

Planning and Environment Linkages (PEL) Peer Exchange

SUMMARY REPORT

Date: August 14-15, 2019

Location: Washington, D.C.

**Participating
Agencies:**

FHWA Office of Planning
FHWA Office of Project Development & Environmental Review
FHWA Office of Real Estate Services
Federal Railroad Administration (FRA)
Federal Transit Administration (FTA)
FHWA Connecticut Division
FHWA Virginia Division
FHWA New Jersey Division
FHWA Indiana Division
FHWA Washington Division
Connecticut Department of Transportation (CTDOT)
Virginia Department of Transportation (VDOT)
New Jersey Department of Transportation (NJDOT)
Indiana Department of Transportation (INDOT)
Washington State Department of Transportation (WSDOT)
North Jersey Transportation Planning Authority (NJTPA)
U.S. Coast Guard (USCG)
U.S. Army Corps of Engineers (USACE)
U.S. Department of Transportation – Volpe Center

This report summarizes the August 14-15, 2019, Planning and Environment Linkages (PEL) peer exchange held in Washington, D.C. sponsored by the Federal Highway Administration (FHWA) Office of Planning and the Office of Project Development and Environmental Review. The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

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BACKGROUND

The following report summarizes a PEL peer exchange coordinated by the FHWA Office of Planning, Environment, and Realty held at USDOT Headquarters in Washington, D.C. on August 14-15, 2019. The purpose of the event was to discuss approaches and effective practices for Planning and Environment Linkages (PEL). PEL is a collaborative and integrated approach to transportation decision-making that 1) considers environmental, community, and economic goals early in the transportation planning process, and 2) uses the information, analyses, and products developed during planning to inform the environmental review process. PEL can help transportation agencies achieve efficient environmental review and permitting timelines, which is important to decision-makers and the public. Using PEL can create higher quality, more efficient, predictable, and integrated transportation planning and environmental review processes, and can ultimately accelerate project delivery. PEL uses transportation planning to inform the environmental review process required under the [National Environmental Policy Act \(NEPA\)](#).¹

This peer exchange was funded through the Second Strategic Highway Research Program (SHRP2) product [Expediting Project Delivery \(C19\)](#).² C19 is aimed at accelerating planning and environmental review processes for transportation projects. This product identifies 24 strategies for addressing or avoiding 16 common constraints to accelerating project delivery, of which PEL is one. These strategies represent innovative approaches to improve transportation decision-making that result in better projects and environmental outcomes. Applying these proven strategies saves time by allowing agencies to anticipate and reduce project delays in a collaborative manner with key partners and stakeholders.

INTRODUCTION

FHWA Office of Planning and Office of Project Development and Environmental Review hosted the event at USDOT Headquarters in Washington, D.C. Attendees included representatives from FHWA division offices, State DOTs, and metropolitan planning organizations (MPOs) from Virginia, New Jersey, Connecticut, and Indiana. Washington FHWA division office and State DOT participated as the presenters on Washington's PEL activities. The focus of the peer exchange was to discuss each state's PEL approaches, share best practices, and advance PEL implementation.

This document summarizes the peer exchange. The agenda is available in Appendix A and a list of participants is available in Appendix B. Presentations referenced in this event summary are available upon request.

¹ <https://ceq.doe.gov/>

² [https://www.fhwa.dot.gov/goshrp2/Solutions/All/C19/Expediting Project Delivery](https://www.fhwa.dot.gov/goshrp2/Solutions/All/C19/Expediting_Project_Delivery)

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PEER EXCHANGE SUMMARY

Day 1: PEL Overview and Discussion

Opening Remarks

Ken Petty, Director of FHWA Office of Planning, and Emily Biondi, Director of FHWA Office of Project Development and Environmental Review, opened the peer exchange by welcoming participants to Washington, D.C and discussing the benefits of PEL, including improved relationships, early coordination and engagement, reduced duplication, and stakeholder identification. Mr. Petty expressed the importance of collaborating across the planning and environment disciplines to identifying issues early on in the process. Ms. Biondi noted that PEL has generated attention for its ability to save time and money, and accelerate project delivery.

Defining PEL

Damaris Santiago and Anne Rowe of the FHWA Office of Project Development and Environmental Review, and Jody McCullough of the FHWA Office of Planning, presented on the authorities under which PEL approaches can be used, and on Federal regulations and initiatives related to PEL. Ms. Santiago and Ms. McCullough presented first, explaining that PEL considers environmental, community, and economic goals early in the transportation planning process and showed [a video explaining PEL](#).³ PEL uses the information, analysis, or products developed during planning to inform the environmental review process, including the National Environmental Policy Act of 1969 (NEPA) process. Use of PEL is not required for project development. However, if it is used, PEL planning products (planning analyses and/or planning decisions), including development of purpose and need and elimination of unreasonable alternatives, may be adopted or incorporated by reference as long as these products meet NEPA requirements. Transportation planning activities undertaken as part of the planning process prior to the initiation of NEPA are eligible for Planning (PL) and State Planning and Research (SPR) funds, which is a major benefit of the PEL process. Additional benefits of PEL include reduced duplication, cost and time savings, enhanced community involvement, and improved relationships and coordination.

Many of the conditions for PEL are already completed as part of the normal transportation planning process. General considerations for early in the process, which may make it easier to meet the conditions for planning products to be carried forward into NEPA, include developing cooperative relationships, sharing publicly available information, having reliable data, developing and using reasonable methodologies, establishing sufficient documentation, and engaging FHWA Division or Federal Transit Administration (FTA) Region Offices.

Following the video, Ms. McCullough further elaborated on the benefits of PEL. She explained that a key benefit of PEL is minimizing the duplication of efforts. Under a PEL approach, information and analysis completed during planning can be used during project development

³ <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=122>

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and in the environmental review process, improving efficiency and accelerating overall project delivery. Using a PEL approach also involves early public involvement and early coordination with resource agencies, both of which can also provide additional benefits, such as building better relationships. Ms. McCullough also addressed litigation risks. She noted that planning activities are not considered Federal actions subject to review under NEPA, but when planning products are used in NEPA, they may be subject to future litigation.

Figure 1 displays PEL approaches and the authorities and conditions associated with each of them. PEL is referenced in planning and environment statutes, regulations, and guidance. The Council on Environmental Quality (CEQ) [40 USC 1500.5](#)⁴ provides regulations on the process of implementing NEPA. The CEQ regulations include incorporating NEPA into early planning and the incorporation by reference of information that will “cut down on bulk.” [23 USC 168](#)⁵ and [23 USC 139\(f\)\(4\)\(E\)](#)⁶ allow FHWA and FTA, as NEPA lead agencies, to use the results or decisions of State DOTs, MPOs, or public transportation operator-led corridor and subarea planning studies in the environmental review process under NEPA so long as these results meet NEPA requirements.

⁴ https://www.energy.gov/sites/prod/files/NEPA-40CFR1500_1508.pdf

⁵ <https://www.law.cornell.edu/uscode/text/23/168>

⁶ <https://www.law.cornell.edu/uscode/text/23/139>

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Flexibility in PEL Approaches

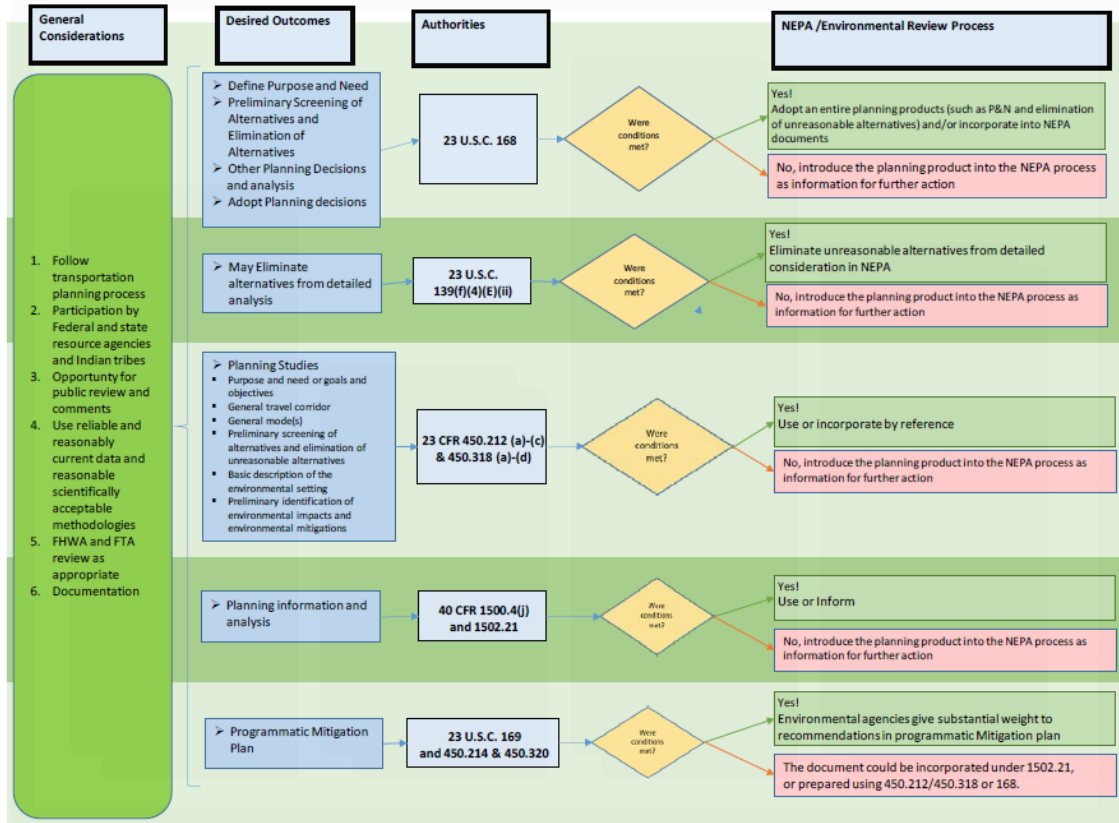


Figure 1. PEL Authorities

An optional statutory process for the integration of planning and environmental review was introduced in the Moving Ahead for Progress in the 21st Century Act (MAP-21), amended by the Fixing America’s Surface Transportation (FAST) Act, and codified in 23 USC 168. Adoption of planning products or incorporation by reference can occur under PEL if the 10 conditions set forth in 23 USC 168(d) are met. Elimination of an unreasonable alternative can occur as outlined in 23 USC 139(f)(4)(E)(ii). As long as conditions are met under either of these statutes, the ability to use planning products in NEPA is preserved throughout the environmental review process. Many of the conditions for PEL are completed during the normal transportation planning process. However, there are oversight responsibilities that field staff must ensure are adhered to for planning products to be viable for use in the environmental review process.

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Alternatively, if a State is interested in incorporating PEL into their planning process, corridor and subarea studies as discussed in [23 CFR 450.212\(a\)-\(c\)](#)⁷ and [23 CFR 450.318\(a\)-\(d\)](#),⁸ can be used to produce a wide range of analyses or decisions for FHWA/FTA review, consideration, and possible adoption in the NEPA process for an individual transportation project.

Ms. Rowe presented on One Federal Decision (OFD). [Executive Order 13807](#),⁹ Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects, requires Federal agencies to process environmental reviews and authorization decisions for “major infrastructure projects” as a single Federal decision and sets a government-wide goal of reducing, to two years, the average time for each agency to complete the required environmental reviews and authorization decisions for major infrastructure projects, as measured from the date of publication of a notice of intent to prepare an environmental impact statement. The benefits of PEL apply to all classes of NEPA action. They also support the goals of Executive Order 13807, which emphasizes early and ongoing coordination, concurrent agency reviews with timely permitting and agency decisions, and issuing one federal decision document (the Record of Decision) to the maximum extent practicable.

Resources

Resources highlighted during this presentation included:

- [SHRP2](#)¹⁰
- [FHWA C19 Website](#)¹¹
- [FHWA Environmental Review Toolkit](#)¹²

Question and Answer

Attendees participated in a question and answer session to further discuss the content presented.

Q: If a planning product is used to inform NEPA, when do you need to engage the public?

⁷ https://www.ecfr.gov/cgi-bin/text-idx?SID=f91881132af3e9b3b9063733f0ae5378&mc=true&node=se23.1.450_1212&rgn=div8

⁸ https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=43e5d941bcb1df5e86b1ff4b11de3368&mc=true&n=pt23.1.450&r=PART&ty=HTML#se23.1.450_1318

⁹ https://www.environment.fhwa.dot.gov/nepa/oneFederal_decision.aspx

¹⁰ <https://www.fhwa.dot.gov/GoSHRP2>

¹¹ https://www.environment.fhwa.dot.gov/env_initiatives/SHRP2.aspx

¹² <https://www.environment.fhwa.dot.gov/>

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A: The public should be notified early in the process and notified with your intention to use planning products to inform NEPA. Recommend identifying and inviting all stakeholders that would be involved in the NEPA process.

Q: Do you have a template or guidance on the key elements that should be included in the documentation?

A: The [PEL Questionnaire](#)¹³ provides information on what should be documented and is intended to act as a summary of the planning process and ease the transition from planning to NEPA analysis. FHWA is currently updating the PEL Questionnaire.

Q: What is the litigation risk for PEL?

A: Planning activities are not federal actions. However, if you are completing a PEL activity, the lead agency needs to make sure that the document is of NEPA quality and could withstand litigation if it is going to be brought from the planning process into NEPA. The use of a document from planning to NEPA will become part of the administrative record.

Q: When determining a reasonable range and/or eliminating alternatives, do you need to include resource agencies? If so, how can you get resource agencies to coordinate at that early stage?

A: Per 23 USC 139(f)(4)(E), you must include resource agencies when determining alternatives. Sarah Wingert, FHWA USACE Liaison, noted that if you are using PEL to develop purpose and need in NEPA, and it is a project that is likely to require an individual permit from USACE, they should be involved. It can be a challenge since USACE may not understand the full intent of the study and staff may be lacking time and resources. Clearly expressing the level of effort, intent of the information, and how that information will be used is critical when communicating with resource agencies.

Q: Are there currently any OFD projects?

A: At this time, FHWA has two OFD decision projects. If any state knows they are going to have a major infrastructure project, they should contact FHWA to evaluate if it will trigger OFD.

Q: New Jersey has several complicated categorical exclusion (CE) projects that take several years. Do they qualify as OFD projects?

A: FHWA confirmed that a CE would not be considered an OFD project because a major infrastructure project, as defined in E.O. 13807, is an environmental impact statement (EIS). However, that does present an interesting situation. Following PEL and getting stakeholders to the table early can be tactics to help accelerate project delivery for a CE. It may be useful to

¹³ https://www.environment.fhwa.dot.gov/env_initiatives/pel/pel_quest.aspx

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consider a Programmatic Agreement (PA) if there are specific areas that are holding up the review process. Engaging your FHWA Division Office and reaching out to FHWA's resource agency liaisons is a good first step to identify the problems.

Q: Can USACE provide written concurrence on concurrent points that are completed pre-notice of intent (NOI)?

A: Yes. USACE can provide written concurrence on pre-NOI activities. For instance, purpose and need is a concurrence point that is generally done pre-NOI for OFD projects, per the April 2018 OFD memorandum of understanding (MOU) and the FHWA Working Agreement. For PEL studies where public input has been obtained, we could also potentially provide written concurrence on purpose and need and the elimination of unreasonable alternatives.

PlanWorks PEL Application Demonstration

Cheng Yan of the FHWA Office of Planning presented on [PlanWorks](#),¹⁴ an online tool that supports collaborative decision-making in transportation planning and project development. Built around key decisions in long-range planning, programming, corridor planning, and environmental review, PlanWorks suggests when and how to engage cross-disciplinary partners and stakeholder groups. Mr. Yan explained that PlanWorks is a full suite of tools touching on topics such as performance measures, visioning, freight, health, and other topics, but that the corridor planning and environmental planning components are likely the most relevant to PEL activities and implementation. He specifically pointed out the assessment tool, which offers a way to pinpoint particular challenges to implementing a PEL approach and a way to identify opportunities to work together to improve interagency cooperation and accelerate project delivery.

Mr. Yan provided a live demonstration of the PlanWorks assessment tool (Figure 2). He walked through how to do an assessment to show how practitioners may use the tool in the course of their work in implementing PEL approaches.

¹⁴ <https://fhwaapps.fhwa.dot.gov/planworks/>

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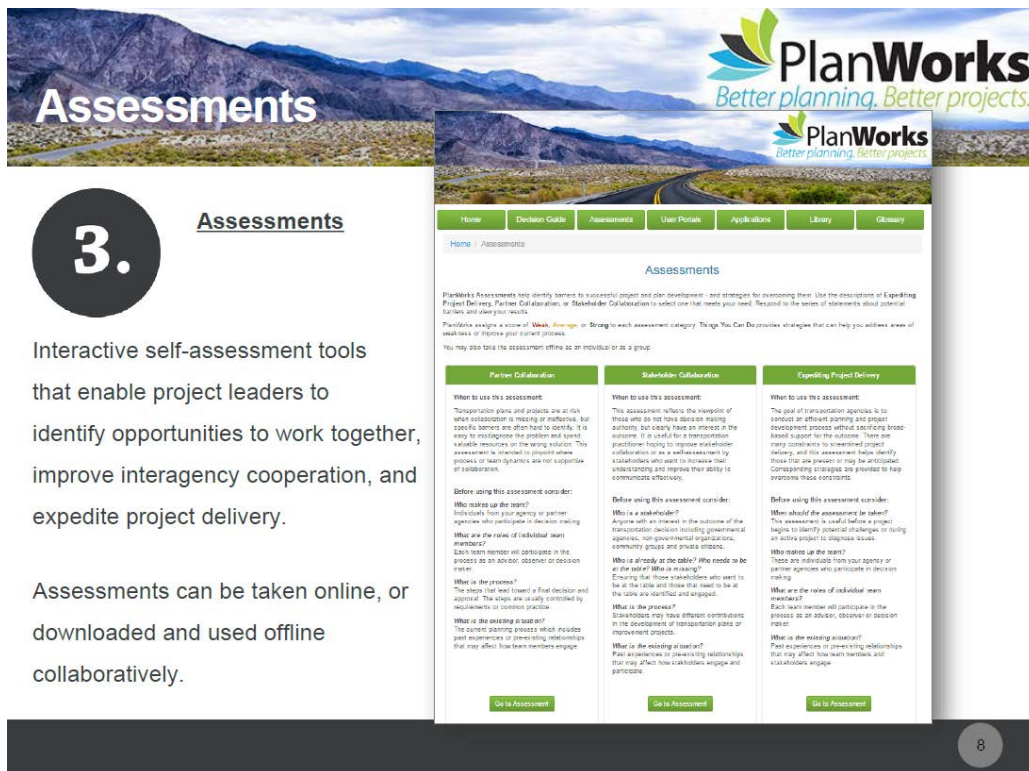


Figure 2. PlanWorks Assessment Tool

Indiana Overview of PEL Approaches

Michelle Allen, Indiana FHWA Division Office, presented on the history of PEL in Indiana. Ms. Allen noted that in the early 2000s, Indiana was actively participating in PEL activities. In 2007, they developed a Manual for [Streamlined Environmental Impact Statement Procedures](https://www.in.gov/indot/files/StreamlinedEISProcedures.pdf),¹⁵ which was intended to eliminate the duplication of efforts between the planning study and NEPA study for major transportation projects by combining them into one study, “one decision-making process.” Jay Mitchell, Indiana Department of Transportation (INDOT), presented on a 2005 Planning Corridor/NEPA study along U.S. Route 36 that followed the Streamlined EIS Procedures evaluating seven alternatives, including the no-build alternative. Due to political and financial changes, PEL did not become active again until 2018 when INDOT and FHWA met to discuss PEL and developed a plan to analyze how PEL could benefit project delivery. Indiana has since reviewed various planning documents against the general requirements of PEL including:

- Three statewide planning documents to determine what analysis could be incorporated to support NEPA for resulting projects.
- Three corridor specific documents to analyze the gap(s) between existing studies and a PEL document.

¹⁵ <https://www.in.gov/indot/files/StreamlinedEISProcedures.pdf>

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- Four projects that had a level of controversy to determine the extent to which a PEL process could have reduced inconsistencies between the planning documents and the NEPA process.

Ron Bales, INDOT, discussed the future of PEL in Indiana. INDOT is considering incorporating PEL elements into planning studies on a pilot basis using a tiered approach. The tiers include:

- Tier 1 – Basic labeling and discussion of PEL elements and red flag investigations (identification of likely points of controversy or environmental obstacles)
- Tier 2 – Add public involvement and resource agency coordination
- Tier 3 – Robust alternatives with public involvement and resource agency coordination

Question and Answer

Q: How has this been received by leadership in Indiana?

A: No one remembered Indiana's old process. We are resurfacing the documents and reminding executive staff about the Manual for Streamlined Environmental Impact Statement Procedures. We are currently proposing this approach to our executive staff.

Q: With the data that you collected, did you document the cost benefit?

A: We did not directly document it. However, we do have examples that highlight the benefits we would have experienced if we had used the PEL approach. These examples are being used to influence future projects.

Q: How can you tell the difference between a Tier 1 PEL approach and Tier 1 NEPA?

A: We are looking at developing different naming conventions.

Virginia Overview of PEL Approaches

Angel Deem, Virginia Department of Transportation (VDOT), presented on VDOT activities and their experience with PEL. Virginia is interested in bridging the gap between planning and environment, and has a NEPA 404 Merger Agreement which provides agency interest and buy-in early in the process. Terrell Hughes, VDOT, discussed Virginia's funding mechanism called [SMART SCALE](#),¹⁶ which is a scoring system for planned projects that is objective and outcome-based to be transparent to the public and makes decision-makers accountable for spending. This process has increased the number of projects under construction and required VDOT to do more targeted work in the planning phase.

Mack Frost, VA FHWA Division Office, noted that Virginia is doing what he likes to consider "PEL lite" since some of what Virginia is doing in the planning phase is being carried over to environment. Virginia is using FHWA's [Ecological Approach](#)¹⁷ for a bridge that has some

¹⁶ <http://vasmartscale.org/>

¹⁷ https://www.environment.fhwa.dot.gov/env_initiatives/eco-logical.aspx

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similarities to PEL including identifying alternatives, having early engagement with stakeholders, and documentation.

Question and Answer

Q: What States have an updated copy of their NEPA 404 Merger Agreement?

A: Colorado DOT recently updated their [NEPA 404 Merger Agreement](#).¹⁸ FHWA will work to provide participants with a copy.

Connecticut Overview of PEL Approaches

Kim Lesay, Connecticut Department of Transportation (CTDOT), provided information on why and how Connecticut is considering integrating PEL into their program. Connecticut has encountered several challenges, including an increase in cost and time for project completion, duplication of work, studies being shelved, numerous alternatives being carried into a document, etc. CTDOT is struggling with significant challenges with environmental assessments (EAs) and EISs and is interested in using the PEL approach to accelerate project delivery and utilize pre-NEPA documentation to pare down the number of alternatives being considered. CTDOT has three major projects on the horizon and are interested in using PEL to identify a reasonable range of alternatives and create documentation in the planning phase that can be used in NEPA.

Ms. Lesay noted that CTDOT identified that the structural organization of their departments are currently in silos, which can be a barrier to accelerating project delivery. Folks from the departments of Strategic Planning, Environmental Planning, Project Development, and Design have discussed the culture shift that would need to take place to have more effective communication between departments during a project's lifespan.

New Jersey Overview of PEL Approaches

Pamela Garrett, New Jersey Department of Transportation (NJDOT), and Sascha Frimpong and Sarbjit Kahlon, North Jersey Transportation Planning Authority (NJTPA), provided information on PEL activities in New Jersey. Ms. Garret noted that the strong partnership between NJTPA and the state has increased communication and collaboration on transportation needs and improvements. NJDOT recently created a Capital Delivery Process, which is designed to streamline the project development process and provide a common framework for federally funded projects at the local, regional, and state levels in NJ (Figure 3).

¹⁸ <https://www.codot.gov/programs/environmental/wetlands/2019-final-merger-agreement>

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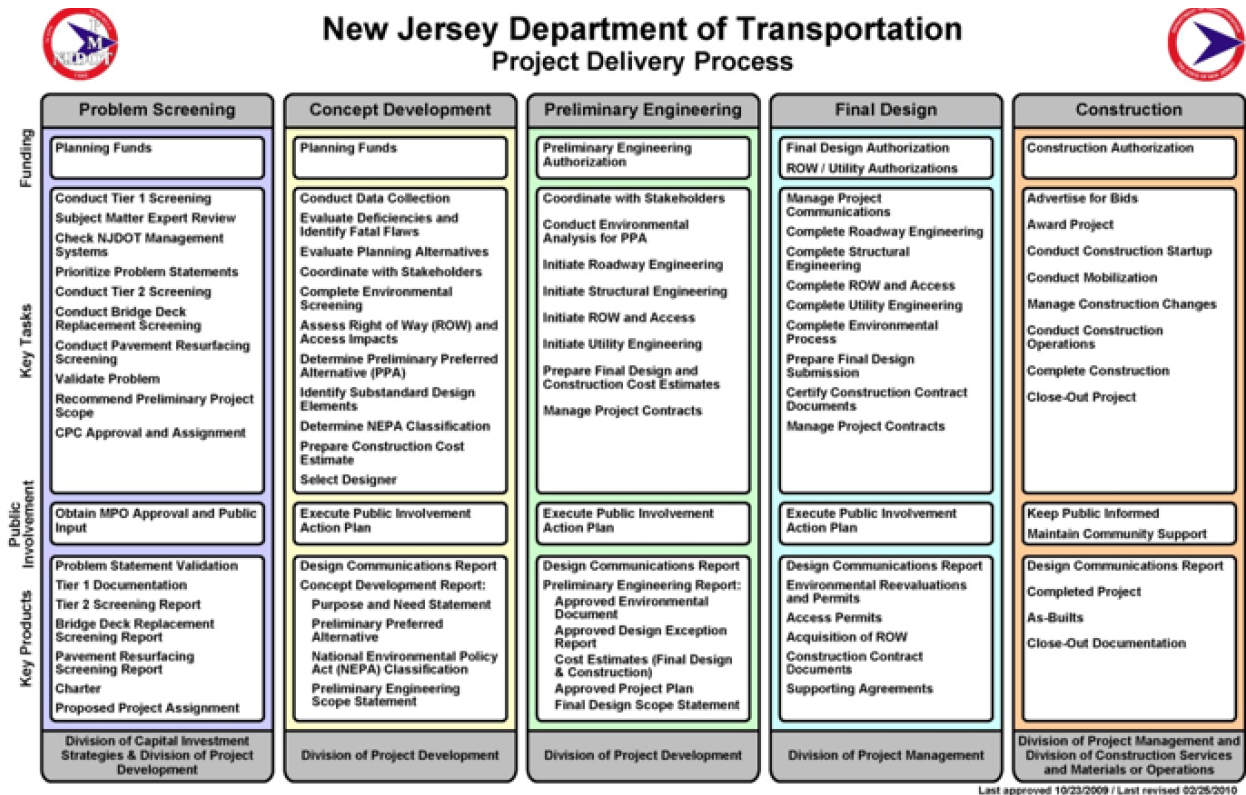


Figure 3: NJDOT Capital Delivery Process

NJTPA developed a project intake process which involves a scoring criteria and review by a multidisciplinary team of environmentalists, planners, and engineers who visit the proposed project location to conduct an environmental field assessment. For each relevant project, New Jersey does a number of PEL and PEL-like activities, including:

- Public involvement using their [Public Involvement Action Plan](#)¹⁹
- Environmental screening to identify environmental constraints, purpose and need, alternatives, and coordination with resource agencies during planning.
- Alternative analysis matrix to further assess alternatives and quantify potential environmental impacts.

NJDOT and NJTPA discussed lessons learned using the PEL approach, including using social media to inform the public and receive feedback, using a professional facilitator for public outreach, and having earlier coordination with resource agencies.

Question and Answer

Q: Are engineers involved in identifying the alternatives?

¹⁹ <https://nj.gov/transportation/eng/documents/piap/piap.shtm>

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A: NJTPA and the consulting team, which includes engineers, are involved in the alternative analysis. We are all Project Managers (PMs) and work together to present this information to the public.

Washington Overview of PEL Approaches

Victoria Book, Washington DOT (WSDOT), and Sharleen Bakeman, Washington FHWA Division Office, presented on PEL activities underway in Washington. Ms. Book provided information on the agency structure at WSDOT, PEL activities underway, and next steps. WSDOT has identified three goals that their agency is working to achieve: inclusion, workforce development, and practical solutions (Figure 4). WSDOT is shifting how they do business to have a renewed emphasis on planning and incorporating PEL activities into their planning and environment processes.



Figure 4: WSDOT's agency goals

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WSDOT has developed a [PEL Handbook](#),²⁰ which explores the roles of planning and environment staff in developing practical solutions through corridor planning efforts and includes four pilot studies. Findings and feedback from the pilot studies included:

- Stakeholders having a better understanding of the process
- Environmental staff providing valuable insights
- Screening out alternatives
- A more complete picture of context and needs

Ms. Book noted that WSDOT is in the processes of rightsizing PEL for WSDOT and is creating tools/guidance for planners and environmental staff in the region to follow.

Ms. Bakeman provided information to help planners and environmental staff “sell” PEL to leadership. Ms. Bakeman noted that PEL should be thought of as a concept which can help transportation professionals find the right solution and not just build the project. When beginning a PEL, Ms. Bakeman suggests creating a committed group of staff from planning and environment (3-4 people), selecting a few planning studies, and asking yourself how you can move those planning studies toward more succinct answers, and which study can help elevate PEL within your agency. Practitioners should use the planning world as a library and research center for work that has already been completed. It is important to clearly identify the benefits that planning provides when communicating with leadership, and demonstrate the cost and time savings that the PEL approach will provide.

Participant Dialogue: Framing the Discussion on PEL Benefits and Challenges and Roles and Responsibilities

Following presentations by the peers, Julianne Schwarzer of the USDOT Volpe Center facilitated a discussion session during which attendees discussed identifying logical termini, congestion management process, and public involvement.

Can a corridor be broken down into segments?

Connecticut is interested in identifying the logical termini of a long corridor to better examine options at the project level. They are beginning agency coordination to begin the PEL process, and are working to identify a range of alternatives. Ms. Bakeman suggested that CTDOT look at the study completed by Colorado DOT on the [I-25 corridor](#),²¹ which, for planning and design purposes, was broken into independent segments to complete the study.

²⁰ <https://www.wsdot.wa.gov/environment/environmental-technical/nepa-sepa-guidance/planning-environmental-linkage>

²¹ <https://www.codot.gov/projects/I25COSDEN/i25monumenttoc470-assets/jan-24-2017-public-meeting-materials/i-25-corridor-overview-and-issues>

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How are MPOs using the Congestion Management Process?

Participants discussed the need for MPOs to consider and refine the congestion management process during planning, and bring that information into the project development process. Establishing good planning products is essential for bringing planning into NEPA.

What are best practices for engaging the public?

The group discussed the challenges associated with public involvement and shared their experiences and strategies. Participants noted that a challenge with public involvement during a PEL study is explaining that it is a planning study and that there is not construction funding or a planned project at the PEL study stage. Participants also shared that it is hard to know how much public involvement is enough. FHWA representatives mentioned the Every Day Counts [virtual public involvement initiative](#),²² which aims to leverage digital techniques to improve public engagement. An MPO representative with experience using virtual public involvement shared that social media advertising can be very cost-effective and comes with better metrics than other traditional engagement mechanisms, such as sending mailings, which can be very expensive. Providing virtual public involvement also presents an opportunity to collect additional data. New Jersey noted that having a professional facilitator during public meetings helps to track information and move the conversation forward. When communicating with the public, it is important to set expectations, educate, and be transparent – this will reduce confusion and clarifying comments from the public.

Day 2: Adopting PEL Approaches to Processes and Projects

Resource Agencies Overview of PEL/Early Engagement

Sarah Wingert, USACE Liaison, and Hope Gerstler, USCG Liaison, presented opportunities for PEL and early coordination with resource agencies. Ms. Wingert provided information on USACE's role, authority for early coordination, merger agreements, types of projects appropriate for PEL, and liaison positions. Under [33 CFR 325.1\(b\)](#),²³ applicants can request early coordination, recommend interagency meetings, and request a single point of contact for applications that may require a Corps EA or EIS (i.e. IP level applications).

Ms. Wingert noted that synchronization of the NEPA process with other required federal reviews is a best practice that is typically used when reviewing complicated and complex projects. During synchronization, the lead federal agency for the NEPA review would coordinate with other federal agencies that are likely to require a permit or approval for the project (such as the Corps), in order to ensure that the requirements of the other federal agencies are taken into consideration early in the NEPA review process. The goal is to resolve issues early on that could delay the environmental review process in the future, or could result in denial of a permit/approval for the project being considered. For instance, synchronizing the NEPA review

²² https://www.fhwa.dot.gov/innovation/everydaycounts/edc_5/virtual_public_involvement.cfm

²³ <https://www.govinfo.gov/app/details/CFR-2012-title33-vol3/CFR-2012-title33-vol3-sec325-1>

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with Section 404 could prevent the selection of a preferred alternative during the NEPA process that can't be permitted by the Corps because it is not the least environmentally damaging practicable alternative (LEDPA). The [Red Book](#)²⁴ can be consulted when synchronizing environmental review with resource agencies.

Ms. Wingert discussed individual permit (IP) and general permit (GP) projects that may be appropriate for PEL/early coordination. In general, the Corps and DOT are more likely to benefit from the Corps participation in PEL studies for projects that are likely to require an IP from the Corps. The Corps has a limited role in FHWA's NEPA process when the project's aquatic resource impacts could be authorized using an existing GP because the Corps has already completed NEPA as part of the development of the GP. Additionally for OFD projects, USACE would be involved in the Pre Notice of Intent (NOI) activities identified in the OFD [FHWA Working Agreement](#).²⁵

Ms. Wingert discussed a State DOT's ability to set up liaison positions with resource agencies, including the Corps. While these liaisons are still employees of the resource agencies and generally sit at the resource agency, one of the benefits is that they can be available for recurring and ad hoc meetings with the State DOT to discuss the evaluation of projects and programmatic improvements. Per [214 WRDA 2000](#),²⁶ [23 USC 139\(j\)](#),²⁷ and [49 USC 307](#),²⁸ the Corps can accept funds from non-federal public entities and public entities receiving federal-aid funding to expedite the review of DOT permit applications and participate in other activities that aim to improve the efficiency of the permit review process for DOTs, such as early coordination on PEL studies and the development of programmatic improvements such as new GPs. As the USACE Liaison to FHWA, Ms. Wingert noted that she is always available to answer questions and can also assist DOTs and MPOs with finding the appropriate Corps points of contact to address state specific questions.

Ms. Gerstler provided information on the role of USCG and opportunities for early coordination. USCG provides training and meets with state DOTs regularly to provide an overview of the bridge permitting process. Additionally, an [MOA](#)²⁹ exists between FHWA and USCG to expedite and coordinate planning, environmental review, and decision-making for bridge permitting. Ms. Gerstler noted that she is happy to be a resource for State DOTs to facilitate conversations with national liaisons and to identify appropriate contacts in order to improve resource agency coordination and cooperation.

²⁴ https://www.environment.fhwa.dot.gov/pubs_resources_tools/publications/RedBook_2015.aspx

²⁵ https://www.environment.fhwa.dot.gov/nepa/documents/working_agreement_2-22-18.pdf

²⁶ <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll5/id/35374>

²⁷ [https://uscode.house.gov/view.xhtml?req=\(title:23%20section:139%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:23%20section:139%20edition:prelim))

²⁸ <https://www.law.cornell.edu/uscode/text/49/307>

²⁹ https://www.environment.fhwa.dot.gov/env_initiatives/edc/MOA_USCG_bridge_permits.aspx

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Question and Answer

Q: One challenge with OFD is that final design occurs after NEPA, but when coordinating with resource agencies they need more design before they can issue a permit.

A: The USACE Regulatory Program does not need final design to issue a permit decision. Design-build projects are a good example of how this can work.

Resource Agency Discussion

Ms. Schwarzer facilitated a group discussion based on the presentations provided by the USACE and USCG national liaisons. The discussion focused on liaison positions, programmatic agreements, and resource agency involvement during early coordination and how these could provide efficiencies to accelerate project delivery.

How can State DOTs establish Liaison positions?

Coordination and collaboration between State transportation agencies and resource agencies is necessary to complete an efficient and effective environmental review process. The group discussed that the demands on resource agency staff time are often limiting the ability of staff to participate in planning or project review. Liaison or funded positions are a great way to accelerate project delivery. Ms. Santiago noted that FHWA is developing a Guidebook to help DOTs establish liaison positions, which is anticipated to be released in early 2020. Additionally, FHWA published a study on [The Effectiveness and Benefits of Transportation Liaisons](#)³⁰ in July 2019, which focuses on nine DOTs that use liaisons to accelerate project delivery. Ms. Wingert noted that USACE completes an [Annual Report](#)³¹ focused on the USACE liaison positions with DOTs and other entities, which can be used to inform leadership on the benefits of having a funded position.

The group discussed the need for improved relationships and agency coordination with other resource agencies that are reluctant to get involved early in the process, including U.S. Fish and Wildlife Services (FWS) and National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS). Participants expressed interest in having a greater discussion to modify the job description of liaison positions to better suit the relationship between the State DOT and the resource agency. Programmatic agreements are another tool that can be used to expedite project delivery with resource agencies. WSDOT developed a partner agreement with NMFS and FWS, which saved them both time and money.

³⁰

https://www.environment.fhwa.dot.gov/env_initiatives/liaisonCOP/documents/Liaison_Effectiveness_Study.aspx

³¹

https://www.usace.army.mil/Portals/2/docs/civilworks/regulatory/sec214/FY18_Regulatory_annual_report_sec214.pdf?ver=2019-08-07-135701-433

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How can State DOTs encourage early coordination with resource agencies?

Participants identified that it can be challenging to get resource agencies to the table early in the process due to a variety of reasons including a lack of interest/involvement or a lack of time and resources at the resource agency. The group discussed potential solutions including providing clear and detailed information pertinent to the resource agency to make the intentions of the project known, and explaining the potential impacts that are being looked at in planning.

How can MPOs be involved in early coordination with resource agencies?

FHWA Headquarters regularly meets with FHWA Division Offices to discuss liaison positions and relationships with resource agencies. Division Offices act as the first line of communication, and coordinate with the DOT and MPOs. FHWA provides opportunities to further discuss this topic through conferences, events, and webinars. If there is a need to bring stakeholders together, FHWA can assist with workshops to resolve the issue. FHWA noted that from the planning perspective, it is important to reach across the aisle and build relationships between the DOT, MPOs, and FHWA to accelerate project delivery.

Group Discussion

Ms. Schwarzer facilitated a group discussion to answer remaining questions.

How are states documenting materials that will be brought into NEPA?

New Jersey shared for CE, EA, and EIS projects. They created a comprehensive document or package that includes environmental screening, alternatives selected, decision matrix, appendix with traffic analysis, etc., which is stored online.

What types of funding can be used for PEL projects?

Transportation planning activities undertaken as part of the planning process prior to the initiation of NEPA are eligible for Planning (PL) and State Planning and Research (SPR) funds. Surface Transportation Block Grants (STBG) can also be utilized for aspects of PEL studies, including corridor and feasibility studies, which can be used to accelerate project delivery. FHWA noted that it is best to go through your local Division Office to identify funding.

How are planners and environmental staff working together?

Participants discussed challenges that occur when information is passed from planning to environment, including lack of consistency and duplication of work. New Jersey shared that they have transitioned to creating an expectation that project managers are involved in the early coordination and collaboration, which has helped with the transition from planning to environment.

Washington shared that they are having an overall culture shift within their organization to better utilize the work that is completed during planning. Washington is currently working to demonstrate the cost and time saving that PEL provides to further sell the approach to leadership and also disseminate the information to planners in the region.

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Are there examples of detailed planning studies that could be directly added to NEPA?

VDOT has incorporated studies completed by MPOs into their NEPA documents. INDOT has also included purpose and need information that was developed by the MPO into NEPA documents. Participants noted that it would be helpful to see an example of a planning study that could be pulled directly into NEPA.

Conclusions from Large Group Discussions and Next Steps

Following the group discussions, states indicated that they will bring the information gathered from the peer exchange back to their home state and to implement or refine their implementation of PEL approaches.

CLOSING REMARKS

Ms. Schwarzer thanked everyone for their attendance and participation in the peer exchange. She also encouraged participants to stay in contact with FHWA about the tools they need related to PEL.

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Appendix A – Agenda

DAY 1 – Wednesday, August 14, 2019	
TIME	SESSION – Orientation and Introduction to Content
8:30 – 8:45 am	Opening Remarks <ul style="list-style-type: none"> — Ken Petty, Director, FHWA Office of Planning — Emily Biondi, Director, FHWA Office of Project Development and Environmental Review
8:45 – 9:00 am	Introductions <ul style="list-style-type: none"> — Julianne Schwarzer, USDOT Volpe Center, Facilitator
FHWA PEL Overview	
9:00 – 10:00 am	Defining PEL <i>- FHWA will provide an overview of the legislative basis for PEL and review primary examples of planning products (analyses and decisions)</i> <ul style="list-style-type: none"> — Jody McCullough, FHWA Office of Planning — Damaris Santiago, FHWA Office of Project Development and Environmental Review — Anne Rowe, FHWA Office of Project Development and Environmental Review
10:00 – 10:30 am	FHWA Q&A
10:30-11:00 am	Break
11:00-12:00 pm	PlanWorks PEL Application Demonstration <ul style="list-style-type: none"> - Cheng Yan, FHWA Office of Planning
12:00- 1:00 pm	LUNCH
Peer Overview	
1:00- 1:15 pm	Indiana Overview of PEL Approaches <ul style="list-style-type: none"> - Ron Bales, Environmental Services Division, INDOT
1:15- 1:30 pm	Virginia Overview of PEL Approaches <ul style="list-style-type: none"> - Angel Deem, Environmental Division Director, VDOT - Cooper Wamsley, Assistant Director Environmental Division, VDOT
1:30- 1:45 pm	Connecticut Overview of PEL Approaches <ul style="list-style-type: none"> - Kimberly Lesay, Transportation Assistant Planning Director, CTDOT
1:45 - 2:00 pm	New Jersey Overview of PEL Approaches <ul style="list-style-type: none"> - Sascha Frimpong, Director Local Programs, NJTPA - Sarbjit Kahlon, Principal Planner Local Programs NJTPA - Pamela Garrett, PMP, CPM Environmental PM, NJDOT
2:00- 2:30 pm	Washington Overview of PEL Approaches <ul style="list-style-type: none"> - Sharleen Bakeman, FHWA WA Division Office - Victoria Book, NEPA/SEPA Specialist, WSDOT
Discussion	
2:30- 3:00	Break
3:00- 4:00	Participant Dialogue: Framing the Discussion on PEL Benefits and Challenges, Roles and Responsibilities, and Participants’ Q&A <i>Facilitated discussion to dig deeper into the materials presented by State DOTs, Peer, and FHWA Headquarters.</i> <ul style="list-style-type: none"> - Julianne Schwarzer, USDOT Volpe Center, Facilitator
4:00 – 4:30 pm	Preview of Day 2 <ul style="list-style-type: none"> — Julianne Schwarzer, USDOT Volpe Center, Facilitator
5:00 pm	Networking/Happy Hour <ul style="list-style-type: none"> - Meet at Bluejacket, located at 300 Tingey St SE, Washington, DC 20003

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DAY 2 – Thursday, August 15, 2019	
TIME	SESSION – Adopting PEL Approaches to Processes and Projects
8:30 – 9:00 am	Introductions and Day 1 Review — Julianne Schwarzer, USDOT Volpe Center, Facilitator
Breakout Session	
9:00 – 9:30 am	Resource Agencies Overview of PEL/Early Engagement <i>Resource agencies will provide a brief overview of how their agency is or could be utilized in the PEL approach.</i> — Sarah Wingert, USACE Liaison — Hope Gerstler, USCG Liaison
9:30 – 10:00 am	Resource Agency Panel Discussion — Sarah Wingert, USACE Liaison — Hope Gerstler, USCG Liaison
10:00 – 10:15 am	Break
10:15 – 11:15 am	Group Discussion <i>Address any outstanding items and questions provided by attendees in the pre-event questionnaire.</i> - Julianne Schwarzer, USDOT Volpe Center, Facilitator
11:15 – 11:30 am	Conclusion from Large Group Discussion — Julianne Schwarzer, USDOT Volpe Center, Facilitator
11:30 – 11:45 am	Next Steps — Julianne Schwarzer, USDOT Volpe Center, Facilitator
Closing Remarks	
11:45 – 12:00 pm	Closing Remarks

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Appendix B – Participant List

First Name	Last Name	Organization
Kurt	Salmoiraghi	CT FHWA Division Office
Emilie	Holland	CT FHWA Division Office
Kimberly	Lesay	Connecticut Department of Transportation
Marissa	Washburn	Connecticut Department of Transportation
Michael	Calabrese	Connecticut Department of Transportation
David	Elder	Connecticut Department of Transportation
Cooper	Wamsley	Virginia Department of Transportation
Terrell	Hughes	Virginia Department of Transportation
Angel	Deem	Virginia Department of Transportation
Mack	Frost	Virginia FHWA Division Office
Sutapa	Bandyopadhyay	New Jersey FHWA Division Office
Pamela	Garrett	New Jersey Department of Transportation
Sarbjit	Kahlon	North Jersey Transportation Planning Authority
Sascha	Frimpong	North Jersey Transportation Planning Authority
Joyce	Newland	Indiana FHWA Division Office
Paul	Schmidt	Indiana Department of Transportation
Ron	Bales	Indiana Department of Transportation
Jay	Mitchell	Indiana Department of Transportation
Michelle	Allen	Indiana FHWA Division Office
Sharleen	Bakeman	Washington FHWA Division Office
Matt	Kunic	Washington FHWA Division Office
Victoria	Book	Washington Department of Transportation
Hope	Gerstler	US Coast Guard FHWA Liaison
Sarah	Wingert	US Army Corps of Engineers FHWA Liaison
Marisel	Lopez-Cruz	FHWA Office of Project Development and Environmental Review
Lana	Lau	FHWA Office of Project Development and Environmental Review
Anne	Rowe	FHWA Office of Project Development and Environmental Review
Damaris	Santiago	FHWA Office of Project Development and Environmental Review
Emily	Biondi	FHWA Office of Project Development and Environmental Review
Jody	McCullough	FHWA Office of Planning
Cheng	Yan	FHWA Office of Planning
Ken	Petty	FHWA Office of Planning
Peter	Clark	FHWA Office of Real Estate Services
Juliet	Bochicchio	FTA Office of Environmental Programs
Lyle	Leitelt	FRA
Andrea	Martin	FRA
Julianne	Schwarzer	USDOT Volpe Center
Madison	Burke	USDOT Volpe Center