

ADOT Environmental Planning

Federal-aid Highway Program

Local Public Agency (LPA) Program

CA Certification Academy

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Certification Acceptance Agency Manual

ADOT
 CERTIFICATION ACCEPTANCE MANUAL

June 2019

THE MANUAL WILL BE UPDATED FOR RULES AND PROCEDURE CHANGES ANNUALLY. FOR MANUAL UPDATE REQUESTS, PLEASE VISIT:

<https://www.azdot.gov/business/programs-and-partnerships/local-public-agency/one-stop-shop/certification-acceptance>

- NEPA approval is ADOT’s responsibility that cannot be delegated to the CA AgencyMOUs assign FHWA’s authority for determining and approving CEs and NEPA documents to ADOT.
- “There are three classes of actions ... in the NEPA process...”
- “ADOT Environmental Planning will prepare Categorical Exclusions (CE) with supporting conducted by the CA agency.”
- “NEPA approval that has been validated prior to the PS&E submittal”
- “In accordance with 23 C.F.R. § 635.309(j), the CA Agency must incorporate the environmental commitments into the PS&E”
- “CA Agency must ensure that the environmental commitments assigned to the CA Agency and contractor are successfully implemented and documented in the project file.”

Environmental Clearance

- ❑ Environmental clearance means the project impacts have been reviewed under all applicable environmental requirements and the project is “cleared” for construction
- ❑ Federal Environmental *Approval*
 - Required for Federal Highway Administration (FHWA) funding for Design, Right-of-Way and Construction
- ❑ ADOT Environmental *Clearance*
 - The project is ready to advertise for construction (Final Step)



Environmental Requirements

Environmental Laws and Regulations

- ❑ The over-arching federal environmental law
 - **National Environmental Policy Act (NEPA)**
- ❑ “NEPA Umbrella” includes all *other applicable environmental laws*



The Council of Environmental Quality (CEQ) NEPA regulations and FHWA Title 23 Code of Federal Regulations

Title VI of Civil Rights Act of 1964

Executive Order 12898 (Environmental Justice)

23 USC Section 109

Clean Water Act

Clean Air Act

National Historic Preservation Act

Endangered Species Act

US DOT Act – Section 4(f)

23 CFR 772 (Noise)

Comprehensive Environmental Response, Compensation and Liability Act

Safe Water Drinking Act

Public Hearing Requirements

Determine the Type of NEPA Approval Needed

Class of Action

- Environmental Impact Statement (EIS)
 - Impacts are significant (new freeway)

- Environmental Assessment (EA)
 - Significance of impacts not clearly known (major expansion projects)

- Categorical Exclusion (CE) – Focus of this training
 - Impacts not significant (majority of ADOT and LPA projects)
 - CEs *excluded* from the formal requirements of an EIS or an EA

“CE and NEPA Assignment”

- FHWA’s environmental responsibilities for projects have been assigned to ADOT by agreement
 - An assignment of legal responsibility
 - ADOT acts as the “lead federal agency” and is the “decision-maker” in the federal environmental review process
 - This responsibility cannot be delegated to a Certification Acceptance Agency (CAA)

- CE Assignment and NEPA Assignment
 - “CE Assignment” – 326 MOU
 - “NEPA Assignment” – 327 MOU

Categorical Exclusions

- Match the general project description to the to the type of project and descriptions listed in the regulations to determine the applicable CE

Pathways



Preservation



Bridges



Capacity

Safety

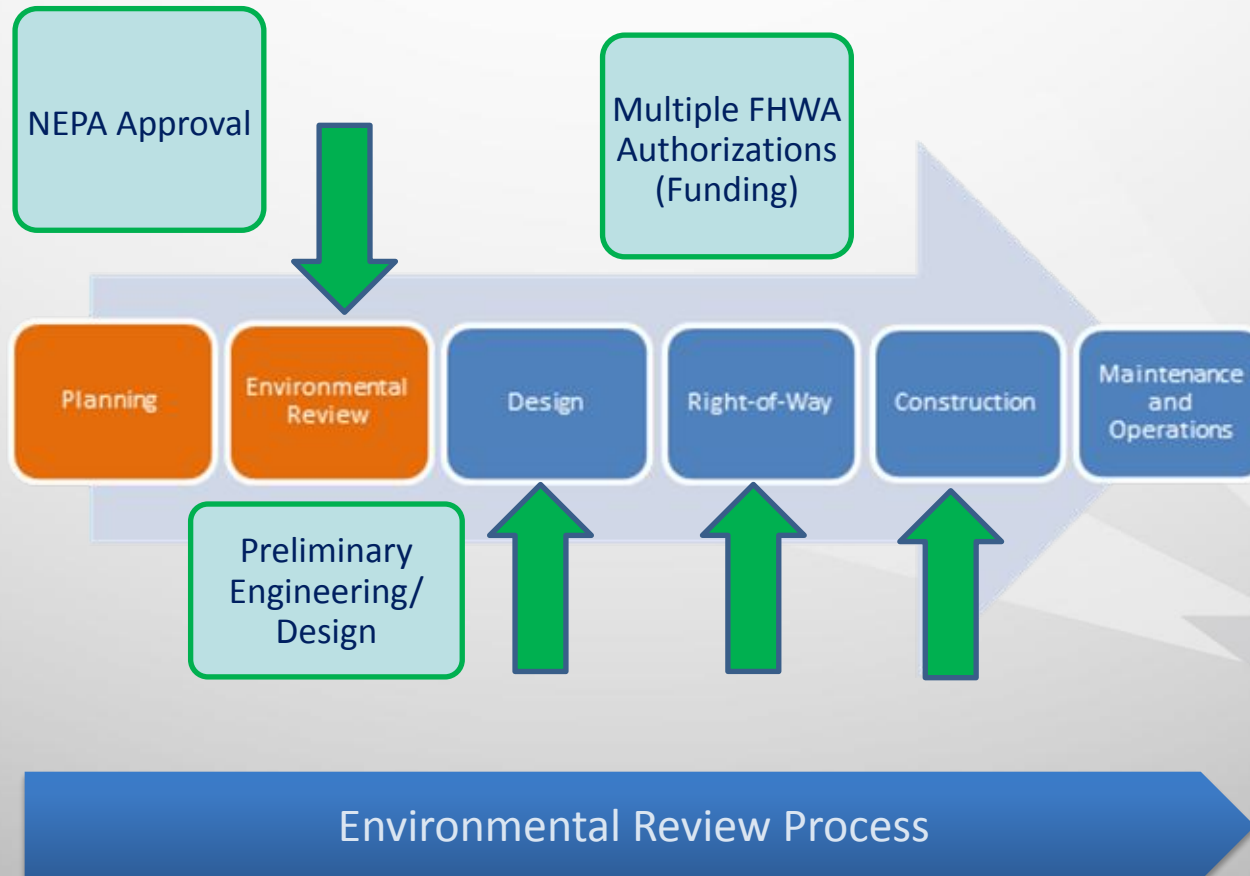


Categorical Exclusions

- ❑ By regulation, CEs require the consideration “unusual circumstances.”
- ❑ For nearly all projects, consideration for one of the “other” environmental laws under the “NEPA umbrella” is most likely to be the critical path in the preparation of a CE.



Environmental in the Project Development Process



Continuum

Environmental Considerations

- ❑ Biological Resources
 - Endangered Species Act
 - Biological Opinions from USFWS taken time (135 days for BO)
- ❑ Cultural Resources
 - National Historic Preservation Act
 - Historic properties and archaeological sites
- ❑ Section 4(f) [USDOT Projects]
 - Parks, Recreational areas and historic properties
 - Avoidance and mitigation
- ❑ Hazardous Materials
 - Site assessments, Asbestos and Lead-based Paint surveys

Environmental Considerations

- ❑ Air Quality
 - Capacity projects need to be in the Metropolitan Plan (MPO)
 - Traffic Study and Interagency Consultation
- ❑ Noise Impacts
 - Evaluate and mitigate (noise walls - mainly freeways)
- ❑ Environmental Justice
 - Assess for “disproportionate impacts” if there are minority and low-income populations present *and* impacted
- ❑ Public Involvement
 - Lead by the CAA but NEPA minimum requirements must be met
 - Scaled to the scope and nature of the project
- ❑ Clean Water Act
 - 404 permits

“Other” Environmental Considerations – Less likely with a CE

- ❑ Visual Impacts
 - Typically for major projects on US Forest or BLM lands
 - Could be appearance of slopes or the look of structures
- ❑ Farmlands
 - Review farmlands (not zoned for urbanization)
- ❑ Floodplains
 - “Significant encroachment” (fill in floodplains)

Environmental Commitments



❖ Environmental Commitments

- ❑ Developed over the course of the project
 - ❑ Avoidance, minimization and compensation
 - ❑ Reviewed and agreed-upon by the Project Team
- ❑ Part of the CE/NEPA by incorporation
- ❑ Contractor commitments included in the contract
- ❑ CAA is responsible for the implementation and recording of environmental commitments in construction
 - ❑ CAA needs procedures in place for “who” and “how” this is done
 - ❑ Example; certification form signed by person in Responsible Charge of construction

Changes During Construction



- CAA is responsible for changes during construction
 - New scope of work
 - Work in areas not previously cleared
- Construction Engineering
 - Send to Environmental Planning for review as needed
 - Example; slightly extending paving limits
 - Typically, informal with a note-to-file review



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Certification Acceptance

Home (LPA)	One-Stop Shop	Communication Bulletins	Stakeholder Council
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Project Resources

- ⊕ [Certification Acceptance Manual](#)
- ⊕ [Certification Acceptance Program - Computer Based Training](#)
- ⊕ [Certification Acceptance Agreements](#)
- ⊕ [Certification Acceptance Agency Matrix](#)
- ⊖ [Environmental Project Data Sheet](#)
Environmental Project Data Sheet

❖ CE Checklist

- Project Environmental Data Sheet (PEDS)
 - ADOT Environmental Planning technical input on scope of consultant work
 - Don't want to over-scope or under-scope the level of effort/requirements
 - Do not start technical evaluations before checking with ADOT
 - It's in the CAA's interest to have a PEDS prepared

Categorical Exclusions

- The “CE” is environmental review documentation and federal approval for NEPA and “other laws” compliance
- The CAA provides the project description/location/limits from the CAA [TIP/engineering scoping]
- ADOT ENV Planner completes the CE Checklist based on all Project Information and technical reviews

Project Information:	
Project Name:	Construction Project Administration
ADOT Project Number:	ADOT <input type="checkbox"/> CA Agency <input type="checkbox"/>
Federal-Aid Number:	Categorical Exclusion Approval for FMIS
Estimated Project Construction Cost:	2A - (c) Listed <input type="checkbox"/>
Planning Requirements:	2B - (d) Listed <input type="checkbox"/>
<input type="checkbox"/> STIP/Line Item	2C - (d) Unlisted <input type="checkbox"/>
<input type="checkbox"/> ADOT Sub-program	
CE Start Date: Click here to enter a date.	

Re-evaluation:	
<input type="checkbox"/>	This project has been re-evaluated pursuant to 23 CFR 771.129 due to a change in the project scope, location, or termini or because of the need to evaluate new impacts not previously considered, or because five years have passed since the date of the CE Approval. The information on this form reflects all updates to the project information.

Location and Limits:
CAA

Purpose and Description (scope of work):
CAA

Type of CE - Choose <u>one</u> from (c) <u>or</u> (d) <u>or</u> Appendix A drop-down lists:	
(c) - list:	(d) - list:
ADOT ENV Planning	
<input type="checkbox"/> (c)(1) Non-Construction	
If the project qualifies for a (c)(1) CE then no Technical Sections review is required and the CE is complete. Proceed to NEPA Compliance Certification and Categorical Exclusion Approval.	

Categorical Exclusions

- ❑ A series of drop-down menu selections are used to document environmental compliance
- ❑ The responsible technical areas of ADOT Environmental Planning verify the appropriate selections on the checklist are made

Environmental Review Section

Each category below will be reviewed and a determination from a drop-down menu will be selected for each. The checkbox will indicate review has been completed and the appropriate documentation placed in the Project File as applicable.

Air Quality – Clean Air Act

<input checked="" type="checkbox"/>	326 conformity documentation is located in the project file
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Noise – 23 CFR 772

<input checked="" type="checkbox"/>	This project requires a noise analysis. The report is complete and located in the project file
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Biological Resources – Endangered Species Act

<input checked="" type="checkbox"/>	Project Determination: May Affect, not Likely to Adversely Effect under Section 7 of the Endangered Species Act with USFWS Concurrence
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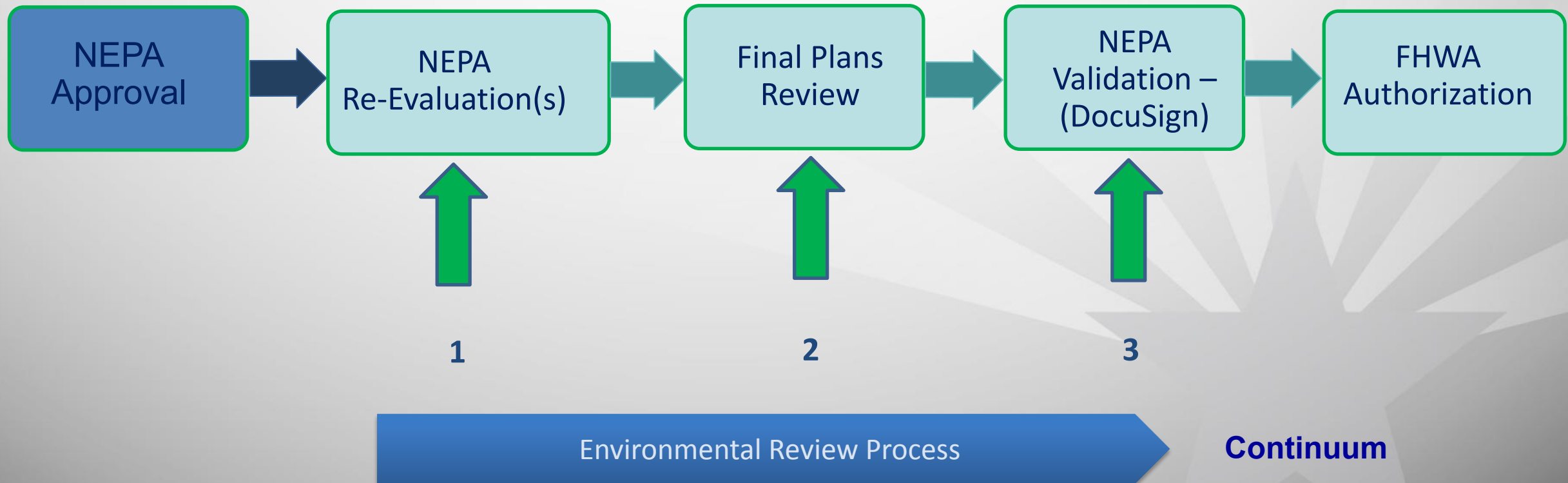
Cultural Resources – Section 106

<input checked="" type="checkbox"/>	Section 106 Determination: Screened Undertaking - Attachment 3 ▼
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Categorical Exclusions

- ❖ “How long does it take to develop a project?”
- The CE is a summary of the “other law” compliance *as applicable* (“it depends”)
- “Individually documented and approved” CEs for projects can take 9 to 12 months
- Be mindful of the timing of technical reviews for example:
 - Biological Opinion – US Fish & Wildlife 135 days by regulation
 - Cultural Resources – May require surveys and mitigations
 - Conformity Determination - the “planning requirements” are not up to date the CE approval could be delayed for months
 - Traffic report with the right traffic data needed for conformity interagency consultation on whether it’s a “Project of Air Quality Concern”

Final Steps on the way to Federal Authorization



Re-Evaluations of NEPA

NEPA Re-Evaluation(s)

1

- NEPA re-evaluation may come any time after NEPA Approval
 - Change in scope, ROW already cleared and/or project limits
 - CAA must notify ADOT Environmental Planning and ADOT Project Manager

- Complex scope change, substantial time elapsed
 - CE or EA “Re-evaluation”

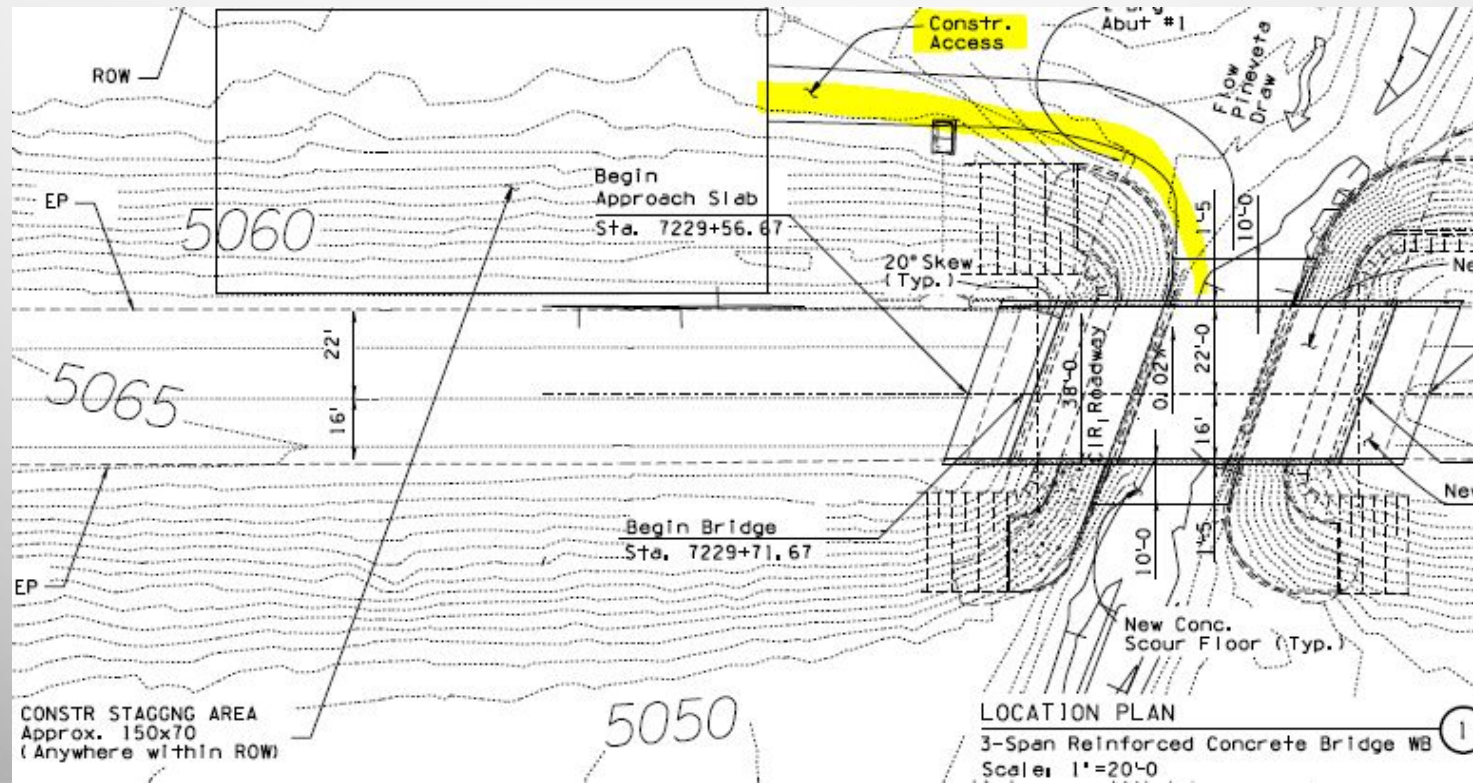
- Minor changes
 - For Note-to-file [memo/phone memo/email]

Final Plans Review

Final Plans Review

- CAA responsible for checking the final plans prior to ADOT validating NEPA
- Confirmation of no change in project scope, right-of-way and/or project limits
- Confirm environmental commitments are complete and included in the contract

2



NEPA Validation at the Request for Federal Authorization

NEPA
Validation –
(DocuSign)

3

- ❑ ADOT Project Manager submits funding authorization request to FHWA
 - ❑ ADOT ENV Planner signs the letter and confirms the project meets ADOT's requirements including:
 - ❑ NEPA approval is valid
 - ❑ Project incorporates all environmental commitments

Thank You

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