

January 2026
Programmatic Agreement Between FHWA and CTDOT
for Categorical Exclusions

Supplemental Guidance and FAQ's

The 2021 Programmatic Agreement (PA) between the Federal Highway Administration (FHWA) and the Connecticut Department of Transportation (CTDOT) for Processing of Actions Classified as Categorical Exclusions (CEs) expires on January 25, 2026. The FHWA Connecticut Division and CTDOT worked together to update the PA and corresponding CE which provided an opportunity to further streamline the process and have fewer CEs that require FHWA approval.

This document outlines changes in the process and answers various questions that the Office of Environmental Planning (OEP) frequently hears from the various design units during the National Environmental Policy Act (NEPA) Phase of a project.

Formal training sessions on NEPA, the Environmental Review process, and the updated CE checklist will take place shortly after the updated CE goes into effect.

1. *When will the new PA/CE Checklist go into effect?*

With the signing of the new Programmatic Agreement (PA) on **January 28, 2026**, the new CE Checklist went into effect. The updated PA and CE Checklist can be found at www.ct.gov/environmentaldocuments.

2. *Will the changes in the new Programmatic Agreement affect previously approved CE's?*

No; previously submitted CE determinations will be grandfathered. However, re-evaluations triggered by the passage of time or a change in project scope must be completed using the January 2026 CE Checklist. Potentially, this re-evaluation can result in a different type of CE than what it originally qualified under.

3. *Will there be a training session to accompany the new CE Checklist?*

Yes, training will be provided by the OEP's NEPA Unit in March 2026.

What Changes Were Made to the CE Checklist?

Only two of the thresholds in Part 3 (Conditions for Automatic and Programmatic CEs) have changed from the 2021 CE Checklist/Programmatic Agreement. The changes were designed to potentially increase the number of CEs that CTDOT can approve as Automatic and Programmatic CEs, since the thresholds changed (Noise and Right of Way) elevate projects to Individual CEs (CE-I) the most. These changes should further streamline the NEPA process for FHWA projects.

Noise

2021 Language: The project is a Type I project, and a noise analysis has concluded that a noise impact exists in the build condition for which mitigation is NOT being considered.

2026 Language: The project is Type I project, and a noise analysis has concluded that a noise impact exists in the build condition for which mitigation ***found to be both feasible and reasonable is NOT*** being provided.

How it impacts us: Previously, the Noise threshold would trigger a CE-I if we were not providing noise mitigation for any reason, even if a noise analysis concluded that there are no abatement measures that are feasible or reasonable. Under the 2026 agreement, the Noise threshold triggers a CE-I if an analysis concludes that feasible and reasonable abatement measures exist for the noise impacts, however, we are not implementing them.

Right of Way

2021 Language: A CE-I is required if the project involves the acquisition of more than a minor amount of ROW. Minor amount of ROW is defined as more than 10% of **ANY** parcel for permanent easement or take

2026 Language: A CE-I is required if the project involves the acquisition of more than a minor amount of ROW. Determinations regarding whether the amount of acquisition qualifies as minor should involve consultation with staff in CTDOT's ROW and OEP offices. Considerations will include, but may not be limited to, the context and intensity of the impact, the size of the parcel, and the effect on the parcel's function.

If a project requires permanent ROW that equals 10% or greater from any single parcel, the project design teams **MUST** coordinate with the Transportation Supervising Planner of the NEPA Unit to determine if said ROW is considered more than minor. Any permanent ROW that totals less than 10% of a single parcel, or temporary ROW of any size is considered minor.

How it impacts us: Now consideration will be given to the **effect** that the ROW acquisition has on the parcel as a whole and will not simply rely on an arbitrary number to define a "greater than minor" impact. The ROW threshold is what triggered the most CE-I's and this number should decrease under the new Programmatic Agreement.

4. When is a CE re-evaluation needed?

A re-evaluation of a completed CE will be required if there is a change in project scope, or if 3 years has elapsed in between any of the **major milestones** in approvals or grants from FHWA. As defined by FHWA, these major milestones include: Environmental Review – Categorical Exclusion – Design Approval – Obligation of ROW funds – PS&E – Start of Construction. Please note that this also requires a new ER Request to be submitted by the design team.

5. Do resubmitted/updated ER Requests get reviewed quicker than original requests?

Typically, yes, but the review time depends on the nature of the resubmittal. If there is no change in project scope or conditions, the re-evaluation can be completed quickly because the

planners are only verifying that there has been no change in the scope or conditions surrounding the project site. Re-evaluations triggered by a major increase change in project scope will require more time to evaluate.

6. Can I approve a CE if my Environmental Review is older than 3 years?

No, the completed Environmental Review **MUST** be dated within 3 years of the final approval date of the CE.

7. How should projects be handled that are state-funded only, but anticipate federal funding?

If federal funding is anticipated for any phase, indicate it as such on the ER Request Form. This allows OEP to perform a review under NEPA. However, certain federal processes (Section 4f/Tribal/Section 106) required to satisfy NEPA cannot be completed until there is federal funding established. Additionally, a CE cannot be completed until federal funding is established and all requirements under NEPA have been complete.

8. Can I just always select the “federal funding” box on the ER Request form?

No, this can be problematic if federal funding does not eventually materialize. It will initiate additional work for OEP staff that would not be required if the project was entirely state-funded and has no federal involvement. It causes confusion and inaccurate analyses, documentation, and record keeping. Also, currently, findings made under the Section 106 PA do not translate to projects that are entirely state-funded.

9. Is a CE required for projects that are state-funded only?

No. CE checklists under the PA are not to be completed for projects that do not involve FHWA funds or require FHWA approvals. Additionally, there is no CE checklist equivalent under the CT Environmental Policy Act (CEPA). The completed Environmental Review will indicate if there are any requirements to satisfy CEPA.

10. My project involves funding by either the Federal Transit Administration (FTA) or Federal Railroad Administration (FRA). Does the CE Checklist apply to those agencies as well?

No. The PA and related CE Checklist only apply to FHWA projects. If the project involves federal funding from either FTA or FRA, the project designer should contact the Transportation Supervising Planner of the NEPA Unit upon receipt of the completed Environmental Review to discuss NEPA requirements/documentation for those agencies.

11. The CE checklist specifically mentions the term “major traffic disruption”. How is that defined?

“Major traffic disruptions” is one of the conditions that will prevent an action defined under c(26), c(27) or c(28) in the CE Checklist from being classified an Automatic CE (CE-A). Major traffic disruptions are typically identified because of controversy from the public when the project is presented at Town Coordination, Public Scoping, or Public Information meetings. OEP can typically answer or will consult with FWA if there is a question on this subject.

12. Does a noise analysis have to be concluded prior to CE approval?

Yes. If a noise analysis is required for a project, it will need to be completed prior to CE sign-off. This is consistent with previous practice.

13. ROW requirements may change after the CE Checklist is approved. What happens in those instances?

OEP understands that ROW needs can change once a project enters the final design phase. Please let OEP know as soon as any additional information regarding ROW becomes available. In these instances, the project may require a re-evaluation. Please contact the Transportation Supervising Planner of the NEPA Unit to determine if this is the case. In some cases, additional ROW may require an updated Section 106 determination, tribal consultation or Section 4(f) processing. In some cases, this may require a project to raise to the level of a CE-I from either a CE-A or CE-P, if the ROW changes are considered “more than minor”.

14. Do I need Section 4(f) approval from FHWA prior to obtaining a CE?

Yes. If the project requires either permanent or temporary ROW from a Section 4(f) resource; approval of the Section 4(f) documentation by FHWA is required prior to obtaining a CE. If the ROW requirements become known during final design, Section 4(f) will be done at that point, and a re-evaluation of the CE may be necessary.

15. How many of the categories in Part I or Part 2 of the CE Checklist should I select?

Please only select the **ONE** category that best applies to the **Primary Purpose** of your project. FHWA has made it a point to emphasize the fact that only one CE category should be applied to each project.

16. What about c(22): Projects that take place entirely within the existing operational ROW, and c(23): Projects that have limited Federal assistance? Should I be selecting those if those are true?

Generally, no. Those CE categories are only to be selected if no other category of CE describes the **Primary Purpose** of your project, which would rarely be the case. Even if they may apply to your project, remember, only one category of CE is to be selected for each project – and that will be the one that describes the **Primary Purpose** of your project.

17. What if my project was originally a CE-I, a re-evaluation is needed, but under the new PA/CE Checklist the project now qualifies for an Automatic CE (CE-A) or Programmatic CE (CE-P)?

In these instances, the project can be approved by CTDOT as either a CE-A or CE-P, however coordination with FHWA will be required by the Transportation Supervising Planner of the NEPA Unit to make FHWA aware and to ensure FHWA agrees with the re-certification prior to CTDOT approval of the re-evaluated CE.