

**PROGRAMMATIC AGREEMENT**  
**For**  
**Approval of Certain Categorical Exclusions**  
**Federal Highway Administration**  
**&**  
**Virginia Department of Transportation**

**PREFACE**

The Federal Highway Administration, Virginia Division, hereinafter FHWA, and the Virginia Department of Transportation, hereinafter VDOT, have developed this Programmatic Agreement to outline the procedures for approving Categorical Exclusion (CE) classifications for Federal-aid actions in accordance with the National Environmental Policy Act. These procedures comply with FHWA's implementing regulations for NEPA found at 23 CFR 771.

FHWA concurs in advance, on a "programmatic" basis with VDOT's recommendation that those categories of projects listed on Attachment "A," and which satisfy the conditions and criteria in Attachment "B," will not result in significant impacts on the human and natural environment, and are therefore categorically excluded from the requirement to prepare a documented Categorical Exclusion, an Environmental Assessment (EA), or Environmental Impact Statement (EIS). FHWA further concurs with VDOT's recommendation that based on past experience with similar actions, FHWA will not require project specific documentation for the actions listed on Attachment "C." The actions on Attachment "C" meet the criteria for CE's in CEQ regulation and Section 771.117 (a) of FHWA's implementing regulations and normally don't require any further NEPA approvals.

**BACKGROUND**

The Programmatic Categorical Exclusion Letter Agreement between the FHWA and VDOT was first executed on October 18, 1983. Since then the Agreement has been revised and updated on April 6, 1988, August 28, 1991, May 20, 1998, June 23, 2000, November 1, 2003, December 29, 2004, and September 17, 2010.

The letter Agreement currently in place was reviewed to determine the need for revisions and was revised accordingly. This Programmatic Agreement represents a newly revised Agreement and, once approved, replaces the letter Agreement currently in place. It will not alter any previously granted NEPA approvals or discontinue any categories of projects already approved as part of the previous Agreements.

FHWA retains full authority and responsibility for all federal aid projects and reserves the right to modify the document classification outlined in this Agreement on a case-by-case basis and to evaluate the implementation of this Agreement. FHWA relies on the expertise and experience of VDOT staff for implementation of this Agreement. The primary purpose of this Agreement is to increase flexibility, streamline the environmental process for certain categories of projects, and reduce paperwork.

### **APPLICABILITY**

This Agreement applies to projects which involve FHWA funding and/or require an FHWA action. The Agreement establishes a procedure that will reduce the paperwork and processing time for certain Federal actions that do not have significant impacts on the human and natural environment. The Agreement does not apply to those projects for which a decision has been made to prepare a documented CE, EA, or EIS.

### **DEFINITIONS**

- Blanket Categorical Exclusion (BCE): An action listed on Attachment "C" that FHWA has determined requires no further NEPA approval and will not require any project specific documentation for the action.
- Programmatic Categorical Exclusions (PCE): An action listed on Attachment "A" that meets the conditions and criteria in Attachment "B" and based on past experience, does not involve significant environmental impacts.
- Categorical Exclusion (CE): An action that does not individually or cumulatively have significant environmental impacts.

### **IMPLEMENTATION**

FHWA and VDOT agree to the following:

- VDOT will utilize the Comprehensive Environmental Data and Reporting System (CEDAR) to enhance quality control and review of supporting documentation. CEDAR, project files and IPM will be the repository for documentation supporting the BCE and PCE decisions.
- VDOT will continue to provide FHWA access to CEDAR.
- When VDOT conducts periodic verification of project files that support BCE and PCE decisions, FHWA will be extended an invitation to participate in that verification. FHWA reserves the right to independently verify compliance.
- For those actions classified as Programmatic Categorical Exclusions, the PCE form will serve as the documentation that the conditions in Attachment "B" have been met.
- Formal NEPA concurrence from FHWA for BCE and PCE decisions is not required.

- Actions requiring an individual and documented CE will require that the NEPA Documentation Concurrence Form is submitted to FHWA for approval. Categorical Exclusions are reviewed by VDOT and approved by FHWA.
- VDOT will develop a quarterly report of projects that have been classified as BCE's according to the list in Attachment "C", and provide a copy to FHWA.
- STIP grouping guidelines apply to PCEs and BCEs.
- FHWA and VDOT agree that projects classified as a BCE do not require VDOT to submit any documentation to FHWA.
- FHWA and VDOT agree that the R/W Re-evaluation and/or PS&E Reevaluation forms that have been used to "consult" as referenced in 23 CFR 771.129(c) will no longer have to be submitted to FHWA for projects classified as a BCE or PCE. Evidence of adequate review will, henceforth, be documented in CEDAR.
- FHWA and VDOT agree that training staff in the implementation of areas related to this Agreement is an integral part of the successful execution of projects utilizing the BCE or PCE classification. Training, both formal and informal, will be offered to ensure the effective implementation of the Agreement.

#### **AGREEMENT REVISIONS AND TERMINATION**

This Agreement has been prepared in accordance with the Federal Highway Administration's March 30, 1989, Memorandum Programmatic Categorical Exclusion Approvals. This Agreement and its attachments may be expanded, modified, or terminated by mutual consent of the FHWA Division Administrator and the Environmental Division Administrator of VDOT, or designees, at any time. The use of this Programmatic Agreement will be reviewed by FHWA and VDOT on a regular basis to ensure compliance with the Programmatic Categorical Exclusion criteria and the conditions of this Agreement. Appropriate notification will be made to FHWA upon designation of actions as Programmatic Categorical Exclusions by referencing this Agreement when documentation is submitted as part of the FHWA/VDOT standardized Programmatic Categorical Exclusion process.

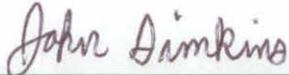
## APPROVAL OF AGREEMENT

The undersigned have reviewed this agreement and concur with its content. Accordingly, it is hereby approved and becomes effective on the last dated noted below.



\_\_\_\_\_  
Stephen J. Long, State Environmental Administrator  
Virginia Department of Transportation

4/26/13  
Date



\_\_\_\_\_  
John Simkins, Planning and Environment Team Leader  
Federal Highway Administration

5/1/13  
Date

ATTACHMENT "A"  
PCE PROJECT CATEGORIES

1. Approval of utility installations along or across a transportation facility.
2. Construction of bicycle and pedestrian lanes, paths, and facilities and improvements for pedestrian or bicyclist safety or for the safety of persons with disabilities.
3. Retrofitting structures or other measures to eliminate or reduce crashes involving vehicle and wildlife.
4. 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.
5. The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.
6. Landscaping.
7. Installation of fencing, small passenger shelters, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
8. 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.
  - (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), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damage 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.
9. Acquisition of scenic easements.
10. Determination of payback under 23 U.S.C. 156 for property previously acquired with Federal-aid participation.
11. Track and railbed maintenance and improvements when carried out within the existing right-of-way.
12. Modernization of a highway by restoration, rehabilitation, reconstruction, the addition of shoulders or adding auxiliary lanes (e.g. parking, weaving, turning, climbing, but no through lanes).
13. Pavement and shoulder widening projects.
14. Highway safety projects including, but not limited to: the removal of curbing, trees, rock, outcrops, boulders, or other fixed objects; flattening or grading slopes or gore areas to eliminate the need for guardrail; installation of guardrail and minor shoulder widening to accommodate it; improvements to crossovers or clear zones; the addition or extension of turn lanes; the extension of acceleration and deceleration lanes; minor

drainage improvements; the removal of headwalls; pipe extensions; the addition of end sections to traversable grates; converting drop inlets to traversable designs; etc.

15. Bridge or drainage structure rehabilitation, reconstruction, or replacement when said work is on or adjacent to the same alignment; construction of grade separation to replace existing at-grade railroad crossings at the same location.
16. Construction of pedestrian or bicycle bridges over existing highway facilities.
17. Construction of parking facilities along or adjacent to existing transportation corridors or the expansion of existing facilities.
18. Constructions of boardwalks, docks, and boat or canoe launch areas.
19. Construction of interpretive pull-offs and overlooks.
20. Improvement to and modernization of existing rest areas, toll facilities, and weigh stations.
21. Statewide, regional, or project-related efforts to conserve, restore, enhance or create wetlands, restore streams, or create wildlife habitat as a separate action.
22. Approvals for disposal of excess right-of-way on Interstate System or for joint limited use of right of way.
23. Rehabilitation, restoration, or reconstruction of transportation-related historic buildings and facilities including railroad related structures and ancillary facilities, lighthouses, and canals.
24. Rehabilitation, restoration, or reconstruction of *non-transportation* related historic buildings and facilities.
25. The adaptive-reuse of buildings for tourist and welcome centers or transportation museums or the construction of tourist and welcome centers or transportation museums on a previously disturbed site.
26. Acquisition of land, easements, or historic structures for preservation purposes, regardless of the amount of land purchased, provided it is not being used to preserve a corridor for a transportation facility.
27. Acquisition of land for protective purposes in accordance with 23 CFR 710.503.
28. Acquisition of land for hardship purposes in accordance with 23 CFR 710.503.
29. Construction of new bus storage, transfer and/or 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.
30. Construction of telecommunication towers on interstate right of way where access will not be from the main-line.
31. Construction of traffic calming measures within the existing right of way.
32. Minor intersection improvement and reconfiguration.
33. Interchange ramp extensions and modifications within existing right-of-way.
34. Installation of new signals where signals do not currently exist.
35. Gateway and Streetscaping improvement projects including, but not limited to, benches, brick pavers, landscaping and planters, sidewalks, and lighting.

36. Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
37. 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, corridor traffic management systems, traffic control and detector devices, replacement of existing signals and installation of signals in areas where signals already exist, 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.
38. Bridge related activities such as: rehabilitation, bridge inventory; joint crack and seal; painting and paint removal; lead paint removal; asbestos containing material removal; washing; replacing the deck; retrofitting railing; sealing existing joints; and bridge joint repair or other preventative maintenance.
39. Construction of railway-highway crossing safety feature, including installation of highway-railway grade crossing protective devices such as signalization and/or controls for grade crossing protection.
40. Safety projects such as: intersection safety improvement projects; installation of skid resistant surface at an intersection or other location with a high frequency of crashes; installation of a priority control system for emergency vehicles at signalized intersections; installation of a traffic control or other warning device at a location with high crash potential; transportation safety planning; improvement in the collection and analysis of data; planning integrated interoperable emergency communications equipment, operation activities or traffic enforcement activities (including law enforcement assistance) relating to work zone safety; installation of barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators; conducting road safety audits; the conduct of an effective traffic enforcement activity at a railway-highway crossing.
41. General maintenance projects such as: resurfacing; leveling up or surfacing a pavement course; milling, sealing and overlaying main lanes; overlaying and striping existing facilities; any work done within the existing pavement and shoulder limits; stand alone median concrete barriers and shoulder milling projects.
42. Removal of outdoor advertising.
43. Preparation and planting of wildflower plots.
44. Guardrail replacement or upgrades where roadway ditches and backslopes will not be relocated.
45. Activities included in the State's *Highway Safety Plan* under 23 U.S.C. 402.

ATTACHMENT "B"  
PCE DOCUMENTATION QUALIFYING CONDITIONS AND CRITERIA

VDOT proposed actions in Appendix "A" may be classified as PCE's if **all** of the conditions listed below are true; otherwise, proposed actions must have individual approval of their CE determination by FHWA.

1. The proposed action does not have any significant environmental impacts as described in 23 CFR 771.117(a).
2. The proposed action does not involve unusual circumstances as described in 23 CFR 771.117(b).
3. The proposed action does not induce significant impacts to planned growth or land use for the project area.
4. The proposed action does not require the relocation of significant numbers of people.
5. The proposed action does not require more than minor amounts of temporary or permanent right of way acquisition or substantial land acquisition except when acquired for preservation purposes.
6. The proposed action does not involve significant air, noise, or water quality impacts.
7. The proposed action will not adversely affect properties eligible for or listed in the National Register of Historic Places.
8. The proposed action is not likely to adversely affect federally listed species or critical habitat of federal species protected by the Endangered Species Act.
9. The proposed action does not have a significant impact on travel patterns.
10. The proposed action does not require any changes in Interstate access control requiring FHWA approval.
11. The proposed action does not require the use of any property subject to Section 4(f) of the Department of Transportation Act, or does require such use, but a finding of *de minimis* impact has been made.
12. The proposed action does not otherwise, either individually or cumulatively, have any significant environmental impacts.
13. The proposed action does not involve any known hazardous materials sites or previous land uses with potential for hazardous materials remaining within the existing right of way.
14. The proposed action will not cause an increase of the flood level by more than one foot within a regulatory floodway of water courses or water bodies.
15. The proposed action does not require any Army Corps of Engineers Individual Permits or U.S. Coast Guard construction permits.
16. The proposed action will not cause disproportionately high and adverse effects on any minority or low-income populations.

ATTACHMENT "C"  
BCE's PROJECT CATEGORIES THAT REQUIRE NO DOCUMENTATION

Due to the resulting lack of impacts on the human and natural environment based on past precedent, FHWA and VDOT will not require any documentation for the actions listed below. These actions are stand alone transportation activities that, based on VDOT's and FHWA's prior experience, will result in limited impacts on the human or natural environment, if at all, none of which are expected to be significant.

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. Ridesharing activities that don't lead to construction.
3. Bus and rail car rehabilitation.
4. Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.
5. 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.
6. Feasibility studies such as: preliminary investigations, data collection, study of alternatives, cost benefits, etc. and recommendations.
7. Incidental construction such as: installation of flood detection unit; installation of video surveillance and fiber optic cable; SSR closed loop system; upgrade of terminal sections; waterproofing
8. ITS related activities including traffic signal interconnect and synchronization projects and equipment upgrades or replacement.
9. The restoration of statues or monuments.
10. Installation or maintenance of signs; rumble strips; pavement markings/raised pavement markers/sensors and/or replacement fencing with the existing right of way; line painting or striping.
11. Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.