

2. Class of Action and 6004 Assignability Determination

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Chapter Abbreviations/Acronyms

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| ANILCA – Alaska National Interest Land Conservation Act | FAA – Federal Aviation Administration |
| CE – Categorical Exclusion | FHWA – Federal Highway Administration |
| CFR – Code of Federal Regulations | FONSI – Finding of No Significant Impact |
| COA – Class of Action | FTA – Federal Transit Administration |
| DEIS – Draft Environmental Impact Statement | MOU – Memorandum of Understanding |
| DOI – Department of Interior | NEPA – National Environmental Policy Act |
| DOT&PF – Alaska Department of Transportation & Public Facilities | NMFS – National Marine Fisheries Service |
| EA – Environmental Assessment | NOI – Notice of Intent |
| EIS – Environmental Impact Statement | REM – Regional Environmental Manager |
| ESA – Endangered Species Act | ROD – Record of Decision |
| | USC – United States Code |
| | USFWS – U.S. Fish and Wildlife Service |

2.1 Introduction

This chapter provides a description of the classes of action under the National Environmental Policy Act (NEPA) (42 USC 4321-4347), a summary of the process for determining a project’s class of action (COA) and 6004 assignability, and the documentation requirements for 6004 excluded projects.

6004 Program Exclusion

The 6004 assignment determination is made by the appropriate Statewide NEPA Manager (see “*Alaska 6004 Program Environmental Procedures Manual*”). The Statewide NEPA Manager will send written notification (email) to the REM, the appropriate FHWA Area Engineer, and the FHWA Environmental Program Manager if the project is not assignable. All subsequent environmental document processing should be routed to the FHWA and processed using this manual.

2.2 Class of Action

For every FHWA project, the environmental documentation process begins with a COA consultation. Under NEPA, and FHWA/FTA regulations there are three environmental classes of action, each having different documentation and compliance requirements. The classes of action are:

- *Environmental Impact Statements* (Class I) [[23 CFR 771.115\(a\)](#)] – Actions that significantly affect the environment require an Environmental Impact Statement (EIS). The EIS process includes a Notice of Intent (NOI), Draft EIS (DEIS), Final EIS (FEIS) and a Record of Decision (ROD). Actions that require an EIS are not assignable under the 6004 Program. They are processed according to the Alaska FHWA Program Environmental Procedures Manual. Chapter 5 of this manual provides more in-depth information on EISs.
- *Categorical Exclusions* (Class II) [[23 CFR 771.115\(b\)](#)] –Categorical Exclusions (CE) are actions that do not individually or cumulatively have a significant effect on the quality of the human environment and are excluded from development of an EIS or an Environmental Assessment (EA). Depending on the project activities some CEs will be assignable under the 6004 Program. Those projects that do not qualify for assignment will be processed according to the Alaska FHWA Program Environmental Procedures Manual.

The majority of DOT&PF projects are processed as CEs. Actions that typically meet the definition of a CE are identified in two specific lists, commonly referred to as the “c” list ([23 CFR 771.117\(c\)](#)) (Table 3-1) and the “d” list ([23 CFR 771.117\(d\)](#)) (Table 3-2). Documentation requirements vary depending on the specific types of project activities. See Chapter 3 of this manual for more information.

- *Environmental Assessments* (Class III) [[23 CFR 771.115\(c\)](#)] – Activities in which the significance of the environmental effects is not clearly known require an EA. An EA determines whether or not the environmental effects are significant and if there will be a need for further analysis and documentation. An EA will provide sufficient evidence and analysis to determine whether to prepare an EIS or a Finding of No Significant Impact (FONSI). Actions that require an EA are not assignable under the 6004 Program. They are processed according to the Alaska FHWA Program Environmental Procedures Manual. Chapter 4 of this manual provides more in-depth information on EAs

2.2.1. Class of Action Determination

A FHWA Class of Action Consultation Form (FHWA COA Form) is used to initiate the COA determination for every FHWA project. Once adequate project information is known, the REM submits the completed FHWA COA Form and necessary supporting documentation to the appropriate FHWA Area Engineer and Environmental Program Manager for signature.

The COA is determined based upon the types of activities involved with the project and an assessment of the probable impacts of the project’s action. To determine the type of environmental documentation required for a proposed activity, you must fully understand the potential for significant impacts and whether unusual circumstances exist.

In some cases, the determination of significance will be obvious because of the absence of an impact to resources within the project boundaries. In cases where resources are impacted by the project, consult with the appropriate FHWA Area Engineer and Environmental Program Manager, and if necessary, the appropriate resource agencies in consultation with FHWA.

Research conducted in support of a COA determination aids in assessing the appropriate level of environmental documentation. It also assists in establishing accurate time estimates for completing the environmental process and establishes reasonable expectations for project funding and planning. Research could include referring to technical reports, consulting with project planners and engineers, visiting the project area, and using resources such as Google Earth, the National Wetlands Inventory, U.S. Fish and Wildlife Service (USFWS) threatened and endangered species resources or the Alaska Heritage Resource Survey.

Significant Impacts

A project that results in significant impacts to the human environment will not meet the requirements of a CE ([23 CFR 771.117\[a\]](#)). Guidance is provided in the CEQ regulations to help better understand the concept of “significance” in relation to the evaluation of impacts. In determining “significance,” CEQ regulations ([40 CFR 1508.27](#)) require that two main points be considered: context and intensity.

Impacts should be considered in the context of society as a whole, the affected region, or the locality. Both short and long term effects are relevant, as well as indirect and cumulative impacts.

Factors to consider regarding intensity or severity of impacts include:

- Impacts that may be both beneficial and adverse
- The degree to which the proposed action affects public health or safety
- Unique characteristics of the geographical area
- The degree to which the effects on the quality of the human environment are likely to be highly controversial

- The degree to which the possible effect on the human environment are highly uncertain or involve unique or unknown risks
- The degree to which the action may establish a precedent for future actions with significant effects
- Whether the action is related to other actions with individually insignificant but cumulatively significant impacts
- The degree to which the action may adversely affect resources 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
- The degree to which the action may adversely affect an endangered or threatened species or its habitat
- Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment

Unusual Circumstances

If an action involves unusual circumstances it will not meet the requirements of a CE ([23 CFR 771.117\[b\]](#)). Any action which normally would be classified as a CE, but has the potential to involve unusual circumstances, will require the appropriate environmental studies to determine if the CE classification is proper.

If an action involves any of these unusual circumstances, the project does not qualify as a CE:

- Significant environmental impacts;
- Substantial controversy on environmental grounds;
- Significant impacts on properties protected by [Section 4\(f\) of the DOT Act of 1966](#) or [Section 106 of the National Historic Preservation Act](#); or
- Inconsistencies with any Federal, State or local law, requirement, or administrative determination relating to the environmental aspects of the action.

2.3 Projects Started Prior to the Original 6004 MOU

If the environmental process for a project began prior to the original 6004 MOU, signed on September 22, 2009, the project should be evaluated for possible inclusion in the 6004 Program. The REM will consult with the Statewide NEPA Manager to determine whether the project is assignable using the process outlined in this chapter. This step will ensure that all active projects are evaluated for 6004 assignment.

2.4 Additional Resources

[6004 MOU between FHWA and ADOT&PF](#)

Complete text of the 2012 6004 MOU

FHWA Class of Action Consultation Form

The current version of the approved FHWA COA Form is available on the DOT&PF Statewide Environmental Website

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