

Attachment B: Transportation-Air Quality Conformity Exempt Projects
- as Abstracted from the Conformity Rule-

“Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 2 of this section are exempt from the requirement to determine conformity. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 2 of this section is not exempt if the MPO in consultation with other agencies (see §93.105(c)(1)(iii)), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. States and MPOs must ensure that exempt projects do not interfere with TCM implementation. Table 2 follows:

Table 2—Exempt Projects

Safety

Railroad/highway crossing. Projects that correct, improve, or eliminate a hazardous location or feature. Safer non-Federal-aid system roads. Shoulder improvements. Increasing sight distance. Highway Safety Improvement Program implementation. Traffic control devices and operating assistance other than signalization projects. Railroad/highway crossing warning devices. Guardrails, median barriers, crash cushions. Pavement resurfacing and/or rehabilitation. Pavement marking. Emergency relief (23 U.S.C. 125). Fencing. Skid treatments. Safety roadside rest areas. Adding medians. Truck climbing lanes outside the urbanized area. Lighting improvements. Widening narrow pavements or reconstructing bridges (no additional travel lanes). Emergency truck pullovers.

Mass Transit

Operating assistance to transit agencies.
Purchase of support vehicles.
Rehabilitation of transit vehicles¹.
Purchase of office, shop, and operating equipment for existing facilities.
Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.).
Construction or renovation of power, signal, and communications systems.
Construction of small passenger shelters and information kiosks.
Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures).
Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way.
Purchase of new buses and rail cars to replace existing vehicles or for minor¹ expansions of the fleet.
Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR part 771.

Other

Specific activities which do not involve or lead directly to construction, such as: Planning and technical studies. Grants for training and research programs. Planning activities conducted pursuant to titles 23 and 49 U.S.C. Federal-aid systems revisions.

Engineering to assess social, economic, and environmental effects of the proposed action or alternatives to that action.

Noise attenuation.

Emergency or hardship advance land acquisitions (23 CFR 710.503).

Acquisition of scenic easements.

Plantings, landscaping, etc.

Sign removal.

Directional and informational signs.

Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities).

Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational or capacity changes.

Note: ¹ In PM10 and PM2.5 nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.

Projects NOT EXEMPT FROM CONFORMITY but Exempt From Regional Emissions Analyses - Bus terminals and transfer points.

Attachment C: Categorical Exclusions

- a. Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts.
- b. Any action which normally would be classified as a CE but could involve unusual circumstances will require the Administration, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:
 1. Significant environmental impacts;
 2. Substantial controversy on environmental grounds;
 3. Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or
 4. Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.
- c. The following actions meet the criteria for CEs in the CEQ regulation (section 1508.4) and §771.117(a) of this regulation and normally do not require any further NEPA approvals by the Administration:
 1. Activities which do not involve or lead directly to construction, such as planning and technical studies; grants for training and research programs; research activities as defined in 23 U.S.C. 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. 134; approval of statewide programs under 23 CFR part 630; approval of project concepts under 23 CFR part 476; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.

2. Approval of utility installations along or across a transportation facility.
 3. Construction of bicycle and pedestrian lanes, paths, and facilities.
 4. Activities included in the State's *highway safety plan* under 23 U.S.C. 402.
 5. Transfer of Federal lands pursuant to 23 U.S.C. 317 when the subsequent action is not an FHWA action.
 6. The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.
 7. Landscaping.
 8. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
 9. Emergency repairs under 23 U.S.C. 125.
 10. Acquisition of scenic easements.
 11. Determination of payback under 23 CFR part 480 for property previously acquired with Federal-aid participation.
 12. Improvements to existing rest areas and truck weigh stations.
 13. Ridesharing activities.
 14. Bus and rail car rehabilitation.
 15. Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
 16. Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.
 17. The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.
 18. Track and railbed maintenance and improvements when carried out within the existing right-of-way.
 19. Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.
 20. Promulgation of rules, regulations, and directives.
- d. Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after Administration approval. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that

significant environmental effects will not result. Examples of such actions include but are not limited to:

1. Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing).
2. Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.
3. Bridge rehabilitation, reconstruction or replacement or the construction of grade separation to replace existing at-grade railroad crossings.
4. Transportation corridor fringe parking facilities.
5. Construction of new truck weigh stations or rest areas.
6. Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.
7. Approvals for changes in access control.
8. Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
9. Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.
10. Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
11. Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.
12. Acquisition of land for hardship or protective purposes; advance land acquisition loans under section 3(b) of the UMT Act.³ Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be

required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.

³Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.

Protective acquisition is done to prevent imminent development of a parcel which is needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

- e. Where a pattern emerges of granting CE status for a particular type of action, the Administration will initiate rulemaking proposing to add this type of action to the list of categorical exclusions in paragraph (c) or (d) of this section, as appropriate.

[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988]

Transit Projects Proposed for Stimulus Funding

State:

Date:

"Pre-Stimulus" Source of Funds	"Ready-to-Go" Projects [1]			"Imminent TIP/STIP Amendments" [2]		"Longer-Term TIP/STIP Amendments" [3]	
	Project	Total Project Cost	TIP Approval Date/Page Number	Project	Total Project Cost	Project	Total Project Cost
Section 5307							
Section 5309 Bus							
Section 5309 Rail Mod							
Section 5309 New/Small Start							
Section 5310							
Section 5311							
Section 5316							
Section 5317							
Local/State							
TOTAL							

[1] ["Ready to Go" projects are listed in approved, conforming TIPs/STIPs and have completed NEPA, including categorical exclusions, and grant funding can be obligated immediately on appropriation of funds.](#)

[2] ["Imminent TIP/STIP Amendments" are contained in MPO or Statewide long-range plans, but not yet listed in TIPs/STIPs, are exempt from transportation/air quality conformity, and are classified as categorical exclusions or expecting NEPA completion in the near future.](#)

[3] ["Longer-Term TIP/STIP Amendments" are not yet listed in TIPs/STIPs and would require determination of transportation/air quality conformity and NEPA review and completion.](#)

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