

Local Agency Section 106 Exemptions

FINAL - MAY 2018

This guidance applies to Local Agency transportation projects that utilize federal funding.

Section 106 Exemptions

FHWA, in consultation with the SHPO, has determined that certain categories of federally funded work do not require SHPO review.

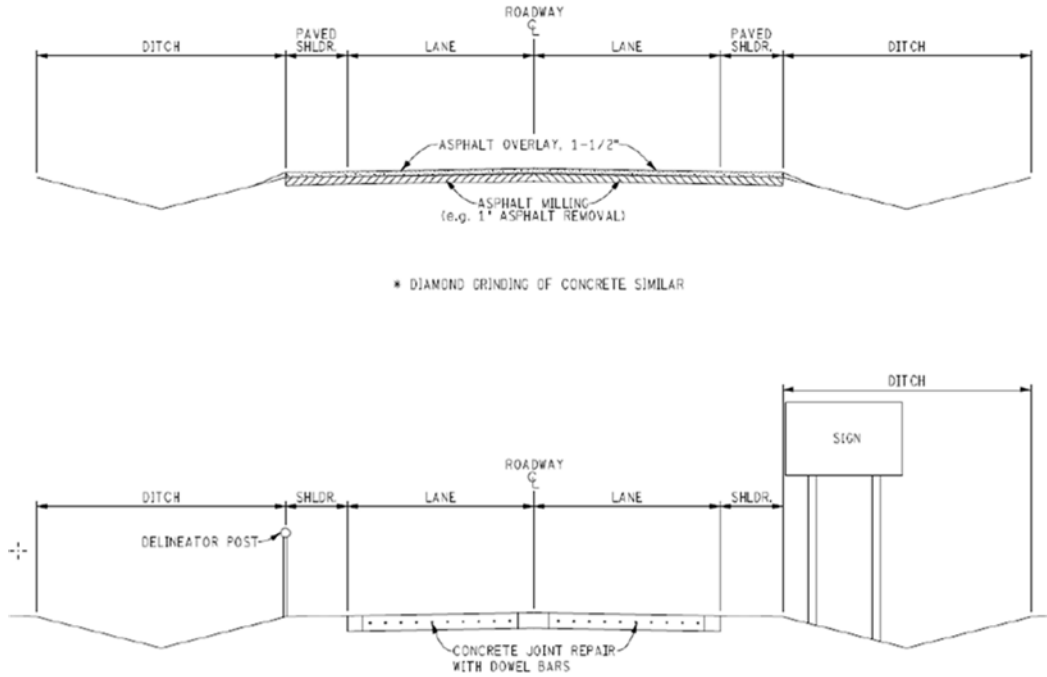
The following activities do not meet the Section 106 definition of undertaking since they do not have the potential to cause effects on historic properties per 36 CFR § 800.3(a) or they have limited potential to affect historic properties and, therefore, it has been determined by the FHWA and the SHPO that *no historic properties will be affected* by these undertakings per 36 CFR § 800.4(d)(1):

- Projects with no Federal Nexus. A project has a Federal Nexus if a federal agency authorizes, funds, or carries out any part of the proposed project. An example would be if the project requires an Army Corp permit. Projects that start as state/local funding only and change to include federal funding or are let with other federally funded projects ARE NOT exempted.
- Planning and Technical Studies
- Research Grants that do not involve earth disturbance or construction activities.
- Preliminary Engineering
- Resurfacing, milling, or profiling within an existing curb-and-gutter roadway with/without in-kind curb and gutter replacement
- In-kind sidewalk replacement or curb ramps within the existing footprint.
 - Curb ramp work is NOT exempt if sidewalk work or ramp replacement results in new/modified curb behind the sidewalk or at any building faces, new/modified retaining walls and/or pedestrian railing, elevation changes at any building, stair changes (including adding or removing stairs at any building) or the removal of landscaping features (i.e. landscaping walls, fences, pillars, etc...).
- Resurfacing, milling, or profiling within the existing road footprint*
- Crush, shape, and resurface within the existing road footprint*
- Lane and/or shoulder widening (no increase in the number of through lanes), with work only within the existing footprint* of the existing roadway
- Signing or pavement marking
- Traffic signal work where poles/equipment are replaced in-kind, or the project does not involve earth disturbance.
- Pavement joint repair
- Installation or replacement of guardrail as long as it is not within 1000' of a structure that is 50 years old or older and eligible for listing or listed on the National Register of Historic Places
- Railroad crossing upgrades provided no runarounds are used to reroute vehicular or RR traffic
- Bridge Preventive Maintenance Work
 - Hot mix asphalt (HMA) overlay with waterproofing membrane
 - Epoxy deck overlay (Concrete)

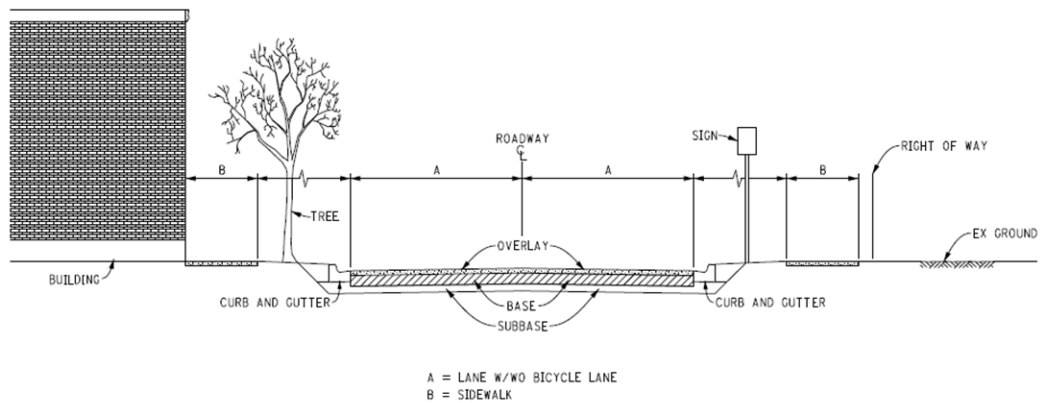
- Shallow deck overlay (removing and replacing concrete surface above the top mat of steel reinforcement)
 - Deep deck overlay (removing and replacing the concrete surface below the top mat of steel reinforcement)
 - Slope paving repair
 - Drainage system repair (bridge deck drains and bridge approach downspouts)
 - Scour/erosion countermeasures within 25 feet of a bridge abutment and as long as it is not within 1000' of a structure that is 50 years old or older
 - and eligible for listing or listed on the National Register of Historic Places
 - Concrete crack sealing
 - Concrete deck patching and repair
 - Approach pavement relief joint installation
 - Temporary supports
 - Expansion or construction joint repair
 - Guard rail beam retrofit or installation as long as it is not within 1000' of a structure that is 50 years old or older and eligible for listing or listed on the National Register of Historic Places
 - Bridge Preventive Maintenance Work on bridges less than fifty (50) years old
 - Painting only (full, zone, or spot painting)
 - Pin and hanger replacement
 - Joint replacement and repair
 - Culvert replacements (in kind size, elevations, length)
 - Culvert extensions when the extension does not cause the center of ditch to be relocated
 - All repairs that qualify as operations which respond within 30 days to
 - a disaster or emergency declared by the President, a tribal government or the Governor of a State
 - other immediate threats of life or property
- * For the purposes of this document, the road “footprint” shall be defined as the road area bounded on either side by the centerline of the shoulder ditch (or back of curb where present) and extends vertically through engineered fill to virgin soil. Any disturbance of virgin soil requires SHPO review.

For roadways where there is no defined ditch; the footprint is bound by the outside edge of the shoulders.

ROAD – ELEVATION VIEW



ROAD
(WITH CURB AND GUTTER)



Any project not listed above must be submitted to the SHPO for review. If any *portion* of the project does not meet the criteria listed here, then the entire project must be submitted to the SHPO for review.

In the event justification is required, the local agency is advised to document all decisions regarding these exempted categories of work.