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:

- Installation, repair, or replacement of rumble strips, metal beam guard fence, guard rail, cable barrier, signage, traffic signals, railroad warning devices, cameras, and intelligent highway system equipment;
- Repair or in-kind replacement of lighting, non-native stone curbs and gutters, and sidewalks, 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;
- Maintenance, repair, or replacement of non-brick roadway surfacing, including seal coat, crack seal, overlay, milling, grooving, or resurfacing;
- Pavement markings (e.g., thermoplastic, ceramic buttons, texturized shoulders, and profile edgeline markings);
- Safety end treatments that do NOT require any work in waters of the United States (see condition 3.D below); and
- 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 or auxiliary lane such as an HOV lane, HOT lane, bus lane, passing lane, truck or climbing lane.

3.0 Conditions of Use

This expedited process may be used to document CE coverage for the project types listed above only if 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). 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.

C. No vegetation clearing

The project does not involve the cutting, trimming or clearing of brush, trees, or any other vegetation, with the following exception: cutting or blading of grass is permitted 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.

D. No work in jurisdictional waters

The project does not involve any work in waters of the United States or special aquatic sites, as defined in regulations implementing the federal Clean Water Act.

E. No known hazardous materials

The project is not expected to involve contact with or exposure to any 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 document.

<table>
<thead>
<tr>
<th>Effective Date</th>
<th>Reason for and Description of Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 2018</td>
<td>Version 1 was released.</td>
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