

Proposed Class of Action Determination Process

The Colorado Department of Transportation (CDOT) is aware that as of September 1, 2020, Environmental Assessment (EA) documents must be completed 12 months after initiation, and Environmental Impact Statement (EIS) documents completed in 24 months, in compliance with 40 CFR 1501.10. The Federal Highway Association (FHWA) is responsible for making a National Environmental Policy Act (NEPA) class determination on projects where FHWA is considered the lead agency. CDOT proposes to work with FHWA early in project development to determine which NEPA process activities and studies should be initiated to provide information to FHWA so a NEPA class determination can be made for each likely EA or EIS level project. The agencies will also develop a detailed project development schedule prior to formally asking for a determination that will include a targeted date for making a NEPA class determination and completion of the NEPA decision document.

For projects that are likely EA level projects, a CDOT representative will provide a letter of initiation to the FHWA NEPA Program Manager and the appropriate Area Engineer requesting that the NEPA document be classed as an EA. This letter will contain the following:

1. Basic project information (a location map and preliminary project milestones as attachments).
2. A summary of the activities and studies conducted to inform the NEPA class determination.
3. A detailed schedule that maps a path to NEPA completion within one year of the level determination.
4. A list of other Federal approvals (e.g., Section 404 permits) anticipated to be necessary for the proposed project.
5. A statement specifying whether the document will be prepared according to 23 USC 139 or not.

A draft of the template letter is attached. If FHWA agrees to the NEPA class determination, they will respond in writing via letter to formalize the initiation of the EA time limit. The date of FHWA's response acts as the beginning of the 12-month period for completing the EA.

For projects that are likely EIS level projects, the CDOT official authorized to sign EISs (or that official's designee) will provide a letter applying to initiate the project to the Division Administrator. This letter of application will meet the requirements of 23 USC 139 (e) and will contain the following:

1. The work to date, the termini, length, general location, and planning history of the proposed project.
2. A list of other Federal approvals (e.g., Section 404 permits) anticipated to be necessary for the proposed project.
3. The timeframe within which the environmental review process should be started and completed.
4. A draft of the Notice of Intent (NOI).
5. Supporting documentation.

The Division has 45 days to either initiate the EIS project or provide comments back to the applicant. CDOT and FHWA will publish the NOI in accordance with 40 CFR 1501.9(d), and 40 CFR 1501.10(b)(2) stating that the agencies will complete the EIS within two years of the publication of the NOI.