Mr. Daniel Hitt  
Director, Environmental Science Bureau  
New York State Department of Transportation  
50 Wolf Road  
Albany, NY 12232

Dear Mr. Hitt:

The purpose of this letter is to provide guidance to the New York State Department of Transportation (NYSDOT) regarding the applicability to culverts of the Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges

After careful consideration and consultation with our legal counsel, Headquarters, and Resource Center specialists, it is our opinion that culverts may be covered by the programmatic evaluation.

The programmatic evaluation applies to projects for which “there are no feasible and prudent alternatives to the use of certain historic bridge structures to be replaced or rehabilitated with Federal funds,” and the project includes “all possible planning to minimize harm resulting from such use.”

Both bridges and culverts are structures that may qualify as a “historic resource” subject to Section 4(f) evaluation. As defined in the National Historic Preservation Act (NHPA), a historic property or resource is “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion” in the National Register of Historic Places [16 United States Code (U.S.C.) 470(w)(5)]. To be considered eligible, a property is usually at least 50 years old and must meet the National Register Criteria for Evaluation. Eligibility for the National Register is generally determined as part of the review process required under Section 106 of the NHPA [36 Code of Federal Regulations (CFR) Part 800].

Under 23 CFR 650.403, a bridge is defined as:

A structure, including supports, erected over a depression or an obstruction, such as water, a highway, or a railway, having a track or passageway for carrying

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1 Pursuant to Section 4(f) of the Department of Transportation Act of 1966, (49 U.S.C. 303 and Section 18(a) of the Federal-Aid Highway Act of 1968 (23 U.S.C. 138)).
traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercappings of abutments or spring lines of arches, or extreme ends of the openings for multiple boxes; it may include multiple pipes where the clear distance between openings is less than half of the smaller contiguous opening.

It should be noted that the preceding bridge definition comes from the Highway Bridge Replacement and Rehabilitation Program regulations and is meant to facilitate funding considerations for that program, not the protection of historic resources.

Culverts meet all parts of the description of a bridge, except for the fact that they are less than 20 feet in length. More importantly, culverts can perform all the functions of a bridge as an integral part of the state’s transportation system by providing passage for traffic and other moving loads.

The intent of the Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges is to ensure that historic bridge structures are recognized as integral components of a modern, evolving transportation system; and that when they do not or cannot perform as such, they can be rehabilitated or replaced in order to ensure public safety while maintaining system continuity and integrity. While the language of the programmatic evaluation does not unambiguously address the case of culverts, their inclusion is not expressly prohibited; and since the programmatic evaluation is routinely applied to much larger historic bridge structures, it is both reasonable and appropriate to process culverts through the programmatic evaluation.

Please note that, while culverts may be covered under the Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges, the procedures outlined in the programmatic evaluation must still be followed. It must be demonstrated that the appropriate officials were consulted, that other alternatives were fully evaluated, that the programmatic evaluation’s applicability criteria have been met, and that the project plan includes all possible measure to minimize harm to the structure.

The purpose of all Section 4(f) programmatic evaluations is to streamline the review process while still affording adequate protection to historic resources. Processing historic culverts through the Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges provides such protection while improving the efficiency with which projects involving this common transportation asset can be reviewed. For historic culverts determined eligible in association with the State’s historic canals, the same interpretation will apply to their processing under the Draft Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Bridges over the National Register of Historic Places Listed or Eligible New York State Canal System.
Should you have any further questions, please contact Alicia Nolan, Director of Planning, Environment and Right of Way, at (518) 431-4125, Extension 217.

Sincerely,

Michael Davies, P.E.
Acting Division Administrator