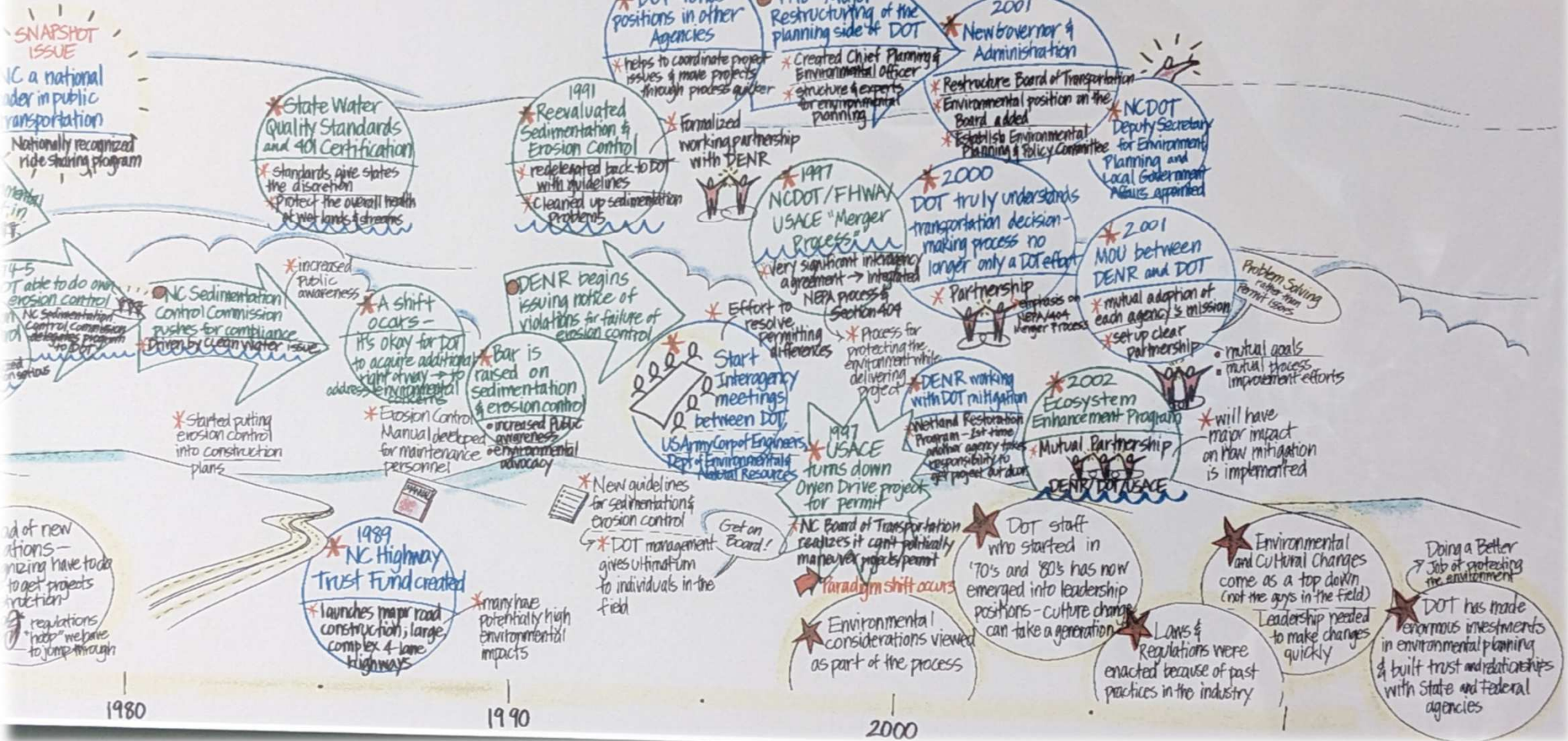
The Evolution of Transportation and Environmental Decision-Making

FEDERAL HIGHWAY ADMINISTRATION Evolution of Transportation & Environmental Decision Making



NORTH CAROLINA Evolution of Transportation & Environmental Decision Making

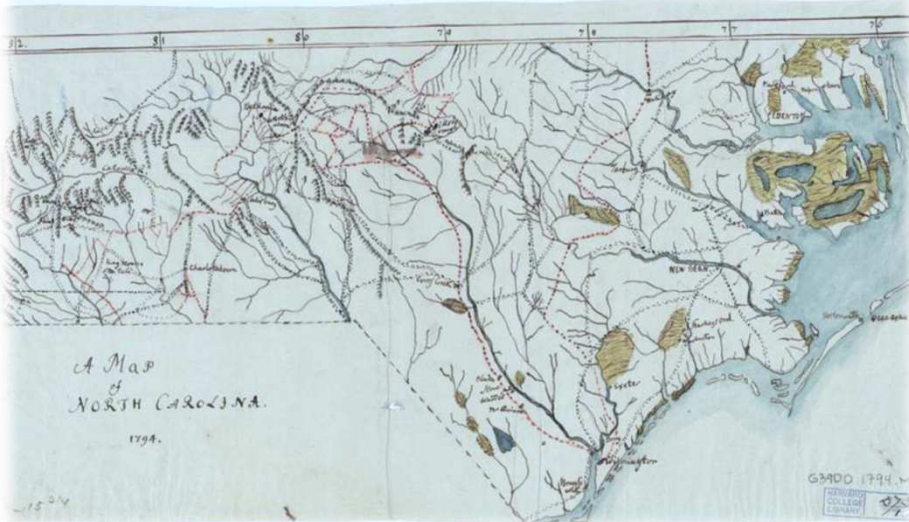




Other Topics (if time allows)

- Why funding matters
- NEPA/SEPA Consultations
- 404/NEPA Merger Process
- 4(f) Protections
- Project Commitments
- Avoidance & Minimization

Lots more info at
connect.ncdot.gov/resources/Environmental/EPU/ and
connect.ncdot.gov/resources/Environmental/



Thank you!

Contact Us

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