

**PROGRAMMATIC AGREEMENT  
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND  
THE ILLINOIS DEPARTMENT OF TRANSPORTATION  
REGARDING THE PROCESSING OF ACTIONS CLASSIFIED AS  
CATEGORICAL EXCLUSIONS FOR FEDERAL-AID HIGHWAY  
PROJECTS**

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**THIS PROGRAMMATIC AGREEMENT (“Agreement”), made and entered into this 14<sup>th</sup> day of October 2015, by and between the FEDERAL HIGHWAY ADMINISTRATION, UNITED STATES DEPARTMENT OF TRANSPORTATION (“FHWA”) and the STATE OF ILLINOIS acting by and through its DEPARTMENT OF TRANSPORTATION (“IDOT”) 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;

**Whereas**, the 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**, IDOT is 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 IDOT projects (23 CFR 771.109);

**Whereas**, this Agreement applies to all action as defined in 23 CFR 771.107(b), which includes local government projects, in the State of Illinois;

**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;

**Whereas**, the FHWA may not authorize final design activities, property acquisition, or construction activities until a CE approval has been made;

**Whereas**, this Agreement supersedes all previous CE processing agreements held between FHWA and IDOT;

**Whereas**, FHWA has issued a Wetland Finding for Federal Aid Projects processed as Categorical Exclusions and is attached to this Agreement as Attachment I; and

**Now, therefore**, the FHWA and IDOT enter into this Programmatic Agreement (“Agreement”) for the processing of CEs.

## **I. PARTIES**

The Parties to this Agreement are FHWA and IDOT.

## **II. PURPOSE**

- A. The purpose of this Agreement is to authorize IDOT to determine on behalf of FHWA whether a project qualifies for a CE specifically listed in 23 CFR 771.117 (listed in Appendix A and B of this Agreement) subject to the conditions specified in Section V of this Agreement.
- B. This Agreement also requires IDOT to present information to FHWA for CE actions that 1) do not meet the conditions specified in this Agreement for IDOT to approve and 2) are not specifically listed in 23 CFR 771.117, but meet the CE criteria in 40 CFR 1508.4 and 23 CFR 771.117(a). For these actions, IDOT must request FHWA’s approval of the action as a CE.

## **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 5610.1C
- E. 23 CFR 771.117

#### **IV. RESPONSIBILITIES**

##### **A. IDOT is responsible for:**

1. Ensuring the following process is completed for each project that qualifies for a CE:
  - a. For actions qualifying for a CE listed in Appendix A (CEs established in 23 CFR 771.117(c)) and Appendix B (CEs established in 23 CFR 771.117(d)), that do not exceed the thresholds in Section V of this Agreement (“Potential for Unusual Circumstances and Exclusions to State-Approved CEs”), IDOT may make a CE approval on behalf of FHWA (“State Approved CE”). IDOT will identify the applicable listed CE, ensure any conditions or constraints are met, verify that there is no potential for unusual circumstances, address any and all other environmental requirements, and complete the review with an appropriate signature evidencing approval, per Section VII of this Agreement (“NEPA Approvals and Re-evaluations”). No separate review or approval of State Approved CEs by FHWA is required.
  - b. Actions listed in Appendices A and B that exceed the thresholds in Section V may not be approved by IDOT. Any actions that meet the definition of a CE and may be classified as a CE according to the open-ended authority in 771.117(d) may not be approved by IDOT. Additionally, IDOT may request FHWA approval on an action that does not exceed the thresholds in Section V. For any of these actions, IDOT must compile and present to FHWA information that the action qualifies for a CE classification. These actions require FHWA review, and if in agreement with the CE classification, FHWA approval of the CE (“Federal Approved CE”), based on the information IDOT provides on the action.
  - c. IDOT shall submit, at a minimum, the following information to FHWA for review and CE approval prior to the time FHWA considers its next approval action for the project:
    - i. If requested by FHWA, IDOT shall provide a copy of the CE documentation prepared for the actions(s) in accordance with Section VI of this Agreement.

- ii. If any project requires a Section 4(f) de minimis determination or programmatic evaluation, IDOT shall submit the 4(f) documentation for FHWA determination and approval.
  - iii. If FHWA determines that the information IDOT has provided is inadequate, they may request additional studies and documentation, and/or consultation with other agencies.
2. Consulting with FHWA for actions that involve potential for unusual circumstances (23 CFR §771.117(b)), to determine the appropriate class of action for environmental analysis and documentation. IDOT may decide, or FHWA may require that, additional studies need to be performed prior to making a CE approval, or deciding on the need to prepare an EA or EIS.
3. Meeting applicable documentation requirements in Section VI for State Approved CEs and Federal Approved CEs, providing information on CE projects to FHWA, applicable approval and re-evaluation requirements in Section VII, and applicable quality control/quality assurance, monitoring, and performance requirements in Section VIII.
4. Relying only upon employees directly employed by the State to make CE approvals, or requesting CE approvals from FHWA, under this agreement. IDOT may not delegate its responsibility for CE approvals, or requests for FHWA approval, to third parties (i.e., consultants, local government staff, and other State agency staff).
5. Maintaining adequate organizational and 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 to carry out the approvals and processing of projects under this Agreement.
  - c. All individuals participating in the determination and approval of projects under this Agreement will be familiar with and follow the appropriate subsections of 23 CFR 771, the NEPA process, IDOT procedural manuals and memoranda, and any other policies relevant to CE determinations and documentation.
  - d. At a minimum, all individuals and their designees who make CE approvals and determinations will:

- i. Have completed the web based course FHWA-NHI-142052, “Introduction to NEPA and Transportation Decisionmaking” or equivalent; and
  - ii. Have experience addressing NEPA compliance for transportation projects; or
  - iii. Have their work reviewed by staff who have met items 1 and 2.
6. Whenever there is a conflict between FHWA regulations and this Agreement or IDOT’s policies and procedures manual, FHWA regulations shall be followed.

B. The FHWA is responsible for:

1. Providing timely advice and technical assistance on CEs to IDOT, as requested.
2. Providing timely input and review of CE actions requiring FHWA approval. FHWA will base its approval of CE actions on the project documentation prepared by IDOT under this Agreement.
3. Overseeing the implementation of this Agreement in accordance with the provisions in Section VIII, including applicable monitoring and performance provisions.

## **V. POTENTIAL FOR UNUSUAL CIRCUMSTANCES AND EXCLUSIONS TO STATE-APPROVED CEs**

Projects that IDOT proposes to approve as a CE on FHWA’s behalf shall be evaluated for unusual circumstances. This evaluation must consider the effects of all aspects of the project, which includes, but is not limited to, detours, runarounds, or ramp closures that the action will require. IDOT CE documentation will record the outcome of this evaluation (see Part VI(A)(1) below).

Exclusions to State-Approved CEs: IDOT cannot approve, on FHWA’s behalf, actions involving any of the following circumstances:

- 1) Require one or more residential or business relocations and/or the acquisition of more than 10 acres total for a non-linear improvement (spot improvement, e.g. bridge, intersection) or the acquisition of more than 3 acres per mile; or
- 2) Are defined as a “Type I project” per 23 CFR 772.5 and therefore requires a noise analysis; or

- 3) Result in an "adverse effect" finding to a historic property, as defined in 36 CFR 800.16(l); or
- 4) Require the use of properties as defined and protected by Section 4(f) of the Department of Transportation Act (49 U.S.C. 303) that cannot be documented with either an FHWA *de minimis* determination or a programmatic Section 4(f) evaluation; or
- 5) Involve impacts that would require an Individual Section 404 Permit from the U.S. Army Corps of Engineers or involve stream channelization or stream relocations; or
- 6) Through Section 7 of the Endangered Species Act consultation, result in a finding of "may affect, likely to adversely affect" a federally listed or candidate species, or proposed or designated critical habitat; or
- 7) Through consultation with the Illinois Department of Natural Resources (IDNR) under the Illinois Endangered Species Act, an Incidental Take Authorization will be required; or
- 8) Require substantial changes in access, access control, or travel patterns. IDOT will present such information to FHWA to determine if changes are substantial; or
- 9) Require the use of a temporary road, detour or ramp closure, unless the use of such facilities satisfies the following conditions:
  - a) Provisions are made for access by local traffic and so posted,
  - b) Businesses dependent on through-traffic will not be adversely affected,
  - c) To the extent possible, there is no interference with any local special event or festival,
  - d) There is no substantial change to the environmental consequences of the action, and
  - e) There is no substantial controversy associated with such facilities.
- 10) Involve State designated Nature Preserves, areas listed on the Illinois Natural Area Inventory, Land and Water Reserves; or
- 11) Exceed the IDNR threshold for an increase in 100-year flood water surface elevations, or has potential for a "significant encroachment" to floodplains, as defined in Executive Order 11988; or
- 12) Require a permit from U.S. Coast Guard under Section 9 of the Rivers and Harbors Act of 1899; or

- 13) Require an individual Water Quality Certification from the Illinois Environmental Protection Agency; or
- 14) 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; or
- 15) Involve impacts to a stream listed on the National Park Service's National Rivers Inventory; or
- 16) Have potential for controversy on environmental grounds as determined by FHWA, or inconsistency with Federal, State, or local requirements relating to the environment or planning.

## **VI. DOCUMENTATION OF CE APPROVALS**

- A. For both IDOT CE approvals and FHWA CE approvals, IDOT shall ensure that it fulfills the following responsibilities for documenting the project-specific determinations made:
  1. For actions listed in Appendix A and B that do not exceed the thresholds in Section V of this Agreement, IDOT will identify the applicable action, ensure any conditions specified in FHWA regulation are met, verify that there are no potential unusual circumstances, address all other environmental requirements, and complete the review with the appropriate IDOT signature evidencing approval.
  2. For actions listed in Appendix A and B that exceed the thresholds in Section V of this Agreement and therefore require FHWA CE approval, IDOT shall prepare documentation that supports the CE determination and that no unusual circumstances exist that would make the CE approval inappropriate and address all other environmental requirements.
- B. IDOT shall maintain a project record for CE approvals it makes on FHWA's behalf and each CE approval made by FHWA. This record should include as appropriate:
  1. Any checklists, forms, or other documents and exhibits that summarize the consideration of project effects and potential for unusual circumstances;
  2. A summary of public involvement complying with the requirements of IDOT's public involvement policy;
  3. Any stakeholder (including resource and regulatory agencies) communication,

correspondence, consultation, or public meeting documentation;

4. The name and title of the CE approver and the date of the approval; and
5. Any documented re-evaluation (when required) or a statement that a re-evaluation was completed for the project (when supporting documentation is not necessary), and the date of approval of the determination that the CE decision is still valid, per Section VII.B. of this Agreement (“NEPA Approvals and Re-evaluations”).

C. Any project records maintained by IDOT shall be provided to FHWA at their request. IDOT should retain those records, including any stakeholder (including resource and regulatory agencies) communication, correspondence, consultation, or public meeting documentation for a period of no less than three (3) years after completion of project construction. This 3-year retention provision does not relieve IDOT of its project or program recordkeeping responsibilities under 2 CFR § 200.333 or any other applicable laws, regulations, or policies.

## **VII. NEPA APPROVALS AND RE-EVALUATIONS**

- A. IDOTs approval of Appendix A and Appendix B CEs is delegated to the Approving Officials and their Designees as identified in Appendix C.
- B. In accordance with 23 CFR 771.129, prior to requesting any subsequent project approvals from FHWA, regardless of how much time has passed since the CE approval, IDOT shall ensure that CE determinations are still valid. If there are any changes to the proposed actions, or new information or circumstances relevant to the project actions, it may be necessary for IDOT to re-evaluate CE approvals, consult with FHWA, and prepare additional documentation to ensure that CE determinations are still valid.

## **VIII. QUALITY CONTROL/QUALITY ASSURANCE, MONITORING AND PERFORMANCE**

### **A. IDOT Quality Control & Quality Assurance**

IDOT agrees to carry out regular quality control and quality assurance activities to ensure that its CE approvals and CE submissions to FHWA for approval are made in accordance with applicable law and this Agreement.

### **B. IDOT Performance Monitoring and Reporting**

1. The FHWA and IDOT should cooperate in monitoring performance under this Agreement and work to assure quality performance.



2. IDOT shall annually submit to FHWA (electronically or hard copy) a report summarizing its performance under this Agreement, no later than February 28 of each calendar year. The report will identify any areas where improvement is needed and what measures IDOT is taking to implement those improvements. The report will include a description of actions taken by IDOT as part of its quality control efforts under Section VIII(A).

#### C. FHWA Oversight and Monitoring

1. Monitoring by FHWA will include consideration of the technical competency and organizational capacity of IDOT, as well as IDOT's performance of its CE processing functions. Performance considerations include, without limitation, the quality and consistency of IDOT's CE approvals, CE submissions to FHWA for approval, adequacy and capability of IDOT staff and consultants, and the effectiveness of IDOT's administration of its internal CE approvals. FHWA will conduct this oversight and monitoring through its participation in the regularly scheduled coordination meetings in each IDOT District Office.
2. Through the joint process review program, FHWA and IDOT will conduct one or more program reviews, during the term of this Agreement. This will serve to satisfy FHWA's oversight requirements under this Agreement. IDOT and FHWA, prior to completing the joint process review, will prepare and implement a corrective action plan to address any findings or observations identified in the joint process review. The results of the joint process review and corrective actions taken by IDOT 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 IDOT's performance under this Agreement. The FHWA may require IDOT to perform such other quality assurance activities, including other types of monitoring, as may be reasonably required to ensure compliance with applicable Federal laws and regulations.
4. IDOT agrees to cooperate with FHWA in all oversight and quality assurance activities.

#### **IX. AMENDMENTS**

- A. If the parties agree to amend this Agreement, then FHWA and IDOT 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.
- B. Appendix A and B may be modified through verbal agreement by FHWA and IDOT

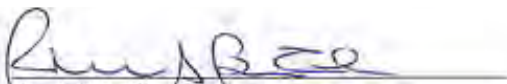
without new signatures to this agreement based on activities added through FHWA rulemaking to those listed in 23 CFR 771.117(c) or example activities listed in 23 CFR 771.117(d) after the date of the execution of this Agreement. A modification date will be noted on the revised Appendix A and B.

- C. IDOT may request in writing to modify Appendix C. Upon written concurrence from FHWA, Appendix C may be modified without new signatures to this Agreement. A modification date will be noted on the revised Appendix C.

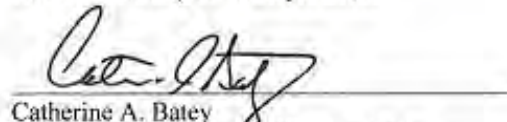
**X. TERM, RENEWAL, AND TERMINATION**

- A. This Agreement shall have a term of five (5) years, effective on the date of the last signature. IDOT shall post and maintain an executed copy of this Agreement on its website, available to the public.
- B. This Agreement is renewable for additional five (5) year terms if IDOT requests renewal and FHWA determines that IDOT 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.
- C. Either party may terminate this Agreement at any time only by giving at least 30 days written notice to the other party.
- D. Expiration or termination of this Agreement shall mean that IDOT is not able to make CE approvals 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.

  
\_\_\_\_\_  
Randall S. Blankenhorn  
Illinois Secretary of Transportation

10/14/2015  
Date

  
\_\_\_\_\_  
Catherine A. Batey  
Division Administrator, Illinois Division  
Federal Highway Administration

10/14/2015  
Date

**APPENDIX A (From 23  
CFR 771.117(c))**

(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 \$5,000,000 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), 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.

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\*Note: In items (26), (27), and (28), "paragraph (e)" constraints are as follows:

23 CFR 117.117(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.

**Appendix B**  
**(From 23 CFR 771.117(d))**

(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.\*

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\* Note: In Item (13), paragraphs (c)(26), (c)(27), and (c)(28) are in reference to actions listed in Appendix A as items (26), (27), and (28).

**Appendix C**

**IDOT Officials Approval Authority for State Approved CEs**

**Table C-1**

<b>State Projects</b>		
	<b>Approving Officials</b>	<b>Designees</b>
<b>Districts</b>	Regional Engineer	None
<b>Central Office</b>	None	None

**Table C-2**

<b>Local Public Agency Projects</b>		
	<b>Approving Officials</b>	<b>Designees</b>
<b>Districts</b>	Regional Engineer	District Engineer of Local Roads and Streets
<b>Central Office</b>	Engineer of Local Roads and Streets	Local Project Implementation Engineer AND Local Project Development Engineers

Attachment I – Programmatic Wetland Finding  
**WETLAND FINDING FOR FEDERAL  
AID PROJECTS COVERED  
UNDER THE PROGRAMMATIC AGREEMENT REGARDING THE  
PROCESSING OF CATEGORICAL EXCLUSIONS**

*Introduction*

This wetland finding is made on a program-wide basis and has been prepared for transportation improvement projects, which are classified as a categorical exclusion (CE). It satisfies the requirements of Executive Order 11990 (EO) titled “Protection of Wetlands” and U.S. Department of Transportation Order 5660.1A (DOT Order) titled “Preservation of the Nation’s Wetlands.” No individual wetland finding needs to be prepared for such projects. An individual wetland finding shall be made for each Environment Assessment (EA) and Environmental Impact Statement (EIS).

*Background*

EO 11990, issued on May 24, 1977, requires each agency to develop procedures for Federal actions whose impact is not significant enough to require the preparation of an EIS under Section 102 (2)(c) of the National Environmental Policy Act (NEPA), as amended. The EO states that each Federal agency “shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result for such use.”

The EO defines “new construction” to include “draining, dredging, channelizing, filling, diking, impounding, and related activities.” This EO essentially requires a wetland finding for all Federal undertakings, which have virtually any impact to a wetland. DOT Order 5660.1A, issued on August 24, 1978 clarified “new construction” by excluding only “routine repairs and maintenance of existing facilities.”

The U.S. DOT Order states, “In carrying out any activities (including small scale projects which do not require documentation) with a potential effect on wetlands, operating agencies should consider the following factors...” This requires U.S. DOT agencies to consider the effects on wetlands for all projects (including CEs). Effects on wetlands are considered through coordination and consultation with the Illinois Department of Natural Resources and with the US Fish and Wildlife Service (USWS), US Army Corps of Engineers (USACE), US Environmental Protection Agency (USEPA), and the Illinois Environmental Protection Agency (IEPA), as appropriate. The Illinois Department of Transportation (IDOT) and Federal Highway Administration (FHWA) evaluate wetland resources and consider practicable avoidance alternatives or options. If avoidance alternatives are not practicable, then practicable measures to minimize harm are considered and included in the project. Unavoidable impacts are mitigated.



Federal-aid applicants consider these effects through the NEPA evaluation process and further consider these effects through the wetland permitting process and any associated meetings with resource agencies (USACE, USEPA, USFWS, and IEPA). IDOT and FHWA evaluate practicable avoidance alternatives or options. If avoidance alternatives are not practicable, then practicable measures to minimize harm are considered and included in the project.

The U.S. DOT Order requires U.S. DOT agencies to make a formal wetland finding for all EAs and EISs. This formal wetland finding will be made in the EA/Finding of No Significant Impact or Final EIS/Record of Decision.

*Finding:*

In accordance with Executive Order 11990, and based on the above procedures, the FHWA Illinois Division finds for all Federal-aid projects classified as a categorical exclusion with an approved USACE permit that:

1. There will be no practicable alternative to the proposed construction in wetlands, and
2. The proposed project will include all practicable measures to minimize harm to the involved wetlands which may result from such use.

Any Federal-aid transportation project requiring an EA or EIS shall require an individual wetland finding.



10/14/2015  
Date

Catherine A. Batey  
Division Administrator