



U.S. Department
of Transportation
**Federal Transit
Administration**

REGION VIII
Colorado, Montana,
North Dakota,
South Dakota,
Utah and Wyoming

12300 West Dakota Avenue
Suite 310
Lakewood, Colorado 80228
720-963-3300 (voice)
720-963-3333 (fax)

REGION 8 BULLETIN NO: 2014-02

Subject: FTA NEPA Final Rule and Region 8 Categorical Checklist

Date: January 13, 2014

Dear Grantees:

This bulletin is to provide you with an update to the Federal Transit Administration's (FTA) Environmental Regulations.

On Monday, January 13, 2014, FTA and the Federal Highway Administration issued a Final Rule adding two new Categorical Exclusions (CE) to our Joint Environmental Regulations, in order to implement sections 1316 and 1317 of MAP-21.

The full notice is available at: <http://www.gpo.gov/fdsys/pkg/FR-2014-01-13/pdf/2014-00370.pdf>

FTA Region 8 has incorporated this final rule into our Categorical Exclusion guidance and checklist which is attached to this bulletin for your use.

As a reminder, a determination that an action qualifies for a CE under the Agencies' National Environmental Policy Act (NEPA) procedures is not an exemption from the environmental laws that apply to that project. A project may not require the higher level of NEPA analysis associated with an Environmental Assessment or Environmental Impact Statement and still require analysis under section 106 of the National Historic Preservation Act; section 404 of the Clean Water Act; section 7 of the Endangered Species Act; or section 4(f) of the Department of Transportation Act. Applicants need to apply and obtain applicable environmental permits and approvals even for projects that qualify as CEs. If there are special circumstances contact the Regional Office to determine what documentation will be required.

If you have questions about this information, please contact David Beckhouse, Region 8 at 720.963.3306 or david.beckhouse@dot.gov for more information.

Sincerely,

Linda M. Gehrke
Regional Administrator

Attachment:
2014 Catex Checklist

**FTA Region 8
CATEGORICAL EXCLUSION and
DOCUMENTED CATEGORICAL EXCLUSION WORKSHEET**

The purpose of this worksheet is to assist sponsoring agencies in gathering and organizing materials for environmental analysis required under the National Environmental Policy Act (NEPA), particularly for projects that may qualify as a documented Categorical Exclusion ([23 CFR 771.118](#)). Provide a response for each lettered paragraph. If you feel an item does not apply to your project, explain why. Provide letters, maps, graphics, and any other information that will assist in the substantiation of responses. Fields are expandable, so feel free to use more than a line or two to provide descriptions.

Submission of the worksheet by itself does not meet NEPA requirements. FTA must concur in writing in the sponsoring agency's NEPA recommendation. Project activities, including property acquisition and final design, may not begin until this process is complete. Contact the [FTA Region 8](#) office at (720) 963-3300 if you have any questions or require assistance. If this is the first time you have filled out this form, FTA encourages you to contact your regional contact for guidance.

I. PROJECT DESCRIPTION

Sponsoring Agency	Date Submitted	FTA Grant Number(s) (if known)
Project Title		
Project Description (brief, 1-2 sentences)		
Purpose and Need for Project (brief, 1-2 sentences, what are you building and why do you need it, how many vehicles and/or patrons does it need to accommodate).		
Project Location (include City and Street address)		
Project Contact (include phone number, mailing address and email address)		
If your project involves construction, include the following maps: <ul style="list-style-type: none"> • Project vicinity • Basic project site plan showing access points and project boundaries 		

II. NEPA Class of Action

Answer the following questions to determine the project's potential class of action. If there are potentially significant adverse impacts FTA may require the preparation of a NEPA environmental assessment (EA), even for project types normally approved with a Catex. If you have question, contact Region 8.

C.1 Does the project appear on the following list of potential Categorical Exclusions (CEs)?

The projects listed [23 CFR 771.118\(c\)](#) unless certain circumstances exist, such as the presence of wetlands, historic buildings and structures, parklands and floodplains in the project area are Categorical Exclusions that do not usually require documentation in order to approve.

- YES (If checked AND there are no special circumstances, **you do not need to complete the checklist.** Mark the applicable environmental finding in TEAM.
- NO (continue to Section D)

NOTE: A determination that an action qualifies for a CE under the Agencies' NEPA procedures is not an exemption from the environmental laws that apply to that project. A project may not require the higher level of NEPA analysis associated with an EA or EIS and still require analysis under section 106 of the NHPA, section 404 of the CWA, section 7 of the ESA, or section 4(f) of the DOT act. Applicants need to apply and obtain applicable environmental permits and approvals even for projects that qualify as CEs. If there are special circumstances contact the Regional Office to determine what documentation will be required.

Category C Projects:

- (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 underconstruction 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 \$5,000,000 of Federal funds; or
 - (ii) With a total estimated cost of not more than \$30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.

D. Does the project appear on the following list of potential documented Categorical Exclusions?

These projects may be categorical exclusions under [23 CFR § 771.118\(d\)](#), and require additional documentation demonstrating that the specific conditions or criteria for the CEs are satisfied and that significant effects will not result.

- YES (Check and continue to Part III)
- NO or NOT SURE (Contact FTA Regional Office, not everything fits into these descriptions)

Category D Projects:

- (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) Construction of bicycle facilities within existing transportation right-of-way.
- (6) Facility modernization through construction or replacement of existing components.

III. Information Required for Documented Categorical Exclusions

If you checked "Yes" to any of the options in Part II, Section D, complete Part III and submit to FTA.

A. Detailed Project Description

Include a project description and explain how the proposal satisfies the purpose and need identified in Part I. What are you building and why is it needed? What activities are you proposing to pay for with FTA funds?

B. Location and Zoning

Attach a site map or diagram, which identifies and labels 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. Be sure to show the location of the project on the map.

C. Traffic

Describe potential traffic impacts; including whether the existing roadways have adequate capacity to handle increased bus and other vehicular traffic. You may provide a letter from the traffic engineer or other appropriate official verifying the traffic impacts.

D. Aesthetics

Will the project substantially degrade the existing visual character or quality of the site and its surroundings?

- No
- Yes, describe

E. Air Quality

Is the project located in an Environmental Protection Agency (EPA)-designated non-attainment or maintenance area?

NO

YES, indicate the criteria pollutant and contact FTA to determine if a hot spot analysis is necessary.

Carbon Monoxide (CO)

Ozone (O₃)

Particulate Matter (PM₁₀)

Does the project have the potential to impact air quality?

NO It is exempt from conformity analysis under [40 CFR Part 51 § 93.126](#) or regional analysis under [§93.127](#)

YES, it is not exempt under §93.126 or §93.127

If the non-attainment area is also in a metropolitan area, was the project included in the MPO's Transportation Improvement Program (TIP) air quality conformity analysis?

NO

YES

Date of USDOT conformity finding

F. Environmental Justice

Indicate whether the project will have disproportionately high and adverse impacts on minority or low-income populations. Describe any potential adverse effects. Describe outreach efforts targeted specifically at minority or low-income populations. Generally speaking a project which qualifies for a Categorical Exclusion will not have significant adverse effects and therefore is unlikely to have disproportionate adverse effects, but be aware of the potential for cumulative effects of multiple projects in a single community. Assess whether there is a concern about cumulative effects in the vicinity of the proposed project.

G. Floodplains

Is the proposed project located within the Federal Emergency Management Agency (FEMA) 100-year floodplain?

No

Yes, describe potential impacts and include the FEMA map with the project location identified.

H. Hazardous Materials

Is there any known or potential contamination at the project site?

No, describe the steps taken to determine whether hazardous materials are present on the site. 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?

Yes, note mitigation and clean-up measures that will be taken to remove hazardous materials from the project site. 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.

I. Vibration

Does the proposed project cross or have the potential for vibration impacts? See the screening guidance for steel wheeled projects in the [FTA Noise and Vibration Manual](#).

- No, rubber tired projects typically don't have vibration impacts or; there no receptors within the screening distance outlined in the FTA Noise and Vibration Manual (say which below).
- Yes, describe potential impacts and discuss mitigation measures.

J. Noise

Does the project have the potential to increase noise?

- NO, there are no receptors within the applicable screening distance for this type of project. ([Noise and Vibration Manual Chapter 4](#)).
- YES, there are receptors within the screening distance. A [General Noise Assessment](#) following the procedures in [Chapter 5 of the Noise and Vibration Manual](#) is attached. Describe whether or not it indicates there will be impacts, proposed mitigation measures, and remaining impacts after mitigation (if any).

K. Prime and Unique Farmlands

Does the proposal involve the use of any prime or unique farmlands?

- No
- Yes, describe potential impacts and any coordination with the Soil Conservation Service of the U.S. Department of Agriculture.

L. Resources

Does the project have the potential to impact any of the resources listed below?

NO

YES, if checked, describe resource and impacts in the areas below. Impacts to cultural, historic, or recreational properties may trigger Section 4(f) evaluation, which requires consideration of avoidance alternatives.

Historic— Describe any cultural, historic, or archaeological resource that is located on or in the immediate vicinity of the proposed project and the potential of the project to affect historic resources. Determining the presence of these resources may require coordination with the State Historic Preservation Officer, and consulting parties. Attach any relevant correspondence.

If the project has the potential to affect historic resources, the Section 106 process must be followed. <http://www.achp.gov/regsflow.html>

Recreational- Describe and public parks and recreation areas in the vicinity of the project. If the activities and purposes of these resources will be affected by the project, state how.

Biological—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 the US Fish and Wildlife Service and state department of natural resources on the impacts to these natural areas and on threatened and endangered fauna and flora that may be affected. Provide correspondence substantiating consultation and results.

Wetlands – show potential Wetlands and Waters of the U.S. on or adjacent to the project, describe potential impacts, attach correspondence with the US Army Corps of Engineers.

Other, describe

M. Safety and Security

Address measures that would need to be taken to provide for the safe and secure operation of the project after its construction.

N. Water Quality

Does the project have the potential to impact water quality, including during construction.

No

Yes, describe potential impacts and mitigation measures.

Will there be an increase in new impervious surface or restored pervious surface?

No

Yes, describe potential impacts, proposed treatment, or permitting required for stormwater runoff.

O. Construction Impacts

Describe the construction plan and identify impacts due to construction noise, utility disruption, debris and spoil disposal, and staging areas. Address air and water quality impacts, safety and security issues, and disruptions to traffic and access to property.

P. Cumulative and Indirect Impacts

Are cumulative and indirect impacts likely?

No

Yes, describe the reasonably foreseeable:

a) Cumulative Impacts, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

b) Indirect impacts, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect impacts may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air, water and other natural systems, including ecosystems.

Q. Property Acquisition

If property is to be acquired for the project, indicate whether acquisition will result in relocation of businesses or individuals.

Note: To ensure the eligibility for federal participation, grantees may not acquire property with either local or federal funds prior to completing the NEPA process and receiving written concurrence in the NEPA recommendation. Chapter IV of [FTA Circular 5010.1D](#) provides guidance on FTA requirements for real property, including relocation and appraisal requirements under the Uniform Act. For acquisitions over \$500,000, FTA concurrence in the property's valuation is also required.

R. Public Notification

Describe public outreach efforts undertaken on behalf of the project and summarize public comments received. Indicate opportunities for public hearings, (e.g. board meetings, open houses, special hearings). Indicate any significant concerns expressed by agencies or the public regarding the project. FTA does not have standards for public notification of Categorical Exclusion projects. Describe any outreach efforts you have made locally.

S. State and Local Policies and Ordinances

Is the project in compliance with all applicable state and local policies and ordinances?

No, describe

Yes

Submitted By:

	Date:
--	--------------

Submit two copies of this form, attachments, and a transmittal letter recommending a NEPA finding to the address below, or submit an electronic version to your representative on the Region 8 Planning and Program Development Team. Contact your Region 8 representative at the number below if you are unsure of these procedures. Modifications and additional information and often necessary and may be requested.

[Federal Transit Administration, Region 8](#) [phone: \(720\) 963-3300](#)
[12300 W. Dakota Ave, Suite 310](#)
[Lakewood, CO 80228](#)

David Beckhouse
Team Leader for Planning and Program Development
(720) 963-3306

Kristin Kenyon
Community Planner
(720) 963-3319

Jennifer Stewart
Statewide and Tribal Programs Coordinator
(720) 963-3317

Larry Squires
Community Planner
(720) 963-3305