

## The Supporting Statement

Introduction: The US Department of Transportation (USDOT) seeks to review State Departments of Transportation, Transit authorities, Metropolitan Planning Organizations, and other government agencies on the use since 2005 of categorical exclusions under the National Environmental Policy Act for transportation projects. This new information collection, titled *USDOT Survey of the Use of Categorical Exclusions in Transportation Projects Since 2005*, is required by *Moving Ahead for Progress in the 21<sup>st</sup> Century* (MAP-21) section 1318 Programmatic Agreements and Additional Categorical Exclusions:

*(a) In General- Not later than 60 days after the date of enactment of this Act, [October 1, 2012], the Secretary shall*

*(1) survey the use by the Department of categorical exclusions in transportation projects since 2005;*

*(2) publish a review of the survey that includes a description of--*

*(A) the types of actions categorically excluded; and*

*(B) any requests previously received by the Secretary for new categorical exclusions; and*

*(3) solicit requests from State departments of transportation, transit authorities, metropolitan planning organizations, or other government agencies for new categorical exclusions.*

*(b) New Categorical Exclusions- Not later than 120 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to propose new categorical exclusions received by the Secretary under subsection (a), to the extent that the categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations, and section 771.117(a) of title 23, Code of Federal Regulations (as those regulations are in effect on the date of the notice).*

*(c) ADDITIONAL ACTIONS.—The Secretary shall issue a proposed rulemaking to move the following types of actions from subsection (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to subsection (c) of that section, to the extent that such movement complies with the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act):*

*(1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and 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.*

*(d) PROGRAMMATIC AGREEMENTS.—*

*(1) IN GENERAL.—The Secretary shall seek opportunities to enter into programmatic agreements with the States that establish efficient administrative procedures for carrying out environmental and other required project reviews.*

Part A. Justification.

1. Circumstances that make collection of information necessary:

The recently enacted MAP-21 requires not later than sixty (60) days after the date of enactment (October 1, 2012) that the Secretary review the use by the Department of categorical exclusions in transportation projects, to publish a review, and to solicit requests from State Departments of Transportation, Transit authorities, Metropolitan Planning Organizations, and other government agencies for new categorical exclusions.

2. How, by whom, and for what purpose is the information used:

This information will be used by the US Department of Transportation to prepare the report that is a requirement stipulated in Sec. 1318 of MAP-21 by Congress to provide information on the use of actions categorically excluded from the requirements to prepare either an Environmental Assessment or Environmental Impact Statement under National Environmental Policy Act (NEPA) for transportation projects and to identify possible actions to designate as new categorical exclusion actions in a required notice of proposed rulemaking, not later than 120 days after the date of enactment of MAP-21.

The report content includes documentation of use of categorical exclusions by responding agencies and responses to the survey. The report will identify respondents by responding entities (State highway, transit agency, tribe, and MPOs) rather than specifically identifying respondents. Survey responses will form the basis of the report through discussion and comparison of responses. The report will summarize the findings of the survey, identify needs based on the responses and provide recommendations based on the findings.

The report will address the requirements described in section 1318(a)(2) to provide a review of the types of actions categorically excluded; and any requests previously received by the Secretary for new categorical exclusions and will use the responses of the survey with regard to 1318(b) to inform the Notice of Proposed Rulemaking as required in 1318(c).

3. Extent of automated information collection:

This review would be web-based allowing for ease of response as well as electronic collating and synthesizing of information provided by respondents.

4. Efforts to identify duplication:

With regard to existing information on the use by the Department of categorical exclusions, several reports exist that summarize this information in general ways. These reports lack specific details on the use of categorical exclusions that might be useful in designating new actions as categorical exclusions in rulemaking. Also, the provision of MAP-21 specifically directs the Secretary to "solicit requests" from the variety of agencies to which the Paperwork Reduction Act pertains. No previous solicitation has been conducted by USDOT.

5. Efforts to minimize the burden on small businesses:

The review is limited to public agencies. Small business would not be contacted, and thus, not affected.

6. Impact of less frequent collection of information:

There are no anticipated consequences or program impacts to performing a single data collection. This single review would satisfy the statutory requirement of MAP-21 Section 1315.

7. Special circumstances:

We plan to request that agencies respond to this review within 30 days of receipt because of the short time frames stipulated in Sec. 1318 to prepare the report and to publish a notice of proposed rulemaking.

8. Compliance with 5 CFR 1320.8:

The publication date for the Federal Register notice that solicited public comments for a 30-day period was on August 15, 2012, on pages 49057-49058 in the Federal Register. Information provided by respondents will be considered in finalizing questions.

9. Payments or gifts to respondents:

No payments or gifts are proposed to be provided to respondents.

10. Assurance of confidentiality:

Participation in the review is voluntary and the content of responses is not intended to include propriety or confidential information. Respondents would be asked to identify the agency and state providing the response. At the discretion of the respondent, contact information for follow up clarification of information could be provided. The report would disclose only the agency and state as identifying information.

11. Justification for collection of sensitive information:

This collection does not intend to collect sensitive information

12. Estimate of burden hours for information requested:

State Departments of Transportation= 52, MPOs= about 375, Transit agencies= about 50, Tribal and other government agencies= as many as 600  
Total respondents = 1077  
Total burden hours = 2154 (2 hours per response)

Estimated costs:

State Departments of Transportation - \$3,120  
MPOs - \$22,500  
Transit agencies - \$3,000  
Tribal and other government agencies - \$36,000

13. Estimate of total annual costs to respondents:

The collection will occur one time. There is no estimated annual cost beyond the initial costs in item 12.

14. Estimate of cost to the Federal government:

\$25,000 for costs related to preparation, distribution, and summarizing the results of the review by a consultant and incidental costs.

15. Explanation of program changes or adjustments:

This is a new request for information collection.

16. Publication of results of data collection:

The results of the review should be published within 60 days of enactment of MAP-21, as directed in Sec. 1318 of MAP-21.

17. Approval for not displaying the expiration date of OMB approval:

Approval for not displaying the expiration date is not being requested.

18. Exceptions to certification statement:

No exception to the certification statement is being requested.