



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE  
GOVERNOR

November 3, 2010

Mr. John F. Sullivan, III  
Division Administrator  
Federal Highway Administration  
310 New Bern Avenue, Suite 410  
Raleigh, North Carolina 27601

RE: FHWA Interstate Maintenance Preservation Funds

Dear Mr. Sullivan: *John*

In the spirit of FHWA's "Every Day Counts," personnel from your office in cooperation with NCDOT personnel from central and field offices collaborated in developing a streamline process for a new program initiative targeted to keeping our interstates in good condition. Please find attached two documents regarding the FHWA/NCDOT Interstate Maintenance Preservation Program eligibility and environmental policy requirements for your review, approval and signature.

We are looking forward to using this source of funding in planning cost effective strategies for preserving our interstates in North Carolina. If you are in agreement, please sign and return a copy for our records.

If you have any questions or concerns, please let me know.

Sincerely,

Terry R. Gibson, P.E.  
State Highway Administrator

TRG/lj

cc: Jim Trogdon, P.E., Chief Operating Officer  
Jon Nance, P.E., Chief Engineer – Operations  
Lacy Love, P.E., Director of Asset Management

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LOCATION:  
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1 SOUTH WILMINGTON STREET  
RALEIGH NC

FHWA-NC DIVISION			
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11-30-2010 *Bradley O. Hicks*

Federal Highway Administration's National Environmental Policy  
Act Requirements for North Carolina Department of  
Transportation's Interstate Maintenance Preservation Program



December 1, 2010  
Date

John F. Sullivan III  
John F. Sullivan, III, PE  
Division Administrator

## Program Description

The Interstate Maintenance Preservation Program (IMPP) is a planned strategy of cost effective treatments to interstates; including bridges, pavements and roadside features that prevent/retard future deterioration and extends service life without increasing structural or traffic capacity. Reactive Maintenance is not eligible. The IMPP is to be used in conjunction with an effective interstate maintenance program to extend the life of bridges, pavements and roadside features.

The Interstate Maintenance Preservation Program will be managed by either NCDOT central administration and/or Division personnel depending on the type of treatments and criteria listed below with oversight by North Carolina FHWA Division Office. These projects will not require FHWA approval or certification of individual plans, specifications and estimates (PS&E) packages, nor will FHWA concur in individual project awards; however, all projects are subject to FHWA full review or spot checking.

### Eligible Activities

The following is a list of eligible IMPP activities.

**Bridge Activities:** Only activities listed below may be performed under this program unless prior written authorization is obtained from the State Bridge Management Engineer and the FHWA Division Bridge Engineer.

1. Deck joint replacement or elimination of joints (link slabs)
2. Painting of structural steel, including complete, spot and zone painting. Painting for aesthetics is not eligible. (When performing these activities, a paint analysis is required to determine the appropriate paint system, including adhesion testing of existing paint system. Where over coating is proposed, adhesion testing of existing paint is required.)
3. Deck preservation — including; concrete overlays, dense concrete overlays, epoxy overlays and sealers and chloride extractors. Deck replacements are considered rehabilitation and are not eligible for the IMPP. A deck evaluation must be completed for these activities to be eligible.
4. Deck washing for removal of chlorides— A deck washing program which outlines the extent and frequency is required.
5. Superstructure preservation:
  - (A). Structural steel repairs in conjunction with other preservation activities.  
Concrete girder and diaphragm repairs in conjunction with other preservation activities.
  - (B) Bearing assembly cleaning and recoating.  
Bearing replacements and/or repairs.
6. Substructure preservation:  
Bent/End Bent repairs and sealing in conjunction with other preservation activities. Bent End Bent cleaning – a cleaning program which outlines the extent and frequency is required.
7. Scour countermeasures.

**Pavement Activities:** Only activities listed below may be performed under this program unless prior written authorization is obtained from the State Pavement Management Engineer and the FHWA Transportation Engineer who will consult with the FHWA Division Pavement & Materials Engineer.

1. Crack sealing.
2. Mill and replace one lift of hot mixed asphalt for one travel lane.
3. Micro milling of flexible pavement.
4. Chip seal, fog seal or slurry seal flexible shoulders.
5. Open graded friction course or ultra thin bonded wearing course on existing flexible pavement.
6. Clean and reseal concrete joints.

7. Repair expansion joint in concrete pavement.
8. Diamond grinding of concrete pavement.
9. Grooving on concrete pavement.
10. Stitching of broken slabs.
11. Slab jacking of concrete pavement.
12. Microsurfacing of flexible or rigid pavement.
13. Punchout repair of CRC pavement on a programmatic basis.
14. Dowel bar retrofit.
15. Ultra thin bonded wearing course on rigid pavement.

**Roadside Feature (Drainage and Traffic) Activities:** Only activities listed below may be performed under this program unless prior written authorization is obtained from the State Road Maintenance Engineer and the FHWA Transportation Engineer who will consult with the FHWA Division Asset Management Program Manager.

1. Replace/Repair paved lateral ditches – including leveling, sealing, or removing and replacing with rip-rap paved ditches along a corridor.
2. Line/Repair Crossline pipes – including repair or lining of crossline pipes that are damaged, rusted, or no longer functioning as intended.
3. Inlet Repair/Retrofit – including repair of drainage inlets along a corridor, or the retrofit of open throat boxes to grated inlets.
4. Shoulder Drains – including systematic approach of locating, inspecting and repairing of shoulder drains along a corridor.
5. Pavement Markings – including pavement striping on a systematic cyclical schedule.
6. Pavement Markers – including placement of pavement markers or the repair of lenses in snow plowable markers.
7. Signs – including the systematic cleaning/washing of signs and sign replacement to meet current design standards.
8. Guardrail – including upgrading or replacement.
9. Lighting – including upgrading a network of roadway lighting along a corridor.
10. Attenuators – including upgrading or replacement.

### **Environmental Documentation**

NCDOT must evaluate each proposed activity to verify that it is consistent with the assumptions and finding of this document. If it is determined that the proposed activity is beyond the intent of this document, consult with FHWA.

**National Environmental Policy Act (NEPA):**

The Council on Environmental Quality's (CEQ's) regulations for implementing the procedural provisions of NEPA (40 CFR 1500-1508) defined "Categorical Exclusion" as a category of activities which do not individually or cumulatively have a significant effect on the human environment and for which neither an environmental assessment (EA) nor environmental impact statement (EIS) is required (40 CFR 1508.4). Federal agencies were directed to develop procedures for evaluating such activities.

The FHWA issued regulations governing the preparation of environmental impact statements and related documents. The most recent regulation was promulgated August 28, 1987 (23 CFR 771). The FHWA regulations address three classes of activities: Class I (Environmental Impact Statement (EIS)); Class II (Environmental Assessment (EA)); and Class III (Categorical Exclusions (CE)).

The FHWA NC Division office hereby finds that the Interstate Maintenance Preservation activities identified in this document are pre-approved by the FHWA as Categorical Exclusions because they are minor and, based on past experience with similar activities, do not involve significant impacts. They normally do not require any further NEPA approval by the FHWA. No further documentation is required to substantiate the CE classification.

Pre-approval as a CE does not exempt IMPP activities from compliance from other federal environmental laws. These other laws are divided into three categories:

- Laws where further analysis may be required before FHWA can authorize construction funds;
- Laws where no further analysis is required before FHWA can authorize construction funds; and
- Laws that must be complied with during or after construction.

**Note: This document applies to FHWA's decision to fund and to meet the requirements of NEPA for IMPP activities. This document does not constitute the granting of any permits.**

## **Federal Environmental Laws where further analysis may be required before FHWA can authorize construction funds**

### **Clean Water Act:**

NCDOT must undertake sufficient investigation to determine whether the activity will fill or discharge material into “waters of the U.S.”. Where appropriate, NCDOT will obtain Section 404 and Section 401 permits. Therefore, compliance will be satisfied.

### **Coastal Zone Management Act:**

NCDOT must undertake sufficient investigation to determine whether the activity will require a state Coastal Area Management Act (CAMA) permit. Where appropriate, NCDOT will obtain a CAMA permit. Therefore, compliance will be satisfied.

### **Endangered Species Act:**

FHWA finds that IMPP “bridge” activities #1, 3, & 5B will have “no effect” on all listed species and designated critical habitat in North Carolina since these activities take place entirely on the bridge structure.

IMPP “bridge” activities #2, 4, 5A, 6 & 7 have the potential for either material (e.g. paint or water) to fall from the structure or it may be required for workers to be under the structure (either in water or on land). Therefore, NCDOT will perform sufficient investigation to render a determination of effect on listed species and designated critical habitat that may be present within the action area of the project. Consultation with the USFWS and/or NOAA-Fisheries may be necessary.

FHWA finds that IMPP “pavement” activities will have “no effect” on all listed species and designated critical habitat in North Carolina since these activities take place entirely on the road surface.

IMPP “roadside feature (drainage)” activities can involve work in the highway right-of-way and there is the potential for protected species (particularly plants) to be within the right-of way. Therefore, NCDOT will perform sufficient investigation to render a determination of effect on listed species and designated critical habitat that may be present within the action area of the project. Consultation with the USFWS and/or NOAA-Fisheries may be necessary. Note: it is anticipated that the only species that might be affected by these activities are protected plants within the highway right-of-way.

FHWA finds that IMPP “roadside feature (traffic)” activities #5 & 6 will have “no effect” on all listed species and designated critical habitat in North Carolina since these activities take place entirely on the road surface.

IMPP “roadside feature (traffic)” activities # 7, 8, 9 & 10 can involve work in the highway right-of-way and there is the potential for protected species (particularly plants) to be within the right-of way. Therefore, NCDOT will perform sufficient investigation to render a determination of effect on species and/or designated critical habitat that may be present within the action area of the project. Consultation with the USFWS and/or NOAA-Fisheries may be necessary.

### **Executive Order 11990 Protection of Wetlands**

NCDOT must undertake sufficient investigation to determine whether the activity will fill or discharge material into wetlands. When applicable, NCDOT will obtain Section 404 and Section 401 permits. Therefore, compliance will be satisfied.

### **Fish & Wildlife Coordination Act:**

NCDOT will provide the NCWRC, NCDMF and the USFWS with a location map and description for IMPP activities that are expected to occur over water. Should any of these agencies provide comments or recommendations for IMPP activities, NCDOT shall consider such comments or

recommendations and document to the project file whether the comments or recommendations were incorporated or not (if not, the documentation will explain why).

**Marine Mammal Protection Act (MMPA):**

FHWA finds that IMPP “bridge” activities #1, 3 & 5B have no potential to “take” marine mammals since these activities take place entirely on the bridge structure.

FHWA finds that IMPP “bridge” activities #2, 5A & 6 located over land have no potential to “take” marine mammals.

IMPP “bridge” activities #2, 4, 5A, 6 & 7 located over water have the potential for either material (e.g. paint or water) to fall from the structure or it may be required for workers to be under the structure (either in water or on land) where marine mammals may be present, NCDOT will perform sufficient investigation to determine whether there will be a “take” of marine mammals. Consultation with the NOAA-Fisheries may be necessary.

FHWA finds that IMPP “pavement” and “roadside feature” activities have no potential to “take” marine mammals since these activities take place entirely on land.

**Section 106 of the National Historic Preservation Act:**

NCDOT will determine whether IMPP activities are “exempt” from further compliance (see Appendix B of the Programmatic Agreement (PA) for Minor Transportation Projects).

If the IMPP action is not determined to be exempt, then compliance with Section 106 will need to occur.

**Federal Environmental Laws where no further analysis is required before FHWA can authorize construction funds**

**American Indian Religious Freedom Act:**

The Eastern Band of Cherokee Indians has determined (awaiting e-mail confirmation from Tyler Howe (EBCI) to Rob Ayers (FHWA)) that they have no interest in reviewing IMPP activities.

**Antiquities Act:**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities and not causing new ground-disturbing) will not cause a loss or destruction of historic or prehistoric ruins, monuments or objects of antiquity. Therefore, compliance is satisfied.

**Archaeological and Historic Preservation Act:**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities) will not cause the loss or destruction of significant scientific, pre-historical, historical, or archeological data. Therefore, compliance is satisfied.

**Archaeological Resources Protection Act:**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities and not causing new ground-disturbing) will not involve new ground-disturbing activities and thus there is no potential for a loss or destruction of archaeological resources. Therefore, compliance is satisfied.

**Clean Air Act:**

IMPP activities (due to their nature of preserving existing infrastructure facilities) are exempt activities. Therefore, compliance is satisfied.

**Coastal Barrier Resources Act:**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities) will not create new access to Coastal Barrier Units. Therefore, compliance is satisfied.

**Comprehensive Environmental Response, Compensation and Liability Act (CERCLA):**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities) do not involve the acquisition of property rights. Therefore, compliance is satisfied.

**Executive Order 11988 - Floodplain Management:**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities and not causing new ground-disturbing) will not affect floodplains. Therefore, compliance is satisfied.

**Executive Order 12898 (Environmental Justice):**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities) have no potential to affect environmental justice populations. Therefore, compliance is satisfied.

**Executive Order 13007 (Indian Sacred Sites):**

The Eastern Band of Cherokee Indians has determined (awaiting e-mail confirmation from Tyler Howe (EBCI) to Rob Ayers (FHWA)) that they have no interest in reviewing IMPP activities.

**Farmland Protection Policy Act:**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities and not requiring additional right-of-way) will not require the conversion of farmland. Therefore, compliance is satisfied.

**Land and Water Conservation Fund Act (Sec 6(f)):**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities) neither require the acquisition of property rights, nor the conversion of park uses to transportation uses. Therefore, compliance is satisfied.

**Magnuson-Stevens Fishery Conservation and Management Act (Essential Fish Habitat):**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities) will not adversely affect essential fish habitat. Therefore, compliance is satisfied.

**Marine Protection Research and Sanctuaries Act:**

FHWA finds that IMPP activities will not impact resources in North Carolina that are protected under this Act. Therefore, compliance is satisfied.

**Native American Grave Protection and Repatriation Act:**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities) will not involve new ground-disturbing activities. There is no potential to affect human remains. Therefore, compliance is satisfied.

**Noise Standards 23 USC 109:**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities) will not create additional, permanent noise. Therefore, compliance is satisfied.

**Reservoir Salvage Act (RSA):**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities) will not result in the loss or destruction of significant scientific, pre-historical, historical or archaeological data. Therefore, compliance is satisfied.

**Uniform Relocation and Real Property Acquisitions Act:**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities) do not require the acquisition of property rights. Therefore, compliance is satisfied.

**Section 4(f) of the USDOT Act:**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities and not requiring additional right-of-way) will not "use" 4(f)-protected properties. Therefore, compliance is satisfied.

**Wild & Scenic Rivers Act:**

FHWA finds that IMPP activities (due to their nature of preserving existing infrastructure facilities) will not have foreseeable effects on either Wild & Scenic Rivers, Congressionally-authorized study rivers or Nationwide River Inventory rivers in North Carolina. Therefore, compliance is satisfied.

**Wilderness Act:**

FHWA finds that IMPP activities will not occur within wilderness areas. Therefore, compliance is satisfied.