CONSTRUCTION PROJECTS ACCEPTED BY FHWA AS EXEMPT FROM FURTHER SECTION 106 REVIEW

I. Introduction

The Regional Cultural Resource Coordinator (CRC) in the NYS Department of Transportation (NYSDOT) will initially review the proposed project scope of work using the following list of exempt work, to determine if further project screening or survey is needed. If the project scope and description is consistent with the exemptions listed herein, FHWA accepts that the federal Section106 requirements can be met. If that is the case, the reason why the project is exempt should be documented in the design report or project file. The CRC will schedule a field screening or cultural resource survey for all projects that are not exempt.

II. Restrictions on Project Exemptions

The exemptions only apply to projects:

1. Within the existing right of way, or where only minor strips of right of way are needed.

2. When all earthwork will occur in disturbed soils.

3. When removing trees or other vegetation will not occur at buildings over 50 years old.

4. Within a district eligible for or listed on the National Register Historic Places (historic district) if all the proposed work involves in-kind rehabilitation or replacement, pavement markings or routine maintenance. All other listed exemptions do not apply to historic districts.

5. Where all proposed project actions are is included in the list of Exemptions.

Definitions

“In-kind”: Any work which: 1) provides same basic functionality; 2) is at same approximate location(s); and 3) shall match the old in design, color, texture and other visual qualities and, where possible, materials.
Exemptions

Pavement
- **Routine** pavement/shoulder maintenance such as crack filling, patching, joint repair, grooving, etc.
- In-kind pavement/shoulder rehabilitation with no undercutting of existing subbase in cut sections
- In-kind pavement/shoulder overlays
- Asphalt overlays on PCC pavement/shoulders or replacing asphalt pavement/shoulders with concrete pavement within the existing roadway limits
- Adding rumble strips to existing pavement

Curb & Sidewalk
- In-kind curb replacement
- Adding new curb within the existing roadway width
- In-kind sidewalk replacement
- Making sidewalks handicap-accessible
- Providing “bulb outs” and other traffic calming elements

Signs and Markings
- Pavement markings including 1) raised markings and 2) changes in lane width within the existing overall pavement width
- In-kind sign replacement
- New signs

Appurtenances
- Existing guiderail replacement
- New guiderail placed on existing shoulders
- Safety end treatments for guiderail
- In-kind existing median barrier replacement

Drainage & Utilities
- In-kind replacement of existing culverts unless culvert is unusual or stone
- Adding new drainage pipes within the existing roadway prism
- Replacing or repairing existing underground utilities in the same general location and pavement to be restored in-kind
- Upgrading underground utilities within the existing roadway prism with in-kind pavement restoration
- Replacing/upgrading utility poles in approximately the same location
Bridges

- Routine bridge maintenance including washing, cleaning, and other periodic maintenance
- Bridge painting (matching existing color in historic districts)
- Bridge substructure repairs where no excavation is proposed
- For bridges less than 50 years old: bridge replacement if all work is within the existing roadway prism or disturbed areas with no on-site detour is proposed; existing deck or approach pavement rehabilitation; existing bridge deck replacement; milling or grooving bridge decks; expansion joints and/or membranes replacement; and railing replacement (in-kind in historic districts); and railing repair

Other

- Adding or revising channelization and turning lanes at intersections within the existing curb lines
- Ramp metering installations
- Replace existing traffic signals (in-kind only if in historic districts)
- Upgrade existing highway lighting
- Replace existing lighting in-kind (or with lighting previously used in historic districts)
- Installing electronic ITS equipment such as CCTV, computerization, pavement loops
- Adding flush or raised medians within the overall roadway width
- New railroad signals and gates
- In-kind replacement of railroad signals and gates