

## Categorical Exclusion Determination Project Narrative and Checklist Detailed Instructions

The level of information to be provided in the project narrative should be commensurate with the size and scope of the proposed project and with the proposed project's potential for adverse environmental impacts.

### Project Description

The project description (with appropriate maps and graphics) should discuss the project location, project limits, proposed improvements, and the reason the project is a federal action.

### Section A: Purpose and Need

The "Need" portion of a Purpose and Need discussion should be a concise justification of why the project is needed (that is, the fundamental reasons why improvements are being proposed). It should describe the effects of the current conditions and what would happen if nothing is done.

The project purpose should be stated as the positive outcome that is expected from implementation of the project. For example, "The purpose of the proposed project is to reduce congestion along the roadway."

Additional guidance is included in [AASHTO's Practitioner's Handbook #7—Defining the Purpose and Need and Determining the Range of Alternatives for Transportation Projects](#) (August 2007).

### Section B: Alternatives

If alternatives were considered for the project, the Alternatives discussion should include a description of each alternative (including the No Build Alternative) and a concise statement as to why each of the alternatives have been eliminated from further study.

### Section C: Existing Conditions, Environmental Impacts, and Mitigation Measures

Each of the following subsections should have an Existing Conditions discussion, an Environmental Impacts discussion and a Mitigation Measures discussion, as applicable. The Existing Conditions discussion should be a concise description of the existing environmental setting in the project area. The Environmental Impact discussion should include the anticipated beneficial and adverse permanent or temporary environmental effects from the proposed project. The Mitigation Measures discussion should indicate the avoidance, minimization, and mitigation measures, if any, that would be used to reduce or offset potential environmental impacts.

#### 1. Wetlands and Waterways

The Wetlands and Waterways discussion should indicate whether the proposed project involves work in, over, or under any wetlands or waterways in the project area. In addition to a discussion of the project's permanent and temporary impacts and mitigation measures, if any, it should also indicate whether a permit from U.S. Army Corps of Engineers or U.S. Coast Guard is needed for the project. Additional information is included in the detailed instructions for [Question 21](#) and [Question 22](#).

## Categorical Exclusion Determination Detailed Instructions

### 2. Threatened and Endangered Species

The Threatened and Endangered Species section should discuss the presence (or absence) of federally listed or proposed threatened or endangered species or critical habitat in the project area. It should discuss the effect that the proposed project is likely to have on these listed or proposed species or critical habitat and any proposed mitigation measures. All Endangered Species Act consultation with the U.S. Fish and Wildlife Service (USFWS) must be completed prior to NEPA approval. Additional guidance is included in the detailed instructions for [Question 23](#).

### 3. Section 4(f) Properties

This section should indicate if there is a “use” of any Section 4(f) properties by the proposed project. There should also be a discussion as to whether the use results in a greater than *de minimis* impact and the type of Section 4(f) Evaluation, if any, that is needed. Furthermore, this section should describe any easements on Section 4(f) properties that represent a “temporary occupancy” and do not result in a “use” of the property. All Section 4(f) documentation must be sent to FHWA for review, regardless of impact level, to ensure that all requirements are met. Additional guidance is included in the detailed instructions for [Question 19](#) and [Question 20](#), and in FHWA’s [Section 4\(f\) Policy Paper](#).

### 4. Historic Properties

The Historic Properties section of the project narrative should summarize the effect finding as determined by MassDOT’s Cultural Resources Unit. MassDOT’s Environmental Services staff will prepare the effect finding.

Relevant correspondence from the consultation process with the Massachusetts State Historic Preservation Officer (SHPO) and other consulting parties (if any) should be included.

### 5. Noise

The Noise discussion should indicate if the project is a Type I action necessitating a Noise Evaluation. Projects that qualify as a Type I action are described in the [Massachusetts Department of Transportation Type I and Type II Noise Abatement Policies and Procedures](#) document. If the project is a Type I action, then this section should summarize the findings of the Noise Evaluation and the mitigation measures proposed, if any.

### 6. Right-of-Way Requirements

The Right-of-Way Requirements discussion should indicate if the project involves the permanent acquisition of more than minor amounts of right-of-way that would adversely affect the activities or functions of the affected properties or businesses or result in the relocation of businesses or individuals. The preparer should include the parcel summary sheet from the most up-to-date Right-of-Way plans highlighting acquisitions requiring more than minor amounts of right-of-way and Section 4(f) properties incorporated into the project. Any correspondence relating to right-of-way issues should be summarized. The Right-of-Way Requirements discussion should always indicate that the acquisition and relocation program would be conducted in accordance with the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970, as amended.

## Categorical Exclusion Determination Detailed Instructions

### 7. Other Environmental Impacts

Where applicable, this section should discuss other environmental impacts not covered in the previous sections. For example, this section would discuss a project's consistency with the Coastal Zone Management Act, project conformity to the Massachusetts Air Quality State Implementation Plan, and results of a project's air quality hot spot analysis.

### Section D: Public Outreach

The Public Outreach section should describe the types of public involvement, such as public meetings or public hearings, that were employed for the proposed project and when these efforts were undertaken. The preparer should discuss any issues and/or concerns about the project as expressed by the public, property owners, government officials, resource agencies, or special interest groups and discuss how these issues and concerns have been appropriately considered and documented.

### Section E: Permitting and Regulatory Review

The Permitting section should discuss the Federal permits or reviews that must be obtained before project construction, any issues raised as a result of the permitting process, and the status of the required permits or actions.

### Appendix A: Supporting Documentation

Supporting documentation should be attached to the *Categorical Exclusion Determination Project Narrative and Checklist*. Examples of supporting documentation include Section 106 Findings of Effect, *de minimis* impact determinations, Section 4(f) documentation, air quality hot spot analyses, and noise analyses.

## Categorical Exclusion Determination Detailed Instructions

# Categorical Exclusion Determination Checklist Detailed Instructions

The reports titled [Improving the Quality of Environmental Documents](#) (prepared by AASHTO/ACEC in cooperation with FHWA) and [Improving the Quality of Environmental Documentation](#) (prepared by MassDOT) offer several principles for quality categorical exclusion documentation. They are 1) describe the project so that the reader can easily understand the project's purpose and need and social, economic, and environmental impacts; 2) describe the strengths and weaknesses of each alternative (if applicable); and 3) use clear, concise writing and effective graphics.

### Section 1: Categorical Exclusions

In accordance with the National Environmental Policy Act (NEPA), federal agencies must prepare a detailed statement on the environmental impacts of major [federal actions](#) significantly affecting the quality of the human environment. The Council on Environmental Policy (CEQ), an agency within the Executive Office of the President, was charged with creating regulations for the procedural provisions of NEPA and for all federal agencies' implementation of NEPA. The CEQ regulations required federal agencies to identify typical actions that normally:

- Are categorically excluded from further evaluation;
- Require an Environmental Assessment (EA); or
- Require an Environmental impact Statement (EIS).

Actions that do not, individually or cumulatively, result in significant social, economic, and environmental impacts, are categorically excluded from the requirement to prepare an EA or EIS. CEs are actions that:

- 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, or other resource;
- Do not involve significant air, noise, or water quality impacts; or
- Do not have significant impact on travel patterns.

Any action that would normally be classified as a CE, but could involve unusual circumstances, will require appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

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

A determination of the **significance** of an impact requires the consideration of both [context](#) and [intensity](#). An **action** that is classified as a categorical exclusion (CE) has satisfied the requirements of the NEPA regulations.

## Categorical Exclusion Determination Detailed Instructions

### QUESTION 1

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#### **CE C-22 (Projects that would take place entirely within the [existing operational right-of-way](#))**

The median of a divided highway can be considered to be within the operational right-of-way. The location of fencing demarcating the limits of right-of-way ownership does not necessarily determine the limits of the existing operational right-of-way.

For certain projects, it may be necessary to provide evidence (such as photographs or visual inspection) that an area was disturbed for a transportation facility. Archaeological surveys or construction plans for the original facility are not required to demonstrate that an area has been disturbed.

Maintenance projects typically occur within the operational right-of-way and would qualify for CE C-22.

A proposed project that requires temporary easements and temporary work outside an operational right-of-way would still be able to be classified under CE C-22, as long as the final project is entirely within the operational right-of-way. Temporary easements and work are subject to review for unusual circumstances (such as work taking place in endangered species habitat) that would trigger the need for a higher level of NEPA review for the project.

A proposed project within the operational right-of-way that requires the creation of new clear zones, or extension of clear zone areas beyond those which exist, would not qualify for CE C-22. A proposed project that requires a permanent easement outside of the existing operational right-of-way would not qualify for CE C-22. For projects that cannot be classified under CE C-22, other available CEs may be used, as appropriate.

The inclusion of mitigation for a proposed project does not override, waive, or alter the mitigation commitments that were established for the original transportation facility. Furthermore, the use of mitigation areas for a proposed project may trigger other actions to meet the original mitigation commitments.

Rights-of-way acquired and held for future transportation facilities or areas acquired and held as a transportation corridor for a future project would not constitute an existing operational right-of-way and are not suitable for CE C-22, but they may be suitable for another CE. Utility use and occupancy agreements, and other real property interests that are not maintained for existing transportation purposes, would not be part of the existing operational right-of-way and are not suitable for CE C-22.

#### **CE C-23 (Federally-funded projects):**

- (i) That receive less than \$5 million of Federal funds (as adjusted annually by the Secretary of the United States Department of Transportation (the Secretary) to reflect any increases in the Consumer Price Index prepared by the Department of Labor); or
- (ii) With a total estimated cost of not more than \$30 million (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor) and Federal funds comprising less than 15 percent of the total estimated project cost)

The thresholds in CE C-23 are for total estimated project costs (all phases), not just construction costs. The preparer should describe the basis for the total estimated project cost in the project description.

For projects that cannot be classified under CE C-23, other available CEs may be used, as appropriate.

## Categorical Exclusion Determination Detailed Instructions

Accurate cost estimates are critical when using CE C-23, because if the limits are exceeded at any time, then the CE will no longer apply. The project will either have to meet the criteria for a different CE, or an environmental document will have to be prepared.

Projects not receiving Federal-Aid funds, but requiring other forms of approval from FHWA (for example, an Interstate System access change approval), do not qualify for CE C-23, but may qualify for another type of CE.

A reevaluation of CE C-23 would be triggered if there is an increase in the amount of Federal-Aid funds for the project beyond the established thresholds and there is still a FHWA approval that needs to be given when these changes occur.

### Section 2: CE and Unusual Circumstances Questions

23 CFR 771.117(b) states that any action which would normally be classified as a CE, but could involve unusual circumstances, will require appropriate environmental studies to determine if the CE classification is proper.

Such unusual circumstances include:

- Significant environmental impacts (This is determined by Questions 4 through 6 and Question 8);
- Substantial controversy on environmental grounds (Question 7);
- Significant impact on properties protected by Section 4(f) of the DOT Act or Section 106 of the National Historic Preservation Act (Question 8); or
- Inconsistencies with any federal or state law, requirement or administrative determination relating to the environmental aspects of the action (Question 9).

The potential for unusual circumstances may dictate that a project needs additional environmental studies and documentation. It should be possible to consider unusual circumstances by reviewing maps and databases, but some projects may require field review, environmental analysis, and public outreach. After the additional studies, it may be found that the project can be classified as an Individual CE, rather than automatically trigger an EA or EIS. Consideration of unusual circumstances and compliance with other environmental laws may trigger the need to identify substitute mitigation or compensatory measures, as appropriate.

FHWA has indicated that the list of unusual circumstances is not all-inclusive and the finding that there are unusual circumstances will depend on the context of the project. Routine documentation, such as for *de minimis* determinations, are not considered unusual circumstances. In addition, failure to meet one or more of the CE Conditions in Section 4 of the *Categorical Exclusion Determination Checklist* does not mean that the project has unusual circumstances that warrant the start of an EA or EIS process.

The uniqueness of CE C-23 (that is, a CE determination based on dollar thresholds instead of a particular scope or description of the action) makes the consideration of unusual circumstances particularly important to ensure that projects that receive Federal funds below the established thresholds are not processed as CEs when the unusual circumstances warrant another level of NEPA review.

## Categorical Exclusion Determination Detailed Instructions

### QUESTION 2

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Examples of projects that may induce significant impacts to planned growth or land use include:

- Construction of a highway on new location.
- Changing a segment of highway from partially or fully-controlled access to uncontrolled access.
- Modification of an existing interchange by adding or relocating ramps.
- Adding a new interchange to a highway.

### QUESTION 3

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Determining the significance of a relocation of people requires the consideration of the [context](#) and [intensity](#) of that relocation. For example, the relocation of 100 people from two multi-family buildings in a densely populated urban area may not be considered significant, while the relocation of 100 people from 20 homes in rural area may be considered significant.

### QUESTION 4

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These resources include, but are not limited to, wetlands, lakes, rivers, streams, plants, fish, wildlife, historic and archaeological resources, parkland and recreational areas. Historic resources are bridges, districts, structures, objects, or sites that are potentially eligible for or listed in the National Register of Historic Places.

### QUESTION 5

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**Air Quality:** A project can be assumed not to have significant air quality impacts if it is included in a conforming Transportation Improvement Program (TIP). **Noise:** In most cases, there are no significant noise impacts if the project does not involve construction of a highway on a new location or the physical alteration of an existing highway that significantly changes either the horizontal or vertical alignment or increases the number of through traffic lanes. **Water Quality:** A project can be assumed not to have significant water quality impacts if it is in compliance with Section 401 and Section 404 of the Clean Water Act.

### QUESTION 6

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Types of projects that may have a significant impact on travel patterns are the same as those that may have a significant impact to planned growth or land use listed in Question 2 above.

### QUESTION 7

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As part of the response to this question, the preparer should discuss the outreach and opportunities for agency and stakeholder involvement that have occurred; the major issues that were raised as a result of agency and stakeholder participation; and how those issues have been addressed, as appropriate. The preparer should also, discuss how public outreach with agencies and stakeholders will continue through the environmental review, design, right-of-way, and construction phases, as appropriate.

If there is a large amount of evidence from written or oral comments that a project would have significant environmental effects, the project would be considered to have substantial controversy on environmental grounds. In this case, an EA or an EIS may be required.

## Categorical Exclusion Determination Detailed Instructions

### QUESTION 8

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[Section 4\(f\) properties](#) and [historic properties](#) are defined in the Glossary. For purposes of Section 4(f), a historic property is significant only if it is eligible for or on the National Register, unless the FHWA determines that the application of Section 4(f) is otherwise appropriate. Publicly owned property is determined to be significant by the federal, state, or local officials having jurisdiction.

### QUESTION 9

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Even though a project may be classified as a CE, the project must also comply with all other Federal and State environmental laws and regulations, such as the Clean Water Act, Clean Air Act, General Bridge Act of 1946, Section 4(f) of the DOT Act, National Historic Preservation Act, and the Endangered Species Act. A CE will, therefore, not be approved unless it is consistent with all applicable federal or state laws, requirements, or administrative determinations relating to the environmental aspects of the project. Some of these Federal and State environmental laws and regulations may involve actions by other Federal agencies (such as approvals or issuance of permits). For example, if a project is in the Coastal Zone, the Massachusetts Office of Coastal Zone Management would have to determine the project to be consistent with the Massachusetts Coastal Zone Management Plan. Another example would be the requirement that a project conforms to the Massachusetts Air Quality State Implementation Plan.

Some of the requirements of other Federal and State environmental laws and regulations are independent of the NEPA CE determination. They may require the collection and analysis of information, or coordination and consultation efforts, with the Federal permit agencies. These requirements could inform the determination regarding significance of impacts or unusual circumstances and could potentially trigger a different level of NEPA review for those Federal permit agencies. These requirements must be met before the project proceeds, regardless of the classification of a CE for the project under 23 CFR 771.

## Section 3: Segmentation Questions

### QUESTIONS 10 THROUGH 13

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Non-linear transportation projects include, but are not limited to, site-specific improvements, such as footprint bridge replacement projects, or safety improvements at roadway intersections with no work involved on the adjoining roadways.

NEPA prohibits "[segmentation](#)" of a linear transportation project to avoid full disclosure of adverse social, economic, or environmental impacts. The courts have established criteria that linear transportation projects must meet for segmentation to be avoided. These criteria are:

- The project must have [independent utility](#).
- The project must connect [logical termini](#), when applicable.
- The project must not restrict further consideration of alternatives for other reasonably foreseeable transportation improvements.

A project's independent utility is the determinant as to whether the project is connected to another project. NEPA requires "[connected actions](#)" (or connected projects) to be considered together in a single environmental document.



## Categorical Exclusion Determination Detailed Instructions

### Section 4: Programmatic CE Condition Questions

#### QUESTION 14

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The permanent acquisition of more than minor amounts of right-of-way is defined as the acquisition of property rights or permanent easements that would adversely affect the activities or functions of the affected properties. Examples include loss of parking or loss of residential front yards resulting in substantial abutter impacts.

#### QUESTION 15

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If the action does not involve the sale, transfer, or lease of state-owned land, the answer to Question 15 is "No". If the action is the sale, transfer, or lease of state-owned land, then the intended future use of the land must be determined. The impacts from the intended future use will be considered "substantial" if they exceed the FHWA review thresholds for an Individual CE established in Questions 14 through 30.

#### QUESTION 16

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The determination of adverse effect on [historic properties](#) shall be made by FHWA, in coordination with MassDOT's Environmental Services Section and the Massachusetts State Historic Preservation Officer (Massachusetts Historical Commission).

#### QUESTION 17

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Title VI of the Civil Rights Act of 1964 and other federal nondiscrimination authorities require transportation agencies to implement procedures to identify and prevent discrimination with respect to the participation in, benefits of, and treatment of individuals under any program, service, or activity regardless of race, color, national origin, sex, disability, age, and income. Further, Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (EO12898) requires Federal agencies to achieve environmental justice by identifying and addressing [disproportionately high](#) and adverse human health, social, economic, and environmental effects of their actions on [minority populations](#) and [low-income populations](#) in the United States.

Determining whether a project has a disproportionately high and adverse impact on minority or low-income populations requires a three-step process:

1. *Determining if there are minority or low-income populations in the project area.* This information can be obtained from the [EPA EJSCREEN: Environmental Justice Screening and Mapping Tool](#). If these populations do not exist, the answer to Question 17 is "No". If these populations exist, then the preparer should continue to Step 2.

## Categorical Exclusion Determination Detailed Instructions

2. *Determining potential project impacts on minority or low-income populations in the project area.* Projects that otherwise qualify as CEs are generally unlikely to be found to violate FHWA environmental justice policies, (that is, CE projects are unlikely to have a disproportionately high and adverse impact on minority or low-income populations). The types of projects that generally would not violate FHWA's Environmental Justice policies include, but are not limited to:

- transportation enhancement projects
- footprint bridge replacement;
- roadway resurfacing; and
- roadway reconstruction including widening less than a travel lane.

If the proposed project falls into one of the above categories of projects, the answer to Question 17 is "No". If the proposed project does not fall into one of the above categories of projects, potential project impacts on minority or low-income populations in the project area must be determined. This is accomplished by analyzing the future condition on the minority and low-income populations within the study area with and without the proposed transportation project considering:

- positive and negative impacts;
- short- and long-term impacts;
- the magnitude and context of all project impacts, including a consideration of the public's perception of the impacts.

3. *Determining whether potential project impacts would disproportionately affect minority or low-income populations in the project area.* This determination is accomplished by comparing the effects of the project on the minority or low-income population with respect to the effects on the overall population in the project area. A disproportionately high and adverse effect on minority or low-income populations means the adverse effect is predominantly borne by such population or is appreciably more severe or greater in magnitude on the minority or low-income population than the adverse effect suffered by the non-minority or non-low-income population. Where it is anticipated that any adverse impact(s), including acquisitions of minor amounts of right-of-way, to a minority or low-income population will be disproportionately high, a Title VI Specialist should be consulted.

Where a proposed project affects minority or low-income populations, the response to Question 17 should discuss the public outreach effort for the project to engage these protected populations. Techniques that can be used to engage protected populations include:

- Consultation with local organizations representing these populations to hear their views about the project;
- The use of media (such as print, television, or radio) that target low-income or minority populations;
- Translation or interpreter services, upon request, for vital documents, such as project newsletters; brochures; public notices for scheduled public meetings or hearings; and summary documents for those meetings or hearings; and
- Translation or interpreter services, upon request, at scheduled public meetings or hearings.

## Categorical Exclusion Determination Detailed Instructions

In the response to Question 17, the preparer should also discuss the issues and concerns that were raised as a result of the public outreach efforts to minority or low-income populations and how these issues and concerns been appropriately considered and documented.

Additional guidance is included in the [FHWA Environmental Justice Website](#) and the [AASHTO Center for Environmental Excellence Environmental Justice Website](#).

### QUESTION 18

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All [Type I projects](#) require a noise assessment. A complete definition of a Type I project is included in [Massachusetts Department of Transportation Type I and Type II Noise Abatement Policies and Procedures](#) document.

### QUESTION 19

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Section 4(f) property is publicly owned land of a public park, recreation area, or wildlife or waterfowl refuge, or land of a historic site of National, State, or local significance. A "use" of a Section 4(f) property occurs (1) when land from a Section 4(f) site is acquired for a transportation project, (2) when there is an occupancy of land that is adverse in terms of the statute's preservationist purposes, or (3) when the proximity impacts of the transportation project on the Section 4(f) property, without acquisition of land, are so great that the purposes for which the Section 4(f) site exists are substantially impaired. The "use" of a Section 4(f) property requires the preparation of either an Individual or Programmatic Section 4(f) Evaluation.

An Individual Section 4(f) Evaluation must be completed when:

- A project requires the [use of a Section 4\(f\) property](#),
- The use results in a greater than *de minimis* impact, and
- A Programmatic Section 4(f) Evaluation cannot be applied to the situation.

A Programmatic Section 4(f) Evaluation can be used as an option to an Individual Section 4(f) Evaluations for certain minor uses of Section 4(f) property. Projects that have a *de minimis* impact to a Section 4(f) property (as discussed below) do not require the preparation of either an Individual or Programmatic Section 4(f) Evaluation.

FHWA has issued five Nationwide Programmatic Section 4(f) Evaluations:

- [Section 4\(f\) Statement and Determination for Independent Bikeway or Walkway Construction Projects](#)
- [Programmatic Section 4\(f\) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges](#)
- [Final Nationwide Section 4\(f\) Evaluation and Approval for Federally-Aided Highway Projects With Minor Involvements With Historic Sites](#)
- [Nationwide Section 4\(f\) Evaluations and Approvals for Federally-Aided Highway Projects With Minor Involvement With Public Parks, Recreation Lands, Wildlife and Waterfowl Refuges, and Historic Sites](#)
- [Final Nationwide Programmatic Section 4\(f\) Evaluation and Determination for Federal-Aid Transportation Projects That Have a Net Benefit to a Section 4\(f\) Property](#)

## Categorical Exclusion Determination Detailed Instructions

The documentation used to apply a Programmatic Section 4(f) evaluation must support that the specific programmatic criteria have been met. The response to Question 19 should indicate the specific Programmatic Section 4(f) Evaluation that was used to satisfy Section 4(f) requirements.

A *de minimis* impact to a Section 4(f) property is one that, after taking into account any measures to minimize harm (such as avoidance, minimization, mitigation or enhancement measures), results in either:

- A Section 106 finding of no adverse effect on a historic property or no historic properties affected; or
- A determination that the project would not adversely affect the activities, features, or attributes qualifying a park, recreation area, or refuge as a Section 4(f) property.

Supporting information related to the *de minimis* impact determination should be attached to the Categorical Exclusion Determination Checklist. For projects that include both *de minimis* impacts and use of Section 4(f) property with more than a *de minimis* impact, an Individual Section 4(f) Evaluation is needed and an Individual CE approval from FHWA would be required.

Additional information and guidance are contained in FHWA's [Section 4\(f\) Policy Paper](#).

### QUESTION 20

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If [Section 6\(f\) properties](#) are to be acquired for the project, the Executive Office of Environmental Affairs' Division of Conservation Services should be consulted to determine if Land and Water Conservation Fund funds have been used to acquire or improve these properties. The conversion of the Section 6(f) property to a non-recreation purpose requires the preparation of an Individual Section 4(f) Evaluation and the approval of the Department of the Interior's National Park Service.

### QUESTION 21

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A Section 10 permit is required from the U.S. Army Corps of Engineers for work in, over, or under navigable waters of the United States. The U.S. Army Corps of Engineers has compiled a [list of navigable waters in New England](#). A Section 404 permit is required from the U.S. Army Corps of Engineers for work involving a discharge of dredged or fill material into waters of the United States. Jurisdiction under this law extends to lakes, rivers, streams, wetlands, and mudflats. An application for a U.S. Army Corps of Engineers Permit suffices as an application for both a Section 404 permit and a Section 10 permit, if applicable.

If a transportation project does not meet the terms and conditions of the [Section 404 General Permit for Massachusetts](#), then an Individual Section 404 Permit from the U.S. Army Corps of Engineers would be needed. If an Individual Section 404 Permit is needed, the project would not be able to be classified as a Programmatic CE and an Individual CE approval from FHWA would be required.

If a project is initially determined to qualify for the Section 404 General Permit for Massachusetts, but is later found not to qualify the General Permit, then an Individual Section 404 Permit would be needed and an Individual CE approval from FHWA would be required.

## Categorical Exclusion Determination Detailed Instructions

### QUESTION 22

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A Coast Guard permit is required to construct a new bridge or causeway or to reconstruct or modify an existing bridge or causeway across [navigable waters](#) of the United States. A waterway that cannot support a watercraft of 21 feet or more is eligible for an exemption from USCG bridge permitting. If the preparer is uncertain whether or not a bridge is under Coast Guard jurisdiction, MassDOT's Environmental Services Section should be contacted to coordinate Coast Guard consultation.

Coast Guard permits are not required for the following projects:

- Construction of bridges crossing non-tidal waters not presently used as, or susceptible for use as, a means of transporting interstate or foreign commerce.
- Removal of an existing bridge that will not be replaced with another bridge.
- Repair or replacement of worn or obsolete parts on an existing bridge.

Sufficient information about a project's proposed scope, location, and context should be available during the project development or design stages to indicate whether an Individual Section 404 Permit or a U.S. Coast Guard bridge permit would be needed. It is not necessary to fully develop information or documentation for such permits to determine whether these conditions are met.

### QUESTION 23

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The Federal Endangered Species Act (ESA) requires transportation agencies to evaluate Federal-Aid project impacts to endangered and threatened animal and plant species. The ESA is administered by the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS). The ESA directs Federal agencies to conserve threatened and endangered species and, in consultation with the FWS, to ensure that their actions do not jeopardize listed species or destroy or adversely modify critical habitat.

The likely presence (or absence) of federally listed threatened and endangered species can be determined through the use of the [U.S. Fish and Wildlife Service Federally Listed Endangered and Threatened Species in Massachusetts](#) list, by county.

When there are no species or habitats of concern in the project area, the project is determined to have no effect and no further review under the ESA is required, unless the scope or nature of the project is altered or new information indicates that listed species may be affected. The preparer should include a discussion of the basis for this determination of no effect in the response to Question 23.

When the project area includes areas known to be inhabited or potentially inhabited by one or more listed species; or includes designated critical habitat; consultation with the FWS or NMFS is appropriate. If MassDOT obtains written concurrence from these agencies that the project, as proposed or modified, is not likely to adversely affect listed or proposed species, no further review under the ESA is required. The preparer should include a discussion of the results of this consultation with the FWS or NMFS, including any correspondence, in the response to Question 23.

If the project is likely to adversely affect listed species, then formal consultation with FWS or NMFS is required. A potential impact on species or habitat does not automatically require an EA or EIS. The decision to require an EA or EIS depends on the importance of the resources and the magnitude of the impacts.

## Categorical Exclusion Determination Detailed Instructions

### QUESTION 24

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Bridges and wetlands are examples of uses that are functionally dependent. Recreational trails and bicycle and pedestrian paths are examples of actions that facilitate open space use.

Applicable National Flood Insurance Program (NFIP) maps (such as FEMA Flood Insurance Rate Maps (FIRM)) should be used to determine if an action would occur in a base floodplain or designated regulatory floodway. If an action would occur in a base floodplain or designated regulatory floodway, hydraulic studies, in accordance with 23 CFR 650A, are required to determine if there is a flood encroachment. A floodplain encroachment is defined as:

- An action that may result in an increase in a designated regulatory floodway,
- An action that may result in an increase of more than one foot of surface water elevation in the base floodplain when no regulatory floodway is designated, or
- An action that may increase the risk of damage to property and loss of human life, or may result in modification of a watercourse.

### QUESTION 25

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Segments of the Westfield River; the Concord/Assabet/Sudbury Rivers; and the Taunton River are designated as components of the Natural System of Wild and Scenic Rivers.

The designated segments of the Westfield River include the West Branch from a railway bridge 2,000 feet downstream of the Becket Town Center to the Huntington/Chester town line; the Middle Branch from the Peru/Worthington town line downstream to the confluence with Kinne Brook in Chester; Gendale Brook, from the Clark Wright Road bridge to its confluence with the Middle Branch; and the East Branch from the Windsor/Cummington town line upstream to the confluence with Holly Brook in Chesterfield. This designation also includes many small tributaries, as described in <http://www.rivers.gov/rivers/westfield.php>.

The portions of the Concord/Assabet/Sudbury Rivers that have been designated include the Sudbury River beginning at the Danforth Street Bridge in Framingham, downstream to its confluence with the Assabet River at Egg Rock. Also, the Assabet River beginning 1,000 feet downstream from the Damon Mill Dam in Concord, to its confluence with the Sudbury River at Egg Rock in Concord and the Concord River from Egg Rock at the confluence of the Sudbury and Assabet Rivers downstream to the Route 3 Bridge in Billerica.

Finally, the main stem of the Taunton River from the confluence of the Town and Matfield Rivers in Bridgewater downstream to its confluence with the Quequechan River at the I-195 Bridge in Fall River has been designated.

### QUESTION 26

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Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, and other agricultural crops. Unique farmland is land other than prime farmland that is used for production of specific high value food and fiber crops, as determined by the Secretary of Agriculture. The Farmland Protection and Policy Act (FPPA) was enacted in 1981 to minimize the loss of prime farmland and unique farmlands from Federal actions that were converting these lands to nonagricultural uses.

## Categorical Exclusion Determination Detailed Instructions

Farmland subject to the FPPA does not have to be currently used as cropland. It can be forest land, pastureland, cropland, or other land, but not water or developed land.

Soil survey maps that depict soil types meeting the prime and unique farmland criteria can be used to determine if farmland will be acquired for the proposed action. These maps are available from the Natural Resource Conservation Service (NRCS) [Web Soil Survey](#). Maps can also be viewed at most local libraries or regional U.S. Department of Agriculture (USDA) Service Centers. Service Center locations in Massachusetts can be found on the [Service Center Locator](#) web site.

The FPPA does not apply in cases where the right-of-way required for a project is clearly not farmland and where the project does not indirectly convert farmland. In cases where farmland subject to the FPPA is identified and will be converted by the proposed project, a Farmland Conversion Rating Form for Corridor Type Projects (Form NRCS-CPA-106) must be completed. The purpose of the form is to assist FHWA in its determination as to whether the proposed conversion is consistent with the FPPA.

### QUESTION 27

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A project could have an impact on a Superfund site if it is within or adjacent to the Superfund site. Locations of Superfund sites can be found in the U.S. Environmental Protection Agency's [National Priorities List](#) for Massachusetts.

However, a project is unlikely to have an impact to a Superfund site if the project does not involve ground disturbance in undisturbed areas or if there have been remedial actions performed at the site. Remedial actions include a variety of technologies, such as containment on site; chemical treatment (neutralization of acids and bases or precipitation); biological treatment (land spreading, oxidation ponds, and underground enhancement of native microbes using fertilizer); incineration; and removal and burial at a secure landfill.

### QUESTION 28

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Examples of projects involving changes in access control include:

- Changing a segment of highway from partially or fully-controlled access to uncontrolled access.
- Modification of an existing interchange by adding or relocating ramps.
- Adding a new interchange to a highway.
- Changing an at-grade intersection to a grade separation.
- Changes in access control for non-highway purposes.

## Categorical Exclusion Determination Detailed Instructions

### Glossary of Terms

**Auxiliary Lane** – An auxiliary lane is the portion of the roadway adjoining the traveled way for speed change, turning, weaving, truck climbing, maneuvering of entering and leaving traffic, and other purposes supplementary to through traffic movement. Auxiliary lanes are used to balance the traffic load and maintain a more uniform level of service on the highway. They facilitate the positioning of drivers at exits and the merging of drivers at entrances.

**Bus Transfer Facility** – an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements.

**Connected Action** – An action that:

- Automatically triggers other actions that may require Environmental Impact Statements.
- Cannot or will not proceed unless other actions are taken previously or simultaneously.
- Is an interdependent part of a larger action and depends on the larger action for its justification.

**Context** – The significance of a project varies with the setting and both short-term and long-term effects are relevant. In the case of a highway project, for example, the impact of removing twenty large trees in a heavily forested rural area with hundreds of trees of the same size and type may not be regarded as significant. The impact of removing twenty large trees from a tree-lined urban street may be regarded as significant.

**Designated Coastal Zone** – The designated coastal zone in Massachusetts extends seaward from the coastline out to three miles and landward to 100 feet inland of specified roads and railroads. It includes all of Cape Cod, Martha's Vineyard and Nantucket.

**Disproportionately High Impact** – An adverse impact is disproportionately high if it is predominately borne by a minority and/or low-income population, or if the adverse impact that could be suffered by the minority or low-income community is more severe or greater in magnitude than the adverse impact that could be suffered by the non-minority or non-low-income community.

**Emergency Repairs** – Repairs, including temporary traffic operations undertaken during or immediately following the disaster occurrence, for the purpose of: (1) minimizing the extent of damage, (2) protecting remaining facilities, or (3) restoring essential traffic.

**Existing Operational Right-of-Way** – This 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, or mitigation areas) 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.

**Federal Actions** – Federal actions include projects and programs entirely or partially financed by federal agencies. They also include actions approved by federal permit or other regulatory decision. Activities that do not require a commitment of federal funds, such as an access control approval for a new interchange, are also federal actions.



## Categorical Exclusion Determination Detailed Instructions

**Functionally Dependent Use** – A use that cannot perform its intended purpose unless it is located or carried out in proximity to water. Examples include bridges and wetland mitigation projects.

**Hardship Acquisition** – 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.

**Independent Utility** – A transportation project has independent utility when it is a usable and a reasonable expenditure even if no additional transportation improvements in the area are made.

**Intelligent Transportation System** – Electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, 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.

**Intensity** – This refers to the severity of impact. For example, a highway project with a perpendicular encroachment on a floodplain that raises the 100-year flood elevation by 0.1 inch may not be regarded as significant. A project with a longitudinal encroachment on the same floodplain that raises the 100-year flood elevation by eight inches may be regarded as significant.

**Limited English Proficient (LEP)**-- Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be Limited English proficient. These individuals may be entitled language assistance with respect to a particular type or service, benefit, or encounter.

**Logical Termini** – Rational end points for a transportation improvement that (1) allow a project to be interdependent of other projects and (2) provide a geographic extent of a study area to address environmental matters broadly.

**Low-Income Population** – A low-income population is a readily identifiable group of persons living in geographic proximity of each other, whose median household income is at or below the Department of Health and Human Services poverty guidelines.

**Minority Population** – A minority population is a readily identifiable group of minority persons (Black, Hispanic, Asian American, American Indian, or Alaskan Native) living in geographic proximity of each other.

**Navigable Waterway** – For Coast Guard bridge permitting purposes a navigable waterway is (1) any waterway that is subject to the ebb and flow of the tide or (2) any waterway that is presently used or is susceptible to use in its natural condition, or by reasonable improvement, as a means to transport interstate or foreign commerce. Navigable waterways in Massachusetts include; Merrimack River, Connecticut River, Charles River to the Watertown Dam, and tidal waters.

**Historic Property** – A property that is included in the National Register of Historic Places or that meets criteria for the National Register. A historic property may be a bridge, structure, site, object, or district.

## Categorical Exclusion Determination Detailed Instructions

**Project** – Any undertaking eligible for assistance under Title 23, *Highways* of the United States Code. The United States Code (or U.S.C.) is the official compilation and codification of the general and permanent federal statutes of the United States. It contains 51 titles.

**Protective Acquisition** – 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.

**Section 106 of the National Historic Preservation Act** – Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties.

**Section 4(f) of the DOT Act** – Indicates that transportation projects requiring the use of Section 4(f) properties can be approved only if:

- There is no prudent and feasible alternative to the use of the Section 4(f) property, and
- The project includes all possible planning to minimize harm to the Section 4(f) property resulting from the use.

**Section 4(f) Property** – Any significant publicly owned park, recreation area, historic property, or wildlife and waterfowl refuge.

**Section 6(f) Property** – Any recreational areas acquired or improved by state and local governments through grants from the Land and Water Conservation Fund. Section 6(f) properties are typically publicly owned parks, recreation, or conservation land.

**Segmentation** – The splitting of a long, linear Federal transportation project into segments.

**Type I Project** – A Type I project is a project that involves:

- The construction of a highway on a new location;
- The physical alteration of an existing highway where there is either a substantial horizontal alteration or a substantial vertical alteration;
- The addition of a through traffic lane(s);
- The addition of an auxiliary lane, except for when the auxiliary lane is a turn lane;
- The addition or relocation of interchange lanes or ramps added to a quadrant to complete an existing partial interchange;
- Restriping existing pavement for the purpose of adding a through traffic lane or an auxiliary lane;
- or,
- The addition of a new or substantial alteration of a weigh station, rest stop, ride-share lot or toll plaza.

**Transit Facility** – Transit facilities include bus transfer stations, rail transit, and components of ferry terminals and systems, such as docks, piers, platforms, pedestrian loading structures, and ticketing facilities.

**Use of a Section 4(f) Property**– A use of a Section 4(f) property occurs (1) when land from a Section 4(f) site is acquired for a transportation project, (2) when there is an occupancy of land that is adverse in terms of the statute's preservationist purposes, or (3) when the proximity impacts of the transportation project on the Section 4(f) site, without acquisition of land, are so great that the purposes for which the Section 4(f) site exists are substantially impaired.