



*Expires upon issuance of LPP*

## Local Assistance Procedures Manual Chapter 6 - Environmental Procedures

### I. BACKGROUND

On October 6, 2014, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) published a Final Rule in the *Federal Register* that amends 23 Code of Federal Regulations (CFR) 771.177 (and 771.118 for FTA) and takes effect November 5, 2014. The following changes were required by Section 1318 of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21):

- Add four new categorical exclusions (CEs) to the “c list”.
- Moves 771.117(d)(1) through (d)(3) to the “c list” as (c)(26), (c)(27), and (c)(28) and adds 6 new constraints to their use.
- Adds a new CE, (d)(13), to the “d list” to cover those situations in which the “moved” CEs do not qualify under the “c list” due to the new constraints.
- Adds a new section on programmatic agreements between FHWA and State DOTs.

Caltrans Division of Environmental Analysis (DEA) issued a fact sheet clarifying these changes and modified the Categorical Exclusion (CE) Checklist to reflect the revisions. The fact sheet is provided at: <http://www.dot.ca.gov/ser/guidance.htm#factsheet2> and the updated CE Checklist is available at: <http://www.dot.ca.gov/ser/forms.htm>.

This Office Bulletin (OB) updates the procedural guidance set forth in the Local Assistance Procedures Manual (LAPM) Chapter 6, Environmental Procedures consistent with DEA policy as described below.

### II. POLICY

This OB becomes effective November 5, 2014 consistent with the effective date of amendments to 23 Code of Federal Regulations (CFR) 771.117.

### III. PROCEDURE

All applicable sections in the LAPM, referencing the CE Checklist, have been updated with a direct electronic link to DEA’s revised CE Checklist. A note directing users to DEA’s Factsheet provide additional clarification, and the new constraints have also been added for each applicable Section.

Section 6.6, Step #12 of the LAPM is updated to read:

*12. The district SEP (or designee) completes the [CE Checklist](#) (LAPM Exhibit 6-E) and CE form (LAPM, Exhibit 6-F) and for 23 U.S.C. §326 CEs, ensures Caltrans makes the project-level conformity determination consistent with the guidance provided in Chapter 38 of the SER.*

*Note: Clarifying guidance and additional constraints, which must be considered when determining the applicability of 23 CFR 771.1117 (c)(26), (c)(27) and (c)(28) on the CE Checklist, are provided in DEA’s Fact Sheet for the New Categorical Exclusion (CEs) under 23 CFR 771.117(c), CEs Moved FROM the “d list” TO the “c list”, and Programmatic Agreements for CEs-Effective November 5, 2014*



Section 6.7, Step #32 of the LAPM is updated to read:

32. The district SEP (or designee) also completes the [CE Checklist](#) and determines whether conclusions of the technical studies and the results of consultation indicate that the action qualifies for the CE.

*Note: Clarifying guidance and additional constraints, which must be considered when determining the applicability of 23 CFR 771.1117 (c)(26), (c)(27) and (c)(28) on the CE Checklist, are provided in DEA's Fact Sheet for the New Categorical Exclusion (CEs) under 23 CFR 771.117(c), CEs Moved FROM the "d list" TO the "c list", and Programmatic Agreements for CEs-Effective November 5, 2014*

and Section 6.7, Step #33 of the LAPM is updated to read:

33. When the [CE Checklist](#) indicates that the action does not meet the criteria for a CE, the district SEP (or designee) prepares a transmittal letter, email, or documentation of telephone conversation or meeting (if applicable) with the LA explaining why the action does not meet the criteria for a CE, and recommends preparation of an EA or an EIS, as appropriate. The district SEP forwards a copy of the letter, email, or documentation of telephone conversation with LA to the DLAE and updates LP2000 accordingly.

*Note: Clarifying guidance and additional constraints, which must be considered when determining the applicability of 23 CFR 771.1117 (c)(26), (c)(27) and (c)(28) on the CE Checklist, are provided in DEA's Fact Sheet for the New Categorical Exclusion (CEs) under 23 CFR 771.117(c), CEs Moved FROM the "d list" TO the "c list", and Programmatic Agreements for CEs-Effective November 5, 2014*

Exhibit 6-E, CE Checklist (dated March 14, 2013) is replaced in its entirety by the Attachment in this OB.

#### IV. APPLICABILITY/IMPACTS

This OB applies to all local agency federal-aid transportation projects "off" the State Highway System (SHS). Failure to comply with 23 CFR 771 and/or utilize the most current CE Checklist may result in delays to project delivery or jeopardize the federal eligibility of the project.

Recommended: \_\_\_\_\_

Guadalupe V. Jimenez  
Office of NEPA Assignment and Environmental Compliance

\_\_\_\_\_ Date

Approved: \_\_\_\_\_

Germaine Belanger, Chief  
Office of NEPA Assignment and Environmental Compliance

\_\_\_\_\_ Date

Attachment: Exhibit 6-E "Categorical Exclusion Checklist"