



MEMORANDUM

To: Tier II Consultation Committee

From: CMAP Staff

Date: April 7, 2022

Re: Road Diets

An increasing number of projects have a road diet component as part of the project. Recently this has led to discussions between project sponsors and CMAP regarding these types of projects and conformity requirements. Air quality and the transportation conformity process are important to the region and involve a regulatory process that CMAP, and the region are required to follow.

Currently, projects that have a road diet component are removing a lane of traffic and are categorized in the TIP as a remove lanes project, which is a not exempt work type and as such is subject to the transportation conformity process. CMAP has reviewed the rules and regulations and based on that review a project with a remove lanes work type must be classified as not exempt and neither CMAP nor the Tier II Consultation Committee can change that. However, safety is a high priority and is an exempt work type in the regulations. There may be instances where a road diet is being done primarily to address a safety issue and the question then is does that warrant a change in the project's work type classification to one that is safety and thus exempt from transportation conformity. Specific safety work types are listed as exempt project types in the regulations, but this type of safety improvement not specifically listed in the regulations nor is it a work type in the TIP.

There are questions as to whether or not stating a road diet project is a safety project, even if that is the primary purpose for the improvement warrants a change in the project work type. Additionally, road diets that are not primarily addressing a safety issue would need still need to be considered as a not exempt project work type and subject to transportation conformity requirements.

There are 2 options that CMAP would like to have the Tier II Consultation Committee discuss and take action by approving one of these options so that the region has clarity regarding this issue.

Options:

1. No change, projects with road diets are categorized as remove lanes and are not exempt projects, subject to conformity determinations/requirements.
2. A project that is using a road diet to directly address a safety issue would be considered an exempt tested project in the TIP for which modeling information is required (such as the change in lanes and or lane widths) but otherwise the project is not subject to additional conformity requirements. Work Type = Safety -Road Diet (S-RDIET). This would allow CMAP to still capture the information to update the travel model, but the project would *not* need to go through the transportation conformity process.

Here are some considerations:

- Opening up the transportation conformity process could encourage other sponsors to ask for changes to get around transportation conformity requirements.
- The Tier II Consultation Committee is rendering a decision but it's not 100% for certain that this is even allowed and would likely need more substantive discussions with US EPA and FHWA to be sure that the Tier II Consultation Committee isn't doing something beyond its authority.
- The Tier II Consultation Committee does not have the authority to waive transportation conformity requirements for a specific project.
- Having these types of projects go through the conformity process can cause a project to be delayed and might discourage more of these projects from being done due to the time it takes to go through the conformity process. It also likely adds some additional cost to the project too.

Transportation Conformity Regulations as of April 2012:

https://www.fhwa.dot.gov/environment/air_quality/conformity/laws_and_regs/rule.cfm

§ 93.126 Exempt projects.

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.