

## MEMORANDUM

TO: Urban Project Management, Statewide Project Management, Roadway Group, Bridge Group, Traffic Group, Transportation Technology Group, Materials Group, LPA Section, Project Resource Office

FROM: Paul O'Brien, Environmental Planning Group Manager

CC: Steve Boschen, ITD Director for Design and Construction, FHWA - Alan Hansen, Tom Deitering, Rebecca Yedlin

DATE: December 24, 2014

RE: Clarification on PE Funds and Preliminary/Final Design in Relation to NEPA Approval

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NEPA approval is a critical step in project development and required for every project with federal funding. Project design must not advance too far without NEPA approval in order to remain compliant with FHWA regulations. Please work closely with your EPG planner to determine the appropriate timing of NEPA approval. Below are a few key reminders. Attached is a graphic to aid in the explanation.

### How far can Preliminary Design advance prior to NEPA Approval?

How far Preliminary Design can advance is left without hard definitions to provide flexibility under FHWA's Every Day Counts initiative while still being compliant with 23 CFR 771 – FHWA NEPA regulations

FHWA: No design activities shall be undertaken prior to NEPA approval that (1) have an adverse environmental impact or (2) limit the choice of alternatives if required to avoid or minimize impact to environmental resources.

### Two Phase Authorization

For major projects that require an Environmental Assessment (EA) or Environmental Impact Statement (EIS) for the NEPA document:

Phase I - Preliminary Design developed up to 30% level in conjunction with NEPA (EA/EIS)

Phase II - NEPA Approval (FONSI/ROD) is then needed for FHWA to authorize Final Design funds

### Single Phase Authorization

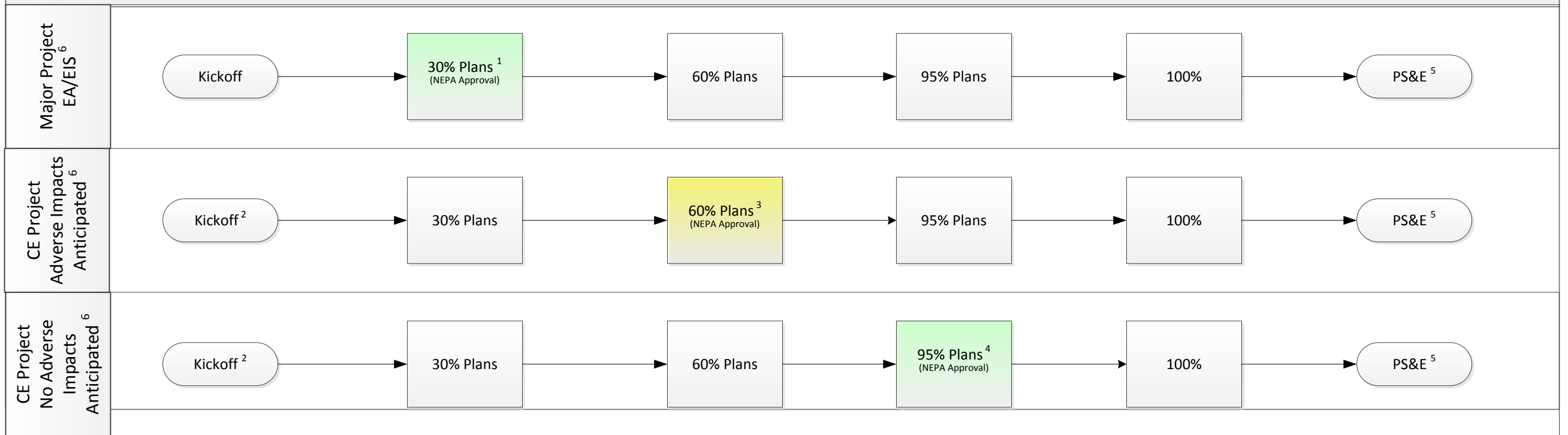
For non-major projects such as pavement rehabilitation, bridge repair, traffic safety, etc. that require a Categorical Exclusion (CE) or Re-Evaluation for the NEPA Approval:

NEPA Approval is required between 30% and 95% Design

NEPA *should* be attained by 60%. But, this may not always be possible. Proceed cautiously to 95% only with EPG/FHWA approval. Discussions with EPG/FHWA should be ongoing throughout the project. EPG and FHWA can make a "risk assessment" for proceeding past 60% based on the impacts and relevant environmental issues. 95% plans can be distributed with EPG/FHWA approval prior to NEPA Approval.

ADOT Environmental Planning Group  
NEPA Approval In Relation To Final Design  
(How Far Preliminary Design Can Advance)

December 24, 2014



Notes:

1. Preliminary Design can be advanced to 30%. FONSI or Record of Decision is needed by 30% in order for FHWA to authorize Phase II Final Design funds.
2. CE Projects are typically prepared under a single phase federal authorization and project development process. Begin NEPA at the start of the project.
3. NEPA *should* be attained by 60%. The project may adversely impact environmental resources and the design team may need to consider alternatives to avoid or minimize these impacts; proceed cautiously past 60% design only after consulting with the EPG Planner.
4. No adverse impacts to environmental resources are anticipated and there are no alternatives still under consideration for avoiding or reducing impacts. Environmental *should* (not shall) be completed by 60%. However, if necessary, consult with the EPG Planner and proceed with design to 95%. The FHWA Area Engineer shall approve 95% plan distributions prior to NEPA approval.
5. EPG Planner reviews PS&E for all projects to ensure inclusion of all environmental commitments documented in the NEPA approval.
6. This graphic does not represent a relative timeline for project completion. Major projects with an EA or EIS will take substantially longer to complete than a project with a CE. CE projects with no adverse impacts will take the shortest amount of time to complete. Examples of adverse impacts include projects requiring an individual 404 permit, an impact to endangered species, an adverse effect under Section 106 or a "use" under Section 4(f).