

PROGRAMMATIC AGREEMENT FOR CATEGORICAL EXCLUSION APPROVAL

This Programmatic Agreement between the Pennsylvania Department of Transportation (PennDOT) and the Federal Highway Administration (FHWA) establishes terms for delegation of review and approval authority for specific types of transportation projects eligible for Categorical Exclusions (CEs). This new agreement replaces the Categorical Exclusion Programmatic Agreement of May 1995 and institutes the recommendations of the Exemption Agreement and Engineering Management Systems Task Forces to reduce the number of levels of Categorical Exclusion Evaluations (CEEs).

PennDOT and FHWA concur in advance with the classification of those types of CEs identified in 23 CFR Part 771.117(c). CE projects that meet the criteria of 23 CFR Part 771.117(c) will be processed and approved by PennDOT as Level 1a CEs. PennDOT certifies that all of the conditions indicated in this classification will be satisfied for projects processed and approved under this classification.

Additional actions eligible for CEs under 23 CFR 771.117(d) may be approved as CEs upon the submission of documentation demonstrating that the criteria stipulated in 23 CFR 771.117(d) are satisfied, and that significant environmental impacts will not result from the project. The following guidelines will be applied to determine when it is appropriate for PennDOT to approve these CEEs or when it is necessary to submit the environmental documentation to FHWA for review and approval:

- A. If none of the following numbered conditions are true for the project, PennDOT may process and approve the environmental document as a Level 1b CE.
- B. If one or more of the following numbered conditions are true for the project, the environmental document must be submitted to FHWA for consideration as a Level 2 CE.
 1. The action involves unusual circumstances described in 23 CFR 771.117(b).
 2. The action involves one or more of the following:
 - Public controversy on environmental grounds or the potential for controversial displacements of residences or businesses.
 - Historic or archaeological resources that are on or eligible for the National Register of Historic Places, and having an Effect under Section 106, unless the project is covered under provisions of an existing Programmatic Agreement. .
 - A Coast Guard Permit, significant floodplain encroachments, or an Individual Wetland Finding (unless the Pennsylvania State Programmatic General Permit issued by the U.S. Army Corps of Engineers applies).
 - U.S. EPA or PA Hazardous Sites Cleanup Act (HSCA) Superfund Site.

- Either an Individual or Programmatic Section 4(f) Evaluation.
 - Advance acquisition right-of-way (protective buying or hardship acquisition).
 - Federally listed Wild and Scenic Rivers.
 - An adverse effect to Federally listed endangered or threatened species or critical habitat.
3. The action does not conform to the Pennsylvania Air Quality Implementation Plan that is approved or promulgated by the U.S. Environmental Protection Agency in air quality nonattainment areas.
 4. The action is not consistent with Pennsylvania's Coastal Zone Management Plan as determined by the Pennsylvania Department of Environmental Protection.

All determinations made by PennDOT under this Programmatic Agreement will be documented in the Technical Support Data for the project. The documentation will be made available for FHWA review upon request.

PennDOT will develop a quality management program, which FHWA will approve prior to implementation, to ensure adherence to the CEE process and standards. PennDOT and FHWA will conduct a process review program to evaluate the effectiveness and adequacy of project documentation for CEEs covered by this agreement. This process review program would involve reviews of a representative sample of each Engineering District's CEEs prepared under this Programmatic Agreement. Under this process review program each Engineering District's documentation will be reviewed at least every five years. In the event that an Engineering District fails to institute or comply with a quality management program, or should the process review program or other evaluation indicate deficiencies in the conduct or documentation of CEEs, the delegation of CEE approval authority to the Engineering District will be rescinded.

FEDERAL HIGHWAY ADMINISTRATION

By:_____ Date:_____

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION

By:_____ Date:_____