

3. Categorical Exclusion

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3.1. Introduction

This chapter provides an overview of actions classified as categorical exclusions (CE) and describes the CE documentation and approval process required by the Alaska Department of Transportation and Public Facilities (DOT&PF).

3.2. CE Definition

The Council on Environmental Quality (CEQ) National Environmental Policy Act (NEPA) regulations define a CE as a “category of actions that the agency has determined, in its agency NEPA procedures (40 CFR 1507.3), normally do not have a significant effect on the human environment. ([40 Code of Federal Regulations \[CFR\] 1508.1\[d\]](#)).

The Federal Highway Administration (FHWA) NEPA regulations ([23 CFR 771.117\[a\]](#)) define CEs as actions that meet the definition contained in [40 CFR 1508.1\(d\)](#) and based on FHWA’s past experience with similar actions, do not involve significant environmental impacts. They are actions that do not:

- induce significant impacts to planned growth or land use for the area;
- require the relocation of significant numbers of people;
- have a significant impact on any natural, cultural, recreational, historic or other resource;
- involve significant air, noise or water quality impacts;
- have significant impacts on travel patterns; or
- otherwise, either individually or cumulatively, have any significant environmental impacts.

An action that qualifies for a CE is excluded from the requirement to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS). A CE is not a waiver of NEPA review, but is instead one type of NEPA review.

3.2.1. Unusual Circumstances

Any action which would normally be classified as a CE, but could involve unusual circumstances, will require appropriate environmental studies to determine if the CE classification is proper. Unusual circumstances are discussed in [23 CFR 771.117\(b\)](#).

“Unusual circumstances” include:

- significant environmental impacts;
- substantial controversy on environmental grounds;
- significant impacts on properties protected by Section 4(f) of the USDOT Act of 1966 or Section 106 of the National Historic Preservation Act; or
- inconsistencies with any federal, state, or local law, requirement, or administrative determination relating to the environmental aspects of the action.

Should any unusual circumstances be identified for a project, consult the NEPA Program Manager for assistance in determining whether the CE classification remains appropriate.

3.2.2. The “c” and “d” Lists

FHWA’s CE regulations ([23 CFR 771.117](#)) contain two lists of actions that, based on past experience, do not normally involve significant environmental impacts. These actions are expected to normally meet the criteria for a CE. See 23 CFR 771.117(c) for “c” list actions, and 23 CFR 771.117 (d) for “d” list actions.

3.2.3. Unlisted CE Actions

If an action does not fit within a "c" or "d" list category, the action may still satisfy the criteria of 23 CFR 771.117(a) and may be processed as an Unlisted CE. A decision to process a project as an Unlisted CE must be based upon past experiences with similar actions that resulted in no significant environmental impacts.

3.3. Processing a CE

Several factors must be considered before determining that a project qualifies as a CE. The following factors will affect how a CE is processed:

- The type of action involved
- The potential level of impacts
- Whether the action qualifies under a Programmatic Approval (see Section 3.3.1)

Although all documentation must be prepared through the Business Process Management (BPM) system, MS Word versions of the *Expedited CE Documentation Form* and the *CE Documentation Form* are still available from the [Statewide Environmental Office’s webpage of manuals and forms](#).

“c” List Actions

These actions require the completion of either an *Expedited CE Documentation Form* or a *CE Documentation Form*. Actions classified under (c)(26), (c)(27), and (c)(28) must meet the conditions listed in 23 CFR 771.117(e) to be processed as a “c” list CE. The environmental document must include information to demonstrate that each of the (e) conditions are met.

“d” List Actions

Except for actions approved under 23 CFR 771.117(d)(6), “d” list actions require completion of a *CE Documentation Form* to verify compliance with local, state, and federal requirements and to ensure the project does not involve unusual circumstances that require an EA or EIS. Actions under 23 CFR 771.117(d)(6) can usually be evaluated using the *Expedited CE Documentation Form*.

The CE approval process is described in Section 3.3.2, below.

Unlisted CE Actions

Unlisted CE actions require completion of a *CE Documentation Form* and must consist of substantially similar actions that have previously resulted in a Finding of No Significant Impact (FONSI) or Unlisted CE determination. If previous project actions relied upon for comparison obtained a [mitigated FONSI](#), additional explanation may be required to demonstrate that the proposed Unlisted CE action will not require similar mitigation of impacts. Unlisted CE actions also cannot be expected to cause significant impacts directly, indirectly, or cumulatively.

3.3.1. Programmatic Approvals ([Programmatic CEs \[PCE\]](#))

Approval authority for certain CEs has been delegated to the Regional Environmental Managers (REM) under a [Chief Engineer’s Directive](#) delegating [programmatic approval authority](#) to the REMs for certain CEs. A project must meet all General Programmatic Approval (PA) conditions to qualify for any PA.

Under this directive, the REM certifies that applicable actions meet the terms of a PA and determines the documentation requirements. The REM may delegate approval authority to an environmental analyst. If the environmental analyst is unable to perform the delegated duties, approval authority would transfer to a NEPA Program Manager. There are three types of PAs, which apply to different types of projects. Each has different processing requirements.

Programmatic Approval 1

PA1 only applies to “c” list actions that meet all general programmatic conditions and the PA1 conditions listed in the Directive. Projects approved under PA1 can be processed with an *Expedited CE Documentation Form* or *CE Documentation Form*. See [23 CFR 771.117\(c\)](#).

Programmatic Approval 2

PA2 applies to “c” list actions that cannot be processed under PA1 and “d” list actions that meet the PA2 conditions listed in the Directive. Projects approved under PA2 require a *CE Documentation Form*. See [23 CFR 771.117 \(c\) and \(d\)](#).

Programmatic Approval 3

PA3 applies to the disposal of excess ROW or for joint or limited use of ROW, where the proposed use does not have significant adverse impacts. The proposed action must meet the PA3 conditions listed in the directive. Projects approved under PA3 can be processed with an *Expedited CE Documentation Form* or *CE Documentation Form*. See [23 CFR 771.117\(d\)\(6\)](#).

Projects that qualify as PCEs are approved by the REM (see Section 3.3.2.), whereas CEs that do not meet the requirements of a PA require approval by a NEPA Program Manager.

3.3.2. DOT&PF Review and Approval Process

Quality Assurance

The project development team, as established by the region, performs QA during development of the CE through collaboration, project meetings, reports, and environmental document development. Documentation of the QA process (e.g., emails, meeting notes, phone logs) is included in the region project file.

Expedited CE Documentation Form

The *Expedited CE Documentation Form* documents the purpose and need, description, and scope for the proposed project, and includes a discussion of probable impacts. An *Expedited CE Documentation Form* can only be used when PA1 or PA3 applies. The REM has approval authority for these CEs, but must verify that all conditions of the PA are met and documented in the *Expedited CE Documentation Form* prior to approval.

The REM reviews the form for content accuracy, signs within BPM, and includes a copy of the approved form in the project file. No *CE Documentation Form* is required.

CE Documentation Form

The *CE Documentation Form* documents the purpose and need and description for the proposed project, identifies the project’s environmental consequences, and summarizes public and agency coordination activities.

The *CE Documentation Form* is prepared and signed by the Environmental Impact Analyst. It is reviewed and signed by the Engineering Manager and the REM. By signing the *CE Documentation Form*, the Engineering Manager and the REM certify that each has reviewed the form contents. The REM’s signature verifies that the CE complies with:

- CEQ and FHWA NEPA regulations ([40 CFR 1500-1508](#) and [23 CFR 771.117](#))
- All applicable environmental laws, regulations, agency agreements, and this manual
- Consistency within and between the CE, supporting appendices, and technical reports

- Conformance to all NEPA requirements and applicable guidance, policies, and procedures

PCE Approval Process

When a PA applies, the REM has approval authority for the project CE documentation and must verify the *CE Documentation Form* complies with the conditions of Programmatic Approval.

The REM includes a copy of the approved form in the project file and provides a copy to the NEPA Program Manager for forms prepared outside of BPM.

Non-Programmatic CE Approval Process

When no PA applies, the NEPA Program Manager has approval authority for the project *CE Documentation Form*. The REM reviews the form for accuracy, signs it and forwards it to the NEPA Program Manager via BPM for approval.

Quality Control

The REM reviews the form for content accuracy, signs it and forwards it to the NEPA Program Manager for approval.

It is the NEPA Program Manager's responsibility to verify the *CE Documentation Form* complies with the following:

- CEQ and FHWA NEPA regulations ([40 CFR 1500-1508](#) and [23 CFR 771.117](#))
- All applicable environmental laws, regulations, agency agreements, and this manual
- Consistency within and between the CE, supporting appendices, and technical reports
- Conformance to all NEPA requirements and applicable guidance, policies, and procedures

The NEPA Program Manager will work with the REM to resolve any concerns identified in the QC review. NEPA Program Manager QC review comments and REM responses will be placed in the region project file.

The NEPA Program Manager signs the *CE Documentation Form* and provides a copy of the approved form to the REM to include in the region project file.

Technical Appendix

[DOT&PF Statewide Environmental Office](#)

Contains links to DOT&PF environmental policies, procedures, forms, templates, and information on the environmental process.

[Statewide Environmental Office Document Preparation Website](#)

The DOT&PF environmental document preparation webpage contains links to the current *CE Documentation Form* and the *Expedited CE Documentation Form*.

[CEQ Guidance on Categorical Exclusions](#)

The guidance recommends best practices for appropriate use of categorical exclusions.

[FHWA Guidance on Categorical Exclusions](#)

[Chief Engineer's Directive on Programmatic CEs \(November 13, 2017\)](#) and attachment [PROGRAMMATIC CATEGORICAL EXCLUSIONS For Use on Federal Aid Highway Program Projects Authorized Under 23 U.S.C. 327, November 2017](#)