

**PROGRAMMATIC AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION, SOUTH CAROLINA
DIVISION
AND
THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
REGARDING APPROVAL OF ACTIONS CLASSIFIED AS CATEGORICAL
EXCLUSIONS FOR FEDERAL-AID HIGHWAY PROJECTS**

THIS PROGRAMMATIC AGREEMENT ("Agreement"), made and entered into this ^{23rd} day of May 2016, by and between the FEDERAL HIGHWAY ADMINISTRATION, UNITED STATES DEPARTMENT OF TRANSPORTATION ("FHWA") and the STATE of South Carolina, acting by and through its DEPARTMENT OF TRANSPORTATION ("SCDOT") hereby provides as follows:

WITNESSETH:

Whereas, the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321-4370h (2014), and the regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508) direct Federal agencies to consider the environmental impacts of their proposed major Federal actions through the preparation of an environmental assessment (EA) or environmental impact statement (EIS) unless a particular action is categorically excluded from those requirements;

Whereas, the Federal Highway Administration's (FHWA) distribution and spending of Federal funds under the Federal-aid Highway Program and approval of actions pursuant to Title 23 of the U.S. Code are major Federal actions subject to NEPA;

Whereas, the Secretary of Transportation has delegated to FHWA the authority to carry out functions of the Secretary under NEPA as they relate to matters within FHWA's primary responsibilities (49 CFR 1.81(a)(5));

Whereas, the FHWA's NEPA implementing procedures (23 CFR part 771) list a number of categorical exclusions (CE) for certain actions that FHWA has determined do not individually or cumulatively have a significant effect on the human environment and therefore do not require the preparation of an EA or EIS;

Whereas, the South Carolina Department of Transportation (SCDOT) a State agency that undertakes transportation projects using Federal funding received under the Federal-aid Highway Program and must assist FHWA in fulfilling its obligations under NEPA for the SCDOT projects (23 CFR 771.109);

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), allows 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, the FHWA developed regulations implementing the authorities in section 1318(d), effective November 6, 2014, allowing States to determine whether an action qualifies for a listed CE on behalf of FHWA without further FHWA review and approval;

Now, therefore, the FHWA and the South Carolina Department of Transportation enter into this Programmatic Categorical Exclusion Agreement ("Agreement") for the processing of categorical exclusions.

I. PARTIES

The Parties to this Agreement are the Federal Highway Administration ("FHWA") and the South Carolina Department of Transportation ("SCDOT").

II. PURPOSE

The purpose of this Agreement is to authorize SCDOT to determine on behalf of FHWA whether a project qualifies for a CE specifically listed in 23 CFR 771.117, provided the project does not exceed the thresholds described in Section IV.A.1.b. This Agreement also authorizes SCDOT to certify to FHWA that an action that either exceeds the thresholds described in Section IV.A.1b or that is not specifically listed in 23 CFR 771.117, but meets the CE criteria in 40 CFR 1508.4 and 23 CFR 771.117(a), qualifies for a CE as long as there are no unusual circumstances present that would require the preparation of either an environmental assessment (EA) or an environmental impact statement (EIS).

This Agreement does not authorize SCDOT to make determinations for any other FHWA responsibility under environmental or other Federal laws. This Agreement applies to all SCDOT projects using Federal-aid funds.

III. AUTHORITIES

This agreement is entered into pursuant to the following authorities:

- A. National Environmental Policy Act, 42 U.S.C. 4321 - 4370
- B. Moving Ahead for Progress in the 21st Century Act, P.L. 112-141, 126 Stat. 405, Sec. 1318(d)
- C. 40 CFR parts 1500 – 1508
- D. DOT Order 5610.I C
- E. 23 CFR 771.117

IV. RESPONSIBILITIES

A. The SCDOT is responsible for:

1. Ensuring the following process is completed for each project that qualifies for a CE. Reference Appendix A for a complete list of CEs:
 - a. The SCDOT may determine if actions qualify for CEs specifically listed in 23 CFR 771.117 (c) and (d) that do not exceed the thresholds in Section IV.A.1.b. (below) on behalf of FHWA. The SCDOT will identify the applicable listed CE from 771.117 (c) and/or (d), ensure any conditions or constraints are met, verify that unusual circumstances do not apply, address any and all other environmental requirements, and complete the review with a signature evidencing approval. No separate review or approval of the CE by FHWA is required.
 - b. If one or more of the following thresholds are exceeded for a project, notwithstanding the listing of the action in 23 CFR 771.117 (c) or (d), SCDOT may certify to FHWA that the action qualifies for a CE. Under these circumstances, SCDOT must transmit the certification to FHWA for review and approval of the action. An action requires FHWA CE review and approval based on the SCDOT certification if the action:

- i. Involves unusual circumstances as described in 23 CFR § 771.117(b); which are:
 - a. Significant environmental impacts;
 - b. Substantial controversy on environmental grounds;
 - c. Significant impact on properties protected by section 4(f) of the DOT ACT or Section 106 of the National Historic Preservation Act; or
 - d. Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.
- ii. Involves acquisitions of more than a minor amount of right-of-way. A minor amount of right-of-way is defined as less than 3 acres per linear mile for linear projects or less than 10 acres of impacts for non-linear projects (e.g.: intersections, bridges), and no removal of major property improvements. Examples of major improvements include residential and business structures, or the removal of other features which would change the functional utility of the property. Removal of minor improvements, such as fencing, landscaping, sprinkler systems, and mailboxes would be allowed;
- iii. Involves acquisitions that result in residential or non-residential displacements;
- iv. Results in capacity expansion of a roadway by addition of through lanes;
- v. Involves the construction of temporary access, or the closure of existing road, bridge, or ramps, that would result in major traffic disruptions. Major traffic disruption is defined as an action that would result in:
 - a. Adverse effects to through-traffic businesses or schools; or
 - b. Substantial changes in environmental impacts; or
 - c. Public controversy associated with the use of the temporary road, detour, or ramp closure.
- vi. Involve the following changes in access control:
 - a. Requires approval from FHWA for changes in access control on the Interstate system (e.g.: Interchange Modification Reports or Interchange Justification Reports)
- vii. Results in a determination of adverse effect on historic properties pursuant to Section 106 the National Historic Preservation Act;
- viii. Requires the use of properties protected by Section 4(f) of the Department of Transportation Act (49 U.S.C. 303) that cannot be documented with an FHWA *de minimis* determination, or a programmatic Section 4(f) evaluation other than the programmatic evaluation for the use of historic bridges;
- ix. Requires the acquisition of lands under the protection of Section 6(f) of the Land and Water Conservation Act of 1965, the Federal Aid in Fish Restoration Act, the Federal Aid in Wildlife Restoration Act, 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;
- x. Requires a U.S. Army Corps of Engineers Section 404 permit other than a Nationwide Permit or a General Permit;
 - xi. Requires a U.S. Coast Guard bridge permit;
 - xii. Requires work encroaching on a regulatory floodway or work adversely affecting the base floodplain (100-year flood) elevations of a water course or lake, pursuant to Executive Order 11988 and 23 CFR §650 subpart A;
 - xiii. Requires construction in, across, or adjacent to a river designated as a component of, 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;
 - xiv. Involves an increase of 15 dBA or greater on any noise receptor or abatement measures are found to be feasible and reasonable due to impacts;
 - xv. May affect, and is likely to adversely affect federally listed species, or designated critical habitat, or projects with impacts subject to the conditions of the Bald and Golden Eagle Protection Act;
 - xvi. Includes acquisition of land for hardship or protective purposes, or early acquisition pursuant to Federal acquisition project (23 U.S.C. 108(d));
 - xvii. Does not meet the latest Conformity Determination for air quality in non-attainment areas (if applicable);
 - xviii. Is not included in or is inconsistent with the statewide transportation improvement program, and in applicable urbanized areas, the transportation improvement program.
2. Consulting with FHWA for actions that involve unusual circumstances (23 CFR § 771.177(b)) to determine the appropriate class of action for environmental analysis and documentation. The SCDOT may decide, or FHWA may require, additional studies to be performed prior to SCDOT making a CE approval, require FHWA CE approval, or preparation of an EA or EIS.
 3. Ensuring that the all appropriate documentation [PCE Processing Form] and applicable studies are completed prior to the SCDOT request for FHWA right-of-way or construction.
 4. Meeting applicable documentation requirements in Section V for CE determinations made by SCDOT on FHWA's behalf, applicable approval and re-evaluation requirements in Section VI, and applicable quality control/quality assurance, monitoring, and performance requirements in Section VII.
 5. Relying only upon employees directly employed by the SCDOT when SCDOT makes CE determinations on FHWA's behalf. The SCDOT may not delegate its

responsibility for CE determinations to third parties (i.e., consultants, local government staff, and other State agency staff).

6. Maintaining adequate organizational structure, staff capability, and expertise to effectively carry out the provisions of this Agreement. This includes, without limitation:
 - a. Using appropriate technical and managerial expertise to perform the functions set forth under this Agreement.
 - b. Devoting adequate financial and staff resources for processing and approving of projects under this Agreement.
7. Providing for quality assurance and quality control of consultant-produced documents. The SCDOT may procure through consultant services environmental and other technical expertise needed for compliance with this Agreement.
8. Ensuring that the SCDOT individuals who prepare and/or develop CE documentation will, at a minimum:
 - a. Be knowledgeable with and follow the appropriate subsections 23 CFR 771 through 774, and FHWA and SCDOT procedures for environmental analysis and NEPA compliance.
 - b. Have adequate experience addressing NEPA compliance for transportation projects or until such time, have their work reviewed by staff having the necessary experience.
9. Providing FHWA an electronic copy (PDF) of PCE determinations once completed.
10. Submitting any Section 4(f) *de minimis* or programmatic evaluations for FHWA approval prior to making the CE determination. Once approved by FHWA, the Section 4(f) *de minimis* or programmatic evaluation will be included as part of the CE documentation.

B. The FHWA is responsible for:

1. Providing timely advice and technical assistance on CEs to the SCDOT, as requested.
2. Providing timely input and review of certified actions. FHWA will base its approval of CE actions on the project documentation and certifications prepared by SCDOT under this Agreement.
3. Overseeing the implementation of this Agreement in accordance with the provisions in Section VII. C.

V. DOCUMENTATION OF SCDOT CE DETERMINATIONS

- A. For CE determinations, the SCDOT shall complete the PCE Processing Form (see Appendix B). The SCDOT shall identify the applicable action, ensure any conditions specified in FHWA regulations are met, and verify that any unusual circumstances do not apply, address any other environmental requirements, and complete the review with

a SCDOT signature evidencing the determination. SCDOT shall provide an electronic (PDF) copy of the determination to FHWA once completed.

- B. The SCDOT shall maintain a project record for CE determinations it makes on FHWA's behalf. This record should include at a minimum:
 - 1. Any checklists, forms, or other documents and exhibits that summarize the consideration of project effects and unusual circumstances;
 - 2. A summary of any public involvement complying with the requirements of FHWA approved public involvement policy;
 - 3. Any stakeholder communication, correspondence, consultation, or public meeting documentation;
 - 4. The name and title of the document approver and the date of SCDOT's determination; and
 - 5. For cases involving re-evaluations, any documented re-evaluation outcome.
- C. FHWA will keep a running list of determinations made by SCDOT. This log will be used by FHWA to verify that the NEPA documentation is complete prior to authorizing right-of-way or construction.
- D. Any electronic or paper project records maintained by the SDOT should be provided to FHWA at their request. The SDOT should retain those records, including all letters and comments received from governmental agencies, the public, and others for a period of no less than three (3) years after completion of project construction. This 3-year retention provision does not relieve SDOT of its project or program recordkeeping responsibilities under 2 CFR § 200.333 or any other applicable laws, regulations, or policies.

VI. NEPA APPROVAL AUTHORITY AND RE-EVALUATIONS

- A. The SCDOT's CE determinations and certifications may only be made by qualified SCDOT employees. Qualified personnel include SCDOT NEPA Managers, NEPA Coordinators, and NEPA Assistants that have completed NEPA training.
- B. In accordance with 23 CFR § 771.129, the SCDOT shall re-evaluate its determinations for projects, consult with FHWA, and as necessary, prepare additional documentation to ensure that determinations are still valid.
- C. If FHWA does not approve the project authorization in FMIS for right-of-way or construction due to concerns with NEPA compliance, then FHWA will immediately inform SCDOT of the reasons for its decision not to approve these phases.

VII. QUALITY CONTROL/QUALITY ASSURANCE, MONITORING & PERFORMANCE

- A. SCDOT Oversight and Monitoring
 - 1. The FHWA and SCDOT will cooperate in monitoring performance under this Agreement and work to assure quality performance.

2. The SCDOT shall submit each calendar year to FHWA (electronically) a report summarizing its performance under this Agreement. The report will identify any areas where improvement is needed and what measures SCDOT is taking to implement those improvements. The report will include a description of actions taken by SCDOT as part of its quality control efforts under Section VII(a). This report shall be due no later than ninety (90) days following the end of each Calendar Year.

B. FHWA Oversight and Monitoring

1. Monitoring by FHWA will include consideration of the technical competency and organizational capacity of SCDOT, as well as SCDOT's performance of its CE processing functions. Performance considerations include, without limitation, the quality and consistency of SCDOT's CE determinations, project environmental documentation, CE submissions to FHWA for approval, adequacy and capability of SCDOT staff and consultants, and the effectiveness, quality and consistency of SCDOT's administration of its CE determinations.
2. FHWA will conduct one or more program reviews as part of its oversight activities, during the term of this Agreement. The SCDOT shall prepare and implement a corrective action plan to address any findings or observations identified in the FHWA review. The SCDOT shall draft the corrective action plan within 45 calendar days of FHWA finalizing its review. The results of that review and corrective actions taken by the SCDOT shall be considered at the time this Agreement is considered for renewal.
3. Nothing in this Agreement prevents FHWA from undertaking other monitoring or oversight actions, including audits, with respect to SCDOT's performance under this Agreement. The FHWA may require SCDOT to perform other quality assurance activities, including other types of monitoring, as may be reasonably required to ensure compliance with applicable Federal laws and regulations.
4. The SCDOT agrees to cooperate with FHWA in all oversight and quality assurance activities.

VIII. AMENDMENTS

If the parties agree to amend this Agreement, then FHWA and SCDOT may execute an amendment with new signatures and dates of the signatures. The term of the Agreement shall remain unchanged unless otherwise expressly stated in the amended Agreement.

IX. TERM, RENEWAL, AND TERMINATION

- A. This agreement, upon signature by all parties, terminates and replaces the existing Programmatic Categorical Exclusion Agreement between the Federal Highway Administration (FHWA) and the South Carolina Department of Transportation (SCDOT), executed on December 18, 2007.
- B. This Agreement shall have a term of five (5) years, effective on the date of the last signature. The SCDOT shall post and maintain an executed copy of this Agreement on its website, available to the public.
- C. This Agreement is renewable for additional five (5) year terms if SCDOT requests renewal and FHWA determines that SCDOT has satisfactorily carried out the provisions

of this Agreement. In considering any renewal of this Agreement, FHWA will evaluate the effectiveness of the Agreement and its overall impact on the environmental review process.

- D. At least six (6) months prior to the end of each five year term, SCDOT and the FHWA will meet to discuss the results under the Agreement and consider amendments to this Agreement. This meeting may be combined with a meeting to discuss performance under the monitoring provisions of this Agreement.
- E. Either party may terminate this Agreement at any time only by giving at least 30 days written notice to the other party.
- F. Expiration or termination of this Agreement shall mean that the SCDOT is not able to make CE determinations on FHWA's behalf.


Execution of this Agreement and implementation of its terms by both parties provides evidence that both parties have reviewed this Agreement and agree to the terms and conditions for its implementation. This Agreement is effective upon the date of the last signature below.

SIGNATORIES



Emily O. Lawton
South Carolina Division Administrator
Federal Highway Administration



3/16/2016
Date

Recommended by: 

3/15/2016
Date


_____ 
Christy A. Hall
Secretary of Transportation
South Carolina Department of Transportation

5/23/16
Date

 Recommended by: 

3/21/2016
Date

§771.117 FHWA categorical exclusions.

- (a) Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts.
- (b) Any action which normally would be classified as a CE but could involve unusual circumstances will require the FHWA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:
 - (1) Significant environmental impacts;
 - (2) Substantial controversy on environmental grounds;
 - (3) Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or
 - (4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.
- (c) The following actions meet the criteria for CEs in the CEQ regulations (40 CFR 1508.4) and §771.117(a) 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 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), 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.
- (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 railbed 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 \$5,179,656.40 of Federal funds; or
 - (ii) With a total estimated cost of not more than \$31,077,938.40 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), if the action meets the constraints in paragraph (e) of this section.
- (27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in paragraph (e) of this section.
- (28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in paragraph (e) of this section.
- (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.
- (d) Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after Administration approval unless otherwise authorized under an executed agreement pursuant to paragraph (g) of this section. The applicant shall submit 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)-(3) [Reserved]
 - (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) Actions described in paragraphs (c)(26), (c)(27), and (c)(28) of this section that do not meet the constraints in paragraph (e) of this section.
 - (e) Actions described in (c)(26), (c)(27), and (c)(28) of this section may not be processed as CEs under paragraph (c) if they involve:
 - (1) An acquisition of more than a minor amount of right-of-way or that would result in any residential or non-residential displacements;
 - (2) An action that needs a bridge permit from the U.S. Coast Guard, or an action that does not meet the terms and conditions of a U.S. Army Corps of Engineers nationwide or general permit under section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899;
 - (3) A finding of "adverse effect" to historic properties under the National Historic Preservation Act, the use of a resource protected under 23 U.S.C. 138 or 49 U.S.C. 303 (section 4(f)) except for actions resulting in *de minimis* impacts, or a finding of "may affect, likely to adversely affect" threatened or endangered species or critical habitat under the Endangered Species Act;
 - (4) Construction of temporary access, or the closure of existing road, bridge, or ramps, that would result in major traffic disruptions;
 - (5) Changes in access control;
 - (6) 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); or construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers.

PCE Processing Form



South Carolina Department of Transportation
On Behalf of the Federal Highway Administration - South Carolina Division Office



PROCESSING FORM FOR PROGRAMMATIC CATEGORICAL EXCLUSIONS
NON MAJOR FEDERAL ACTIONS

State ID Fed Project # Route County

Part 1 - Project Description

Include the Project Name/Description

Part 2 - PCE Type

Select the appropriate Categorical Exclusion from 23 CFR Part 771.117 that best fits the entire project from the drop-down menu. **Reference Appendix A of the PCE Agreement for a more detailed description of each CE contained in 23 CFR 771.117.**

23 CFR 771.117(c)

23 CFR 771.117(d)

Part 3 - Thresholds

To be processed as a Programmatic Categorical Exclusion (PCE) the following conditions must be met in addition to the General Criteria (as outlined in the PCE Agreement between FHWA-SC and SCDOT). Place a "X" in the appropriate box below. If the answer is "Yes" to any of the below criteria, SCDOT will consult with FHWA-SC to determine the appropriate level of NEPA documentation required and forward to FHWA-SC for approval. ***Reference Part 4 of the Processing form or Section IV of the PCE Agreement for more details and definitions regarding each threshold.**

1. Involves any unusual circumstances as described in <u>*23 CFR Part 771.117(b)</u>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. The acquisition of more than <u>*minor amounts</u> of temporary or permanent strips of right-of-way	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Part 3 - Thresholds Continued

3.	Involves acquisitions that result in residential or non-residential displacements	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4.	Results in capacity expansion of a roadway by adding through lanes	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5.	Involves construction that would result in <u>*major traffic disruptions</u>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6.	Involves <u>*changes in access control</u> requiring FHWA approval	<input type="checkbox"/> Yes	<input type="checkbox"/> No
7.	An adverse effect determination under Section 106 of the National Historic Preservation Act.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
8.	Use of Section 4(f) property that cannot be documented with a FHWA <i>de minimis</i> determination or a programmatic Section 4(f) other than the programmatic evaluation for the use of historic bridges	<input type="checkbox"/> Yes	<input type="checkbox"/> No
9.	Any use of a Section 6(f) property	<input type="checkbox"/> Yes	<input type="checkbox"/> No
10.	Requires an Individual USACE 404 Permit	<input type="checkbox"/> Yes	<input type="checkbox"/> No
11.	Requires an Individual U.S. Coast Guard Permit.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
12.	Work encroaching in a regulatory floodway, adversely affecting the base floodplain (100 yr.) pursuant to E.O. 11988 and 23 CFR Part 650 Subpart A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
13.	Construction in, across, or adjacent to a river designated as a National Wild and Scenic River	<input type="checkbox"/> Yes	<input type="checkbox"/> No
14.	Involves an increase of 15 dBA or greater on any noise receptor or abatement measures are found to be feasible and reasonable due to noise impacts	<input type="checkbox"/> Yes	<input type="checkbox"/> No
15.	May affect and is likely to adversely effect a Federally listed species or designated critical habitat or projects with impacts subject to the BGEPA	<input type="checkbox"/> Yes	<input type="checkbox"/> No
16.	Involves acquisition of land for hardship or protective purposes or early acquisition	<input type="checkbox"/> Yes	<input type="checkbox"/> No
17.	Does not meet the latest Conformity Determination for air quality non-attainment areas (if applicable).	<input type="checkbox"/> Yes	<input type="checkbox"/> No
18.	Any known or potential <u>major</u> hazardous waste sites within the right-of-way.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
19.	Is not included in or is inconsistent with the STIP and/or TIP	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Part 3 Continued - Additional criteria to be completed for disposal of excess right-of-way PCE

1. Is the parcel part of a SCDOT environmental mitigation effort or could it be used for environmental mitigation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Is there a formal plan to use this parcel for a future transportation project (is it part of an approved LRTP)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Part 4 - Threshold Definitions

Unusual Circumstances (23 CFR Part 771.117) - Unusual circumstances are defined as:

- a. Significant environmental impacts;
- b. Substantial controversy on environmental grounds;
- c. Significant impact on properties protected by Section 4(f) of the DOT ACT or Section 106 of the National Historic Preservation Act; or
- d. Inconsistencies with any Federal, State, or local law, requirement, or administrative determination relating to the environmental aspects of the action.

Minor Amount of right-of-way (ROW):

A minor amount of ROW is defined as less than 3 acres per linear mile for linear projects or less than 10 acres of impacts for non-linear projects (eg: intersections, bridges), and no removal of major property improvements. Examples of major improvements include residential and business structures, or the removal of other features which would change the functional utility of the property. Removal of minor improvements, such as fencing, landscaping, sprinkler systems, and mailboxes would be allowed.

Major Traffic Disruptions:

A major traffic disruption is defined as an action that would result in: a) adverse effects to through-traffic businesses or schools, b) substantially change environmental impacts, or c) public controversy associated with the use of the temporary road, detour, or ramp closure.

Changes in Access Control:

Requires approval from FHWA for changes in access control on the Interstate system (eg: Interchange Modification Reports or Interchange Justification Reports).

Additional Comments if Needed:

The above described project has been reviewed based on the information contained in the engineer's Project Planning Report (PPR) and relevant field studies it has been determined that the project meets the criteria set forth in the Programmatic Categorical Exclusion Agreement signed by FHWA-SC and SCDOT. It is understood that any additions/deletions to the project may void environmentally processing the project as presently classified; consequently, any engineering changes must be brought to the attention of SCDOT Environmental Services Office immediately. A copy of this form is included in the project file and one (1) copy has been provided to FHWA.

Prepared By: Date

Primavera: <input type="checkbox"/> Yes <input type="checkbox"/> No	Does the project contain commitments?: (if Yes attach to form) <input type="checkbox"/> Yes <input type="checkbox"/> No
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