



Local Transportation Agencies NEPA & Endangered Species

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HELLO!

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WHY DO WE ASSESS THE ENVIRONMENTAL IMPACT OF OUR PROJECTS?

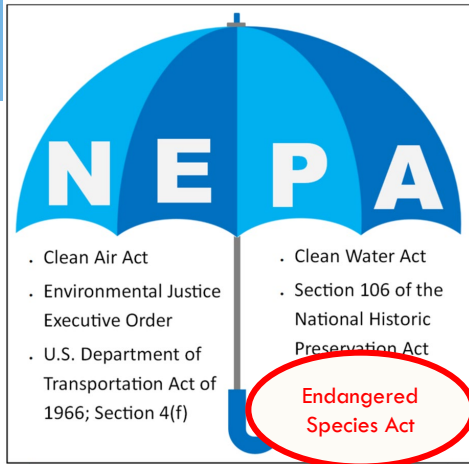
Federal Compliance- USFWS

- Endangered Species Act
- Fish & Wildlife Coordination Act
- NEPA: 40 CFR §§ 1500–1508
- FHWA: 23 CFR §771, DOT Order 5610.IC

State Compliance - DNR

- Michigan Environmental Protection Act (MEPA)
- Natural Resources Environmental Protection Act (NREPA)

NEPA National Environmental Policy Act



Q: Who does NEPA apply to?

- Any project funded by, licensed by or assisted by the federal government (federal nexus).
- Transportation projects receive federal funds, usually through FHWA.

Q: What actions do NEPA apply to?

- Any action that is performed in association with a project funded by, licensed by or assisted by the federal government.
- No matter how the specific action is funded, if it was performed for a federally associated action, it gets reviewed during the NEPA process.

Q: Why do I want to use federal funds?

- **BIGGEST IMPACT!** More money and multi-discipline planning equals a better product in performance, environment and community.

UNDERSTANDING A FEDERAL NEXUS



Establishes a connection to the federal government in which federal laws, regulations, or jurisdiction than apply to activities, entities, or property.

Is there a federal nexus? Which part of the job requires NEPA review?

EXAMPLE

1. A bridge replacement over a designated wild and scenic river using 100% county funds.

EXAMPLE

2. Road reconstruction using only states funds and requires a joint permit application (JPA) from EGLE and the U.S. Army Corps.

EXAMPLE

3. Road safety improvement project that includes signage, pavement treatments, guardrails and stop light upgrades. The lights are using federal safety funds and the rest is using state funds.

EXAMPLE

ENDANGERED SPECIES PROTECTION LAWS



Apply to everyone, including individuals, private organizations, and all levels of state government.



County/transportation ROW is not exempt from these laws (or any other).



FACT CHECK: Even if the project does not include federal funding, it is still required to follow all state and federal laws regarding endangered species.

MICHIGAN SPECIES

407 State Species

- 9 mammals
- 12 amphibians and reptiles
- 22 fish
- 25 birds
- 30 insects
- 35 mollusks
- 274 plants

26 Federal Species

4 Mammals, 2 reptiles, 3 birds
5 insects, 5 mollusks, 7 plants





WHICH SPECIES WILL BE MOST IMPACTED BY TRANSPORTATION ACTIVITIES & WHY

Plants, Mussels, Turtles, Frogs, Snakes, Bats

🌱 ROW is often untouched or unmanaged for years allowing for low disturbance and the ability for species to flourish.

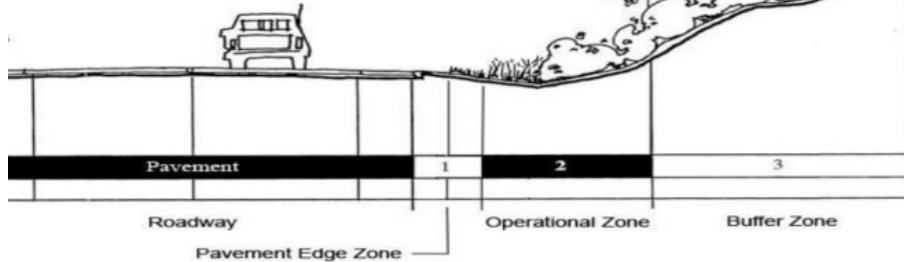
🐚 River crossings typically have high biological diversity and therefore higher impact.

👷 High Biodiversity = Higher Potential Impact

- Wetlands/floodplains/wet ditches
- Forested habitat
- Coastline



ROAD AND POTENTIAL IMPACT RELATIONSHIP



Zone	Maintenance Level	Biodiversity	Impact
Pavement & Zone 1	high	low	low/no
Zone 2	medium	medium	medium
Zone 3	low/no	higher	higher

HOW TO IDENTIFY PROJECT RISK TO ENDANGERED SPECIES



STATE SPECIES: DNR

DNR currently has no internal review capabilities, but offers 2 options for compliance:

1. Michigan Natural Resources Inventory (MNFI)
 - Review by qualified specialist that follows the DNR protocol and specifies which species have project risk.
 - Rare Species Review \$380
2. EGLE Transportation Review
 - Free
 - Gives you a list of species without specific guidance.



FEDERAL SPECIES: FWS

1. IPaC – Information for Planning and Consulting
 - Free
 - Michigan all species determination key gives you automatic concurrence.
 - Dedicated transportation liaisons paid for by MDOT to keep the process moving and facilitate guidance.

MICHIGAN ENDANGERED SPECIES

Regulated by USFWS & DNR

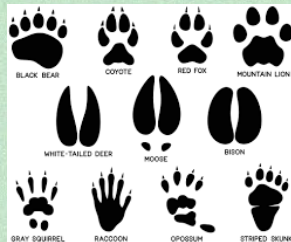
Federal ≠ State

USFWS ≠ DNR

MDOT/EGLE/MNFI ≠ Regulators



2 agencies = 2 separate compliances



Multiple species under each compliance

A SPECIES IS IDENTIFIED ON YOUR REPORT – NOW IDENTIFY IMPACT

1. Can your scope of work impact species or habitat?
 - Yes, no, unknown
2. How can you Avoid or Minimize that impact?
 - MDOT special provisions
 - BMP's
3. Regulatory agency consultation
 - Surveys – always done the year before construction.
 - Permits

AVOID

- Considering project alternatives
- Avoid building in sensitive and critical habitat

MINIMIZE

- Consider alternatives in scope of project
- Seasonal restrictions; cutting trees when bats are not present in the winter.

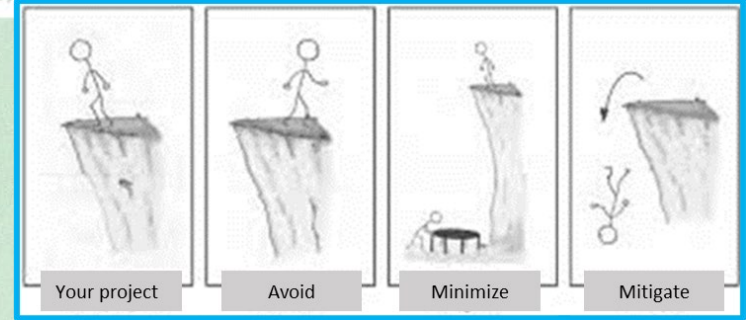
MITIGATE

- Protecting or enhancing resource away from project site
- Mussel relocation

ASK ME THROUGH THE NEPA PROCESS

I can help you with that!

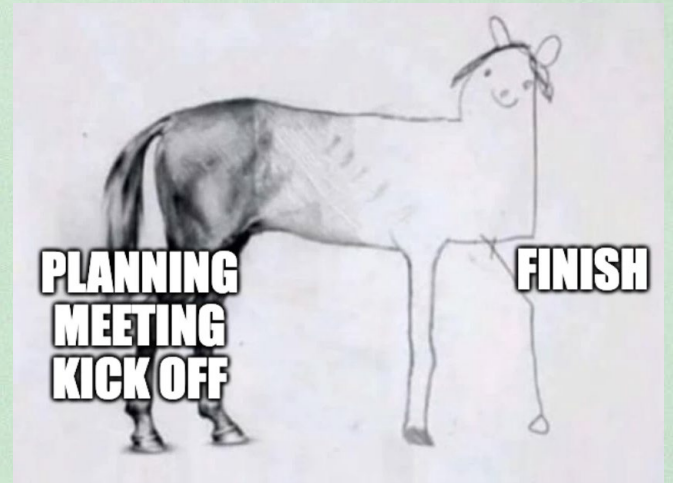
- Animal and Plant locations
- Project impacts
- Take assessment
- Avoidance, minimization and BMP's accepted by regulators
- Survey planning
- DNR & FWS consultation & permitting
- Mitigation implementation that works for your
- Correct documentation
- Special provisions



MODT LAP NEPA SUCCESS

LAST YEAR MDOT LAP PROGRAM RECEIVED ~525 NEPA SUBMISSIONS

- ✓ Turn NEPA in EARLY! (1 yr plus)
- ✓ NEPA is a process, not a form!
- ✓ Surveys are always completed the year before construction.
- ✓ Identify high risks in the 3-5 year plan:
 - Bridges over mussel streams
 - Areas of high vegetation overgrowth
 - New installations (sidewalks & widening)



NEW THIS YEAR

Announcements

For local agency projects that require or may require property acquisition, local agencies and their consultants are reminded to not start any acquisitions until they receive notification that NEPA has been cleared for ROW. Please contact Mahreen Nabi, LAP Environmental Unit Supervisor, at NabiM@Michigan.gov with questions or for additional information.

NEPA must be complete before ROW Acquisition

- Do not purchase any type of ROW before NEPA approval:
 - Temporary or Permanent
- Submit all anticipated ROW with NEPA & section 106 submission for review.
- **The following requires FHWA approval:**
 - add process time to schedule & expect questions
 - Displacements
 - Early/Advanced Acquisition (before NEPA is complete)

WHAT ROW ACTIONS CAN BE DONE PRIOR TO NEPA

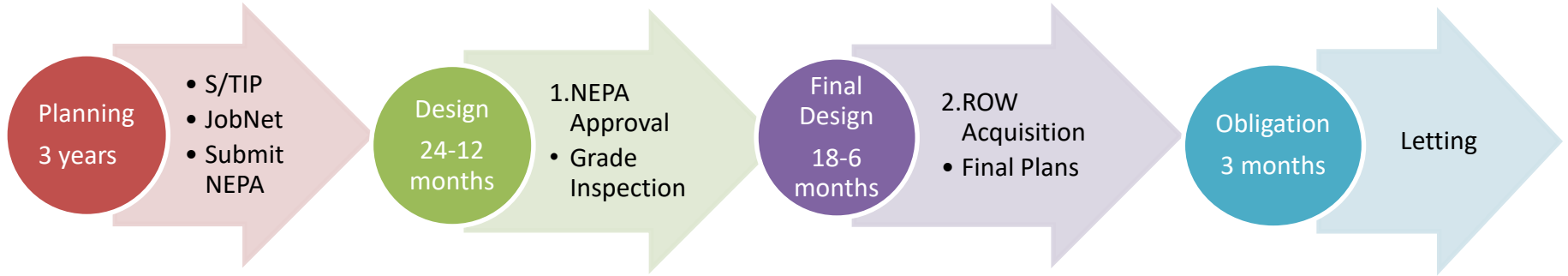
- Title research/search
- Valuation (Waiver Valuation or Appraisal/Review)
- Preliminary document & property map preparation
- Preliminary relocation planning activities
- Preliminary Interviews
- Explaining property owner's rights (MDOT booklets)
- Coordinate early with LAP Real Estate: Kem Hoopingarner



NO NEGOTIATION

LAP IDEAL PROJECT TIMELINE

TIME BEFORE CONSTRUCTION

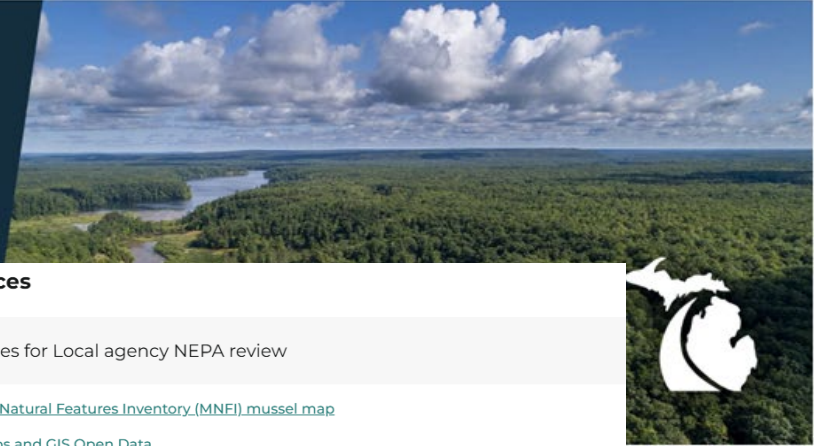


*ROW acquisition can happen before Grade Inspection, but must happen after NEPA approval

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National Environmental Policy Act (NEPA)



Resources

Resources for Local agency NEPA review

[Michigan Natural Features Inventory \(MNFI\) mussel map](#)

[EGLE maps and GIS Open Data](#)

[MDOT maps and GIS Open Data](#)

[DNR maps and GIS Open Data](#)

[Best management practices - Eastern Massasauga Rattlesnake](#)

Section 106 - National Historic Preservation Act

Documents and guidance

[Threatened and endangered species review process](#)

[LAP and public involvement](#)

[Road diets - FHWA guidance - June 2018](#)

[NEPA re-evaluation directions](#)

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News and advisories

[Exempt work types threatened and endangered species \(Jan. 2024\)](#)

[Local agency procedures for requesting ProjectWise folders and submitting env](#)

Forms

[Local Agency Environmental Clearance \(Form 5323\)](#)

[MDOT LAP Section 106 application](#)



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