

NTEC DATA BRIEF

Date: 11/14/2011

Subject: Senate EPW surface transportation bill (MAP-21)



The Environment and Public Works (EPW) Committee of the US Senate has passed, with some amendments, the [text^{\[1\]}](#) of a surface transportation authorization bill, known as MAP-21. This memorandum summarizes two pieces of the bill: the revised funding formula for Transportation Enhancements (TE), and the revised eligible TE activities.

Under SAFETEA-LU, 10% of the Surface Transportation Program (STP) was set aside for TE activities. Under MAP-21, the STP has been renamed the Transportation Mobility Program (TMP), and while TE activities are still eligible for these funds, there is no set-aside within this program for TE. A new set-aside has been created within MAP-21 as a whole. It is defined by formula to be proportionally equivalent to the size of the TE set-aside relative to the size total SAFETEA-LU apportionments in fiscal year 2009 minus the High Priority Projects (HPP) program. This new fund is housed within the CMAQ Program and is entitled "Additional Activities."

"Additional Activities," though tied by formula to only the size of the TE set-aside under SAFETEA-LU, includes some other eligibilities in addition to TE:

- Safe Routes to School (SRTS)
- Recreational Trails
- Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways

The remaining pages of this memo outline the bill's changes to the definitions of the TE activities.

^[1] http://epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=20f89548-8b2e-4498-89f7-c9f4ff22484f



TE Eligible Activities under SAFETEA-LU and MAP-21: A Side-by-Side Comparison

SAFETEA-LU	MAP-21
Provision of facilities for bicycles and pedestrians	Provision of facilities for pedestrians and bicycles
Provision of safety and educational activities for pedestrians and bicyclists	Provision of safety and educational activities for pedestrians and bicyclists
Acquisition of scenic easements and scenic or historic sites	Acquisition of scenic easements and scenic or historic sites
Scenic or historic highway programs, including tourist and welcome center facilities	Scenic or historic highways and bridges
Landscaping and scenic beautification	Vegetation management practices in transportation rights-of-way and other activities eligible under section 319* Note: Section 319 includes highway rest areas
Historic preservation	
Rehabilitation and operation of historic transportation buildings, structures or facilities	Historic preservation , rehabilitation, and operation of historic transportation buildings, structures, or facilities
Preservation of abandoned rail corridors, including the conversion and use thereof for pedestrian and bicycle trails	Preservation of abandoned railway corridors, including the conversion and use of the corridors for pedestrian or bicycle trails
Control and removal of outdoor advertising	Inventory, control, and removal of outdoor advertising
Archaeological planning and research	Archaeological planning and research
Environmental mitigation to address water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity	Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to— (i) to address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in sections 133(b)(11)*, 328(a)*, and 329* ; or (ii) reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats
Establishment of transportation museums	



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Sec. 319. Landscaping and scenic enhancement

(a) Landscape and Roadside Development. - The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to such highways.

(b) Planting of Wildflowers. -

(1) General rule. - The Secretary shall require the planting of native wildflower seeds or seedlings, or both, as part of any landscaping project under this section. At least 1/4 of 1 percent of the funds expended for such landscaping project shall be used for such plantings.

(2) Waiver. - The requirements of this subsection may be waived by the Secretary if a State certifies that native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited or otherwise used for agricultural purposes.

(3) Gifts. - Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used in landscaping projects.

Sec. 133(b)(11) In accordance with all applicable Federal law and regulations, participation in natural habitat and wetlands mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands; and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes. With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).



TE Eligible Activities under SAFETEA-LU and MAP-21: A Side-by-Side Comparison

Sec. 328. Eligibility for environmental restoration and pollution abatement

(a) In General. - Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

Sec. 329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species

(a) In General. - In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for the following activities if such activities are related to transportation projects funded under this title:

(1) Establishment of plants selected by State and local transportation authorities to perform one or more of the following functions: abatement of stormwater runoff, stabilization of soil, and aesthetic enhancement.

(2) Management of plants which impair or impede the establishment, maintenance, or safe use of a transportation system.

(b) Included Activities. - The establishment and management under subsection (a)(1) and (a)(2) may include -

(1) right-of-way surveys to determine management requirements to control Federal or State noxious weeds as defined in the Plant Protection Act (7 U.S.C. 7701 et seq.) or State law, and brush or tree species, whether native or nonnative, that may be considered by State or local transportation authorities to be a threat with respect to the safety or maintenance of transportation systems;

(2) establishment of plants, whether native or nonnative with a preference for native to the maximum extent possible, for the purposes defined in subsection (a)(1);

(3) control or elimination of plants as defined in subsection (a)(2);

(4) elimination of plants to create fuel breaks for the prevention and control of wildfires;

(5) training.

(c) Contributions. -

(1) In general. - Subject to paragraph (2), an activity described in subsection (a) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

(2) Condition for activities conducted in advance of project construction. - An activity described in subsection (a) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.