ADMINISTRATIVE INFORMATION:

- This Engineering Bulletin (EB) is effective immediately for all Federal Aid projects and appropriate Real Property transactions.
- This EB supersedes EB 14-042.
- The revised Federal Environmental Approvals Worksheet (FEAW) and supporting materials issued with this EB are being made part of the NYSDOT Environmental Manual (TEM) Chapter 4 as Appendix 4.1.1.11.G.
- The FEAWS procedures will be incorporated into a future update of the Project Development Manual (PDM) Chapter 4 and Procedures for Locally Administered Federal Aid Projects Manual Chapter 7.

PURPOSE: The purpose of this EB is to issue Version 2 of the “Federal Environmental Approvals Worksheet”, including associated materials and guidance (see Transmitted Materials), and make it part of the TEM.

TECHNICAL INFORMATION: This issuance updates previously-issued materials associated with the FEAWS and guidance to reflect changes in the Categorical Exclusion lists found at 23 CFR 771.117(c)-(d). Pursuant to a Final Rule published in the Federal Register (Vol. 79, No. 193, October 6, 2014), 23 CFR Part 771 is amended to allow the Federal Highway Administration (FHWA) to process Categorical Exclusions in 771.117(d)(1)-(3) as (c)-list Categorical Exclusions when the action meets specified constraints.

Former Categorical Exclusions in 771.117(d)(1)-(3) to be re-listed as 23 CFR 771.117(c)(26), (27), or (28) are as follows:

- (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 in paragraph (e) of 771.117.
- (27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in paragraph (e) of 771.117.
- (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 in paragraph (e) of 771.117.

Per paragraph (e) of these regulations, the above Categorical Exclusions may now be processed as 23 CFR 771.117(c)(26), (27), or (28) as long as the actions do not include:

- An acquisition of more than a minor amount of right-of-way [less than 10% of a parcel, for parcels under 10 acres (4 ha) in size; less than 1 acre (0.4 ha), for parcels 10 to 100 acres (4 to 40.5 ha) in size; and less than 1% of a parcel, for parcels greater than 100 acres (40.5 ha) in size];
- An acquisition that would result in any residential or non-residential displacements;
- An action that needs a bridge permit from the U.S. Coast Guard;
- An action that does not meet the terms and conditions of a U.S. Army Corps of Engineers
nationwide or general permit under section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899;

- A finding of “adverse effect” to historic properties under the National Historic Preservation Act;
- A finding of “may affect, likely to adversely affect” threatened or endangered species or critical habitat under the Endangered Species Act;
- Construction of temporary access, or the closure of existing road, bridge, or ramps, that would result in major traffic disruptions;
- Changes in access control;
- A floodplain encroachment other than functionally dependent uses (functionally dependent uses are actions that must occur in close proximity to water, e.g., bridge projects) or actions that facilitate open space use (e.g., recreational trails, bicycle and pedestrian paths); or
- Construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers.

Actions that can be categorized under 771.117(c)(26), (27), or (28), but do not meet the above conditions, will be processed as 771.117(d)(13) – “Actions described in paragraphs (c)(26), (c)(27), and (c)(28) of this section that do not meet the constraints in paragraph (e) of this section.”

IMPLEMENTATION: For all FHWA federally-funded projects the FEAW should be filled in at the start of Design Phase 1 and completed and signed at the end of Phase 1. It should also be used for appropriate Real Property transactions. The FEAW should be completed by the appropriate staff or designee as identified in the certification section and instructions.

TRANSMITTED MATERIALS: This EB transmits Version 2 of the FEAW and the following associated documents; FEAW Thresholds, Instructions, Memo Shells, and Flow Chart. The above-referenced documents are all located in TEM Chapter 4, Appendix 4.1.1.11.G at https://www.dot.ny.gov/divisions/engineering/environmental-analysis/manuals-and-guidance/epm/repository/4_1_1_11_G.pdf

BACKGROUND: The FEAW is a tool to communicate the project National Environmental Protection Act (NEPA) classification to the FHWA and to document the status of other federal environmental approvals of interest to FHWA that must be completed prior to making the NEPA determination. It replaced the NEPA Assessment Checklist for all federally-funded, NYSDOT-let projects and federally-funded, locally administered projects, and is to be completed prior to the end of Design Phase I.

CONTACT: Direct questions regarding this issuance to Terry Smith of the Office of Environment at (518) 457-2385 or via e-mail at terry.smith@dot.ny.gov.