

Programmatic Categorical Exclusion Update

Question & Answers

This FAQ document is intended to accompany Programmatic Categorical Exclusion Decision-Making Guide, to provide additional guidance in applying the thresholds of the Programmatic Agreement between Federal Highway Administration and Minnesota Department of Transportation, effective July 10th 2017. This document is based on questions that were received during the training sessions with FHWA, MnDOT Office of Environmental Stewardship, and MnDOT District staff.

Right of Way (ROW)	
Who decides if the project will affect the use of the property?	<p><i>The MnDOT District right of way engineer can assist in the assessment of actions that have the potential to affect the use of the property, and result in a negative impact to the functionality of the site's existing use.</i></p> <p><i>Contact OES to discuss the particulars of the project if there are questions.</i></p>
What is included in the definition of operational ROW, and are temporary easements included?	<p><i>Operational ROW can never be larger than project ROW, and must be for transportation purpose. No, temporary easements are not considered part of the operational ROW.</i></p> <p><i>Not all public ROW is considered operational ROW. For example, mowed areas, utilities, and feeder lines do not count as operational ROW. Utilities that power traffic signals don't serve a transportation purpose.</i></p>
How are impacts from staging areas that occur outside of the operation ROW measured?	<p><i>As long as the impacted property is restored to its original state and there is no real property interest beyond a temporary easement, it can be considered temporary impacts that occur outside of operational ROW.</i></p>

Right of Way (ROW)	
<p>What is the definition of a minor change in direct access to a property?</p>	<p><i>“Direct access” means a driveway or curb cut. This threshold does not apply to closure of median openings.</i></p> <p><i>Minor change in direct access is defined as no more than 10 direct access removals per linear mile (including both directions); remaining access is reasonably convenient and suitable (see the guidance of the MnDOT Access Management Manual); and the access change is not controversial.</i></p> <p><i>The following are not considered removals for purposes of this threshold</i></p> <ul style="list-style-type: none"> <i>• combining two functioning adjacent accesses into one as long as full functionality to each parcel is maintained or improved,</i> <i>• combining two functioning adjacent entry points on the same parcel separated by literally a few feet of curb,</i> <i>• lessening the width of an existing access point as long as it can provide the same functionality,</i> <i>• removal of illegal access, removal of a non-functional access (i.e. an access that has been blocked off for years),</i> <i>• changing access through the median,</i> <i>• repositioning an entry point to create a shared entry with another parcel.</i>
<p>What happens when there are changes to a project after the CATEX document has been signed? For example, when additional ROW is acquired.</p>	<p><i>It is the responsibility of the project manager to track changes to the project. If the results of the change is still within the thresholds of the Programmatic Agreement, then the change should be documented in an addendum. If it exceeds the threshold, then a re-evaluation may be necessary.</i></p> <p><i>ROW should only be acquired for the proposed transportation project. The threshold of 5.0 acres of ROW is the absolute, and is intended to prevent the use ROW acquisition as a mechanism to acquire additional ROW for future work.</i></p>

Right of Way (ROW)	
Is prescriptive right of way considered part of existing right of way?	<i>Prescriptive right of way is considered an underlying fee of the existing right of way and is not considered in the calculation of new right of way; except that this interpretation cannot apply within U.S. Forest Service or tribal reservation boundaries or exterior trusts lands.</i>
How does this threshold apply to access control of roadways?	<i>Access control over a highway is different than a change in access to a property. This threshold is focused on a change in direct access to a property.</i>
What is needed to document ROW?	<i>A graphic that shows the existing ROW lines and potential acquisition should be included in an appendix.</i>

Pedestrian/Bicycle Access Change	
Does a minor re-routing of a bike path from the existing configuration disqualify a project as a PCE?	<i>This would not constitute a permanent removal, or impede safe and reasonable access to a pedestrian/bicycle facility, and therefore would not disqualify a project from PCE.</i>
Are ADA issues considered in the bicycle/pedestrian category?	<i>No, not in this category. There is still the same expectation that the ADA requirements are followed to the maximum extent practicable, and be documented as part of the project.</i>
Does removal of trails that have limited use permits disqualify the project as PCE?	<i>If the trail is functioning as a recreational or transportation use it needs to be considered an impact. Projects that remove trails need additional evaluation for potential environmental justice impacts, and would not qualify as a PCE. This threshold focuses on the social impacts of removing a trail. Removal of any trail may affect a person's the ability to recreate, get to work, get to the store, etc.</i>
Does removal of decommissioned transit station, bus stop, or fixed transit route disqualify the project as a PCE?	<i>No, these facilities would not be considered functional if they have been decommissioned; and would not disqualify the project.</i>

Pedestrian/Bicycle Access Change	
<p>Does removal of a non-functional sidewalk disqualify the project as a PCE?</p> <p>Example: Sidewalks that have been abandoned, or in very poor condition, or where a new sidewalk has been built adjacent to an existing non-functional sidewalk.</p>	<p><i>These examples would not be considered a functional sidewalk, and therefore would not disqualify the project as a PCE.</i></p>
<p>Does converting a sidewalk to shared-use trail disqualify the project as a PCE?</p>	<p><i>If the pedestrian/bike facility is restored it would not cross the threshold.</i></p>
<p>Is the use of highway shoulders for bicyclist considered in this threshold?</p> <p>Example: When reducing an 8-foot paved roadway with a 2-foot shoulder to 6-foot paved roadway with a gravel shoulder.</p>	<p><i>Highway shoulders are not considered dedicated bike trails. Dedicated bicycle trails would include an off-road separated trail, or an on-road signed and striped bicycle lane. See Graphic in Appendix A.</i></p>

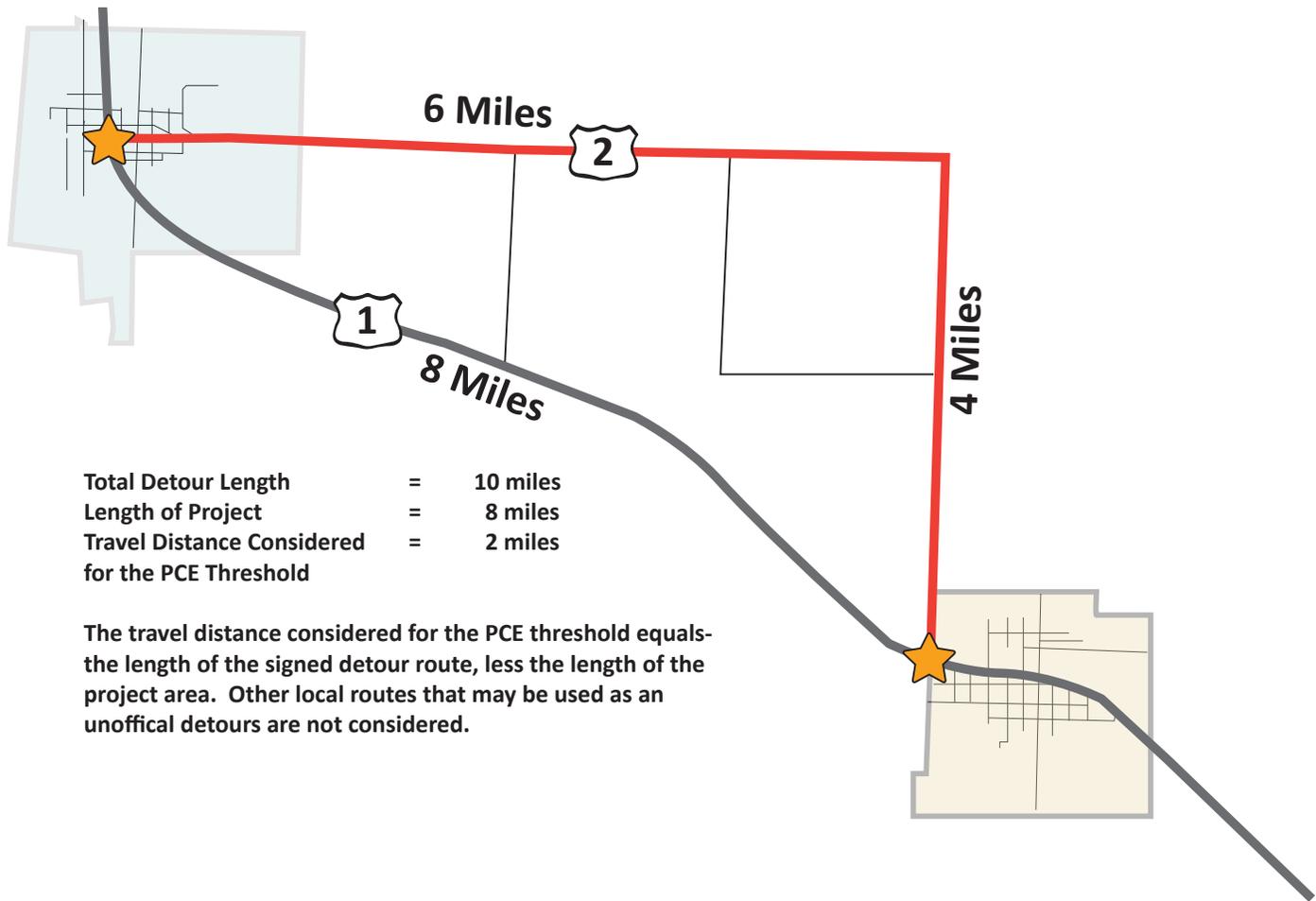
Traffic Disruption	
<p>Are truck/heavy commercial detours are considered separate from regular traffic detours?</p>	<p><i>No, there is no distinction between general traffic and truck detours.</i></p>
<p>Does a detour that is staged over more than one construction season disqualify the project as PCE?</p>	<p><i>If the detour ends at the end of the regular construction season (i.e. spring, summer, fall) but restart at the beginning of next spring, that would not cross the threshold. If the detour extends into winter, the threshold would be crossed.</i></p>
<p>How is the length of the detour measured?</p>	<p><i>The length of the detour is measured from the start to the end of the proposed detour route, minus the length of the roadway/project that requires the detour. See Graphic in Appendix A.</i></p>

Traffic Disruption	
What is the definition of urban outside of MPO?	<i>A population of 5,000 or greater is what distinguishes 'urban' vs 'rural' for purposes of the detour length when the project is outside the boundaries of an MPO. The definition/threshold is not based upon cross section.</i>
Do turn-lanes count as part of a thru-lane closure?	<i>Closure of a dedicated turn lane would not count as closure of a thru-lane for purposes of evaluating this threshold. Pulling a dedicated turn lane by temporarily converting it a thru-lane would also not cross the threshold.</i>

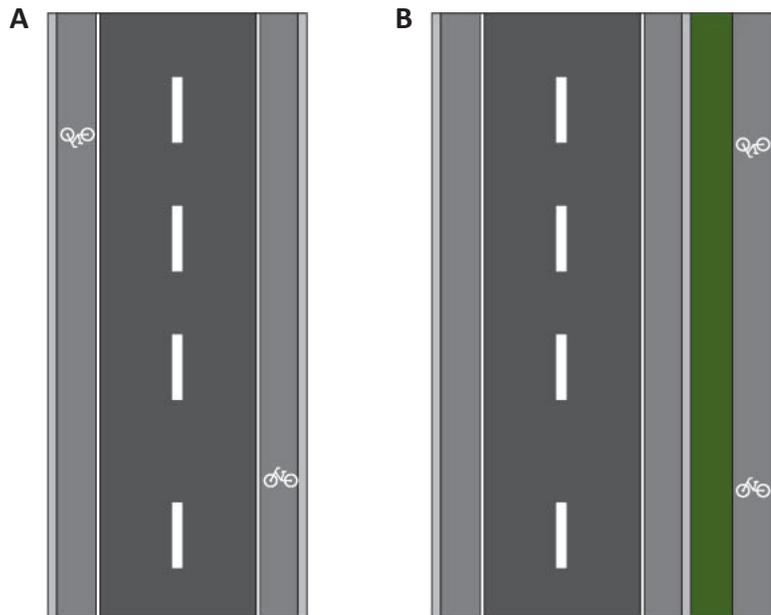
Wetlands	
Is a map required when there are no wetland impacts?	<i>No map is needed if the project has 1.) Been reviewed with NWI or delineation data and it is found to have no wetlands in the area AND 2.) Is not expanding the existing footprint.</i>
6(f) Impacts	
Will temporary impacts on a 6(f) property cross the PCE threshold?	<i>No, Section 6(f) only applies if there is a conversion. Call the DNR for guidance if in doubt about whether an impact will constitute a conversion.</i>

Other	
Is a graphic required for lighting projects?	<i>The magnitude of the project should be very clear in the project description, otherwise additional figures are needed to demonstrate the scale of project.</i>
Can multiple citations be used? How do we pick citations for tied projects?	<i>Pick the one that best captures the project. Tied projects are considered one undertaking.</i>
What should be included in the new mitigation commitments table?	<i>The list of avoidance, minimization, and mitigation commitments should only be NEPA commitments that are prescribed in the environmental document.</i>
Who signs the Attachment B Form?	<i>It should be signed by the person that completed the form.</i>

Traffic Disruption - How to measure the travel distance of a detour



Dedicated Bicycle Trails



For the purposes of the PCE Pedestrian/ Bicycle Access Change threshold, dedicated bicycle trails include on-road signed and striped bicycle lane (A), and off-road separated trail (B).