



Project Delivery Academy **ENVIRONMENTAL CLEARANCE**

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Environmental Clearance

- First 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)



NEPA

- National Environmental Policy Act (NEPA)
 - Overarching Federal environmental law
- “NEPA Umbrella” includes all other applicable environmental laws
- The level of environmental review required depends on the scope of the project and the context (location/setting)
- The applicability of the “other” environmental requirements will drive the critical path of the environmental clearance schedule



Types of NEPA Approval

- Class of Action
 - Environmental Impact Statement (EIS)
 - Impacts are significant (New Freeway)
 - 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 (“NEPA Process”)

Types of NEPA Approval

- Environmental Impact Statement (EIS)
 - Many formal requirements such as alternatives and their impacts need to be studied
 - Can take several years and significant funds to complete an EIS



South Mountain Freeway

Types of NEPA Approval

- Environmental Assessment (EA)
 - Typically involves alternatives developed and screened – Build and No Build
 - Can take several years and significant funds to complete an EIS



US 93 Two Lanes to Four Lanes

Types of NEPA Approval

- Categorical Exclusion (CE)

Pathways



Preservation



Bridges



Capacity



Safety



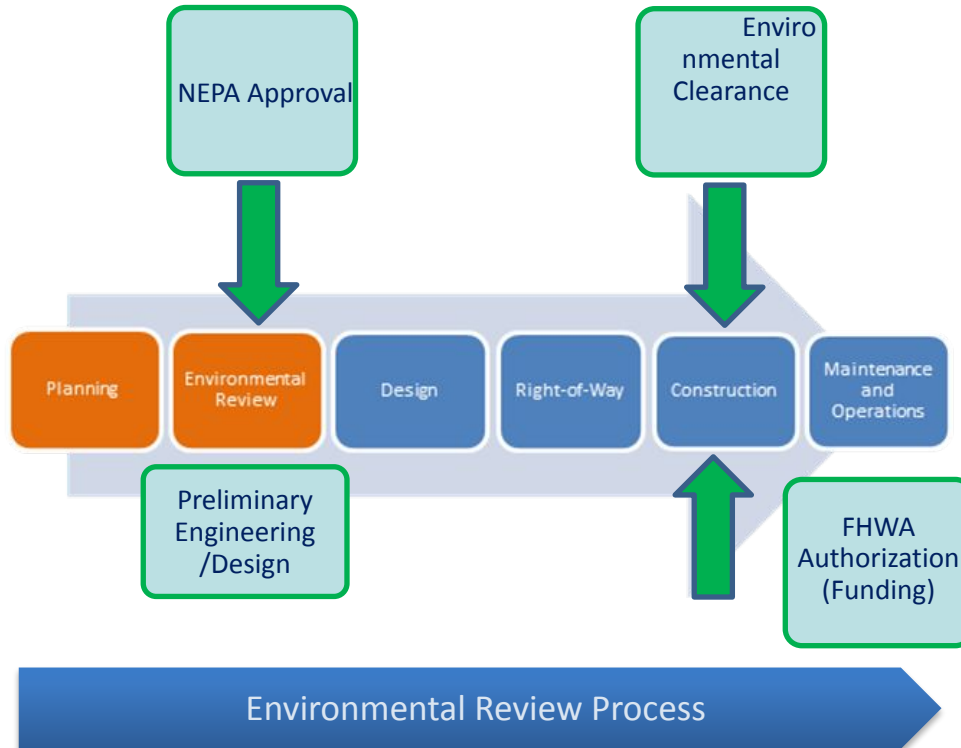
Environmental Requirements

- NEPA is one environmental law but there are others
- For most projects, one of the other environmental laws under the “NEPA umbrella” is most likely to be the critical path in the preparation of CEs:
 - Section 4(f) – Parks, Historic Properties, Wildlife Refuges
 - National Historic Preservation Act – Section 106
 - Clean Water Act – Army Corps Individual Permit
 - Endangered Species Act – Section 7 Consultation
 - Clean Air Act – Conformity Determination
 - Noise Requirements
 - Public Involvement
 - Visual, Farmlands, Section 6(f)

Assignment of FHWA Environmental Review Responsibility

- FHWA environmental review responsibilities have been assigned to ADOT by agreement (MOUs)
 - Legal responsibility
 - ADOT is “lead federal agency” and “decision-maker” in the federal environmental review process
 - ADOT cannot delegate any environmental responsibility (LPAs)
- CE Assignment and NEPA Assignment
 - “CE Assignment” – 23 U.S.C. 326
 - “NEPA Assignment” – 23 U.S.C. 327

The Project Development Process



Continuum

Timing of NEPA in the Project Development Process

- FHWA 23 CFR 771.113 - Timing of Administration Activities
 - An approved CE, FONSI or Final EIS is required before Final Design
 - CE approval can come later in the process because there are no alternatives or significant impacts
 - Major projects approved with an EA/EIS have a “hard line” for starting final design
 - EA/EIS projects – Proceed past 30% design after NEPA approval

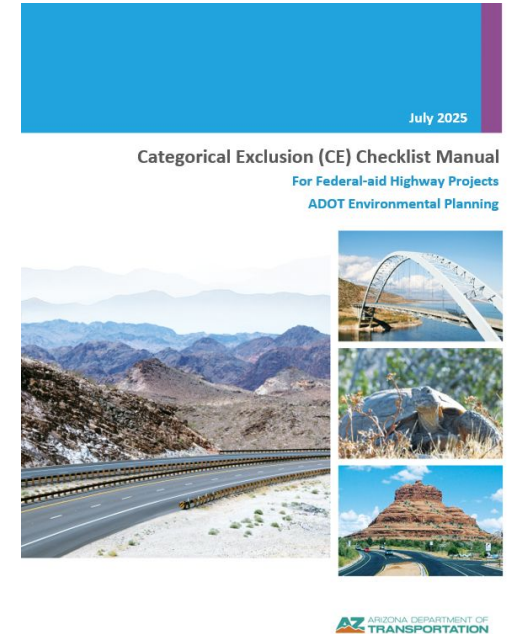
CE Projects

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



CE Checklist

- NEPA Documentation
 - The CE Checklist is a template format for documenting the federal environmental requirements
 - The “CE” approval is for NEPA but the “other” environmental requirements are acknowledged on the form as completed
- ADOT CE Checklist Manual
 - Guides environmental planners/managers through the CE Checklist preparation step-by-step



CE Checklist

- Basic project information, funding and timing
- PM provides the project location/limits and description/scope of work (engineering scoping phase)
- CE type is selected from two drop-down menus (c and d list)
- ADOT Environmental Planner completes the CE Checklist based on all scope of work and technical reviews

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

Re-evaluation:
☐ 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:
PM

Purpose and Description (scope of work):
PM

Type of CE - Choose one from (c) or (d) or Appendix A drop-down lists:	
(c) - list:	(d) - list:
ADOT ENV Planning ↓	
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.	

CE Checklist

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

CE Checklist

- MOU approval authority (326/327)
- Environmental commitments and EPIC Sheet included (ADOT projects only)
- Environmental Planner signature and approval

Certification and Determination by ADOT	
☐	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.
☐	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	
☐	Environmental commitments are included with this project and will be incorporated into the project plans, specifications and estimates as required.
☐	Environmental Permits Issues and Commitments (EPIC) sheet to be included.

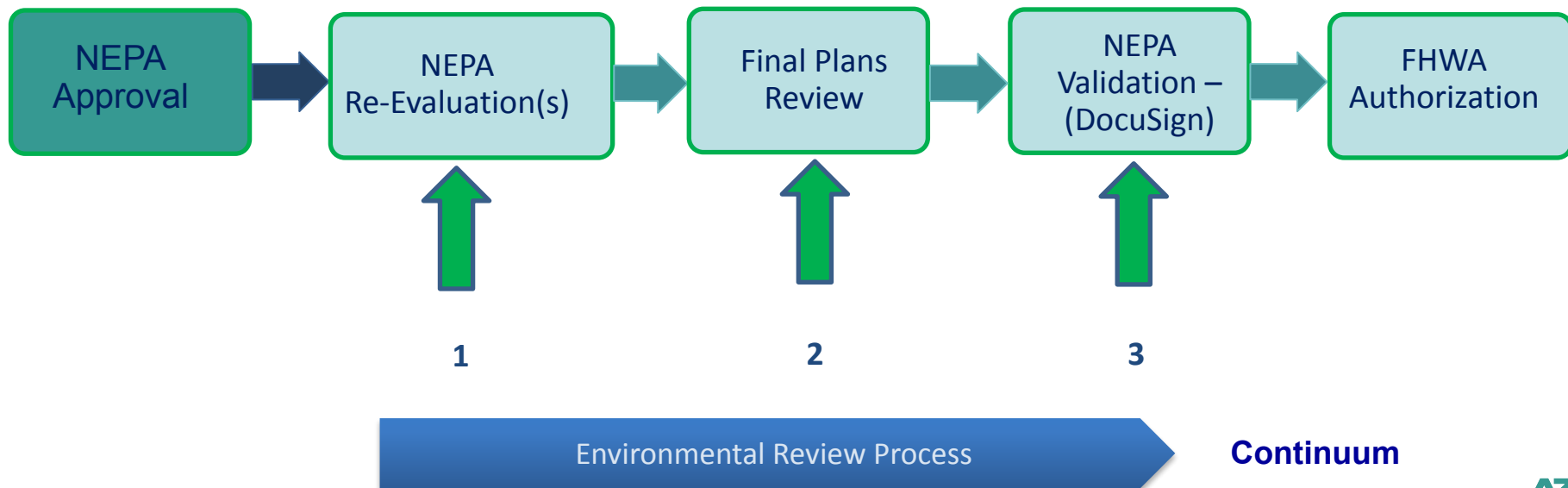
Categorical Exclusion Approval			
Prepared By: _____ Click here to enter text. Environmental Planner		Date: _____	
Approved By: _____ Administrator, Environmental Planning		Date: _____	

Environmental Clearance



- **Environmental Commitments**
 - Developed with the project
 - Avoid, minimize, compensate
- Part of the NEPA approval by incorporation
- Contractor commitments included in the contract and plans (EPIC sheet)
- The ADOT Resident Engineer is responsible for implementation and recording (As-builts)

Final Steps



Final Steps

NEPA Re-Evaluation(s)

1

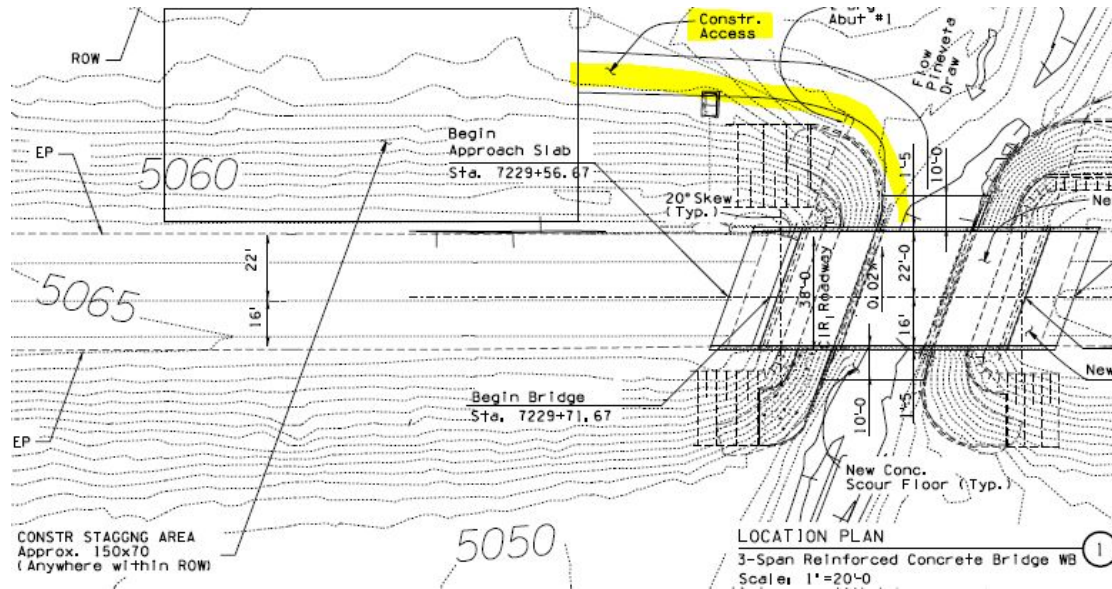
- ☐ NEPA re-evaluation may come any time after NEPA Approval for a change in scope, ROW already cleared and/or project limits
 - ☐ PM must notify ADOT Environmental Planner of scope changes
- ☐ **Formal** - (More complex scope change, substantial time elapsed)
 - ☐ Updated CE or Environmental Document (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

Final Steps

Final Plans Review

2

- ❑ ENV Planner checks the final plans prior to ADOT validating NEPA
- ❑ Confirm not change in project scope, ROW and/or project limits
- ❑ Confirm environmental commitments are complete and included



Final Steps

NEPA
Validation –
(DocuSign)

3

- ADOT Project Manager submits funding authorization request to FHWA
 - Required for Design/ROW/Construction funding approval
 - NEPA approval is up to date
 - Environmental commitments are included in the project

Conclusion

- 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

Conclusion

- Communicate changes - project team
- Goal - 100% footprint at 60% Design
- Identify ROW and TCEs early as possible
- Identify Geotech early and clear if needed
- Get funding in place ASAP for changes
- The CE is a summary of the totality of surveys, studies, consultations, analysis and “other law” compliance as applicable so the time to complete is based on many factors

Conclusion

- Some projects such as procurement or technical equipment can be cleared with a (c)(1) CE with limited technical review
- “Individually documented and approved” CEs for projects such as adding a travel lane to a roadway can take 9 to 12 months
- Keep in mind all the previous planning and technical reviews involved
 - For example, if a project requires a air quality conformity determination but the “planning & programming requirements” are not up to date the CE approval could be delayed for months

Questions?