APPENDIX A

PROGRAMMATIC AGREEMENT FOR MINOR TRANSPORTATION PROJECTS
PROGRAMMATIC AGREEMENT AMONG THE FEDERAL HIGHWAY
ADMINISTRATION THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, THE
PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER, AND THE ADVISORY
COUNCIL ON HISTORIC PRESERVATION REGARDING IMPLEMENTATION OF
MINOR TRANSPORTATION PROJECTS

WHEREAS, the Federal Highway Administration (FHWA) proposes to administer the
Federal Aid Highway Program in Pennsylvania authorized by 23 U.S.C. 101 et seq. through the
Pennsylvania Department of Transportation (PennDOT);

WHEREAS, the FHWA has determined that certain types of routine minor transportation
projects may have an effect upon historic properties included in or eligible for inclusion in the
National Register of Historic Places and has consulted with the Advisory Council on Historic
Preservation (Council), and the Pennsylvania State Historic Preservation Officer (SHPO)
pursuant to Section 800.13 of the regulations (36 CFR Part 800) implementing Section 106 of the
National Historic Preservation Act (16 U.S.C. 470f);

WHEREAS, PennDOT participated in the consultation and has been invited to concur in
this Programmatic Agreement (Agreement);

WHEREAS, historic properties are defined as prehistoric and historic archaeological
sites, buildings, structures, districts, objects, landscapes, and traditional cultural properties
included in or eligible for listing in the National Register of Historic Places (National Register);

WHEREAS, the area of potential effects is defined as the geographic area or areas within
which an undertaking may cause changes in the character or use of historic properties, if any
such properties exist;

WHEREAS, properties fifty (50) years or older shall be treated as potentially eligible for
listing in the National Register unless already evaluated for eligibility by the SHPO and found to
be not eligible;

WHEREAS, PennDOT has conducted an inventory, known as the Pennsylvania Historic
Bridge Survey, of bridges on the state highway system to evaluate eligibility for the National
Register in consultation with the SHPO;

WHEREAS, based on the criteria established in the current Pennsylvania Historic Bridge
Survey (published in 1986), it is agreed that metal girder bridges and reinforced concrete girder
bridges of any size and concrete arch bridges less than 20 feet in length are not considered
eligible for inclusion in the National Register; and

NOW, THEREFORE, FHWA, the Council, SHPO and PennDOT agree that minor
transportation projects consisting of activities defined under Stipulations C.1, C.2, and D.1 which
are not part of a larger undertaking shall be administered in accordance with the following
stipulations to satisfy FHWA's Section 106 responsibilities for those individual undertakings of the program.

STIPULATIONS

FHWA shall ensure that the following measures are carried out:

A. Purpose and Applicability

This Agreement sets forth the process by which FHWA, with assistance by PennDOT, will meet its responsibilities under Sections 106 and 110(d) of the National Historic Preservation Act (NHPA), as amended, for minor transportation projects of the Federal Aid Highway Program which are classified as "categorical exclusions" under 23 CFR 771.115 and 23 CFR 771.117 (Appendix C). This Agreement establishes the basis for PennDOT internal review of individual minor projects and establishes the roles of involved parties throughout the Process.

B. Responsibilities of FHWA and PennDOT

1. In compliance with its responsibilities under NHPA and as a condition of its award of any assistance under the Federal Aid Highway Program to PennDOT, FHWA shall require PennDOT to carry out the processes defined below consistent with 36 CFR Part 800 and applicable Council standards and guidelines for all PennDOT minor transportation projects that receive Federal assistance and approval. Public participation, as required for compliance with 36 CFR Part 800, will be conducted through the procedures established by PennDOT in its Public Involvement/Public Hearing Procedures of September 14, 1995 (SOL 440 96 l9) to notify and solicit comments from the public.

2. PennDOT shall maintain staff (referred to in this Agreement as "Qualified Professionals") who meet the National Park Service's Professional Qualification Standards (36 CFR Part 61-Appendix A) in archeology, history, or architectural history whose duties shall include activities implementing this Agreement.

3. PennDOT comprehensive Departmental procedures shall be consistent with and complement the terms of this agreement. This agreement will be appended to the PennDOT Cultural Resources Procedures and fully explained therein.

4. PennDOT and the SHPO shall provide annual cultural resource management and Section 106 compliance training (as described in Appendix B) for personnel responsible within each PennDOT District for conducting activities further described under Stipulations C and hereafter referred to as "PennDOT Designee." PennDOT Designees shall receive such training prior to implementation of activities defined under Stipulations C.
C. Activities Exempted from Review

1. Due to their low potential for effects to historic properties, the following activities are exempted from further review provided the undertaking:

- is limited to the activities specified
- is not part of larger undertakings
- is on an existing transportation facility
- has no known public controversy based on historic preservation issues
- is classified as a "categorical exclusion"

a) Reconstruction of the existing roadbed (including existing shoulders), provided in kind or compatible modern materials are used. Reconstruction may include: resurfacing; restoration; rehabilitation; surface treatments; milling and grooving; replacement of existing guide rail; installation of new drainage pipes within the roadbed; replacement of bridge deck for bridges less than 50 years old, or non-eligible bridges as determined in the current Historic Bridge Survey.

b) Activities within the existing disturbed median, including installation of new or replacement of median barriers or guide rail.

c) Rehabilitation of existing at grade railroad crossings.

d) Drainage improvements, including installation, replacement and rehabilitation, and cleaning activities associated with existing drains, dikes, headwalls, existing culverts, pipes and storm sewers.

e) Installation or upgrade of regulatory signs and railroad warning signs and devices; upgrade of advisory signs.

f) Construction of bicycle and pedestrian lanes, paths and facilities, and multi use paths and facilities, provided no more than 3 meters (9.75 feet) outside of the existing disturbed area is required for use.

 g) Rail to Trail projects, provided: all disturbance activities occur within the existing railroad bed; and the project does not require the removal of the railroad bed or existing bridges.

h) Rehabilitation of existing safety rest areas and truck weigh stations, provided no more than 3 meters (9.75 feet) outside of the existing disturbed area is required for use.

i) Track and rail bed maintenance, provided there is no change in grade.

j) Acquisition of scenic or preservation easements.
k) Alterations to facilities less than 50 years old to make them accessible for disabled persons.

l) Replacement of curbs, curbing, and sidewalks, provided: in kind compatible modern materials are used when historic brick, slate or granite block materials are not a contiguous block; and, the historic materials constitute less than 20% of the existing sidewalks, curbs, or curbing in the project limits.

m) Construction of sidewalk improvements in the form of curb cuts made under the American Disabilities Act PennDOT Curb Cuts Program, provided in kind materials are used for new construction.

2. Due to their low potential for effects to historic properties, the following additional activities are exempted from further review provided the undertaking:

- is limited to the activities specified
- is not part of a larger undertaking
- is on an existing transportation facility
- has no known public controversy based on historic preservation issues
- is classified as a "categorical exclusion"
- has no properties more than fifty (50) years old in the area of potential effects, or there are no known eligible, or listed historic properties in the area of potential effects, as determined by a PennDOT Qualified Professional
- has no known archeological sites in the area of potential effects, as determined from the Pennsylvania Archaeological Site Survey (PASS) files, or physical, visual evidence on the surface in the area of potential effect
- requires no more than 3 m (10 ft) of additional right-of-way on each side of the roadbed when the activity is within 200 meters (650 feet) of a stream of rank order 3 or greater (Strahler 1964, Appendix E).

a) Rehabilitation or replacement of bridges on existing alignment, when the rehabilitation consists of replacement of bridge rails, and other structural elements for bridges less than 50 years old, or non-eligible bridges as determined in the current Historic Bridge Survey.

b) Upgrade or installation of lighting, fencing, sidewalks, traffic signals, curbs and curbing; installation of advisory signs.

c) Reconstruction activities, including widening less than one lane, shoulder additions to roadways, bridge approaches, turn lanes within the existing roadbed (including existing shoulders), intersections, minor changes in alignment where the new centerline is within the existing PennDOT right-of-way, or new drainage of the existing roadway.

d) Wetland mitigation, provided: the mitigation is less than or equal to 0.08 hectares (0.20 acres); and, it is associated with projects covered under this Agreement.
3. For those project comprising the activity/ies and meeting the condition defined above, the PennDOT Designee shall exercise their best judgement that the above conditions are being met, and shall document that no further review shall be necessary under Section 106 and shall include that finding in the Categorical Exclusion Evaluation Form (Appendix D) as part of the appropriate National Environmental Policy Act (NEPA) project file.

4. On a quarterly basis, the PennDOT Designee shall submit a list to the SHPO including each project falling under the above conditions. This list shall include the county, project name, the specific Stipulation(s) under which it was exempted. The list shall also be accompanied by a map locating each project.

5. Individual projects which do not meet the conditions stipulated above may be considered under Stipulations D, where appropriate.

D. Review of Other Activities

1. Provided there is no public controversy based on historic preservation issues, the following expedited review process may be implemented for those projects eligible for review under the terms of this agreement which did not meet the applicable conditions of Stipulations C as well as the following additional activities:

   . The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction
   . Landscaping
   . Transportation corridor fringe parking facilities
   . Construction of new truck weigh stations or rest areas.

2. Identifying Historic Properties and Determining Effect

   a. Prior to PennDOT determining the need for further survey in a proposed undertaking, PennDOT shall notify the SHPO of the project, providing a location on a U.S.G.S. 7.5 Minute Topographic Quadrangle Map and a brief description of the project.

   b. Based upon the best available background information gathered via a literature search, including SHPO files of identified, eligible, or National Register listed historic properties, a PennDOT Qualified Professional shall assess the likelihood that unidentified historic properties exist in the area of potential effects and shall make a determination of the need for further field survey, using known historic property information gathered from the SHPO's files and through field inspection where indicated.

   c. In areas subject to potential effect for which a PennDOT Qualified Professional recommends a field survey, PennDOT shall conduct or cause to be conducted a survey to identify historic properties. These surveys shall be conducted in a manner

d. Where potential historic properties are identified, a PennDOT Qualified Professional may evaluate eligibility for listing in the National Register of Historic Places, using the Secretary of Interior's Standards and Guidelines for Evaluation (48 FR 44723-26, and National Register Bulletin 15, How to Apply the National Register Criteria for Evaluation. Where historic property boundaries have not previously been established, a PennDOT Qualified Professional may identify recommended boundaries following standards set forth in the document titled: Defining Boundaries for National Register Properties, National Register Bulletin 21.

e. For those undertakings in which there are historic properties in the area of potential effect, a PennDOT Qualified Professional shall apply the Criteria of Effects (Appendix G) in accordance with 36 CFR § 800.9(a).

f. For those projects which have no historic properties or no effect on historic properties, the PennDOT Qualified Professional shall issue a finding of No Historic Properties Present or Affected for the project, and include this documentation in the Categorical Exclusion Evaluation Form, as part of the appropriate NEPA project files.

g. PennDOT shall notify the SHPO of the No Historic Properties Present or Affected finding for the project in a timely manner, and shall include the following documentation

   a copy of the Cultural Resource Field Assessment Form (Appendix F)
   a description of the project
   the location of the project mapped on a USGS 7.5 Minute Topographic Map
   (where archaeological surveys had been conducted) four (4) copies (3 bound, 1 unbound), with original photographs, of Survey Reports, and BHP Report Summary Form.
   where historic structure surveys have been conducted, one (1) copy with original photographs of survey reports and one (1) unbound copy with original photographs of Pennsylvania Historic Resource Survey Forms

h. If within 15 days of receiving this notification, the SHPO has raised no objection, PennDOT may proceed with the project without further review.

3. No Adverse Effect

a. For those projects in which there is an effect on historic properties, a PennDOT Qualified Professional shall apply or cause to be applied the Criteria of Adverse Effects in accordance with 36 CFR § 800.9(b). Where indicated, the PennDOT Qualified Professional shall issue a finding of No Adverse Effect for the project, and transmit a copy of the finding and Criteria of Effects report meeting 36 CFR § 800.8(a)
to the SHPO for concurrence. If within 30 days of receiving this finding, the SHPO does not respond, PennDOT may assume SHPO concurrence and proceed with the project without further review.

b. If the SHPO proposes conditions that would result in a determination of No Adverse Effect, and PennDOT agrees to implement the conditions, no further consultation will be necessary, except for archeological resources as set forth in subparagraph (1) below.

(1) If the No Adverse Effect determination is conditioned upon development and implementation of a data recovery plan for archaeological properties, PennDOT shall consult with the SHPO to develop an appropriate data recovery plan. The plan shall be consistent with the Secretary of Interior's Standards and Guidelines for Archaeological Documentation (48 FR 44734-37), the Council's Treatment of Archaeological Properties, and the SHPO's (1991) Guidelines for Archaeological Investigations. The plan shall specify the exact location of data recovery; the identification of any property that will be destroyed or altered without data recovery; the research questions to be addressed by the data recovery, with an explanation of their relevance and importance; the methodology of analysis, management and dissemination of the data, including a schedule; the disposition and curation standards for recovered materials and records; the procedure for including the interested public; proposed methods for disseminating results of the work to the interested public; a proposed schedule for submission of progress reports to the SHPO. The plan shall be submitted by PennDOT to FHWA for approval prior to being submitted to the SHPO for review and concurrence that the plan meets the above standards. If within 30 days of receiving this plan, the SHPO has raised no objection, PennDOT shall implement the plan as proposed.

Projects which involve sites at which discovery of human skeletal remains and associated grave goods is likely may not be addressed under the terms of this agreement.

c. Adverse Effect
Those projects that may have an Adverse Effect on historic properties as indicated through application of the Criteria of Adverse Effects, will not be addressed under the terms of this agreement.

E. Project Re evaluation

1. Where projects have changed in scope or Area of Potential Effects, PennDOT shall re assess the applicability of this Agreement for projects reviewed under Stipulations C and/or D. PennDOT may use the NEPA re evaluation process for this re assessment

2. Should the SHPO provide new information regarding a project that would alter the finding of No Historic Property Present or Affected, PennDOT and the SHPO shall consult pursuant
to 36 CFR §§ 800.4 800.6 Such information shall be provided to PennDOT in a timely manner and prior to the project's notice to proceed.

F. Unanticipated Discovery

All unanticipated discoveries made in conjunction with any project covered by this Agreement shall be treated in accordance with the procedures outlined in 36 CFR 800.11 and PennDOT Publication 408, Section 105.15 in consultation with all parties of this Agreement.

G. Curation of Archaeological Materials

1. FHWA shall ensure that artifacts recovered from archaeological investigations conducted under this Agreement will be curated according to Pennsylvania State Guidelines. The Pennsylvania Historical and Museum Commission shall be given the right of first refusal for all collections recovered under the agreement.

2. PennDOT shall reimburse institutions curating these collections for their costs.

H. Review of the Agreement

1. The PennDOT District Office shall maintain a list of projects reviewed by the District under Stipulations C. The list will be used for compilation of an annual report as described below. This list shall include project name, project location and a brief statement of the activities for each project. This list will be provided quarterly to FHWA and the SHPO.

2. FWHA shall conduct process reviews of all Districts on a triennial basis for compliance with the Programmatic Agreement on Stipulation C activities At least 5 projects will be examined in each District.

3. PennDOT shall prepare and provide to all parties an annual report by calendar year addressing the number of projects reviewed under this Agreement, and including the results of the process reviews for those Districts covered. The report shall be submitted on or before April 15 of the following year. FHWA shall ensure that the annual report is made available for public inspection and comment.

4. FHWA, SHPO, the Council, and invited interested parties will review the annual report and provide comments to PennDOT within 30 days of receipt. At the request of any party to this Agreement including invited interested parties, a meeting or meetings will be held to facilitate review and comments, to resolve questions, or to resolve outstanding issues.

I. Monitoring

1. Upon request, FHWA and the SHPO may monitor activities carried out pursuant with this agreement. PennDOT shall cooperate with any party in carrying out the monitoring effort.
2. Should monitoring activities result in evidence that the requirements of this memorandum are not being met, FHWA, the SHPO, and PennDOT will meet to develop and implement corrective measures.

J. Individual District Compliance

If FHWA determines that an individual PennDOT District repeatedly fails to meet the requirements of this agreement when applied to Federal aid projects, a PennDOT Qualified Professional shall carry out the review functions normally delegated to the PennDOT Designee, until such time as the PennDOT District may be reinstated by FHWA to carry out the terms of the Agreement.

K. Dispute Resolution

1. When the SHPO provides a written objection within the appropriate time frame to a PennDOT finding under Stipulation D of No Historic Properties Affected or No Adverse Effect, the SHPO may request a meeting within 15 days.

   a. PennDOT and the SHPO will meet within 15 days to attempt to resolve the objection.

   b. If appropriate, the meeting will be held at the project site to resolve concerns at the field level, so the SHPO staff and PennDOT can explain their concerns directly to one another.

   c. If the SHPO and PennDOT cannot resolve the objection in the meeting, PennDOT and the SHPO will follow Stipulation K.2.

2. Should any party to this Agreement object in writing to FHWA regarding any action carried out or proposed with respect to the implementation of this Agreement, FHWA shall consult with the objecting party to resolve the objection. If FHWA determines that the objection cannot be resolved through consultation, FHWA shall forward all documentation relevant to the objection to the Council, including FHWA'S proposed response to the objection. Within 30 days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

   a. Advise FHWA that the Council concurs in FHWA's proposed response to the objection, whereupon FHWA will respond to the objection accordingly;

   b. Provide FHWA with recommendations, which FHWA shall take into account in reaching a final decision regarding its response to the objection.

3. Should the Council not exercise one of the above options within 30 days after receipt of all pertinent documentation, FHWA may assume the Council's concurrence with the proposed response to the objection.
4. FHWA shall take into account any Council recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; FHWA's responsibility to carry out all actions under this Agreement that are not the subjects of the objection shall remain unchanged.

5. During implementation of the measures stipulated in this Agreement, should a member of the public raise an objection through PennDOT’s Public Involvement/Public Hearing Procedures, FHWA shall notify the parties to this Agreement and take the objection into account, consult with the objector and, should the objector so request, consult with any of the parties to this Agreement to resolve the objection.

L. Amendments

1. FHWA may propose revisions to the list of projects exempted under the Agreement (Stipulation C), whereupon FHWA shall consult with the SHPO to consider such revisions. If FHWA and the SHPO agree to the proposed revisions, FHWA shall submit an addendum containing the revised list to the Advisory Council. The Council shall have thirty days to review the revised list. If the Council does not respond within thirty days of receipt of the proposed revisions, FHWA may presume Council concurrence and implement the revised list of exempted projects. Disagreement over revisions to the list of exempted projects, or other amendments shall follow Stipulation L.2.

2. Any party to this agreement may propose to FHWA that the Agreement be amended, whereupon FHWA shall consult with the other parties to this Agreement to consider such an amendment. 36 CFR § 800.13 shall govern the execution of any such amendment.

M. Termination

1. Any party may propose to the other parties that this Agreement be terminated.

2. The party proposing to terminate this Agreement shall so notify all parties to this Agreement, explaining the reasons for termination and affording them at least 30 days to consult and seek alternatives to termination. The parties shall then consult.

3. Should such consultation fail, FHWA, the SHPO, or the Council may terminate the Agreement by so notifying all parties.

4. Should this Agreement be terminated, FHWA shall comply with 36 CFR Part 800 with regard to individual undertakings covered by this Programmatic Agreement.

Execution of this Agreement by FHWA and the Council, and the implementation of its terms, evidence that FHWA has afforded the Council an opportunity to comment on Minor Transportation Projects and their effects on historic properties; and that FHWA has taken into account the effects of Minor Transportation Projects on historic properties.
FEDERAL HIGHWAY ADMINISTRATION
By:______________________________  Date:________

ADVISORY COUNCIL ON HISTORIC PRESERVATION
By:______________________________  Date:________

PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER
By:______________________________  Date:________

CONCUR:

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
By:______________________________  Date:________
Appendix A - 36 CFR 61 - Professional Qualifications
Appendix B
Cultural Resource Management Training Requirements

A District Designee must complete the following training prior to receiving authorization to review activities covered under Stipulation D of this Agreement:

Historic and Archaeological Preservation. NHI Course No. 14211 (provided by FHWA)

The following additional training, to be conducted by independent Qualified Professionals, shall be completed:

3 hours Identification and Eligibility (general)
3 hours Establishing Historic Property Boundaries
2 hours Identifying Rural Historic Districts
3 hours Historic Architectural Styles
2 hours Application of the Criteria of Effect
Appendix C - 23 CFR 771.15 and 23 CFR 771.17
Appendix D - CEE Form
Appendix E - Stream Order Classification
Appendix F - Cultural Resource Assessment Form
### Application of the Criteria of Effect for the [Property Name]

<table>
<thead>
<tr>
<th>Criteria of Effect</th>
<th>Determination</th>
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<tr>
<td>An undertaking has an effect on a historic property when the undertaking:</td>
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<td>(A) May alter characteristics of the property that may qualify the property for</td>
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<tr>
<td>inclusion in the National Register. Depending on the property’s significant</td>
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<tr>
<td>characteristics, alteration to features of the property’s location, setting or</td>
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<td>use should be considered.</td>
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**DETERMINATION:**