

**2009-2012 TRANSPORTATION IMPROVEMENT PROGRAM
FOR SOUTHWESTERN PENNSYLVANIA**

APPENDIX 7

TIP REVISION PROCEDURES

Appendix 7. TIP Revision Procedures

Memorandum of Understanding

The transportation programming process is a dynamic one that reflects a natural tension between the time-sensitive delivery of project contracts and the time-consuming need for governmental financial accountability and public review. A transportation program, once it has been developed and adopted, also requires routine maintenance as the identified projects experience normal changes in schedule and cost. A larger number of TIP projects increases the frequency of required TIP changes. Effective management of the TIP amendment process helps to balance competing needs for contract delivery, financial accountability and public review. The purpose of this Memorandum of Understanding (MOU) is to establish procedures to be used by SPC and its member agencies (PennDOT, member counties, the City of Pittsburgh, and transit operators) to revise the SPC Transportation Improvement Program (TIP).

The procedures described in this MOU are agreed upon by SPC and PennDOT and are consistent with federal transportation planning regulations and a May 2008 Federal-State DOT MOU on TIP Modification Procedures. The procedures require higher levels of attention for changes that have greater significance or complexity while permitting simplified procedures for lesser or administrative changes. Revisions to highway projects are channeled through the Transportation Technical Committee (TTC). Transit revisions are channeled through the Transit Operators Committee (TOC).

Background

Federal law (Titles 23 and 49, United States Code) requires that every metropolitan planning organization (MPO), in this case, SPC, produce a multi-year TIP that includes all projects which will seek federal funds and all other regionally significant transportation projects. The SPC TIP covers a four year budget period and is updated every two years. The SPC TIP is incorporated into a State TIP (STIP) along with the individual TIPs from each planning organization across the Commonwealth. The SPC TIP and the (identical) STIP constitute the list of agreed-upon projects for subsequent implementation.

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) will only authorize projects and approve grants for projects that are programmed in the current approved TIP. SPC must modify the TIP if a planning partner or the Commonwealth would like to proceed with a project not programmed in the current fiscal year.

All revisions must maintain year-to-year fiscal constraint (23 CFR 450.324 (E)) for the entire four years of the TIP. They shall also account for and maintain the estimated total cost of the project or project phase. The arbitrary reduction of the overall cost of a project, or phase of a project, shall not be utilized for the advancement of another project.

In addition, TIP revisions must be consistent with the planning partners' Long Range Transportation Plan (LRTP) and must correspond to the adopted provisions of the planning partners' Public Involvement Plan (PIP). A reasonable opportunity for public review and comment shall be provided for all major revisions to the TIP.

If a TIP revision adds or deletes an air quality significant project in a nonattainment or maintenance area or impacts the schedule or scope of work to an air quality significant project a new air quality conformity determination will be required prior to formal approval of the modification as deemed appropriate through the Interagency Air Quality Consultation Group. Public involvement procedures consistent with the region's Public Involvement Plan shall be utilized in revising the TIP. If the revision requires that a new conformity determination is necessary, an amendment to the region's LRTP shall also be developed and endorsed. The modified conformity determination would then be based on the amended LRTP conformity analysis.

If a TIP revision adds a project for emergency relief purposes, the project will be added as an *Administrative Action* to the STIP/TIP. Under 23 CFR § 450.216 [g (5)], emergency relief projects may (but are not required to) be included on the STIP, except those involving substantial, functional, locational, or capacity changes.

Federal Transportation Planning Regulations (23 CFR 450.332) permit the use of alternative procedures to more effectively manage the many TIP actions encountered during a given programming cycle. The regulations require that any alternative procedures be agreed upon and such alternative procedures be documented and included in the TIP document. This MOU identifies the procedures for the SPC region governing TIP amendments and administrative actions that will be used to revise the SPC TIP in conformance with the federal regulations.

Review Issues

The following criteria are used for reviewing proposed revisions to the TIP and determining whether the changes are processed as TIP amendments or administrative actions. Administrative actions have fewer procedural requirements than amendments.

Air Quality Impact

Project changes that require testing for air quality conformity must always be handled as formal TIP amendments. Determination of the requirement for testing is made on a case-by-case basis. Projects that are exempt from regional air quality testing will be considered as an amendment or administrative action based on factors other than air quality.

Add/Delete Project, Selection Status

Specific changes in project status that trigger TIP amendment requirements include the addition or deletion of a project, or moving a project from the future years of the TIP

Change in Project Cost

The dollar level of a proposed change has been chosen as a reasonable measure of a project's potential impact. Larger value changes get more attention; smaller changes receive less. Several project cost thresholds have been established by SPC to determine an appropriate level of review and approval.

Fiscal Constraint

The source of funds that are being added to a project must be clearly identified. If the funding is not "new" to the SPC TIP, offsetting reductions or deferrals must be made from projects already on the TIP. When funds are removed from a project for use on a higher priority project, if possible, they should first be taken from a project that is already being delayed for other reasons. The funding change should not make a significant change in the scope or schedule of the lower priority project. If a proposed change, however, directly causes a schedule change (delay) affecting the lower priority project, this must be clearly identified in the request and treated as a TIP amendment. Fiscal constraint must be maintained within each year of the program. All programmed projects must continue to be fully funded on the TIP and/or Long Range Plan or they must be removed from the program.

Project Scope

A scope change that is minor or insignificant may sometimes be handled as an administrative action. Significant changes in scope or design concept are always handled as TIP amendments.

Public Comment

All changes that require air quality conformity testing must be advertised for a 30-day public comment period, including a public meeting.

Changes that exceed a certain cost threshold (even if they do not involve air quality conformity testing) must be advertised for a 30-day public comment period. At the discretion of the decision-making body or as directed by the Executive Director, a public meeting may be required to respond to issues raised by the public comment.

The Commission, when making the amendment decision, must address in the decision any significant issues or negative comments that were raised in the public comments.

Questions or Problems

Authorization to handle TIP modifications as administrative actions rather than amendments is an option intended to streamline the procedures without diminishing the effectiveness of the review process. If a proposed administrative action raises doubts or questions, technical committee members may request that amendment requirements be applied regardless of whether the change would otherwise qualify as an administrative action.

TIP Revisions: Administrative Actions

Certain types of standard TIP revisions (called administrative actions by SPC) are permitted to use an expedited approval process.¹ All other changes require the use of TIP Amendment procedures.

Administrative Actions

To be considered as an administrative action a proposed change must meet the following criteria:

- Exempt from air quality testing²
- Does not add or delete an existing project except from an approved line item
- No significant change in project scope or design concept
- Maintains overall and year-to-year fiscal balance

Administrative actions may include any of the following types of changes:

- Adds a project for emergency relief purposes except those involving substantial, functional, location, or capacity changes
- Correction of a misprint or data entry error
- Addition or correction of local match funds
- Schedule change, for projects or phases in any of the first three years of the TIP
- Incidental ROW changes³
- Change in the funding source⁴
- Exempt projects⁵

New or Deleted Phase

The technical committee can approve an administrative action to add a new phase or delete a phase if the phase cost is \$5 million or less for a highway project or \$2 million for a transit project.

Line Items

The recognition/programming on the TIP of specific projects within an approved line item (i.e., betterments, rail-highway crossings, Transit Section 5310 Program, transportation enhancements, local bridges, Act 44, etc.) is an administrative action as long as the line item is reduced by the same amount as the eligible project. Line item-based actions require technical committee approval.

For a betterment line item or a rail-highway crossing line item there are no restrictions based on project cost; identification of projects of any amount can be considered as an administrative action. It is also permitted as an administrative action to remove funding from a "line item" project (betterment or rail-highway only) as long as the funds are returned to the respective line item.

Cost Changes

Changes in the cost of a project or project phase can be handled as an administrative action if the cost change is \$5 million or less. A project sponsor is permitted to make an administrative cost change \$1 million or less by reporting the change to the technical committee for informational purposes only. Technical committee approval is needed for a cost change greater than \$1 million and up to \$5 million for a highway project. The action becomes effective when it is forwarded by the technical committee to PennDOT and FHWA or FTA.

Administrative actions do not require Federal approval but FHWA and FTA reserve the right to disallow an administrative action if it is not consistent with federal regulations or the MOU. The project sponsor must provide full documentation prior to SPC acceptance of the requested change and reflecting it on the TIP. SPC and PennDOT will work cooperatively to address and respond to any FHWA and/or FTA comments on these actions.

TIP Revisions: Amendments

TIP Amendments

Any project change that cannot be processed within the rules governing administrative actions must be handled as a TIP amendment. A proposed change must be considered as a TIP amendment if it meets any of the following criteria:

- Affects air quality conformity (regardless of funding source)
- Adds or deletes a project (regardless of project cost, except for existing approved line item changes that are considered administrative actions)
- Adds a new project phase or deletes a phase \$2 million for a transit project
- Creates a new line item
- Involves a major change in the project scope of work or design concept
- Changes the project selection status

New or Deleted Project

The technical committee can approve an amendment to add a new project or delete an existing project if the total cost change is \$10 million or less. Total cost changes that exceed \$10 million for a highway project or \$2 million for a transit project require approval by the Commission.

Cost Changes

For changes in the cost of an already approved project or project phase, the dollar level of the change will determine the procedures that are required for approval. Changes of \$5 million or less are administrative actions. Changes that exceed \$5 million are amendments. Cost changes of \$10 million or less can be approved by the technical committee. Changes that exceed \$10 million require approval by the Commission.

Air Quality

Amendments with an air quality impact require air quality testing and a 30-day public comment period including a public meeting before they can be presented to the Commission.

Major Fiscal Impact

Amendments with a fiscal impact that exceeds \$10 million are subject to a 30-day public comment period before they can be presented to the Commission.

Approval Process

After TIP amendments are approved by the technical committee or Commission (as appropriate) they are forwarded by SPC staff to PennDOT and FHWA or FTA in

accordance with established procedures. TIP amendments become effective when federal approvals are received by SPC. As with administrative actions, SPC and PennDOT will work cooperatively to address and respond to any FHWA and/or FTA comments on TIP amendment actions.

Special Approval Option

Several times a year the Commission does not hold a regular monthly meeting, making responsiveness to requested major TIP amendments a critical issue. For amendments requiring Commission approval where timely reaction by the Commission cannot be taken because of scheduling issues, the Executive Director may grant approval authority to the technical committee. This Special Approval Option applies only to amendments required because of cost changes. It does not apply to amendments required because of air quality or public participation requirements.

Whether the change is a TIP amendment or an administrative action, all TIP revisions must maintain year-to-year fiscal constraint and continue to demonstrate that all programmed projects are fully funded on the TIP and Long Range Plan.

All TIP revisions (both amendments and administrative actions) associated with a TIP amendment shall be identified and grouped as a single action in order to demonstrate both project and program fiscal constraint. The identified grouping of projects (the entire amendment action) will require approval by the technical committee or Commission (and other approvals required by these procedures as appropriate).

Changes to projects or project phases that have been obligated and no longer appear on the TIP will use the same approval process as if they were identified on the TIP. Similarly for advance construction conversions and accrued unbilled costs.

When the second year of the TIP is the active fiscal year, unobligated projects remaining in Year 1 will be considered to have identical project selection status as projects listed in Year 2.

Approval Process for TIP Revisions

SPC will forward information on all TIP Revisions (amendments and administrative actions) to PennDOT, which will forward a copy to the appropriate federal agency for review and comment. SPC and PennDOT will work cooperatively to address and respond to any FHWA and/or FTA comments.

Submission Guidelines for TIP Revisions

SPC requests that sponsors of highway projects submit their requested TIP Revisions through the PennDOT District offices for TTC consideration. Transit project sponsors will route their submissions to the SPC staff assigned to the Transit Operators Committee. PennDOT and SPC technical advisers will assist sponsors in identifying project information that is needed to explain and justify the proposed changes. The

assistance will also ensure consistency in the presentation format. Sufficient information must be provided to accurately describe the request, to determine if air quality conformity testing is required, to determine if it is an amendment or administrative action, to facilitate an informed review by funding agencies and to provide an understandable public record of the change.

Format for a Requested Change

The level of detail required by staff in written form before any request for a change in the TIP will be considered by the appropriate technical committee includes the following:

- project sponsor
- project identification - MPMS number, MPO number (when applicable), and project name
- description of the change
- justification for the change
- existing values and funding sources for items to be changed
- proposed new values and funding sources for items after change
- demonstration that fiscal constraint is maintained for each year of the TIP and that all programmed projects will continue to be fully funded in the TIP and/or Long Range Plan
- statement of the impact that funding reductions will have on the project(s) being reduced
- assurance that affected parties are being informed of the requested changes (project sponsors, municipalities, legislators, etc.)

If a project sponsor, implementing agency, and/or other cooperating agency is unable to participate in the meeting where an amendment action is being considered, written assurances will be required that these parties concur with the proposed TIP amendment.

Full documentation must be received for each requested action. Missing or incomplete information may delay consideration of the request.

All requests for TIP changes must be received at SPC at least a week before the technical committee meeting (TTC and/or TOC) at which it will be considered. SPC staff will provide advance materials including details of the proposed TIP actions the week before the meeting to ensure that committee members have sufficient opportunity review the requested actions.

Planning Ahead

The process to review and approve proposed TIP amendments can take substantial time depending on the necessary approvals. Preparing the request, resolving information gaps, technical committee review, air quality testing, public comment, Commission review and, finally, approvals through PennDOT, FHWA or FTA, and EPA require advance planning. Requested actions may also require direct expenses for newspaper advertisements, a public meeting, and/or substantial staff support to coordinate the required activities.

Project sponsors can increase the effectiveness of the amendment process by clearly communicating their needs well in advance with the staff at SPC and PennDOT. Timely provision of required documentation is critical. Much still depends, however, on the review issues that are raised by the proposed change and the timing / sequence of regular meetings of both the technical committees and Commission. If there are no serious issues and the meeting schedule is favorable, the shortest possible time needed for Commission approval of a TIP amendment is about four weeks. The process can take as long as six months if an amendment requires air quality conformity testing and the next scheduled run of the air quality model is a half-year away.

Financial Constraint

This MOU represents a commitment by SPC and PennDOT to continuously demonstrate fiscal constraint of the TIP throughout the programming cycle. Real-time versions of the TIP and STIP are available to FHWA and FTA through PennDOT's Multimodal Project Management System (MPMS) and are the basis for determining TIP financial constraint through summaries of recent revisions.

Funds Management Reports

TIP/STIP Funds Management reports will be provided by PennDOT on a quarterly basis to SPC, FHWA, and FTA. The report will provide decision makers with timely and accurate information about programmed projects to help in managing the TIP and STIP. The initial report will be provided within 45 days after the enactment of the annual federal appropriations. The reports will identify the planning partners' target amount of statewide obligation authority for that year.

At the end of each quarter (or more often as necessary), PennDOT will provide to all planning partners, FHWA, and FTA, a STIP/TIP Status Report on actual federal obligations and state encumbrances for that year. At the end of the federal fiscal year, PennDOT will provide to the same parties a Summary Report of all obligations and encumbrances.

PennDOT Interstate Program

An MOU similar to this agreement between FHWA and PennDOT will serve as the basis for PennDOT's addressing of Interstate Maintenance (IM) Program TIP revisions. The amendment threshold for projects or project phases is \$2 million and is also \$2 million for administrative actions affecting reserve line items. PennDOT will coordinate with SPC on TIP revisions affecting IM projects in the SPC region but their official action is separate from the SPC TIP revision process.

TIP Revision Procedures

This Memorandum of Understanding is an agreement between PennDOT and SPC documenting how these planning partners will address TIP revisions and will be an attachment to the TIP. The procedures parallel and fully conform to the MOU between PennDOT, FHWA and FTA governing statewide TIP Modification Procedures. This MOU will begin October 1, 2008 and remain in effect until September 30, 2010, unless it is modified or terminated. Furthermore, it is agreed that this MOU will be reaffirmed every two years.

We, the undersigned hereby agree to the above procedures and principles.

PennDOT

SPC

¹ Federal planning regulations identify certain "project selection actions." They include moving a project from year two or three of the TIP to the first year (or any combination thereof), changes to the funding source, or project cost changes if they do not represent a significant change in project scope.

² Projects and project types which are not required to be included in regional air quality conformity assessments for transportation plans and programs are listed in Sections 126 and 127 of EPA's Transportation Conformity Rule (40 CFR Part 93).

³ If an approved TIP project is listed without a right-of-way phase (ROW), and an incidental ROW need is discovered during the design phase, then a ROW purchase can be authorized under either the design or construction phase without amending the TIP. "Incidental" ROW is the purchase of a minor parcel(s) (including utility relocation) that does not involve the taking of any environmentally sensitive property or residential/commercial structure.

⁴ It is appropriate to shift project funding only among limited categories. For highway projects: National Highway System (NHS), Interstate Maintenance (IM), Bridge (BR), Minimum Guarantee and Statewide Surface Transportation Program (STP). For transit projects: Section 5309 (formerly Section 3) and Section 5307 (formerly Section 9).

⁵ Projects such as safety projects funded under 23 USC Section 402 and the addition of federal Emergency Relief projects do not require formal action by the MPO.

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To be considered as an administrative action a proposed change must meet the following criteria:

- Exempt from air quality testing²
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Administrative actions may include any of the following types of changes:

- Adds a project for emergency relief purposes except those involving substantial, functional, location, or capacity changes
- Correction of a misprint or data entry error
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- Schedule change, for projects or phases in any of the first three years of the TIP
- Incidental ROW changes³
- Change in the funding source⁴
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New or Deleted Phase

The technical committee can approve an administrative action to add a new phase or delete a phase if the phase cost is \$5 million or less for a highway project or \$2 million for a transit project.

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TIP Revisions: Amendments

TIP Amendments

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- Affects air quality conformity (regardless of funding source)
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- statement of the impact that funding reductions will have on the project(s) being reduced
- assurance that affected parties are being informed of the requested changes (project sponsors, municipalities, legislators, etc.)

If a project sponsor, implementing agency, and/or other cooperating agency is unable to participate in the meeting where an amendment action is being considered, written assurances will be required that these parties concur with the proposed TIP amendment.

Full documentation must be received for each requested action. Missing or incomplete information may delay consideration of the request.

All requests for TIP changes must be received at SPC at least a week before the technical committee meeting (TTC and/or TOC) at which it will be considered. SPC staff will provide advance materials including details of the proposed TIP actions the week before the meeting to ensure that committee members have sufficient opportunity review the requested actions.

Planning Ahead

The process to review and approve proposed TIP amendments can take substantial time depending on the necessary approvals. Preparing the request, resolving information gaps, technical committee review, air quality testing, public comment, Commission review and, finally, approvals through PennDOT, FHWA or FTA, and EPA require advance planning. Requested actions may also require direct expenses for newspaper advertisements, a public meeting, and/or substantial staff support to coordinate the required activities.

Project sponsors can increase the effectiveness of the amendment process by clearly communicating their needs well in advance with the staff at SPC and PennDOT. Timely provision of required documentation is critical. Much still depends, however, on the review issues that are raised by the proposed change and the timing / sequence of regular meetings of both the technical committees and Commission. If there are no serious issues and the meeting schedule is favorable, the shortest possible time needed for Commission approval of a TIP amendment is about four weeks. The process can take as long as six months if an amendment requires air quality conformity testing and the next scheduled run of the air quality model is a half-year away.

Financial Constraint

This MOU represents a commitment by SPC and PennDOT to continuously demonstrate fiscal constraint of the TIP throughout the programming cycle. Real-time versions of the TIP and STIP are available to FHWA and FTA through PennDOT's Multimodal Project Management System (MPMS) and are the basis for determining TIP financial constraint through summaries of recent revisions.

Funds Management Reports

TIP/STIP Funds Management reports will be provided by PennDOT on a quarterly basis to SPC, FHWA, and FTA. The report will provide decision makers with timely and accurate information about programmed projects to help in managing the TIP and STIP. The initial report will be provided within 45 days after the enactment of the annual federal appropriations. The reports will identify the planning partners' target amount of statewide obligation authority for that year.

At the end of each quarter (or more often as necessary), PennDOT will provide to all planning partners, FHWA, and FTA, a STIP/TIP Status Report on actual federal obligations and state encumbrances for that year. At the end of the federal fiscal year, PennDOT will provide to the same parties a Summary Report of all obligations and encumbrances.

PennDOT Interstate Program

An MOU similar to this agreement between FHWA and PennDOT will serve as the basis for PennDOT's addressing of Interstate Maintenance (IM) Program TIP revisions. The amendment threshold for projects or project phases is \$2 million and is also \$2 million for administrative actions affecting reserve line items. PennDOT will coordinate with SPC on TIP revisions affecting IM projects in the SPC region but their official action is separate from the SPC TIP revision process.

TIP Revision Procedures

This Memorandum of Understanding is an agreement between PennDOT and SPC documenting how these planning partners will address TIP revisions and will be an attachment to the TIP. The procedures parallel and fully conform to the MOU between PennDOT, FHWA and FTA governing statewide TIP Modification Procedures. This MOU will begin October 1, 2008 and remain in effect until September 30, 2010, unless it is modified or terminated. Furthermore, it is agreed that this MOU will be reaffirmed every two years.

We, the undersigned hereby agree to the above procedures and principles.

PennDOT

SPC

¹ Federal planning regulations identify certain "project selection actions." They include moving a project from year two or three of the TIP to the first year (or any combination thereof), changes to the funding source, or project cost changes if they do not represent a significant change in project scope.

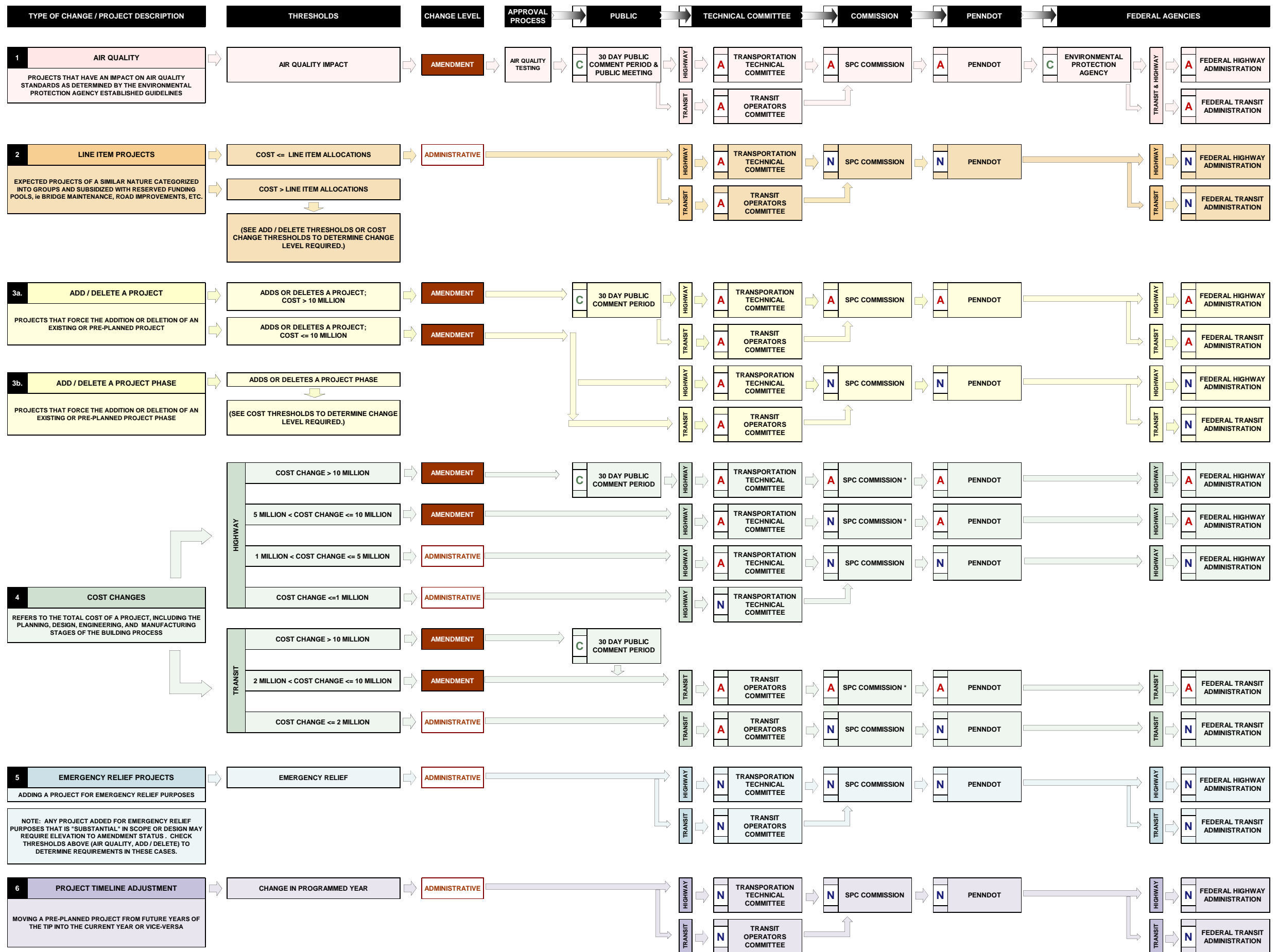
² Projects and project types which are not required to be included in regional air quality conformity assessments for transportation plans and programs are listed in Sections 126 and 127 of EPA's Transportation Conformity Rule (40 CFR Part 93).

³ If an approved TIP project is listed without a right-of-way phase (ROW), and an incidental ROW need is discovered during the design phase, then a ROW purchase can be authorized under either the design or construction phase without amending the TIP. "Incidental" ROW is the purchase of a minor parcel(s) (including utility relocation) that does not involve the taking of any environmentally sensitive property or residential/commercial structure.

⁴ It is appropriate to shift project funding only among limited categories. For highway projects: National Highway System (NHS), Interstate Maintenance (IM), Bridge (BR), Minimum Guarantee and Statewide Surface Transportation Program (STP). For transit projects: Section 5309 (formerly Section 3) and Section 5307 (formerly Section 9).

⁵ Projects such as safety projects funded under 23 USC Section 402 and the addition of federal Emergency Relief projects do not require formal action by the MPO.

TIP REVISION PROCESS



* Special Approval Option - Executive Director may grant approval authority to technical committee if scheduling conflict arises with Commission. (only applicable to amendments required because of cost changes)

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|---|-------------------|---|-----------------------|---|------------------|
| A | APPROVAL REQUIRED | N | NOTIFICATION REQUIRED | C | COMMENT REQUIRED |
|---|-------------------|---|-----------------------|---|------------------|