

PROGRAMMATIC AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION DELAWARE DIVISION
AND THE DELAWARE DEPARTMENT OF TRANSPORTATION
REGARDING THE PROCESSING OF
CERTAIN CATEGORICAL EXCLUSION ACTIONS

Whereas, the Delaware Department of Transportation (DelDOT) proposes highway projects and desires to apply Federal-aid funding for those projects and in doing so, the Federal Highway Administration Delaware Division (FHWA) must comply with the National Environmental Policy Act (NEPA) and;

Whereas, FHWA is responsible for making all NEPA approvals pursuant to 23 C.F.R. § 771.109 and DelDOT has considered and decided not to assume responsibilities for Categorical Exclusions (CE) pursuant to 23 U.S.C. § 326 and;

Whereas, FHWA may establish procedures to expeditiously and efficiently process actions that are excluded from the requirements to prepare either an Environmental Impact Statement or an Environmental Assessment and;

Whereas, Approximately 95% of the highway projects proposed by DelDOT for Federal-aid funding typically qualify as a CE and DelDOT seeks to assist in reducing the paperwork, and processing time for certain Federal actions that do not have significant impacts on the human and natural environment pursuant to 40 C.F.R. 1500.5(k) and;

Whereas, DelDOT will document and certify certain FHWA highway projects that do not have significant impacts on the human and natural environment and in doing so will reduce the paperwork and processing time for FHWA NEPA approvals in accordance with this Programmatic Agreement (Agreement) and applicable law;

Whereas, Section 1318(d) of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405 (July 6, 2012) enacted subsequent to 2011 PCE Agreement, encourages FHWA to enter into programmatic agreements with the States that establish efficient administrative procedures for carrying out environmental and other required project reviews, including agreements that allow a State to determine whether a project qualifies for a CE on behalf of FHWA;

Whereas, this Agreement applies only to projects that involve FHWA funding

Now, therefore, FHWA and DelDOT enter into this Agreement for the processing of certain CE projects under NEPA subject to the following terms and conditions:

SECTION I. PROVISIONS AND SCOPE

- A. The Preamble and any Attachments referenced in this Agreement shall be incorporated herein as substantive provisions.
- B. Only projects meeting the definitions in 40 C.F.R. § 1508.4 and 23 C.F.R. § 771.117 for “categorical exclusions” may be processed under this Agreement.
- C. DelDOT shall limit its processing of CE level projects under this Agreement to the following:
 - 1. Actions listed in 23 C.F.R. §771.117(c) (1 through 30). These actions are listed in **Attachment 1**.
 - 2. Actions in 23 C.F.R. §771.117(d) (4 through 13). These actions are listed in **Attachment 2**.
 - 3. Other conditions that exclude a project that otherwise may qualify as a CE in 23 C.F.R. §771.117(c) (1 through 30) without FHWA final approval is listed in **Attachment 3**. This also includes actions or type of projects listed in 23 C.F.R. §771.117 paragraphs (c) (26), (c) (27), and (c) (28) should they meet any criteria listed in Attachment 3.
- D. In addition, DelDOT may process the following types of projects as CEs for unless otherwise excluded under Section III of this Agreement:
 - 1. Projects involving drainage improvements (not including bridges by FHWA definition), including culvert and/or headwall installation/replacement, new or existing pipe installation/replacement, replacement and/or extension and installation of scour countermeasures.
 - 2. Projects that may be funded and authorized under Transportation Alternatives Program (TAP) and Congestion Mitigation and Air Quality Improvement Program (CMAQ).
 - 3. Implementation of “Green Technology” such as sensors, solar power technology panels, and smaller wind power devices for supporting DelDOT operating facilities. This does not include implementation of other supporting devices for servicing other power users.
 - 4. Projects considered emergency efforts (such as existing or pending roadway or bridge closures) with advanced written correspondence from the DelDOT Chief Engineer and confirmation from the Environmental Studies Manager. This process may be needed in advance of other formal declarations.
 - 5. Projects that require the acquisition of temporary or permanent right-of-way less than one acre per mile of any roadway reconstruction, resurfacing or reconditioning project, or less than one-half acre for any other project. The type of projects listed in Section I. D. 1. through 6 would also apply.

6. Any additional administrative actions or projects which could meet the criteria for a CE in the CEQ regulations (40 C.F.R. 1508.4) and/or paragraph (a) of 23 C.F.R. 771.117 only after FHWA Delaware Division approval. DelDOT shall first submit documentation to FHWA which demonstrates that DelDOT may effectively process the action or project as a CE with no significant environmental effects.

SECTION II. CONSIDERATION OF UNUSUAL CIRCUMSTANCES

- A. For each project processed under this Agreement, DelDOT shall consider whether circumstances exist where a normally categorically excluded action may have a significant environmental effect and therefore cannot be processed as a CE.
- B. Consideration of unusual circumstances includes consideration whether the action might result in:
 1. significant environmental impacts;
 2. substantial controversy on environmental grounds;
 3. significant impacts on properties protected by Section 4(f) of the DOT Act (23 C.F.R. 774), excluding actions qualifying under FHWA programmatic evaluations or resulting in a *de minimis* finding, or adverse effect under Section 106 of the National Historic Preservation Act), as amended (36 C.F.R. 800). If the project requires a Section 4(f) *de minimis* determination or FHWA Nationwide Programmatic Evaluation, DelDOT shall submit the 4(f) documentation for FHWA determination and approval.
 4. Inconsistency with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

SECTION III. ACTIONS EXCLUDED FROM THIS AGREEMENT

- A. This Agreement does not apply to 100% state funded projects.
- B. Any project having a significant environmental effect either individually or cumulatively is specifically excluded from processing as a CE under this Agreement. Excluded projects include projects that:
 1. have unusual circumstances as described in Section II of the Agreement.
 2. induce significant impacts to planned growth or land use for the area;
 3. require the relocation of significant numbers of people;
 4. have a significant impact on any natural, cultural, recreational, historic or other resource;
 5. involve significant air, noise or water quality impacts;
 6. have significant impacts on travel patterns.

- C. Any action that does not satisfy the criteria for a CE under 23 C.F.R. §771.117 paragraphs (c) and (d) or Section I. D. is excluded from processing under this Agreement.
- D. Exclusion may occur at any time during the environmental process if DelDOT or FHWA determines that the project fails to meet the CE criteria.

SECTION IV. STATE PROCESSING OF CEs

- A. All CE (c)(1),(11),(13),(14),(15),(16),(17),(19),(20),(24), and (29) type projects certified by DelDOT under this agreement shall be processed via e-mail, including information from the Project Initiation Form (**Attachment 4**), the CE Checklist Form for “C” List Actions (**Attachment 5**), and a certification from the Environmental Studies Manager that no unusual circumstances exist that would make the CE approval inappropriate.
- B. All other CE (c) type projects under this agreement not listed above in Section IV.A shall be processed via e-mail, with the Project Initiation Form (**Attachment 4**) and the CE Checklist Form for “C” List Actions (**Attachment 5**).
- C. All CE (d) type projects under this agreement shall be processed via e-mail with the Project Initiation Form (**Attachment 4**) and the CE Checklist Form for “D” List Actions (**Attachment 6**) for FHWA review and approval.
- D. DelDOT shall **certify** as part of its processing of a project that the action meets 23 C.F.R. §771.117 paragraphs (a) and (b) and is one that does not involve unusual circumstances, such as those listed in Section II above, that might require the preparation of an EA or EIS.

SECTION V. STATE PERFORMANCE REQUIREMENTS

- A. DelDOT shall post and maintain the current executed copy of this Agreement on their web site, available to the public.
- B. DelDOT shall provide a list of CEs processed under this Agreement to the FHWA Delaware Division Office by September 30th of every year.
- C. For projects that DelDOT determines meet the criteria set forth in this Agreement to be processed as a CE, DelDOT shall:
 - 1. identify and review the environmental effects of the proposed project.
 - 2. record its certification in writing utilizing the statement, “*The State has determined that this project does not individually or cumulatively have a significant impact on the environment as defined by NEPA, or involve unusual circumstances as defined in 23 C.F.R. § 771.117(b), and is excluded from the requirements to prepare an Environmental Assessment or Environmental Impact Statement.*”.
 - 3. include the printed name, title, and date of the DelDOT official making the certification.

4. create a project record within 10 business days for each action it certifies under the terms of this Agreement. This project record shall be available to FHWA for review upon request and shall include at a minimum:
 - a. A description of the project and which CE DelDOT concludes applies to the project;
 - b. Any checklists, forms, or other documents that summarize the consideration of project impacts and effects.
 - c. Stakeholder correspondence, consultation, public meeting or involvement documentation.

SECTION VI. AGREEMENT, AMENDMENTS AND MODIFICATIONS

- A. This Agreement constitutes the entire agreement between the Parties pertinent to the processing of categorical exclusions on DelDOT projects.
- B. This Agreement supersedes any prior understanding or programmatic agreement preceding the date of this Agreement, and is binding on both Parties unless and until amended or modified.
- C. FHWA and DelDOT staff shall coordinate between themselves and work through their respective chains of command to mediate and resolve any dispute, disagreement or misunderstanding concerning the intent, purpose or interpretation of any provision of this Agreement. Only the FHWA Delaware Division Administrator and the DelDOT Chief Engineer shall have the authority to make official modifications to this Agreement.
- D. This Agreement shall not be modified, changed, amended, or supplemented, nor may any provision be waived, except by a written instrument signed by both Parties.

SECTION VII. TERM, RENEWAL, AND TERMINATION

- A. This Agreement shall have a term of three (3) years, beginning on the date of the last signature. FHWA will conduct one or more program reviews as part of its oversight activities, during the term of this Agreement.
- B. This Agreement is renewable for additional terms of three (3) years each if DelDOT requests renewal and the FHWA determines that DelDOT has satisfactorily carried out the provisions of this Agreement. In considering any renewal of this Agreement, the FHWA will evaluate the effectiveness of the Agreement and its overall impact on the environmental review process.
- C. At least six (6) months prior to the end of this three (3) year term, DelDOT and the FHWA Delaware Division shall meet to discuss the results under the Agreement and consider amendments to this Agreement.
- D. If the Parties do not renew the Agreement, then it shall expire at the end of the term then in effect.

E. Either Party, officially represented by the FHWA Delaware Division Administrator and the DelDOT Chief Engineer, may terminate this Agreement at any time by giving at least 30 days written notice to the other Party.

In witness whereof, FHWA and DelDOT have duly executed this Agreement on the date of the last signature below. Signature and date shall evidence each Party's intent and desire to enter into this Agreement in accordance with the terms and conditions set forth above.

For the State of Delaware, Department of Transportation

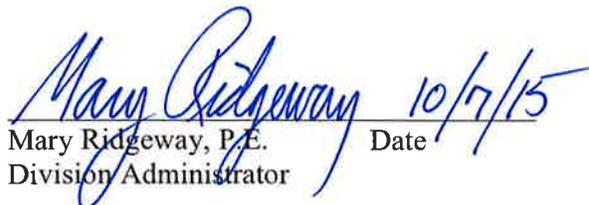
Attest:

 Robert B. McCleary, P.E. Chief Engineer	<u>10/02/15</u> Date	 Jennifer Cohan Cabinet Secretary	<u>10/01/15</u> Date
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Approved as to form:

 Annie Cordo Deputy Attorney General	<u>10/01/15</u> Date
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For the United States, Federal Highway Administration, Delaware Division

 Mary Ridgeway, P.E. Division Administrator	<u>10/7/15</u> Date
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ATTACHMENT 1

THE 'C' LIST

The following actions meet the criteria for CEs in the CEQ regulation (section 1508.4) and §771.117(a) of this regulation and normally do not require any further NEPA approvals by the FHWA:

- (1) Activities which do not involve or lead directly to construction, such as planning and research activities; grants for training; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.
- (2) Approval of utility installations and relocations along or across a transportation facility.
- (3) Construction of bicycle and pedestrian lanes, paths, and facilities.
- (4) Activities included in the State's *highway safety plan* under 23 U.S.C. 402.
- (5) Transfer of Federal lands pursuant to 23 U.S.C. 107(d) and/or 23 U.S.C. 317 when the land transfer is in support of an action that is not otherwise subject to FHWA review under NEPA.
- (6) The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.
- (7) Landscaping.
- (8) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- (9) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121):
 - (i) Emergency repairs under 23 U.S.C. 125; and
 - (ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station/bus stop), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action:
 - (A) Occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and

(B) Is commenced within a 2-year period beginning on the date of the declaration

(10) Acquisition of scenic easements.

(11) Determination of payback under 23 U.S.C. 156 for property previously acquired with Federal-aid participation.

(12) Improvements to existing rest areas and truck weigh stations (this includes facility expansion, building additions, or removal of facilities).

(13) Ridesharing activities.

(14) Bus and rail car rehabilitation.

(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

(16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.

(17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.

(18) Track and rail bed maintenance and improvements when carried out within the existing right-of-way.

(19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.

(20) Promulgation of rules, regulations, and directives.

(21) Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locaters, automated passenger counters, computer-aided dispatching systems, radio communications systems, dynamic message signs, and security equipment including surveillance and detection cameras on roadways and in transit facilities and on buses.

(22) Projects, as defined in 23 U.S.C. 101 that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic

control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.

(23) Federally-funded projects:

- (i) That receive less than \$5,000,000 of Federal funds; or
- (ii) With a total estimated cost of not more than \$30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.

(24) Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

(25) Environmental restoration and pollution abatement actions to minimize or mitigate the impacts of any existing transportation facility (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) carried out to address water pollution or environmental degradation.

(26) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), provided the action or project does not meet the constraints listed in **Attachment 3**.

(27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, provided the action or project meet does not meet the constraints listed in **Attachment 3**.

(28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, provided the action or project does not meet the constraints listed in **Attachment 3**.

(29) Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) that would not require a change in the function of the ferry terminals and can be accommodated by existing facilities or by new facilities which themselves are within a CE.

(30) Rehabilitation or reconstruction of existing ferry facilities that occupy substantially the same geographic footprint, do not result in a change in their functional use, and do not result in a substantial increase in the existing facility's capacity. Example actions include work on pedestrian and vehicle transfer structures and associated utilities, buildings, and terminals.

ATTACHMENT 2

THE 'D' LIST

Additional actions or projects which meet the criteria for a CE in the CEQ regulations (40 C.F.R. 1508.4) and paragraph (a) of this section may be designated as CEs only after FHWA approval. DelDOT shall submit adequate documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:

- (1) Reserved for the Future
- (2) Reserved for the Future
- (3) Reserved for the Future
- (4) Transportation corridor fringe parking facilities.
- (5) Construction of new truck weigh stations or rest areas.
- (6) Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.
- (7) Approvals for changes in access control.
- (8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
- (9) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.
- (10) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
- (11) Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.
- (12) Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be

required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.

- (i) Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.
- (ii) Protective acquisition is done to prevent imminent development of a parcel which may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

(13) Acquisition of pre-existing railroad right-of-way pursuant to 49 U.S.C. 5324(c). No project development on the acquired railroad right-of-way may proceed until the NEPA process for such project development, including the consideration of alternatives, has been completed.

Where a pattern emerges of granting CE status for a particular type of action, the Administration will initiate rulemaking proposing to add this type of action to the list of categorical exclusions in paragraph (c) or (d) of this section, as appropriate.

[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988, as amended at 70 FR 24469, May 9, 2005; 74 FR 12529, Mar. 24, 2009 as amended at 78 FR 8982, Feb. 7, 2013 78 FR 8983, Feb. 7, 2013, as amended at 78 FR 11602, Feb. 19, 2013; 79 FR 2118, Jan. 13, 2014; 79 FR 60116, Oct. 6, 2014]

ATTACHMENT 3

FURTHER ACTIONS EXCLUDED FROM THIS AGREEMENT

Project CEs classified under 23 C.F.R. §771.117 paragraphs (c) or initially determined under Section I. D. may be excluded from DelDOT CE processing, if one of the following below conditions are found. DelDOT shall submit the certified documentation for FHWA review, approval and administrative files which demonstrates that the specific conditions or criteria for these CEs are satisfied.

- (1) Vehicular full bridge (structure) construction on new alignment or replacement of existing structures (or temporary placement for) no greater than 500 feet away of existing alignment.
- (2) Construction of new: truck weigh stations, toll plaza/booths, rest areas, E-Z Pass facilities with new facilities where one did not exist before.
- (3) Disposal of excess right-of-way or declaration of excess lands when NEPA and/or Section 106 commitments have not been satisfied or having any conditional provisions that may be included within a Section 106, MOA, FONSI or ROD.
- (4) Acquisition of pre-existing or abandoned/vacated railroad right-of way for some intended or undetermined use.
- (5) Projects that require substantive change in the access controls along the length of a project.
- (6) Construction of temporary access, or the closure of existing road, bridge, or ramps that would result in major traffic disruptions, or necessitate the need to make other upfront improvements on other facilities.
- (7) Projects that require the acquisition of temporary or permanent right-of-way greater than one acre for any one mile of any roadway reconstruction, resurfacing or reconditioning project, or greater than one-half acre for any other project.
- (8) Projects that require any residential, commercial or industrial relocations or displacement.
- (9) Projects that require the acquisition of lands under the protection of Section 6(f) of the Land and Water Conservation Act of 1965, or other unique areas or special lands that were acquired in fee or easement with public-use money and have deed restrictions or covenants on the property.
- (10) Projects that require the use of properties protected by Section 4(f) of the Department of Transportation Act (49 U.S.C. 303) except for actions resulting in de minimis findings or qualify as FHWA Section 4(f) Nationwide Programmatic Evaluations.
- (11) Projects that result in a determination of Adverse Effect pursuant to Section 106 of the National Historic Preservation Act.
- (12) Any project that requires a U.S. Coast Guard Bridge Permit.

- (13) Any project that requires a U.S. Army Corps of Engineers Section 404 permit other than a Nationwide Permit issued for use in Delaware.
- (14) Any project that requires construction in, across or adjacent to a river designated as a component or proposed for inclusion in the National System of Wild and Scenic Rivers published by the U.S. Department of the Interior/U.S. Department of Agriculture; other than those approved through a U.S. Army Corps of Engineers Nationwide Permit issued for use in Delaware.
- (15) 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). This element must be greater than ¼ acre.
- (16) Any project that requires acquisition of any known Superfund sites.
- (17) Any project defined as a “Type I project” for purposes of a noise analysis.
- (18) Any project that may adversely affect federal or state listed or proposed rare, threatened, or endangered species, or proposed or designated critical habitat.
- (19) Any project that does not meet air quality conformity with the Transportation Improvement Program (TIP) reviewed by the U.S. Environmental Protection Agency to meet requirements of the Clean Air Act and applicable 40 C.F.R. Part 93 regulations. New Castle County projects must be consistent with the types of projects listed in 40 C.F.R. 93.126 Table 2 that are exempt from the PM 2.5 conformity determination requirements.
- (20) Any project that does not conform to the approved current DelDOT Capital Transportation Program (CTP), Statewide Transportation Improvement Plan (STIP) or the Transportation Improvement Plan (TIP).

ATTACHMENT 4
PROGRAMMATIC CATEGORICAL EXCLUSION
PROJECT INITIATION FORM

**PROGRAMMATIC CATEGORICAL EXCLUSION
PROJECT INITIATION FORM**

STATE	FEDERAL
PROJECT NO: _____	PROJECT NO: _____
YEAR: _____	FUNDING: _____
COUNTY: _____	PERCENT: <u>100% State</u>
DISTRICT: _____	

PROJECT TITLE: _____

DETAILED LOCATION: _____

DETAILED WORK DESCRIPTION & TYPICAL SECTION: _____

PROJECT JUSTIFICATION: _____

Project Assigned to: _____ Available for: \$0.00 Phase _____

Environmental:

Class I (EIS)
 Class II (CAT. EX)
 (c) (d)
 Class III (EA)
 4(f) de minimis
 4(f) Evaluation Required

Public Involvement:

Level A: <input type="checkbox"/> Public Hearing <input type="checkbox"/> "H" Notice	Level B: <input type="checkbox"/> Public Hearing <input type="checkbox"/> Public Workshop <input type="checkbox"/> "H" Notice	Level C: <input type="checkbox"/> Public Workshop <input type="checkbox"/> Mtg. With adjacent Property owners <input type="checkbox"/> Public Mtg. by Sponsor <input type="checkbox"/> Virtual Workshop	Level D: <input type="checkbox"/> No Public Involvement <input type="checkbox"/> Mtg. With adjacent Property owners <input type="checkbox"/> Public notification and MOT will follow the DE MUTCD
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PCE Conditions:

The project has no substantial public or agency controversy on environmental grounds.

If a roadway improvement project (23CFR771.117(d)(1)) must be less than one mile in length; with the exclusion of Pavement and Rehabilitation projects.

Project conforms to current CTP, STIP and TIP.

This project is exempt from the air quality conformity requirements.

If in New Castle County, the project is exempt from the PM 2.5 conformity determination requirements and is consistent with the projects listed in 40CFR93.126 Table 2.

Chief Engineer Director Transportation Solutions

9/16/2015
Date

ATTACHMENT 5

PROGRAMATIC CE CHECKLIST FOR "C" LIST ACTIONS

**PROGRAMMATIC CATEGORICAL EXCLUSION EVALUATION
PROJECT CHECKLIST AND PROJECT LEVEL DETERMINATION FORM**

Project Title:
State Contract No.:
Federal Aid Project No.:

Right-of-Way (RW) Requirements: (Total RW or PE must be less than one acre, with no use of land from a Section 4(f) property):

A. Private	<input type="text" value="None"/>	COMMENTS
B. Public	<input type="text" value="None"/>	
C. 4(f)	<input type="text" value="None"/>	
D. 6(f)	<input type="text" value="None"/>	

Relocations: (Must have no relocations)

A. Homes	<input type="text" value="None"/>	COMMENTS
B. Businesses	<input type="text" value="None"/>	
C. Non-Profit	<input type="text" value="None"/>	

Social Impacts:

A. Local	<input type="text" value="None"/>	COMMENTS
B. Regional	<input type="text" value="None"/>	

Environmental Justice (EJ):

A. Minority	<input type="text" value="None"/>	COMMENTS
B. Low-Income	<input type="text" value="None"/>	

PROGRAMMATIC CATEGORICAL EXCLUSION EVALUATION
PROJECT CHECKLIST AND PROJECT LEVEL DETERMINATION FORM

Economic Impacts:

A. Local	<input type="text" value="None"/>	COMMENTS
B. Regional	<input type="text" value="None"/>	
C. Statewide	<input type="text" value="None"/>	

Cultural Resources: (Must have a finding of no historic properties, no adverse effect, or PA)

A. National Register	<input type="text" value="None"/>	COMMENTS
B. State Listing	<input type="text" value="None"/>	
C. Other	<input type="text" value="None"/>	

Air Quality (AQ):

A. Local	<input type="text" value="None"/>	COMMENTS
B. Statewide	<input type="text" value="None"/>	

Noise:

A. Residential	<input type="text" value="None"/>	COMMENTS
B. Commercial	<input type="text" value="None"/>	
C. Sensitive Receptors	<input type="text" value="None"/>	
D. Other	<input type="text" value="None"/>	

Hazardous Material:

A. Hazardous Material	<input type="text" value="None"/>	COMMENTS
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PROGRAMMATIC CATEGORICAL EXCLUSION EVALUATION
PROJECT CHECKLIST AND PROJECT LEVEL DETERMINATION FORM

Water Quality:

A. Surface Water	<input type="text" value="None"/>	COMMENTS
B. Ground Water	<input type="text" value="None"/>	

Hydrological Impacts:

A. Stream Relocation	<input type="text" value="None"/>	COMMENTS
B. Stream Channelization	<input type="text" value="None"/>	
C. Stream Stabilization	<input type="text" value="None"/>	
D. Flood Plain	<input type="text" value="None"/>	

Fish & Wildlife (Must have no adverse effect onto RTE's or critical habitat):

A. Endangered Species	<input type="text" value="None"/>	COMMENTS
B. Habitat	<input type="text" value="None"/>	

Wetlands (Total wetland impacts must be less than one acre):

A. Project Area	<input type="text" value="None"/>	COMMENTS
B. Up and Down Stream	<input type="text" value="None"/>	

Land Use:

A. Direct	<input type="text" value="None"/>	COMMENTS
B. Secondary	<input type="text" value="None"/>	

**PROGRAMMATIC CATEGORICAL EXCLUSION EVALUATION
PROJECT CHECKLIST AND PROJECT LEVEL DETERMINATION FORM**

Natural Resources:

A. Farm Lands	None	COMMENTS
B. Woodlands	None	
C. Conservation Areas	None	
D. Coastal Zone	None	

Modal Choice:

A. Maintenance of Traffic	None	COMMENTS
B. Pedestrian	None	
C. Bicycle	None	
D. Mass Transit	None	
E. Public Transit	None	
F. Handicapped	None	

Permits:

A. ACOE	None	COMMENTS
B. Coast Guard	None	
C. DNREC	None	
D. County	None	
E. City or Municipality	None	
F. Other	None	

Certification:

The State had determined that this project does not individually or cumulatively have a significant impact on the environment as defined by NEPA, or involve unusual circumstances as defined in 23 CFR § 771.117(b), and is excluded from the requirements to prepare an Environmental Assessment or Environmental Impact Study.

Categorical Exclusion Recommendation _____ per 23CFR771

Concurrence on behalf of the Federal Highway Administration:

David S. Clarke, DelDOT Environmental Studies Office

Date

Comments:

ATTACHMENT 6

PROGRAMATIC CE CHECKLIST FOR "D" LIST ACTIONS

**CATEGORICAL EXCLUSION EVALUATION
PROJECT CHECKLIST AND PROJECT LEVEL DETERMINATION FORM**

Project Title:
State Contract No.:
Federal Aid Project No.:

Right-of-Way (RW) Requirements:

A. Private	<input type="text" value="None"/>	COMMENTS
B. Public	<input type="text" value="None"/>	
C. 4(f)	<input type="text" value="None"/>	
D. 6(f)	<input type="text" value="None"/>	

Relocations:

A. Homes	<input type="text" value="None"/>	COMMENTS
B. Businesses	<input type="text" value="None"/>	
C. Non-Profit	<input type="text" value="None"/>	

Social Impacts:

A. Local	<input type="text" value="None"/>	COMMENTS
B. Regional	<input type="text" value="None"/>	

Environmental Justice (EJ):

A. Minority	<input type="text" value="None"/>	COMMENTS
B. Low-Income	<input type="text" value="None"/>	

**CATEGORICAL EXCLUSION EVALUATION
PROJECT CHECKLIST AND PROJECT LEVEL DETERMINATION FORM**

Economic Impacts:

A. Local

None

COMMENTS

B. Regional

None

C. Statewide

None

Cultural Resources:

A. National Register

None

COMMENTS

B. State Listing

None

C. Other

None

Air Quality (AQ):

A. Local

None

COMMENTS

B. Statewide

None

Noise:

A. Residential

None

COMMENTS

B. Commercial

None

C. Sensitive Receptors

None

D. Other

None

Hazardous Material:

A. Hazardous Material

None

COMMENTS

**CATEGORICAL EXCLUSION EVALUATION
PROJECT CHECKLIST AND PROJECT LEVEL DETERMINATION FORM**

Water Quality:

A. Surface Water	<input type="text" value="None"/>	COMMENTS
B. Ground Water	<input type="text" value="None"/>	

Hydrological Impacts:

A. Stream Relocation	<input type="text" value="None"/>	COMMENTS
B. Stream Channelization	<input type="text" value="None"/>	
C. Stream Stabilization	<input type="text" value="None"/>	
D. Flood Plain	<input type="text" value="None"/>	

Fish & Wildlife (Must have no adverse effect onto RTE's or critical habitat):

A. Endangered Species	<input type="text" value="None"/>	COMMENTS
B. Habitat	<input type="text" value="None"/>	

Wetlands (Total wetland impacts must be less than one acre):

A. Project Area	<input type="text" value="None"/>	COMMENTS
B. Up and Down Stream	<input type="text" value="None"/>	

Land Use:

A. Direct	<input type="text" value="None"/>	COMMENTS
B. Secondary	<input type="text" value="None"/>	

**CATEGORICAL EXCLUSION EVALUATION
PROJECT CHECKLIST AND PROJECT LEVEL DETERMINATION FORM**

Natural Resources:

A. Farm Lands	None
B. Woodlands	None
C. Conservation Areas	None
D. Coastal Zone	None

COMMENTS

Modal Choice:

A. Maintenance of Traffic	None
B. Pedestrian	None
C. Bicycle	None
D. Mass Transit	None
E. Public Transit	None
F. Handicapped	None

COMMENTS

Permits:

A. ACOE	None
B. Coast Guard	None
C. DNREC	None
D. County	None
E. City or Municipality	None
F. Other	None

COMMENTS

Categorical Exclusion Recommendation

per 23CFR771

Manager, DelDOT Environmental Studies

Date

Concurrence: Federal Highway Administration

Division Administrator

Date