

MEMORANDUM

TO: Local Public Agencies Section – All LPA Sub-recipients

FROM: Paul O'Brien, Environmental Planning Administrator *PAO*

CC: Steve Boschen, ITD Director

DATE: September 11, 2015

RE: New Process for Categorical Exclusions (CE) – Implementing MAP-21

On July 6, 2012 Moving Ahead for Progress in the 21st Century (MAP-21) was signed into law. MAP-21 introduced changes intended to reduce the amount of documentation needed to prepare certain Categorical Exclusions (CEs) under the National Environmental Policy Act (NEPA) for federal-aid highway projects. But, the changes did not become effective immediately with the signing of the Act. Sections 1315 through 1318 of MAP-21 instructed FHWA to propose federal rulemaking to modify the provisions for CEs in 23 CFR 771 - "Environmental Impact and Related Procedures."

The rulemaking process for the relevant changes to the CE process concluded on November 5, 2014, 28 months after MAP-21 was signed into law. Only after the conclusion of the rulemaking process could ADOT begin in earnest to create a new Programmatic Categorical Exclusion (PCE) Agreement with FHWA. The new PCE Agreement was approved by FHWA on July 7, 2015.

ADOT and FHWA are now in the process of fully implementing the changes to the environmental process as introduced by MAP-21. ADOT Environmental Planning, in close coordination with the FHWA Arizona Division, has developed a new streamlined CE Checklist that will reduce the amount of NEPA documentation required for many ADOT and LPA projects. In conformance with the MAP-21 provisions, the new ADOT-FHWA PCE Agreement will allow ADOT greater approval authority for CEs. Other process improvements have been developed and incorporated such as a new Quality Assurance/Quality Control Plan to help manage the "critical path" elements. The "other" environmental laws have not been modified by MAP-21, but play a crucial role in the timing and delivery of Federal-Aid Highways Projects.

ADOT has already begun to implement the new CE process while also still completing underway projects under the former process. This is being done without requiring any rework or added cost to the LPA.

Completed and ongoing process changes include:

- New Programmatic Categorical Exclusions Agreement (completed)
- New CE Checklist (completed)
- New Individual CE for projects not specifically listed under 23 CFR 771.117(d) (completed)
- New Guidance for Understanding Categorical Exclusions (under development)
- New Guidelines for Preparing CE Checklists (under development)
- Modifications to the ADOT Environmental Planning website (under development)
- Webinar-based training to introduce the new CE process (under development)
- Updating the environmental commitments/mitigation measures process (under development)