

PART 1, CHAPTER 5

CATEGORICAL EXCLUSION

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PART 1, CHAPTER 5

CATEGORICAL EXCLUSION

5.1 OVERVIEW

This chapter focuses on the preparation of the Environmental Document as a Type 1 or Type 2 Categorical Exclusion (CE) after the Class of Action (COA) has been determined. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for information on determining the COA. For guidance on preparing a Type 1 CE see [Section 5.2.1](#). For guidance on preparing a Type 2 CE see [Section 5.2.2](#).

5.2 PROCEDURE

5.2.1 Type 1 Categorical Exclusions

Type 1 CEs are prepared using a *Type 1 Categorical Exclusion Checklist* in the StateWide Environmental Project Tracker (SWEPT) after environmental analysis has been completed. This checklist is typically prepared in the Design phase and is approved by the Florida Department of Transportation (FDOT) District.

5.2.1.1 Analysis and Coordination

Environmental analysis is completed and impacts are determined to verify that the COA Determination is a Type 1 CE. The level of detail required to support this determination depends upon the specific project and the magnitude of environmental impacts. Social, cultural, natural, and physical topics/resources are evaluated using the pertinent chapters in *Part 2* of this [Manual](#) to satisfy applicable federal and state environmental laws, regulations, and executive orders. Since Type 1 CEs are generally minor in nature, indirect and cumulative impacts assessments are generally not warranted. There may be exceptions, which can be evaluated on a case-by-case basis.

Analysis may include desktop and/or field review, local knowledge of the project area, agency coordination/consultation, and preparation of supporting documents. Type 1 CEs are not typically screened in the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST); however, the EST Area of Interest (AOI) tool may be used to look at the project location and view GIS data layers applicable to the project without initiating Environmental Technical Advisory Team (ETAT) review. On occasion, an EST screened project may become a Type 1 CE based on the screening results and consultation with the Office of Environmental Management (OEM). In this case information from the screening can be used to assist with the impact analysis. See the [ETDM Manual, Topic No. 650-000-002](#) for guidance on using the EST AOI tool and information on the ETDM screening events.

Coordination or consultation with appropriate resource agencies may be needed to verify the finding that there is no potential to significantly impact environmental resources (e.g.,

historic resources, listed species). Coordination and documentation are also important because they may affect environmental permitting [e.g., State Historic Preservation Officer (SHPO) coordination in a Water Management District (WMD) permit].

Projects that would normally qualify as a Type 1 CE may require additional analysis, documentation, or coordination with OEM to assure the COA is valid. This process is built into the **Type 1 Categorical Exclusion Checklist** with pop ups identifying when coordination is needed with OEM, along with other functionality that limits certain selections.

The following actions apply to CEs listed in **23 Code of Federal Regulations (CFR) § 771.117(c)** (C-list projects):

- If the project will involve a designated Wild and Scenic or Study River, coordination is required with the OEM.
- If the project will have an adverse effect on the natural, cultural, or recreational values of an Nationwide Rivers Inventory (NRI) River segment, coordination with the National Parks Service (NPS) is required and the project cannot be a Type 1 CE (***Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory and Guide for Identifying Potential Adverse Effects***).
- If the project involves a relocation, the project should be coordinated with OEM as C-list projects should not have any residential or non-residential relocations. Instead, it may be processed as a D-list project to ensure that the action meets the legal criteria for a CE (***Federal Highway Administration [FHWA] Project Involving Residential or Non-Residential Displacements Memo***).

For actions listed in **23 CFR § 771.117(c)26, (c)(27) and (c)28**, pop ups identify when coordination is needed with OEM because they must also meet the constraints in **23 CFR § 771.117(e) ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#))** to be considered a C-list project. Through OEM coordination it is determined if the project remains a Type 1 CE and is documented as CE number (d)(13) or if a Type 2 CE is needed. For these actions if any of the following are identified on the checklist, coordination with OEM is required:

- Any acquisitions of more than a minor amount of Right of Way (ROW) or would result in any residential or non-residential displacements
- Standard Permit under the ***Clean Water Act Section 404, 33 United States Code (U.S.C.) § 1344***, and/or Section 10 of the ***Rivers and Harbors Act***
- United States Coast Guard (USCG) bridge permit

- A floodplain encroachment other than functionally dependent uses (e.g., bridges, wetlands) or actions that facilitate open space use (e.g., recreational trails, bicycle and pedestrian paths)
- Involvement with a Wild and Scenic River or Study River (project activities are located within the river corridor, across, or adjacent to the designated river segment).
- “May Affect, Likely to Adversely Affect” determination for threatened or endangered species or critical habitat under the ***Endangered Species Act (ESA)***
- Properties protected by ***Section 4(f)*** pursuant to ***23 CFR Part 774*** requiring a Programmatic or Individual ***Section 4(f) Evaluation***
- Finding of Adverse Effect for Historic and/or Archaeological Resources protected under ***Section 106*** of the ***National Historic Preservation Act (NHPA)*** and ***36 CFR Part 800***

If during the preparation of the ***Type 1 Categorical Exclusion Checklist***, an answer requires coordination with OEM, the OEM Project Delivery Coordinator (PDC) is contacted. Coordination with OEM does not necessarily mean that the project will need to be elevated to a Type 2 CE. Any coordination with OEM is documented in the project file in SWEPT.

If it is determined that a Type 2 CE is required after working through the checklist and/or coordination with OEM, the project would not normally need to be screened in the EST. In addition, an alternatives analysis may not be needed. The Type 2 CE is then focused on the topics which triggered the Type 2 CE COA Determination. A ***Class of Action Form*** is not needed for these projects. In this scenario, not all items on the **[Type 2 Categorical Exclusion Quality Assurance \(QA\)/Quality Control \(QC\) Checklist](#)** are applicable. See **[Section 5.2.2](#)** for more information on Type 2 CEs.

5.2.1.2 Public Involvement

A ***Community Awareness Plan (CAP)*** is typically prepared to identify appropriate outreach activities based on the specific project and potential community concerns. For guidance on preparing a ***CAP*** see the **[FDOT Design Manual, Part 1, Chapter 104, Public Involvement, Topic No. 625-000-002](#)**. A public hearing is typically not required for Type 1 CEs, unless the project is considered a major transportation improvement under ***Section 339.155(5)(b), Florida Statute (F.S.)*** (see **[Part 1, Chapter 11, Public Involvement](#)**).

5.2.1.3 Preparing a Type 1 Categorical Exclusion Checklist

A sample ***Type 1 Categorical Exclusion Checklist*** is provided as a visual in [Guidance for Part 1, Chapter 5](#). This checklist is only prepared using SWEPT. There may be multiple Type 1 CEs prepared using the same Financial Management number such as emergency or push-button projects. SWEPT provides functionality to prepare these types of documents.

The CE number/activity type from **23 CFR § 771.117(c)**, **23 CFR § 771.117(d)**, or Other (for other federal agency CE Number) is selected at the beginning of the checklist (see [Guidance for Part 1, Chapter 5](#)). For projects that may fall under two or more actions, the CE designation that is most appropriate is identified.

When completing the checklist, selection of certain items may require consultation with OEM and during this coordination it may be determined that the project cannot be completed as a Type 1 CE. When these items are selected on the checklist a notice appears stating that by checking this box, coordination with OEM is required. For these instances see [Section 5.2.1.1](#).

Documentation of analysis, coordination, and results should be uploaded to SWEPT for the project file. This documentation should include the results of any desktop and/or field review, agency consultation, and any supporting documents and/or technical reports required to justify the responses on the checklist. It is important to document that the project will not have significant impacts and that environmental issues have been addressed.

Planning consistency for Type 1 CEs is met when the project is in the State Transportation Improvement Program (STIP). The Current STIP page is attached and included in the project file to document that the project has met planning requirements in **23 CFR Part 450**. If the project is not in the STIP, a simple explanation of why the project is not in the STIP is attached. More information on FHWA's planning consistency requirements can be found in the [FDOT/FHWA Consistency Guidance](#) and FDOT's [Planning Consistency for National Environmental Policy Act \(NEPA\) Practitioners](#).

The ***Type 1 Categorical Exclusion Checklist*** is approved by the District Environmental Manager or designee using SWEPT.

5.2.1.4 Actions Taken After Approval

Once the final ***Type 1 Categorical Exclusion Checklist*** is approved in SWEPT, the District Environmental Office will complete and provide the date of the determination on the ***Environmental Certification for FDOT Federal Project*** form, located in SWEPT. A sample form is provided in the [Guidance for Part 1, Chapter 5](#). This form is required as part of the contract documents for federal-aid construction projects and is used when submitting all projects, including Local Agency Program (LAP) projects, for approval to the Federal Aid Office. As specified by the [Local Programs Manual, Topic No. 525-010-300](#), LAP agencies do not have signature authority for environmental certifications;

therefore, the ***Environmental Certification For FDOT Federal Project*** form should be signed by appropriate FDOT personnel as noted on the form.

The District Federal Aid coordinator or the Federal Aid Management Office utilizes information from the ***Environmental Certification for FDOT Federal Project*** form to complete the ***Federal-Aid Project Authorization/Agreement Form (PR-1240 Form)***.

Re-evaluations may be needed for Type 1 CEs as the project progresses per [Part 1, Chapter 13, Re-evaluations](#).

5.2.2 Type 2 Categorical Exclusions

Type 2 CE COA Determinations are documented in the ***Class of Action Form (Part 1, Chapter 2, Class of Action Determination for Federal Projects)***. As a Project Development and Environment (PD&E) Study, Type 2 CE projects follow the project development process outlined in [Part 1, Chapter 4, Project Development Process](#). During the PD&E phase, the District prepares a ***Type 2 Categorical Exclusion Determination Form*** in SWEPT. The resulting Environmental Document is commonly referred to as a Type 2 CE. Type 2 CEs summarize the results of the engineering and environmental analysis and input received from stakeholders [e.g., agencies, Federally Recognized Native American Tribes (Tribes), the public] and require review and approval by OEM ([Section 5.2.2.5](#)). See [Figure 5-1](#) for a flowchart of the Type 2 CE process.

5.2.2.1 Engineering and Environmental Analysis and Coordination

The results of the ETDM screening events are used for project scoping and to prepare the Type 2 CE. For Type 2 CEs which were not screened through the EST, the District is responsible for gathering enough information to scope the project. The District is also responsible for coordinating with OEM and applicable agencies, when appropriate.

If project conditions change, and a project that was screened in the EST can now be completed as a Type 1 CE, a ***Type 1 Categorical Exclusion Checklist*** is prepared, coordination takes place with OEM, and the change is documented (see [Section 5.2.1](#)).

A Type 2 CE does not typically require consideration of multiple build alternatives. However, in some situations, the impacts to topics/resources may result in the need to consider additional alternatives during the PD&E phase. This should not preclude a District from considering minor shifts in the alignment during the PD&E phase. A preferred alternative is typically chosen prior to the public hearing. For projects with an accelerated schedule, Districts are encouraged to prepare up to 60 percent preliminary design during PD&E as described in [Part 1, Chapter 4, Project Development Process](#). The ***Preliminary Engineering Report (PER)*** is referenced in the Type 2 CE and uploaded to the SWEPT project file with the other Technical Materials. For bridge projects, a ***PER*** can be substituted with a ***Bridge Development Report (BDR)*** or ***Bridge Replacement Report (BRR)***. A summary of the engineering considerations and alternatives evaluation (if applicable) is included in the Project Description section of the Type 2 CE. Guidance

on completing a *PER* is provided in [Part 2, Chapter 3, Engineering Analysis](#) and [Part 2, Chapter 3A, Alternatives Analysis](#).

During the PD&E phase, impacts are evaluated and environmental analysis is completed to verify that the COA determination is a Type 2 CE. The level of detail required to support the Type 2 CE determination depends upon the complexity of the project and the magnitude of environmental impacts. Social, cultural, natural, and physical topics/resources are evaluated using the pertinent chapters in **Part 2** of this [Manual](#) to satisfy applicable federal and state environmental laws, regulations, and executive orders. Since Type 2 CEs are generally minor in nature and have less than significant impacts, cumulative impacts assessments are generally not warranted. There may be exceptions, which can be evaluated on a case-by-case basis. Indirect impact assessments may be needed for some resources.

Analysis typically includes desktop and field review, local knowledge of the project area, agency coordination/consultation, and preparation of supporting documents and technical reports.

The analysis should document that the project has no significant impacts and address mitigation, if applicable. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for guidance on determining significance. Information to substantiate the impact determination of not significant, or enhancement must be discussed in the Type 2 CE, uploaded as Technical Materials or attached and included in the Appendix, as appropriate. If, during this effort, a significant impact is identified, coordination will need to occur with OEM to revise the COA Determination for the project ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)). A project with a significant impact to any topic/resource cannot be processed as a Type 2 CE.

Coordination or consultation with appropriate resource agency personnel (typically an ETAT representative) is necessary for some topics/resources. The Type 2 CE must include documentation of interagency coordination on respective jurisdictional issues to adequately support the Type 2 CE determination. A summary of coordination and/or consultation efforts and results, which support the findings, should be included in the Type 2 CE and findings or concurrence documentation should be attached. In addition, it must list commitments made throughout the PD&E Study.

5.2.2.2 Public Involvement

The Type 2 CE includes preparation of a public engagement plan, typically a **Public Involvement Plan (PIP)** or in some cases a **CAP**.

Type 2 CEs typically require a public hearing. If the project is a major transportation improvement as described in **Section 339.155(5), F.S.**, a public hearing is required. See [Part 1, Chapter 11, Public Involvement](#) for information on holding a public hearing and notification requirements.

The public hearing is certified when the Project Manager prepares a **Public Hearing Certification Form**. This form may be completed in SWEPT or by using the **Public Hearing Certification, Form No. 650-050-56**. If completed in SWEPT, the **Public Hearing Transcript** is uploaded to SWEPT and a link to it is provided in the certification form. If completed outside of SWEPT, the certification form and the **Public Hearing Transcript** are uploaded to SWEPT for the project file. These two documents are included in the Appendix of the Type 2 CE. Written statements from the public, both submitted at the public hearing or during the public hearing comment period, are included in the **Summary of Public Involvement (SPI)**. See [Part 1, Chapter 11, Public Involvement](#) for information on the **SPI**.

Under limited circumstances, when a Type 2 CE does not constitute a major transportation improvement as described in **Section 339.155(5), F.S.**, the District must obtain OEM approval in order to offer the public an opportunity to request a public hearing in lieu of holding it without a public request. A notice of opportunity to request a public hearing is then published, see ([Part 1, Chapter 11, Public Involvement](#)) for publication requirements.

It is normally expected that a preferred alternative is chosen prior to the public hearing. If in unusual circumstances a preferred alternative cannot be selected before the public hearing the District should coordinate with OEM. For these situations, additional public involvement after the hearing could be necessary and could range from another public hearing to a meeting, or a flyer/mailer. The documents should also be posted on the project website.

5.2.2.3 Supporting Information

Supporting information such as agency coordination/consultation letters, technical memos, technical reports, and other supporting documents are saved in the SWEPT project file and are identified as either Technical Materials or Attachments. The [Type 2 Categorical Exclusion QA/QC Checklist](#) includes a list of these documents and clarifies which should be Technical Materials and which are attachments.

Technical Materials are documents contained under a separate cover that are incorporated by reference, meaning they should be referenced in the Type 2 CE. Technical Materials includes technical reports [e.g., **Project Traffic Analysis Report (PTAR)**, **Conceptual Stage Relocation Plan (CSR)**, **Natural Resource Evaluation (NRE)**, **PER**], technical memorandums, and studies. For a list of reports and design information typically completed in the PD&E phase that should be in the project file see [Part 1, Chapter 4, Project Development Process](#).

Documents added as attachments are included in the Appendix and are considered to be a part of the Type 2 CE. This may include concurrence letters, determinations of effect, and Memorandum of Understanding (MOUs). Items that are to be included as attachments are specifically identified in the [Type 2 Categorical Exclusion QA/QC Checklist](#).

5.2.2.4 Preparing a Type 2 Categorical Exclusion Determination Form

The Type 2 CE is prepared using the ***Type 2 Categorical Exclusion Determination Form*** in SWEPT. Guidance on content to include in the ***Type 2 Categorical Exclusion Determination Form*** is provided in the [Guidance for Part 1, Chapter 5](#). An outline of the Type 2 CE is provided in [Figure 5-2](#). Once the form is completed, it is saved as a PDF which becomes the Type 2 CE Environmental Document.

Once completed, the form is approved and electronically signed by the Director of OEM or designee. Signing the Type 2 CE constitutes Location and Design Concept Acceptance (LDCA).

5.2.2.5 FDOT Document Review Process

Type 2 CEs are required to go through a QA/QC check at the District level before the public hearing, if held (see OEM's [QA/QC Tools for PD&E Studies Website](#)). During this process the [Type 2 Categorical Exclusion QA/QC Checklist](#) is completed.

Typically, OEM Initial and Final reviews are completed after the public hearing. A diagram of FDOT's Document Review Process for Type 2 CEs is available on the [OEM Website](#). The timeframes identified in this process are calendar days.

After the public hearing, if held, the District certifies the public hearing ([Section 5.2.2.2](#)) and updates the Environmental Document. The District also confirms the project file in SWEPT is complete. Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

After updating the Type 2 CE, using the ***Type 2 Categorical Exclusion Determination Form***, the District conducts a quality control review and uses the SWEPT application to complete the ***Environmental Document Submittal Form*** for Initial OEM review. The District uploads the [Type 2 Categorical Exclusion QA/QC Checklist](#) and supporting information into SWEPT.

The PDC receives email notification and acknowledges the document is ready for review by confirming the ***Environmental Document Submittal Form*** in SWEPT. If necessary, the District schedules a project briefing for OEM reviewers and the Office of General Counsel (OGC) reviewers, as needed. The OEM and OGC review team has 30 days to review the draft documents. The District addresses OEM comments and provides responses. The OEM project review team has a 15-day period to confirm that comments have been addressed. If the comments have not been addressed, additional comment resolution time may be needed. If necessary, the District schedules a meeting with the project review team to discuss comments.

If there are Cooperating Agencies, the District shares the Type 2 CE with the Cooperating Agencies. This review may be concurrent with OEM review. The District then addresses any Cooperating Agency comments.

Once comments have been addressed, the District submits the revised Type 2 CE along with the ***Environmental Document Submittal Form*** for Final review and approval in SWEPT. The PDC receives email notification and has 14 days to confirm that the submittal is complete. Following confirmation by the PDC, the document can advance to OEM Environmental Administrators for review, who have 25 days to recommend the Type 2 CE for approval. The Director of OEM, or designee, then has five days to approve the Type 2 CE. This approval grants LDCA.

5.2.2.6 Actions Taken After Approval

Once the Type 2 CE is approved, the District must provide notification that LDCA has been granted. For projects with a ***Noise Study Report (NSR)***, see [Part 2, Chapter 18, Highway Traffic Noise](#) on how to coordinate the ***NSR*** with the local government after LDCA.

Distribution to Agencies and Stakeholders

Announcement of LDCA is sent to Cooperating Agencies and Participating Agencies through the EST, or by other electronic means. The District should also send the announcement to other interested state and federal agencies and other stakeholders. The announcement should be sent to Tribes according to their requested method as reflected on FDOT's [Native American Tribal Consultation Website](#). Others should be sent an electronic link to the document, unless a paper copy is requested. The approved Type 2 CE may be sent to a permitting agency if a permit is required [e.g., USCG for a bridge permit or the USACE for a ***Section 404*** or ***Section 408*** permit).

Public Announcement of LDCA

The District publishes an announcement of LDCA in the same local newspaper(s) used for the public hearing notification, if one was held, informing the public that the project has received LDCA and is being advanced. If the Type 2 CE includes an ***Individual Section 4(f) Evaluation***, then the LDCA notice should also notice that the Final ***Section 4(f) Evaluation*** was approved by OEM. See [Part 1, Chapter 11, Public Information](#) for details on preparing an Announcement of LDCA. Proof of publication or an ***Affidavit of Publication*** is saved in the ***Final Notifications Package***.

If a ***Limitations on Claims Notice*** is anticipated see [Part 1, Chapter 11, Public Involvement](#) for more information on this process. If applicable a copy of the notice in the ***Federal Register (FR)*** is saved in the ***Final Notifications Package***.

Re-evaluations may be needed for a Type 2 CE as the project progresses per [Part 1, Chapter 13, Re-evaluations](#).

5.3 REFERENCES

- FHWA, 1987, Technical Advisory T6640.8A. Guidance for Preparing and Processing Environmental and Section 4(f) Documents.
https://www.environment.fhwa.dot.gov/legislation/nepa/guidance_preparing_env_documents.aspx
- FHWA, 2011, Supplement to the Transportation Planning Requirements and Their Relationship to NEPA Process Completion.
http://www.fhwa.dot.gov/planning/tpr_and_nepa/supplementmemo.cfm
- FHWA, Projects Involving Residential or Non-Residential Displacements Memo, October 13, 2022.
- FDOT, 2014, Section 2. Meeting Planning Requirements for NEPA Approval.
https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/metrosupport/resources/section2.pdf?sfvrsn=9567358f_0
- FDOT, Planning Consistency for NEPA Practitioners.
https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/planning-consistency-for-nepa-practitioners.pdf?sfvrsn=895090ea_1
- FDOT, Project Commitment Tracking, Procedure No. 650-000-003. <https://pdl.fdot.gov/>
- FDOT, Efficient Transportation Decision Making Manual.
<https://www.fdot.gov/environment/oem-divisions/qa-qc/etdm-manual>
- National Environmental Policy Act of 1969 (NEPA) as amended (42 U.S.C. § 4321 et seq.), <https://www.govinfo.gov/content/pkg/COMPS-10352/pdf/COMPS-10352.pdf>
- Title 23 CFR 450, Planning Assistance and Standards
- Title 23 CFR 650(h), Navigational Clearances for Bridges
- Title 23 CFR 771, Environmental Impact and Related Procedures
- Title 23 U.S.C. § 139(I), Efficient Environmental Reviews for Project Decision Making

5.4 FORMS

[Public Hearing Certification, Form No. 650-050-56](#)

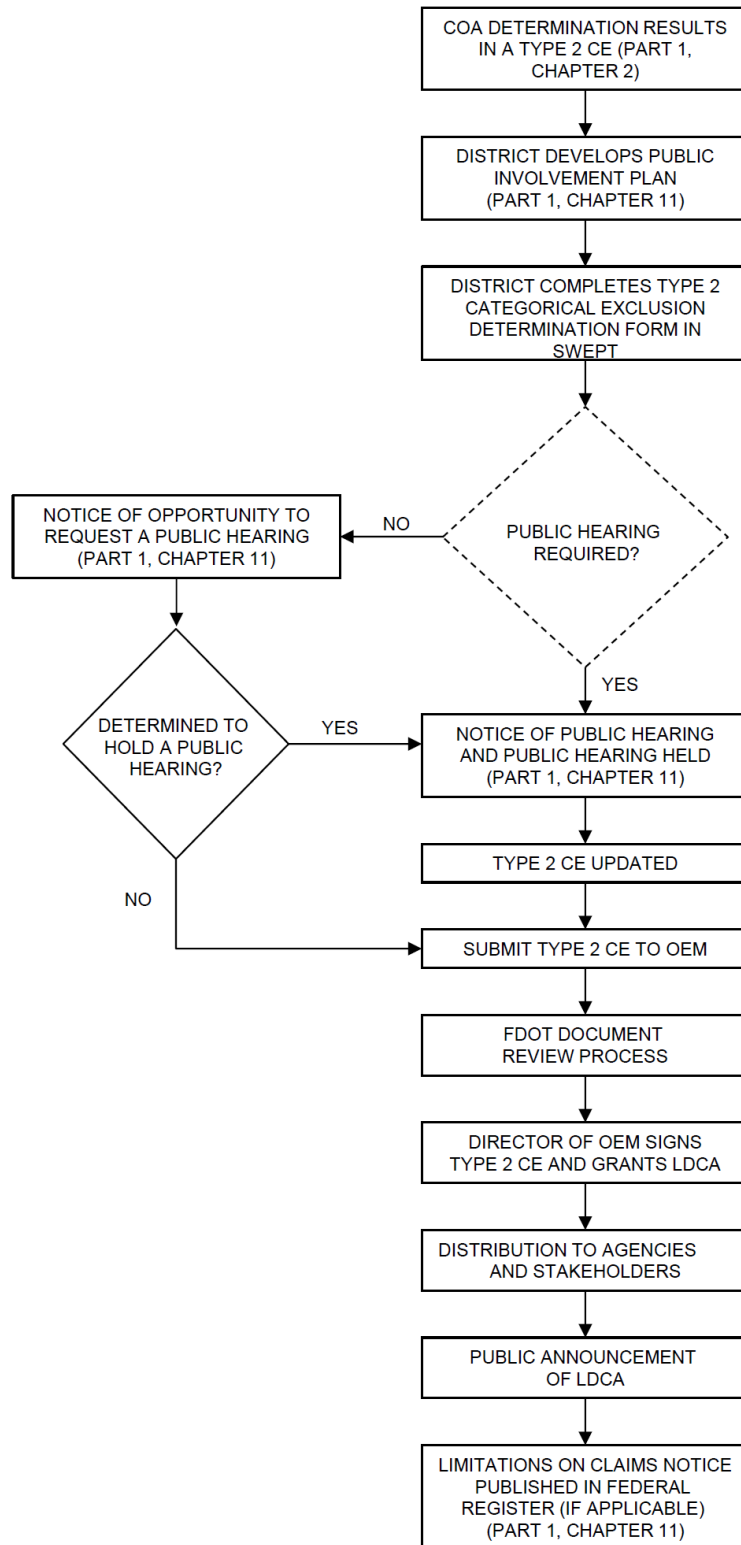


Figure 5-1 Type 2 Categorical Exclusion Process

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Appendix

Figure 5-2 Type 2 Categorical Exclusion Outline