

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

THIS PROGRAMMATIC AGREEMENT (“Agreement”), made and entered into this 12 day of October 2023 by and between the FEDERAL HIGHWAY ADMINISTRATION, UNITED STATES DEPARTMENT OF TRANSPORTATION (“FHWA”) and the STATE of DELAWARE, acting by and through its DEPARTMENT OF TRANSPORTATION (“DelDOT”) hereby provides as follows:

WITNESSETH:

Whereas, the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321 et seq. (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 Federal Highway Administration’s (FHWA) distribution and spending of Federal funds under the Federal-aid Highway Program and approval of actions pursuant to Title 23 of the U.S. Code are major Federal actions subject to NEPA;

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

Whereas, the FHWA’s NEPA implementing procedures (23 CFR part 771) list a number of categorical exclusions (CE) for certain actions that FHWA has determined do not individually or cumulatively have a significant effect on the human environment and therefore do not require the preparation of an EA or EIS (23 CFR 771.117(c)-(d));

Whereas, the Delaware Department of Transportation (DelDOT) 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 the DelDOT projects (23 CFR 771.109);

Whereas, Section 1318(d) of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405 (July 6, 2012), allows FHWA to enter into programmatic agreements with the States that establish efficient administrative procedures for carrying out environmental and other required project reviews, including agreements that allow a State to determine whether a project qualifies for a CE on behalf of FHWA;

Whereas, the FHWA developed regulations implementing the authorities in section 1318(d), effective November 6, 2014 (encoded in regulation at 23 CFR 771.117(g));

Whereas, this Agreement supersedes the previous programmatic agreement among FHWA Delaware Division and DelDOT regarding Processing of Certain Categorical Exclusions dated October 23, 2018.

Now, therefore, the FHWA Delaware Division and DelDOT enter into this Programmatic Agreement (“Agreement”) for the processing of categorical exclusions.

I. PARTIES

The Parties to this Agreement are the Federal Highway Administration (“FHWA”) Delaware Division and the Delaware Department of Transportation (“DelDOT”).

II. PURPOSE

The purpose of this Agreement is to authorize DelDOT to determine on behalf of FHWA whether a project qualifies for a categorical exclusion (CE) action specifically listed in 23 CFR 771.117 (current regulation at the time of the Agreement in Appendix A and B). This Agreement also authorizes DelDOT to certify to FHWA that an action not specifically listed in 23 CFR 771.117 but meeting the CE criteria in 40 CFR 1508.4 and 23 CFR 771.117(a), qualified for a CE as long as there are no unusual circumstances present that would require the preparation of either an environment assessment (EA) or an environment impact statement (EIS).

III. AUTHORITIES

This agreement is entered into pursuant to the following authorities:

- A. National Environmental Policy Act, 42 U.S.C. §§ 4321 et seq.
- B. Moving Ahead for Progress in the 21st Century Act, Pub. L. 112-141, 126 Stat. 405, Sec. 1318(d) (July 6, 2012)
- C. Fixing America’s Surface Transportation (FAST) Act, Pub. L. 114-94, 129 Stat. 1312, Sec. 1315 (Dec. 4, 2015)
- D. 40 CFR parts 1500 – 1508
- E. DOT Order 5610. 1C
- F. 23 CFR 771.117

IV. RESPONSIBILITIES

A. The DelDOT 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 IV(A)(1)(b) below, DelDOT may make a CE approval on behalf of FHWA. DelDOT will identify the CE from Appendix A or B, ensure any conditions or constraints are met, verify that unusual circumstances do not apply, address any and all other environmental requirements, and complete the review with a signature evidencing approval. No separate review or approval of the CE by FHWA is required.
 - b. Actions listed in Appendices A and B that exceed the thresholds provided in this section below may not be approved by DelDOT. In these cases, DelDOT will certify to FHWA that the action qualifies for a CE. An action requires FHWA CE review and approval based on DelDOT's certification if the action:
 - i. Involves acquisitions of more than a minor amount of right-of-way except when the project construction cost is less than \$5 Million. A minor amount of right-of-way is defined as one or more of the following:
 - i. Three (3) acres or less of fee simple, permanent easement, or temporary construction easements combined per linear mile of roadway (not an average) for reconstruction, resurfacing, or rehabilitation projects;
 - ii. Two (2) acres or less of fee simple, permanent easement, or temporary construction easements combined for bridge projects;
 - iii. Acquisition of lands for the use of environmental mitigation.
 - ii. Involves acquisitions that result in any residential or non-residential displacements;
 - iii. Results in capacity expansion of a roadway by addition of through lanes;

- iv. Involves the construction of temporary access, or the closure of an existing road bridge, or ramp, that would result in major traffic disruptions, or necessitate the need to make other upfront improvements on other facilities.
- v. Involves the change in access control that pertain to interstate, or where DelDOT concludes that access modification may have wide-reaching effects.
- vi. Results in a determination of adverse effect on historic properties pursuant to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108);
- vii. Requires the use of properties protected by Section 4(f) (49 U.S.C. § 303/23 U.S.C. § 138) that cannot be documented with an FHWA de minimis determination, or a programmatic Section 4(f) evaluation other than the programmatic evaluation for the use of historic bridges;
- viii. Requires the acquisition of lands under the protection of Section 6(f) of the Land and Water Conservation Act of 1965 (54 U.S.C. § 200305), the Federal Aid in Sport Fish Restoration Act (16 U.S.C. § 777-777k, 64 Stat. 430), the Federal Aid in Wildlife Restoration Act (16 U.S.C. § 669-669i; 50 Stat. 917), 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;
- ix. Requires a U.S. Coast Guard bridge permit (33 U.S.C § 401);
- x. Requires construction in, across (with the exception of bridge deck rehabilitation and stabilization confined strictly to road surface work on the structure), or adjacent to a river designated as a component of, or proposed for inclusion in, the National System of Wild and Scenic Rivers published by the U.S. Department of the Interior/U.S. Department of Agriculture;
- xi. Is defined as a “Type I project” per 23 CFR 772.5 and any DelDOT noise policy for purposes of a noise analysis;

- xii. Leads to a finding of “may affect, and is likely to adversely affect” federally listed or candidate species, or proposed or designated critical habitat of species protected by the Endangered Species Act or Migratory Bird Treaty Act, or results in impacts subject to the conditions of the Bald and Golden Eagle Protection Act or the Marine Mammal Protection Act;
 - xiii. Includes acquisition of land for hardship or protective purposes (23 CFR 710.503) or Federally funded early acquisitions of real property interests (23 U.S.C. § 108(d));
 - xiv. Does not conform to the State Implementation Plan which is approved or promulgated by the U.S. Environmental Protection Agency in air quality non-attainment areas;
 - xv. Is not included in or are inconsistent with the statewide transportation improvement program, and in applicable urbanized areas, the transportation improvement program; or
 - xvi. Is not consistent with the State’s Coastal Zone Management Plan.
- c. The DelDOT may not approve actions not specifically listed in CEs in Appendix A and B, but meet the requirements of a CE under 40 CFR 1501.4 and 23 CFR 771.117(a). Instead, DelDOT shall certify to FHWA, in accordance with Section IV(A)(1)(c)(i) that an action will not result in significant environmental impacts, and that the action qualifies for a CE and does not involve unusual circumstances that warrant the preparation of an EA or EIS. The FHWA shall either agree in writing that an action qualifies as a CE or direct DelDOT to prepare an EA or EIS.
2. If requested by the Division Office, DelDOT shall provide a copy of the CE documentation prepared for the action(s) in accordance with Section V of this Agreement.
- a. If any project requires a Section 4(f) document (including de minimis determination, net benefit determination, programmatic agreement, or Individual 4(f) Evaluation), DelDOT shall submit the 4(f) documentation for FHWA determination and approval prior to approval of the CE by either DelDOT or FHWA as per Section IV.A.1.

3. DelDOT may request notice to proceed with final design, acquisition of right-of-way, advanced utility relocation, or construction from FHWA once CE approval is provided by DelDOT or FHWA as per Section IV.A.1.
4. The Division Office's objection to a DelDOT certification may not constitute a disapproval of the action but signifies that FHWA will need to engage in project-specific review to verify that the certification is adequate, which may include consultation with other agencies.
5. Consulting with FHWA for actions that involve unusual circumstances (23 CFR §771.117(b)), to determine the appropriate class of action for environmental analysis and documentation. DelDOT may decide or FHWA may require additional studies to be performed prior to making a CE approval, or the preparation of an EA or EIS.
6. Meeting applicable documentation requirements in Section V for State CE approvals on FHWA's behalf and State CE certifications to FHWA, applicable approval and re-evaluation requirements in Section VI, and applicable monitoring and performance requirements in Section VII.
7. Relying only upon employees directly employed by the State to make CE approvals or certifications to FHWA under this agreement. DelDOT may not delegate its responsibility for CE approvals or certifications to third parties (i.e., consultants, local government staff, and other State agency staff).

C. The FHWA is responsible for:

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

V. DOCUMENTATION OF DELDOT CE APPROVALS AND CERTIFICATIONS

- A. For State CE approvals and State CE certifications to FHWA for approval, DelDOT shall ensure that it fulfills the following responsibilities for documenting the project-specific determinations made:
1. For CE approvals made on behalf of FHWA, DelDOT will identify the applicable action, ensure any conditions specified in FHWA regulations are met, verify that unusual circumstances do not apply, address all other environmental requirements, and complete the review with a DelDOT signature on the documentation included in Appendix C or email and/or form evidencing approval.
 2. For actions listed in 23 CFR 711.117(d) and those listed as “CE not categorized”, DelDOT shall prepare documentation that supports the CE determination and that no unusual circumstances exist that would make the CE approval inappropriate.
- B. DelDOT shall maintain a project record for CE approvals it makes on FHWA’s behalf and each CE submitted to FHWA for approval. This record should include at a minimum:
1. Any checklists, forms, other documents, and/or exhibits that summarize the consideration of project effect and unusual circumstances;
 2. Any summary of public involvement complying with the requirements of FHWA approved public involvement policy;
 3. Any stakeholder communication, correspondence, consultation, or public meeting documentation;
 4. The name and title of the document approver and the date of DelDOT’s approval or FHWA’s final approval; and
 5. For cases involving re-evaluations, and documented re-evaluation (when required) or a statement that a re-evaluation was completed for the project (when documentation is not necessary).
- C. Any electronic or paper project records maintained by DelDOT should be provided to FHWA upon request. DelDOT will retain those records, including all letters and

comments received from governmental agencies, the public, and others for a period of no less than three (3) years after completion of project construction. This 3-year retention provision does not relieve DelDOT of its project or program recordkeeping responsibilities under 2 CFR 200.333 or any other applicable laws, regulations, or policies.

VI. NEPA APPROVALS AND RE-EVALUATIONS

- A. DelDOT approval of CEs listed in Appendix A and B and certification of CEs submitted to the FHWA Division Office for individual approval has only been delegated to and may only be made by DelDOT Environmental Staff identified below:
1. Recommendation of Appendix A CEs is performed by DelDOT NEPA Supervisor. Approval of Appendix A CEs is delegated to the DelDOT Environmental Stewardship Manager. In the event of staff vacancies or absence preventing the duties described above, staff designated as “acting” or at supervisory positions above those specified may assume these roles and responsibilities.
 2. Recommendation of Appendix B CE certification is performed by DelDOT Environmental Stewardship Manager. Certification of Appendix B CEs to per Section IV.A.1 is delegated to DelDOT’s Assistant Director for Environmental & Administrative Support. In the event of staff vacancies or absence preventing the duties described above, staff designated as “acting” or at supervisory positions above those specified may assume these roles and responsibilities.
 3. Unless precluded by staff vacancies DelDOT’s approval of CEs and certifications of CEs submitted to the FHWA are to be prepared and subsequently approved by separate qualified DelDOT Environmental Staff.
 4. DelDOT Environmental Stewardship staff member may not both recommend and certify a single document. Separate staff members are necessary to perform these actions.
- B. In accordance with 23 CFR 771.129, DelDOT shall re-evaluate its determinations and certifications for projects, consult with FHWA, and as necessary, prepare additional documentation to ensure that determinations are still valid.

VII. QUALITY CONTROL/QUALITY ASSURANCE, MONITORING & PERFORMANCE

A. DelDOT Quality Control and Quality Assurance

1. DelDOT 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 laws and this Agreement.

B. DelDOT Performance Monitoring and Reporting

1. The FHWA and DelDOT agree to cooperate in monitoring performance under this Agreement and work to assure quality performance.
2. DelDOT shall annually submit to FHWA a report summarizing its performance under this agreement and shall include a complete list of CEs certified by DelDOT, CEs approved by FHWA, and any re-evaluations. The report will be based on a fiscal year and will be submitted to FHWA by October 31st of every year. The report will identify any areas where improvement is needed and what measures DelDOT is taking to implement those improvements. The report will include a description of actions taken by DelDOT as part of its quality control efforts under Section VII(A).

C. FHWA Oversight and Monitoring

1. Monitoring by FHWA will include consideration of the technical competency and organizational capacity of DelDOT, as well as DelDOT's performance of its CE processing functions. Performance considerations include, without limitation, the quality and consistency of DelDOT's CE approvals, CE submissions to FHWA for approval, adequacy and capability of DelDOT staff and consultants, and the effectiveness of DelDOT's administration of its internal CE approvals.
2. FHWA Delaware Division will conduct one or more program reviews as part of its oversight activities during the term of this agreement. Upon receiving DelDOT's Annual Report, a decision to conduct a program review will be determined within 45 days. DelDOT shall prepare and implement a corrective action plan to address any findings or observations identified in the FHWA review. DelDOT should draft the corrective action plan within 45 days of FHWA finalizing its review. The results of that review and corrective actions

taken by DelDOT 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 DelDOT's performance under this Agreement. The FHWA may require DelDOT 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. DelDOT agrees to cooperate with FHWA in all oversight and quality assurance activities.

VIII. AMENDMENTS

- A. If the parties agree to amend this Agreement, then FHWA and DelDOT 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. Each attachment to this Agreement may be individually amended through consultation of the signatory parties without requiring amendment of the Agreement unless the signatory parties through such consultation decided otherwise.

IX. TERM, RENEWAL, AND DETERMINATION

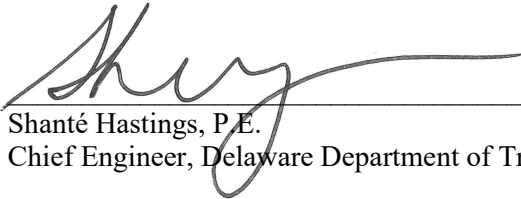
- A. This Agreement shall have a term of five (5) years, effective on the date of the last signature. DelDOT shall post and maintain an executed copy of this Agreement on its website, available to the public.
- B. This Agreement is renewable for additional five (5) year terms if DelDOT requests renewal and FHWA determines that DelDOT 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 DelDOT 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.

Douglas S. Atkin, P.E.
Division Administrator, Delaware Division
Federal Highway Administration

10/12/2023

Date



Shanté Hastings, P.E.
Chief Engineer, Delaware Department of Transportation

10/11/2023

Date

Appendix A: CEs listed in 23 CFR 771.117(c)

The following actions meet the criteria for CEs in the CEQ regulation (section 1508.4) and §771.117(a) of this regulation and normally do not require any further NEPA approvals by the FHWA.

Those actions highlighted with an asterisks shall be processed via e-mail and/or form confirming that no unusual circumstances (23 CFR 771.117(b)) exist that would make the CE approval inappropriate. All other actions will be documented with the appropriate CE Checklist Form.

- (1)* Activities that 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 that 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 that 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 means all real property interests acquired for the construction, operation, or mitigation of a project. This area includes the features associated with the physical footprint of the project including but not limited to the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, and any rest areas with direct access to a controlled access highway. This also includes fixed guideways, mitigation areas, areas maintained or used for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transportation power substations, transportation venting structures, and transportation maintenance facilities.
- (23) Federally-funded projects:
 - i. That receive less than \$5,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor, see www.fhwa.dot.gov or www.fta.dot.gov) of Federal funds; or
 - ii. With a total estimated cost of not more than \$30,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor, see www.fhwa.dot.gov or www.fta.dot.gov) 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 listed in Section IV.A.1.b of this Agreement.
- (27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints listed in Section IV.A.1.b of this Agreement.
- (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 listed in Section IV.A.1.b of this Agreement.
- (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.

Appendix B: CEs listed in 23 CFR 771.117(d)

Additional actions or projects which meet the criteria for a CE in the CEQ regulations (40 C.F.R. 1508.4) and paragraph (a) of this section may be designated as CEs only after FHWA approval. DelDOT shall submit adequate documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:

- (1) Reserved for the Future.
- (2) Reserved for the Future.
- (3) Reserved for the Future.
- (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 23 CFR 771.117 that do not meet the constraints in Section IV.A.1.b of this Agreement.

Where a pattern emerges of granting CE status for a particular type of action, the Administration will initiate rulemaking proposing to add this type of action to the list of categorical exclusions in paragraph (c) or (d) of this section, as appropriate.

[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988, as amended at 70 FR 24469, May 9, 2005; 74 FR 12529, Mar. 24, 2009 as amended at 78 FR 8982, Feb. 7, 2013 78 FR 8983, Feb. 7, 2013, as amended at 78 FR 1 1602, Feb. 19, 2013; 79 FR 2118, Jan. 13, 2014; 79 FR 60116, Oct. 6, 2014, 81 FR 34274, May 31, 2016]

Appendix C: CE Checklists



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
 800 BAY ROAD
 P.O. BOX 778
 DOVER, DELAWARE 19903

NICOLE MAJESKI
 SECRETARY

Date

Mr. Douglas S. Atkin
 Division Administrator
 FHWA – Delaware Division
 1201 College Park Road, Suite 102
 Dover, Delaware 19904

Dear Mr. Atkin:

The attached information supports the Department’s environmental determination for the following project.

Project Title Project Title
 Contract No. State Project No. FAP No. Federal Project No.

This project will be administered under the FHWA Stewardship and Oversight Agreement. Your approval in this determination is requested as per 23 CFR Part 771. This project has been processed and approved in accordance with the DelDOT/FHWA Programmatic Agreement regarding the processing of certain Categorical Exclusion Actions. This project meets the criteria for a Categorical Exclusion pursuant to 23 CFR 771.117 and will not result in significant impacts to the human or natural environment. Please provide a copy of the signed approval form to the recipients below. Thank you.

Sincerely,

John Caruano, P.E.
 Chief of E&AS

Attachments

- cc: Federal Highway Administration
 Maureen Kelley, Deputy Director Design, DOTS
 John Caruano, Chief of E&AS, DOTS
 Anna Smith, Environmental Manager, Environmental Stewardship, DOTS
 Wendy March, Environmental Specialist Supervisor, Environmental Stewardship, DOTS
Insert DelDOT Project Manager
Insert DelDOT Project Supervisor
 Christie Bonniwell, Interim NEPA Specialist, Environmental Stewardship, DOTS
 Christine Lively, External Audit Supervisor, DOTS
 Helen Banks, Administrative Specialist III, Engineering Support, DOTS
 Finance Team
 ROW Team



Project Information	
State Project No: State Project No.	Federal Project No: Federal Project No.
Project Title: Project Title	
Year: <i>Year</i>	Funding Code: <i>Funding</i>
County: <i>County</i>	Federal Participating Percentage: <i>Percent</i>
District: <i>District</i>	Section Assigned to: <i>Section assigned to</i>
Project Phase: <i>Project phase</i>	
Does the project have logical termini and independent utility? Yes/No	

Estimated Project Cost and Schedule	
Right-of-Way: \$ <i>Cost</i>	Construction: \$ <i>Cost</i>
Is the next phase of funding available on the STIP? <i>Yes/No</i>	
Anticipated Start Date of Construction <i>Anticipated start</i>	

CE Conditions	
<input type="checkbox"/> This project has no substantial public or agency controversy on environmental grounds.	
<input type="checkbox"/> This project conforms to current CTP, STIP, and TIP.	
<input type="checkbox"/> This project has a logical termini and independent utility.	

District Determination and Approval	
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Recommended by:	NEPA Coordinator, DOTS	Date:
Reviewed by:	Assistant Director, Engineering Support, DOTS	Date:
Approved by:	Delaware Division Administrator (or designee), FHWA	Date:

Note 1: Per 23 CFR 771.129(c), a re-evaluation may be required if the project is moving into the next major Federal authorization for a project; there are changes in the proposed action that could potentially result in significant effects on the environment, unanticipated impacts have become known, or applicable regulations have changed; or there has been a lapse of time from the approval of the decision document.

Project Title	State Project No.
Purpose: <i>Purpose</i>	
Need: <i>Need</i>	
Existing Conditions: <i>Existing Conditions</i>	
Project Description / Proposed Condition: <i>Project Description/ Proposed Condition</i>	
Alternatives considered (if applicable): <i>No build or any alternatives considered</i>	

	Existing		Proposed	
Road Name/Bridge Name	<i>Road Name/Bridge Name</i>			
Number of Lanes	X		X	
Type of Lanes:	X		X	
Lane Width:	X		X	
Shoulder Width:	X	ft./inch	X	ft./inch
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[Link to the guidebook](#)

Human and Built Environment

No.	Resource Area	Questions	Yes	No																																				
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3	Social Impacts	Are any community facilities (i.e., schools, churches, recreation facilities) either directly or indirectly impacted?	<input type="checkbox"/>	<input type="checkbox"/>																																				
		Will the project provide better connections to community facilities/neighborhoods?	<input type="checkbox"/>	<input type="checkbox"/>																																				
	<p><i>Describe the character of the communities within the project area. Identify any changes that may affect connections or access to community facilities or neighborhoods, including other transportation modes (bicycle, pedestrian, bus stops).</i></p>																																							
4	Land Use	Will the project result in a permanent change in local land use?	<input type="checkbox"/>	<input type="checkbox"/>																																				
		Are secondary or indirect effects likely to result from the project (such as reasonably foreseeable increases in growth or population density)?	<input type="checkbox"/>	<input type="checkbox"/>																																				
	<p><i>Describe the land use, including planned developments, and setting within the project area and describe any permanent change in local or regional land use. Consider the master plan for the area and note whether the project is in a designated growth area. Describe potential secondary or indirect effects that may occur as a result of the project.</i></p>																																							

Human and Built Environment

No.	Resource Area	Questions	Yes	No
5	Economic Impacts	Will the project temporarily change commercial property access during construction?	<input type="checkbox"/>	<input type="checkbox"/>
		Will the project permanently change commercial properties after construction?	<input type="checkbox"/>	<input type="checkbox"/>
		Will the project have any adverse effects on the local, regional, or statewide economy?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Describe any changes in commercial property access during and after construction. Explain the benefits and impacts of the project on business operations and describe any adverse effects on the local, regional, or statewide economy.</i>				
6	Modal Impacts	Can traffic be maintained on site during construction?	<input type="checkbox"/>	<input type="checkbox"/>
		Will temporary detours impact any of the modes below? (If yes, attach detour plans)	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/> Pedestrian <input type="checkbox"/> Bicycle <input type="checkbox"/> Transit <input type="checkbox"/> Bus Stop <input type="checkbox"/> Roads			
	<i>Include a statement noting traffic maintenance and public notification requirements will follow the Delaware Manual on Uniform Traffic Control Devices (DE MUTCD). Summarize maintenance of traffic and any requirements for temporary detours during construction. Describe pedestrian, bicycle, and transit or bus stop access changes and detours during construction. Attach detour plan(s).</i>			
7	Environmental Justice	Are there minority or low-income populations within the project area that would qualify under Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 14096, Revitalizing Our Nation's Commitment to Environmental Justice for All, and the U.S. Department of Transportation Order 5610.2C and 6640.23A?	<input type="checkbox"/>	<input type="checkbox"/>
		Will the project cause disproportionate and adverse effects to these populations?	<input type="checkbox"/>	<input type="checkbox"/>
	<i>Refer to the EPA's EJSCREEN Mapping Tool (https://ejscreen.epa.gov/mapper/) to identify whether census block groups with high percentages of people of color or high percentages of families with low income are located in the project vicinity. If there are, please attach the EJSCREEN maps and explain the benefits and impacts of the project and whether the negative impacts will cause disproportionately high and adverse effects.</i>			
8	Cultural Resources	Will any historic properties be affected?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project fall under the DeIDOT Programmatic Agreement with DE SHPO, FHWA, and the ACHP for compliance with Section 106 of the National Historic Preservation Act (NHPA)?	<input type="checkbox"/>	<input type="checkbox"/>
		If yes to the PA, which stipulation does the project fall under? Select II or III		
		Is there potential for impact to archeological resources?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Describe all efforts to document cultural resources, including a summary of the Section 106 process. Information should include all applicable studies, correspondence with SHPO and Federal Tribes.</i>				
9	Section 4(f)/Section 6(f)	Are there any publicly owned parks, publicly owned recreational areas, or national wildlife refuge areas? If yes, identify resources below.	<input type="checkbox"/>	<input type="checkbox"/>
		Will there be a Section 4(f) use of the property?	<input type="checkbox"/>	<input type="checkbox"/>
		If parks or recreational resources are within the potential project impact area, have funds provided through Section 6(f) of the Land and Water Conservation Fund Act been used to purchase, develop, or buy equipment for the property?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Describe all permanent, temporary impacts. If a resource is present but no use is anticipated, describe why there would be no use. If mitigation is incorporated include that information.</i>				
10	Air Quality	Will the project result in meaningful changes in traffic volumes, vehicular mix, location of existing facilities, or factors that would cause	<input type="checkbox"/>	<input type="checkbox"/>

Human and Built Environment

No.	Resource Area	Questions	Yes	No
		an increase in emissions relative to a no-build alternative? (If no, this project will not generate air quality impacts for the Clean Air Act pollutants and is not linked with any special Mobile Source Air Toxics (MSAT) concerns. Consequently, this project is exempt from an analysis for MSATs.)		
		Is the project in an Air Quality non-attainment or maintenance area for a National Ambient Air Quality Standard (NAAQS)?	<input type="checkbox"/>	<input type="checkbox"/>
		Is the project included in DelDOT's current Capital Transportation Program? (If yes, this project is exempt from the requirement that a conformity determination be made based upon USEPA Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects - Final Rule. Projects that 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).	<input type="checkbox"/>	<input type="checkbox"/>
	Plan which includes the project (i.e., DelDOT's FY 2023-2028 CTP) Click or tap here to enter text.			
	<i>Refer to FHWA's Updated Interim Guidance on Mobile Source Air Toxic Analysis in NEPA Documents dated January 18, 2023 to determine if MSATs analysis is required. If the project is not in attainment, explain. If the project is not included in DelDOT's current Capital Transportation Program, is the project located within a plan that has met the U.S. Environmental Protection Agency Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects – Final Rule?</i>			
11	Noise	Which type of Noise project does the project qualify for? Noise project type		
		Effective policy date: Click or tap to enter a date.		
		If this is a Type I project, are there impacts to noise sensitive receptors?	<input type="checkbox"/>	<input type="checkbox"/>
		If there are impacts to noise sensitive receptors, is mitigation feasible and reasonable?	<input type="checkbox"/>	<input type="checkbox"/>
		Will there be potential for extended work hours during construction?	<input type="checkbox"/>	<input type="checkbox"/>
	Noise Report Date: Click or tap to enter a date.			
	<i>For all projects, reference to FHWA Noise Regulation and DOT noise policy, identify project type. If a noise report was prepared, state that the noise study report is in the technical files; identify all impacts to noise-sensitive land uses, and whether they are due to Noise Abatement Criteria (NAC), substantial increase, or both; summarize conclusions of noise abatement evaluation (including feasibility and reasonable results, public involvement meetings that were held as part of the noise analysis process); identify impacts that will not be mitigated; include statement of likelihood and information for local officials.</i>			
12	Hazardous Material	Does the project involve hazardous materials sites of concern such as potentially contaminated sites or leaking underground storage tanks (LUSTs)?	<input type="checkbox"/>	<input type="checkbox"/>
		Is a waterway involved that would have any contaminants of concern?	<input type="checkbox"/>	<input type="checkbox"/>
		Does any material to be removed during construction need special handling?	<input type="checkbox"/>	<input type="checkbox"/>
	Date review of hazardous materials review: Click or tap to enter a date.			
	<i>Describe the date and sources for investigating records of hazardous materials. Describe any potentially contaminated sites and their status, and results of any preliminary site investigations (attach correspondence). Include any recommendations for further investigations or special provisions.</i>			
13	Other		<input type="checkbox"/>	<input type="checkbox"/>
	<i>Add any other pertinent information.</i>			

Natural Environment

No.	Resource Area	Questions	Yes	No
14	Water Quality	Does the project adversely affect water quality of lakes, streams, wetlands, etc.?	<input type="checkbox"/>	<input type="checkbox"/>
		Will there be “significant encroachment” as defined in 23 CFR 650.105 on a 100-year floodplain?	<input type="checkbox"/>	<input type="checkbox"/>
		Will the E&S control plan provide measures to minimize construction effects upon the watersheds?	<input type="checkbox"/>	<input type="checkbox"/>
		Is the project located within a Sole Source Aquifer, of the type requiring review by the USEPA?	<input type="checkbox"/>	<input type="checkbox"/>
		If yes, has the project received a favorable response from USEPA’s review?	<input type="checkbox"/>	<input type="checkbox"/>
		Will the project add or change resources (i.e. stormwater BMPs), if yes, describe below?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Describe any work that will occur in a floodplain. Include what type of floodplain that is identified on any floodplain mapping. Include a statement noting the project will follow all DNREC Stormwater and Sediment regulations.</i>				
15	Fish and Wildlife	Have rare, threatened, or endangered species or habitat been identified in the project area (including migratory birds, fisheries etc.)?	<input type="checkbox"/>	<input type="checkbox"/>
		Have Bald or Golden Eagles been identified in the project area?	<input type="checkbox"/>	<input type="checkbox"/>
		Is there potential for impact to the Northern Long Eared Bat?	<input type="checkbox"/>	<input type="checkbox"/>
		Will time of year restrictions (TOYR) or mitigation measures be required? (If yes, add detail below)	<input type="checkbox"/>	<input type="checkbox"/>
Date of U.S. Fish and Wildlife Service (USFWS) IPaC: Click or tap to enter a date. Date of USFWS No Effect Letter (if applicable): Click or tap to enter a date. Date of Delaware Department of Natural Resources (DNREC) Correspondence: Click or tap to enter a date.				
<i>Describe what species were identified on the queries and what each time of year restriction is required. If there is additional information given for TOYR, include also.</i>				
16	Wetlands / Streams	Are there streams or wetlands in the area?	<input type="checkbox"/>	<input type="checkbox"/>
		Was a wetland / stream delineation performed?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project impact streams or wetlands?	<input type="checkbox"/>	<input type="checkbox"/>
		Is mitigation required?	<input type="checkbox"/>	<input type="checkbox"/>
		U.S. Army Corps of Engineers (USACE)?	<input type="checkbox"/>	<input type="checkbox"/>
		DNREC?	<input type="checkbox"/>	<input type="checkbox"/>
Date delineation was performed: Click or tap to enter a date.				
<i>Describe the amount of impacts and who the regulatory agency is for those impacts. Also include any open water impact descriptions. If mitigation is required, describe the anticipated mitigation totals and/or ratios. If offsite mitigation is being used, include a map showing the project site and mitigation location.</i>				
17	Natural Resources	Are there prime or important farmland soils impacted by this project as defined by the Farmland Protection Policy Act (FPPA)?	<input type="checkbox"/>	<input type="checkbox"/>
		Will this project convert farmland to nonagricultural uses?	<input type="checkbox"/>	<input type="checkbox"/>
		If farmland is present, is the farmland protected under Ag Preservation?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project affect a state or federal Wild and Scenic River?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Describe any impacts to farmland and/or Wild and Scenic Rivers.</i>				
18	Other		<input type="checkbox"/>	<input type="checkbox"/>
	<i>Add any other pertinent information.</i>			

Permit/ Regulatory Agency Coordination

No.	Resource Area	Questions	Yes	No
19	USFWS	Is an Endangered Species Act (ESA) determination unresolved or is the project covered by a Programmatic Agreement under Section 7? If yes, please describe why.	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Describe why the ESA determination is unresolved or if it is covered by a Programmatic Agreement.</i>		
20	National Maine Fisheries Service (EFH)	Does the project require formal consultation with NMFS?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Describe if the project will be requiring formal consultation.</i>		
21	NOAA ESA	Does the project require formal consultation with NOAA?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Describe if the project is covered by a Programmatic Agreement or if further consultation is occurring.</i>		
22	Land Water Conservation Fund Act	Does the project require a Section 6(f) approval?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Additional comments as required if "yes" is checked.</i>		
23	USACE	Does the project require a USACE Individual Section 404 Permit?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project require a USACE Section 10 Permit?	<input type="checkbox"/>	<input type="checkbox"/>
		What Nationwide Permit is required? Type in the Nationwide	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include any comments if a project requires a Preconstruction notification.</i>		
24	U.S. Department of Transportation (USDOT)	Does the project require an Individual Section 4(f) approval under USDOT Act of 1966?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project include a <i>de minimis</i> or programmatic Section 4(f)?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include any information regarding the Individual approval or information regarding the de minimis or PA.</i>		
25	U.S. Coast Guard (USCG)	Does the project require a USCG permit?	<input type="checkbox"/>	<input type="checkbox"/>
		Was a Bridge Questionnaire completed?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Reference coordination level, i.e. advanced approval, permit, etc.</i>		
26	Federal Lands	Does the project impact Federal lands (i.e., U.S. Forest Service, (USFS), USFWS, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Describe what Federal lands are being impacted and any coordination obtained.</i>		
27	DNREC WLSL	Does the project require a Wetlands and Subaqueous Lands Section (WLSL) permit?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project fall into a special exemption? Select one		
		<i>Include any additional information that will be relevant to the permit, for example watershed acreage. This information will validate which special exemption is being used.</i>		
28	New Castle County	Does the project require a floodplain permit?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include information detailing why a New Castle County floodplain permit is required.</i>		
29	City of Wilmington	Does the project require a City of Wilmington floodplain permit?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include information detailing why a City of Wilmington floodplain permit is required.</i>		
30	DNREC	Does the project require Water Quality Consistency?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project require Coastal Zone Consistency?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include a statement that details the issuance of WQU and CZC when using certain Nationwide Permits.</i>		
31	DNREC CZMA	Does the project require Coastal Zone Management Act concurrence?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include information detailing why concurrence will be required.</i>		

Appendices (include as applicable)

- Location map showing project limits
- Plan cover sheet and image of typical section (s)
- Construction Plan Sheets
- Regulatory/ resource agency comments (USFWS and DNREC)
- Cultural Resources documentation including Federal Tribal coordination, Memorandum of Agreements
- Hazardous materials coordination
- Detour Plan
- Relevant images
- Other



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

Date

Ms. Charlanne Clymer
Director of Finance
Delaware Department of Transportation
P.O. Box 778
Dover, DE 19903

Dear Ms. Clymer:

The attached information supports the Department's environmental determination for the following project.

Project Title Project Title
Contract No. State Project No. FAP No. Federal Project No.

This project will be administered under the FHWA Stewardship and Oversight Agreement. This project has been processed and approved in accordance with the DelDOT/FHWA Programmatic Agreement regarding the processing of certain Categorical Exclusion Actions. This project meets the criteria for a Categorical Exclusion pursuant to 23 CFR 771.117 and will not result in significant impacts to the human or natural environment.

Sincerely,

John Caruano, P.E.
Chief of E&AS

Attachments

cc: Federal Highway Administration
Maureen Kelley, Deputy Director Design, DOTS
John Caruano, Chief of E&AS, DOTS
Anna Smith, Environmental Manager, Environmental Stewardship, DOTS
Wendy March, Environmental Specialist Supervisor, Environmental Stewardship, DOTS
Insert DelDOT Project Manager
Insert DelDOT Project Supervisor
Christie Bonniwell, Interim NEPA Specialist, Environmental Stewardship, DOTS
Christine Levely, External Audit Supervisor, DOTS
Helen Banks, Administrative Specialist III, Engineering Support, DOTS
Finance Team
ROW Team

Project Information	
State Project No: State Project No.	Federal Project No: Federal Project No.
Project Title: Project Title	
Year: <i>Year</i>	Funding Code: <i>Funding</i>
County: <i>County</i>	Federal Participating Percentage: <i>Percent</i>
District: <i>District</i>	Section Assigned to: <i>Section assigned to</i>
Project Phase: <i>Project phase</i>	
Does the project have logical termini and independent utility? Yes/No	

Estimated Project Cost and Schedule	
Right-of-Way: \$ <i>Cost</i>	Construction: \$ <i>Cost</i>
Is the next phase of funding available on the STIP? <i>Yes/No</i>	
Anticipated Start Date of Construction <i>Anticipated start</i>	

PCE Conditions	
<input type="checkbox"/> This project has no substantial public or agency controversy on environmental grounds.	
<input type="checkbox"/> This project conforms to current CTP, STIP, and TIP.	
<input type="checkbox"/> This project has a logical termini and independent utility.	

District Determination and Approval	
Based on the evaluation of this project and the attached documentation, it is determined that the project meets the criteria of and is properly classified as Federal Categorical Exclusion (Class II Action Category 23 CFR 771.117 (Select C or D) (Type what category number). Link to PA	
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Recommended by:	NEPA Coordinator, DOTS	Date:
Approved by:	Assistant Director, Engineering Support, DOTS	Date:

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	<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 30%;">Land Use Impacts</th> <th style="width: 15%;">Relocations (#)</th> <th style="width: 15%;">Acquisition (FEE) (# and Acres)</th> <th style="width: 15%;">Permanent (PE) (# and Acres)</th> <th style="width: 15%;">Temporary (TCE) (# and Acres)</th> </tr> </thead> <tbody> <tr> <td>Residential</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> <tr> <td>Commercial</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> <tr> <td>Agricultural</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> <tr> <td>Public</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> <tr> <td>Other: Explain</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> <tr> <td>TOTAL</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> </tbody> </table>				Land Use Impacts	Relocations (#)	Acquisition (FEE) (# and Acres)	Permanent (PE) (# and Acres)	Temporary (TCE) (# and Acres)	Residential	X	X	X	X	Commercial	X	X	X	X	Agricultural	X	X	X	X	Public	X	X	X	X	Other: Explain	X	X	X	X	TOTAL	X	X	X	X
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TOTAL	X	X	X	X																																			
<p><i>Describe the number, land use, and acreage of parcels that require full acquisition, partial acquisition, permanent easement, and/or temporary construction easements, including relocations (summarize in tabular form). Land use may include residential, commercial, agricultural, public, or other (such as non-profit). Refer to the Uniform Relocation and Real Property Acquisition Act of 1970, as amended.</i></p>																																							
3	Social Impacts	Are any community facilities (i.e., schools, churches, recreation facilities) either directly or indirectly impacted?	<input type="checkbox"/>	<input type="checkbox"/>																																			
		Will the project provide better connections to community facilities/neighborhoods?	<input type="checkbox"/>	<input type="checkbox"/>																																			
<p><i>Describe the character of the communities within the project area. Identify any changes that may affect connections or access to community facilities or neighborhoods, including other transportation modes (bicycle, pedestrian, bus stops).</i></p>																																							
4	Land Use	Will the project result in a permanent change in local land use?	<input type="checkbox"/>	<input type="checkbox"/>																																			
		Are secondary or indirect effects likely to result from the project (such as reasonably foreseeable increases in growth or population density)?	<input type="checkbox"/>	<input type="checkbox"/>																																			
<p><i>Describe the land use, including planned developments, and setting within the project area and describe any permanent change in local or regional land use. Consider the master plan for the area and note whether the project is in a designated growth area. Describe potential secondary or indirect effects that may occur as a result of the project.</i></p>																																							

Human and Built Environment

No.	Resource Area	Questions	Yes	No
5	Economic Impacts	Will the project temporarily change commercial property access during construction?	<input type="checkbox"/>	<input type="checkbox"/>
		Will the project permanently change commercial properties after construction?	<input type="checkbox"/>	<input type="checkbox"/>
		Will the project have any adverse effects on the local, regional, or statewide economy?	<input type="checkbox"/>	<input type="checkbox"/>
	<i>Describe any changes in commercial property access during and after construction. Explain the benefits and impacts of the project on business operations and describe any adverse effects on the local, regional, or statewide economy.</i>			
6	Modal Impacts	Can traffic be maintained on site during construction?	<input type="checkbox"/>	<input type="checkbox"/>
		Will temporary detours impact any of the modes below? (If yes, attach detour plans)	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/> Pedestrian <input type="checkbox"/> Bicycle <input type="checkbox"/> Transit <input type="checkbox"/> Bus Stop <input type="checkbox"/> Roads			
	<i>Include a statement noting traffic maintenance and public notification requirements will follow the Delaware Manual on Uniform Traffic Control Devices (DE MUTCD). Summarize maintenance of traffic and any requirements for temporary detours during construction. Describe pedestrian, bicycle, and transit or bus stop access changes and detours during construction. Attach detour plan(s).</i>			
7	Environmental Justice	Are there minority or low-income populations within the project area that would qualify under Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 14096, Revitalizing Our Nation's Commitment to Environmental Justice for All, and the U.S. Department of Transportation Order 5610.2C and 6640.23A?	<input type="checkbox"/>	<input type="checkbox"/>
		Will the project cause disproportionate and adverse effects to these populations?	<input type="checkbox"/>	<input type="checkbox"/>
	<i>Refer to the EPA's EJSCREEN Mapping Tool (https://ejscreen.epa.gov/mapper/) to identify whether census block groups with high percentages of people of color or high percentages of families with low income are located in the project vicinity. If there are, please attach the EJSCREEN maps and explain the benefits and impacts of the project and whether the negative impacts will cause disproportionately high and adverse effects.</i>			
8	Cultural Resources	Will any historic properties be affected?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project fall under the DeIDOT Programmatic Agreement with DE SHPO, FHWA, and the ACHP for compliance with Section 106 of the National Historic Preservation Act (NHPA)?	<input type="checkbox"/>	<input type="checkbox"/>
		If yes to the PA, which stipulation does the project fall under? Select II or III		
		Is there potential for impact to archeological resources?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Describe all efforts to document cultural resources, including a summary of the Section 106 process. Information should include all applicable studies, correspondence with SHPO and Federal Tribes.</i>				
9	Section 4(f)/Section 6(f)	Are there any: publicly owned parks, publicly owned recreational areas, or national wildlife refuge areas? If yes, identify resources below.	<input type="checkbox"/>	<input type="checkbox"/>
		Will there be a Section 4(f) use of the property?	<input type="checkbox"/>	<input type="checkbox"/>
		If parks or recreational resources are within the potential project impact area, have funds provided through Section 6(f) of the Land and Water Conservation Fund Act been used to purchase, develop, or buy equipment for the property?	<input type="checkbox"/>	<input type="checkbox"/>
	<i>Describe all permanent, temporary impacts. If a resource is present but no use is anticipated, describe why there would be no use. If mitigation is incorporated include that information.</i>			
10	Air Quality	Will the project result in meaningful changes in traffic volumes, vehicular mix, location of existing facilities, or factors that would cause	<input type="checkbox"/>	<input type="checkbox"/>

Human and Built Environment

No.	Resource Area	Questions	Yes	No
		an increase in emissions relative to a no-build alternative? (If no, this project will not generate air quality impacts for the Clean Air Act pollutants and is not linked with any special Mobile Source Air Toxics (MSAT) concerns. Consequently, this project is exempt from an analysis for MSATs.)		
		Is the project in an Air Quality non-attainment or maintenance area for a National Ambient Air Quality Standard (NAAQS)?	<input type="checkbox"/>	<input type="checkbox"/>
		Is the project included in DelDOT's current Capital Transportation Program? (If yes, this project is exempt from the requirement that a conformity determination be made based upon USEPA Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects - Final Rule. Projects that 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).	<input type="checkbox"/>	<input type="checkbox"/>
	Plan which includes the project (i.e., DelDOT's FY 2023-2028 CTP) Click or tap here to enter text.			
	<i>Refer to FHWA's Updated Interim Guidance on Mobile Source Air Toxic Analysis in NEPA Documents dated January 18, 2023 to determine if MSATs analysis is required. If the project is not in attainment, explain. If the project is not included in DelDOT's current Capital Transportation Program, is the project located within a plan that has met the U.S. Environmental Protection Agency Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects – Final Rule?</i>			
11	Noise	Which type of Noise project does the project qualify for? Noise project type		
		Effective policy date: Click or tap to enter a date.		
		If this is a Type I project, are there impacts to noise sensitive receptors?	<input type="checkbox"/>	<input type="checkbox"/>
		If there are impacts to noise sensitive receptors, is mitigation feasible and reasonable?	<input type="checkbox"/>	<input type="checkbox"/>
		Will there be potential for extended work hours during construction?	<input type="checkbox"/>	<input type="checkbox"/>
	Noise Report Date: Click or tap to enter a date.			
	<i>For all projects, reference to FHWA Noise Regulation and DOT noise policy, identify project type. If a noise report was prepared, state that the noise study report is in the technical files; identify all impacts to noise-sensitive land uses, and whether they are due to Noise Abatement Criteria (NAC), substantial increase, or both; summarize conclusions of noise abatement evaluation (including feasibility and reasonable results, public involvement meetings that were held as part of the noise analysis process); identify impacts that will not be mitigated; include statement of likelihood and information for local officials.</i>			
12	Hazardous Material	Does the project involve hazardous materials sites of concern such as potentially contaminated sites or leaking underground storage tanks (LUSTs)?	<input type="checkbox"/>	<input type="checkbox"/>
		Is a waterway involved that would have any contaminants of concern?	<input type="checkbox"/>	<input type="checkbox"/>
		Does any material to be removed during construction need special handling?	<input type="checkbox"/>	<input type="checkbox"/>
	Date review of hazardous materials review: Click or tap to enter a date.			
	<i>Describe the date and sources for investigating records of hazardous materials. Describe any potentially contaminated sites and their status, and results of any preliminary site investigations (attach correspondence). Include any recommendations for further investigations or special provisions.</i>			
13	Other		<input type="checkbox"/>	<input type="checkbox"/>
	<i>Add any other pertinent information.</i>			

Natural Environment

No.	Resource Area	Questions	Yes	No
14	Water Quality	Does the project adversely affect water quality of lakes, streams, wetlands, etc.?	<input type="checkbox"/>	<input type="checkbox"/>
		Will there be “significant encroachment” as defined in 23 CFR 650.105 on a 100-year floodplain?	<input type="checkbox"/>	<input type="checkbox"/>
		Will the E&S control plan provide measures to minimize construction effects upon the watersheds?	<input type="checkbox"/>	<input type="checkbox"/>
		Is the project located within a Sole Source Aquifer, of the type requiring review by the USEPA?	<input type="checkbox"/>	<input type="checkbox"/>
		If yes, has the project received a favorable response from USEPA’s review?	<input type="checkbox"/>	<input type="checkbox"/>
		Will the project add or change resources (i.e. stormwater BMPs), if yes, describe below?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Describe any work that will occur in a floodplain. Include what type of floodplain that is identified on any floodplain mapping. Include a statement noting the project will follow all DNREC Stormwater and Sediment regulations.</i>				
15	Fish and Wildlife	Have rare, threatened, or endangered species or habitat been identified in the project area (including migratory birds, fisheries etc.)?	<input type="checkbox"/>	<input type="checkbox"/>
		Have Bald or Golden Eagles been identified in the project area?	<input type="checkbox"/>	<input type="checkbox"/>
		Is there potential for impact to the Northern Long Eared Bat?	<input type="checkbox"/>	<input type="checkbox"/>
		Will time of year restrictions (TOYR) or mitigation measures be required? (If yes, add detail below)	<input type="checkbox"/>	<input type="checkbox"/>
Date of U.S. Fish and Wildlife Service (USFWS) IPaC: Click or tap to enter a date. Date of USFWS No Effect Letter (if applicable): Click or tap to enter a date. Date of Delaware Department of Natural Resources (DNREC) Correspondence: Click or tap to enter a date.				
<i>Describe what species were identified on the queries and what each time of year restriction is required. If there is additional information given for TOYR, include also.</i>				
16	Wetlands / Streams	Are there streams or wetlands in the area?	<input type="checkbox"/>	<input type="checkbox"/>
		Was a wetland / stream delineation performed?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project impact streams or wetlands?	<input type="checkbox"/>	<input type="checkbox"/>
		Is mitigation required?	<input type="checkbox"/>	<input type="checkbox"/>
		U.S. Army Corps of Engineers (USACE)?	<input type="checkbox"/>	<input type="checkbox"/>
		DNREC?	<input type="checkbox"/>	<input type="checkbox"/>
Date delineation was performed: Click or tap to enter a date.				
<i>Describe the amount of impacts and who the regulatory agency is for those impacts. Also include any open water impact descriptions. If mitigation is required, describe the anticipated mitigation totals and/or ratios. If offsite mitigation is being used, include a map showing the project site and mitigation location.</i>				
17	Natural Resources	Are there prime or important farmland soils impacted by this project as defined by the Farmland Protection Policy Act (FPPA)?	<input type="checkbox"/>	<input type="checkbox"/>
		Will this project convert farmland to nonagricultural uses?	<input type="checkbox"/>	<input type="checkbox"/>
		If farmland is present, is the farmland protected under Ag Preservation?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project affect a state or federal Wild and Scenic River?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Describe any impacts to farmland and/or Wild and Scenic Rivers.</i>				
18	Other		<input type="checkbox"/>	<input type="checkbox"/>
	<i>Add any other pertinent information.</i>			

Permit/ Regulatory Agency Coordination

No.	Resource Area	Questions	Yes	No
19	USFWS	Is an Endangered Species Act (ESA) determination unresolved or is the project covered by a Programmatic Agreement under Section 7? If yes, please describe why.	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Describe why the ESA determination is unresolved or if it is covered by a Programmatic Agreement.</i>		
20	National Maine Fisheries Service (EFH)	Does the project require formal consultation with NMFS?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Describe if the project will be requiring formal consultation.</i>		
21	NOAA ESA	Does the project require formal consultation with NOAA?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Describe if the project is covered by a Programmatic Agreement or if further consultation is occurring.</i>		
22	Land Water Conservation Fund Act	Does the project require a Section 6(f) approval?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Additional comments as required if "yes" is checked.</i>		
23	USACE	Does the project require a USACE Individual Section 404 Permit?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project require a USACE Section 10 Permit?	<input type="checkbox"/>	<input type="checkbox"/>
		What Nationwide Permit is required? Type in the Nationwide	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include any comments if a project requires a Preconstruction notification.</i>		
24	U.S. Department of Transportation (USDOT)	Does the project require an Individual Section 4(f) approval under USDOT Act of 1966?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project include a <i>de minimis</i> or programmatic Section 4(f)?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include any information regarding the Individual approval or information regarding the de minimis or PA.</i>		
25	U.S. Coast Guard (USCG)	Does the project require a USCG permit?	<input type="checkbox"/>	<input type="checkbox"/>
		Was a Bridge Questionnaire completed?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Reference coordination level, i.e. advanced approval, permit, etc.</i>		
26	Federal Lands	Does the project impact Federal lands (i.e., U.S. Forest Service, (USFS), USFWS, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Describe what Federal lands are being impacted and any coordination obtained.</i>		
27	DNREC WLSL	Does the project require a Wetlands and Subaqueous Lands Section (WLSL) permit?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project fall into a special exemption? Select one		
		<i>Include any additional information that will be relevant to the permit, for example watershed acreage. This information will validate which special exemption is being used.</i>		
28	New Castle County	Does the project require a floodplain permit?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include information detailing why a New Castle County floodplain permit is required.</i>		
29	City of Wilmington	Does the project require a City of Wilmington floodplain permit?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include information detailing why a City of Wilmington floodplain permit is required.</i>		
30	DNREC	Does the project require Water Quality Consistency?	<input type="checkbox"/>	<input type="checkbox"/>
		Does the project require Coastal Zone Consistency?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include a statement that details the issuance of WQU and CZC when using certain Nationwide Permits.</i>		
31	DNREC CZMA	Does the project require Coastal Zone Management Act concurrence?	<input type="checkbox"/>	<input type="checkbox"/>
		<i>Include information detailing why concurrence will be required.</i>		

Appendices (include as applicable)

- Location map showing project limits
- Plan cover sheet and image of typical section (s)
- Construction Plan Sheets
- Regulatory/ resource agency comments (USFWS and DNREC)
- Cultural Resources documentation including Federal Tribal coordination, Memorandum of Agreements
- Hazardous materials coordination
- Detour Plan
- Relevant images
- Other