

# NEPA Introductory Course: Categorical Exclusions CBT Transcript

## Welcome

Welcome to the National Environmental Policy Act, also known as NEPA, Introductory Course titled Categorical Exclusions provided by the Florida Department of Transportation's, or FDOT's, Office of Environmental Management. This CBT contains audio and interactive elements, so please adjust your speakers accordingly. An alternate version is available on the resources page. The Knowledge Check questions allow you two chances to try and answer the question correctly. To begin, select the start button or press Shift + N on your keyboard.

This training is part of a series of introductory courses that provide guidance on FDOT's process for complying with NEPA, called Project Development and Environment, or PD&E. Please see the Environmental Management Academy Course Catalog in the FDOT Learning Curve, or the Office of Environmental Management PD&E Training Track, for other computer-based trainings in this series. Several of these trainings are referenced throughout this CBT. A link to these sites can be found at the end of this CBT on the resources page.

"The environmental review, consultation, and other actions required by applicable federal environmental laws described in this training are carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, executed by FHWA and FDOT."

The purpose of this course is to provide instruction on Categorical Exclusions as described in the PD&E Manual.

Please note you may pause this training at any time.

## Lesson Outline (ppt2)

This training will have seven lessons:

- Lesson 1 will provide a description of Categorical Exclusions.
- Lesson 2 will discuss Type 1 Categorical Exclusions.
- Lesson 3 will discuss Type 2 Categorical Exclusions.
- Lesson 4 will provide an overview of pre-PD&E activities for a Type 2 Categorical Exclusion project.
- Lesson 5 will outline typical PD&E activities for a Type 2 Categorical Exclusion project.
- Lesson 6 will provide guidance on the Type 2 Categorical Exclusion Determination Form.
- And Lesson 7 will provide an overview of actions that take place after approval of a Type 2 Categorical Exclusion.

## Lesson 1: Categorical Exclusion Basics

Lesson 1 will cover what a Categorical Exclusion is as well as associated requirements. Practitioners also use the term CE as an acronym. In this lesson, we'll also discuss what types of projects would qualify as Categorical Exclusions.

## **Part 1, Chapter 2 of the PD&E Manual**

In Lessons 1 through 2, we will go over the basics of Categorical Exclusions and Type 1 Categorical Exclusions projects. Guidance on these topics is available in Part 1, Chapter 2 of the PD&E Manual. You may want to have this chapter handy as you go through these lessons.

This chapter is available on FDOT's Office of Environmental Management, or OEM's, website.

***<http://www.fdot.gov/environment/pubs/pdeman/pdeman1.shtm>***

This link can also connect you to other chapters of the PD&E Manual that are referenced throughout this training.

### **Class of Action and Significance**

The determination of which Class of Action is appropriate for a project is based on the significance of environmental impacts. The degree of Significance is judged by the District, which may include consultation with the Office of Environmental Management, or OEM. Class of Action determination and significance are discussed in detail in Part 1, Chapter 2 of the PD&E Manual and the computer based NEPA Introductory Courses: NEPA 101 Part 1, and Class of Action.

So, what is Significance?

Each project introduces its own unique set of variables, so it is impractical to establish a clear-cut definition. In this regard, the Council on Environmental Quality, or CEQ, offers specific guidelines to consider significance. According to CEQ, the determination of a significant impact is a function of both project context and intensity.

Context is the setting of the project, such as the geographic, physical, natural, economic, and social setting of the action.

Intensity refers to the severity of the impact.

### **Categorical Exclusion Basics**

A Categorical Exclusion, or CE is a Class of Action assigned to projects or actions that, based on past experience with similar actions, are anticipated not to have a significant environmental effect.

In accordance with NEPA, actions that qualify as CEs do not require the high level of environmental documentation associated with an Environmental Assessment, or EA, or Environmental Impact Statement, or EIS. An EA is prepared when there is a question of significance, and an EIS is prepared when you know the project will have significant impacts.

Even though you know impacts are not significant for a CE, an environmental review is still required. CEs are not excluded from NEPA analysis.

The documentation associated with this review is flexible, and is dependent on the level of impact and other project-specific circumstances.

One major difference between a CE project and project with a higher Class of Action, is that a CE project will not necessarily require the consideration of multiple build alternatives.

## **Categorical Exclusion Criteria**

For a project to qualify as a Categorical Exclusion, it must meet the following criteria.

It must be sufficiently evident that the project will 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 resources including 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.

This list is straight from 23 CFR section 771.117(a) and listed for easy reference in Part 1, Chapter 2 of the PD&E Manual.

Notice all of these have the word significant in them. If the impacts are significant, your project cannot be a CE.

## **Unusual Circumstances**

In unusual circumstances whereby “significance” is questioned, a project normally classified as a CE will require coordination with, or a finding from, OEM to determine if the CE classification is appropriate. These unusual circumstances may include:

- Significant environmental impacts. In this case, coordination with OEM will confirm that the Class of Action needs to change.
- Substantial controversy on environmental grounds
- Significant impact on properties protected by Section 4(f) of the USDOT Act or Section 106 of the National Historic Preservation Act. These are regulations that protect archaeological, historical, or other protected resources.
- Inconsistency with any federal, state, or local law, requirement or administrative determination relating to environmental aspects of the action.

This list is straight from 23 CFR section 771.117 (b) and listed for easy reference in Part 1, Chapter 2 of the PD&E Manual.

## **Types of Categorical Exclusions for FDOT Projects**

FDOT prepares two types of CEs, Type 1 CEs and Type 2 CEs.

## **Lesson 2: Type 1 Categorical Exclusions**

In Lesson 2 we will discuss Type 1 Categorical Exclusions.

## **Type 1 Categorical Exclusion Overview**

Type 1 Categorical Exclusions provide NEPA approval for smaller construction or repair activities or specific-other actions which fall within pre-established thresholds.

The Type 1 CE provides a brief, checklist-like record that describes the proposed action and then documents that the action falls within pre-established thresholds listed in 23 CFR 771.117. Under NEPA Assignment, the CE document is typically approved by FDOT with no involvement from FHWA.

Actions that qualify as Type 1 CEs not only meet the Categorical Exclusion criteria in 23 CFR 771.117 section (a), that we went over earlier, but are specifically listed in 23 CFR 771.117 section c or d.

These actions are also listed in Part 1, Chapter 2 of the PD&E Manual.

### **Type 1 CEs covered under the 23 CFR 771.117(c) list**

(c) list Categorical Exclusions are defined in 23 CFR 771.117(c), and often require minimal environmental analysis.

Here are some examples of actions which would qualify as Type 1 CEs under the c-list:

- The construction of bicycle and pedestrian lanes, paths, and facilities.
- Landscaping activities.
- The installation of fencing, signs, pavement markings, or traffic signals in areas where no substantial land acquisition or traffic disruption will occur.
- Also, highway resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes. This could include parking, weaving, and turning lanes.

### **Type 1 CEs covered under the 23 CFR 771.117(d) list**

Certain Type 1 CEs will fall within thresholds defined by the “D-list” in 23 CFR 771.117 section (d).

Some examples of (d) list CEs actions include transportation corridor fringe parking facilities, construction of new truck weigh stations or rest areas, and approvals for changes in access control.

On the d-list is number 13 which states: actions described in (c) 26, 27, and 28 that do not meet the constraints in (e).

So, basically if these types of projects on the c-list do not meet the 6 constraints listed here under (e), they will need to be identified as d-list, rather than c-list actions. Use of this CE requires consultation with OEM.

## **Type 1 Categorical Exclusions**

Let's remember that Type 1 CEs include actions either on the c-list or the d-list.

The type of Environmental Document prepared to comply with NEPA for these projects is the Type 1 Categorical Exclusion Checklist. This checklist is provided as a visual in Part 1, Chapter 2 of the PD&E Manual, but is prepared through the StateWide Environmental Project Tracker or SWEPT. We'll go over this checklist later in this lesson.

## **Considerations Throughout the Project Phases**

First, let's go over some important points to consider about Type 1 CEs throughout the different project phases:

During the Planning phase, Type 1 CEs do not present sufficient project magnitude or impacts to qualify for screening in the Environmental Screening Tool, or EST, through the Efficient Transportation Decision Making, or ETDM, process. Therefore, EST screenings are not part of the Type 1 CE NEPA process. We will discuss the qualifications for EST screening later in Lesson 4.

Type 1 CEs also do not require PD&E Studies, thus there is no PD&E phase and typically no public hearing.

Since there is no PD&E phase for Type 1 CEs, NEPA documentation for Type 1 CEs is prepared during the Design phase, and is typically completed at the end of the Plans, Specifications, and Estimates, or PS&E, or 100%, plans.

## **Minor Categorical Exclusion (MiCE) Process Overview**

As a project nears the timeframe when NEPA Class of Action is considered...

The Minor Categorical Exclusion, or MiCE, process may be utilized to assist in making CE determinations.

It is used to address relevant environmental issues and document affects to resources without elevating the Class of Action.

When filling out the Type 1 CE Checklist, some selections require coordination with OEM.

For example, for wetland impacts - if a Standard permit is possible - a note prompts you to contact OEM.

During this coordination, it is determined if the MiCE process should be utilized. The MiCE process would assist in determining if the project should proceed as a Type 1 CE, or possibly switch to a Type 2 CE.

The MiCE process is described in more detail in Part 1, Chapter 2 of the PD&E Manual and in the computer-based training NEPA Introductory Course: Class of Action Determination.

## **Analysis and Coordination**

There are a variety of means to evaluate potential direct environmental impacts for a Type 1 CE.

You may use GIS tools, information gathered from field reviews, as well as knowledge you may have of the project area.

Typically, indirect and cumulative impact assessments are not necessary for Type 1 CEs, since they are minor in nature and do not have significant impacts.

However, impacts to certain resources may require coordination with agencies. Coordination may be needed in order to verify the finding that there is no potential to significantly impact certain environmental resources such as historic resources, wetlands, or listed species.

### **Type 1 CE Checklist**

The Type 1 Categorical Exclusion Checklist is prepared to document the Class of Action for a Type 1 CE after environmental analysis has been completed.

It is prepared in the StateWide Environmental Project Tracker called SWEPT.

In this training, we will discuss the information that is needed to complete the form. A visual of this form is available in Part 1, Chapter 2 of the PD&E Manual. Please note that this form looks different when preparing it in SWEPT. Let's look at this in more detail.

The top portion of the form is automatically populated with project numbers pulled from information already in SWEPT. Based on the scope of work, the preparer would document the project as a c-list or d-list Type 1 CE and include the CE item number for that action from the applicable list. For projects that may fall under two or more actions, preparers identify the CE designation that is most appropriate. The preparer would then add the project description.

The lower portions of the form are to verify that the action will not induce significant impacts. This is to remind the District to stop and consider the significance of the impacts. If a c26, c27, c28 or d-list Type 1 CE is selected, a second verification is needed to verify that the action will not cause changes in interchange access control, result in major traffic disruptions due to construction of temporary access, or the closure of existing roads, bridges, or ramps.

The rest of the form documents the analysis done to determine the significance of impacts to Right of Way, Wetlands, Navigation, Floodplains, Wild and Scenic Rivers, Federally Protected Species, Section 4(f) Properties, Historic and/or Archaeological Resources, Noise, Contamination considerations, and Planning Consistency. Chapters in Part 2 of the PD&E Manual detail how to conduct analysis, assess the project impacts, and consult with resource agencies for each of these issues or resources. Referencing these chapters may be needed to adequately answer these questions in the form.

If during the preparation of the form, an answer requires discussion with OEM, the District contacts the OEM District Project Delivery Coordinator.

Once the project has been verified to meet the conditions for a Type 1 CE, the District Environmental Manager signs the form electronically in SWEPT.

## **Documentation**

The completed Type 1 CE Checklist becomes the Environmental Document for this Class of Action.

Documentation of analysis and coordination are uploaded to SWEPT for the Project File. This documentation should include the results of desktop and/or field review, agency consultation, and any supporting documents and/or technical reports required to substantiate the responses on the checklist.

The Type 1 CE Checklist is completed and approved within the District, through SWEPT, and does not require approval from OEM. However, if Section 4(f) impacts are possible, OEM's concurrence is needed.

After it has been approved, the project plans, scope, and conditions are regularly reviewed through project completion to ensure the project Class of Action continues to be valid.

Once the checklist is completed, the Status of Environmental Certification for Federal Projects form is prepared as required as a part of the contract documents for federal-aid construction projects. It is prepared to certify that environmental analysis has been completed and provides environmental clearance to continue through the project delivery process.

## **Status of Environmental Certification for Federal Project Form**

The Status of Environmental Certification for Federal Project form is also prepared in SWEPT. A visual of the form is included as a figure in Part 1, Chapter 4 of the PD&E Manual.

As with the Type 1 CE Form, the top portion of this form is automatically populated with project numbers pulled from information already in SWEPT, and the preparer provides information on the Project Description.

Below the Project Description, the form shows that the project is a Type 1 CE and includes the number, and the date the Type 1 CE Checklist was signed.

The final section of the form, prior to signature, relates to project re-evaluation. Although we discussed that you would review Type 1 CE projects through completion to ensure NEPA compliance, a re-evaluation in accordance with 23 CFR 771.129 would not be required for a Type 1 CE project, therefore "Not required" would be checked here.

Once the Environmental Certification for Federal Project form is completed, the Environmental Manager, or designee, signs and dates the form in SWEPT, certifying that the Class of Action remains valid and the project continues to be in NEPA compliance. Please note, this form cannot be signed by a Local Agency Program representative, only by FDOT personnel.

## **Type 1 Categorical Exclusion Updates**

When a project moves to another phase, updates or changes are not documented on a Re-evaluation form like other Class of Actions. Instead, an environmental reviewer would refer to the completed Type 1 CE Checklist to see if the Class of Action remains valid given the current project scope and environmental conditions.

If there are no changes to the project scope or conditions that would elevate the Class of Action, a new Status of Environmental Certification for Federal Project is completed.

If there are changes to the project scope or environmental conditions, these changes are documented in a new Type 1 CE Checklist. This form becomes the new Environmental Document after it is submitted through SWEPT. The most recent Type 1 CE Checklist signature date becomes the determination date on the new Status of Environmental Certification for Federal Project form.

### **Type 1 Categorical Exclusion Quiz**

We have now completed Categorical Exclusion Basics and introduced Type 1 Categorical Exclusions. At this time, we'll proceed to the Type 1 Categorical Exclusion Quiz to complete Lessons 1 and 2 of this training.

1. Type 1 Categorical Exclusions \_\_\_\_\_.
  - a. **Are activities involving limited or no construction**
  - b. Require a PD&E phase
  - c. Must have an Environmental Document approved by OEM
  
2. Which of the following statements is true regarding Type 1 CEs?
  - a. c list CEs often require a high level of analysis
  - b. **Certain c list projects that do not meet the constraints listed in 23 CFR 77.117 e will qualify as d list CEs.**
  - c. d list CEs are not listed in the PD&E Manual
  
3. An example of an action which may qualify as Type 1 CE is:
  - a. Construction of a new limited access facility
  - b. **Modernization of a highway by adding auxiliary lanes**
  - c. Residential relocation associated with widening an existing facility
  
4. True or False? Type 1 CEs do not qualify for EST screening through the ETDM process.
  - a. **True, Type 1 CE projects are not the types of projects that qualify for ETDM screening.**
  - b. False

5. True or False? Type 1 CEs do not qualify for the MiCE process.
- True
  - False, to determine if a project is a Type 1 CE, the MiCE process may be necessary.**
6. What is MiCE?
- A Class of Action
  - A way to document the need for an EIS
  - A process that assists with making CE determinations**
7. True or False? One of the major benefits of the MiCE process is that it allows for documentation of affects to resources without elevating the Class of Action.
- True**
  - False
8. Which of the following statements is not true of Type 1 CEs?
- The Type 1 CE Checklist can be completed and approved at the District level.
  - Supporting documentation should be included as an Appendix of the Type 1 CE Checklist.**
  - The completed Type 1 CE Checklist is the Environmental Document for this Class of Action.
9. Which of the following statements is true of Type 1 CEs?
- A Status of Environmental Certification form is not required.
  - The project plans, scope, and conditions are regularly reviewed through project completion to ensure the project Class of Action continues to be valid.**
  - If there are changes to the project scope or environmental conditions, they should not be documented.

## **Lesson 3: Type 2 Categorical Exclusions**

In Lesson 3, we'll discuss Type 2 CEs in more detail.

### **Part 1, Chapter 5 of the PD&E Manual**

Lessons 3 through 7 focus on Type 2 Categorical Exclusions. Further guidance on Type 2 CEs is provided in Part 1, Chapter 5 of the PD&E Manual. You may want to have this chapter handy as you go through these lessons.

This chapter is available on FDOT's Office of Environmental Management, or OEM's, website.

### **Type 2 Categorical Exclusion Overview**

Because of reduced scope or fewer impacts, many projects qualify for NEPA documentation as a Type 2 Categorical Exclusion. These project types do not fall within the Type 1 CE lists provided by 23 CFR, yet they also do not cause significant impacts per 23 CFR 771.117(a).

Whereas a Type 1 CE determination is made by the District; Type 2 CEs often introduce more complex evaluation and judgment. Therefore, Type 2 CE documents require review and approval by OEM.

The Type 2 CE Class of Action determination may be the result of:

- Statewide Acceleration Transformation team meetings
- ETDM Screening
- The MiCE Process
- Or even determined during the PD&E Study.

The Type 2 Categorical Exclusion Determination Form is used to document Type 2 CEs, and is prepared in SWEPT.

### **Type 2 Categorical Exclusion Project Types**

Some examples of types of projects that may qualify as Type 2 CEs are roadway widening, a new interchange, or bridge replacements that are not associated with significant environmental resource issues.

It is important to keep in mind that Class of Action is determined based on known and potential impacts associated with the project, and NOT based on the type of project.

There cannot be significant environmental impacts associated with a project for it to qualify as a Type 2 CE. If significance is in question, then consultation with OEM is necessary to determine whether an Environmental Assessment is the appropriate Class of Action.

## **Considerations Throughout the Project Phases**

During the Planning phase, a Type 2 CE project may qualify for screening through the ETDM Process. In Lesson 4 we will discuss what types of projects qualify.

Type 2 CEs go through a PD&E phase to analyze and document the project's environmental impacts.

During the PD&E process, a public hearing is typically required because....

Most Type 2 CEs are major transportation improvements as described in Section 339.155(5)(b) of the Florida Statutes. These improvements are further discussed in Lesson 5.

## **Lesson 4: Pre-PD&E Actions for Type 2 CEs**

Lesson 4 will provide an overview of actions that take place before the PD&E phase for a Type 2 CE project.

### **Statewide Acceleration Transformation Process**

The Statewide Acceleration Transformation, or SWAT, process is a project management approach that streamlines the Project delivery process through early coordination and communication among the different FDOT functional offices within the District.

The first meeting, a SWAT Planning Meeting, is held to review candidate projects that may be selected for the 5-Year Work Program. Early SWAT analysis identifies the project description, justification, and urgency – and then considers anticipated project challenges, risks, or studies.

At this meeting, it is determined whether a project is state-funded only, or if the project will use federal funds. At this point, an anticipated Class of Action may be determined. A realistic State Transportation Improvement Program delivery schedule can then be developed, which assists with programming decisions. This simple step ensures that FDOT commits to deliverable dates, while also improving the stability of Work Program funding.

During the spring, and after projects have been selected for the Five-Year Work Program: each District holds a SWAT Strategy Meeting to evaluate those projects that are waiting for PD&E to begin. The Strategy Meeting evaluates each project and its unique challenges, formulates the best strategic approach, and then establishes a realistic project delivery schedule. In most cases, certain tasks are identified for each project, which will occur before the start of PD&E. These so-called “pre-PD&E tasks” advance project studies and therefore shorten the PD&E phase duration.

Finally, a SWAT Kick-off Meeting is scheduled for each PD&E project - about a year from the start of the PD&E phase. This meeting considers all project information and known challenges, and then combines staff preparation with managerial overview to establish a project scope for consultant acquisition. The project schedule is then adjusted, as appropriate, to any decisions made.

Guidance on the SWAT process is provided in Part 1, Chapter 4 of the PD&E Manual and the SWAT Training Workbook. A link to the workbook is provided on the resources page of this CBT.

## **Overview of Efficient Transportation Decision Making Process**

Another pre-PD&E action is the Efficient Transportation Decision Making, or ETDM process, which provides agencies and other stakeholders the opportunity for early input and consideration of the environment in FDOT transportation planning.

Interaction is accomplished through the Environmental Technical Advisory Team, or ETAT, which is comprised of staff representatives from participating agencies and stakeholder groups.

The ETAT members use the FDOT's Environmental Screening Tool, or EST, to review project information, review preliminary alternatives, identify potential project effects, and submit comments to FDOT.

There are two ETDM screening events, the Planning Screen and the Programming Screen.

The ETDM Planning Screen is an early review that typically occurs prior to a project being selected to the Five-year Work program. Often conducted by planning staff at Metropolitan Planning Organizations, counties, and even District staff - the Planning Screen is a project sponsor's preliminary attempt to address consistency with local plans, while considering the input of agencies and other stakeholders. Refinements to project scope and description may result.

The ETDM Programming Screen is required for all qualifying projects that will be included or are already included in the Five-Year Work Program but have not started the PD&E Study. The screening looks deeper into anticipated project effects and agency coordination, which then assist with appropriate project scoping for the PD&E phase.

FDOT uses information obtained during the screening events to focus on the issues that should be addressed during the PD&E phase. If it is known that no impacts will be significant, a Type 2 CE Class of Action may be determined.

### **ETDM Qualifying Projects**

Some Type 2 CE projects qualify for ETDM screening. The following roadway project types qualify:

- Adding through lanes which result in additional capacity on an existing road
- Constructing a new roadway, freeway, or expressway
- Constructing a highway that provides new access to an area
- Constructing or reconstructing, or realigning an arterial highway
- A new circumferential or belt highway that bypasses a community
- Addition of new interchanges or major interchange modifications to an existing freeway or expressway. For this one, the District coordinates with OEM to determine the need for ETDM screening.
- Constructing a bridge that provides new access to an area, or replacing a bridge.

This list, as well as factors for determining if a public transportation project should be screened through ETDM, can be found in Part 1, Chapter 2 of the PD&E Manual, and Chapter 2 of the ETDM Manual. A link to these manuals can be found on the resources page of this CBT.

## **Information from ETDM Screening**

As a project moves into the PD&E phase, it is important to review the Final Programming Screen Summary Report to identify preliminary information on the:

- Project purpose and need,
- The planning consistency status,
- Environmental issues and concerns
- Comments from ETAT members,
- Environmental studies or reports that are needed for the project
- The types of permits that may be needed, and
- Relevant issues for analysis.

## **Advance Notification**

Another pre-PD&E activity is the preparation of an Advance Notification, or AN, package, which is sent to agencies, tribes, local officials, and other stakeholders to notify them of an upcoming project. The AN is completed for Type 2 CEs to satisfy intergovernmental coordination and review requirements for federal projects. It is a package of documents that is distributed at the initiation of the Programming Screen, or later, just before the project enters the PD&E phase. The project schedule will determine when the AN is distributed.

The AN process is outlined in Part 1, Chapter 3 of the PD&E Manual. Additionally, FDOT offers a computer-based training, NEPA Introductory Course: Preliminary Environmental Discussion and Advance Notification.

## **PD&E Scope of Services**

Generally, consultants conduct the PD&E studies for FDOT. In order to ensure that the appropriate type of studies and supporting documentation are provided, FDOT develops a PD&E scope of service for the consultant effort required.

Development of a preliminary PD&E scope of services begins during the SWAT Kick-off Meeting that occurs about 12-15 months before PD&E. The Scope of Services may use information from the ETDM Programming Screen. After the project goes through the ETDM programming screen, it can be further developed and refined for the PD&E Study. The scope of services focuses the project activities to issues that have a potential to impact the project and actions needed during the PD&E phase to avoid, minimize or mitigate a project's potential impacts.

FDOT has developed Standard Scopes of Services for procuring PD&E and Design services - and for estimating and negotiating staff hours.

The Standard Scope of Service template for a Type 2 CE is available using the PD&E Study Standard Scope of Services Development Tool available through SWEPT. A link to SWEPT can be found on the resources page.

More information on preparing a PD&E scope of services can be found in the SWAT Training Workbook, Part 1, Chapter 4 of the PD&E Manual, and the computer-based training NEPA Introductory Course: Project Development Process.

## **Lesson 5: PD&E Activities and Guidance for Type 2 Categorical Exclusions**

Lesson 5 will provide an overview of typical PD&E activities, as well as provide guidance for conducting a PD&E Study for a Type 2 CE project.

### **Overview of Activities during PD&E Phase**

One of the major components of the PD&E phase is the implementation of a Public Involvement Plan. Part 1, Chapter 11 of the PD&E Manual describes this plan and associated activities in detail. OEM also offers a Public Involvement page on its website. A link to this site can be found on the resources page.

One of the outcomes of the Public Involvement Plan, and a major milestone of a PD&E Study, is the public hearing. A public hearing is conducted to share project information with the public for their consideration and input. A public hearing is typically required for Type 2 CEs, since they often qualify as a major transportation improvement pursuant to Section 339.155(5)(b) of the Florida Statutes.

These are listed as projects:

1. increasing capacity through the addition of lanes
2. providing new access to a limited or controlled access facility, and
3. construction of a facility in a new location.

Under limited circumstances, when a Type 2 CE does not constitute a major transportation improvement, an opportunity to request a public hearing may be provided to the public in lieu of immediately scheduling a public hearing. The District must obtain OEM approval in order to follow this process.

Also, please note that OEM approval of the Environmental Document is not required prior to the public hearing. The feedback from the public hearing is incorporated into the Environmental Document prior to finalizing decisions, and then submittal to OEM for review and approval.

During the PD&E phase for a Type 2 CE project, engineering analysis, alternatives analysis, and environmental analysis is conducted – in conjunction with the Public Involvement Plan. Also during this phase project impacts are assessed, consultation with resource agencies takes place, and technical reports are completed.

The results of this coordination, analysis, and the technical reports are summarized in a Type 2 CE Determination Form and documented in the Project File. The Project File is maintained electronically in SWEPT. Some items are also included as attachments to the form as we will discuss in Lesson 6.

### **Part 2 of the PD&E Manual**

Chapters in Part 2 of the PD&E Manual detail how to conduct these analyses, consultation, and documentation for each issue or resource considered during a PD&E Study.

Many of the PD&E manual chapters in Part 2 also have associated computer based NEPA Introductory Courses. See the NEPA Introductory Course Catalog for a listing and links to these trainings.

## Issues/Resources in Part 2 of the PD&E Manual

Here we outline the issues and resources that are addressed in a PD&E Study, and the PD&E Manual chapters in Part 2 in which they are discussed. These resource areas are divided into four categories:

- Social and Economic,
- Cultural,
- Natural, and
- Physical

Included within the Social and Economic category are:

- Sociocultural Effects,
- Aesthetic Effects, and
- Farmland,

which are covered in chapters 4, 5, and 6.

The Cultural category includes:

- Section 4(f) Resources, and
  - Archaeological and Historic Resources,
- which are covered in chapters 7 and 8.

The Natural category covers:

- Wetlands and Other Surface Waters,
- Aquatic Preserves and Outstanding Florida Waters,
- Water Quality and Stormwater,
- Wild and Scenic Rivers,
- Floodplains,
- Coastal Zone Consistency,
- Coastal Barrier Resources,
- Protected Species and Habitat, and
- Essential Fish Habitat.

Natural Resources are covered in Chapters 9 through 17.

Lastly, the Physical category includes:

- Highway Traffic Noise
- Air Quality,
- Contamination, and
- Utilities and Railroads

These resource areas are discussed in Chapters 18 through 21.

## **Lesson 6: Preparing the Type 2 CE Determination Form**

In Lesson 6 we'll discuss how to prepare the Type 2 Categorical Exclusion Determination Form.

### **Type 2 Categorical Exclusions**

The Type 2 CE will need to support the determination that the project qualifies as a CE, rather than an Environmental Assessment or Environmental Impact Statement.

The focus should be on documenting the CE determination, and keeping the Environmental Document as concise as possible and focused on the potential environmental impacts.

The level of detail necessary will depend upon the type and level of environmental impacts.

### **Type 2 Categorical Exclusion Determination Form**

Once the engineering analysis and impact assessments have been completed, the Type 2 Categorical Exclusion Determination Form is prepared in SWEPT. In this lesson, we will provide guidance on completing only specific sections of the form.

For full instructions on completing this form in SWEPT, see the SWEPT -Type 2 CE Form video, which is available on OEM's Training Program - Track 2 Website. A link to this site is found on the resources page.

The first portion of the form includes the general project information such as the Project Name, Project Limits, County, and Project Numbers. General project information is generated through SWEPT, and some entry is required by the preparer.

The Project Description section should briefly describe the proposed action, in terms of location, length, and termini of the project action and typical section(s). Use appropriate engineering detail to show the number of lanes and their width, major structures, proposed capacity and safety improvements, estimated Right of Way to be acquired, and construction year, if available.

In the project Purpose and Need text box, briefly describe the purpose and justification of the project. Identify and describe the transportation needs and the purpose it is intended to satisfy. For example, this could be to provide system continuity, alleviate traffic congestion, and/or correct safety or roadway deficiencies. If the project was screened through the EST, update the purpose and need, as appropriate, to reflect current project conditions. Guidance on how to prepare the project description and purpose and need information is provided in Part 2, Chapter 1 of the PD&E Manual.

Project planning consistency information is added to the form to reflect that a project is appropriately described and cost estimates in state and local plans are consistent. Instructions on meeting the requirements are provided in Guidance for Meeting Planning Requirements for NEPA Approval. A link to this site is provided in the Resources page.

Add supporting documentation for project plan consistency as an attachment such as the appropriate Long Range Transportation Plan, or LRTP, Cost Feasible Plan LRTP, Transportation Improvement Program, and current State Transportation Improvement Program pages. For future phases not currently shown on the referenced plans and programs, this form should also document planned steps towards implementation, including the anticipated fiscal years. This should be coordinated with District Planning staff and may need to be documented in the appropriate plans and programs as well.

To address LRTP consistency for Type 2 CE projects that were not screened through the EST, coordinate with District planning staff and verify that the project is represented in the LRTP summary sheet. Examples may include general sidewalk, pedestrian improvement, and safety projects. The summary sheet shows projects that are not individually listed in the LRTP. Include the sheet as an attachment. Reporting should be the same for projects with segmented implementation, with each segment added to the table. Note that when the project is going to be divided into segments, these segments should be described in the table. For example, if the project is 15 miles long and the first segment is 5 miles, then the table should clearly describe the other segments. It is not sufficient to simply state that the remaining 10 miles may be segmented at some point in the future. For additional clarity, a map showing project segments may also be included with the form.

The form then documents the Environmental Analysis. This includes the issue or resource areas we discussed in Lesson 5, including:

- Social and Economic,
- Cultural Resources,
- Natural Resources, and
- Physical Categories.

Please note that details about each of these resources or issues can be found in chapters included in Part 2 of the PD&E Manual.

The Type 2 CE Form also documents the engineering analysis, permits anticipated for the project, public involvement, and any commitments made by FDOT during the PD&E Study.

### **Technical Materials vs. Attachments**

Technical Materials are documents that have been prepared to support the Type 2 CE. They are uploaded to the SWEPT Project File when preparing each section of the Type 2 CE Form. The Project File should contain the analytical documentation to support the project decisions. Technical Materials are not attached to the approved document. Instead, they are referenced.

Attachments are documents that are incorporated into the Type 2 CE. They are also uploaded to the SWEPT project file and added as attachments when preparing each section of the form. Attachments may include concurrence letters, coordination memos, and maps as appropriate for each section. These documents are included in the Appendix.

## **OEM Approval**

Once OEM has reviewed the Environmental Document and found it to be acceptable, the Director of OEM, or designee, must sign the form electronically. Signing the Type 2 CE constitutes Location and Design Concept Acceptance, or LDCA. All signatures are electronically- provided in SWEPT.

As you can see here, the form includes a standard statement about NEPA assignment.

## **Concurrence Letters**

Throughout this training we've discussed the need to document impact determinations to demonstrate that a project qualifies as a CE. For a Type 2 CE project, the preparer will want to include relevant agency concurrence letters.

When applicable, it is best to have the:

- State Historic Preservation Officer determination of eligibility letter and concurrence letter
- US Fish and Wildlife Service consultation letter
- Section 4(f) determination of applicability, and
- Environmental Protection Agency sole source aquifer letter

incorporated into the environmental documentation and available for public review before the public hearing.

If your project requires a:

- Section 106 Case Study and Memorandum of Agreement or
- Section 4(f) de minimis, Individual, or Programmatic finding

these concurrence letters will not be processed until *after* the public hearing.

## **Hold Public Hearing Part 1, Chapter 11 – PD&E Manual**

The public hearing is one of the last steps in the PD&E process for a Type 2 CE. After the public hearing, a Public Hearing Transcript and Public Hearing Certification are generated, and a final project decision made. These forms are then uploaded to the SWEPT project file and added as an attachment to the Type 2 CE Form. Other new materials incorporated by reference should be uploaded into SWEPT.

Guidance on preparing for, conducting, and documenting the public hearing can be found in Part 1, Chapter 11 of the PD&E Manual.

## **Overview of the Type 2 CE Review Process**

This diagram shows an overview of the Type 2 CE Review Process. Once the Type 2 CE Form is prepared and the District has performed their quality control review, the District submits the Type 2 Categorical Exclusion form to OEM and Cooperating Agencies for review. When required, OEM will then send it to the legal office for review. The District then updates the document and re-submits for OEM approval.

## **Documents Submitted for Review and Approval**

Now let's get into more detail on this review process. First, the District should complete the Environmental Document Submittal Form in SWEPT.

Then, the draft version of the Type 2 Categorical Exclusion Determination Form is saved as a PDF file in SWEPT and uploaded along with supporting information into FDOT's Electronic Review and Comment, or ERC, system.

Supporting information includes planning consistency documentation and agency correspondence containing concurrence or findings.

Once OEM receives the Type 2 CE Determination Form, they will follow their review process outlined in the computer based training course: NEPA Assignment: Part 2 - District and Central Office Coordination under NEPA Assignment.

The document will also be submitted to Cooperating Agencies through the EST at the same time it is submitted to OEM. Remember those Cooperating Agencies are those that have legal or jurisdiction requirements tied to the preparation of the Type 2 CE.

OEM will issue Location and Design Concept Acceptance, or LDCA, once it has been determined that all Type 2 CE requirements have been met. LDCA is the final approval allowing the project to be advanced to the next phase of project delivery.

## **Lesson 7: Actions after Type 2 Categorical Exclusion Approval**

We've discussed the actions that take place in preparation for and during a PD&E Study. Now our last Lesson, 7, will provide an overview of actions that take place after approval of a Type 2 CE.

### **Actions after Document Approval**

Some of the actions that typically take place after the approval of a Type 2 CE project are:

- Public announcement of project LDCA
- Re-evaluations between each federal funding phase
- Hand-off meetings prior to Design
- Project Design
- Environmental permitting and any NEPA follow-up actions and
- Commitment compliance documentation

### **Public Announcement**

After document approval, the District publishes an announcement in one or more local newspapers, informing the public that LDCA has been granted for the project. This announcement is made in the same local newspaper or papers originally used for the public hearing notification.

Announcement of LDCA is also sent to Cooperating Agencies, participating agencies, and other interested agencies or stakeholders, primarily through the EST.

## **Re-evaluation**

Re-evaluations of Type 2 CEs document whether changes have occurred since approval of the Type 2 CE.

Re-evaluations are required under Title 23 CFR section 771.129(c), to ensure there has not been a significant change in the project design, project limits, scope, or environmental impacts.

Type 2 CE Re-evaluations require the completion of a Re-evaluation Form, which is prepared in SWEPT.

Guidance on Re-evaluations is provided in Part 1, Chapter 13 of the PD&E Manual and the computer based training NEPA Introductory Course: Re-evaluations.

## **Design- Sharing of Information**

It's important to share project information documented during the PD&E Study and any subsequent Re-evaluations, prior to designing the project. This is because NEPA compliance must be tracked and maintained throughout the life of a project, not just during a PD&E Study or Re-evaluation.

Hand-off meetings are an efficient and effective way to share information between and among Project Managers and teams for different project phases. They help maintain NEPA compliance from one project phase to the next.

After the PD&E phase ends, the Design team should review the Type 2 CE. The PD&E Project Manager, environmental staff, and other members of the PD&E team with specialized knowledge of the project, should meet with the Design Project Manager and design team to discuss the project conditions, conceptual design, and commitments. The logistics and schedule of any additional required assessments or analyses could also be coordinated at this time. A handoff meeting should also be conducted between Design and Construction phases.

The Design team should also review the Preliminary Engineering Report to ensure all necessary actions are implemented and documented at the appropriate times. The Preliminary Engineering report is a technical document that is referenced in the Type 2 CE.

It is important that any pending environmental analysis is considered during the development of the scope of services for project design.

## **Design- Environmental Office Involvement**

During the Design phase, the District Environmental Offices conduct any required Re-evaluations and conduct plan reviews.

Typically, the Environmental Office reviews the 30%, 60%, and 90% plans and Plans, Specifications, and Estimates, or PS&E, plan submittals. Generally, permit applications are prepared and submitted based on 60% plans. Right of Way needs are also determined at the 60% plans stage.

During these plans review, the environmental specialist compares the project design to the Project Commitment Record and last Re-evaluation to identify major design changes or new Right of Way needs, and to ensure commitment fulfillment.

Staff from the Environmental Office should attend phase review meetings, if held by the District, to share information and coordinate any necessary supplemental assessments or permitting requirements.

Any comments related to the project design, or considerations for the designer, will be entered into the Electronic Review and Comments, or ERC, system.

## **Design- Environmental Permitting**

As discussed previously, any necessary permits are typically applied for during the Design phase, and coordination initiated earlier in project development continues with agencies.

Also, the project mitigation plan is refined and finalized based on agency coordination and the final impacts resulting from the project footprint.

## **Types of Permits**

There are several types of commonly required permits for transportation projects:

The State Environmental Resource Permit, and the Federal Section 404 permit for dredge and fill of wetlands are required for projects that have involvement with wetlands.

For projects that involve navigable waterways, a United States Coast Guard Bridge Permit and United States Army Corps of Engineers Navigable Waters permit are needed.

Further detail on environmental permits that may be needed for FDOT projects can be found in Part 1, Chapter 12 of the PD&E Manual.

## **Other NEPA Actions During Design**

Other NEPA actions that commonly occur during the Design phase include:

- Finalization of Section 7 Endangered Species Act consultation with the US Fish and Wildlife Service
- Wetland jurisdictional determination
- Quantification of wetland impacts using the Uniform Mitigation Assessment Method, or UMAM
- Coordination with permitting agencies regarding mitigation
- Noise wall surveys and preparation of the Noise Study Addendum
- and Level II Contamination Assessment

## **Type 2 Categorical Exclusion Quiz**

You have completed the NEPA Introductory Course: Categorical Exclusions. Now we'll proceed to the Type 2 Categorical Exclusions Quiz to complete this training.

1. True or False? Class of Action is determined based on impacts associated with the project, not the type of project.
  - a. **True, Class of Action is based on the impacts associated with the project.**
  - b. False
  
2. True or False? There can be significant environmental impacts associated with a Type 2 CE project.
  - a. True
  - b. **False, if there are significant impacts the project cannot be a Categorical Exclusion.**
  
3. A Type 2 CE project \_\_\_\_\_.
  - a. May be screened through the ETDM Process
  - b. Has a PD&E phase when documentation is prepared
  - c. Typically requires a public hearing
  - d. **All of the above**
  
4. One of the major activities conducted during the PD&E phase of a Type 2 CE project is \_\_\_\_\_.
  - a. The completion of the Type 1 CE Checklist at the District level
  - b. The improvement of blighted communities through new business development
  - c. **The implementation of a Public Involvement Plan**
  
5. The documentation requirements for a Type 2 CE project include \_\_\_\_\_.
  - a. **The creation of a Project File and the completion of the Type 2 CE Determination Form.**
  - b. The creation of a Project File and completion of the Type 1 CE Checklist.
  - c. The completion of Formal Consultation and the Type 2 CE Determination Form, as well as the preparation of the ETDM Summary Report.
  
6. Part 2 of the PD&E Manual details \_\_\_\_\_.
  - a. Analysis and documentation requirements for each environmental resource area considered during a PD&E Study.
  - b. How to conduct analyses, assess impacts, consult with resource agencies, and complete technical reports.
  - c. **Both a. and b.**

7. The four categories of resources addressed in a PD&E Study are \_\_\_\_\_.
- Business, Cultural, Natural, and Physical.
  - Social and Economic, Cultural, Natural, and Physical.**
  - Wildlife and Wetlands, Cultural, Human, and Physical.
8. True or False? The PD&E Study Team should focus on documenting the CE determination to the level required for an Environmental Assessment, in case a higher Class of Action is required.
- True
  - False, an EA level of documentation is not needed for a Type 2 CE.**

## Resources

The Office of Environmental Management maintains a central library of training materials as well as documents and publications including manuals, handbooks, guidelines and agreements.

Key references pertinent to this training include the Environmental Management Academy Course Catalog, which is in FDOT Learning Curve. The Environmental Management Academy Course Catalog is also available through the OEM PD&E Training Track.

Other resources include:

- the PD&E Manual;
- the ETDM Manual;
- the StateWide Environmental Project Tracker;
- the SWAT Training Workbook;
- the OEM Public Involvement Web Page;
- OEM's Training Program - Track 2; and
- Guidance for Meeting Planning Requirements for NEPA Approval

Links to documents listed here are included on the Resources Page. You can access the Resources page by selecting the Resources tab on the Course Landing page.

## Conclusion

You have now completed the NEPA Introductory Course titled Categorical Exclusions. Thank you for your time and attention.