CRITERIA FOR USING EXPEDITED (c)(22) CATEGORICAL EXCLUSION (CE) PROCESS FOR CERTAIN LOW-IMPACT PROJECT TYPES

1.0 Introduction
This document sets forth criteria for using an alternative expedited process for documenting CE coverage for certain types of low-impact state or FHWA projects.

2.0 Project Types Covered
This expedited process may be used to document CE coverage for the following project types:

- Rumble strips – Installation or repair
- Metal beam guard fence and/or crash cushion – Installation, repair, or replacement
- Guard rail – Installation, repair, or replacement (including installation, repair, or replacement of mow strip and associated backfilling/shoring up of pavement edges)
- Cable barrier – Installation, repair, or replacement
- Concrete barrier – Installation in an urban setting only, or removal or in-kind replacement in any setting
- Signage – Installation, repair, or replacement
- Traffic signals including associated trench work – Installation, repair, or replacement
- Railroad warning devices including associated trench work – Installation, repair, or replacement
- Cameras including associated trench work – Installation, repair, or replacement
- Intelligent highway system equipment including associated trench work – Installation, repair, or replacement
- Flood detection and warning systems – Installation, repair, or replacement
- Lighting including associated trench work – Repair or in-kind replacement (or installation if approved by an ENV Deputy Director), except such projects that take place in or adjacent to any of the following sensitive property types: historic courthouse squares, historic downtown commercial areas, historic residential neighborhoods, historic farmsteads, historic road corridors, historic parks or recreation areas, and historic bridges
- Concrete curbs and gutters – Repair or in-kind replacement, except such projects that take place in or adjacent to any of the following sensitive property types: historic courthouse squares, historic downtown commercial areas, historic residential neighborhoods, historic farmsteads, historic road corridors, historic parks or recreation areas, and historic bridges
- Curb ramp and landing – Installation, repair, or replacement, except such projects that take place in or adjacent to any of the following sensitive property types: historic courthouse squares, historic downtown commercial areas, historic residential neighborhoods, historic farmsteads, historic road corridors, historic parks or recreation areas, and historic bridges
- Sidewalks – Repair or in-kind replacement, except such projects that take place in or adjacent to any of the following sensitive property types: historic courthouse squares, historic downtown commercial areas, historic residential neighborhoods, historic farmsteads, historic road corridors, historic parks or recreation areas, and historic bridges
commercial areas, historic residential neighborhoods, historic farmsteads, historic road corridors, historic parks or recreation areas, and historic bridges

- Seal coating of any roadway that does not consist of brick paving
- Crack sealing of any roadway that does not consist of brick paving
- Overlaying of any roadway that does not consist of brick paving
- Milling of any roadway that does not consist of brick paving
- Grooving of any roadway that does not consist of brick paving
- Resurfacing of any roadway or shared-use path that does not consist of brick paving
- Replanking of a railroad crossing
- Base repair up to two feet from the edge of the existing pavement
- Modification of superelevation on any roadway that does not consist of brick paving
- Side slope repair within existing fill material
- Pavement markings (e.g., thermoplastic, ceramic buttons, texturized shoulders, and profile edgeline markings) on any roadway that does not consist of brick paving
- Safety end treatments – Installation, maintenance, repair, or extension
- Striping or restriping, including striping or restriping that modifies or converts existing pavement into a shoulder, turn lane, or bicycle lane (the bicycle lane cannot be considered a “substantial change in layout or function” as defined in ENV’s PI Handbook)

Note: Striping or restriping that creates or eliminates any of the following lanes is NOT eligible to use this expedited CE process:

- a through-traffic lane
- HOV lane
- HOT lane
- bus lane
- passing lane (i.e., truck or climbing lane or “Super 2”)

- Median work consisting of any of the categories below, except such projects that take place in or adjacent to any of the following sensitive property types: historic courthouse squares, historic downtown commercial areas, historic residential neighborhoods, historic farmsteads, historic road corridors, historic parks or recreation areas, and historic bridges:
  - Installation or widening of an inside turn lane or inside shoulder (i.e., a shoulder that abuts a median separating opposite direction travel lanes)
  - Installation of an at-grade turnaround or crossover
  - Median grading
  - Installing, removing, or modifying raised medians
- Bridge work consisting of any of the categories listed below, so long as the work “falls under Appendix 3” according to ENV’s Guidance - Determining Appropriate Level of Non-Archeological Historic Properties Review for Bridge Projects:
  - Coating removal on retaining walls, median barriers, bridges
  - Removal of buried or suspended conduits
  - Asphalt overlays or seal coats for pavement
  - Repair/change-out of guardrail, walls or fencing consisting of concrete, steel, or wood
  - Addition of conduits/piping and lighting
  - Sealing of cracks
  - Modification of drainage openings
  - Change-outs of reflectors or signs
  - Spall repair
  - Bridge joint maintenance
  - Installation or repair of crash wall
  - Installation, modification, or replacement of bearing pads
  - Installation or removal of landscaping vegetation, and associated earthwork, irrigation, etc.

3.0 Conditions of Use

This expedited process may be used to document CE coverage for the project types listed above only if the all of the following conditions are met:

A. No unusual circumstances

Per FHWA’s CE rule (23 C.F.R. §771.117(b)), the project does not involve any of the following “unusual circumstances:”

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.”

B. All work within existing operational right-of-way

The project does not involve the acquisition of any right-of-way or permanent easements (temporary easements are ok, so long as final project is entirely within the operational right-of-way). Existing operational right-of-way means all real property interests acquired for the construction, operation, or mitigation of a project.
C. **No vegetation clearing**

The project does not involve the cutting, trimming or clearing of brush, trees, or any other vegetation, with the following exceptions, which would not preclude use of the expedited (c)(22) CE process:

- Cutting or blading of grass in areas that are already mowed as part of routine maintenance and when the mowing has previously been determined to have no effect on any listed species.

- Removing vegetation that was installed by TxDOT or a local government, or is otherwise considered landscaping.

D. **No work in jurisdictional waters requiring more than a non-reporting nationwide permit**

The project does not involve any work in waters of the United States, or if the project does involve work in waters of the United States, such work is authorized under a United States Army Corps of Engineers (USACE) non-reporting nationwide permit (i.e. no pre-construction notification is triggered).

If the project will require a USACE nationwide permit with pre-construction notification, individual permit, letter of permission, or regional general permit, then the expedited (c)(22) CE process cannot be used.

E. **No known hazardous materials**

The project is not expected to involve contact with or exposure to any known, pre-existing hazardous materials present at the project site. Asbestos and lead-based paint issues are addressed programmatically under TxDOT guidance and specifications and therefore are not “known hazardous materials” that would preclude the use of this expedited (c)(22) CE process.

### 4.0 Restriction on Use

**Lead Agency**

This expedited process can only be used for projects for which the lead agency responsible for the approval of the entire project is either “TxDOT – No Federal Funding” or “FHWA – Assigned to TxDOT.” This process CANNOT be used for projects for which the lead agency responsible for the approval of the entire project is “FHWA Not Assigned to TxDOT” (i.e., FHWA projects that cross a state boundary or require a new, or modification of an existing Presidential Permit, are not eligible to use this expedited CE process).

**Project Sponsor**

This expedited process is available only to those projects for which the project sponsor is a TxDOT district. This expedited process CANNOT be used for any project for which a local government is the project sponsor as defined by 43 TAC 2.7.

**Delegate**

Only TxDOT staff – not consultants or contractors – are allowed to approve CE determinations.
**Appendix C: Revision History**

The following table shows the revision history for this interim guidance document.

<table>
<thead>
<tr>
<th>Effective Date Month, Year</th>
<th>Reason for and Description of Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2019</td>
<td>Version 4 was released. Removed a qualifier on the description of “safety end treatments” prohibiting work in jurisdictional waters, which should have been removed with the Version 3 update in June 2019.</td>
</tr>
<tr>
<td>June 2019</td>
<td>Version 3 was released. Revised Condition of Use D to allow work in jurisdictional waters if it is covered by a non-reporting nationwide permit.</td>
</tr>
<tr>
<td>May 2019</td>
<td>Version 2 was released. Various revisions made, including additional project types covered.</td>
</tr>
<tr>
<td>September 2018</td>
<td>Version 1 was released.</td>
</tr>
</tbody>
</table>