



Connecticut DOT

Number: ECPPD-2022-2Bureau of Engineering and Construction
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ENGINEERING & CONSTRUCTION-POLICY & PLANNING DIRECTIVE

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Guidance for Conditionally Advanced Projects during the Pause in Tribal Consultation due to COVID-19

Between March 2020 and May 2022, the Department's Section 106 and NEPA review processes were subject to a "pause" because of an interruption in tribal consultation process due to the COVID-19 pandemic. This meant that Department projects that involved partnership with the Federal Highway Administration (FHWA) could not conclude the Section 106 review of impacts on historic/cultural resources. It also prevented the Department from approving Automatic and Programmatic Categorical Exemptions using the CE Checklist.

In order to keep project development moving forward during the "pause", the FHWA - Connecticut Division issued conditional approvals that allowed the Department to move forward with Design Approval and Final Design prior to the completion of Section 106/Tribal consultation. In July, 2022, the FHWA concluded tribal consultation for all projects that were impacted by the "pause" between March 2020 and May 2022.

This guidance procedure is developed in collaboration with the Bureau of Policy and Planning's Office of Environmental Planning (OEP) and applies to all projects that had conditional approvals granted during the "pause". The OEP has uploaded copies of the tribal consultation closure letters to each of the individual project files on COMPASS. They have also maintained a list of projects that were affected by the pause and will be contacting the project team leaders to assist them in ensuring the proper documentation is in the project files so that the NEPA processes can be completed and the CE Checklist that had been previously unsigned may now be completed (signed).

The Department will now take the following steps to ensure all projects that were granted conditional approvals follow a similar process to conclude the consultation process with the Tribal Nations and complete CatEx Checklist signoff.



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1. Prior to completing the CE Checklist, ensure that the following documents are in the project file:
 - Section 106 Determination of Effect letter
 - “Tribal Consultation Concluded” letter (from FHWA)
 - Tribal communications* (*if any Tribal Nations provided comments during the pause*)
 - Conditional Approvals from FHWA* (*if any conditional approvals were issued during pause*)

These documents will be in the 140 – Project Administration folder. If any of them are missing, contact OEP CRED unit at DOT.EnvReviews@ct.gov.

2. The project Design team should complete the remainder of the Cat Ex Checklist, specifically:
 - Check off the unchecked Question 3. “Historic Properties (Section 106)”, of the Cat Ex Checklist (January 2021).
 - If present, delete the statement on the top of the front page of the CatEx Checklist, “*Conditional Approval was granted by FHWA on [Date]. This Cat Ex will only be approved and signed by CTDOT once Section 106/Tribal can officially be completed and checked off in this document.*” and
 - Send the CatEx checklist forward for signatures.
3. Note: If project required a Rights of Way (ROW) Phase, and the ROW obligations were funded with State Funds, the Department has decided not to re-finance at this time.
4. Once Section 106/Tribal is completed and the CatEx Checklist is signed by all parties, the project manager should ensure that all Section 106/ Tribal recommendations are incorporated by addendum or Change Order.
5. Provide the date that the completed CE Checklist is signed to OEP: email mark.marseglia@ct.gov and cc: mark.mcmillan@ct.gov.

All projects requesting tribal consultations after May 2022 should revert back to pre-pause procedures as described in the Detailed Instructions of the CatEx Checklist.