

PROGRAMMATIC AGREEMENT
BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION
AND
THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
FOR
THE DISPOSAL OF REAL PROPERTY
AND
LEASE AGREEMENTS/RENEWALS

The Federal Highway Administration, Pennsylvania Division, hereinafter FHWA, and the Pennsylvania Department of Transportation, hereinafter PennDOT, have developed this Programmatic Agreement, hereinafter PA, to outline the policy and procedures for environmental processing of certain Class II Actions, Categorical Exclusions (CE), pursuant to the National Environmental Policy Act, hereinafter NEPA, as defined in 23 CFR 771.117 which normally are found to have no significant social, economic or environmental effects.

The FHWA hereby concurs in advance, on a programmatic basis, with PennDOT's designation that disposal of real property and lease agreement/renewal activities which satisfy the conditions and criteria of this PA, will not result in significant environmental impacts.

As outlined in this PA, PennDOT will determine and certify that an activity will not result in significant environmental impacts and document accordingly.

WHEREAS, the Division Administrator, FHWA, is the "Agency Official" responsible for compliance with the NEPA and implementing regulations (23 CFR 771.117); and

WHEREAS, PennDOT, as the statewide recipient of the federal-aid program, is responsible for compliance with federal laws and regulations pursuant to 23 CFR 1.36; and

WHEREAS, the disposal of real property is consistent with the Statewide Long Range Transportation Plan, the Statewide Transportation Improvement Program (STIP), and applicable Metropolitan or Rural Planning Organizations' Transportation Improvement Programs (TIPs) and Long Range Transportation Plans, and is exempt from regional air quality conformity determinations [40 CFR parts 51 and 93]; and

WHEREAS, the undertaking is confined to the disposal of excess right-of-way, the leasing of right-of-way or the renewal of an existing lease of right-of-way; and

WHEREAS, PennDOT will perform a field view of the parcel to be disposed or leased in order to confirm the site's characteristics and to assist in completing the *Disposition of Real Property and Lease Agreement/Renewal Categorical Exclusion Applicability Form*; and

March 1, 2006

WHEREAS, PennDOT Cultural Resource Professionals or District Designees will ascertain the likelihood, not presence, of historic properties (above and below ground) through use of the Cultural Resources Geographic Information System (CRGIS) or other readily available means for purposes of disclosing the potential; and

WHEREAS, if an eligible pre-historic or historic resource is known to be on/in the property, PennDOT will notify the Pennsylvania Historical and Museum Commission (PHMC) of the transfer pursuant to the State History Code and place or transfer a covenant on the property to ensure long-term preservation of the property's historic significance in compliance with Section 106; and

WHEREAS, PennDOT will consult with the U.S. Fish and Wildlife Service (USFWS), Pennsylvania Game Commission (PGC), Pennsylvania Fish and Boat Commission (PAFBC), and the DCNR Pennsylvania Natural Heritage Program (PNHP), Environmental Review Tool to ascertain the likelihood of threatened or endangered species for purposes of disclosing the potential; and

WHEREAS, PennDOT will consult readily available sources such as the Department of Environmental Protection's (DEP) eMap to ascertain the likelihood of hazardous or residual waste present on the site for purposes of disclosing the potential; and

WHEREAS, PennDOT will document the undertaking by completing the *Disposition of Real Property and Lease Agreement/Renewal Categorical Exclusion Form*; and

WHEREAS, a PennDOT Environmental Manager is qualified to approve the *Disposition of Real Property and Lease Agreement/Renewal Categorical Exclusion Form* on behalf of the PennDOT District Executive; and

WHEREAS, upon the successful completion and approval of the *Disposition of Real Property and Lease Agreement/Renewal Categorical Exclusion Form*, thereby fulfilling its obligation to disclose the characteristics of the parcel, PennDOT shall be held harmless from future activities on the parcel; and,

NOW, THEREFORE, the FHWA and PennDOT agree to the following stipulations in order to satisfy FHWA's NEPA responsibilities:

STIPULATIONS

Stipulation 1

It is understood that by the nature of the activity, there are no significant impacts to noise, air quality, sole source aquifer, historic properties, wetlands, endangered species or right-of-way issues or public controversy on environmental grounds. Under this agreement, pursuant to the 23CFR 771.117(d), disposal of real property (excess right-of-way) and lease agreements/renewals are documented without further approval or documentation provided the conditions and criteria of this PA are satisfied.

Based on the acceptance of the Categorical Exclusion Handbook, Publication 294, the disposal or lease of right-of-way is defined as a Level 1b activity. As such, no further approval from FHWA is necessary.

Stipulation 2

Upon successful completion and approval of the *Disposition of Excess Right-of-Way and Lease Agreement/Renewal Categorical Exclusion Applicability Form* found in Appendix A of this PA, the approval date of this Programmatic Agreement shall be the designated CE approval date for the subject project. The *Form* either can be completed and approved electronically or in hard-copy format. By completing and approving the *Form*, PennDOT certifies that the activity will not result in significant environmental impacts.

Stipulation 3

Documentation assembled by PennDOT to support any environmental findings resulting from anticipated impacts, including the *Disposition of Excess Right-of-Way and Lease Agreement/Renewal Categorical Exclusion Applicability Form*, will be maintained in the respective project file. This includes, but is not limited to documentation related to 36 CFR 800 and Endangered Species Act (ESA) [16 U.S.C. Section 1531, as amended] and 50 CFR 402.

Stipulation 4

If the scope of the proposed disposition of excess right-of-way activity changes, or previously unidentified environmental resources are identified before the transference of ownership or lease agreement, the Environmental Manager shall be notified, and will evaluate the need for additional environmental studies and disclosure to the future property owner or leasee. All findings shall be documented in the project file.

Stipulation 5

If at any time the District Environmental Manager establishes that this PA no longer applies to a specific project due to changes in scope of work activities or environmental impacts, the CE/EA Expert System form will be completed.

ADMINISTRATIVE CONDITIONS

1. **Applicability.** This agreement applies to disposition and lease/renewal of right-of-way that is administered by PennDOT and funded by the FHWA.
2. **Disputes.** It is the intent of the FHWA to become actively involved in the resolution of disagreements pertinent to findings of Section 106 eligibility and effects and Section 7 pursuant to the ESA, should they arise.
3. **Oversight.** FHWA maintains approval authority for actions involving the Interstate, including the execution of leases or deed transfers for Interstate associated properties. Per the stipulations of this PA, no further FHWA approval is required for NEPA compliance unless project conditions stipulate a Level 2 CEE, EA, or EIS.
4. **Monitoring.** The FHWA may monitor any activities carried out pursuant to this agreement. FHWA will cooperate with the PennDOT in carrying out these monitoring and review responsibilities.
5. **Amendments.** Any party to this agreement may request that it be amended and the request will be addressed within 30 days.
6. **Termination.** Any party to this agreement may terminate it by providing 30 days written notice to the other parties, provided that the parties will consult during the period prior to the termination to seek agreements on amendments or other actions that would avoid termination.

for David W. Cong
James A. Cheatham, P.E.
Division Administrator

March 1, 2006

Appendix A
Disposal of Real Property and Lease Agreement/Renewal
Programmatic CE Applicability Form

Project Information	
MPMS#:	Agreement #:
County:	Project Name:
SR, Section:	Township:
	Grantee/Lessee Name:
Project Description	
Area Location	
Scope of Proposal	
Project scope consistent with approved Disposal Right-of-Way and Lease Agreement/Renewal PA? Y/N	
Resource Analysis	
<i>Answer as yes, no or likely. Additional comments can be noted</i>	
Presence of Wild or Stocked Trout streams	
Presence of High Quality/EV streams	
Presence of wetlands	
Presence of state or federal T&E species or habitat	
Presence of cultural resources	
If an eligible resource is present, PHMC provided notice of transfer	
Potential for public controversy on environmental grounds	
Presence of hazardous/residual waste	

Prepared by: _____ Date: _____

Environmental Manager: _____ Date: _____

FHWA (for Interstate associated real property) _____ Date: _____

Agreement Routing Sheet

Type of Agreement	106 MOA PA (MEMORANDUM OF AGREEMENT/PROGRAMMATIC AGREEMENT)
Agreement Number	431018
Party	FHWA AND PENNDOT
City	HARRISBURG
County	STATE WIDE
Form Number	None
Federal ID Number	53-0204534
Amount	0
SAP Vendor Number	

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PLEASE SUBMIT ONLY 1 ORIGINAL - MAKE COPIES ONCE FULLY EXECUTED

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EXECUTION PROCESS	RECEIVED	RETURNED
Office of Chief Counsel, PennDOT For Review and Approval Commonwealth Keystone Building, 9th Floor <i>with 5/11/06</i>		
Office of General Counsel For Review and Approval Harristown II, 333 Market Street, 17th Floor	<i>5/12/06</i>	<i>5/16/06</i>
Office of Chief Counsel, PennDOT For Logging Commonwealth Keystone Building, 9th Floor	<i>5/18/06</i>	<i>5/19/06</i>
Office of Attorney General For Review and Approval Strawberry Square, 15th Floor		
Office of Chief Counsel, PennDOT For Logging Commonwealth Keystone Building, 9th Floor		<i>5/25/06</i>
Environmental Quality Assurance Division (EQAD) For Forwarding or Final Approval Commonwealth Keystone Building, 7th Floor		
Federal Agency (FHWA or ACOE) For Signature <i>June 6-1-06</i>		

DISTRIBUTION (1 copy each):

Copy to _____

Copy to Comptroller--Commonwealth Keystone Building, 9th Floor

Copy to Treasury--Treasury Dept., Treasury Audits, Finance Bldg., Room G-11

Original to: IRA BECKERMAN, EQAD, Keystone Building, 7th Floor