

Categorical Exclusions – Regulations and WI Documentation

CE Definition

Project Definition

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 each EIS or finding of no significant impact (FONSI) shall:

- (1) Connect **logical termini** and be of sufficient length to address environmental matters on a **broad scope**;
- (2) 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; and
- (3) **Not restrict consideration of alternatives** for other reasonably foreseeable transportation improvements.

CE Definition

40 CFR 1508.4

Categorical exclusion means a category of actions which **do not individually or cumulatively have a significant effect on the human environment** and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required... Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

23 CFR 771.117(a)

Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, **do not involve significant environmental impacts**. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts.

Unusual Circumstances

23 CFR 771.117(b)

Any action which normally would be classified as a CE but could involve unusual circumstances will require the FHWA, in cooperation with the applicant, to **conduct appropriate environmental studies to determine if the CE classification is proper**. Such unusual circumstances include:

- (1) Significant environmental impacts;
- (2) Substantial controversy on environmental grounds;
- (3) Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or
- (4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

**Note: this list of circumstances is not all-inclusive*

Additional Constraints for (c)(26, 27, & 28)

23 CFR 771.117(e)

Actions described in (c)(26), (c)(27), and (c)(28) of this section may not be processed as CEs under paragraph (c) if they involve:

- (1) An acquisition of more than a minor amount of right-of-way or that would result in any residential or non-residential displacements;
- (2) An action that needs a bridge permit from the US Coast Guard, or an action that does not meet the terms and conditions of a US Army Corps of Engineers nationwide or general permit under section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899;
- (3) A finding of "adverse effect" to historic properties under the National Historic Preservation Act, the use of a resource protected under 23 USC 138 or 49 USC 303 (section 4(f)) except for actions resulting in *de minimis* impacts, or a finding of "may affect, likely to adversely affect" threatened or endangered species or critical habitat under the Endangered Species Act;
- (4) Construction of temporary access, or the closure of existing road, bridge, or ramps, that would result in major traffic disruptions;
- (5) Changes in access control;
- (6) A floodplain encroachment other than functionally dependent uses (e.g., bridges, wetlands) or actions that facilitate open space use (e.g., recreation trails, bicycle and pedestrian paths); construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers.

General Requirements

- The project must meet definition of an action, must meet the definition of a categorical exclusion, and must not include any unusual circumstances (see details above).
- A determination that an action qualifies for a CE under FHWA procedures is not an exemption from other environmental laws and procedures that apply to that project.
- Additional study and documentation may be required for other FHWA project approvals and other agencies' approvals and permits.

(c) List CEs

23 CFR 771.117(c)

The following actions meet the criteria for CEs in the CEQ regulations (40 CFR 1508.4) and §771.117(a) and **normally do not require any further NEPA approvals by the FHWA**:

- (1) Activities which do not involve or lead directly to construction, such as planning and research activities; grants for training; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.
- (2) Approval of utility installations along or across a transportation facility.
- (3) Construction of bicycle and pedestrian lanes, paths, and facilities.
- (4) Activities included in the State's *highway safety plan* under 23 U.S.C. 402.
- (5) Transfer of Federal lands pursuant to 23 U.S.C. 107(d) and/or 23 U.S.C. 317 when the land transfer is in support of an action that is not otherwise subject to FHWA review under NEPA.
- (6) The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.
- (7) Landscaping.
- (8) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- (9) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121):
 - (i) Emergency repairs under 23 U.S.C. 125; and
 - (ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action:
 - (A) Occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and
 - (B) Is commenced within a 2-year period beginning on the date of the declaration.
- (10) Acquisition of scenic easements.
- (11) Determination of payback under 23 U.S.C. 156 for property previously acquired with Federal-aid participation.
- (12) Improvements to existing rest areas and truck weigh stations.
- (13) Ridesharing activities.
- (14) Bus and rail car rehabilitation.
- (15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
- (16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.
- (17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.
- (18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.
- (19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.
- (20) Promulgation of rules, regulations, and directives.
- (21) Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system,

(21 cont.) ...to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locaters, automated passenger counters, computer-aided dispatching systems, radio communications systems, dynamic message signs, and security equipment including surveillance and detection cameras on roadways and in transit facilities and on buses.

(22) Projects, as defined in 23 U.S.C. 101, that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.

(23) Federally-funded projects:

- (i) That receive less than \$5,000,000 of Federal funds; or
- (ii) With a total estimated cost of not more than \$30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.

(24) Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archaeological investigations for archeology resources assessment or similar survey; and wetland surveys.

(25) Environmental restoration and pollution abatement actions to minimize or mitigate the impacts of any existing transportation facility (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 USC 1341; 1342)) carried out to address water pollution or environmental degradation.

(26) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), if the action meets the constraints in paragraph (e) of this section.

(27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in paragraph (e) of this section.

(28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in paragraph (e) of this section.

(29) Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) that would not require a change in the function of the ferry terminals and can be accommodated by existing facilities or by new facilities which themselves are within a CE.

(30) Rehabilitation or reconstruction of existing ferry facilities that occupy substantially the same geographic footprint, do not result in a change in their functional use, and do not result in a substantial increase in the existing facility's capacity. Example actions include work on pedestrian and vehicle transfer structures and associated utilities, buildings, and terminals.

(d) List CEs

23 CFR 771.117(d)

Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after the Administration approval unless otherwise authorized under an executed agreement pursuant to paragraph (g) of this section. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:

- (1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing).
- (2) Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.
- (3) Bridge rehabilitation, reconstruction or replacement or the construction of grade separation to replace existing at-grade railroad crossings.
- (4) Transportation corridor fringe parking facilities.
- (5) Construction of new truck weigh stations or rest areas.
- (6) Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.
- (7) Approvals for changes in access control.
- (8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
- (9) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.
- (10) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
- (11) Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.
- (12) Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.
 - (i) Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.
 - (ii) Protective acquisition is done to prevent imminent development of a parcel which may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.
- (13) Actions described in paragraphs (c)(26), (c)(27), and (c)(28) of this section that do not meet the constraints in paragraph (e) of this section.

WI Documentation Requirements

WisDOT "CE" Requirements

- While these actions normally do not require any further NEPA approvals from FHWA, documentation regarding the project definition, the CE definition, and the absence of unusual circumstances must be maintained by WisDOT to justify the application of the CE.
- No documentation is specified in the Wisconsin Administrative Code Trans 400.08.
- Existence of unusual circumstances may warrant additional documentation to demonstrate that the CE designation is appropriate.

WisDOT "pER" Requirements

- Established by the "Environmental Screening of Programmatic IIIA Categorical Exclusions" agreement between WisDOT and FHWA dated 6/25/1990.
- FHWA and WisDOT agreed to streamlined documentation (pER checklist) and internal approval procedures based on our past experience with similar projects.
- Applies to 5 specific types of projects (resurfacing, minor reconditioning, major reconditioning, bridge replacement, & bridge rehabilitation) that fall within defined resource impact thresholds.
- For additional information, see the pER agreement and WisDOT FDM 21-5-1 Att. 1.1 & 1.2

WisDOT "ER" Requirements

- The WisDOT Environmental Report (ER) format is the documentation currently accepted by FHWA as the appropriate means to demonstrate that significant impacts will not result from a categorical exclusion action.

Categorical Exclusions – MAP-21 and WI CE Agreement Changes

CE Definition

Section 1316 – CEs in the Operational ROW

- Provides a detailed definition of operational right-of-way.
- Does not apply to “mapped” or reserved ROW with no exiting development.
- The final project must be entirely within the operational ROW, but temporary easements outside those limits may be permissible.
- Rulemaking complete (NPRM 2/28/13; Final Rule 1/13/14).

CE Definition

40 CFR 1508.4

Categorical exclusion means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in

Section 1314 – CEs for Multimodal Projects

- Allows application of a CE from another USDOT modal administration on multimodal projects.
- No rulemaking required, seek guidance from FHWA HQ for implementation.

23 CFR 771.117(a)

Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do

Section 1315 – CEs in Emergencies

- Allows broader application of CEs for emergency repairs and permanent repairs or reconstruction.
- Must occur within the existing ROW and substantially conform to the preexisting design.
- May include some upgrades to meet existing codes and standards.
- Rulemaking complete (NPRM 10/1/12; Final Rule 2/19/13)

Environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

- (1) Significant environmental impacts;
- (2) Substantial controversy on environmental grounds;
- (3) Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or
- (4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

*Note: this list of circumstances is not all-inclusive

Additional Constraints for (c)(26, 27, & 28)

23 CFR 771.117(e)

Actions described in (c)(26), (c)(27), and (c)(28) of this section may not be processed as CEs under paragraph (c) if they involve:

- (1) An acquisition of more than a minor amount of right-of-way or that would result in any residential or non-residential displacements;
- (2) An action that needs a bridge permit from the US Coast Guard, or an action that does not meet the terms and conditions of a US Army Corps of Engineers nationwide or general permit under section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899;
- (3) A finding of “adverse effect” to historic properties under the National Historic Preservation Act, the use of a resource protected under 23 USC 138 or 49 USC 303 (section 4(f)) except for actions resulting in *de minimis* impacts, or a finding of “may affect, likely to adversely affect” threatened or endangered species or critical habitat under the Endangered Species Act;
- (4) Construction of temporary access, or the closure of existing road, bridge, or ramps, that would result in major traffic disruptions;
- (5) Changes in access control;
- (6) A floodplain encroachment other than functionally dependent uses (e.g., bridges, wetlands) or actions that facilitate open space use (e.g., recreation trails, bicycle and pedestrian paths); construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers.

(c) List CEs

23 CFR 771.117(c)

The following actions meet the criteria for CEs in the CEQ regulations (40 CFR 1508.4) and §771.117(a) and normally do not require any further NEPA approvals by the FHWA:

(1) Activities which do not involve or lead directly to construction, such as planning and research activities; grants for training; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-

Section 1317 – CEs with Limited Federal Funds

- A project must use federal funds, and the project estimate must fall within the defined thresholds to use this CE.
- Re-evaluation would be triggered if there is an increase in the amount of Federal funds beyond the threshold and there is still an FHWA action (e.g. approval) that needs to be taken when the change occurs.
- Rulemaking complete (NPRM 2/28/13; Final Rule 1/13/14).

land acquisition or traffic disruption will occur.

(9) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121):

- (i) Emergency repairs under 23 U.S.C. 125; and
- (ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action:
 - (A) Occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and
 - (B) Is commenced within a 2-year period beginning on the date of the declaration.

(10) Acquisition of scenic easements.

(11) Determination of payback under 23 U.S.C. 156 for property previously acquired with Federal-aid participation.

(12) Improvements to existing rest areas and truck weigh stations.

(13) Ridesharing activities.

(14) Bus and rail car rehabilitation.

(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

Section 1318 – Changes to (c) & (d) lists

- Moved CEs (d)(1-3) to the (c) list as (c)(26-28), but with six conditions in 23 CFR 771.117(e). If any condition is not met, the project can still be processed as a (d) list CE (see (d)(13)).
- Rulemaking complete (NPRM 9/19/13; Final Rule 10/6/14)

transit facility and with no significant impacts off the site.

(20) Promulgation of rules, regulations, and directives.

(21) Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system.

(21 cont.) ...to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locaters, automated passenger counters, computer-aided dispatching systems, radio communications systems, dynamic message signs, and security equipment including surveillance and detection cameras on roadways and in transit facilities and on buses.

(22) Projects, as defined in 23 U.S.C. 101, that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.

(23) Federally-funded projects:

- (i) That receive less than \$5,000,000 of Federal funds; or
- (ii) With a total estimated cost of not more than \$30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.

(24) Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archaeological investigations for archeology resources assessment or similar survey; and welland surveys.

(25) Environmental restoration and pollution abatement actions to minimize or mitigate the impacts of any existing transportation facility (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 USC 1341; 1342)) carried out to address water pollution or environmental degradation.

(26) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), if the action meets the constraints in paragraph (e) of this section.

(27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in paragraph (e) of this section.

(28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in paragraph (e) of this section.

(29) Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) that would not require a change in the function of the ferry terminals and can be accommodated by existing facilities or by new facilities which themselves are within a CE.

(30) Rehabilitation or reconstruction of existing ferry facilities that occupy substantially the same geographic footprint, do not result in a change in their functional use, and do not result in a substantial increase in the existing facility's capacity. Example actions include work on pedestrian and vehicle transfer structures and associated utilities, buildings, and terminals.

(d) List CEs

23 CFR 771.117(d)

Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after the Administration approval unless otherwise authorized under an executed agreement pursuant to paragraph (g) of this section. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:

- (1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing).
- (2) Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.
- (3) Bridge rehabilitation, reconstruction or replacement or the construction of grade separation to replace existing at-grade railroad crossings.
- (4) Transportation corridor fringe parking facilities.
- (5) Construction of new truck weigh stations or rest areas.
- (6) Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.
- (7) Approvals for changes in access control.
- (8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
- (9) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.
- (10) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
- (11) Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing

Section 1318 – New CEs

- Added four new CEs to the (c) list:
 - (24) Localized geotechnical and other investigations (including archaeology and welland surveys).
 - (25) Environmental restoration and mitigation for an existing transportation facility, including retrofits.
 - (29) Purchase, construction, replacement, or rehabilitation of ferry vessels.
 - (30) Rehabilitation or reconstruction of existing ferry facilities (with conditions).
- Rulemaking complete (NPRM 9/19/13; Final Rule 10/6/14)

be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

(13) Actions described in paragraphs (c)(26), (c)(27), and (c)(28) of this section that do not meet the constraints in paragraph (e) or this section.

WI Documentation Requirements

General Requirements

Proposed Changes to FHWA – WisDOT CE Agreement

- Would establish a new standard checklist for (c) list CEs.
- Would update the Programmatic Environmental Report (pER) checklist.
- Would affirm WisDOT's Environmental Report (ER) format as the accepted documentation for (d) list CEs.
- Would allow WisDOT to document and internally approve any (d) list CE as long as it is not disqualified by environmental impact and project criteria (list of 16 items).
- Would add stipulations for monitoring, reporting, quality control, professional qualifications, term, and renewal to comply with 23 CFR 771.117(g) (MAP-21 Section 1318).
- Changes are nearly finalized; under internal review by FHWA and WisDOT. Likely completion late 2014 or early 2015.

WisDOT “CE” Requirements

WisDOT “pER” Requirements

- Established by the “Environmental Screening of Programmatic IIIA Categorical Exclusions” agreement between WisDOT and FHWA dated 6/25/1990.
- FHWA and WisDOT agreed to streamlined documentation (p-ER checklist) and internal approval procedures based on our past experience with similar projects.
- Applies to 5 specific types of projects (resurfacing, minor reconditioning, major reconditioning, bridge replacement, & bridge rehabilitation) that fall within defined resource impact thresholds.
- For additional information, see the p-ER agreement and WisDOT FDM 21-5-1 Att. 1.1 & 1.2

WisDOT “ER” Requirements

Section 1318 – PCE Agreements

- Codified in FHWA regulations the general criteria (e.g. monitoring, documentation, quality control, etc.) that apply to programmatic CE agreements. This change requires updates to exiting CE agreements within 5 years of the Final Rule.
- Rulemaking complete (NPRM 9/19/13; Final Rule 10/6/14)