

# PROJECT DELIVERY ACADEMY

## ENVIRONMENTAL CLEARANCE

Paul O'Brien, P.E. - Environmental Planning Administrator  
October 2024

## 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)



## ASSIGNMENT OF FHWA ENVIRONMENTAL RESPONSIBILITY

- ❑ FHWA's environmental responsibilities 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
- ❑ CE Assignment and NEPA Assignment
  - “CE Assignment” – 326 MOU
  - “NEPA Assignment” – 327 MOU

# ADOT ENVIRONMENTAL PLANNING

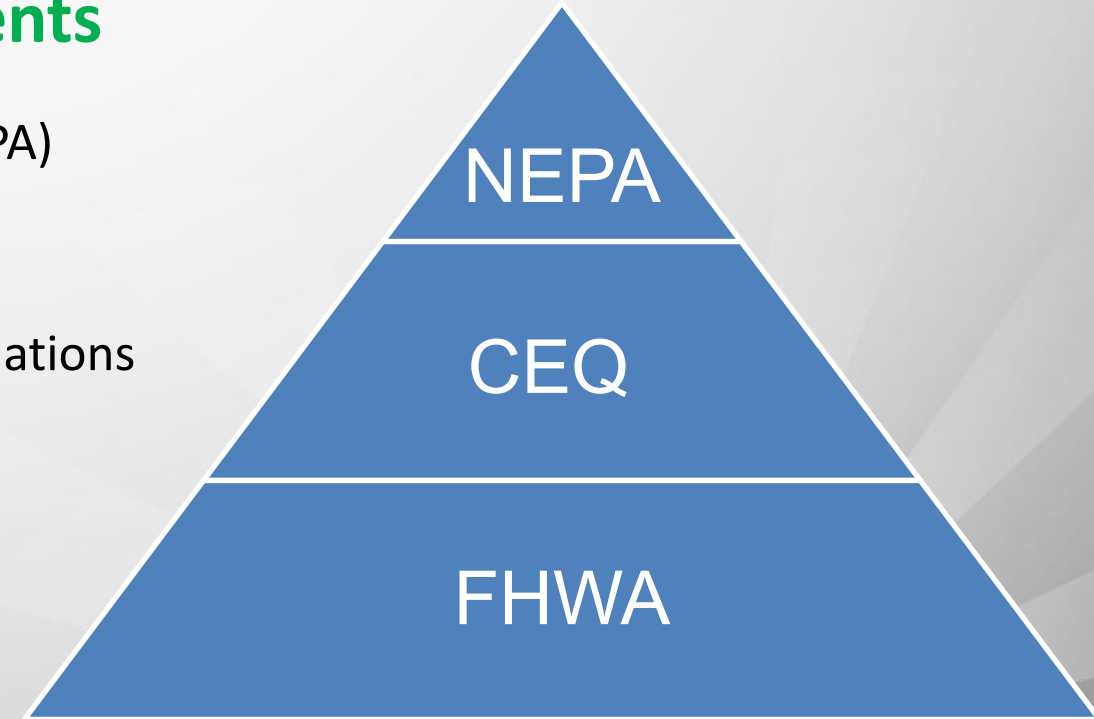
## Environmental Planning (Transportation Division)

- ☐ Environmental Planners (Environmental Project Managers)
- ☐ Air Quality specialists
- ☐ Noise Technical Expert
- ☐ Archaeologists
- ☐ Biologists
- ☐ Water Resources Biologist (permitting)
- ☐ Hazardous Materials Specialists
- ☐ Water Resources (stormwater permits)
- ☐ Tribal Liaison

# ENVIRONMENTAL REQUIREMENTS

## Federal Environmental Requirements

- ❑ Law – National Environmental Policy Act (NEPA)
  - ❑ ‘Other’ environmental laws
- ❑ Council of Environmental Quality (CEQ) Regulations
  - ❑ Overarching regulations for all federal agencies
  - ❑ Same “language” – CE, EA, EIS
- ❑ FHWA Regulations - 23 CFR (Highways)
  - ❑ Specific to FHWA, FTA and FRA
  - ❑ Policies
  - ❑ Formal guidance



## **NEPA – Environmental Law**



**Title VI of Civil Rights Act of 1964**

**Executive Order 12898 (Environmental Justice)**

**23 USC Section 109 (Standards)**

**Clean Water Act (CWA)**

**Clean Air Act (CAA)**

**National Historic Preservation Act (NHPA)**

**Endangered Species Act (ESA)**

## **NEPA – Framework for all other relevant laws**

**US DOT Act – Section 4(f)**

**23 CFR 772 (Noise)**

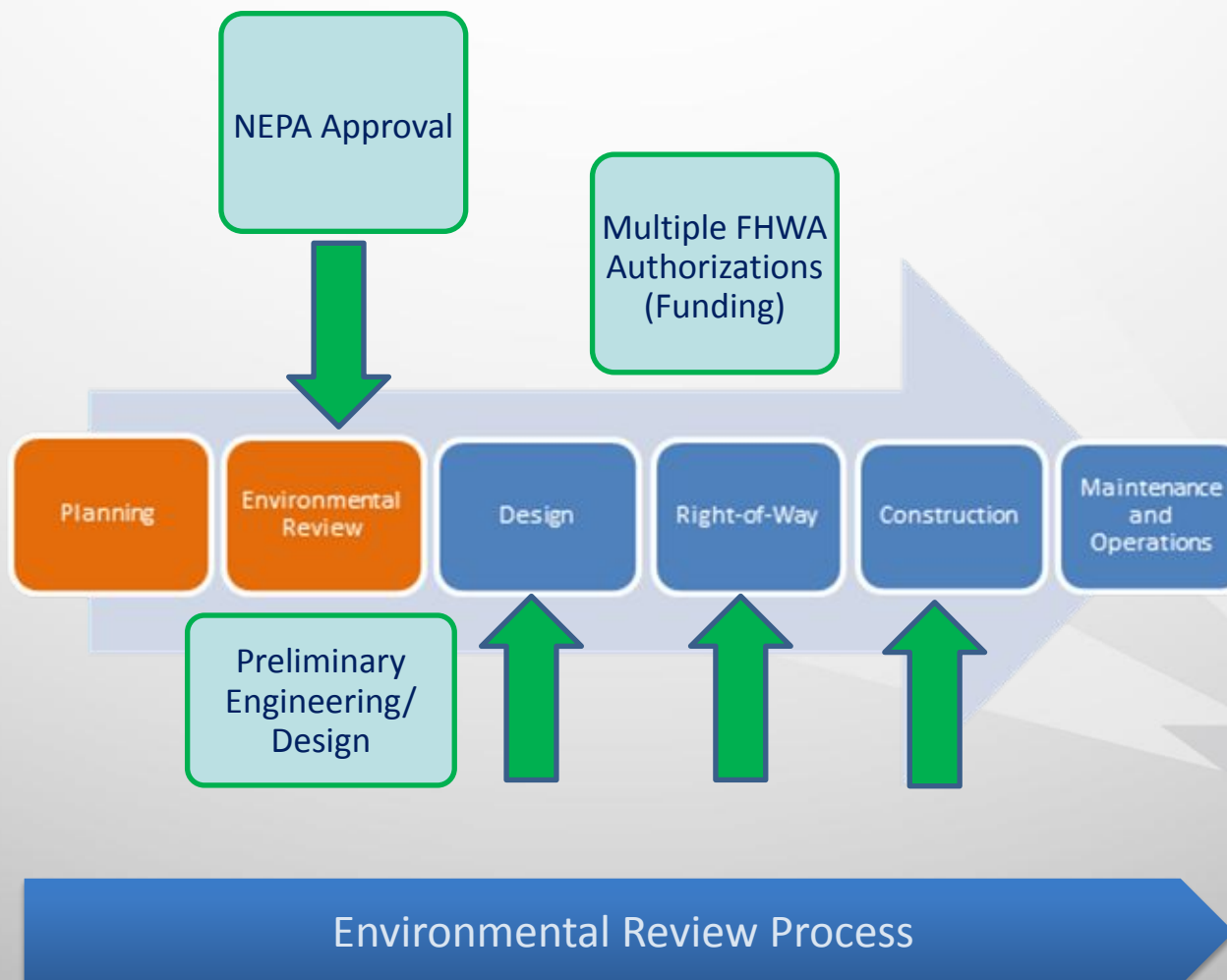
**Comprehensive Environmental Response,  
Compensation and Liability Act (CERLA)**

**Safe Water Drinking Act (SWDA)**

**Public Hearing Requirements**

**Archaeological and Historic Preservation Act  
(AHPA)**

## Environmental in the Project Development Process



## TYPES OF NEPA APPROVAL

### Class of Action

- ☐ **Environmental Impact Statement (EIS)**
  - Impacts are significant (South Mountain)
- ☐ **Environmental Assessment (EA)**
  - Significance of impacts not clearly known (Expansion projects)
- ☐ **Categorical Exclusion (CE) – Focus of this training**
  - Impacts not significant (majority of ADOT and LPA projects)
  - Match the project description to the description of the CE listed in the regulations
  - CEs exclude formal requirements of an EIS or an EA



# ENVIRONMENTAL IMPACT STATEMENT



South Mountain Freeway

Many formal requirements such as alternatives and their impacts need to be studied

Can take several years and significant funds to complete an EIS

## ENVIRONMENTAL ASSESSMENT



US 93 Two Lanes to Four Lanes

Alternatives developed and screened and a Build and No Build evaluated

Can still take several years and significant funds to complete



# Categorical Exclusions

- ❑ Match the general project description 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 Clearance

Environmental “footprint” cleared

- ☐ The project and scope of work as described; “paving” “bridge” “traffic signals” etc.
- ☐ Milepost limits; “from MP XX to MP XX”
- ☐ “Project footprint” as described including new right-of-way (permanent or temporary)
- ☐ Constraints within the limits including avoidance areas or areas requiring mitigation such as a monitor during construction
- ☐ The “clearance” covers the sum total of all work described above in compliance with each individual law/regulation as applicable



## Environmental Considerations

- ☐ NEPA – Class of Action
  - CE, EA or EIS
  - CE vast majority of projects
- ☐ 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

## 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 “disproportionately high and adverse effects” on minority and low-income populations
  - Typically screened for preservation projects
- ☐ Public Involvement
  - NEPA minimum requirements must be met
  - Scaled to the scope and nature of the project
- ☐ Clean Water Act
  - 404 permits

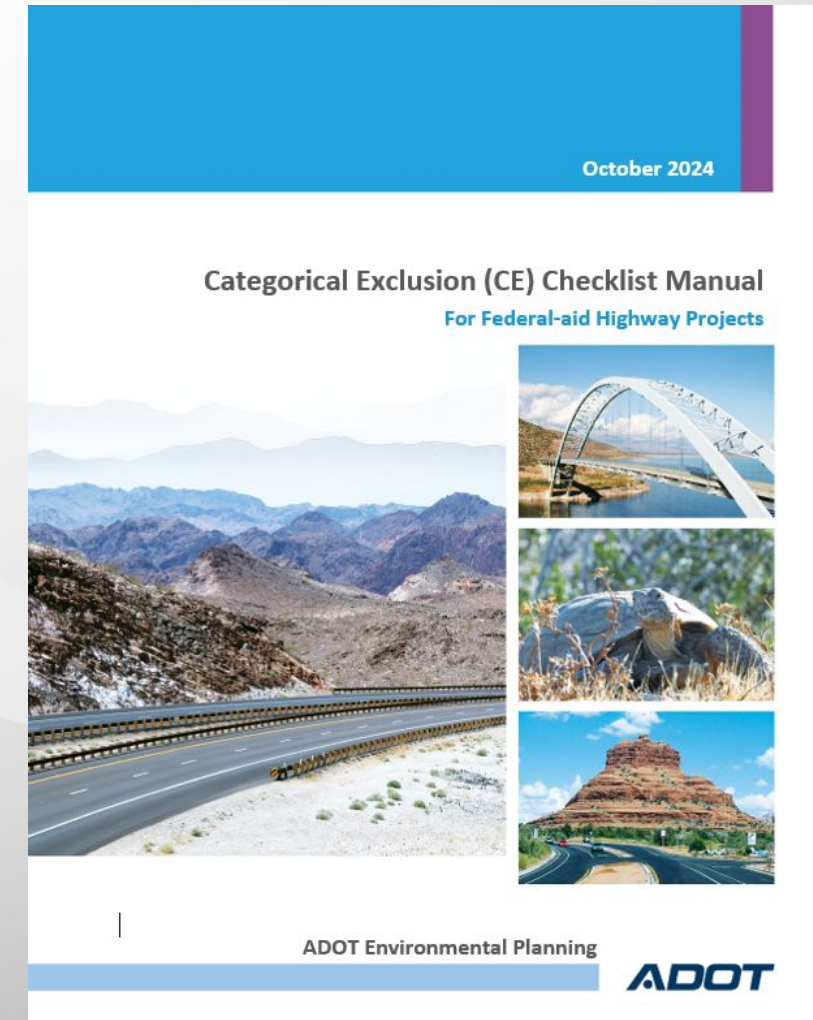
## Environmental Considerations

- ☐ Hazardous Materials
  - Site assessments, Asbestos and Lead-based Paint surveys
- ☐ 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)
- ☐ Section 6(f)
  - Land Water Conservation Fund (Parks)



# CATEGORICAL EXCLUSIONS

- ☐ CE Checklist Manual
  - Guides planners through the CE Checklist step-by-step
- ☐ Quality Assurance/Quality Control Plan
  - Review and Approval process; performance measures
- ☐ Project Development Procedures Manual
  - Communication and coordination of project team members
  - “SOPs” for ‘how to’ in the project development process



# CATEGORICAL EXCLUSIONS

☐ Basic project information, funding and timing

☐ The PM provides the project location/limits and description/scope of work from TIP/engineering scoping

☐ ADOT ENV Planner completes the CE Checklist based on all scope of work and technical reviews

Project Information:	
Project Name: <input type="text"/> ADOT Project Number: <input type="text"/> Federal-Aid Number: <input type="text"/> Estimated Project Construction Cost: <input type="text"/> Planning Requirements: <input type="checkbox"/> STIP/Line Item <input type="checkbox"/> ADOT Sub-program CE Start Date: <a href="#">Click here to enter a date.</a>	<b>Construction Project Administration</b> ADOT <input type="checkbox"/> CA Agency <input type="checkbox"/> <b>Categorical Exclusion Approval for FMIS</b> 2A - (c) Listed <input type="checkbox"/> 2B - (d) Listed <input type="checkbox"/> 2C - (d) Unlisted <input type="checkbox"/>
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 significant time has passed since the date of the CE Approval. The information on this form reflects all updates to the project information.
Location and Limits:	
<div style="text-align: center;">PM</div>	
Purpose and Description (scope of work):	
<div style="text-align: center;">PM</div>	
Type of CE - Choose <u>one</u> from (c) or (d) or Appendix A drop-down lists:	
(c) - list: <div style="text-align: center;">ADOT ENV Planning</div>	(d) - list: <div style="text-align: center;">↓</div>
<small>Note: If the project qualifies for a (c)(1) or a (c)(9) immediate emergency repair CE then no technical review is required and the CE is complete. Proceed to NEPA Certification and Determination and Categorical Exclusion Approval</small>	

## CATEGORICAL EXCLUSIONS

- ☐ A series of drop-down menu selections are used to document consideration of all technical areas as appropriate
- ☐ The responsible technical areas of ADOT Environmental Planning verify the appropriate technical evaluations have been considered

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.	
<b>Air Quality – Clean Air Act</b>	
<input checked="" type="checkbox"/>	326 conformity documentation is located in the project file
<b>Noise – 23 CFR 772</b>	
<input checked="" type="checkbox"/>	This project requires a noise analysis. The report is complete and located in the project file
<b>Biological Resources – Endangered Species Act</b>	
<input checked="" type="checkbox"/>	Project Determination: May Affect, not Likely to Adversely Effect under Section 7 of the Endangered Species Act with USFWS Concurrence
<b>Cultural Resources – Section 106</b>	
<input checked="" type="checkbox"/>	Section 106 Determination: Screened Undertaking - Attachment 3

## Categorical Exclusions

- ☐ The authority under which MOU the project is approved is noted
- ☐ Whether or not there are environmental commitments bound to the project is acknowledged
- ☐ Acknowledge the EPIC Sheet if part of the CE and to be included in the plans
- ☐ ADOT Environmental Planner signs and ADOT Admin or Senior Planning Manager approves

Certification and Determination by ADOT	
<input type="checkbox"/>	The State has determined that this project has no significant impact(s) on the environment and that there are no unusual circumstances as described in 23 CFR 771.117(b). As such, the project is categorically excluded from the requirements to prepare an environmental assessment or environmental impact statement under NEPA. The action complies with NEPA requirements relating to connected actions and segmentation [23 CFR 771.111(f)]. The State has been assigned, and hereby certifies that it has carried out, the responsibility to make this determination pursuant to 23 U.S.C. 326 and a Memorandum of Understanding dated December 20, 2023, executed between FHWA and the State.
<input type="checkbox"/>	The State has determined that this project has no significant impact(s) on the environment and that there are no unusual circumstances as described in 23 CFR 771.117(b). As such, the project is categorically excluded from the requirements to prepare an environmental assessment or environmental impact statement under NEPA. The action complies with NEPA requirements relating to connected actions and segmentation [23 CFR 771.111(f)]. The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by ADOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated June 25, 2024 and executed by FHWA and ADOT.

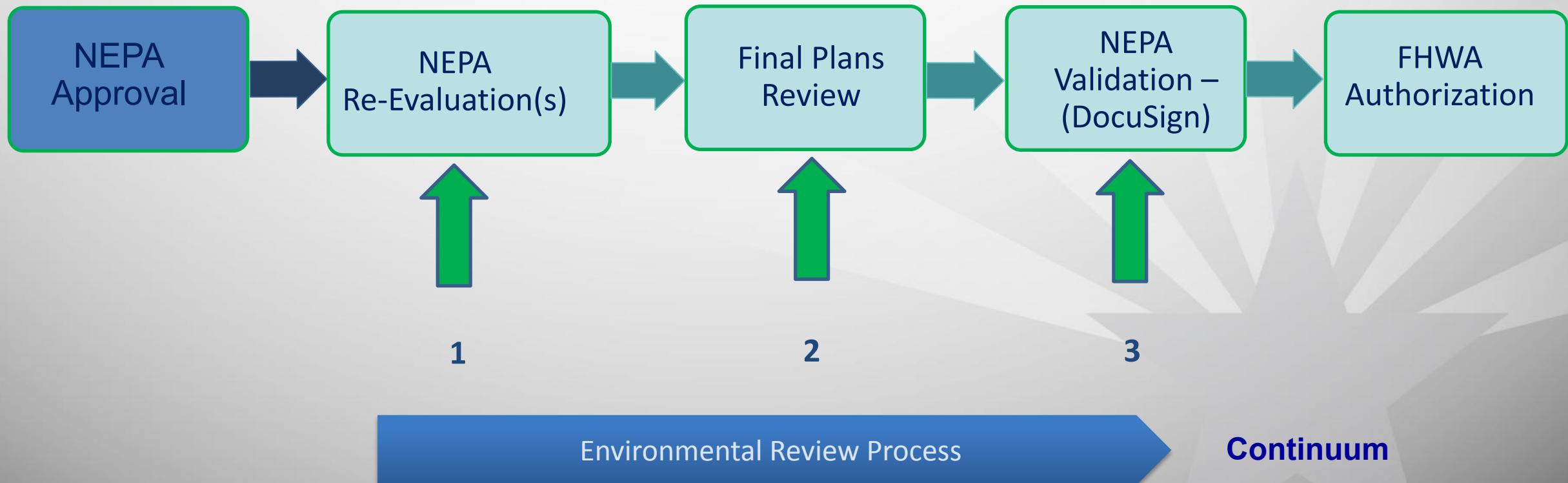
Environmental Commitments	
<input type="checkbox"/>	Environmental commitments are included with this project and will be incorporated into the project plans, specifications and estimates as required.
<input type="checkbox"/>	Environmental Permits Issues and Commitments (EPIC) sheet to be included.

Categorical Exclusion Approval	
<div> <div></div> <div>Prepared By: Click here to enter text. Environmental Planner</div> </div>	<div> <div></div> <div>Date:</div> </div>
<div> <div></div> <div>Approved By: Administrator, Environmental Planning</div> </div>	<div> <div></div> <div>Date:</div> </div>



## Final Steps on the way to Federal Authorization



## Re-Evaluations of NEPA

### NEPA Re-Evaluation(s)

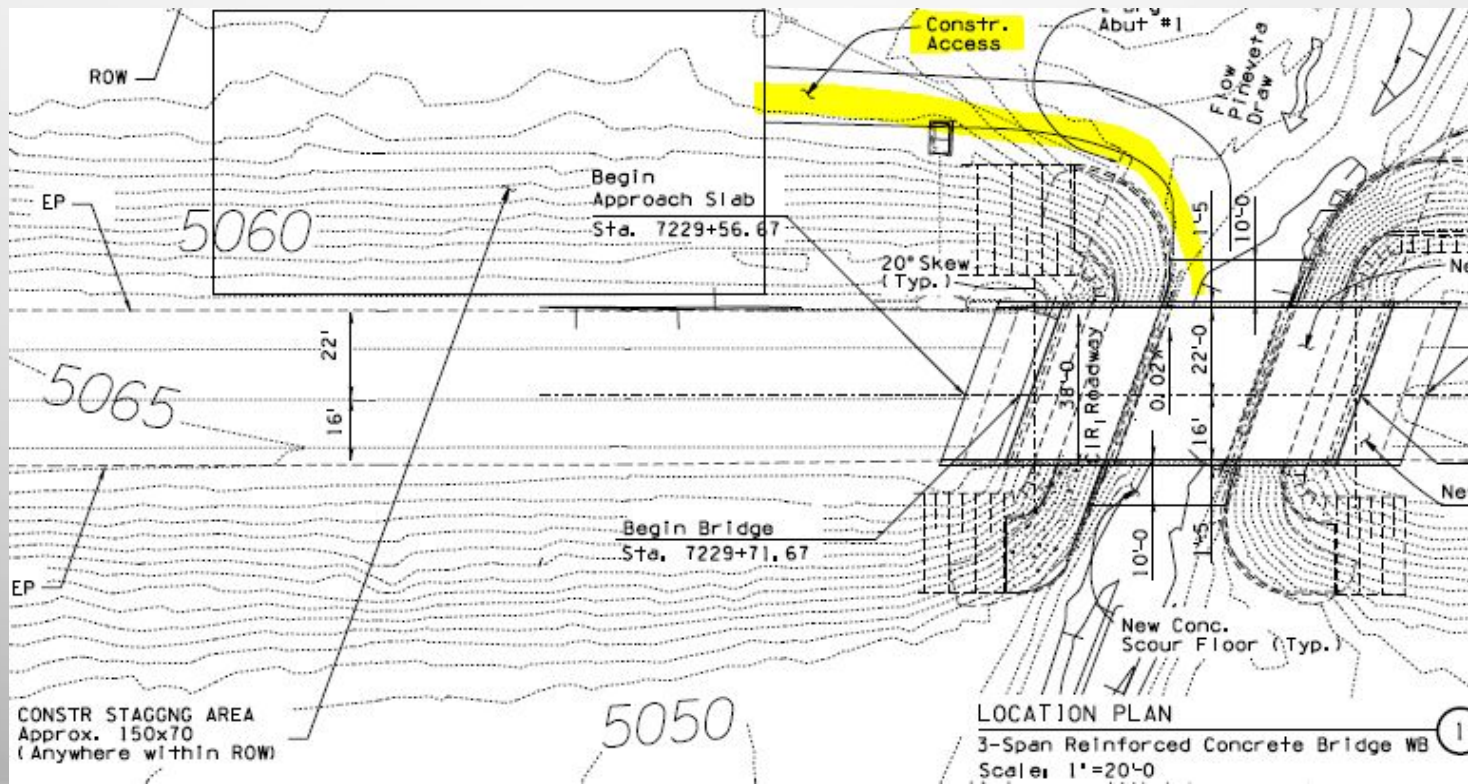
1

- ☐ NEPA re-evaluation may come any time after NEPA Approval
  - ☐ Change in scope, ROW already cleared and/or project limits
- ☐ **Formal** - (More complex scope change, substantial time elapsed)
  - ☐ Updated CE or Environmental Document (EA)
    - ☐ CE Re-Evaluation (update of CE Checklist)
    - ☐ EA Re-Evaluation (template)
- ☐ **Informal** – (no substantial changes)
  - ☐ For review of changes after NEPA
    - ☐ Note to File, Email, Phone Memo, etc.

# Final Plans Review

- ☐ 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 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



## Final Comments

- ☐ Communicate changes quickly
- ☐ 100% footprint for ENV & ROW at 60% Design
- ☐ Identify ROW and (TCEs) early in Design
- ☐ Identify scope such as geotechnical work early
- ☐ Get funding in place quickly for additional work added to the project
- ☐ Schedule – Complexity of project
  - CE – 3 to 12 months
  - EA – 1 to 3 years [new 1-year timeline]
  - EIS – 3 to 5+ years [new 2-year timeline]

**Questions?**