U.S. Department of Transportation
Federal Highway Administration

DelMar Division

10 South Howard Street, Suite 2450
Baltimore, MD 21201
(410) 962-4440
(410) 962-4054
http://www.fhwa.dot.gov/demddiv/

April 18, 2012

In Reply Refer To:
HDA-MD

Ms. Melinda B. Peters
State Highway Administrator
Maryland State Highway Administration
707 North Calvert Street
Baltimore, MD 21202

Dear Ms. Peters:

Our office has received the final Programmatic Agreement for the Processing of Certain Categorical Exclusion Actions (Agreement) developed between the FHWA DelMar Division and the Maryland State Highway Administration (SHA). We know that SHA has successfully fulfilled the conditions of the existing memorandum agreement over the last twenty years and are seeking ways to streamline the environmental process.

Enclosed is a copy of the signed Agreement. We would like to thank SHA for all their efforts in keeping the Agreement in line with FHWA's Every Day Counts Initiative to further streamline the environmental approval process and shorten project delivery time while also protecting the environment.

If you have any questions, please contact Jeanette Mar at (410) 779-7152 or Jeanette.Mar@dot.gov.

Sincerely yours,

Gregory Murrill
Division Administrator

Enclosure

cc:

Mr. Dennis M. Atkins, SHA – Environmental Planning Division
Mr. Bruce M. Grey, SHA – Office of Planning and Preliminary Engineering
Mr. Joseph Kresslein, SHA – Environmental Planning Division
Mr. Douglas H. Simmons, SHA – Deputy Administrator
Mr. Gregory I. Slater, SHA - Office of Planning and Preliminary Engineering
Mr. Donald Sparklin, SHA – Environmental Planning Division

PROGRAMMATIC AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION, DELMAR DIVISION
AND THE MARYLAND STATE HIGHWAY ADMINISTRATION
REGARDING THE PROCESSING OF
CERTAIN CATEGORICAL EXCLUSION ACTIONS

WITNESSETH:

Whereas, the Maryland State Highway Administration (SHA) proposes highway projects and desires to apply Federal-aid funding for those projects and in doing so, the Federal Highway Administration, DelMar Division (FHWA) must comply with the National Environmental Policy Act (NEPA) and;

Whereas, FHWA is responsible for making all NEPA decisions and SHA has considered and decided not to assume responsibilities for some projects classified as Categorical Exclusions (CE) pursuant to 23 U.S.C. § 326 and;

Whereas, FHWA may establish procedures to expeditiously and efficiently process actions that are excluded from the requirements to prepare either an Environmental Impact Statement (EIS) or an Environmental Assessment (EA), including the use of programmatic agreements with States and;

Whereas, over 95% of the highway projects proposed by SHA for Federal-aid funding typically qualify as a CE and SHA seeks to assist in reducing the paperwork and processing time for certain Federal actions that do not have significant impacts on the human and natural environment in accordance with 40 C.F.R. 1500.5(k), this Programmatic Agreement (Agreement) and all applicable law and;

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

Whereas, FHWA may delegate the task of analyzing environmental impacts and preparing environmental documentation for NEPA compliance pursuant to 42 U.S.C. 4332(2)(D) and;

Therefore, FHWA and SHA will enter into this Agreement for the processing of projects under NEPA subject to the following terms and conditions:

SECTION I. DEFINITION OF ACTIONS THAT DO NOT HAVE SIGNIFICANT IMPACTS ON THE HUMAN AND NATURAL ENVIRONMENT

A. Projects processed under this Agreement, which supersedes the 1989, 1993, and 2003 agreements, must be actions listed in Section I that meet the definitions in 40 C.F.R. § 1508.4 and 23 CFR § 771.117 for "categorical exclusions", are actions which do not individually or cumulatively have a

significant effect on the human environment and for which neither an EA nor an EIS is required.

B. For a proposed action that SHA concludes qualifies as a CE under 23 CFR § 771.117, SHA shall certify to FHWA that the action meets the requirements of Section I and II of this Agreement, including that 23 C.F.R § 771.117(a) is satisfied and the project is one that:

1. Does not induce significant impacts to planned growth or land use for the area
2. Does not require the relocation of a substantial number of residents or businesses,
3. Does not have a significant impact on any natural, cultural, recreational, historic, or other resource,
4. Does not involve significant air, noise or water quality impacts,
5. Does not have significant impacts on travel patterns, and
6. Does not otherwise, either individually or cumulatively, have any significant environmental impacts.

C. SHA shall limit its processing of projects under this Agreement to:

a. Actions listed in 23 C.F.R. § 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. Emergency repairs under 23 U.S.C. 125.
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 or repairs 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 rail bed maintenance and improvements when carried out within the existing right-of-way.
19. Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.
20. Promulgation of rules, regulations, and directives.
21. Deployment of electronics, photonics, communications or information processing used singly or in combination, or as components of a fully integrated system, to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locators, automatic passenger counters, computer-aided dispatching systems, radio communication systems, dynamic message signs, and security equipment including surveillance and detection cameras on roadways and in transit facilities and on buses.

b. Actions listed in 23 C.F.R. § 771.117(d):

22. Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g. parking, weaving, turning, climbing).
23. Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.
24. Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings.
25. Transportation corridor fringe parking facilities.
26. Construction of new truck weigh stations or rest areas.
27. Approvals for disposal of excess right-of-way or limited use of right-of-way where the proposed use does not have significant adverse impacts.
28. Approvals for changes in access control.
29. Construction of new bus storage and maintenance facilities in areas used predominately 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. 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.
31. 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 high activity center in which there is adequate street capacity for projected bus traffic.
32. Construction of rail storage and maintenance facilities in areas used predominately 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.
33. 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. (Refer to 23 CFR 771.117 (d)(12) (i) and (ii) for a detailed description of 'hardship acquisition' and 'protective acquisition').
34. Acquisition of pre-existing railroad right-of-way pursuant to 49 U.S.C. 5342(c). No project development on the acquired railroad right-of-way may proceed until the NEPA process for such project development, including consideration of alternatives, has been completed.

SECTION II. CONSIDERATION OF UNUSUAL CIRCUMSTANCES

A. For each project processed under this Agreement, SHA shall consider whether circumstances exist where a normally categorically excluded action may have a significant environmental effect.

B. SHA shall evaluate as part of its processing of a project whether the action meets 23 C.F.R § 771.117(a) and is one that does not involve unusual circumstances that might require the preparation of an EA or EIS and will certify its findings to FHWA. This consideration of unusual circumstances includes consideration whether the action might result in:

1. Significant environmental impacts.

2. Substantial controversy on environmental grounds

3. Significant impacts on properties protected by Section 4(f) of the DOT Act (49 U.S.C § 303 and 23 CFR 774) or Section 106 of the National Historic Preservation Act.

4. Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

SECTION III. CONDITIONS OR DETERMINATIONS THAT EXCLUDE ACTIONS FROM THIS AGREEMENT

A. Notwithstanding any other provision of this Agreement, any action that does not satisfy the criteria for a CE described in Sections I and II of this Agreement is excluded from processing under this Agreement. Exclusion also may occur at any time during the environmental process if SHA or FHWA determines that the project fails to meet the CE criteria.

B. Other conditions that exclude a project that otherwise may qualify as a CE from processing under this Agreement are as follows:

1. The action involves use of properties protected by Section 4(f) for which a Draft and Final Section 4(f) Evaluation or Programmatic Section 4(f) Evaluation is warranted.

2. The action has a determination of "adverse effect" or "conditional adverse effect" on properties protected by Section 106 of the National Historic Preservation Act.

3. The action adversely affects or jeopardizes rare, threatened or endangered species and/or critical habitat as per written correspondence with the US Fish and Wildlife Service.

4. The action requires an amount of new right of way that, in the context of the project, has a substantial impact on land use and property values throughout the study area.

5. The action includes changes in access restrictions that would require FHWA approval (i.e. Interstate Access Point Approval)

6. The action requires residential and business displacements where, in the context of the project, has a substantial impact on the community.

7. The action involves the placement of fill into Waters of the United States (33 CFR 328) that would cause a substantial impact to wetlands.

8. The action will result in a substantial impact on air quality.

9. The action involves substantial controversy on environmental grounds.

SECTION IV. PROCESSING OF PROJECTS EXCLUDED FROM THIS AGREEMENT

A. Any action excluded by this Agreement (based on activities listed in Section I and Appendices) but still an action that does not require the preparation of either an EA or EIS shall be brought to FHWA's attention either via informal procedures (email) or formal procedures (FHWA/SHA Monthly Coordination Meeting) to determine whether the action can be programmatically processed under this Agreement.

SECTION V. NEPA DOCUMENTATION AND APPROVALS

A. SHA proposes a three tiered documentation and review process for actions included under Section I of this Agreement. Approval of projects included under Sections I. C. a. and b. will be processed as Programmatic Categorical Exclusions (PCE) or as Statewide Programmatic Categorical Exclusions (SWPCE).

1. Statewide Programmatic Categorical Exclusions
   Actions listed under Section I.C. a. and b. which are minor and routine in scope with little or no impacts and that generally occur on a statewide basis will be processed as a SWPCE. For specific actions which can be processed as a SWPCE, please refer to the Appendices.

2. Programmatic Categorical Exclusions
   All other actions as listed in Section I. C .a. and b. will be processed as a PCE unless the action meets one or more of the criteria listed under Sections II and III. For specific actions which can be processed as a PCE, please refer to the Appendices.

3. Categorical Exclusions
   All other actions which meet the requirements under 23 CFR 771.117 and are not included under Section I of this Agreement or contained within the Appendices will be processed as a Categorical Exclusion (CE).

B. The certification/approval process for each document will occur as follows:

1. Statewide Programmatic Categorical Exclusions
   Each SWPCE will be reviewed by a SHA Team Leader from the Environmental Planning Division (EPLD) and will be certified by an Assistant Division Chief (ADC) or the Team Leader in the ADC's stead. SWPCE's are certified by SHA electronically.

2. Programmatic Categorical Exclusions
   Each PCE will be reviewed by a Team Leader from EPLD and an ADC and will be certified by the Division Chief (DC) of EPLD or the

ADC/Team Leader in the DC's stead. PCE's are certified by SHA electronically.

3. Categorical Exclusions
Each CE will be reviewed by a Team Leader, ADC and DC and will be signed by the Director of the Office of Planning and Preliminary Engineering (OPPE) or the Deputy Director in his stead, prior to sending to FHWA for Location Approval.

SECTION VI. SHA PERFORMANCE REQUIREMENTS AND FHWA OVERSIGHT ACTIVITIES

A. Processing projects under this Agreement: identification, record keeping, and review of effects. For projects that SHA determines meet the criteria specified in Section I of this Agreement, SHA shall:
   1. Institute a process to periodically review the processing of SWPCE's, PCE's and CE's to determine if the criteria of this Agreement have been upheld and to determine if additional actions meet the criteria for inclusion in this Agreement.
   2. Record the environmental impacts for each project on the SWPCE/PCE forms to certify that the conditions specified in Section III do not exist and that the project qualifies to be programmatically excluded under Section I of this Agreement.

B. Required resources, qualifications, expertise, standards, and training.
   1. SHA must maintain 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; and
      b) Devoting adequate financial and staff resources to carry out the certification and processing of projects under this Agreement.
   2. SHA may procure through consultant services some or all of the environmental and other technical expertise needed to carry out its processing and certifications under this Agreement, but all final certifications will be made by SHA managerial staff.
   3. All individuals participating in the processing and certification of projects under this Agreement shall be familiar with and follow the appropriate subsections of 23 CFR § 771.117 and SHA/FHWA procedures for environmental analysis and NEPA processing.

C. SHA quality control.
   1. SHA agrees to carry out regular quality control activities to ensure that its SWPCE/PCE certifications are made in accordance with applicable laws and regulations and this Agreement.
   2. At a minimum, SHA shall monitor its processes relating to project certifications, environmental analysis, and project file documentation,

and check for errors and omissions. SHA shall take corrective action as needed.

D. Documentation and recordkeeping for SWPCE/PCE certifications for individual projects.

1. SHA will complete a SWPCE or PCE form for each action it certifies under the terms of this Agreement. These forms shall be available to FHWA for review upon request. These forms shall include at a minimum:
   a) A description of the project and which SHA concluded applies to the project including federal project number.
   b) The certification and findings pursuant to Section I.
   c) Any checklists, forms, or other documents that summarize the consideration of project effects and unusual circumstances.
   d) Any stakeholder correspondence, consultation, public meeting or agency involvement documentation.

2. SHA shall notify FHWA of SHA certification that a project has met the conditions set forth in this Agreement as part of SHA's request to proceed (e.g., SHA's request for final design, right-of-way purchase, or construction authorization). The request to proceed shall indicate the project has been "certified" as a project that does not have significant impacts on the human or natural environment and specify the appropriate category under Section I of this Agreement for which SHA concluded the project qualifies. This notification may occur on SHA's Form 42-25C. For projects certified in this manner, no further NEPA documentation should be sent to FHWA unless specifically requested by FHWA. Notification to FHWA from SHA of the SWPCE/PCE certification may occur earlier than the request to proceed authorization.

3. SHA shall maintain electronic project records and records pertaining to SHA administration of its certification process for individual projects. SHA shall provide FHWA with copies of any project records FHWA may request. SHA shall retain those records, including all letters and comments received from governmental agencies, the public, and others for a period of no less than five (5) years after completion of project construction. This 5-year retention provision does not relieve SHA of its project or program recordkeeping responsibilities under 49 CFR § 18.42 or any other applicable laws, regulations, or policies.

4. SHA shall ensure that project records are available to the public for a period of no less than 5 years after completion of the project construction consistent with requirements applicable to Federal agencies under 5 U.S.C. § 552 (the Freedom of Information Act, as amended in 2002) and NEPA, and consistent with applicable FHWA regulation, policy, and guidance.

E. SHA monitoring and reporting on its performance of the Agreement. FHWA and SHA shall cooperate in monitoring performance under this Agreement and each party shall modify its practices as needed to assure quality performance by SHA and FHWA. SHA shall submit a list of SWPCE's and PCE's to FHWA on a semi-annual basis.

F. FHWA oversight activities
Monitoring by FHWA and SHA will include consideration of the technical competency and organizational capacity of SHA, as well as SHA performance of its SWPCE/PCE processing functions. Performance considerations will include, without limitation, the quality and consistency of SHA's project certifications, adequacy and capability of the resources applied by SHA, and the quality and consistency of SHA administration of its processing of projects under this Agreement.

1. At a minimum, FHWA will conduct one program/process review as part of its oversight activities, for each 5 year period. The results of that review shall be considered at the time this Agreement is considered for renewal or immediately after review recommendations are received. A copy of this report shall be posted on the FHWA and SHA web sites and available for public review.

2. Nothing in this Agreement shall prevent FHWA from undertaking other monitoring or oversight actions, including audits, with respect to SHA's performance under this Agreement. FHWA, in its sole discretion, may require SHA 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.

3. SHA agrees to cooperate with the FHWA in all oversight and quality assurance activities.

SECTION VII. TERM, RENEWAL, AND TERMINATION

A. This Agreement shall have a term of five years, beginning on the date of the last signature. SHA shall post an executed copy of this Agreement on its web site, available to the public, for a period of 15 days.

B. This Agreement shall also apply to non-SHA sponsored projects for which Federal Aid is being pursued including local government, Transportation Enhancement Program, Recreational Trail Program, Scenic Byway Program and Maryland Transportation Authority projects.

C. This Agreement is renewable for additional terms of five years each if SHA requests renewal and FHWA determines that SHA 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, SHA and FHWA shall meet to discuss the results under the Agreement and consider amendments to this Agreement.

E. If the parties do not renew the Agreement, then it shall expire at the end of the term then in effect.

F. Either party may terminate this Agreement at any time by giving at least 30 days notice to the other party.

G. Related agreements and guidance between FHWA and SHA remain in full force and effect.

SECTION VIII. AMENDMENTS AND ADMINISTRATIVE MODIFICATIONS

A. Any party to this Agreement may request that it or the Appendices be amended or administratively modified to reflect non-substantive changes, whereupon the parties shall consult to consider such an amendment.

B. If the parties agree to amend this Agreement or the Appendices, then FHWA and SHA 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.

Execution of this Agreement and implementation of its terms by SHA formally evidence that SHA has reviewed this Agreement and agrees to the terms and conditions for its implementation. This Agreement is effective upon the date of the last signature below.

Administrator — Date: 3/22/12

Maryland State Highway Administration

Division Administrator — Date: 3/27/12
Federal Highway Administration, DelMar Division

APPENDIX

Statewide Programmatic Categorical Exclusion Form (March 2012)

Programmatic Categorical Exclusion Form (March 2012)

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*

SHA State Highway Administration
Maryland Department of Transportation

Beverley K. Swaim-Staley, *Secretary*
Melinda B. Peters, *Administrator*

MEMORANDUM

TO: _____
_____
_____

FROM: Donald H. Sparklin
Division Chief
Environmental Planning Division

DATE: _____

SUBJECT: **Statewide Programmatic Categorical Exclusion**
Project No./Project ID _____
limits/description _____

County: ☐
☐

The above project qualifies as a Statewide Programmatic Categorical Exclusion (PCE) as indicated below. The PCE number is _____. **Please use the date at the end of this memo as the date of environmental approval for this project/project(s). Approval of this document <u>does not</u> constitute a permit of any kind (wetland/waterway, etc.).**

Is this project consistent with the Programmatic Agreement for Categorical Exclusions? ☐

PROGRAMMATIC CATEGORICAL EXCLUSIONS FOR STATEWIDE ACTIONS

☐ 1 - *Activities which do not involve or lead directly to construction, such as planning and technical studies; grants for training and research programs; research activities as defined in 23 U.S.C. 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. 134; approval of statewide programs under 23 CFR part 630; approval of project concepts under 23 CFR part 476; engineering to define the elements of a proposed action or alternatives so that social, economic and environmental effects can be accessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system. -23 CFR 771.117 (c)(1)* [**such as** development and implementation of CHART/IVHS technologies; training and educational activities; non-invasive inspections; wetland monitoring and remediation permit activities; and other activities not leading to or involving construction]

☐ 4 - *Activities included in the State's highway safety plan under 23 U.S.C. 402 -- 23 CFR 771.117(c)(4)* [such activities that do not involve construction]

My telephone number/toll-free number is 410.545.8564
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free
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☐ 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. -23 CFR 771.117(c)(8)* [**such as** minor highway safety, traffic operation, incident management, and ITS projects including installation or removal/replacement/repair of fixed static signs (including billboards), traffic signals, normal and raised pavement markings, roadway striping, snow and ice detectors, rumble strips, hazard identification beacons (HIB), Accessible/Countdown Pedestrian Signals (APS/CPS), and lighting; traffic safety and management devices such as loop detectors; traffic systemization and other interconnection devices; intersection monitors; and closed circuit televisions, surveillance cameras, traveler information systems, variable message signs, signal pre-emption equipment, and other minor incident management and ITS devices or elements.

☐ 11 - *Determination of payback under 23 U.S.C. 156 for property previously acquired under Federal-aid participation. -23 CFR 771.117 (c)(11)*

☐ 14 - *Bus and rail car rehabilitation. -23 CFR 771.117(c)(14)*

☐ 15 - *Alteration to facilities or vehicles in order to make them accessible for elderly and handicapped persons. -23 CFR 771.117 (c)(15)* [**such as** replacement, repair and upgrading of existing ADA ramps and sidewalk to meet current standards]

☐ 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 -23 CFR 771.117 (c)(16)* [**such as** funding for program administration]

☐ 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. -23 CFR 771.117 (c)(17)* [**such as** funding or grants for equipment or vehicle purchases]

☐ 18 - *Track and railbed maintenance and improvements when carried out within the existing right-of-way. -23 CFR 771.117 (c)(18)* [**such as** improved railroad crossing surfaces]

☐ 20 - *Promulgation of rules, regulations, and directives. -23CFR 771.117 (c)(20)*

☐ 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 locators, 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. -23 CFR 771.117 (c)(21)*

☐ 22 - *Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g. parking, weaving, turning, climbing). -23 CFR 771.117 (d)(1)* [such as overlay, milling, grinding, patching, wedge and level, repairing (concrete/asphalt patching/slurry seal) and/or resurfacing existing ramps, roadways, hiker/biker facilities, and parking surfaces where there will be no expansion of wearing surfaces; in-kind replacement/reconstruction/repair or modification of existing curbs, gutters, sidewalks, modern fencing, guardrail, and w-beam barrier]

☐ 23 - *Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting. -23 CFR 771.117(d)(2)* [**such as** minor safety related drainage improvements not including projects that seek to expand or extend such facilities; retrofitting or redesigning existing drainage facilities limited to the installation of traversable grates and conversion of drop inlets to traversable designs; and replacing inlet collars]

☐ 24 - *Bridge rehabilitation/reconstruction/replacement or construction of grade separation to replace existing at-grade railroad crossings. -23 CFR 771.117 (d)(3)* [such as routine and minor structure and bridge maintenance, rehabilitation, and repair actions such as in-kind and in-place (same footprint) replacement or repair of any existing concrete rigid frame small structure or concrete box culvert less than 20 feet in length or pipe(s); in-kind replacement of expansion joints; cleaning scuppers or other drainage conveyances; modification of expansion joints; deck overlay or patching with same or similar materials; placement of grout bags; in-kind replacement or repair of steel beam plates and/or bridge bearings; repair of cracks in super/sub structure with trowelable mortar; in-kind replacement of steel caps, protective jackets and dolphins; rehabilitation of parapets on interstate routes; abrasive blast cleaning; hand and power tool cleaning; power washing and painting of bridges, and if lead paint is present-removal, containment, disposal and monitoring of such following current SHA specifications and EPA/MDE regulations (Contractors will be required to submit and follow health and safety plans); and other similar routine and minor actions.

☐ 26 - *Construction of new truck weigh stations or rest areas. -23CFR 771.117 (d)(5)* [**such as** installation/repair/replacement of overhead traffic and truck height and weight detectors]

By:

Assistant Division Chief
Environmental Planning Division

Attachments
cc: EM, SHA-EPLD (w/Attachments)
PM, SHA-(Division) "
Mr. Guy Talerico, SHA-FAPS "
Mr. Todd Nichols, SHA-EPD "
If OOTS, Ms. Paula Barron, SHA-OOTS "
If Scenic Byway, Mr. Terry Maxwell, SHA-OED "

Click the paperclip icon in the lower left corner or click Document>Attach a File... in the top pull-down menu bar to view and print attachments

Revised December 2011

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*

SHA State Highway Administration
Maryland Department of Transportation

Beverley K. Swaim-Staley, *Secretary*
Melinda B. Peters, *Administrator*

MEMORANDUM

TO: _____

_____

_____

FROM: Donald H. Sparklin
Division Chief
Environmental Planning Division

DATE: _____

The project listed below qualifies as Programmatic Categorical Exclusion (PCE) _____ as approved by the Federal Highway Administration. **Please use the date at the end of this memo as the date of environmental approval for this project/project(s). Approval of this document does not constitute a permit of any kind (wetland/waterway, etc.).**

Is this project consistent with the Programmatic Agreement for Categorical Exclusions? Yes

PROGRAMMATIC CATEGORICAL EXCLUSION

Project: _____

_____

Project ID: _____

Scope of Work: _____

_____

_____

_____

_____

_____

_____

Project No: _____ **County:**

Originating Office:

My telephone number/toll-free number is 410.545.8564
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

Scope of Impacts

Right-of-Way & Community Effects

Impacts Section 4(f) Resource? ☐

More Than 1 Acre of Fee Simple? ☐

More Than 1 Acre of Perpetual Easement? ☐

More Than 1 Acre of Perpetual Easement and Fee Simple Combined? ☐

More Than 1 Acre of Revertible Easement? ☐

Temporary Construction Easement? ☐

Right of Entry Required? ☐

Residential or Commercial Displacements? ☐

Would the Project Cause Any Disproportionately High or Adverse Impacts to Minorities or Low-income Populations? ☐

Scenic Byway? ☐

Consistent with County/Local Master Plan? ☐

Within a Smart Growth PFA? ☐

Either no through or no significant additional through traffic capacity will be added. The proposed project will also not induce significant foreseeable land use changes or affect planned growth. The project will not provide new access to any new development areas and there is little potential for indirect impacts. The project is therefore consistent with Maryland's Smart Growth Legislation.

Notes: _____

Air/Noise

Adds Through Traffic Capacity? ☐

Conforms to TIP/STIP? ☐

Air/Noise Analysis Required? ☐

Exempt from PM2.5? ☐

MSAT Analysis Required? ☐

Air and noise analyses are not warranted since the project would not increase through roadway vehicular capacity. This project is exempt from the requirement that a conformity determination be made (U.S. EPA Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans, Programs or Projects-Final Rule). Projects which are exempt from project level conformity are also exempt from the PM2.5 project level conformity determination requirements, in accordance with 40 CFR 93.126 (exempt projects are listed in Table 2). This project is exempt under the Clean Air Act pursuant to 40 CFR 93.126 (Table 2 - _____)
No analysis of Mobile Source Air Toxins (MSATs) is necessary. This project is not a project of air quality concern for PM2.5 as determined in the Final Rule at 40 CFR 93.123 (b) (1).

Cultural Resources

Impacts Historic District/Site? ☐

Effect Determination: ☐

Appendix: ☐ Attach **Appendix 1/2 or Letter**

Letter ☐

Notes: _____

Natural Resources

Permits Required? ☐ S/EC ☐ SWM ☐ Tidal License ☐ GWCP ☐ MDSPGP

Impacts Floodplain? ☐

Impacts Wetland? ☐

Impacts Trees? ☐

Occurs in Critical Area for CACB? ☐ Attach **Approval Letter, if required**

☐ General Approval ☐ Presentation

Critical Area Commission Approval Date: _____

Impacts Streams? ☐

Requires Time of Year Stream Restrictions? ☐

If Yes, Stream Classification: ☐

DNR-ERU Response Date: _____ USFWS Response Date: _____

DNR-WHS Response Date: _____ Attach **DNR-ERU/WHS & USFWS Response Letters**

Affects Rare, Threatened, or Endangered Species or Habitat? ☐

Affects FIDS Habitat? ☐

Notes: _____

Public Involvement

Public Hearing Required or is Held? ☐

Detour Required? ☐ If yes, emergency response and school letters sent? ☐

Public Involvement Type? ☐

Distribution Method: ☐

Attach **Emergency & School Response Letters**

Location: _____

Attach **Public Meeting Minutes/Letters**

Notes: _____

Programmatic Categorical Exclusion Classification (No.) - Federal Register Reference

☐ 2 - *Approval of utility installations along or across a transportation facility. -23 CFR 771.117 (c)(2)*

☐ 3 - *Construction of bicycle and pedestrian lanes, paths, and facilities. -23 CFR 771.117 (c)(3)* [**such as** non-motorized lanes]

☐ 6 - *The installation of noise barriers or alternations to existing publicly owned buildings to provide noise reduction. -23 CFR 771.117 (c)(6)* [**such as** rehabilitation of existing noise walls and in-kind replacement of noise walls.]

☐ 7 *Landscaping. -23 CFR 771.117 (c)(7)* [**such as** streetscaping, scenic beautification, tree and wildflower plantings, and other similar activities]

☐ 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. -23 CFR 771.117(c)(8)*

☐ 9 - *Emergency repairs under 23 U.S.C. 125. -23 CFR 771.117 (c)(9)*

☐ 10 - *Acquisition of scenic easements. -23 CFR 771.117 (c)(10)* [**such as** scenic easements and fee simple right-of-way for scenic or historic preservation purposes including those for the Transportation Enhancement Program, National Recreational Trails Program, or Scenic Byways Program]

☐ 12 - *Improvements to existing rest areas and truck weigh stations. -23 CFR 771.117 (c)(12)* [**such as** improvements or repairs to existing rest areas, recreational facilities, truck weigh stations, traffic management centers, and other similar facilities such as offices, trailers, and shop facilities.]

☐ 13 - *Ridesharing activities. -23 CFR 771.117 (c)(13)* [**such as** expansion of existing carpool lots, park and ride lots, and other similar facilities]

☐ 15 - *Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons. -23 CFR 771.117 (c)(15)*

☐ 19 - *Purchase and installation of operating or maintenance equipment to be located within the transit facility with no significant impacts off the site. - 23 CFR771.117(c) (19)*

☐ 22 - *Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g. parking, weaving, turning, climbing). -23 CFR 771.117 (d)(1)* [**such as** resurfacing, restoration, and rehabilitation of an existing highway; widening less than a travel lane width; adding or widening shoulders, adding curbs, gutters, sidewalks, and traffic calming measures (i.e. curb bump outs and concrete median islands), and adding auxiliary lanes less than one mile in length]

☐ 23 - *Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting. -23 CFR 771.117 (d)(2)* [**such as** correcting substandard roadway geometrics and intersections, i.e. spot improvements; minor safety related drainage improvements including, but not limited to, culvert and/or headwall installation/removal in place, pipe installation, replacement and extension (in-kind and in-place), and adding pipe end sections; highway safety, traffic operation and incident management improvements such as the installation of guardrails, lighting, ramp metering control devices, and traffic signalization; repair or construction of erosion control and slope protection measures such as slope stabilization, slide repairs, rip rap, and retaining walls]

☐ 24 - *Bridge rehabilitation, reconstruction or replacement or the construction of grade separation to replace existing at-grade railroad crossings. -23 CFR 771.117(d)(3)* [**such as** bridge replacement as consistent with Section III B of the Programmatic Agreement; minor bridge and structure rehabilitation, bridge re-decking, repairs to bridge rails, or substructure alterations]

☐ 25 - *Transportation corridor fringe parking facilities. -23 CFR 771.117 (d)(4)*

☐ 26 - *Construction of new truck weigh stations or rest areas. -23 CFR 771.117(d)(5)*

☐ 27 - *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. -23 CFR 771.117(d)(6)* [**such as** approval for the lease/use of federally acquired right-of-way for non-highway purposes; disposal of excess right-of-way under 23 CFR 713, Subpart C, where the proposed use does not have significant adverse impacts]

☐ 28 - *23 CFR 771.117(d)* [**such as** modification, upgrading, repairing or retrofitting of existing stormwater management facilities, or the retrofit construction of new facilities (i.e. infiltration trenches, ponds) when not done in conjunction with another transportation construction project; and other water quality activities such as stream stabilization and restoration, removal of permanent or fixed obstructions and fish passage remediation including fish weirs]

☐ 30 - *Construction of new bus storage and maintenance facilities in areas used predominately 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. -23 CFR 771.117(d)(8)*

☐ 31 - *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. -23 CFR 771.117(d)(9)*

☐ 32 - *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. -23 CFR 771.117(d)(10)*

☐ 33 - *Construction of rail storage and maintenance facilities in areas used predominately 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. -23 CFR 771.117(d)(11)*

☐ 34 - *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 quality 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. -23 CFR 771.117(d)(12)*

☐ 35 - *Acquisition of pre-existing railroad right-of-way pursuant to 49 U.S.C. 5324(c). No project development on the acquired railroad right-of-way may proceed until the NEPA process for such project development, including the consideration of alternatives, has been completed. -23 CFR 771.117(d)(13)*

No significant environmental impacts are expected to occur as a result of this project. This documentation fulfills the requirements of both the National Environmental Policy Act and Maryland Environmental Policy Act; as such, no further environmental documentation is required.

Concur: Date: _____

Donald H. Sparklin
Division Chief
Environmental Planning Division

Revised December 2011

Attachments

cc:

EM, SHA-EPLD	(w/Attachments)
PM, SHA-(Division)	"
Mr. Guy Talerico, SHA-FAPS	"
Mr. Todd Nichols, SHA-EPD	"
If OOTS, Ms. Paula Barron, SHA-OOTS	"
If Scenic Byway, Mr. Terry Maxwell, SHA-OED	"

Print Form

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