

**INFORMATION REQUIRED FOR PROBABLE
CATEGORICAL EXCLUSION**
(Per 23 C.F.R. Part 771.118)

The following information should be included in the letter or attached to the letter from the applicant to FTA Region 9 to support the request for a Categorical Exclusion (CE) determination.

- _____ **A. DETAILED PROJECT DESCRIPTION:**
- Include project features and identify project sponsor.
 - Include funding source (e.g. CMAQ, formula funds, discretionary funds, etc.)
- _____ **B. LOCATION (INCLUDING ADDRESS):** Attach a site map or diagram, which identifies the land uses and resources on the site and the adjacent or nearby land uses and resources. This is used to determine the probability of impact on sensitive receptors (such as schools, hospitals, residences) and on protected resources.
- Site map should show a ½ mile radius and include labels for water resources and key features such as parks, designated sensitive areas, and adjacent uses.
- _____ **C. METROPOLITAN PLANNING AND AIR QUALITY CONFORMITY:** Is the proposed project "included" in the current adopted MPO plan, either explicitly or in a grouping of projects or activities? What is the conformity status of that plan? Is the proposed project, or are appropriate phases of the project included in the TIP? What is the conformity status of the TIP?
- Include the year of the adopted plan and the project number.
 - Include date that the RTP was found to be conforming.
 - Is the project description consistent with what is listed in the plan?
- _____ **D. LAND USE AND ZONING:** Description of zoning, if applicable, and consistency with proposed use. (attach maps).
- Consistency with zoning also includes consideration of adjacent uses.
- _____ **E. TRAFFIC AND PARKING IMPACTS:** Describe potential traffic impacts; including whether the existing roadways have adequate capacity to handle increased bus and other vehicular traffic. Describe potential impacts to on and off street parking.
- Include parking impacts. Will there be a permanent loss of on-street or off-street parking?
 - If the project includes a parking structure on an existing surface lot, what is the net increase in parking?
 - Will there be increased bus services or will the project accommodate existing service?
 - Will the project require traffic signal work or modification of lanes (e.g. add turn lanes, removal of medians, removal of lanes, restriping, shifting location of lanes)?
- _____ **F. CO HOT SPOTS:** If there are serious traffic impacts at any affected intersection, and if the area is nonattainment for CO, demonstrate that CO hot spots will not result.
- Is the area in an attainment or non-attainment area?
 - Will the project exacerbate conditions of an existing hotspot or non-attainment area?
- _____ **G. HISTORIC RESOURCES:** Describe any cultural, historic, or archaeological resource that is located in the immediate vicinity of the proposed project and the impact of the project on the resource. Discuss State Historic Preservation Officer (SHPO) consultation and findings. Discuss consultation with the Native American Heritage Commission (NAHC) and other Native American groups. Attach any relevant correspondence.
- Are there any sites eligible for listing in the National Register of Historic Places?
 - Is the project located in the vicinity of a Historic District?
 - Is SHPO coordination required?

- Has a request of a search of the Sacred Lands File from the Native American Heritage Commission completed?
- Has coordination been conducted with Native American Groups? (Note: Native American consultation, particularly for federally recognized tribes, must be conducted through FTA).

____ H. **NOISE:** Compare the distance between the center of the proposed project and the nearest noise receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Noise Assessment" with conclusions.

- Identify sensitive noise receptors, including residences, outdoor eating areas, parks, outdoor public gathering places, etc. Are there outdoor pools?
- What is the distance of the closest sensitive receptor?
- Are there existing noise barriers (walls, earthen berms, etc.) or intervening structures?

____ I. **VIBRATION:** If the proposed project involves new or relocated steel tracks, compare the distance between the center of the proposed project and the nearest vibration receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Vibration Assessment" with conclusions.

____ J. **ACQUISITIONS & RELOCATIONS REQUIRED:** Describe land acquisitions and displacements of residences and businesses. Include discussion of any permanent or temporary easements required.

- Include discussion of temporary construction easements (if not already included in the construction section) and partial acquisitions.

____ K. **HAZARDOUS MATERIALS:** If real property is to be acquired, has a Phase I site assessment for contaminated soil and groundwater been performed? If a Phase II site assessment is recommended, has it been performed? What steps will be taken to ensure that the community in which the project is located is protected from contamination during construction and operation of the project? State the results of consultation with the cognizant State agency regarding the proposed remediation?

- Is there current, ongoing remediation?
- Resource: <http://geotracker.waterboards.ca.gov>

____ L. **COMMUNITY DISRUPTION AND ENVIRONMENTAL JUSTICE:** Provide a socio-economic profile of the affected community. Describe the impacts of the proposed project on the community. Identify any community resources that would be affected and the nature of the effect.

- Will the project physically divide a community?
- Will the project affect community character (add a feature that would be obtrusive or not consistent with its surroundings)?
- Does the project have the potential to disrupt community activities or community uses (e.g. community centers, parks, churches, etc.)
- Discuss if the project would or would not result in disproportionate high and adverse effects to environmental justice communities. Mention project benefits.
- Resource: FTA Environmental Justice Circular <http://www.fta.dot.gov/about/15446.html>

____ M. **SECTION 4(f) USE:** Indicate parks and recreational areas, historic resources and any other Section 4(f) resources on the site map. If the activities and purposes of these resources will be affected by the proposed project, state how. State if the project will result in a use (direct and/or constructive use) or temporary occupancy of a Section 4(f) resource. If the project results in a Section 4(f) use, would the impacts be considered *de minimis*?

- Will the project require right-of-way, any parks, recreation areas, historic resources or other Section 4(f) resources?

- Will the project change access or require temporary closures or detours of any Section 4(f) resource.
- What is the distance of the closest park?
- Mention any temporary use or temporary occupancy (including any temporary construction easements or construction staging areas) at any parks, recreation areas, historic resources, or other Section 4(f) resources.
- Mention consultation with agencies of jurisdiction (e.g. City Parks and Recreation departments, etc.).
- Resource: FHWA Section 4(f) Policy Paper: <http://www.environment.fhwa.dot.gov/4f/4fpolicy.asp>

____ N. **IMPACTS ON WETLANDS:** Show potential wetlands on the site map. Describe the project's impact on on-site and adjacent wetlands.

- Are there wetlands within the project vicinity?
- Will the project directly drain into a waterway supporting wetlands?
- Will the project require alteration of surface water features, wetlands, navigable waterways, or waters of the U.S. (e.g. channels, stormdrains...)?
- Will the project require permits (e.g. Clean Water Act Section 404 permit).

____ O. **FLOODPLAIN IMPACTS:** Is the proposed project located within the 100-year floodplain? If so, address possible flooding of the proposed project site and flooding induced by proposed project due to its taking of floodplain capacity.

- Will the project introduce a large structure that will change floodplain elevations or floodways?
- Resource: The FEMA Flood Map Service Center (MSC) is a public source for flood hazard information produced in support of the National Flood Insurance Program (NFIP). Use the MSC to find your official flood map, access a range of other flood hazard products: <http://msc.fema.gov/portal>

____ P. **IMPACTS ON WATER QUALITY, NAVIGABLE WATERWAYS, & COASTAL ZONES:** Describe surface and ground water resources in the project vicinity and their approximate distance to the project. State if any Clean Water Act 303d Listed Impaired Water Bodies are in the project vicinity. Explain if the project would alter or create a new direct connection to a surface water body. If any of these are implicated, provide detailed analysis.

- Describe any surface water features. Where will the water drain into?
- What is the distance of the closest surface water body?
- What is the distance to the coast? Is the project located in a designated coastal zone?
- Will the project affect Clean Water Act 303d listed impaired water bodies?

____ Q. **IMPACTS ON ECOLOGICALLY-SENSITIVE AREAS AND ENDANGERED SPECIES:** Describe any natural areas (woodlands, prairies, wetlands, rivers, lakes, streams, designated wildlife or waterfowl refuges, and geological formations) on or near the proposed project area. If present, state the results of consultation with a federal or state resources agency on the impacts to these natural areas and on threatened and endangered fauna and flora that may be affected.

- Will the project require permits or consultation from U.S. Army Corps or Engineers, U.S. Fish and Wildlife Service, National Marine Fisheries Service, etc.?
- Is the project near any designated biological or environmentally sensitive area (BSA, ESA), designated critical habitat, wildlife corridors, or essential fish habitat?
- Does the project require mature tree removal?
- Are there known threatened and endangered species occurrences in the area?
- Does the site support sensitive habitat, including nesting or foraging areas?

____ R. **IMPACTS ON SAFETY AND SECURITY:** Describe the measures that would need to be taken to provide for the safe and secure operation of the project after its construction.

- Pedestrian Safety? ADA features? Lighting?
- Discuss safety impacts related to any railroad at-grade crossings in close proximity.

_____ S. **IMPACTS CAUSED BY CONSTRUCTION:** Describe the construction plan and identify impacts due to construction noise, utility disruption, debris and spoil disposal, air and water quality, safety and security, and disruptions of traffic and access to property.

- Include temporary parking locations
- Mention construction staging areas.
- Traffic management plan?

_____ T. **SUPPORTING TECHNICAL STUDIES OR MEMORANDA:** List any technical studies or memoranda prepared for the project.

- This may include documentation demonstrating compliance with environmental requirements other than NEPA, such as Section 4(f), Section 106 of the National Historic Preservation Act (“Section 106”), or Section 7 of the Endangered Species Act
- For projects in California, also list the environmental document prepared pursuant to the California Environmental Quality Act (CEQA). Attach the CEQA document.

_____ U. **PUBLIC OUTREACH AND AGENCY COORDINATION:** Describe any federal/ state agency coordination, public outreach efforts, public meetings, or public hearing held or public notices posted for the project. Discuss if project information is posted on a project website.

The action described above meets the criteria for a NEPA categorical exclusion (CE) in accordance with 23 CFR Part 771.118 ([INSERT CE CATEGORY](#)).

Applicant's Environmental Reviewer

Date

REFERENCE

The list of CEs in 23 CFR 771.118 focuses on actions most applicable to FTA. It is FTA's responsibility to determine whether the action described by the grant applicant ("applicant") falls within the CE category (i.e., the action meets all conditions listed in the CE), whether the action is inappropriately segmented from a larger project, and whether there are unusual circumstances that would make a CE determination inappropriate).

Grant applicants should include sufficient information for FTA to make a CE determination. A description of the project in the grant application, as well as any maps or figures typically included with the application or as requested by the FTA Regional Office, should be submitted to FTA to determine whether the CE applies. Section 771.118(d), which is an open-ended categorical exclusion authority, lists example actions and requires documentation to verify the application of a CE is appropriate (i.e., the action meets the criteria established in § 771.118(a) and (b)).

Documentation demonstrating compliance with environmental requirements other than NEPA, such as Section 106 of the National Historic Preservation Act ("Section 106"), or Section 7 of the Endangered Species Act, may be necessary for the processing of the grant. Other applicable environmental requirements must be met regardless of the applicability of the CE under NEPA, but compliance with other environmental requirements does not elevate an action that otherwise is categorically excluded under section 771.118(c) to section 771.118(d).

Pursuant to 40 C.F.R. § 1506.5, applicants or applicants' contractors may prepare NEPA documents for submittal to federal agencies. However, the applicant is responsible for submitting accurate and complete documentation to FTA. The applicant should prepare a separate transmittal letter or statement to accompany the CE verifying that they have reviewed the information contained in the document when they transmit it to FTA. The transmittal should include the following statement:

"in submitting the (project name) categorical exclusion (CE) to the FTA, the applicant (insert name/agency info) affirms that it has reviewed and supports the information presented documenting the proposed action as meeting the criteria for a CE in accordance with 23 CFR Part 771.118 (d)(# - insert appropriate number here). Following independent review and verification by FTA, applicant (insert DOT name/info) requests that it be notified of the acceptability of its submission"

FTA Planning and Environment Resources: http://www.fta.dot.gov/12347_15129.html

23 C.F.R Part 771.118 FTA Categorical Exclusions [as amended, January 29, 2016]

(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 FTA, 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) Actions that FTA determines fall within the following categories of FTA CEs and that meet the criteria for CEs in the CEQ regulation (40 CFR 1508.4) and paragraph (a) of this section normally do not require any further NEPA approvals by FTA.

- (1) Acquisition, installation, operation, evaluation, replacement, and improvement of discrete utilities and similar appurtenances (existing and new) within or adjacent to existing transportation right-of-way, such as: utility poles, underground wiring, cables, and information systems; and power substations and utility transfer stations.
- (2) Acquisition, construction, maintenance, rehabilitation, and improvement or limited expansion of stand-alone recreation, pedestrian, or bicycle facilities, such as: a multiuse pathway, lane, trail, or pedestrian bridge; and transit plaza amenities.
- (3) Activities designed to mitigate environmental harm that cause no harm themselves or to maintain and enhance environmental quality and site aesthetics, and employ construction best management practices, such as: noise mitigation activities; rehabilitation of public transportation buildings, structures, or facilities; retrofitting for energy or other resource conservation; and landscaping or re-vegetation.
- (4) Planning and administrative activities which do not involve or lead directly to construction, such as: training, technical assistance and research; promulgation of rules, regulations, directives, or program guidance; approval of project concepts; engineering; and operating assistance to transit authorities to continue existing service or increase service to meet routine demand.
- (5) Activities, including repairs, replacements, and rehabilitations, designed to promote transportation safety, security, accessibility and effective communication within or adjacent to existing right-of-way, such as: the deployment of Intelligent Transportation Systems and components; installation and improvement of safety and communications equipment, including hazard elimination and mitigation; installation of passenger amenities and traffic signals; and retrofitting existing transportation vehicles, facilities or structures, or upgrading to current standards.
- (6) Acquisition or transfer of an interest in real property that is not within or adjacent to recognized environmentally sensitive areas (e.g., wetlands, non-urban parks, wildlife management areas) and does not result in a substantial change in the functional use of the property or in substantial displacements, such as: acquisition for scenic easements or historic sites for the purpose of preserving the site. This CE extends only to acquisitions and transfers that will not limit the evaluation of alternatives for future FTA-assisted projects that make use of the acquired or transferred property.
- (7) Acquisition, installation, rehabilitation, replacement, and maintenance of vehicles or equipment, within or accommodated by existing facilities, that does not result in a change in functional use of the facilities, such as: equipment to be located within existing facilities and with no substantial off-site impacts; and vehicles, including buses, rail cars, trolley cars, ferry boats and people movers that can be accommodated by existing facilities or by new facilities that qualify for a categorical exclusion.
- (8) Maintenance, rehabilitation, and reconstruction of facilities that occupy substantially the same geographic footprint and do not result in a change in functional use, such as: improvements to bridges, tunnels, storage yards, buildings, stations, and terminals; construction of platform extensions, passing track, and retaining walls; and improvements to tracks and railbeds.
- (9) Assembly or construction of facilities that is consistent with existing land use and zoning requirements (including floodplain regulations) and uses primarily land disturbed for transportation use, such as: buildings and associated structures; bus transfer stations or intermodal centers; busways and streetcar lines or other transit investments within areas of the right-of-way occupied by the physical footprint of the existing facility or otherwise maintained or used for transportation operations; and parking facilities.
- (10) Development of facilities for transit and non-transit purposes, located on, above, or adjacent to existing transit facilities, that are not part of a larger transportation project and do not substantially enlarge such facilities, such as: police facilities, daycare facilities, public service facilities, amenities, and commercial, retail, and residential development.

(11) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121):

(i) Emergency repairs under 49 U.S.C. 5324; and

(ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action:

(A) Occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and

(B) Is commenced within a 2-year period beginning on the date of the declaration.

(12) Projects, as defined in 23 U.S.C.101 that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.

(13) Federally funded projects:

(i) that receive less than \$5, 179,656.40 of Federal funds; or

(ii) with a total estimated cost of not more than \$31,077,938.40 and Federal funds comprising less than 15 percent of the total estimated project cost

Based on the attached formula and as required by Section 1314 of the FAST Act, the following adjustments are made for Categorical Exclusions for Projects of Limited Federal Assistance:

1. The \$5,000,000 monetary limit is adjusted to \$5, 179,656.40.

2. The \$30,000,000 monetary limit is adjusted to \$31,077,938.40.

Effective January 29, 2016, these adjusted figures must be used when applying the limited Federal assistance categorical exclusion to projects. This change also affects Title 23 of the Code of Federal Regulations (CFR), subsections 771.117(c)(23) and 771.118(c)(13), which will be amended as soon as practicable.

(14) Bridge removal and bridge removal related activities, such as in channel work, disposal of materials and debris in accordance with applicable regulations, and transportation facility realignment.

(15) Preventative maintenance, including safety treatments, to culverts and channels within and adjacent to transportation right-of-way to prevent damage to the transportation facility and adjoining property, plus any necessary channel work, such as restoring, replacing, reconstructing, and rehabilitating culverts and drainage pipes; and, expanding existing culverts and drainage pipes.

- (16) Localized geotechnical and other investigations to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

(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 FTA 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, restoring, rehabilitating, or reconstructing shoulders or auxiliary lanes (e.g., lanes for parking, weaving, turning, climbing).
- (2) Bridge replacement or the construction of grade separation to replace existing at-grade railroad crossings.
- (3) Acquisition of land for hardship or protective purposes. 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.
 - (i) Hardship 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.
 - (ii) Protective acquisition is done to prevent imminent development of a parcel which may be 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.
- (4) Acquisition of right-of-way. No project development on the acquired right-of-way may proceed until the NEPA process for such project development, including the consideration of alternatives, has been completed.
- (5) (RESERVED for a future d-list example)
- (6) Facility modernization through construction or replacement of existing components.
- (7) Minor transportation facility realignment for rail safety reasons, such as improving vertical and horizontal alignment of railroad crossings, and improving sight distance at railroad crossings.
- (8) Modernization or minor expansions of transit structures and facilities outside existing right-of-way, such as bridges, stations, or rail yards.