

rigid highway sign posts were identified in the past as a safety hazard causing unnecessary deaths and injuries. The identification of this hazard led to national policy requiring rigid posts to be replaced with breakaway poles.

Projects exempted under the safety provision may not involve substantial functional (such as upgrading major arterial to freeways), locational, or capacity changes except when the safety problem could not otherwise be solved. Although substantial changes to the function, location, or capacity have been previously allowed for projects funded under Emergency Relief, such projects could not proceed under sanction.

2. Congressionally Authorized Activities

Seven project types are identified specifically in CAA section 179(b)(1) as exempt from highway sanctions. Essentially these are projects that discourage single occupancy vehicles or improve traffic flow (e.g., intersections, turning lanes) in ways that reduce congestion and emissions:

a. Capital programs for public transit. These include any capital investment for new construction, rehabilitation, replacement, or reconstruction of facilities and acquisition of vehicles and equipment;

b. Construction or restriction of certain roads or lanes solely for the use of passenger buses or high occupancy vehicles (HOV). Exempt projects include construction of new HOV lanes, if those lanes are solely dedicated as 24-hour HOV facilities, and converting existing lanes for HOV use during peak hours, including capital costs necessary to restrict existing lanes (barriers, striping, signage, etc.);

c. Planning for requirements for employers to reduce employee work trip-related vehicle emissions. This also includes promotional and other activities associated with this type of program that are eligible under Title 23;

d. Highway ramp metering, traffic signalization, and related programs that improve traffic flow and achieve a net emission reduction;

e. Fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit operations (this includes the construction of new facilities and the maintenance of existing facilities);

f. Programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration, particularly during periods of peak use, through road use charges, tolls, parking surcharges, or other pricing mechanisms, vehicle restricted zones or periods, or vehicle registration programs; exempt projects include all

activities of these types that are eligible under existing funding programs; and

g. Programs for breakdown and accident scene management, nonrecurring congestion, and vehicle information systems, to reduce congestion and emissions.

The FHWA will consult with the EPA on any project claimed to reduce emissions; that is, with projects falling under paragraphs c, d, and g, above. The final authority to determine whether a project meets the criteria in this section and is therefore exempt from highway sanctions, however, rests with the FHWA.

3. Air Quality Improvement Programs That Do Not Encourage Single Occupancy Vehicle Capacity

Transportation programs not otherwise exempt that improve air quality and which would not encourage single occupancy vehicle capacity (as determined by EPA in consultation with DOT) are also exempt from highway sanctions.

For example, transportation control measures (TCMs) listed in section 108(f) of the CAA and projects funded under 23 U.S.C. 149, the Congestion Mitigation and Air Quality Improvement (CMAQ) program, are projects which the EPA and DOT may, after individual review of each project, find to be exempt from highway sanctions. For these projects to advance while highway sanctions are in place, the State must submit to DOT an emissions reduction analysis similar to that required under the CMAQ program. Upon receipt, DOT will forward it to the EPA. The EPA will complete its review and make its finding regarding air quality and single occupancy vehicle travel within 14 days of receipt of such information.

The EPA and DOT have agreed that the following projects will be categorically exempt from highway sanctions, and will not require additional EPA review or an individual finding by EPA:

a. TCMs included in an EPA-approved State Implementation Plan (SIP) or Federal Implementation Plan which have emission reduction credit and will not encourage single occupant vehicle travel;

b. Inspection and maintenance facilities and activities eligible for CMAQ funding;

c. Bicycle and pedestrian facilities and programs; and

d. Carpool/Vanpool programs.

In considering exempt projects, States should seek to ensure adequate access to downtown and other commercial and residential areas, and avoid increasing

or relocating emissions and congestion rather than reducing them.

D. Planning and Research Activities

Planning and research activities for transportation and/or air quality purposes are exempt from highway sanctions (except as noted in Section E. Project Development Activities). Such planning and research is critical for the development of projects that improve safety and address an area's transportation/air quality needs. Planning and research activities include development of major investment studies which may be coupled with the draft Environmental Impact Statement or Environmental Assessment. Major investment studies take a multimodal approach in considering transportation alternatives (including new highway capacity) which would be exempt from highway sanctions if advanced as stand alone projects.

Research activities also include those research, development, testing, and planning projects involving the National Intelligent Transportation Systems (ITS) Program. The goal of the ITS Program is to use advanced technology to improve travel and roadway safety without expanding existing infrastructure. ITS activities are generally done under seven broad categories: Travel and transportation management; travel demand management; public transportation operations; electronic payment; commercial vehicle operations; emergency management; and advanced vehicle control and safety systems.

For these reasons, planning and research activities can continue even under highway sanctions. These studies may be carried out with any Title 23 program funds (metropolitan planning, state planning and research, STP, or other programs) under Sections 134, 135, and 307 or other relevant sections.

E. Project Development Activities

Development and completion of studies that are necessary to meet requirements under the National Environmental Policy Act (NEPA) are exempt from highway sanctions as long as consideration of projects that would be exempt under the policy statement, such as transit or other transportation demand management (TDM) measures, are actively pursued as reasonable independent alternatives. Once all alternatives that could be considered exempt from highway sanctions under this policy statement are eliminated, project development activities for NEPA or other purposes are no longer exempt and can no longer be approved if they are to be funded under Title 23. For