



Module 3: Categorical Exclusions

- 1 Define the term categorical exclusion (CE)
- 2 List the factors to consider when determining if a project qualifies as a CE
- 3 Describe unusual circumstances that would preclude application of a CE
- 4 Locate the “c” and “d” lists of FHWA actions that usually qualify as a CE, and explain the distinction between the two lists
- 5 Determine the appropriate programmatic approvals as they relate to the “c” and “d” lists
- 6 Outline the CE approval process
- 7 Summarize how to appropriately document a CE



Length of training module: Approximately 20 minutes.



Module three examines how the Federal Highway Administration’s NEPA regulations define a categorical exclusion, or CE. This module also presents the factors to consider when determining if a project meets the definition of a CE and describes the documentation and approval process required by the Alaska DOT&PF.

This topic is part of a course covering the requirements for preparing and processing environmental documentation under the NEPA Assignment Program. Keep in mind that the information presented here is intended to be used in conjunction with the *Alaska Department of Transportation and Public Facilities Environmental Procedures Manual*, which serves as a reference and the source material for the classroom version.

By the end of this module, you should be able to:

- Define the term categorical exclusion.
- List the factors to consider when determining whether a project qualifies as a CE.
- Describe unusual circumstances that would preclude application of a CE.
- Locate the “c” and “d” lists of FHWA actions that usually qualify as a CE, and explain the distinction between the two lists.
- Determine the appropriate programmatic approvals as they relate to the “c” and “d” lists.
- Outline the CE approval process.
- Summarize how to appropriately document a CE.

Let’s get started by defining what a CE is on the next slide.



CE

Categorical Exclusion means:

- An action that does not individually or cumulatively have a significant effect on the human environment.
- Actions found to have no such effect in procedures adopted by a federal agency in implementation of [40 CFR Part 1507.3](#).
- Neither an environmental assessment nor an environmental impact statement is required.



The Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations define a CE as a "category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a federal agency in implementation of these regulations and for which, therefore, neither an environmental assessment nor an environmental impact statement is required."



To view 40 CRF Part 1507.3 online, visit:

https://www.ecfr.gov/cgi-bin/text-idx?SID=74cc22df955aa79da58878c04d801544&mc=true&node=pt40.37.1507&rgn=div5#se40.37.1507_13



FHWA Definition of CE

CEs are actions that don't:

Photo Credits: [Photo 1](#); [Photo 2](#); [Photo 3](#);
[Photo 4](#); [Photo 5](#); [Photo 6](#)



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.



Either individually or cumulatively, have any significant environmental impacts.

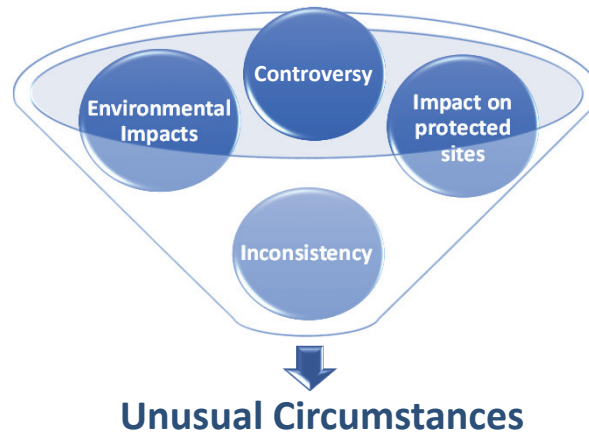


The Federal Highway Administration NEPA regulations at 23 CFR Part 771 section 117(a) define a CE as actions that meet the CEQ definition of a CE and don't involve significant environmental impacts, as determined based on previous experience with similar actions. They are actions which do not:

- 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
- Either individually or cumulatively, have any significant environmental impacts.



Examples of Unusual Circumstances



Some actions that would normally be classified as a CE could involve unusual circumstances. If an unusual circumstance potentially exists, the project will require some level of environmental study to determine if a CE classification is appropriate or whether a higher level of NEPA review is required.

According to 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 DOT Act of 1966 (23 CFR 774.3) or Section 106 of the National Historic Preservation Act (36 CFR 800); and
- Inconsistencies with any federal, state or local law, requirement, or administrative determination relating to the environmental aspects of the action.

Identifying potential unusual circumstances is done during the COA determination for all projects. You will need to consult the NEPA Program Manager for assistance if unusual circumstances exist.



C and D Lists



[Expedited CE Approval Form & CE Documentation Form](#)



Several different factors need to 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, and
- Whether the action qualifies under a Programmatic Approval

The Federal Highway Administration's CE regulations—found at 23 CFR Part 771 section 117 (c) for “c” list actions, and 23 CFR 771.117 (d) for “d” list actions—contain two lists of actions that, based on experience, do not involve significant environmental impacts. These actions are expected to meet the criteria for a CE.

The types of actions categorized in the “c” and “d” lists include:

- Landscaping;
- Installing signs, pavement markings, traffic signals, and railroad warning devices;
- Planning and research activities;
- The construction of bicycle and pedestrian lanes;
- New truck weigh stations or rest areas; and
- Any reconstruction of transportation facilities damaged by an incident resulting in an emergency or disaster declaration.

Specific actions described in c26, c27 and c28 of the “c” list which include modernization of highways, highway safety or traffic operations improvement projects, and bridge rehabilitation, reconstruction, or replacement must be compared to the constraints in paragraph “e” of Part 771 section 117 to determine if they are processed as a “c” list action or as a “d” list action under d13.

The Expedited CE Approval Form and the CE Documentation Form can be downloaded from the State Environmental Office's webpage of manuals and forms.



View the following resources online:

- **C List:** <https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=557237f8ec4cba5ce6c61dd8f94cb0da&mc=true&n=pt23.1.771&r=PART&ty=HTML>
- **D List:** <https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=557237f8ec4cba5ce6c61dd8f94cb0da&mc=true&n=pt23.1.771&r=PART&ty=HTML>
- **Expedited CE Approval Form & CE Documentation Form:**
<http://dot.alaska.gov/stwddes/desenviron/resources/docprep.shtml>



Programmatic Approvals

Approval 1: Certain “c” list actions only

Applies to “c” list actions that meet the conditions listed in the Chief Engineer’s Directive for Programmatic CEs and require an Expedited CE Approval Form. A CE Documentation Form may be completed at the discretion of the REM.

Approval 2: Certain “c” and “d” list actions

Applies to “c” and “d” list actions that meet the conditions listed in the Chief Engineer’s Directive for Programmatic CEs and require a CE Documentation Form.

Approval 3: Certain Right-of-Way Actions

Applies to certain right-of-way (ROW) actions under “d (6)” to dispose of excess ROW or for joint or limited use of ROW, where the proposed use does not have significant adverse impacts that meet the conditions listed in the Chief Engineer’s Directive for Programmatic CEs and require an Expedited CE Approval Form.



[Chief Engineer’s Directive for Programmatic CEs](#)



Approval authority for certain CEs has been delegated to the REMs under a Chief Engineer’s Directive for Programmatic CEs. A project must meet all the General Programmatic Approval Conditions to qualify for any Programmatic Approval. Under this directive, the REM certifies that applicable actions meet the terms of a Programmatic Approval and determines the documentation requirements.

There are three types of Programmatic Approvals, which apply to different types of projects – Approval 1, Approval 2 and Approval 3. Each has different processing requirements.

Programmatic approval type 1 applies only to some of the “c” list actions; while programmatic approval type 2 applies to certain “c” list and most “d” list actions; and programmatic approval 3 applies to certain right of way actions. The Programmatic CE Guidance Document provides specific direction on what conditions apply for using each of these programmatic approvals.

The process for applying programmatic approvals to CEs is discussed on the next slide.

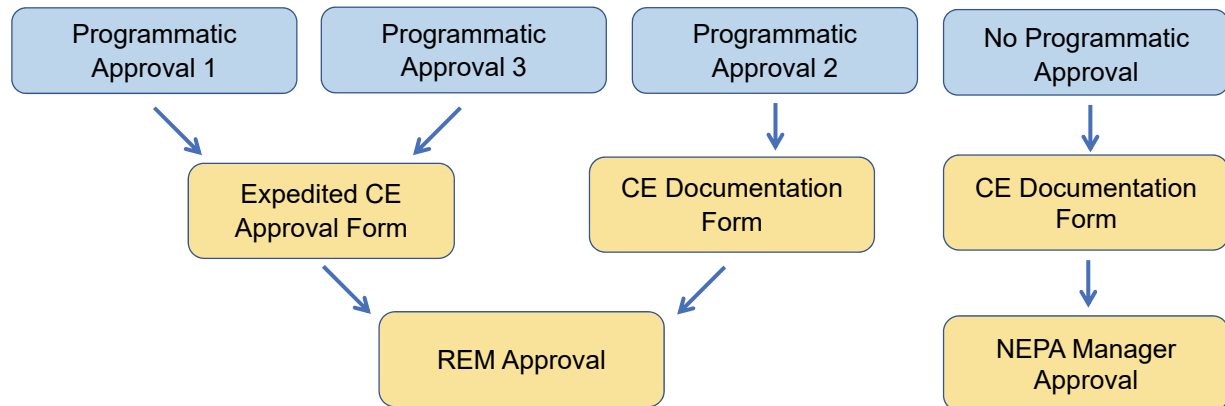


View the Chief Engineer’s Directive for Programmatic CEs online:

http://www.dot.state.ak.us/stwddes/dcs pubs/assets/pdf/directives/attach/2017/attach_111317_programmatic_ce.pdf



The CE Approval Process



The difference between projects that qualify for CE Programmatic Approvals and those that don't is that projects meeting the conditions of programmatic approval are approved by the REM whereas CEs that don't meet the requirements of a Programmatic Approval need to be approved by the NEPA Program Manager.

The Expedited CE Approval Form documents the purpose, need and description for the proposed project, and provides a brief discussion of probable impacts. An Expedited CE Approval Form is only used when Programmatic Approval 1 or 3 applies. The REM has the authority to approve CEs that meet the conditions of a Programmatic Approval.

A CE Documentation Form is prepared for projects that meet the conditions of Programmatic Approval 2 and may be prepared for a project that meets the conditions of Programmatic Approval 1. It is also prepared for any CE project that does not qualify for Programmatic Approval.

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 and verified that the CE complies with CEQ and FHWA NEPA regulations as well as all other applicable environmental laws, regulations, agency agreements, and DOT&PF Environmental Procedures Manual.

We'll review the proper use of the Expedited CE Approval Form and the CE Documentation Form on the next slide.



CE Forms

Expedited CE Approval Forms

- Used when Programmatic Approval 1 or 3 applies
- REM has approval authority
- REM must verify that the conditions of the Programmatic Approval are met and documented

CE Documentation Forms

- Prepared for projects meeting conditions of Programmatic Approval 2
- May be prepared for a project meeting conditions of Programmatic Approval 1
- Prepared for any CE that does not qualify for Programmatic Approval
- REM reviews the form, signs it and forwards it to NEPA Program Manager
- When no Programmatic Approval applies, the NEPA Program Manager has approval authority



The Expedited CE Approval Form documents the purpose, need and description for the proposed project and provides a brief discussion of probable impacts. As discussed on the previous slide, it is only used when Programmatic Approval 1 or 3 applies, and the REM has approval authority for CEs using the Expedited CE Approval Form. The REM includes a copy of the approved form in the project file and provides a copy to the NEPA Program Manager. No CE Documentation Form is required.

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

The REM reviews the form for content accuracy, signs it and forwards it to the NEPA Program Manager for verification that the CE Documentation Form complies with all applicable environmental laws, regulations, agency agreements, and the Environmental Procedures Manual. When no Programmatic Approval applies, the NEPA Program Manager has approval authority for the project CE documentation.



Module Review

Module 3: What You've Learned...



- The definition of CE
- The factors to consider when determining if a project qualifies as a CE
- The unusual circumstances that would preclude application of a CE
- The locations of the "c" and "d" lists of FHWA actions that usually qualify as a CE
- The three types of programmatic approvals as they relate to the "c" and "d" lists
- The CE approval process
- How to appropriately document a CE



This concludes Module 3.

We'll now take the module quiz to complete the requirements for this training course.