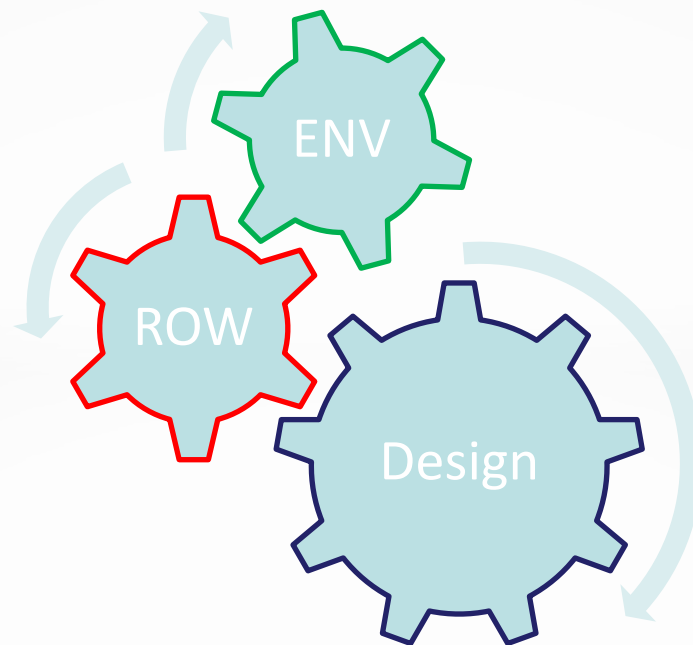


# ADOT Environmental Planning Federal-aid Highway Program Local Public Agency Program Certification Acceptance Agencies (CAA)



December 3, 2020

# Environmental in LPA CAA Projects

## Overview

- ❑ Environmental Review (“NEPA 101”)
- ❑ ADOT CE and NEPA Assignment
- ❑ Project Initiation
- ❑ Competing NEPA
- ❑ Post-NEPA
  - ❑ Re-evaluations
  - ❑ Plans Review
  - ❑ CE Validation

# Environmental in LPA CAA Projects

## ENVIRONMENTAL REQUIREMENTS

### Environmental Clearance for Federal-aid LPA Projects

- ❑ The over-arching environmental law
  - National Environmental Policy Act of 1969 (NEPA)
- ❑ NEPA requires the federal government (FHWA) to consider the environment in major federal “actions”
- ❑ “Environmental review” includes all *other applicable environmental laws*

# Environmental in LPA CAA Projects

## Three Types of NEPA Approval (Class of Action)

- ❑ Environmental Impact Statement (**EIS**) – Class I
  - Impacts are significant
  
- ❑ Environmental Assessment (**EA**) – Class III
  - Significance of impacts is not clearly known
  
- ❑ Categorical Exclusion (**CE**) – Class II
  - Impacts are not significant
  - Vast majority of ADOT and LPA CAA projects

# Environmental in LPA CAA Projects

## CATEGORICAL EXCLUSIONS

Pathways



Preservation

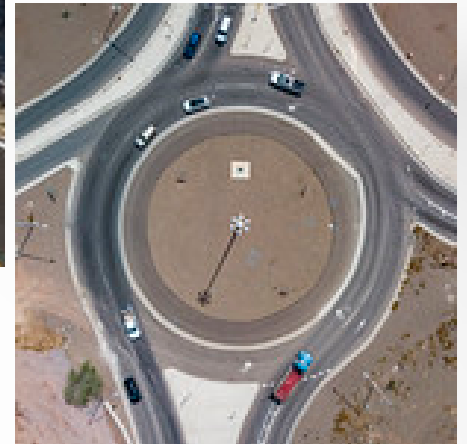


Bridges



Capacity

Safety





# Environmental in LPA CAA Projects

## CATEGORICAL EXCLUSIONS

- ❑ CEs still need to consider “unusual circumstances” and other applicable environmental laws and regulations



# Environmental in LPA CAA Projects

## NEPA – Environmental Law

## NEPA – Framework for all other relevant laws



**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)**

**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 LPA CAA Projects

## CE Assignment and NEPA Assignment

- ❑ Transfer of FHWA's environmental responsibilities under NEPA and other environmental laws to ADOT
  - An assignment of legal responsibility vs. delegation of authority
  - No change to any existing environmental laws
- ❑ ADOT is “decision maker” in federal environmental review process
  - Agency consultation: Lead federal agency
    - Section 106 and Section 7
  - Eliminates a layer of review (really layers of review)



# Environmental in LPA CAA Projects

## CE Assignment and NEPA Assignment

- ❑ CE Assignment
  - “326 MOU” signed January 3, 2018
  - All “listed” CEs (preservation/modernization projects)
  - 3 years with renewal
- ❑ NEPA Assignment
  - “327 MOU” signed April 16, 2019
  - EAs, EISs and “unlisted” CEs (expansion projects)
  - 5 years with renewal

# Environmental in LPA CAA Projects

## ADOT must:

- ☐ Maintain appropriate staff and financial resources
- ☐ Report [CE determinations and NEPA decisions](#)
  - ☐ NEPA determinations reported/posted online
- ☐ Perform QA/QC, self-assessment, coordinate FHWA monitoring and audits
- ☐ ADOT Cannot delegate any environmental review responsibility to LPAs
  - ☐ Consultations with federal agencies
  - ☐ NEPA and other environmental approvals

# Environmental in LPA CAA Projects

## Project Initiation

- ☐ Initiation Request Letter from CAA to ADOT LPA Section
  - ☐ CAA Manual (Page 19)
  - ☐ Initial Project Description
  - ☐ “LPA Project Data Sheet”
    - ☐ “Class of Action” (likely to be a CE)
  - ☐ Initial Project Schedule
- ☐ Call ADOT Project Delivery Manager questions as no ENV Planner is yet assigned

# Environmental in LPA CAA Projects

## Project Initiation

- ☐ ADOT ENV Planning First Step
  - ☐ ADOT Project Delivery Manager assigns to an ENV Planner
    - ☐ “Manager” of ENV process for ADOT
  - ☐ Name of ADOT ENV Planner is provided to ADOT LPA Section
- ☐ Response Letter From ADOT to CAA (LPA Section sends)
  - ☐ Name of ADOT ENV Planner is provided to CAA
- ☐ Planner receives notice of assignment and copy of initiation material
  - ☐ ENV Planner contacts CAA
  - ☐ ADOT ENV Project Data Sheet (PDS) prepared

# Environmental in LPA CAA Projects

## Project Initiation

- ❑ CAA Consultant Contracts
  - ❑ ENV can assist scope and hours review (upon request)
- ❑ Suggest use “Environmental PDS” to inform level of effort and consultant work
- ❑ Opportunity for ADOT Environmental Planning technical input
- ❑ Don’t want to over-scope or under-scope the project
- ❑ Examples (over and under)
  - ❑ Over - Full CE Checklist completed when only minimal required
  - ❑ Over - Air Quality and Noise Reports conducted when not needed
  - ❑ Under – Historic building inventory required (inadequate funding)

## Certification Acceptance

[Home \(LPA\)](#)[One-Stop Shop](#)[Communication Bulletins](#)[Stakeholder Council](#)[CA Recertification](#)[HURF Exchange](#)[Off-System Bridge](#)[Contact Us](#)

## 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](#)

### Business

[ADOT Business Coach On](#)[Business Engagement and](#)[Engineering and Construc](#)[Contracts and Specificatio](#)[Project Management Serv](#)[Highway Maintenance](#)[Procurement](#)[Engineering Consultants](#)[Programs and Partnerships](#)[Adopt a Highway](#)[Border Liaison Unit](#)[Every Day Counts Initiative](#)[Grand Canyon State Logo S](#)[Joint Project Agreement](#)



# Environmental in LPA CAA Projects

## Project Initiation

- ❑ Project Environmental Data Sheet (PEDS)
  - ❑ Opportunity for ADOT Environmental Planning technical input
  - ❑ Don't want to over-scope or under-scope the level of effort and technical requirements for the project clearance
  - ❑ Whether or not a PEDS was created do not start technical evaluations before checking with ADOT
  - ❑ Include local Historic Preservation Officers

# Environmental in LPA CAA Projects

## Project Initiation

- ❑ CAA Project Kick-off Meeting
  - ❑ PDA in place, consultant contracts are in place...ready to begin environmental review work (start of the “process”)
  - ❑ Invite ADOT PM and ADOT ENV Planner
  - ❑ Invite “Techs” as needed
  - ❑ Do not start any technical reports until coordinating with ADOT technical area
    - ❑ Example unnecessary Air Quality Reports
- ❑ Include local Historic Preservation Officers

November  
2017

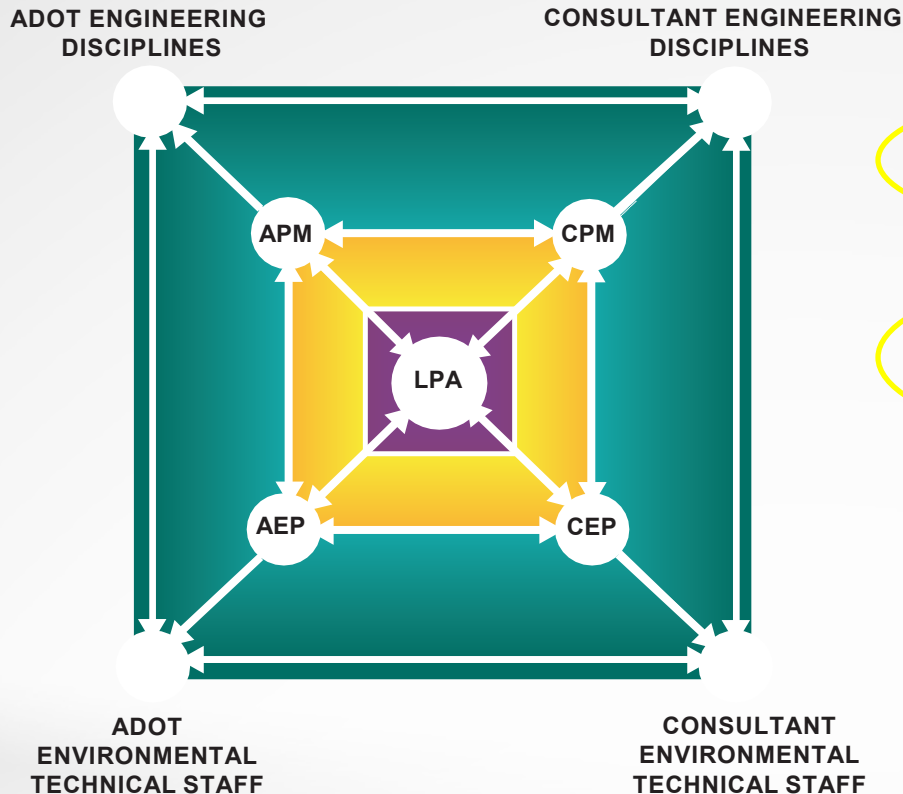
# **QUICK REFERENCE GUIDE**

## **FOR EXPEDITING PROJECT DELIVERY**

### **OF LOCAL PUBLIC AGENCY (LPA) FEDERAL-AID PROJECTS**



# COORDINATION AND COMMUNICATION:



**APM** - ADOT Project Manager  
**CEP** - Consultant Environmental Planner  
**AEP** - ADOT Environmental Planner  
**CPM** - Consultant Project Manager

There are many different stakeholders that make up the project team, and each play a key role throughout the LPA project development process. **Communication between all players is essential in order to stay on schedule and within budget.**

**Coordination and communication between all key players should be constant and ongoing throughout project development.**

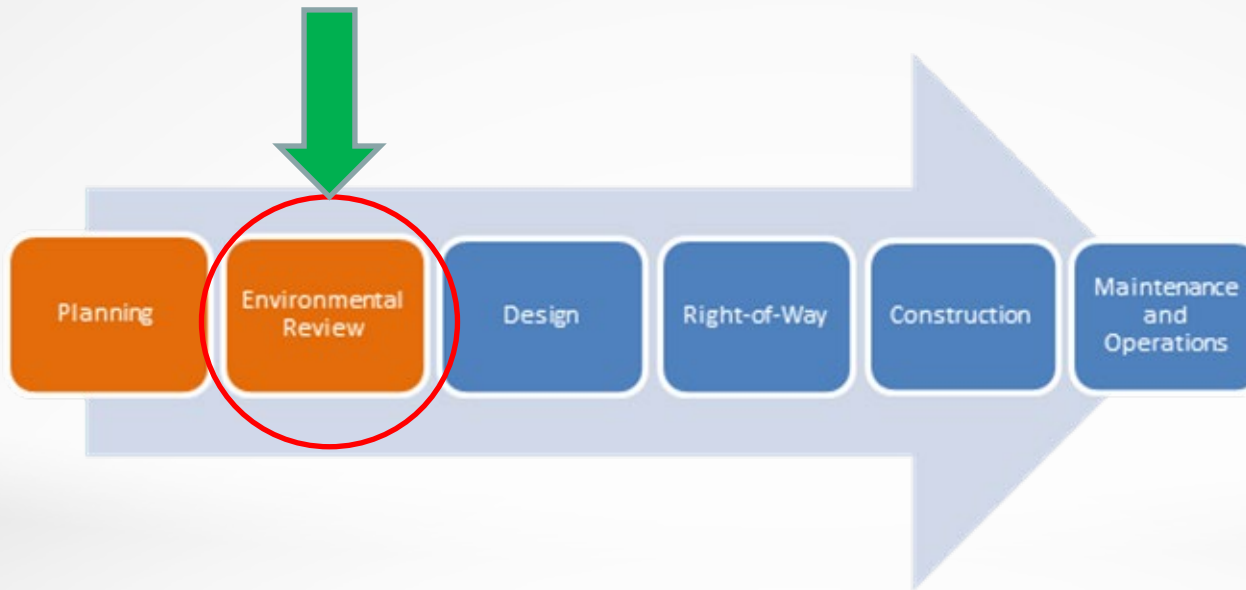
When a project requires a change of scope or an environmental issue arises, notify the design team. These issues may affect schedule, budget, and/or scope.

## ENGINEERING/TECHNICAL DISCIPLINES

A variety of engineering/technical disciplines are involved in LPA projects. These disciplines include specialized personnel with expertise in areas including but not limited to: roadway design, structures, drainage, geotech, utilities, cultural resources, biology, water resources, socioeconomic impacts, hazardous materials, etc.

# Environmental in LPA CAA Projects

Environmental in Project Development



**Environmental Review = NEPA Process = CE = Environmental Clearance**

# Environmental in LPA CAA Projects

## TYPICAL ENVIRONMENTAL CONSIDERATIONS

- ☐ 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
- ☐ Escalate as needed



# Environmental in LPA CAA Projects

## CE Checklist

CAA and ADOT Project Manager provide and confirm the Project Information

ADOT ENV Planner completes the CE Checklist

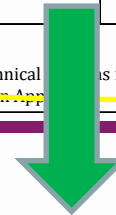
Project Information:	
<b>Project Name:</b>	<b>Construction Project Administration</b>
<b>ADOT Project Number:</b>	ADOT <input type="checkbox"/> CA Agency <input type="checkbox"/>
<b>Federal-Aid Number:</b>	<b>Categorical Exclusion Approval for FMIS</b>
<b>Estimated Project Construction Cost:</b>	2A -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

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:
<b>CA Agency</b>

Purpose and Description (scope of work):
<b>CA Agency</b>

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



# Environmental in ADOT Project Development

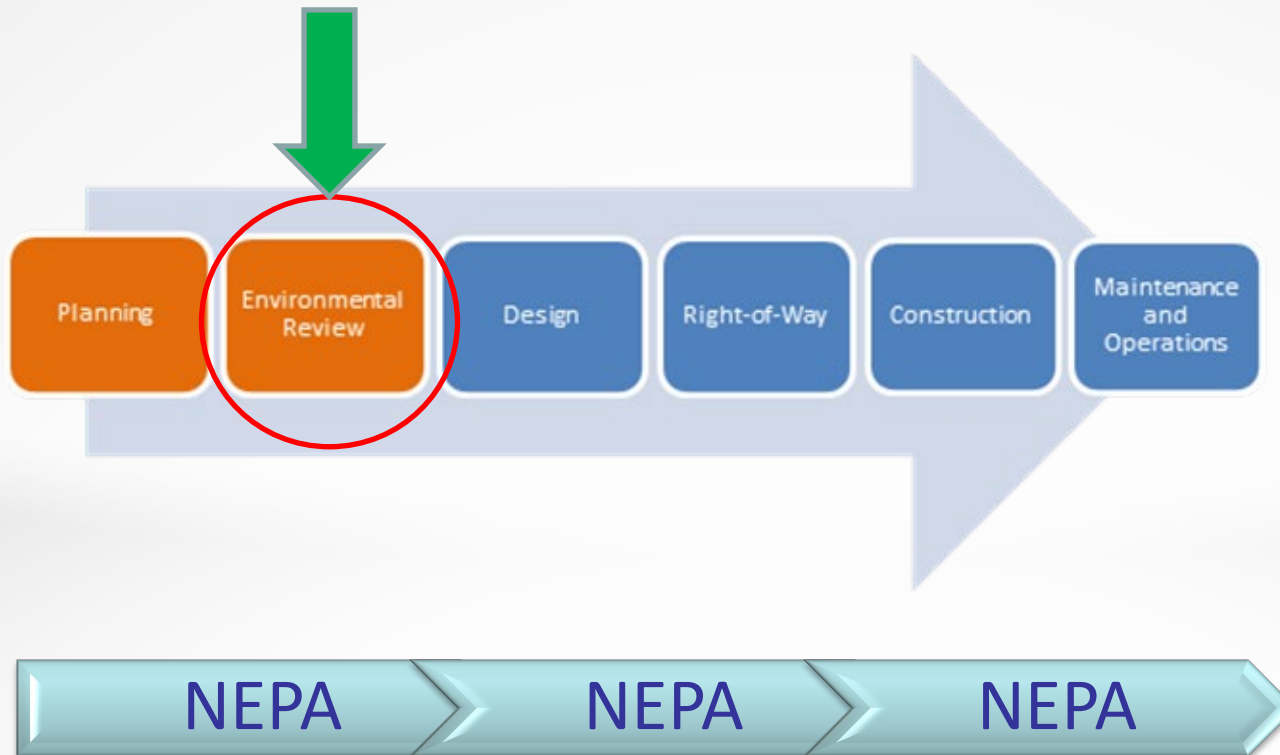
## CATEGORICAL EXCLUSIONS

### What's important to know for a CE

- ❑ Project Description/Scope of Work
  - Project Limits
  - Design concept – Pavement, bridge, shoulders, capacity, realignment, sidewalk, pathway, etc.
  - Scope – New ROW, cost
- ❑ Not Important for CE Determination
  - Design details
  - Quantities – X feet of this and that

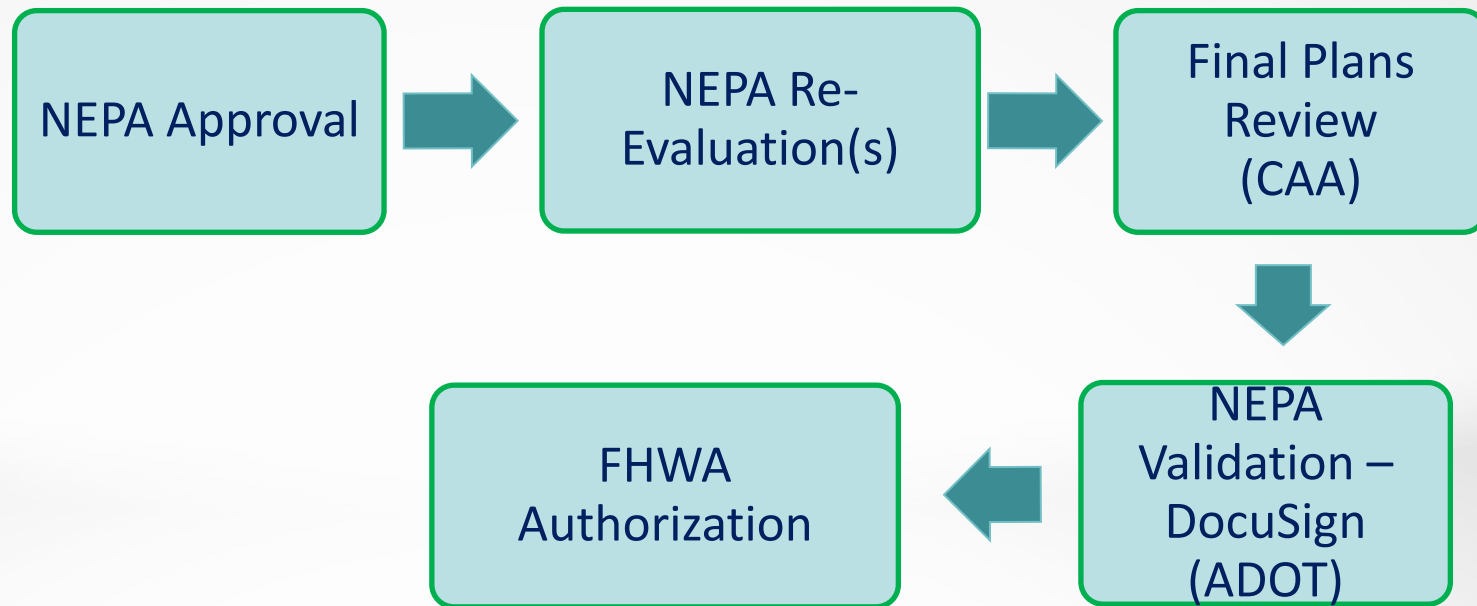
# Environmental in LPA CAA Projects

CE Completed = NEPA Approval



# Environmental in LPA CAA Projects

## ON THE ROAD TO FEDERAL AUTHORIZATION



**These last two steps were covered in Module 2  
with FHWA and PMG**

# Environmental in LPA CAA Projects

## POST-NEPA TO AUTHORIZATION REQUEST

- ❑ 23 CFR 771.129(c)
  - ❑ “After ..... **CE** .....prior to requesting any major approvals ...**establish** whether .... **CE** designation **remains valid**....”
  - ❑ Steps after NEPA leading up to the federal authorization request
    1. Re-evaluations (ADOT)
    2. Plans Review (CAA)
    3. CE Validation (ADOT)

# Environmental in LPA CAA Projects

## RE-EVALUATIONS

- ❑ NEPA – Re-evaluation come any time after NEPA Approval
  - ❑ Included in CAA Manual page 30
    - ❑ After receipt of the NEPA approval, the CA Agency must contact ADOT Environmental Planning for an assessment of any design changes as changes could trigger additional environmental analysis under NEPA.
  - ❑ Change in scope, ROW already cleared and/or project limits



# Environmental in LPA CAA Projects

## RE-EVALUATIONS

- ❑ **Formal** - (More complex project, scope change, time elapsed)
  - ❑ Updated Environmental Document (NEPA approved)
    - ❑ EA Re-Evaluation (template)
    - ❑ CE Re-Evaluation (Re-Evaluation box on CE Checklist)
- ❑ **Informal** – (no substantial changes, circumstances or analysis)
  - ❑ For review of changes after NEPA
    - ❑ Note to File, Email, Phone Memo, etc.
    - ❑ Signature of authorization letter sufficient if NEPA recently approved

# Environmental in LPA CAA Projects

## PLANS REVIEW

- ❑ Confirmation of no change in scope, ROW and/or project limits
- ❑ Confirm ENV commitments are complete and up to date
  - ❑ Biological Opinions have no date but Biology should check ESA list if the CE was approved more than six months earlier
  - ❑ 404 permits
  - ❑ Asbestos report in Maricopa County (12 months survey to start of construction)
- ❑ Plans review is completed prior to ADOT validating NEPA
  - ❑ Timing is critical. *Validation is not the time to re-evaluate* if needed
  - ❑ Keep validation “on the radar”

# Environmental in ADOT Project Development

## PLANS REVIEW

### ☐ Plans

- Review that the project description of latest approved CE document (including environmental commitments) is consistent with the current plan set

### ☐ Special Provisions

- “Environmental Mitigation Measures” section associated with NEPA compliance must match those approved in the Environmental Commitments, unless approved by the ADOT ENV Planner

# Environmental in LPA CAA Projects

## PLANS REVIEW

- ❑ CAA is responsible for checking final plans (FHWA video)
  - ❑ Consultant can perform the review
  
- ❑ CAA is **not** responsible for NEPA compliance
  - ❑ CAA is responsible for **consistency** of design with NEPA after the NEPA approval
    - “In the project plans, she confirms a requirement to install a protective fence. She then checks that there is a special provision for the fence and finds it is appropriate and clear.”
    - “Reviewer” here can be an engineer, project manager or environmental professional

# Environmental in LPA CAA Projects

## PLANS CHECK – LPA PROJECT APPROVAL

### NEPA Approval Distribution Email Template

Distribution email template for Environmental Approval (delete)

To: Project Manager and LPA Project Manager (if applicable), C&S, Right-of-Way, PRO Office Scheduling, LPA Programming, DE, District TES, DEC, Engineering and Environmental consultant

Subject: NEPA Approval (CE) for XX-XXXX(000)/ 000 CO 000 HXXXX 01C Project Name

All,

The attached Categorical Exclusion (CE) (also available in Workfront) was approved on xx/xx/xxxx.

The above referenced project meets the definition for a CE under 23 CFR 771.117.

The environmental planner for the project shall be consulted to determine whether the CE remains valid if there is a change in the project scope, location, or termini or where new impacts, not previously considered, may occur.

The Project Manager shall continue to send the Environmental Planner ALL plan submittals to ensure that all NEPA review and compliance requirements have been met, that the CE determination remains valid and that the project incorporates all of the environmental commitments in the 100% plans and specifications.

# Environmental in LPA CAA Projects

## PLANS CHECK – LPA CAA PROJECT APPROVAL

### NEPA Approval Distribution Email Template for CA Agency Projects

To: ADOT Project Manager, LPA Project Manager, PRO Office Scheduling, LPA Programming

Subject: NEPA Approval (CE) for XX-XXXX(000)/ 000 CO 000 HXXXX 01C Project Name

All,

The attached Categorical Exclusion (CE) (also available in Workfront) was approved on xx/xx/xxxx. The above referenced project meets the definition for a CE under 23 CFR 771.117.

The environmental planner for the project shall be consulted to determine whether the CE remains valid if there is a change in the project scope, location, or termini or where new impacts, not previously considered, may occur.

In accordance with FHWA regulations and the CA Agency Manual, at the time of the request for federal authorization for funding the CA Agency must verify by email<sup>1</sup>, or other means such as a phone memo or meeting minutes, the following:

- 1) The project actions (scope of work) at the time of authorization for federal funding have not changed from what is approved in the project NEPA document and;
- 2) The environmental commitments will be incorporated into the contract exactly as approved in the project NEPA document.

<sup>1</sup>Note: This CA Agency “NEPA and plans review” step is not required for projects approved with (c)(1) CEs, for projects in which federal authorization is sought shortly after the CE approval based on the judgment of the ENV Planner or for projects which have no further plan stages developed after the CE is approved. Adjust accordingly for approvals that do not have plans and/or specifications.



# Environmental in LPA CAA Projects

## PLANS CHECK – SAMPLE EMAIL

### NEPA and Plans Review Email Template for CA Agencies<sup>1</sup>

The template below can be used to “copy and paste” to an email for transmitting verification of CE and plans review. This template does not have to be used verbatim but the CA Agency needs to convey the main points outlined below as applicable. This verification can be made by the CAA designated qualified personnel in conformance with the CAA Manual (Designated Approval Authority, CA Liaison, Responsible Charge). (delete this text)

To: [Name, ADOT Project Manager, Name, ADOT Environmental Planner]

SUBJECT: Final Plans and CE Check for XX-XXXX(000) Project Name

All,

The above referenced final project plans are consistent with the scope of work defined in the [CE approved on xx/xx/xx] or [CE re-evaluated on xx/xx/xx]. [Choose one and delete the other]

The environmental commitments have been incorporated into the PS&E (final plans/specifications/contract as applicable) as approved in the project NEPA document.

Thank you,

[Name, CAA Title]

<sup>1</sup>Note: This “NEPA and plans review” step is not required for projects approved with (c)(1) CEs, for projects which have no further plan stages developed after the CE is approved or for projects in which federal authorization is sought shortly after the CE approval (project has not been “shelved”). Adjust accordingly for approvals that do not have plans and/or specifications.

# Environmental in ADOT Project Development


## FEDERAL AUTHORIZATION

### Federal-aid Authorization Request

- ❑ ADOT Project Manager submits authorization request to FHWA
  - ❑ DocuSign letter that has all the submittal information
  - ❑ ADOT ENV Planner signs the letter and meets 23 CFR 771.129(c) and 326 MOU requirements

# Environmental in LPA CAA Projects

## FEDERAL AUTHORIZATION




### Project Authorizations

Arizona Division Office

#### Certification of NEPA

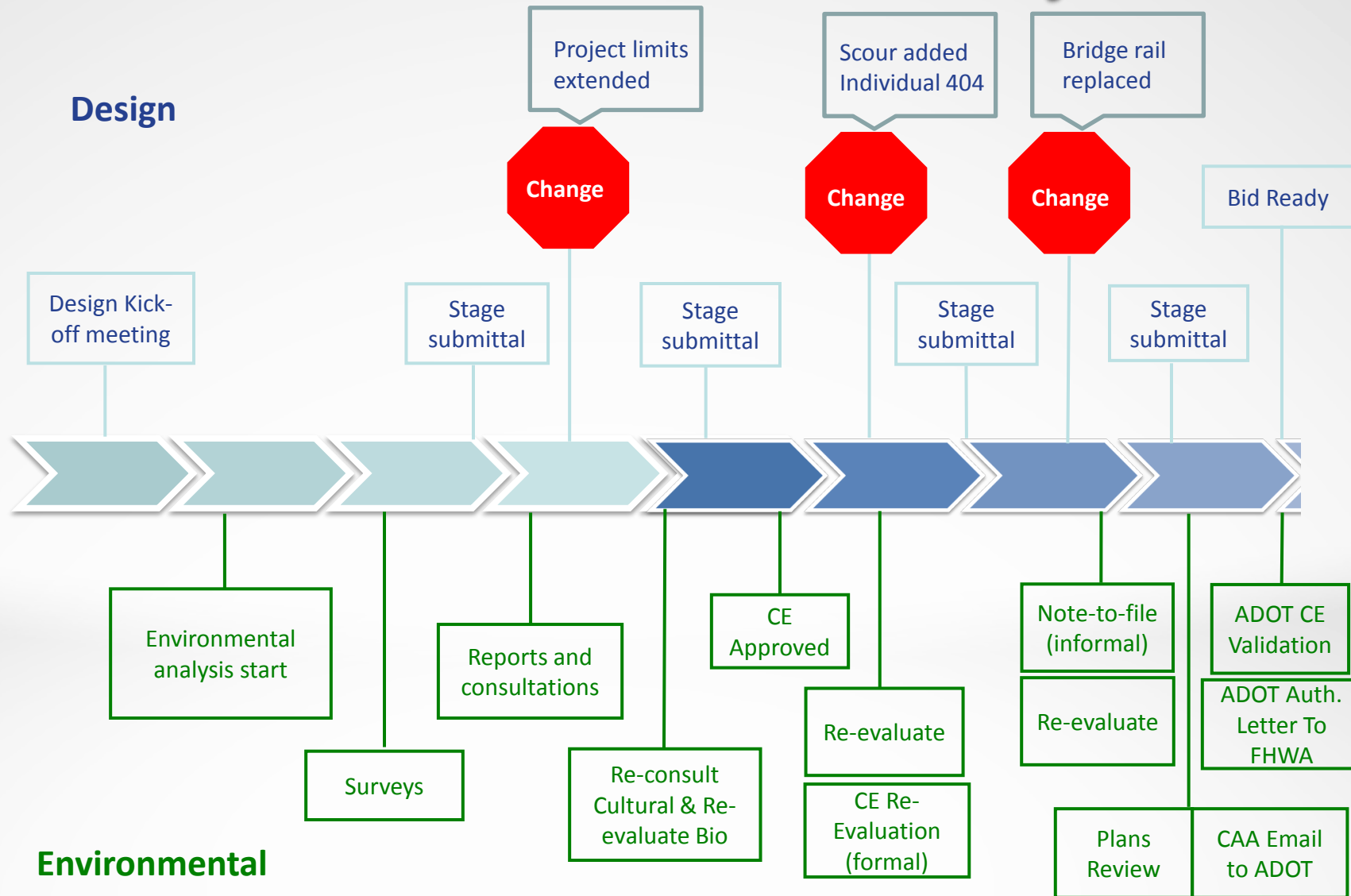
- Per the 326 and 327 MOUs, FHWA must have the following statement on the authorization cover letter that certifies NEPA is complete and incorporates all environmental commitments – *“ADOT certifies that NEPA requirements consistent with the scope of work of the project have been met and the project incorporates all environmental commitments per 23 CFR 771.109(d).”*
- Should be from the ADOT environmental planner or above.
- This statement must also be provided for projects administered by LPAs.
- **Sending the environmental document to FHWA will not allow us to proceed with authorization.** Only ADOT can certify that NEPA is complete, current for the scope of the project, and includes all environmental commitments and mitigation.



U.S. Department of Transportation  
Federal Highway Administration

This step was covered in Module 2 with FHWA and PMG

# Environmental in LPA CAA Projects



# Environmental in LPA CAA Projects

## Compliance - Monitoring Reviews (CAA Manual)

- ❑ **23 C.F.R. 771.129(c)**
  - ❑ CAA must verify the project has not changed since NEPA approval and the scope of work matches the clearance. This is a project development step under "plans preparation" which is a CA Agency responsibility.
- ❑ **23 C.F.R. 635.309(j)**
  - ❑ CA Agency Manual: "Before the ADOT PM requests authorization for construction from FHWA, the CA Agency must verify that the environmental commitments are included in the final design plans or specifications."
- ❑ **23 C.F.R. 771.109(b)(1)**
  - ❑ CA Agency Manual: "The 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 in LPA CAA Projects

## ADOT Environmental Planning Guidance

- ❑ Guidance on ADOT Environmental Planning Website. Consultants should know these.
  - ❑ Categorical Exclusion (CE) Checklist Manual
  - ❑ Environmental Planning Project Development Procedures Manual
  - ❑ LPA Manual – Chapter 9
- ❑ Back of key guidance documents outline updates

### CE CHECKLIST MANUAL UPDATES

#### AMENDMENTS TO CE CHECKLIST MANUAL

##### *Description of Modification*

Version*	Change	Date	By
V1	Start of 326 MOU 1/3/2018	1/3/18	PAO
V2	"Validation Form" changed to "Note-to-File Form" 'n/a' added under Other Considerations as default	1/26/18	PAO
V3	"Title VI" removed from header in Checklist drop-down. Minor correction under Hazmat drop-down (spelling)	2/16/18	PAO
V1	Reset versions for start of 327 MOU	4/16/19	PAO
V2	Clarifications regarding the definition of a CE under 23 CFR 771.117(a) and (b) were made on pages 4 through 6. Clarifications regarding secondary and cumulative impacts added under "Other Technical Considerations" on pages 30 and 31. Environmental Commitments text on page 43 modified to reflect CA Agency template language.	5/24/19	PAO
V3	Clarifications regarding the use of (c)(22) CE and that temporary construction easements are allowed with the application of this CE. Bottom of page 7.	9/3/19	PAO
V3	Description of closures and detours modified on page 22.	9/3/19	PAO
V3	Re-evaluation guidance updated in Appendix to reflect August 14, 2019 FHWA NEPA Re-evaluation Guidance.	9/3/19	PAO

# Environmental in LPA CAA Projects

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