

# **NEPA Introductory Course: Class of Action Transcript**

## **Welcome**

Welcome to the National Environmental Policy Act also known as NEPA Introductory Course on Class of Action provided by the Florida Department of Transportation's or FDOT's Office of Environmental Management. This training contains audio, so please adjust your speakers accordingly. This CBT contains interactive elements. An alternate version is available on the resources page.

## **Introduction**

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, or OEM website PD&E Training Track for other computer based trainings in this series. Several of these trainings are referenced throughout this CBT. Links to these sites are included 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 the Federal Highway Administration and FDOT.

The purpose of this course is to provide instruction on Classes of Action as described in the Project Development and Environment or PD&E Manual.

We will be learning about the Classes of Action used to categorize federal FDOT projects, how the Class of Action is determined and what the Class of Action means for your project. The Class of Action Determination is just one step, the first step, in assuring NEPA compliance.

Please note you may pause this training at any time.

## **Lesson Outline**

This training will have five lessons.

Lesson 1 will discuss the Basics of Class of Action Determination.

In Lesson 2 we will go over preliminary Class of Action during the Planning phase.

Lesson 3 will provide an Overview of the different types of Environmental Documents.

Lesson 4 will provide guidance on the Minor Categorical Exclusion or MiCE process, and in Lesson 5 we will discuss changing the Class of Action.

## **Lesson 1: Basics of Class of Action Determination**

Lesson 1 will cover the basics of the Class of Action Determination. This lesson will discuss each Class of Action, explain when and how the Class of Action is determined, and define significance.

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

Guidance on determining the Class of Action is provided in Part 1, Chapter 2 of the PD&E Manual.

You may want to have this chapter handy as you go through this training. This chapter is available on FDOT's OEM website.

A link to this site can be found on the resources page; it can also connect you to other chapters of the PD&E Manual that are referenced throughout this training.

### **The National Environmental Policy Act**

On a higher level, Environmental Documents under NEPA are required to obtain authorization for the federal expenditure of right of way and construction funds, and also serve as a basis to comply with a host of environmental laws and permits. Classes of Action depict the various types of Environmental Documents that are prepared under NEPA.

A broad perspective on the creation of NEPA and its various components, is available through the NEPA Introductory Course: NEPA 101 (Parts 1 and 2).

### **What is Class of Action?**

What is a Class of Action? Congress followed a common-sense approach when formulating NEPA legislation. Sponsors recognized that proposed actions could range in size and scope, therefore NEPA offers a variety of document types that "fit" the project scope and environmental impacts. Projects of minor scope with small impact require less study, and thus a smaller document. Conversely, projects with big impacts require considerable study and resultantly, a large and comprehensive document.

NEPA defines these differing document types as "Class of Action."

Furthermore, NEPA uses only one measuring-stick to define the difference. That measurement is: “Significance” – in terms of the project’s impacts on the human and the natural environment. Degree of Significance goes hand-in-hand with determining a project’s Class of Action.

Let’s delve further into these definitions.

## **Classes of Action**

There are 3 Classes of Action which establish the type of Environmental Document required by the NEPA process. These are:

- Class I: Environmental Impact Statements
- Class II: Categorical Exclusions
- Class III: Environmental Assessments

## **Definitions in 23 CFR § 771.115**

The Class of Actions for federal highway projects are defined in 23 CFR 771.115 as:

Environmental Impact Statements (Class I) - Actions that significantly affect the environment. These large EIS documents are prepared when you know the project will have significant environmental impacts. They involve extensive studies that generate voluminous documents.

Categorical Exclusions (Class II) -

Actions represent the smallest Environmental Documents which cover actions that do not have a significant environmental effect and are excluded from the requirement to prepare an Environmental Assessment or Environmental Impact Statement. Professionals refer to these as a CEs.

Many CEs are prepared for small projects which fall into certain, “categorized” project-type listings which are then “excluded” from more detailed studies – OR - when you know the project will not significantly affect the environment.

As an example, the resurfacing of an existing highway creates very minor potential for environmental impacts, because the project is contained entirely within a previously developed footprint. This low-impact project appropriately requires only minimal documentation to obtain approval for the action.

Naturally then, certain mid-sized projects in terms of scope or impact, are to be expected, which may represent actions in which the significance of the environmental impacts is not clearly established. These actions fall into the Class III designation of Environmental Assessments, or EA. These EA document types determine whether the proposed action will cause significant environmental impact – or not.

We will delve into the structure of each document in just a few moments.

As previously mentioned, the Class of Action is based on anticipated environmental impacts, which MUST be considered for each project prior to finalizing the Class of Action determination.

Since 1970, federal guidance has evolved to assist practitioners with the appropriate application of NEPA. Years of project experience with agencies and stakeholders also develops a seasoned and practical perspective among NEPA practitioners, who can gauge the most appropriate document type for the project at-hand.

For example:

The construction of a new roadway on a new alignment may present the highest Class of Action (an Environmental Impact Statement) because it would cause impacts to undisturbed resources.

Comparatively, an in-kind bridge replacement may qualify as the lowest Class of Action (a Categorical Exclusion) because the existing facility can be replaced in-kind at the same location. But what if that bridge is eligible for listing in the National Register of Historic Places? What if the bridge is within the nesting zone of a federally listed species?

The point is, that while we can get a feel for the Class of Action based on the scope of work, the Class of Action cannot be determined without considering the project location and its potential environmental impacts. The Class of Action determination process will be discussed further in Lesson 2.

### **How is Class of Action Determined?**

Class of Action is determined based on a preliminary analysis to gauge whether the impacts of a project are going to be significant. First, it must be determined that the project is a federal project. This is typically determined during the Statewide Acceleration Transformation, or SWAT process which we will discuss in Lesson 2.

In determining significance, you need to look at the proposed project area and consider the potential impacts to the human, cultural, natural, and physical environment. This includes not only direct impacts, but long-term effects, indirect, and cumulative impacts.

### **What is Significance?**

So, what is significance? We keep saying significant impacts, but what does significant mean?

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 the CEQ the determination of a significant impact is a function of both context and intensity.

Context is the setting of the project, such as the geographic, physical, natural, economic, and social setting of the action. The context is both the broader area, such as the society as a whole or watershed, for example, and the narrower environment, such as a specific neighborhood or stream.

Intensity refers to the severity of the impact.

### **How is Significance Determined?**

How is significance determined? To determine significance, the severity of the impact must be examined in terms of the type, quality and sensitivity of the resource involved; the location of the proposed project; the duration of the effect and other consideration of context. Significance of the impact will vary with the setting of the proposed action and the surrounding area (including residential, industrial, commercial, and natural sites).

Let's discuss context, which is essentially the affected environment. The significance of an action must be analyzed in several contexts such as, society as a whole, the affected region, the affected interests, and locality. Short term vs. long term effects are also relevant.

Then you look at the intensity of the impacts.

The CEQ rules at 40 CFR 1508.27 direct the consideration of ten factors when evaluating intensity including:

1. Impacts that may be beneficial or adverse. A significant effect may exist even if the effect will be beneficial.
2. The degree to which the proposed action affects public health or safety.
3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.
5. The degree to which the possible effects on the human environment are highly uncertain or include unique or unknown risks.
6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.
8. The degree to which the action may adversely affect historic districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.
9. The degree to which the action may adversely affect an endangered or threatened species or its habitat.
10. Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.

### **Is There a List of Significant Impact Thresholds?**

CEQ does not provide a standing list of significant impact thresholds.

A categorical exclusion checklist serves as a basis to help identify projects that usually require less extensive analysis and documentation.

For each project, the unique contextual parameters must be considered, then the intensity of the impacts must be gauged against that background.

Experience with past projects or consultation with other agencies or stakeholders is considered when determining significance.

The policies of agencies with jurisdiction, models, or previous analysis can also assist with the determination.

### **Example Scenario**

For example, let's say there is a proposed highway that will impact 12 acres of wetlands. What do you think? Is this a significant impact?

### **Answer: It Depends on the Context and Intensity**

Well it all depends on the context and intensity.

What if the wetland impact occurs among thousands of acres of similar ecosystem? In this case the impact is not severe to the environment.

But what if the impact is to a wetland in a desert oasis? Now THAT is different... because the impact would be severe and the wetland's function is likely vital to the region. For example: the wetland may offer the only water, forage, and shelter for 100 miles in any direction, and be a known stop for migratory birds - as well as humans.

Many considerations can apply. Do the 12 acres of wetlands carry a rare or special designation?

For example, is the area within core foraging habitat for wood storks?

Is it a mitigation site for another project?

Can mitigation be provided to offset impacts?

The determination of significance will depend on these project specific details.

## **How is Class of Action Determined?**

So how do we actually determine the Class of Action? Early on, scoping helps set conceptual project limits. You look at the proposed project footprint and identify areas that may be impacted. Alternatives are developed and then screened using GIS information to quantify and compare potential impacts. For FDOT projects, this screening happens through the Efficient Transportation Decision Making Process using the Environmental Screening Tool or EST.

Past projects and other knowledge of the area may also help to identify resources. Human, natural, cultural, and physical resources or issues are all considered as well as the future development potential as it relates to indirect and cumulative impacts. Feedback from agencies and stakeholders also contributes. With the information at hand, the Districts should quantify potential impacts and then consult with the Office of Environmental Management.

## **When is the Class of Action Determined? - Smaller Projects**

When is the Class of Action Determined? Ideally, FDOT wants to know the Class of Action at the time of project selection to the Work Program, so that funding for appropriate phase deliveries can be established. However, this determination depends on known information about the project and its estimated impacts. Continued discovery may continue as the project leads up-to, and into the PD&E phase.

For non-construction activities or projects with limited construction activities, the Class of Action discussion typically begins at the District SWAT Planning Meeting. The determination is made by the District and supported by a categorical exclusion checklist.

These types of projects typically do not qualify for Efficient Transportation Decision Making or ETDM screening and do not have a PD&E phase.

We will discuss the SWAT process and ETDM screenings in Lesson 2.

## **When is the Class of Action Determined? - Larger Projects**

For larger projects that qualify for ETDM screening, an anticipated Class of Action is discussed during SWAT team meetings. A preliminary Class of Action may also be determined during the ETDM Screenings and documented in a Programming Screen Summary Report. This preliminary determination is based upon the estimated impacts at that time, using information that is currently available on the project. The Class of Action determination would then be finalized during the PD&E phase once more details about the project are available and the environmental impacts are evaluated. If not identified earlier, the Class of Action may be determined during the PD&E phase.

For other projects, the Class of Action determination may occur at the time of selection to the Work Program, or leading up to, or during the PD&E phase. It all depends on the specific project impacts and the information available to help determine the Class of Action.

The Class of Action is determined by the District in coordination with OEM for these larger projects.

## **Lesson 2: Preliminary Class of Action During Planning**

Lesson 2 provides an overview of the SWAT and the ETDM Processes which take place during planning. We will briefly discuss how these two processes are used to help determine the Class of Action for some projects.

## **Statewide Acceleration Transformation**

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 functional offices within the FDOT 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 special studies.

At this meeting, it is determined whether a project will be state funded only or if the project will use federal funds. At this point, an anticipated Class of Action may be determined. A realistic project delivery schedule – by phase – is then developed. This early “Work Program Schedule” informs programming decisions that accurately fund each phase in a timely manner.



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, and then formulates the best strategic approach to meet the FDOT schedule need. An optimized project delivery schedule is then generated. 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 12-15 months 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 in the SWAT Training Workbook. A link to the workbook is provided on the resources page.

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

Another planning process, the Efficient Transportation Decision Making or ETDM Process provides agencies and other stakeholders the opportunity for early input and consideration of the environment in FDOT transportation planning.

An established Environmental Technical Advisory Team or ETAT, comprised of representatives from regulatory agencies and other stake holders use the Environmental Screening Tool or EST to review the project information, review preliminary alternatives, identify potential project effects, and submit comments to FDOT.

The ETDM process includes two Screening events: the Planning Screen and the Programming Screen.

The 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. It should be noted that ETDM Screenings are available to all citizens, Tribes, agencies, local governments, and other stakeholders once finalized. ETDM also affords willing participants with the opportunity to provide comments.

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 assists appropriate project scoping for the PD&E phase.

FDOT uses information obtained during the screening events to focus the analysis on the issues that should be addressed during the PD&E phase.

More detailed information on this process can be found in FDOT's ETDM Manual, which is available on OEM's website. A link to this manual can be found on the resources page.

### **Projects Qualifying for ETDM Screening**

Projects which qualify for ETDM screening are listed in Part 1, Chapter 2 of the PD&E Manual and Chapter 2 of the ETDM Manual. As you can see here, the roadway projects that qualify include:

- Additional through lanes which add capacity to an existing road
- A new roadway, freeway or expressway
- A highway which provides new access to an area
- A new or reconstructed arterial highway (e.g., realignment)
- A new circumferential or belt highway that bypasses a community
- Addition of interchanges or major interchange modifications to a completed freeway or expressway (based on coordination with OEM)
- A new bridge which provides new access to an area and bridge replacements

### **Efficient Transportation Decision Making Process and Class of Action**

The ETDM process includes a GIS analysis of the environmental features within and surrounding the project area. The results of the GIS analysis coupled with the input from the ETAT agencies are often sufficient enough to propose the Class of Action for the project.

The District is responsible for compiling and reviewing the project information and proposing the Class of Action, which is then reviewed and approved (or commented on) by OEM. The process for obtaining the Class of Action during the Programming

Screen requires that the District ETDM Coordinator complete the Environmental Class of Action Recommendation Form using the EST.

Guidance on preparing this form is provided in a training session available on OEM's training website. A link to this site is found on the resources page. Instructions and a visual of the form are also provided in Part 1, Chapter 2 of the PD&E Manual.

If the Class of Action Determination is approved, it can be included in a Final Programming Screen Summary Report. However, if more information is needed to determine the Class of Action, the project can move forward to the PD&E phase without a Class of Action. The Class of Action would then be determined during the PD&E phase. Coordination with Work Program staff is essential - to ensure that the Five-Year Work Program continually reflects realistic funding and project delivery timeframes.

### **Lesson 3: Overview of Environmental Document Types**

Lesson 3 provides an overview of the Environmental Documentation required for each Class of Action.

#### **Class of Action - Categorical Exclusion**

As we mentioned earlier, there are three main Classes of Action. Categorical Exclusions - which we will discuss now - and Environmental Assessments and Environmental Impact Statements which we will discuss later.

#### **Categorical Exclusions**

Categorical Exclusions or "CEs" are projects that, based on past experience with similar actions, do not individually or cumulatively have a significant environmental effect.

They are not excluded from meeting NEPA requirements. They are only excluded from the requirement to prepare an Environmental Assessment or Environmental Impact Statement.

The documentation needed for a CE is flexible, and may vary based on the level of coordination and documentation that is needed to support the determination that an Environmental Assessment or Environmental Impact Statement is not needed.

## **What Qualifies as a Categorical Exclusion?**

In order for a project to qualify as a CE, it must meet certain criteria found in 23 CFR 771.117(a). These criteria are that it must be sufficiently evident that the project **will not**:

- Involve significant environmental impacts
- 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

This list is included in Part 1, Chapter 2 of the PD&E Manual. If there is any uncertainty as to whether a project meets the conditions for a CE, the District should contact OEM. Early planning and coordination are essential to a timely completion of the documentation process.

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

FDOT prepares two types of Categorical Exclusions:

Type 1 Categorical Exclusions called Type 1 CEs, and Type 2 Categorical Exclusions called Type 2 CEs.

### **Type 1 Categorical Exclusions**

Type 1 CEs may include non-construction activities (such as planning studies and research activities) and projects with limited construction activities.

Actions which qualify as a Type 1 CE are listed in 23 CFR 771.117(c), or (d). These lists are included in Part 1, Chapter 2 of the PD&E Manual for ease of reference.

### **C- list or D-list Type 1 Categorical Exclusion?**

Actions included on the C-list and D-list are both recognized as Type 1 CEs if they meet the CE criteria in 23 CFR 771.117(a). So, what's the difference between C-list and D-list?

C-list Type 1 Categorical exclusions are defined in 23 CFR 771.117(c). These listed actions are pre-approved and do not require any further NEPA approvals from OEM.

Common examples include roadside utility installations, bike lanes, and similar low or no-impact activities. The District must verify that the listed actions meet the criteria.

D-list Type 1 Categorical Exclusions are defined in 23 CFR 771.117(d). D-list CEs include less common activities such as weigh stations and rest areas or land acquisition for protective purposes, as well as certain (c)-list projects that do not meet constraints that are listed in 23 CFR 771.117(e). These constraints are covered in more detail in Part 1, Chapter 2 of the PD&E Manual and the computer based NEPA Introductory Course: Categorical Exclusions.

### **Type 1 Categorical Exclusions**

All actions listed, whether C-list or D-list must also qualify as Categorical Exclusions under 23 CFR 771.117(a), as we discussed earlier, meaning they cannot have significant environmental impacts.

A Type 1 Categorical Exclusion Checklist is prepared for each Type 1 CE project to document that the project consists of the actions listed in 23 CFR 771.117. The Type 1 CE Checklist is an official FDOT form that is only prepared using the StateWide Environmental Project Tracker, or SWEPT. A visual of the form is included as a figure in Part 1, Chapter 2 of the PD&E Manual.

Detail on completing the form is included in the computer based NEPA Introductory Course: Categorical Exclusions.

### **Type 1 Categorical Exclusion Project Types**

A few examples of actions which would qualify as Type 1 CEs include the construction of bike and pedestrian facilities, resurfacing projects, fence installation, and landscaping, among others.

### **Type 2 Categorical Exclusions**

The other type of Categorical Exclusion is the Type 2 CE. Type 2 CEs also must qualify as a Categorical Exclusion under 23 CFR 771.117(a), meaning they don't have significant impacts, but do not meet the requirements for a Type 1 CE.

A Type 2 Categorical Exclusion Determination Form and supporting documentation is prepared for each Type 2 CE project to document that the project does not involve significant environmental impacts. This form is only completed using SWEPT.

Guidance on completing this form, is available in the computer based NEPA Introductory Course: Categorical Exclusions, and in 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.

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

The following project types may be Type 2 CEs, with the understanding that project impacts must not be significant.

- Widening an existing roadway
- Constructing a new interchange
- Bridge replacement - some bridge replacements may qualify as a Type 2 CE while others may be an EA or EIS depending on the project impacts.

Well beyond these project types, a variety of undefined of actions might qualify.

In summary, Type 2 CEs provide the opportunity to prepare a condensed document to obtain approval on projects anticipated to have low impacts - and which do not qualify under the Type 1 CE listing.

## **Class of Action - Environmental Assessment**

The next Class of Action we will discuss is the Environmental Assessment. An Environmental Assessment or EA is the Class of Action assigned to a project when there is a question of significance, or the extent of environmental impacts is not yet known.

## **Environmental Assessment**

Detailed information on preparing an EA is provided in Part 1, Chapter 6 of the PD&E Manual. A computer based NEPA Introductory Course is also available for guidance on preparing an Environmental Assessment.

## **Resulting Federal Determination**

Completion of an EA will result in one of two scenarios. Either, the EA will determine that the project will not result in significant impacts or it will conclude that the project will or is likely to result in significant environmental impacts.

When no significant impacts are anticipated, the EA is immediately followed with a smaller document entitled: Finding of No Significant Impact or FONSI.

The FONSI document announces the final project decision while clearly establishing that the impacts are not significant.

Part 1, Chapter 7 of the PD&E Manual provides instruction regarding preparation of a FONSI. A computer based NEPA Introductory Course is also available for preparation of a FONSI.

When significant impacts are anticipated, the Class of Action is elevated to an Environment Impact Statement or EIS, which requires the preparation of a Draft Environmental Impact Statement or DEIS, followed by a combined Final Environmental Impact Statement or FEIS and Record of Decision or ROD.

The Draft Environmental Impact Statement is addressed in Part 1, Chapter 8 of the PD&E Manual, while the FEIS and ROD are covered in Chapter 9.

Two computer based training NEPA Introductory Courses are available addressing Environmental Impact Statements. The first provides an EIS overview and discusses the DEIS. The second course covers the FEIS and the Record of Decision.

### **Environmental Assessment Project Types**

The following project types may be EAs. Once again, the Class of Action depends on the significance of any associated environmental impacts.

- Widening an existing roadway
- New water crossing
- Bridge replacement - some bridge replacements may qualify as a Type 1 CE while others may be an EA or EIS depending on the issues.

Projects representing potential to acquire considerable amounts of right of way are prime candidates for an EA – especially if the corresponding environmental impacts are unknown.

Once again, the Class of Action is based on the known and potential impacts associated with the project, and not on the type of project or scope of work.

### **Class of Action - Environmental Impact Statement**

The highest - Class of Action is the Environmental Impact Statement or EIS.

EIS is the Class of Action assigned to a project which is expected to significantly affect the environment.

## **Environmental Impact Statement**

A Draft Environmental Impact Statement or DEIS is prepared to document the initial findings of the PD&E Study and is made available for public comment and presented at a public hearing. The DEIS reports the environmental impacts of each alternative so that the public and stakeholders may provide feedback.

Detail on preparing a DEIS is provided in Part 1, Chapter 8 of the PD&E Manual and the corresponding computer based NEPA Introductory Course: Environmental Impact Statement Overview and the Draft Environmental Impact Statement.

## **Resulting Federal Determination**

After the DEIS public hearing, the results are documented in a final document which responds to comments received on the DEIS and provides the final project decision. The document following the DEIS is typically in the form of a combined FEIS/Record of Decision or ROD in which the FEIS and ROD are submitted and approved together. Or in some cases, a separate FEIS is prepared to document the public hearing, public comments, and any project changes. Then, the Record of Decision is approved later.

The process for preparing these final documents is provided in Part 1, Chapter 9 of the PD&E Manual and the computer based NEPA Introductory Course: Final Environmental Impact Statement and Record of Decision.

Of note: It is common for several years to pass between release of a DEIS and publishing of the FEIS/ROD.

## **Environmental Impact Statement Project Types**

The following project types may be EISs if they result in significant environmental impacts.

- New controlled-access freeways
- New roads or road extensions in a new location, often referred to as new alignment

Again, the Class of Action is based on the known and potential impacts associated with the project, not on the type of project or scope of work.

## **Tiered EISs**

For projects that involve multiple phases and considerable time between those phases, CEQ also developed a Tiered EIS protocol.



Rather than preparing a single Environmental Impact Statement as the basis for approving the entire project, the responsible agency conducts two or more rounds - or “tiers” - of environmental review.

Tiering is typically adopted to:

- Simplify the management of complex NEPA parameters for lengthy corridors or large projects
- Pre-authorize corridor preservation, when construction is not anticipated for many years
- Authorize construction for multiple phases over many years
- Prevent EIS document expiration - by extending the EIS process into a series of inter-connected studies

The challenge in preparing a tiered study is to determine the content and details of each tier.

#### **Lesson 4: The Minor Categorical Exclusion (MiCE) Process**

In Lesson 4 we will learn about the Minor Categorical Exclusion or MiCE Process.

##### **What is the MiCE Process?**

Minor Categorical Exclusion or MiCE is an internal FDOT process; it is not a Class of Action. The purpose of the MiCE process is to assist in making and validating CE determinations. The MiCE process focuses the documentation and addresses the relevant environmental issues without elevating the Class of Action.

Detailed guidance on going through the MiCE process is provided in Part 1, Chapter 2 of the PD&E Manual.

##### **When Do We Use the MiCE Process?**

There are two scenarios when the MiCE process is implemented.

The first Scenario is for projects that would normally qualify as Type 1 Categorical Exclusions, but may involve potential environmental impacts which require additional analysis and documentation to assure that the Class of Action is valid. The Type 1 Categorical Exclusion Checklist includes prompts to coordinate with OEM to determine if the project can remain a Type 1 CE.

The second scenario covers projects that were screened in the EST or may qualify as a Type 2 Categorical Exclusion. The environmental analysis is focused on the specific issues which triggered the Type 2 Categorical Exclusion Class of Action using the Type 2 Categorical Exclusion Determination Form and supporting environmental and engineering documentation. The appropriate documentation for all affected issues is attached to the form or incorporated by reference.

## **MiCE Process Approach**

The Type 1 Categorical Exclusion Checklist is used to identify potential impacts, and to determine when coordination with OEM is necessary. Coordination with OEM is required to determine if the project can proceed as a Type 1 CE if:

- There are any acquisitions with relocations and/or displacements
- Wetland impacts require a Standard Permit from the U.S. Army Corps of Engineers
- A bridge permit is required from the U.S. Coast Guard
- The project involves a floodplain encroachment other than functionally dependent uses (such as bridges, wetlands) or actions that facilitate open space use (like recreational trails, bicycle and pedestrian paths)
- The project involves a Wild and Scenic or Study River
- The project will have a May Affect, Likely to Adversely Affect determination for a federally listed species.
- The project will require a Section 4(f)
  - Exception or Exemption, or
  - A de minimis determination, or
  - Programmatic or Individual Section 4(f) Evaluation
- The project requires a Determination of “Adverse Effect” for impacts to Historic and/or Archaeological Resources protected under Section 106 of the National Historic Preservation Act.

If during the preparation of a Type 1 Categorical Exclusion Checklist, an answer requires discussion with OEM, the OEM District Project Delivery Coordinator is contacted. Coordination with OEM doesn't automatically mean that the project will need to be elevated to a Type 2 CE.

If it is determined that a Type 2 CE is necessary after working through the checklist and/or coordination with OEM, the project does not necessarily have to be screened in the EST. Alternatives analysis also may not be needed. The Type 2 Categorical Exclusion Determination Form is then focused on the issues which triggered the Type 2 CE Class of Action.

Any coordination with OEM is documented in the project file in SWEPT.

## **Assess and Document**

The MiCE process focuses the project analysis on the impacted environmental issues or resources and clearly identifies the relevant issues requiring resolution.

During the MiCE process, existing conditions and potential environmental impacts must be assessed and documented. Anticipated or required agency consultations, associated conclusions, permitting need(s) and coordination with OEM should also be documented.

## **Lesson 5: Changing the Class of Action**

The final lesson covers changing the Class of Action Determination and why it may be necessary.

### **Changing the Class of Action**

Although it is not a common occurrence, the Class of Action can be changed, before or during the PD&E phase. Either the District or OEM may seek to revisit the Class of Action determination. In all cases, OEM approval is necessary should a District seek modifications to a project's approved Class of Action.

Changes in the Class of Action may arise if there is a change in the project's scope or if there is a change in the impacts to environmental issues or resources.

If a project is an EA changing to an EIS, a Notice of Intent in the Federal Register would be required. The decision to downgrade an EIS document to an EA requires thorough analysis and consideration. Notification was previously provided to the public and stakeholders that significant impacts were anticipated. Documentation would be required to substantiate the downgrade. OEM would need to approve the reclassification, and the Notice of Intent would need to be withdrawn from the Federal Register.

### **Resources for Web**

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 available in FDOT Learning Curve and through the OEM PD&E Training Track. Links to documents listed here are included on the Resources Page, accessed by selecting the Resources tab on the Course Landing page.

Other resources include: FDOT's PD&E Manual, ETDM Manual, OEM Training Website, and the SWAT Training Workbook.

Links to documents listed here are included on the Resources Page, accessed by selecting the Resources button below this CBT.

## **Conclusion**

You have now completed the NEPA Introductory Course on Class of Action.