



## FDM 20-20-1 Introduction

November 17, 2020

Federal actions meeting the criteria for Categorical Exclusions (CEs) are defined pursuant to 23 CFR 771.111(f), 40 CFR 1508.41(d) and 23 CFR 771.117 and do not individually or cumulatively have significant effects on the human environment. CEs require neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS). WisDOT must certify to FHWA the action does not result in significant environmental impacts (see definition of significance in [FDM 20-15-5.1](#)). WisDOT must prepare either an EA or EIS for all undertakings not qualifying as a CE.

Furthermore, none of the CEs can be processed, without FHWA consultation, if the project includes unusual circumstances such as the following:

1. Significant environmental impacts
2. Substantial controversy on environmental grounds
3. Significant impacts on properties protected by Section 4(f) of the DOT Act or Section 106 of the Historic Preservation Act
4. Inconsistencies with any federal, state, or local law, requirement or administrative determination relating to the environmental aspects of the action

The Region should also consult BTS-EPDS and FHWA prior to initiating CEs for auxiliary lane and capacity expansion projects to ensure that those projects do not include significant impacts.

For any project which includes unusual circumstances, consult with your REC or BTS-EPDS and FHWA as appropriate, to determine the level of environmental analysis and environmental document type to be completed. Unusual circumstances may require additional studies to be completed prior to making a CE determination or prior to the decision to prepare an EA or EIS. CEs are processed following the programmatic agreement (PA) between the Federal Highway Administration, Wisconsin Division and the Wisconsin Department of Transportation Regarding the Processing of Actions Classified as Categorical Exclusions for Federal Aid Highway Projects (CE-PA).

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Classification of an action as a CE does not dismiss requirements to comply with other laws and regulations such as Section 106, Section 4(f), Section 404 or Water Quality-Section 401 requirements, etc.

### 1.1 Categorical Exclusion Documentation Types

WisDOT has developed environmental analysis procedures and documentation for different types of categorically excluded actions. These procedures and documentation meet State requirements for environmental analysis and have been developed with FHWA consultation and approval to also satisfy FHWA environmental documentation requirements.

If the project requires an FHWA action (funding or approval), the terms of the CE-PA apply to the project. The CE PA identifies two types of acceptable documentation for CE actions:

1. Actions listed in 23 CFR 771.117(c) and Changes in Interstate System access under 23 CFR 771.117(d) (7) that FHWA has delegated to WisDOT for approval of the Interstate access change, as identified in FDM 7-45. These actions would typically be documented with a CEC.  
In addition, Disposal of excess right-of-way under 23 CFR 771.117(d)(6) that FHWA has delegated to WisDOT for approval of the excess right-of-way disposal in the FHWA and WisDOT Stewardship and Oversight Agreement. FHWA retains authority for the approval of the disposal action and associated NEPA document for disposal at less than fair market value of any right-of-way originally purchased with federal funds, and disposal of any Interstate System right-of-way. These actions would also be documented with a CEC.
2. Actions listed in 23 CFR 771.117(d) would typically be documented with an Environmental Report (ER).
3. Additional actions which meet the criteria for a CE in 23 CFR 771.117(a), but are not listed in 23 CFR 771.117(c) or 771.117(d), typically require an Environmental Report (ER).

4. In certain cases, it may be appropriate to prepare a higher level of environmental documentation (e.g. ER instead of CEC) to better evaluate and disclose project impacts, or to provide project documentation to comply with requirements of other laws (e.g. Section 106 of the National Historic Preservation Act, Section 404 of the Clean Water Act, etc.). Conversely, it may be appropriate to prepare a lower level of environmental documentation (e.g. CEC instead of ER) for simple projects that do not result in many impacts. In these circumstances, a discussion with the Region Environmental Coordinator (REC), BTS-EPDS Liaison and FHWA is required prior to proceeding with preparing environmental documentation for the project.

If the project does not require an FHWA action, refer to Trans 400.08, Categorization of Department Actions, to determine appropriate environmental document type. In addition to referencing Trans 400.08, discuss appropriate environmental document type with the REC and/or BTS-EPDS Liaison as appropriate.

## **FDM 20-20-5 Categorical Exclusion Checklist**

November 17, 2020

### **5.1 Process**

During the project definition phase, the decision to move forward with a CEC should be discussed with the REC or the BTS - EPDS Liaison and FHWA as appropriate to determine appropriate environmental document type.

The CEC is completed during the project delivery phase process as identified in [FDM 3-1-15](#).

The CEC does not exempt WisDOT from complying with applicable regulations, laws, statutes, executive orders, interagency agreements or other policy. Documentation of compliance with all applicable requirements needs to be attached to the CEC or placed in the project file.

Normally CEC actions do not require any further NEPA approval from FHWA. If the CEC includes a Section 4(f) evaluation or determination, FHWA must review and approve the Section 4(f) documentation prior to WisDOT's approval of the CEC. Documentation regarding the use of the CEC and the absence or mitigation of unusual circumstances must be maintained by WisDOT to justify the application of the CEC.

If consultation with BTS-EPDS and FHWA occurs and it is determined that a CEC is the appropriate document type for a project that is not delegated to WisDOT for approval in the CE-PA, FHWA must review and approve the CEC.

### **5.2 Documentation**

Documentation and tracking is required for all CEC projects. Complete the CEC template.

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnsst-rsrcs/environment/formsandtools.aspx>

and add to the project file along with any necessary supporting documentation as discussed in [FDM Chapter 5](#). The CEC is to be completed by project staff with the assistance of the REC or BTS-EPDS, as applicable.

Factor Sheets, described in [FDM 20-20-15.3](#) may be completed and attached to demonstrate or clarify that the impacts to specific factors if appropriate.

The CE-PA requires review and tracking of CECs. To facilitate this, coordinate review with the appropriate REC BTS-EPDS Liaison.

### **5.3 Public Involvement**

Public involvement is an essential component of all levels of the NEPA and WEPA decision-making process during project development. Public involvement must be implemented in accordance with [FDM Chapter 6](#) on all projects administered by WisDOT, including projects that are developed by local units of government or their consultants.

## **FDM 20-20-15 Environmental Report**

November 17, 2020

### **15.1 Process**

During the project definition phase, the decision to move forward with an ER should be discussed with the REC or the BTS - EPDS Liaison and FHWA as appropriate to determine if an ER is the appropriate environmental document type.

The ER is completed during the project delivery phase process as identified in [FDM 3-1-15](#).

### **15.2 Documentation**

The WisDOT Environmental Report (ER) and Environmental Assessment (EA) Template is used for documentation of all ER level projects. Guidance documents are available on the WisDOT website for the ER

and EA Template and each Factor Sheet.

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

The ER and EA Template, Factor Sheets, and guidance language are updated frequently so always be sure to use the most recent version.

If the document preparer completely and clearly answers each question in the ER and EA Template and Factor Sheets, the document should tell the story of the project decision-making process from the initial needs identification through the selection of the preferred alternative in a way the public can understand. For assistance or questions concerning these templates and the associated guidance contact the REC or BTS-EPDS, as appropriate.

The ER and EA Template contains background information for the project, defines the purpose and need and describes all of the alternatives that were studied to address the purpose and need. The template also provides information on public involvement, environmental factors, a summary of impacts, and other information pertinent to the ER.

Individual Factor Sheets correspond with specific environmental factors identified in the Environmental Factors Matrix of the ER and EA Template. The Factor Sheets are used to provide more detailed information on environmental factors and issues that may be substantial and require more of an in-depth discussion than is provided in the ER and EA Template. If there is no substantial impact to a specific environmental factor, a Factor Sheet is not completed.

### 15.2.1 Purpose and Need

The purpose and need of a project are essential in establishing a basis for the development of the range of reasonable alternatives required in an environmental document and assists with the identification and eventual selection of a preferred alternative.

The following items may be listed and described in the purpose and need statement for a proposed action. The author should select the needs most appropriate to the project in the order of greatest to least needed and explain them so the public can understand them. These are by no means all-inclusive or applicable in every situation. They are intended as a guide. In the document, discuss only the applicable needs in descending order of importance. Do not discuss the project solutions in the purpose and need statement.

- Project Status - Briefly describe the action's history, including measures taken to date, other agencies and governmental units involved, action spending, schedules, etc.
- Capacity - Discuss the capacity of the present facility and its ability to meet present and projected traffic demands. Discuss what capacity and levels of service for existing and proposed facilities are needed.
- System Linkage - Discuss if the proposed action is a "connecting link" and how it fits into the transportation system.
- Transportation Demand - Discuss the action's relationship to any statewide plan or adopted urban transportation plan. In addition, explain any related traffic forecasts that are substantially different from those estimates of the 23 U.S.C. 134 (Section 134) planning process.
- Legislation - Explain if there is a federal, state, or local governmental mandate for the action.
- Social Demands or Economic Development - Describe how the action will address employment, schools, land use plans, recreation facilities, etc. In addition, describe projected economic development/land use changes that indicate the need to improve or add to the highway capacity.
- Modal Interrelationships - Explain how the proposed action will interface with and serve to complement airports, rail and port facilities, mass transit services, pedestrian and bicycle accommodations, etc.
- Safety - Explain if the proposed action is necessary to correct an existing or potential safety hazard. In addition, explain if the existing accident rate is excessively high and why, and how the proposed action will improve safety.
- Roadway Deficiencies - Explain if and how the proposed action is necessary to correct existing roadway deficiencies (e.g., substandard geometrics, structural sufficiency, load limits on structures, inadequate cross-section, high maintenance costs, etc.)

Consistent with 23 CFR 771.111(f), in order to ensure meaningful evaluation of alternatives and to avoid commitments to transportation improvements before they are fully evaluated, the action evaluated in the environmental document shall:

- Connect logical termini and be of sufficient length to address environmental matters on a broad scope
- Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made

- Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements

Logical termini for project development are defined as rational end points for both a transportation improvement and a review of the environmental impacts.

In developing a concept that can be advanced through the stages of planning, environment, design, and construction; the project sponsor needs to consider a whole or integrated action. This action should satisfy the projects purpose statement. In addition, the action should be considered in the context of local socio-economics, topography, future travel demand, other infrastructure improvements, and the natural environment. Without framing an action in this way, project sponsors may only peripherally meet project needs or may cause unexpected side effects that require additional corrective action. Project sponsors should also be aware of the problem of segmentation. Segmentation may occur when a transportation need extends throughout an entire corridor, but project sponsors discuss the environmental issues and transportation need of only a segment of the corridor. Staging construction of various phases of a project due to fiscal availability is not considered segmentation.

### **15.2.2 Agency and Tribal Coordination**

WisDOT, in partnership with FHWA (on federally funded projects), is responsible for inviting resource agencies, local units of government and tribes to participate in the NEPA/WEPA process to coordinate among a wide range of stakeholders with diverse interests, resolve conflict and ensure that quality transportation decisions and potential impacts are fully explained in the environmental document. These responsibilities require WisDOT and FHWA to balance transportation needs, costs, environmental resources, safety, and public input in order to arrive at objective and responsible transportation decisions.

Depending on the potential impacts of the project, agencies with applicable expertise will be involved during the decision-making process. Contact agencies early and coordinate often to understand resources under their authority and to incorporate their concerns into the project and describe them in the document. At a minimum, all projects must be coordinated with the Wisconsin Department of Natural Resources (WDNR), tribes and the United States Fish and Wildlife Service.

Although not all inclusive, [Table 15.1](#) highlights the federal, tribal, state, and local agencies and governmental entities that might be involved if the project has potential to impact a resource.

**Table 15.1 Environmental Impact and Agencies Possibly Involved**

Potential Impacts	Agencies with Possible Involvement*
Wetlands	WDNR, USACE, USFWS, Tribes
Lakes, Streams, Rivers, Water Bodies	USCG, WDNR, USACE, USFWS, Tribes, EPA
Agricultural Impacts	DATCP, NRCS
Archaeological Impacts	ACHP, SHPO/THPO, NPS, Tribes, local historical societies
Historical Impacts	ACHP, SHPO/THPO, NPS, Tribes, local historical societies
Hazardous Materials	WDNR, local units of government
National Forest	USFS, NPS
Threatened, Endangered or Rare Species	USFWS, WDNR, Tribes
Tribal Lands	Tribes, BIA
Parks	WDNR, NPS, local units of government
Airports	BOA
Structures Over Navigable Waters	USCG, WDNR, USACE, USFWS, potentially others
Significant Impacts of any Kind	EPA
Air Quality	WDNR, EPA, MPOs/RPCs
Noise	Local units of government
Section 4(f)	DOI, SHPO/THPO, local unit of government or other property owner
Section 6(f) or other special funding	WDNR, NPS, USFWS, DOI, USDA, NRCS, potentially others

Definitions of all acronyms can be found in [FDM 20-1 Attachment 1.1](#).

### 15.2.3 Public Involvement

Public involvement is an essential component of all levels of the NEPA and WEPA decision-making process during project development. Public involvement must be implemented in accordance with [FDM Chapter 6](#) on all projects administered by WisDOT, including projects that are developed by local units of government or their consultants. For an ER, hold at least one Public Involvement Meeting (PIM) prior to completion of the document to allow public comments on the project to be included in the document. The ER also allows for a public hearing to be held based on criteria identified [in the ER and EA Template](#).

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

If an opportunity to request a public hearing is determined necessary or a hearing is held, it would occur prior to approval of the Final ER.

### 15.2.4 Alternatives Analysis

The identification, consideration, and analysis of alternatives are integral to the NEPA process and the goal of objective decision-making. Serious consideration of alternatives should lead to a solution that satisfies the transportation need and protects environmental and community resources.

This section discusses the range of alternatives considered including those alternatives eliminated from detailed study. A no-build alternative should be included in the Environmental Report to serve as a baseline for comparison against build alternatives.

The summary of alternatives should indicate why and how the range of project alternatives was developed. In addition, alternatives analysis should explain why and how alternatives were eliminated from consideration. It must be made clear what criteria were used to eliminate alternatives, at what point in the process the alternatives were removed (screened) and the measures for assessing the alternatives' effectiveness.

During preparation of NEPA documents, project sponsors should be candid about the rationale for generating, evaluating and eliminating alternatives. Being as specific as possible is important. If an alternative is eliminated

from further consideration because it does not **address** the purpose and need, adequate explanation must be provided.

All alternatives retained for detailed study, or the range of alternatives, should be considered and discussed at a comparable level of detail to avoid any indication of a bias towards an alternative(s).

There are times when an alternative that is not reasonable is included, such as when another agency requests inclusion due to public expectation. In such cases, it should be clearly explained why the alternative is being analyzed in detail, and why it will not be selected.

The no-build alternative, which may include measures to continue the function of the facility, must always be included in the analysis. In some cases, the no-build alternative may be a reasonable alternative, especially when the impacts of other alternatives are great and the need is relatively minor, but generally it serves as a baseline against which the other alternatives can be compared.

### **15.2.5 Environmental Impacts**

The impacts that must be addressed and considered by federal agencies in satisfying the requirements of the NEPA process, which includes direct, indirect and cumulative impacts have been defined by CEQ regulations (40 CFR 1508.7 and 1508.8). **Impacts** include:

- Direct **impacts**, which are caused by the action and occur at the same time and place.
- Indirect **impacts**, which are caused by the action and are later in time or farther removed in distance but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.
- Cumulative impacts, which are caused by incremental impacts from the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Effects and impacts are terms used interchangeably in the regulations and in this chapter. For ease of documentation WisDOT has divided effects **into environmental factors**.

- **Business and Economics**
- **Community**
- **Aesthetics**
- **Agriculture**
- **Relocations**
- **Indirect Impacts**
- **Cumulative Impacts**
- **Environmental Justice**
- **Historic Properties**
- **Burial Sites**
- **Tribal**
- **Section 4(f)**
- **Section 6(f) and Other Unique Funding**
- **Wetlands**
- **Surface Water Resources**
- **Groundwater, Wells, and Springs**
- **Coastal Zones**
- **Floodplains**
- **Unique Wildlife and Habitat**
- **Threatened, Endangered or Protected Resources**

- Air Quality
- Construction Sound
- Traffic Noise
- Hazardous Substances, Contamination and Asbestos
- Stormwater
- Erosion and Sediment Control
- Other Factors

WisDOT's Factor Sheets are used to assess these categories.

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

#### **15.2.6 Environmental Commitments**

Summarize all agreements to mitigate adverse environmental effects beyond those found in the WisDOT Standard Specifications for Highway and Structure Construction in the Environmental Commitments section of [the ER and EA Template](#).

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

Also include any enhancements in the commitments. It is essential to outline these measures in the document and summarize how adverse environmental effects will be mitigated. Mitigation includes the entire process of avoidance, minimization and compensation for effects. For each potential environmental impact, clearly discuss the avoidance, minimization and compensation of the effects. Completion of all agreements concerning mitigation needs to be documented in the project file prior to construction of the proposed action. The completion of mitigation commitments should be documented in the project file.

#### **15.2.7 Review and Approval Process**

Refer to tables in [FDM 20-35-1](#).

FHWA is the final reviewer and signatory of all ERs involving [a FHWA action](#). BTS-EPDS is the final reviewer and signatory of all ERs [that do not include a FHWA action](#).