

3. Categorical Exclusion (CE)

- 3.1. Overview
- 3.2. CE Definition
- 3.3. Processing a CE
- 3.4. Programmatic Categorical Exclusions
- 3.5. CE Approval Process
- 3.6. Additional Resources

Chapter Abbreviations/Acronyms

CE – Categorical Exclusion
CEQ – Council on Environmental Quality
CFR – Code of Federal Regulations
DOT&PF – Department of Transportation & Public Facilities
EA – Environmental Assessment
EIS – Environmental Impact Statement

FHWA – Federal Highway Administration
MOU – Memorandum of Understanding
NEPA – National Environmental Policy Act
QA/QC – Quality Assurance/Quality Control
REM – Regional Environmental Manager
USC – United States Code

3.1. Overview

This chapter provides an overview of Federal Highway Administration (FHWA) funded actions classified as Categorical Exclusions (CEs) and explains how these actions are processed within the Alaska Department of Transportation and Public Facilities (DOT&PF) to ensure compliance with applicable regulations. This chapter also includes additional reference information for more in-depth explanations of related concepts and document development.

This chapter applies only to non-6004 projects. Refer to Chapter 2 of this Manual for a discussion of the class of action determination and 6004 assignment processes. Refer to the “*Alaska 6004 Program Environmental Procedures Manual*” when processing 6004 assigned environmental documents.

3.2. CE Definition

The Council on Environmental Quality (CEQ) defines a categorical exclusion in [40 CFR 1508.4](#) as “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.”

The FHWA describes CEs as actions that meet the CEQ definition of a CE and, based on past experience with similar actions, do not involve significant environmental impacts.

To meet the standard for a CE set out in [23 CFR 771.117\(a\)](#), an action does not:

- Induce significant impacts to planned growth or land use for the area
- Require the relocation of significant numbers of people
- Have a significant impact on any natural, cultural, recreational, historic or other resource
- Involve significant air, noise or water impacts
- Have significant impacts on travel patterns
- Individually or cumulatively have any significant environmental impacts

A categorical exclusion is not a waiver of National Environmental Policy Act (NEPA) review, but instead is one type of NEPA review.

3.3. Processing a CE

A number of different factors should be considered before processing a CE. The following factors will affect how a CE is processed:

- The type of action involved
- The potential for impacts
- Whether the type of action falls under the 6004 Memorandum of Understanding (MOU) (see Chapter 2)
- Whether the action qualifies under a Programmatic Categorical Exclusion (PCE) (see Section 3.4)

The CE approval process is outlined in Section 3.5. To accurately and efficiently process CE actions make sure that you have a thorough understanding of all these considerations.

3.3.1. The “c” and “d” Lists

Within the CE regulations in [23 CFR 771.117](#) are two lists of actions that can be anticipated to have little or no environmental impacts, and do not typically involve significant environmental impacts or unusual circumstances. As a result, these actions are expected to typically meet the criteria for a CE. The actions, found in 23 CFR 771.117 (c) and (d), are referred to as “c” list and “d” list actions, respectively.

“c” list actions

Typical “c” list actions are either non-construction in nature (e.g., planning, grants for training, research programs) or involve limited construction activities. Some activities on the “c” list may require the completion of a CE Documentation Form.

“d” list actions

These example actions may involve a greater likelihood for adverse environmental effects than “c” list actions and, therefore, require additional documentation that demonstrates that significant environmental effects will not result. Prepare a CE Documentation Form to verify compliance with local, state or federal requirements and to ensure the project does not involve unusual circumstances that require an EA or EIS.

Note: While the 6004 MOU allows for only the activities specifically listed on the “c” or “d” lists to be processed as 6004 assigned projects. FHWA has the authority to identify and approve actions similar to the examples on the “d” list; therefore consultation with the appropriate Area Engineer and Environmental Program Manager is necessary.

3.4. Programmatic Categorical Exclusions

The approval authority for certain types of CEs has been programmatically delegated to the Regional Environmental Managers (REM). There are four different PCEs between FHWA and DOT&PF which grant this approval authority. These PCEs were executed to facilitate the efficient processing of CE actions and to minimize delays in the delivery of time critical projects. Just as a reminder, these PCEs only apply to non-6004 projects.

For CEs processed using any of these PCEs the REM has approval authority. By signing the environmental document under the conditions or terms of the PCE, the REM certifies that the project complies with:

- the conditions of the specific PCE
- NEPA regulations, [40 CFR 1508.4](#) and [23 CFR 117](#) (a) and (b), by containing only activities that are considered categorically excluded from requiring an EA or EIS, and no unusual circumstances exist
- all applicable laws, regulations, agency agreements, and this Manual

- public involvement requirements, as described in Chapter 5 of the [Alaska Highway Preconstruction Manual](#)

The following is a brief overview of the four PCEs currently in effect between FHWA and DOT&PF:

- [“Programmatic Agreement for Certain “C” List Categorical Exclusions Between the Alaska Department of Transportation and Public Facilities and the Federal Highway Administration, Alaska Division”](#).

Some “c” list projects may fall under this PCE, and require the preparation of an Expedited CE Documentation Form. The summary of “c” list activities and exceptions are included in the agreement and are identified in Table 3-1 without an asterisk (*).

- [“Programmatic Categorical Exclusion Agreement for Use on Federal-aid Highway Projects in Alaska”](#).

This PCE applies to certain highway projects of the type identified in 23 CFR 771.117 meeting the conditions stated in the Agreement. These projects require the preparation of a CE Documentation Form which is submitted to FHWA for review.

- [“Programmatic Categorical Exclusion for Ferry Vessel Improvement Activities Approved under 23 CFR 771.117”](#).

Certain ferry vessel improvement projects qualify as a CE under this approval. This agreement does not include shore side facilities or the construction of any new ferry vessels. If a project meets the conditions outlined in the Agreement, the REM would indicate on the Project Information Sheet that the project was approved using this PCE and no further documentation would be needed.

- [“Programmatic Categorical Exclusion for Right-of-Way Actions Approved under 23 CFR 711.117\(d\)\(6\)”](#).

This programmatic categorical exclusion applies to right-of-way approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, provided the approvals meet several conditions that are listed on the PCE.

For CEs that do not meet the requirements of a specific PCE, the appropriate FHWA area engineer has approval authority.

3.5. CE Approval Process

The CE approval process starts with a class of action determination (See Chapter 2). All FHWA-funded projects must go through the class of action process and 6004 applicability determination described in Chapter 2. The documentation and approval process for a CE can vary depending upon the type of activities that will occur with the project and the applicability of a PCE.

3.5.1. Expedited CE Approval

If the project qualifies under one of these PCEs: “Programmatic Agreement for Certain “C” List Categorical Exclusions Between the Alaska Department of Transportation and Public Facilities and the Federal Highway Administration, Alaska Division”, “Programmatic Categorical Exclusion for Right-of-Way Actions Approved Under 23 CFR 771.117(d)(6)”, or “Programmatic Categorical Exclusion for Ferry Vessel Improvement Activities Approved Under 23 CFR 771.117”, completion of the currently approved CE Documentation Form is not required.

The REM uses the Expedited CE Approval Form to approve projects under either the “Programmatic Agreement for Certain “C” List Categorical Exclusions Between the Alaska Department of Transportation and Public Facilities and the Federal Highway Administration, Alaska Division”, or the or “Programmatic Categorical Exclusion for Ferry Vessel Improvement Activities Approved Under 23 CFR 771.117.” The REM ensures that the conditions of the appropriate PCE are met prior to approving the form.

The Expedited [CE Approval Form](#) can be downloaded from the DOT&PF Environmental website. The REM includes a copy of the approved form in the project file and gives a copy to the FHWA Area Engineer for their files.

The REM's certification and signature on the DOT&PF Encroachment Form #25A-R968 is all the documentation required for projects processed under the "Programmatic Categorical Exclusion for Right-of-Way Actions Approved Under 23 CFR 771.117(d)(6)."

3.5.2. CE Documentation Form Approval Process

The CE Documentation Form is required to document the proposed project's environmental consequences and summarize public and agency coordination activities. FHWA and DOT&PF have agreed that a CE Documentation Form must be prepared for the following types of activities:

- those "c" list activities that have the potential to result in environmental consequences, and
- all "d" list activities, except certain actions approved under 23 CFR 771.117(d)(6)
- other activities not on the "c" or "d" lists that meet the requirements of a categorical exclusion

A copy of the [CE Documentation Form](#) can be downloaded from the DOT&PF Environmental website.

When a CE Documentation Form is required, the Environmental Impact Analyst (or consultant) prepares the form. The engineering manager and the REM review it. By signing the CE Documentation Form, the engineering manager and the REM are certifying that they have each reviewed and approved the content of the CE Documentation Form.

Before submitting the CE Documentation Form to the REM, it is helpful to have a peer review the work to reduce errors and increase efficiency.

Regional Approval of the CE Documentation Form

When a project meets the conditions of the "[Programmatic Categorical Exclusion Agreement for Use on Federal-aid Highway Projects in Alaska](#)," the REM has approval authority for the CE Documentation Form.

The REM reviews the CE Documentation Form to ensure that the project complies with:

- the conditions of the PCE
- NEPA regulations, [40 CFR 1508.4](#) and [23 CFR 117](#) (a) and (b), by containing only activities that are considered categorically excluded from requiring an EA or EIS, and no unusual circumstances exist
- all applicable laws, regulations, agency agreements, and this Manual

By approving the CE Documentation Form, the REM is certifying that the conditions listed above have been met. The REM provides a copy of the approved CE Documentation Form to the FHWA for a Quality Assurance/Quality Control (QA/QC) review prior to the approval of further project activities. A copy of the approved document must be placed in the project file.

Quality Assurance/Quality Control (QA/QC) CE Documentation Form Reviews

Once the REM has conducted their review and approval of a CE Documentation Form they submit a signed copy to the FHWA area engineer.

The FHWA will conduct a QA/QC review of the CE Documentation Form after it is received from the REM.

The QA/QC review ensures that:

- the proposed project meets the conditions of the appropriate PCE, if applicable,
- the action does not have significant environmental impacts as described in 23 CFR 771.117 (a), and

- the action does not involve unusual circumstances as defined in [23 CFR 771.117 \(b\)](#).

FHWA will work with the REM to resolve any concerns identified in the QA/QC review. Concerns identified during the QA/QC review may be resolved by modifying the environmental document content, by including additional information and memo(s) to the project file, or by other means agreed to by the REM and FHWA.

FHWA Approval of the CE Documentation Form

When a PCE does not apply, the FHWA area engineer has approval authority for the CE Documentation Form for projects that do not meet the requirements of the 6004 MOU (*Alaska 6004 Program Environmental Procedures Manual*).

FHWA reviews the CE Documentation Form to ensure it complies with:

- NEPA regulations, [40 CFR 1508.4](#) and [23 CFR 117](#) (a) and (b), by containing only activities that are considered categorically excluded from requiring an EA or EIS, and no unusual circumstances exist
- all applicable laws, regulations, agency agreements, and this Manual

By approving the CE Documentation Form, the FHWA area engineer is certifying that the conditions listed above have been met.

The FHWA area engineer provides a copy of the approved CE Documentation Form to the REM. A copy of the approved document goes in the project file.

3.6. Additional Resources

[DOT&PF Statewide Environmental Office](#)

Contains links to DOT&PF environmental policies, procedures, forms, templates and information on the environmental process.

[Statewide Environmental Office Document Preparation Website](#)

The DOT&PF environmental document preparation webpage contains a link to the current CE Documentation Form and the Expedited CE Approval Form.

[CEQ Guidance on Categorical Exclusions](#)

The guidance recommends best practices for appropriate use of categorical exclusions.

This page intentionally left blank.