

Instructions for the Preparation of National Environmental Policy Act Documentation for Programmatic Categorical Exclusions

OVERVIEW

MAP-21 Section 1318(d)(2) created express authority for FHWA to enter into programmatic agreements with State Departments of Transportation (SDOTs) to allow them to make categorical exclusion (CE) approvals on FHWA's behalf. Programmatic Agreements allow SDOTs to process CEs to produce time savings in the project delivery process. These agreements provide benefits such as: (1) specifying roles and responsibilities of those involved; (2) standardizing coordination and compliance procedures; (3) facilitating the development of greater trust relationships; and (4) allowing staff and resources to be focused and effective.

Pursuant to 23 CFR 771.117(g), FHWA may enter into programmatic agreements with a State to allow a State DOT to make a NEPA CE certification or determination and approval on FHWA's behalf. The Alabama Department of Transportation (ALDOT) and the Alabama Division of the Federal Highway Administration (FHWA) formally entered into a programmatic agreement for categorical exclusions (CE) on 01/12/16. The Programmatic Categorical Exclusion (PCE) agreement established ALDOT's authority to determine whether a project qualifies for a CE on behalf of FHWA. The ALDOT is responsible for evaluating the project's potential impacts, and preparing and approving any necessary CE documentation, including the ALDOT's CE decision. FHWA does not have a review or approval role under this method; however, FHWA retains general responsibilities for program oversight including specific responsibilities specified in the PCE agreement.

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 typically: do not include 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; and do not otherwise, either individually or cumulatively, have any significant environmental impacts. Definitions of the types of CEs can be found in 23 CFR 771.117. Please review these definitions, as they will provide you with information applicable to the level of NEPA documentation required for your project.

Projects with the lowest level of impacts or for actions programmatically approved by FHWA are processed as Programmatic CEs. Projects under this designation stem from the listing authorized under 23 CFR 771.117(c)-(d), (or sometimes commonly referred to as the ‘c-list’ or ‘d-list’). These project types are typically processed by ALDOT using the PCE Form. Projects that do not qualify as PCEs may be processed as CEs using the CE Form as long as it is not determined that the NEPA action should be processed as an EA or an EIS.

Preparers of National Environmental Policy Act (NEPA) documentation must coordinate closely with their ALDOT NEPA point-of-contact (POC) in the ALDOT Environmental Technical Section (ETS). ETS assigned staff to service as the POC for ALDOT Regions, County Transportation, Innovative Programs, and Multimodal undertaking the required NEPA documentation for a federal-aid project.

Within the framework of authority given to ALDOT by FHWA pursuant to 23 CFR 771.117(g), ALDOT decided to delegate PCE approvals to Bureaus and Regions beyond ETS. To simplify the PCE approval delegation, PCEs were split into two types, Type I and Type II. **Type II PCEs may be administered, completed and approved only by ALDOT ETS.**

PROCESS

CEs may be initiated in many different ways, including:

- City/town initiated through ALDOT Regions
- City/town initiated through ALDOT Innovative Programs
- City/town initiated through Multimodal
- County initiated through ALDOT County Transportation
- ALDOT initiated by Regions
- ALDOT initiated by ETS (at the request of another ALDOT section)

The following steps will be followed no matter what ALDOT bureau/region/section initiates the PCE.

1. For the PCE Form:
 - a. If all questions are answered “no” (with the exception of Section II. Statewide Transportation Improvement Planning (STIP)), the Type I PCE Form may be completed.
 - b. If the answer to any of the questions is “yes”, contact the ETS POC to discuss how to proceed.
 - c. Sign and save the PCE Form on the ALDOT SharePoint site in PDF format. FHWA and ALDOT ETS will conduct an annual audit of ALDOT’s NEPA documentation.

Type I PCE Forms shall be completed for each action, or project, that meets the “basic” criteria for processing as a PCE under the *Programmatic Categorical Exclusion Agreement* (dated 01/12/2016) between the FHWA – Alabama Division and ALDOT.

Type I PCE forms are intended to be utilized by local entities and their consultants and by ALDOT staff and ALDOT Consultants to fulfill their regulatory obligations under NEPA when federal funds are to be used for certain types of transportation-related projects.

HOW TO USE THE TYPE I PCE FORMS

The Type I PCE Form was initially developed in a SharePoint format. Changes to the format or language on the forms must not be made without specific instructions/permission from the ALDOT ETS in cooperation with FHWA.

The Type I form is accessible on the intranet page and as such cannot be accessed by persons outside of ALDOT. Forms that have either 'New', 'Sent to Reviewer', or 'Sent to Approver' status are stored on the ALDOT SharePoint site. Completed forms are also stored on the ALDOT SharePoint site, but for a limited time. A completed form should be scanned and added to the project managers files. An electronic form is also available for use by local agencies. The form is to be prepared, signed and provided to the ALDOT POC when an agency other than ALDOT is the project sponsor. The signed form should be uploaded to the ALDOT SharePoint site.

WORKING WITH PROTECTED TEMPLATES

The Type I PCE Form is password protected to prevent changes in format or language on the form. The user must save the PCE Form with the project name.

The document will be in protected mode. In this mode, the user will be able to click on and fill in the grey boxes. No edits, however, can be made to the fixed text/unshaded areas. For the check boxes, a single click will check or uncheck the box. For text (greyed) boxes, click on the box and fill in with project-specific information. With a protected document, the highlighting stays on after you enter the text, but the highlighting does not print. The highlighting is there to make it easier to see the fields on the screen.

The preparer must carefully review the completed PCE Form because text entered into the template cannot be spell-checked.

HOW TO COMPLETE THE PCE

This section contains instructions for completing the Type I PCE Forms. The individual completing the form must consult with the ALDOT Region/Bureau POC as soon as a "yes" is added to the form. ALDOT Region/Bureau Lead POC's should complete the form and contact the ETS POC to check on documentation of the project impacts. Additional attachments should be provided to discuss project impacts before consulting with an ETS POC.

PROJECT INFORMATION

Project Number: Enter the project number (e.g., "CMAQ-1234(567) or STPNU-987(654) or ST-001-010-100).

Project Limits/Termini: For linear projects, such as roadway or sidewalk improvements, use the beginning and end points, i.e., termini, of the project (e.g., SR-111 Additional lanes from I-99 to CR-00). For other projects, the termini may be contained in your contract or work order authorization. The termini may simply be where the project is located (e.g., I-88 Landscaping at 3 interchanges, Montgomery; or ADA

compliant Sidewalks at various location in Montgomery County). The project description and limits may also be in the State or Metropolitan Planning Organization’s Transportation Improvement Plan. The termini of a project can change after initial meetings with FHWA based on purpose and need, traffic, change in scope, etc. Any changes/modifications associated with the project regarding the logical termini needs to be reassessed to determine the proper level/form of documentation. The project limits/termini must come from the designer

County: Pick the appropriate county/counties from the drop-down list.

Sponsor: Enter the initiator/entity (ex: City sponsor/representative; County sponsor; ALDOT)

Bureau/Office/Region: Enter the appropriate lead. This is typically the location where the document will be recorded in the PCE records/system*.

Reviewer: Click on the ‘address book’ icon to select the appropriate reviewer or enter the reviewers ALDOT user name and click on the ‘Check Names’ icon.

Approver: Click on the ‘address book’ icon to select the appropriate approver or enter the reviewers ALDOT user name and click on the ‘Check Names’ icon.

Prepared By: Click on the ‘address book’ icon to select the appropriate preparer (project manager) or enter the reviewers ALDOT user name and click on the ‘Check Names’ icon.

Federal/CPMS #s: Complete this section by filling in the necessary information. If an item is “Not Applicable,” please indicate so (e.g. N/A). Note: if a right-of-way number is included in a Type I PCE project, double check to see if it needs to be upgraded to a Type II project.

STATEWIDE TRANSPORTATION IMPROVEMENT PLANNING

STIP: Indicate whether the project is in the current STIP or TIP and include approval year.

PROGRAMMATIC CE CATEGORY

The decision-making authority in the PCE Agreement is limited to the CE actions specifically listed in 23 CFR 771.117(c) and (d). Therefore, each action must site a reference in the C List (23 CFR 771.117(c)) or the D List (23 CFR 771.117(d)). This section contains a drop-down list of all C List and D List actions. Select that action that matches the scope of the project. Contact the ALDOT if there are questions or concerns or if the action falls outside these categories.

PROJECT AREA AND DESCRIPTION

This section requires a brief description of the program through which your project is being funded, a description of existing conditions in the project area, and a description of the proposed project. It is important to fully document the scope of the action in order to confirm that the proposed action meets the requirements of the NEPA action. Include a project location map to give a general view of where the project is in the attachments. Additional required and/or pertinent information, including maps, photos, or diagrams, must be attached. Include a project location map from the project information files or create a map and include it in the Appendix.

REVIEW CRITERIA/ADDITIONAL INFORMATION

It is important to note that each program and/or individual project has specific information needs. A general rule of thumb is that you should attach anything that supports the impact findings of the PCE. And, as previously stated, always talk with your ALDOT POC prior to starting work. The POC can answer your questions and may also be able to provide you with a PCE that has been approved for a similar type project.

The ALDOT POC can provide you with guidance on how to undertake some of the studies discussed below and the appropriate level of study needed for each project. Some projects may involve minor analysis, while others may involve full studies.

Gather supporting documentation, as appropriate, and address the questions enumerated in the Review Criteria section of the PCE Form. Respond to each question by checking “yes” or “no”. If a “yes” response is indicated in any area, please contact the POC for consultation on how to proceed for the PCE Form. Documentation (letters, memos, forms, etc.), as appropriate, should be referenced in the “Additional Information” section (i.e., “The letter is included as Attachment B”). It then needs to be included in the attachments to the PCE Form.

The following sections describe what should be entered into each area. Please note that it is important to avoid the use of the term “significant” when describing impacts.

Capacity

If the proposed action involves the addition of capacity, you will need to contact your POC as the PCE form will not apply.

The addition of capacity on highways has the potential for environmental impacts. To accurately measure these potential environmental impacts, additional analysis may be necessary. If the project increases capacity, contact your POC, as the capacity increase may push the NEPA classification to a CE or EA.

The capacity of a roadway may be increased in different ways, including providing additional lanes without widening (restriping, use of shoulder as travel lane), additional travel lanes by widening to the inside or outside of the roadway, and the addition of auxiliary lanes or improvements to ramps and weaving sections.

Access Management

This section pertains to proposed changes to the current type of roadway access control.

Access Management is the proactive management of vehicular access points to land parcels adjacent to all manner of roadways. Good access management promotes safe and efficient use of the transportation network. Access management encompasses a set of techniques that state and local governments can use to control access to highways, major arterials, and other roadways. These techniques include:

- **Access Spacing:** increasing the distance between traffic signals improves the flow of traffic on major arterials, reduces congestion, and improves air quality for heavily traveled corridors.
- **Driveway Spacing:** Fewer driveways spaced further apart allows for more orderly merging of traffic and presents fewer challenges to drivers.
- **Safe Turning Lanes:** dedicated left- and right-turn, indirect left-turns and U-turns, and roundabouts keep through-traffic flowing. Roundabouts represent an opportunity to reduce an intersection with many conflict points or a severe crash history (T-bone crashes) to one that operates with fewer conflict points and less severe crashes (sideswipes) if they occur.
- **Median Treatments:** two-way left-turn lanes (TWLTL) and non-traversable, raised medians are examples of some of the most effective means to regulate access and reduce crashes.
- **Right-of-Way Management:** as it pertains to R/W reservation for future widenings, good sight distance, access location, and other access-related issues.

For more information on access management, please see FHWA's website for access management at: https://ops.fhwa.dot.gov/access_mgmt/

Note: If the proposed action involves a change in the access control of a roadway, (including temporary access control changes) contact your POC as the PCE forms will not apply.

Right-of-Way

Type I PCE: Projects with right-of-way acquisition or construction easements (temporary or permanent) cannot be processed as a Type I PCE.

Streams/Wetlands

If the proposed action requires a U.S. Coast Guard construction permit or U.S. Army Corps of Engineers Section 404 permit, the project may not qualify for processing using the PCE form.

Sometimes it is obvious that no streams or wetlands will be affected by a project based on its location (e.g., densely developed urban environment) or project type (e.g., Civil War Trail marker). If not obvious or if unknown, a field review by the Region POC should be conducted to identify streams and/or wetlands and whether they will be affected by the proposed project.

Consult with the ALDOT Region/Bureau POC to obtain a scope of work for ecological studies if ecological features may be affected by the project. The POC will provide guidance on the level of study needed or will refer you to the ALDOT ecology staff. For projects that involve streams and/or wetlands you need to have a qualified ecologist evaluate the project area and present their findings in a report that will accompany the PCE form.

Waterways

If the action involves bridging a waterway, contact the Staff of the ALDOT ETS Biologist section to obtain a clearance stating no bridge permit is required.

Wild and Scenic Rivers

Currently, the Sipsey Fork of the West Fork River is the only river in Alabama designated a National Wild and Scenic River.

Rivers are designated under the federal Wild and Scenic Rivers Act. According to the Act, “certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.”

The individual completing the PCE must determine if federally-designated Wild and Scenic Rivers, or those under study for designation, are in the project area. The list of Alabama’s designated and study rivers can be found at: <http://www.rivers.gov/maps/conus.php>

Coastal Zone

Applies to Baldwin and Mobile Counties only.

Where the proposed project or activity is within, or is likely to affect land or water uses within Alabama’s coastal area covered by the Alabama Department of Environmental Management (ADEM) Coastal Program, the proposed action may not be processed as a programmatic CE.

Contact with ALDOT ETS POC is required.

ADEM defines Alabama’s coastal area as:

"Coastal area" means the waters (including the lands therein and thereunder) and the adjacent shore lands (including the waters therein and thereunder) lying seaward of the continuous 10 foot contour (as defined below) extending seaward to the outer limit of the United States territorial sea. The inland boundaries of the coastal area are described as follows: begin at the southernmost point of the Mississippi-Alabama state line where the land surface elevation reaches 10 feet above mean sea level and continue in a general easterly direction along the 10-foot contour to the proximity of Mobile Bay; continue in a northerly direction on the 10-foot contour along the western shore of Mobile Bay and the Mobile River delta to the north line of Mobile County; thence southeastward along the north line of Mobile County to the intersection with the Baldwin County line in the Mobile River; thence along the west and north lines of Baldwin County in the Mobile and Alabama Rivers to the intersection of the westernmost point of Baldwin County where the land surface altitude reaches 10 feet above mean sea level; thence along the 10-foot contour in a southwesterly and southern direction along the Alabama River, the Mobile River delta and the east shore of Mobile Bay to the proximity of Bon Secour; thence continue along the 10-foot contour in an easterly and northeasterly direction to the Alabama-Florida state line."

Floodplain/Floodway

Protection of floodways and floodplains is required under 23 CFR 650A; Executive Order 11988, Floodplain Management; and US Department of Transportation (USDOT) Order 550.2, Floodplain Management and Protection. The intent of these regulations is to avoid or minimize highway encroachments within the 100-year (base) floodplains or regulatory floodway, where practicable, and to avoid supporting land use development that is incompatible with floodplain values. As necessary, a preliminary analysis should be conducted for projects that disturb previously undisturbed land to determine whether the proposed action will encroach on any base (100-year) floodplain and/or regulatory floodway.

If the answer is NO, the following document text applies and should be included in your attachments.

The project is not in a FEMA floodway, floodplain, or study area, and is located on Flood Insurance Rate Map (FIRM) in ___ County, Panel ___ or ___, Map # _____.

Visit: <http://fris.ncem.org/fris/Home.aspx?ST=AL> for FIRMs, and <http://www.fema.gov/flood-zones> for further flood zone explanations.

If the answer is YES contact your ALDOT POC.

Endangered Species

A number of federal and state laws pertain to the consideration and evaluation of natural resources, including the Clean Water Act; the Endangered Species Act; Fish and Wildlife Coordination Act; Executive Order 11988, Floodplain Management; Executive Order 11990, Protection of Wetlands;

Type I PCE projects are required to meet the criteria included in the Memorandum of Agreement among the Federal Highway Administration Federal Highway Administration, Alabama Division, State of Alabama, Department of Transportation and Department of Interior, U. S. Fish and Wildlife Service Alabama Field Office, dated December 2013.

The MOA defines categories of low-impact projects that do not require written comments from the USFWS. If the project does not exceed the limits of the MOA then check "NO" and indicate the section(s) of the MOA that apply. **Include a copy of the MOA in the attachments and reference it in the text.** If the MOA is not applicable, then a study by a qualified ecologist may be required. Consult with the POC regarding the need for an ecology study. The POC may refer you to an ALDOT ecologist for guidance on the study contents. Please see attached a copy of the current MOA in the Appendix.

All response emails or letters should be included in the attachments to the PCE. Ecological studies, if undertaken, must also be attached. If endangered species or their habitat are within the project impact area, please contact the POC, as the project may not be able to be processed as a PCE or C-List CE using the form.

*Please be aware that there are some non-water species within our existing ROW that are endangered. Coordinate these activities with your maintenance personnel.

Federally listed Bats:

If the project scope involves clearing/grubbing or bridge modification and the project occurs within the White Nose Syndrome Zone (WNS) please contact your ALDOT ETS Biologist.

If the project is not within a ¼ mile of known hibernacula or known roost trees, then the project should not be one of concern and should be documented as such in the type I PCE. If the project involves any type of bridge work or clearing, send the project information and scope to ETS for review.

<<Visit>> Insert hibernacula link

Visit: <https://www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf>

Cultural Resources (Architectural/Historical and Archaeological Resources)

Section 106 of the National Historic Preservation Act of 1966 and the Advisory Council on Historic Preservation's implementing regulations (36 CFR 800) require Federal agencies to take into account the effects of federal undertakings on properties eligible for or listed in the NRHP. In doing so, these agencies, in cooperation with Alabama State Historic Preservation Office (ALSHPO), must make a "Determination of Effect" on all actions that use Federal funds or require Federal licenses, permits, or approvals. A determination of "No Historic Properties Affected" or "No Adverse Effect" allows for continued processing using the PCE Form. The regulation also applies to local governments using federal funds.

The local government should request a check of the records at the ALSHPO by Architectural Historians in the ALDOT ETS or approved consultant (see explanation below) to determine if there are properties in the project's potential impact area that are listed in or eligible for listing in the NRHP.

If there are NRHP-listed properties or properties that are 50 years old or over within the vicinity, or if there is any uncertainty involved with making this statement, contact your ETS POC. Also, contact your ETS POC if there is previously undisturbed land that will be disturbed. An architectural/historical and/or archaeological survey report (or a combined report) may be required. Scopes of work for both types of studies should be obtained through the ETS POC. Scopes of work provided by ETS will help insure adequate/appropriate coverage by the study limiting the need for subsequent additional fieldwork.

The MOU defines categories of low-impact projects that do not require written comments from the ALSHPO. **If applicable, include a copy of the MOU in the PCE attachments and reference it in the text.** If the MOU does not apply, contact your ALDOT POC or provide a SHPO concurrence (note: coordination w/SHPO for a concurrence must be done by someone designated in that field of expertise). Please see attached a copy of the current MOU in the Appendix.

Hazardous Materials

Hazardous waste sites are regulated primarily by the Resource Conservation and Recovery Act of 1976 (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). RCRA regulates the ongoing manufacture, storage, use, treatment, transportation and disposal of hazardous substances/wastes from manufacture to final disposal. CERCLA is designed to control, clean up and designate liability for abandoned, uncontrolled or inactive waste sites. The preferred option of dealing with hazardous waste sites is avoidance, unless the risks of proceeding can be justified. Contaminated property can cause excessive project delays, impacts, costs and liability.

Phase 1 investigations are required to include a review of records and project inspections. ALDOT ETS staff can conduct, review of records and/or conduct project inspections and provide you with the

information you need, either through an email stating that a hazardous materials study is not needed or a copy of the hazardous materials clearance letter. If guidance is needed to undertake this task, your ETS POC can provide this upon request.

Environmental Commitments

Environmental Commitments are project obligations made by ALDOT made by the project sponsor to minimize, mitigate, avoid potential environmental impacts induced by a proposed project. Environmental commitments are unique in that they are not usually implemented beyond/above the normal protocol. Commitments must be approved by the appropriate jurisdictional agency. Commitments should be submitted to an ALDOT POC prior to approval.

Bicycle and Pedestrian Accommodations

Explain how bicycle and pedestrian transportation facilities were considered, where appropriate, with new construction and reconstruction transportation facilities, except where bicycle and pedestrian use are not permitted. (23 USC 217(g)(1))

PREPARER'S CERTIFICATION

The document preparer must read the text in this section and then, if in agreement, sign in the appropriate place.

The first signature block ("Prepared By") should be signed by the person responsible for the completion of the document. The second signature block ("Local Government Representative Signature") is to be used only for projects for which the local government is undertaking the NEPA documentation. If that is the case, it should be signed by the person responsible for ensuring the proper acquisition and use of federal funds for the project. This can be the Mayor or other designated representative.

If the project is completed by ALDOT or Consultant staff, no signature is needed in the "Local Government Representative Signature" block.

You can sign a paper copy and either scan it and attach or choose your name from the dropdown list from the ALDOT SharePoint site form.

ATTACHMENTS

PCE ATTACHMENTS

1. **Project Location Maps** – This will illustrate the project termini and location for the proposed improvements. Project location maps should include a general vicinity view of the project area (showing town/city/neighborhood/unincorporated limits the project is located in and nearby cities/towns and major roads) the township, range, and latitude/longitude coordinates. Please see attached an example of a project location map in the Appendix.
2. **Studies/Reports/Clearances/Coordination Letters** –This includes coordination letters and correspondence that provides clearance for the project. Coordination will depend on whether

the document preparer is ALDOT staff or ALDOT consultant, or if the preparer is a local government.

For ALDOT staff or ALDOT consultants: Upon request, the document preparer may receive various types of correspondence from ALDOT technical staff, including coordination letters and correspondence, Memoranda of Agreement (MOA) and/or Understanding (MOU), which provide clearance from coordinating agencies. All pertinent correspondence should be included.

For Local Governments: The document preparer will need to include any correspondence from ALDOT technical staff and coordinating agencies, including clearance for the project. If a study or records search is required, it should also be included.

Please see attached an example of required resource clearances for PCE projects in the Appendix.

3. **Plans:** Plans should also be included to show the project details.
4. **Other Supplemental Project Information** – There may be additional, project-specific materials that the document preparer may need to include. Examples include excerpts from a grant application, traffic counts and forecasts, coordination with the MPO/TPO/RPO, additional design plans, prototypes of features to be included in the project and public involvement activity. The POC should be able to provide guidance on how to obtain these materials.

HOW TO COMPLETE THE ATTACHMENTS TO THE PCE FORM

Below is a list of items that **may** be needed in the PCE documentation. The attachments should have cover sheets. The POC can provide you with a Microsoft Word document containing a sample cover sheet. The attachments should be placed in the order in which they are referenced in the text of the PCE Form.

- Project location map(s)
- Plan sheets/concept plans
- Wild and Scenic Rivers documentation if project is involved with the Black Warrior River (Sipsey Fork)
- Cultural reference in current MOU or clearance letter through SHPO
- USFWS reference in current MOA or clearance letter through USFWS
- Hazardous Materials
 - Email or letter documentation from ALDOT hazardous materials staff stating that a study is not needed, as the project has no potential to affect hazardous materials; or
 - Hazardous materials memo or study
- Documentation of Other Issues
 - Include any pertinent report or correspondence regarding other issues identified and evidence of public involvement if any meetings were held