PROGRAMMATIC AGREEMENT
BETWEEN THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION AND
THE NEW YORK STATE DEPARTMENT OF STATE REGARDING THE COASTAL
ZONE MANAGEMENT CONSISTENCY REVIEW PROCESS FOR ELEMENT-
SPECIFIC FEDERAL AID ELIGIBLE HIGHWAY WORK

WHEREAS, the New York State Department of Transportation (NYSDOT), acting by and
through the Commissioner of Transportation, has general and special powers and duties more
fully described in Article 2 of the Highway Law and has general functions, powers, and duties
more fully described Article 2 of the Transportation Law; and

WHEREAS, it is the mission of the NYSDOT to ensure that those who live, work and travel in
New York State have a safe, efficient, balanced and environmentally sound transportation
system; and

WHEREAS, the New York State Department of State (NYSDOS) implements the state Coastal
Management Program that sets forth the objectives, policies, and standards to guide the public
and private uses of coastal lands and water; and

WHEREAS, the coastal zone in New York State is defined (as per 19 NYCRR 600.2(c)) as
including the state’s tidal coastal waters and the adjacent shorelands to approximately one
thousand feet inland, and specifically, Lakes Erie and Ontario, the St. Lawrence and Niagara
Rivers, the Hudson River south of the federal dam at Troy, the East River, the Harlem River, the
Kill Van Kull and Arthur Kill, Long Island Sound and the Atlantic Ocean, and their connecting
waterbodies, bays, harbors, shallows and marshes; and

WHEREAS, activities within or affecting the state’s coastal zone must be consistent with forty-
four coastal policies administered by NYSDOS; and

WHEREAS, the Federal Highway Administration (FHWA) funds locally administered projects
and NYSDOT activities, including projects located within coastal zones that require consistency
determinations; and

WHEREAS, federally-funded activities in the state coastal zone typically require the submittal of
a Federal Aid Notification (FAN) to NYSDOS for consistency review and concurrence; and

WHEREAS, local sponsors must use NYSDOT design standards for all locally-administered
federal-aid transportation projects in New York State; and

WHEREAS, FHWA has determined that Element-Specific Federal-Aid Eligible Highway Work
listed herein does not individually or cumulatively have a significant environmental effect; and

WHEREAS, NYSDOT policies and procedures for compliance with the state Coastal
Management Program are in The Environmental Manual (TEM), Section 4.4.6 Coastal
Resources;
THEREFORE, NYSDOT and NYSDOS agree that the Coastal Zone Management (CZM) consistency reviews for NYSDOT activities and locally administered Federal-aid transportation projects shall be implemented in accordance with the procedures stipulated herein.

As the first step in the process to determine if a Coastal Zone Management (CZM) consistency review by NYSDOS is needed, the NYSDOT Regional Environmental Unit Supervisor (for NYSDOT projects) or local project sponsor will review the proposed project scope of work using the following list of programmatic consistency element-specific activities. If the project scope and description is consistent with the programmatic consistency element-specific activities listed herein, and meets all of the stated restrictions, NYSDOS accepts that the project is consistent with all 44 New York State Coastal Policies. If that is the case, documentation that the activity qualifies for a programmatic consistency should be placed in the design report and project file. The Regional Environmental Unit Supervisor (REUS) or local project sponsor will complete the CZM process for all element-specific work that does not have a programmatic consistency determination as described herein.

Restrictions on Programmatic Consistency Determinations

The programmatic consistency (PCs) determinations only apply when all of the following conditions are met:

1. When all work is within the existing right-of-way (not within new permanent or temporary easements);
2. When all earthwork will occur in previously disturbed soils, and the type, depth, and extent of the disturbance can be documented;
3. When work will not occur in Waters of the United States (US), including wetlands;
4. When equipment will not be placed in Waters of the US, including wetlands;
5. When there is no discharge of dredged or fill material or process wastewater into Waters of the US, including wetlands;
6. When work will not occur in the following Coastal Management Program special management areas: 1) The Long Island Sound Regional Coastal Management Program Area; 2) Local Waterfront Revitalization Programs Area; 3) Significant Coastal Fish and Wildlife Habitats; 4) Scenic Areas of Statewide Significance; and 5) Harbor Management Plan Areas; and
7. Where all proposed project activities are included in the list of PCs.

Programmatic Consistency Element-Specific Activities. Activities determined to qualify for “programmatic consistency” do not require Federal Aid Notification (FAN) and concurrence from NYSDOS. Documentation should be placed in the design report that the activity has been determined to qualify for “programmatic consistency with Coastal Zone Management policies.”

Cyclical & On-Call Element-Specific Highway Work

- Joint and crack sealing
- Pavement marking
- Impact attenuator device repair
- On-call loop detector repair
- On-call guide rail repair

**Normal Element-Specific Highway Work**
- Shoulder rehabilitation and/or repair
- Rigid pavement repairs (spall repair, grinding, etc.)
- Pavement grooving
- Microsurfacing and chip sealing
- Shoulder rumble strips
- Drainage system restoration (rehabilitating catch basins and drop inlets, rehabilitating, extending or relining culverts, etc.)
- Recharge basin reconditioning
- SPDES facilities maintenance (cleanout sediment basins, reconstruct comfort station septic systems, etc.)
- Underdrain installation
- Guide rail and/or median barrier upgrading (including placement of new guide railing or median barrier)
- Impact attenuator repair and/or replacement
- Upgrading sign(s) and/or traffic signal(s)
- Delineator and/or reference marker placement or replacement
- Traffic management systems maintenance (communications cable, hardware for ITS, RWIS, etc.)
- Repair and replace loop detectors
- Highway lighting upgrading (excluding luminaire replacement and installation of high mast lighting)
- Install, replace and/or repair right-of-way, pedestrian and permanent snow fencing
- Graffiti removal and/or prevention
- Vegetation management (preserve or restore clear area, guide rail deflection; preserve or restore sight distance for horizontal/sag vertical curves, intersections and signs; preserve or restore roadside drainage; remove dead or dying (hazard) trees)
- Establishing plant material (e.g. landscaping)
- Bicycle path and walkway rehabilitation (e.g. ADA curb ramps)
- Permanent traffic count detectors
- Weigh-in-motion detectors
- Ditch cleaning (that does not modify originally constructed traversability)
- IR projects that meet the requirements of EI 99-001, use a hot mix asphalt overlay material over an existing hot mix asphalt pavement surface material, and complete the “Section 106” process if major trees are cleared from the vicinity of historic properties

**Element-Specific Cyclical Bridge Work**
- Bridge washing
- Bridge painting
- Crack sealing
- Deck sealing
- Substructure concrete sealing
• Asphalt overlay replacement
• Bearing lubrication

Element-Specific Bridge Work
• Bearing replacement/repairs
• Bridge railing upgrades
• Monolithic deck overlays/asphalt overlay placement
• Localized deck/approach slab repairs
• Joint replacements/repairs
• Navigational lights

Element-Specific Activities Requiring Federal Aid Notification (FAN) and NYSDOS Concurrence. All element-specific activities listed below require the submittal of a FAN and concurrence from NYSDOS.

Normal Element-Specific Highway Work
• Park and ride lot rehabilitation
• Noise wall rehabilitation and/or replacement
• Retaining wall rehabilitation and/or replacement
• Slope stabilization (within existing right-of-way)

Element-Specific Bridge Work
• Vulnerability reduction measures: seismic, collision, hydraulic, overload, steel detail and concrete detail vulnerabilities
• Substructure repairs
• Primary/secondary member repair
• Repair or replace curbs, sidewalks and fasciae

Activities That Involve More Than Element-Specific Work or Fail to Meet Restrictions on Programmatic Consistency Determinations.
Projects that involve activities besides element-specific work listed herein, or that fail to meet all of the restrictions stated herein, may require submittal of a Coastal Assessment Form and/or a Federal Consistency Assessment Form, and require concurrence from NYSDOS. TEM Section 4.4.6 Coastal Resources should be consulted for additional information.

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