




<b>SUBJECT</b> FHWA Limitations on PS&E Exception Letters	<b>FINAL NUMBER</b> GE07-01(B)	<b>EFFECTIVE DATE</b> 05/09/2007	<b>VALIDATION DATE</b> 06/24/2009	<b>SUPERSEDES or RESCINDS</b> NA
	<b>WEB LINK(S)</b> <a href="http://egov.oregon.gov/ODOT/HWY/TECHSERV/techguidance.shtml">http://egov.oregon.gov/ODOT/HWY/TECHSERV/techguidance.shtml</a>			
<b>TOPIC/PROGRAM</b> PS&E Exception Letters	<b>APPROVED SIGNATURE</b>  H.A. (Hal) Gard, RPA Geo-Environmental Section Manager			

**PURPOSE**

To clarify FHWA legal requirements and guidance regarding acceptance of PS&E Exception Letters prior to approval of CE projects for bid advertising.

**GUIDANCE**

As per 23 CFR 630.106 a(2), FHWA will no longer approve advertising a proposed Cat Ex (Class 2) project for bids upon submittal of PS&E Exception letter where outstanding clearances include a Biological Opinion (BO), Final Hazardous Material Report(s), Section 404 Permit(s), Section 106 MOA9s), Section 4(f) or 6(f) Evaluations, or other unresolved Endangered Species Act (ESA) issues. PS&E Exception Letters will continue to be accepted where those clearances and permits are not involved. This guidance supersedes previous related guidance.

**DEFINITIONS**

**Categorical Exclusions** compromise projects where no significant environmental impacts are expected to occur.

**BO** is a Biological Opinion.

**MOA** is a Memorandum of Agreement.

**ESA** is the Endangered Species Act.

The **PS&E Exception Letter** documents to FHWA that certain aspects of a project are not yet completed, but indicates that completion of those elements is expected prior to actual letting of the project, and requests FHWA approval to proceed with advertising the project for bids.

***BACKGROUND/REFERENCE***

This bulletin is intended to bring FHWA and ODOT into compliance with regulations included in 23 CFR 630.106 a(2), which require completion of the specific environmental clearances and permits listed above.

***EXPLANATION***

FHWA cannot legally approve Categorical Exclusion projects for bid advertising prior to completion of the above listed environmental clearances and permits.

***RESPONSIBILITIES***

This guidance will affect the Regional Environmental Coordinators, Region Permit Coordinators, Region Environmental Managers, Region Tech Center Managers, Area Managers, Project Managers, Procurement and Construction staff.

***ACTION REQUIRED***

Ensure that each of the above listed environmental permits and clearances for Categorical Exclusion projects are completed and submitted to FHWA prior to submittal of a PS&E Exception Letter and/or submittal of the PD-02 PS&E Project Checklist.

***SPECIAL INSTRUCTIONS***

This guidance is effective immediately.

***CONTACT INFORMATION***

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