

Environmental Analysis NEPA Documents – Reevaluations and Certification Schedules

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APPLICABILITY

A Reevaluation to an approved National Environmental Policy Act (NEPA) document, whether a Categorical Exclusion (CE), Environmental Assessment/Finding of No Significant Impact (EA/FONSI), or Environmental Impact Statement/Record of Decision (EIS/ROD), may be required during the NEPA process. A Reevaluation may be required if there are changes to the proposed action, affected environment, anticipated impacts, or applicable regulations; if new information or circumstances arise; or if there has been a certain lapse of time from the approval of the decision document. It is important to remember that a Reevaluation is not a “new” process but is a continuation of the environmental evaluations for the particular action. It may require a new written document, but usually it does not involve initiation of an entirely new NEPA analysis.

The primary purpose of the Reevaluation is to determine if the environmental document remains valid for decision-making on a federal action. A Reevaluation can be prepared at any time after approval of the NEPA document to address project changes, however, ideally the Reevaluation will be timed to address all project changes ahead of the next federal decision. This helps avoid constantly reevaluating a project. There are two main Federal Highway Administration (FHWA) decisions that involve federal funding and that may require Reevaluations: authorization to proceed to right-of-way (ROW) acquisition and authorization to proceed to project letting for construction (CST).

This guidebook will discuss when Reevaluations are needed and the format for Reevaluations. It also includes a discussion of the importance for timely preparation and

approval of Reevaluations to meet scheduled baselines established by GDOT in Primavera P6 (P6), including schedules for environmental certifications for ROW acquisition and letting for CST.

REGULATIONS, GUIDANCE, AND POLICY

Federal Highway Administration

FHWA regulations require that, prior to providing approval for an action, a determination is necessary that an approved environmental document is a current and valid assessment of impacts from the project. Because the reasons for preparing a Reevaluation can be wide ranging, there is little specific detail in federal regulations or guidance about the content or format of the Reevaluation document. The focus of federal regulations applies more to when and why Reevaluations should be considered and prepared. The only specific time frame in FHWA regulations for a Reevaluation are for EIS level documents. A Reevaluation is required if a Final EIS has not been submitted within three years of Draft EIS circulation, or if major steps to advance the action have not occurred within three years of approval of the FEIS.

Re-evaluations 23 CFR 771.129,
Federal Highway Administration

Georgia Department of Transportation

GDOT and FHWA have developed a Memorandum of Agreement (MOA) for Reevaluations (July 2016). The MOA includes information on approval authority, timing for Reevaluations, and when Written Reevaluations are required.

MOA for the Implementation of NEPA Reevaluations
Pursuant to 23 CFR 771.129, Federal Highway
Administration and Georgia Department of Transportation

DEVELOPMENT

As a general practice, Reevaluations should be coordinated to incorporate and evaluate project changes with the next major FHWA authorization of funds (i.e., ROW or CST). There may be circumstances where this is not possible, and a Reevaluation is necessary at an earlier time. Or, for NEPA documents that may take longer to obtain approval, changes may occur during the NEPA process that necessitate documentation in a Reevaluation. However, incorporating both project changes with the next major FHWA authorization is more efficient and avoids a continual Reevaluation process.

A Reevaluation can occur at any point after approval of a NEPA document or decision (such as a FONSI or ROD) but would only occur if there are remaining federal approvals for the project. The need for a Reevaluation can arise from any number of issues or a combination of issues. Although not comprehensive, the list below provides some of the reasons a Reevaluation may be required.

- > **Project Changes Reflected in Updated Plans:** Design revisions that result in changes in project length, that add travel lanes, add or modify intersections, result in changes in required ROW or easements, shift the horizontal or vertical alignment, or that modify the project concept to an extent that requires additional survey for resources or to evaluate impacts.
- > **Changes to the Affected Environment:** Land use changes; changes that have affected resource boundaries or delineations.
- > **Changes in Regulations or Policy:** Changes to Endangered Species Act, Clean Water Act, or Clean Air Act; revised policy guidance on climate change.
- > **New Information:** New information is provided on an environmental justice community not previously identified that would be affected by the project; updates to local economic, transportation, or planning documents.
- > **Time Lapse:** Particularly for time periods discussed previously for an EIS; or the period in which historic resources should be considered for eligibility.
- > **Changes in Mitigation Measures:** Mitigation bank credits no longer available; local ordinances that prevent previously proposed mitigation; new community controversy over proposed mitigation.

Again, the purpose of a Reevaluation is to determine whether information in an environmental document remains valid for FHWA decision-making. For GDOT, preparation of the Reevaluation is preceded by preparation and approval of applicable special studies that document the change and impacts to environmental resources.

DOCUMENT PREPARATION

The MOA for Reevaluations between FHWA and GDOT outlines the type and conditions for Reevaluations for RODs, FONSI, and CEs. There are two categories of Reevaluation: Programmatic Consultation and Written Reevaluation. Within the Programmatic Consultation category there are two possibilities based on potential changes.

- > **Programmatic Consultation:** Certification of No or Minor Changes to the project.
 - **Projects With No Change:** Absolutely no changes in project design, resources, or schedules.

- **Projects With Minor Changes:** Changes “minor” in scope as identified in the MOA.
- > **Written Reevaluation:** Changes are not within the list of “minor” changes in the MOA, and requires Written Reevaluation supported by technical studies.

Programmatic Consultation

Despite the fact that the other category of Reevaluation is specifically identified as a “Written Reevaluation,” that should not be interpreted that Reevaluations that fall within the parameters of the Programmatic Consultation do not require documentation, and are satisfied with a verbal agreement of changes. Reevaluations that fall within the parameters of a Programmatic Consultation are required to have a certification of Minor/No Changes. However, the certification is a one-page document that does not require technical studies to support findings or provide more detailed analysis. A template can be found in the OES SharePoint site.

No Change Reevaluation

To process a Reevaluation as a true No Change Reevaluation there can be no changes in laws, regulations, and policy that effect the project, and no changes in the project scope, affected environment, environmental impacts, or mitigation. If these conditions are met a Written Reevaluation is not necessary, and a certification of No Change is required for the project files.

Minor Change Reevaluation

FHWA has determined that projects with minor changes in scope do not require a Written Reevaluation. Minor changes that qualify a project for Programmatic Consultation include:

- > Change in funding year provided that the project is consistent with State Transportation Improvement Program/Transportation Improvement Program (STIP/TIP) in effect at the time of ROW or CST Authorization;
- > Change consisting solely of updating ecology or cultural resources worksheets, memoranda, or reports where no change of effect to resources identified in the environmental decision document or subsequent Written Reevaluation has occurred (updates to address newly protected species or additional or modified cultural resources are not covered by this condition);
- > ROW Limit Changes from the original CE, FONSI, or ROD:
 - Associated with conversion of ROW to easements (temporary or permanent) or conversion of easements to ROW; or
 - To accommodate utility relocation; or
 - Reduction in ROW limits due to design refinements or as a result of ROW negotiations;

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- > Realignment of driveways and related drainage features as a result of ROW negotiations;
- > Change in length(s) of previously proposed turn lane(s);
- > Changes to project limits or length associated with tapering pavement into existing roadway at the terminus(i) of the project;
- > Bridges:
 - Changes in bridge materials or design where bridge material design or features are not associated with the outcome of Section 106 consultation, including tribal consultation, or Section 7 consultation;
 - Changes in bridge pier locations or numbers in streams with no protected species or designated or proposed critical habitat;
 - Extending bridge construction limits to add end rolls/rip rap or provide temporary construction access in streams or other waters with no protected species or designated or proposed critical habitat;
- > Refinements to drainage and storm water management design (e.g., change in length of pipe, culvert alignment, storm water management features) provided that such changes do not require agency coordination or contradict environmental commitments;
- > Design refinements involving minor slope changes within proposed ROW;
- > Addition of traffic signal(s), dynamic message signs, Intelligent Transportation System (ITS) or other electronics, photonics, or information processing systems to a larger project;
- > Minor shifts in horizontal and/or vertical alignment resulting from design refinement;
- > Changes in lane or shoulder width, provided such change is not associated with the addition or elimination of multiuse, bicycle or pedestrian facilities or contradict environmental commitments;
- > Change in status of completion of environmental commitments;
- > Addition of stop bars or other safety features to railroad crossings within a larger project; and
- > Minor changes in traffic volumes that do not change the Build or Design year Level of Service (LOS) or necessitate updates to technical studies.

The above list is a general list of minor changes. A complete list of conditions is included in Attachment 1 of the MOA. It is important to note that Minor Change Reevaluations must

comply completely and exactly with the list of conditions in Attachment 1. If there are any questions about whether or not changes are minor in scope, OES NEPA management should be contacted to discuss further. If these conditions are met no Written Reevaluation is necessary, and a certification of No Change is required for the project files.

Written Reevaluations

For projects that don't meet the requirements of the MOA as describe previously for a No Change or Minor Change Reevaluation, or are subject to time limits discussed below, a Written Reevaluation is required. Written Reevaluations also require preparation and approval of special studies to discuss and evaluate impacts to resources, prior to preparation of the Written Reevaluation.

A Written Reevaluation is required:

- > If a major FHWA action has not occurred within three years of approval of a ROD, FONSI, or CE; or the last major FHWA approval;
- > If, within 12 months of a major FHWA approval, the project does not meet the requirements of the No Change or Minor Change Reevaluation described earlier;
- > For all Transportation Enhancement (TE) projects or other projects administrated by GDOT grant; or
- > The project does not meet requirements in the MOA for a No Change or Minor Change Reevaluation as described earlier.

GDOT has template reports for Reevaluations for both a CE (CE Reevaluation) and a Programmatic CE (PCE Reevaluation). Copies of these templates can be found on the OES SharePoint site. Minor and No Change Reevaluations that comply with the conditions of the MOA can be prepared for both CEs and PCEs.

Because of the size and complexity of the documents, and that changes may affect many areas covered by the analysis, GDOT does not have templates for Reevaluations for EA/FONSI or FEIS/ROD. The Environmental Analyst should discuss the changes and format with OES NEPA management on the most effective way to address changes.

Particularly for Reevaluations on more complex projects or larger NEPA documents such as EA/FONSI and FEIS/ROD, the Reevaluation should be concise and tailored to the change in circumstances. The Reevaluation should focus on the current changes and their effects to the project, resources, or environment. It is usually not necessary to provide information from previously approved NEPA documents to provide a history of changes, although some discussion of earlier findings and effects may be necessary to provide perspective or context for the current changes. A Reevaluation doesn't require a discussion of changes for resources or areas not impacted, because they were covered in the previous documents. For this reason, the Reevaluation can be a much shorter, concise document than the original NEPA document or previous Reevaluations.

Documentation in the attachments should only be included to support findings and effects from the current changes and may include updated agency coordination or decisions. Again, as with the discussion in the Reevaluation itself, providing all previous correspondence to give a chronological account of previous actions and decisions is not necessary.

REVIEW AND APPROVAL

Consideration of review and approval periods for Reevaluations are important to meet the overall project schedule but are of particular importance when those approvals are necessary for the next FHWA authorization.

Reevaluation Schedules

The time periods for review, revision, and approval of Reevaluations by GDOT and FHWA are the same as for NEPA documents, and are provided in more detail in the NEPA Documents – Categorical Exclusion and NEPA Documents – Environmental Assessment and Finding of No Significant Impacts Guidebooks, so they are not be provided here. However, as a general overview GDOT will have four weeks to review and comment on the initial Reevaluation submittal. If a consultant Environmental Analyst prepared the Reevaluation, they will have one week to respond, and GDOT's subsequent review would occur within two weeks. Any subsequent revision and review should occur during a workshop.

FHWA will have three weeks for review of the initial draft document, followed by one week to revise the document if prepared by a consultant Environmental Analyst, then two weeks for second review. As with GDOT review, subsequent reviews will follow this one week/two week cycle, if the Reevaluation is prepared by a consultant Environmental Analyst, until approved by FHWA.

The days included in these schedules are calendar days, not business days. For purposes of planning, and depending on the complexity of the Reevaluation, when developing a schedule for approval of a Reevaluation assume at least two rounds of review by GDOT and one by FHWA.

CERTIFICATION SCHEDULES AND P6 TASKS

As mentioned previously, Reevaluations are necessary for the next FHWA authorization, either ROW Authorization or CST Authorization. These two milestones are used to allocate funding, which is programmed to a particular fiscal year (FY). Missing these milestone authorizations can jeopardize availability of funds or funding allocation planning within an FY.

There are several other steps that are required in the GDOT Plan Development Process after approval of Reevaluations, so Reevaluations approval should not be considered the day of, or the day before, the milestone authorization date.

ROW Authorization

If a Reevaluation is needed for ROW Authorization the certification date is usually six to seven weeks prior to the ROW Authorization date. There is an earlier P6 task for completing environmental approval, that is approximately eight to nine weeks prior to the ROW Authorization date. Whenever possible GDOT prefers that a NEPA document or NEPA Reevaluation be complete by the earlier of the two P6 tasks.

The OES provides an “All Projects Spreadsheet & Environmental P6 Activities” on weekly basis that shows the ROW Authorization Date, Certification Date, and Environmental Approval Date. Below are these three tasks as they appear in OES All Projects Spreadsheet:

- > BL Environmental Approval Complete: NEPA document/Reevaluation should be approved by this date. Usually, eight to nine weeks prior to ROW Authorization.
- > BL Environmental Certification for ROW Authorization Complete: Certification date for ROW Authorization. Usually, six to seven weeks prior to ROW Authorization.
- > Mgmnt. Dir ROW Date: This is the same as the ROW Authorization Date.

Table 1 is an example from the All Projects Spreadsheet with these categories.

Table 1 – ROW Authorization Approval Dates Example

BL Environmental Approval Complete (If state funds: Env. Activities Complete)	BL Environmental Certification for ROW Authorization Complete	Mgmnt Dir ROW Date
6/22/2020	7/7/2020	8/15/2020

Construction Authorization

Construction Authorization (CA) from FHWA is requested by GDOT prior to a project let date, and an approved Reevaluation is needed for CA. GDOT sets a Letting Schedule for each calendar year. Current Letting Schedules can be found on the GDOT webpage (<http://www.dot.ga.gov/PS/Business/Contractors>). In this Letting Schedule there is a set date for let in each month. Once issued the times and schedule in the particular year’s letting schedule do not fluctuate, so it is a useful tool for establishing your Reevaluation schedule for anytime in a particular calendar year. The Letting Schedule is usually available several months prior to the upcoming calendar year, to allow for planning for letting in the first few months of the upcoming calendar year. There are two environmental certification dates; 11 weeks and 7 weeks prior to the scheduled let date. These two certification date goals allow for time needed to request and receive CA from FHWA prior to let, as well as other requirements to meet the scheduled let.

- > On Time Certification: The Reevaluation would be approved on or before 11 weeks prior to the scheduled let date.

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- > **Late Certification:** The Reevaluation would be approved on or before 7 weeks prior to the scheduled let date.

On Time Certification allows ample time for all remaining tasks, including requesting and receiving CA, to occur prior to the project let. *Therefore, the target for approval of Reevaluations should always be the 11 week, On Time Certification date.*

Request of CA and attaining the scheduled let can occur with a Reevaluation approved by the Later Certification date, but is the absolute minimum time needed to accomplish other required tasks to meet the scheduled let date.

The OES “All Projects Spreadsheet & Environmental P6 Activities” also contains these 11-week, 7 week, and let dates. Table 2 below shows these categories and example dates.

Table 2 – Environmental Certification Dates for Let Example

BL Environmental Certification for Let Complete	11-Week Environmental Certification Deadline	7-Week Environmental Certification Deadline	Mgmt Dir Let Date
5/26/2021	1/28/2022	2/25/2022	4/15/2022

Guidebook Revision History

Revision Description	Relevant Sections	Revision Date
Initial Publication	All	5/21/2021