

APPENDIX L

CMPO 2025 Long Range Transportation Plan

TEA-21 Guidelines (New - under review)
Federal Aid Policy Guide (Adopted)

SEC. 1203. METROPOLITAN PLANNING.

(a) General Requirements.--Section 134(a) of title 23, United States Code, is amended to read as follows:

``(a) General Requirements.--

``(1) Findings.--It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

``(2) Development of plans and programs.--To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

``(3) Contents.--The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

``(4) Process of development.--The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.''.

(b) Designation of Metropolitan Planning Organizations.--

(1) In general.--Section 134(b) of such title is amended by striking paragraphs (1) and (2) and inserting the following:

``(1) In general.--To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals--

``(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

``(B) in accordance with procedures established by applicable State or local law.

``(2) Structure.--Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of--

``(A) local elected officials;

``(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

``(C) appropriate State officials.''.

(2) Continuing designation.--Section 134(b)(4) of such title is amended to read as follows:

``(4) Continuing designation.--A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning

organization is redesignated under paragraph (5).''.

(3) Redesignation.--Section 134(b)(5)(A) of such title is amended--

(A) by striking ``among'' and inserting ``between''; and

(B) by striking ``which together'' and inserting ``that together''.

(4) Designation of more than 1 metropolitan planning organization.--Section 134(b)(6) of such title is amended to read as follows:

``(6) Designation of more than 1 metropolitan planning organization.--More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.''.

(c) Metropolitan Planning Area Boundaries.--Section 134(c) of such title is amended--

(1) in the subsection heading by inserting ``Planning'' before ``Area'';

(2) in the first sentence--

(A) by striking ``For the purposes'' and inserting the following:

``(1) In general.--For the purposes''; and

(B) by inserting ``planning'' before ``area'';

(3) by striking the second sentence and all that follows and inserting the following:

``(2) Included area.--Each metropolitan planning area--

``(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

``(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

``(3) Existing metropolitan planning areas in nonattainment.--Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (b)(5).

``(4) New metropolitan planning areas in nonattainment.--In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area--

``(A) shall be established in the manner described in subsection (b)(1);

``(B) shall encompass the areas described in paragraph (2)(A);

``(C) may encompass the areas described in paragraph (2)(B); and

``(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.''; and

(4) by aligning paragraph (1) (as designated by paragraph

(2)(A) of this subsection) with paragraphs (2) through (4) (as inserted by paragraph (3) of this subsection).

(d) Coordination in Multistate Areas.--Section 134(d) of such title is amended to read as follows:

``(d) Coordination in Multistate Areas.--

``(1) In general.--The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

``(2) Interstate compacts.--The consent of Congress is granted to any 2 or more States--

``(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

``(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

``(3) Lake tahoe region.--

``(A) Definition.--In this paragraph, the term `Lake Tahoe region' has the meaning given the term `region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

``(B) Transportation planning process.--The Secretary shall--

``(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

``(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section, section 135, and chapter 53 of title 49.

``(C) Interstate compact.--

``(i) In general.--Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

``(ii) Involvement of federal land management agencies.--

``(I) Representation.--The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction

over land in the Lake Tahoe region.

``(II) Funding.--In addition to funds made available to the metropolitan planning organization under other provisions of this title and under chapter 53 of title 49, not more than 1 percent of the funds allocated under section 202 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

``(D) Activities.--Highway projects included in transportation plans developed under this paragraph--

``(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

``(ii) may, in accordance with chapter 2, be funded using funds allocated under section 202.

``(4) Recipients of other assistance.--The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the design and delivery of transportation services within the metropolitan planning area that are provided--

``(A) by recipients of assistance under chapter 53 of title 49; and

``(B) by governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services.''.

(e) Coordination of MPOs.--Section 134(e) of such title is amended--

(1) in the subsection heading by striking ``MPO's'' and inserting ``MPOs'';

(2) by striking ``If'' and inserting the following:

``(1) Nonattainment areas.--If'';

(3) by adding at the end the following:

``(2) Project located in multiple mpos.--If a project is located within the boundaries of more than 1 metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.''; and

(4) by aligning paragraph (1) (as designated by paragraph (2) of this subsection) with paragraph (2) (as added by paragraph (3) of this subsection).

(f) Scope of Planning Process.--Section 134(f) of such title is amended to read as follows:

``(f) Scope of Planning Process.--

``(1) In general.--The metropolitan transportation planning process for a metropolitan area under this section shall provide for consideration of projects and strategies that will--

``(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

``(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

``(C) increase the accessibility and mobility options available to people and for freight;

``(D) protect and enhance the environment, promote energy

conservation, and improve quality of life;

``(E) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

``(F) promote efficient system management and operation;

and

``(G) emphasize the preservation of the existing transportation system.

``(2) Failure to consider factors.--The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.''.

(g) Long-Range Transportation Plan.--Section 134(g) of such title is amended--

(1) in paragraph (2) by striking ``', at a minimum'' and inserting ``contain, at a minimum, the following'';

(2) in paragraph (2)(A) by striking ``Identify'' and inserting ``An identification of''; and

(3) by striking paragraph (2)(B) and inserting the following:

``(B) A financial plan that demonstrates how the adopted long-range transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the metropolitan planning organization and State shall cooperatively develop estimates of funds that will be available to support plan implementation.'';

(4) in paragraph (4)--

(A) by inserting after ``employees,'' the following: ``freight shippers, providers of freight transportation services,``; and

(B) by inserting after ``private providers of transportation,`` the following: ``representatives of users of public transit,``;

(5) by adding at the end the following:

``(6) Selection of projects from illustrative list.--

Notwithstanding paragraph (2)(B), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B).'';

(6) in the subsection heading by striking ``Long Range Plan'' and inserting ``Long-Range Transportation Plan'';

(7) in the headings for paragraphs (2) and (5) by striking ``long range plan'' and inserting ``long-range transportation plan''; and

(8) by striking ``long range plan'' each place it appears and inserting ``long-range transportation plan''.

(h) Metropolitan Transportation Improvement Program.--Section 134(h) of such title is amended to read as follows:

``(h) Metropolitan Transportation Improvement Program.--

``(1) Development.--

``(A) In general.--In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

``(B) Opportunity for comment.--In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed program.

``(C) Funding estimates.--For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

``(D) Updating and approval.--The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

``(2) Contents.--The transportation improvement program shall include--

``(A) a priority list of proposed federally supported projects and strategies to be carried out within each 3-year period after the initial adoption of the transportation improvement program; and

``(B) a financial plan that--

``(i) demonstrates how the transportation improvement program can be implemented;

``(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

``(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

``(iv) may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available.

``(3) Included projects.--

``(A) Projects under this chapter and chapter 53 of title 49.--A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under this chapter and chapter 53 of title 49.

``(B) Projects under chapter 2.--

``(i) Regionally significant projects.--Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

``(ii) Other projects.--Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

``(C) Consistency with long-range transportation plan.-- Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

``(D) Requirement of anticipated full funding.--The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

``(4) Notice and comment.--Before approving a transportation improvement program, a metropolitan planning organization shall, in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

``(5) Selection of projects.--

``(A) In general.--Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program--

``(i) by--

``(I) in the case of projects under this chapter, the State; and

``(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

``(ii) in cooperation with the metropolitan planning organization.

``(B) Modifications to project priority.--Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

``(6) Selection of projects from illustrative list.--

``(A) No required selection.--Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

``(B) Required action by the secretary.--Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved transportation improvement program.

``(7) Publication.--

``(A) Publication of transportation improvement programs.-- A transportation improvement program involving Government participation shall be published or otherwise made readily available by the metropolitan planning organization for public

review.

``(B) Publication of annual listings of projects.--An annual listing of projects for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the transportation improvement program.''

(i) Transportation Management Areas.--

(1) Required designations.--Section 134(i)(1) of such title is amended to read as follows:

``(1) Designation.--

``(A) Required designations.--The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

``(B) Designations on request.--The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.''

(2) Selection of projects.--Section 134(i)(4) of such title is amended to read as follows:

``(4) Selection of projects.--

``(A) In general.--All federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

``(B) National highway system projects.--Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.''

(3) Certification.--Section 134(i)(5) of such title is amended to read as follows:

``(5) Certification.--

``(A) In general.--The Secretary shall--

``(i) ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

``(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

``(B) Requirements for certification.--The Secretary may make the certification under subparagraph (A) if--

``(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

``(ii) there is a transportation improvement program

for the area that has been approved by the metropolitan planning organization and the Governor.

``(C) Effect of failure to certify.--

``(i) Withholding of funds.--If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

``(ii) Restoration of withheld funds.--The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

``(iii) Feasibility of private enterprise participation.--The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.

``(D) Review of certification.--In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.''.

(j) Abbreviated Plans and Programs for Certain Areas.--Section 134(j) of such title is amended to read as follows:

``(j) Abbreviated Plans and Programs for Certain Areas.--

``(1) In general.--Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated long-range transportation plan and transportation improvement program for the metropolitan area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

``(2) Nonattainment areas.--The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).''.

(k) Additional Requirements for Certain Nonattainment Areas.--Section 134(l) of such title is amended--

(1) by striking ``Notwithstanding'' and inserting the following:

``(1) In general.--Notwithstanding''; and

(2) by adding at the end the following:

``(2) Applicability.--This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).''.

(l) Funding.--Section 134(n) of such title is amended to read as follows:

``(n) Funding.--

``(1) In general.--Funds set aside under section 104(f) of this title to carry out sections 5303 through 5305 of title 49 shall be available to carry out this section.

``(2) Unused funds.--Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.''.

(m) Continuation of Current Review Practice.--Section 134 of such

title is amended by adding at the end the following:

``(o) Continuation of Current Review Practice.--Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).''.

(n) Technical Amendment.--The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 134 and inserting the following:

``134. Metropolitan planning.''.

[BACK](#)

FEDERAL-AID POLICY GUIDE
 April 8, 1999, Transmittal 25

23 CFR 450C OPI: HEP

SUBCHAPTER E - PLANNING AND RESEARCH

PART 450 - PLANNING ASSISTANCE AND STANDARDS

SUBPART C - METROPOLITAN TRANSPORTATION PLANNING AND PROGRAMMING

Sec.

450.300	Purpose.
450.302	Applicability.
450.304	Definitions.
450.306	Metropolitan planning organization: Designations and redesignation.
450.308	Metropolitan planning organization: Metropolitan planning area boundaries.
450.310	Metropolitan planning organization: Agreements.
450.312	Metropolitan transportation planning: Responsibilities, cooperation, and coordination.
450.314	Metropolitan transportation planning process: Unified planning work programs.
450.316	Metropolitan transportation planning process: Elements.
450.318	Metropolitan transportation planning process: Major metropolitan transportation investments.
450.320	Metropolitan transportation planning process: Relation to management systems.
450.322	Metropolitan transportation planning process: Transportation plan.
450.324	Transportation improvement program: General.
450.326	Transportation improvement program: Modification.
450.328	Transportation improvement program: Relationship to statewide TIP.
450.330	Transportation improvement program: Action required by FHWA/FTA.
450.332	Project selection for implementation.
450.334	Metropolitan transportation planning process: Certification.
450.336	Phase-in of new requirements.

AUTHORITY: 23 U.S.C. 134, 135, 217(g), and 315; 42 U.S.C 7410 et seq.; 49 U.S.C. 5303-5306; 49 CFR 1.48(b) and 1.51.

Source: 58 FR 58040, Oct. 28, 1993, unless otherwise noted.

Sec. 450.300 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 134 and section 8 of the Federal Transit Act, as amended, which require that a Metropolitan Planning Organization (MPO) be designated for each urbanized area and that the metropolitan area has a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs that consider all transportation modes and supports metropolitan community development and social goals. These plans and programs shall lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods.

Sec. 450.302 Applicability.

The provisions of this subpart are applicable to agencies involved in the transportation planning, program development, and project selection processes in metropolitan planning areas.

Sec. 450.304 Definitions.

Except as otherwise provided in subpart A of this part, terms defined in 23 U.S.C. 101(a) are used in this part as so defined.

Sec. 450.306 Metropolitan planning organization: Designations and redesignation.

(a) Designations of metropolitan planning organizations (MPOs) made after December 18, 1991, shall be by agreement among the Governor(s) and units of general purpose local governments representing 75 percent of the affected metropolitan population (including the central city or cities as defined by the Bureau of the Census), or in accordance with procedures established by applicable State or local law. To the extent possible, only one MPO shall be designated for each UZA or group of contiguous UZAs. More than one MPO may be designated within an UZA only if the Governor(s) determines that the size and complexity of the UZA make designation of more than one MPO appropriate.

(b) The designation shall clearly identify the policy body that is the forum for cooperative decisionmaking that will be taking the required approval actions as the MPO.

(c) To the extent possible, the MPO designated should be established under specific State legislation, State enabling legislation, or by interstate compact, and shall have authority to carry out metropolitan transportation planning.

(d) Redesignation (designation of a new MPO(s) to replace an existing MPO) shall occur by agreement of the Governor and affected local units of government representing 75 percent of the population in the entire metropolitan area. The central city(ies) must be among the units of local government agreeing to the redesignation.

(e) Nothing in this subpart shall be deemed to prohibit the MPO from utilizing the staff resources of other agencies to carry out selected elements of the planning process.

(f) Existing MPO designations remain valid until a new MPO is redesignated, unless revoked by the Governor and local units of government representing 75 percent of the population in the area served by the existing MPO (the central city(ies) must be among those desiring to revoke the MPO designation), or as otherwise provided under State or local procedures. If the Governor and local officials decide to redesignate an existing MPO, but do not formally revoke the existing MPO designation, the existing MPO remains in effect until a new MPO is formally designated.

(g) Redesignation of an MPO in a multistate metropolitan area requires the approval of the Governor of each State and local officials representing 75 percent of the population in the entire metropolitan planning area. The local officials in the central city(ies) must be among those agreeing to the redesignation.

(h) Redesignation of an MPO covering more than one UZA requires the approval of the Governor and local officials representing 75 percent of the population in the metropolitan planning area covered by the current MPO; the local officials in the central city(ies) in each urbanized area must be among those agreeing to the redesignation.

(i) The voting membership of an MPO policy body designated/redesignated subsequent to December 18, 1991, and serving a TMA, must include representation of local elected officials, officials of agencies that administer or operate major modes or systems of transportation, e.g., transit operators, sponsors of major local airports, maritime ports, rail operators, etc. (including all transportation agencies that were included in the MPO on June 1, 1991), and appropriate State officials. Where agencies that operate other major modes of transportation do not already have a voice on existing MPOs, the MPOs (in cooperation with the States) are encouraged to provide such agencies a voice in the decisionmaking process, including representation/membership on the policy body and/or other appropriate committees. Further, where appropriate, existing MPOs should increase the representation of local elected officials on the policy board and other committees as a means for encouraging their greater involvement in MPO processes. Adding such representation to an MPO will not, in itself, constitute a redesignation action.

(j) Where the metropolitan planning area boundaries for a previously designated MPO need to be expanded, the membership on the MPO policy body and other committees, should be reviewed to ensure that the added area has appropriate representation.

(k) Adding membership (e.g., local elected officials and operators of major modes or systems of transportation, or representatives of newly urbanized areas) to the policy body or expansion of the metropolitan planning area does not automatically require redesignation of the MPO. To the extent possible, it is encouraged that this be done without a formal redesignation. The Governor and MPO shall review the previous MPO designation, State and local law, MPO bylaws, etc., to determine if this can be accomplished without a formal redesignation. If redesignation is considered necessary, the existing MPO will remain in effect until a new MPO is formally designated or the existing designation is formally revoked in accordance with the procedures of this section.

Sec. 450.308 Metropolitan planning organization: Metropolitan planning area boundaries.

(a) The metropolitan planning area boundary shall, as a minimum, cover the UZA(s) and the contiguous geographic area(s) likely to become urbanized within the twenty year forecast period covered by the transportation plan described in Sec. 450.322 of this part. The boundary may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For geographic areas designated as non-attainment or maintenance areas (as created by the Clean Air Act Amendments of 1990 (CAAA)) for transportation related pollutants under the CAA, the boundaries of the metropolitan planning area shall include at least the boundaries of the nonattainment or maintenance areas, except as otherwise provided by agreement between the MPO and the Governor under the procedures specified in Sec. 450.310(f) of this part. In the absence of a formal agreement between the Governor and the MPO to reduce the metropolitan planning area to an area less than the boundaries of the nonattainment or maintenance area, the entire nonattainment or maintenance area is subject to the applicable provisions of this part. Where a portion of the nonattainment or maintenance area is excluded from the metropolitan planning area boundary, the STP funds suballocated to urbanized areas greater than 200,000 in population shall not be utilized for projects outside the metropolitan planning area boundary.

(b) The metropolitan planning area for a new UZA served by an existing or new MPO shall be established in accordance with these criteria. The current planning area boundaries for previously designated UZAs shall be reviewed and modified if necessary to comply with these criteria.

(c) In addition to the criteria in paragraph (a) of this section, the planning areas currently in use for all transportation modes should be reviewed before establishing the metropolitan planning area boundary. Where appropriate, adjustments should be made to reflect the most comprehensive boundary to foster an effective planning process that ensures connectivity between modes, reduces access disadvantages experienced by modal systems, and promotes efficient overall transportation investment strategies.

(d) Approval of metropolitan planning area boundaries by the FHWA or the FTA is not required. However, metropolitan planning area boundary maps must be submitted to the FHWA and the FTA after their approval by the MPO and the Governor.

Sec. 450.310 Metropolitan planning organization: Agreements.

(a) The responsibilities for cooperatively carrying out transportation planning (including corridor and subarea studies) and programming shall be clearly identified in an agreement or memorandum of understanding between the State and the MPO.

(b) There shall be an agreement between the MPO and operators of publicly owned transit services which specifies cooperative procedures for carrying out transportation planning (including corridor and subarea studies) and programming as required by this subpart.

(c) In nonattainment or maintenance areas, if the MPO is not designated for air quality planning under section 174 of the Clean Air Act (42 U.S.C. 7504), there shall be an agreement between the MPO and the designated agency describing their respective roles and responsibilities for air quality related transportation planning.

(d) To the extent possible, there shall be one cooperative agreement containing the understandings required by paragraphs (a) through (c) of this section among the State, MPO, publicly owned operators of mass transportation services, and air quality agencies.

(e) Where the parties involved agree, the requirement for agreements specified in paragraphs (a), (b), and (c) of this section may be satisfied by including the responsibilities and procedures for carrying out a cooperative process in the unified planning work program or a prospectus as defined in Sec. 450.314(c).

(f) If the metropolitan planning area does not include the entire nonattainment or maintenance area, there shall be an agreement among the State department of transportation, State air quality agency, affected local agencies, and the MPO describing the process for cooperative planning and analysis of all projects outside the metropolitan planning area but within the nonattainment or maintenance area. The agreement also must indicate how the total transportation related emissions for the nonattainment or maintenance area, including areas both within and outside the metropolitan planning area, will be treated for the purposes of determining conformity in accordance with the U.S. EPA conformity regulation (40 CFR Part 51). The agreement shall address policy mechanisms for resolving conflicts concerning transportation related emissions that may arise between the metropolitan planning area and the portion of the nonattainment or maintenance area outside the metropolitan planning area. Proposals to exclude a portion of the nonattainment or maintenance area from the planning area boundary shall be coordinated with the FHWA, the FTA, the EPA, and the State air quality agency before a final decision is made.

(g) Where more than one MPO has authority within a metropolitan planning area or a nonattainment or maintenance area, there shall be an agreement between the State department(s) of transportation and the MPOs describing how the processes will be coordinated to assure the development of an overall transportation plan for the metropolitan planning area. In metropolitan planning areas that are nonattainment or maintenance areas, the agreement shall include State and local air quality agencies. The agreement shall address policy mechanisms for resolving potential conflicts that may arise between the MPOs, e.g., issues related to the exclusion of a portion of the nonattainment area from the planning area boundary.

(h) For all requirements specified in paragraphs (a) through (g) of this section, existing agreements shall be reviewed for compliance and reaffirmed or modified as necessary to ensure participation by all appropriate modes.

Sec. 450.312 Metropolitan transportation planning: Responsibilities, cooperation, and coordination.

(a) The MPO in cooperation with the State and with operators of publicly owned transit services shall be responsible for carrying out the metropolitan transportation planning process. The MPO, the State and transit operator(s) shall cooperatively determine their mutual responsibilities in the conduct of the planning process, including corridor refinement studies, described in Sections 450.316 through 450.318. They shall cooperatively develop the unified planning work program, transportation plan, and transportation improvement program specified in Sections 450.314 through 450.318. In addition, the development of the plan and TIP shall be coordinated with other providers of transportation, e.g., sponsors of regional airports, maritime port operators, rail freight operators, etc.

(b) The MPO shall approve the metropolitan transportation plan and its periodic updates. The MPO and the Governor shall approve the metropolitan transportation improvement program and any amendments.

(c) In nonattainment or maintenance areas, the MPO shall coordinate the development of the transportation plan with the SIP development process including the development of the transportation control measures. The MPO shall develop or assist in developing the transportation control measures.

(d) In nonattainment or maintenance areas for transportation related pollutants, the MPO shall not approve any transportation plan or program which does not conform with the SIP, as determined in accordance with the U.S. EPA conformity regulation (40 CFR Part 51).

(e) If more than one MPO has authority in a metropolitan planning area (including multi-State metropolitan planning areas) or in an area which is designated as nonattainment or maintenance for transportation related pollutants, the MPOs and the Governor(s) shall cooperatively establish the boundaries of the metropolitan planning area (including the twenty year planning horizon and relationship to the nonattainment or maintenance areas) and the respective jurisdictional responsibilities of each MPO. The MPOs shall consult with each other and the State(s) to assure the preparation of integrated plans and transportation improvement programs for the entire metropolitan planning area. An individual MPO plan and program may be developed separately. However, each plan and program must be consistent with the plans and programs of other MPOs in the metropolitan planning area. For the overall metropolitan planning area, the individual MPO planning process shall reflect coordinated data collection, analysis and development. In

those areas where this provision is applicable, coordination efforts shall be initiated and the process and outcomes documented in subsequent transmittals of the UPWP and various planning products (the plan, TIP, etc.) to the State, the FHWA, and the FTA.

(f) The Secretary must designate as transportation management areas all UZAs over 200,000 population as determined by the most recent decennial census. The Secretary designated TMAs by publishing a notice in the FEDERAL REGISTER. Copies of this notice may be obtained from the FHWA Metropolitan Planning Division or Office of Planning FTA. The TMAs so designated and those designated subsequently by the FHWA and the FTA (including those designated upon request of the MPO and the Governor) must comply with the special requirements applicable to such areas regarding congestion management systems, project selection, and certification. The TMA designation applies to the entire metropolitan planning area boundary. If a metropolitan planning area encompasses a TMA and other UZA(s), the designation applies to the entire metropolitan planning area regardless of the population of constituent UZAs.

(g) As required by 23 CFR Part 500, the required management systems shall be developed cooperatively by the State, the MPOs and transit operators for each metropolitan planning area. In TMAs, the congestion management system will be developed as part of the metropolitan transportation planning process.

(h) The State shall cooperatively participate in the development of metropolitan transportation plans. The relationship of the statewide transportation plan and the metropolitan plan is specified in subpart B of this part.

(i) Where a metropolitan planning area includes Federal public lands and/or Indian tribal lands, the affected Federal agencies and Indian tribal governments shall be involved appropriately in the development of transportation plans and programs.

Sec. 450.314 Metropolitan transportation planning process: Unified planning work programs.

(a) In TMAs, the MPO(s) in cooperation with the State and operators of publicly owned transit shall develop unified planning work programs (UPWPs) that meet the requirements of 23 CFR Part 420, subpart A, and:

(1) Discuss the planning priorities facing the metropolitan planning area and describe all metropolitan transportation and transportation-related air quality planning activities (including the corridor and subarea studies discussed in Sec. 450.318) anticipated within the area during the next one or two year period, regardless of funding sources or agencies conducting activities, in sufficient detail to indicate who will perform the work, the schedule for completing it and the products that will be produced;

(2) Document planning activities to be performed with funds provided under title 23, U.S.C., and the Federal Transit Act.

(b) Arrangements may be made with the FHWA and the FTA to combine the UPWP requirements with the work program for other Federal sources of planning funds.

(c) The metropolitan transportation planning process may include the development of a prospectus that establishes a multiyear framework within which the UPWP is accomplished. The prospectus may be used to satisfy the requirements of Sec. 450.310 and paragraph (a)(1) of this section.

(d) In areas not designated as TMAs, the MPO in cooperation with the State and transit operators, with the approval of the FHWA and the FTA, may prepare a simplified statement of work, in lieu of a UPWP, that describes who will perform the work and the work that will be accomplished using Federal funds. If a simplified statement of work is used, it may be submitted as part of the Statewide planning work program, in accordance with 23 CFR Part 420.

Sec. 450.316 Metropolitan transportation planning process: Elements.

(a) Section 134(f) of title 23, U.S.C., and Federal Transit Act section 8(f) (49 U.S.C. app. 1607(f)) list 15 factors that must be considered as part of the planning process for all metropolitan areas. The following factors shall be explicitly considered, analyzed as appropriate, and reflected in the planning process products:

- (1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently;
- (2) Consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives;
- (3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur including:
 - (i) The consideration of congestion management strategies or actions which improve the mobility of people and goods in all phases of the planning process; and
 - (ii) In TMAs, a congestion management system that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operation management strategies (e.g., various elements of IVHS) shall be developed in accordance with Sec. 450.320;
- (4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans (the analysis should include projections of metropolitan planning area economic, demographic, environmental protection, growth management, and land use activities consistent with metropolitan and local/central city development goals (community, economic, housing, etc.), and projections of potential transportation demands based on the interrelated level of activity in these areas);
- (5) Programming of expenditures for transportation enhancement activities as required under 23 U.S.C. 133;
- (6) The effects of all transportation projects to be undertaken within the metropolitan planning area, without regard to the source of funding (the analysis shall consider the effectiveness, cost effectiveness, and financing of alternative investments in meeting transportation demand and supporting the overall efficiency and effectiveness of transportation system performance and related impacts on community/central city goals regarding social and economic development, housing, and employment);
- (7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations (supporting technical efforts should provide an analysis of goods and services movement problem areas, as determined in cooperation with appropriate private sector involvement, including, but not limited to, addressing interconnected transportation access and service needs of intermodal facilities);
- (8) Connectivity of roads within metropolitan planning areas with roads outside of those areas;
- (9) Transportation needs identified through the use of the management systems required under 23 U.S.C. 303 (strategies identified under each management system will be analyzed during the development of the transportation plan, including its financial component, for possible inclusion in the metropolitan plan and TIP);
- (10) Preservation of rights-of-way for construction of future transportation projects, including future transportation corridors;
- (11) Enhancement of the efficient movement of freight;
- (12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement (operating and maintenance costs must be considered in analyzing transportation alternatives);
- (13) The overall social, economic, energy, and environmental effects of transportation decisions (including consideration of the effects and impacts of the plan on the human, natural and man made environment such as housing, employment and community development, consultation with appropriate resource and permit agencies to ensure early and continued coordination with environmental resource protection and management plans, and appropriate emphasis on transportation-related air quality problems in support of the requirements of 23 U.S.C. 109(h), and section 14 of the Federal Transit Act (49 U.S.C. 1610), section 4(f) of the DOT Act (49 U.S.C. 303) and section 174(b) of the Clean Air Act (42 U.S.C. 7504(b)));

(14) Expansion, enhancement, and increased use of **transit services**;

(15) **Capital investments that would result in increased security in transit systems; and**

(16) **Recreational travel and tourism.**

(b) In addition, the metropolitan transportation planning process shall:

(1) Include a proactive public involvement process that provides complete information, timely public notice, full public access to key decisions, and supports early and continuing involvement of the public in developing plans and TIPs and meets the requirements and criteria specified as follows:

(i) Require a minimum public comment period of 45 days before the public involvement process is initially adopted or revised;

(ii) Provide timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs and projects (including but not limited to central city and other local jurisdiction concerns);

(iii) Provide reasonable public access to technical and policy information used in the development of plans and TIPs and open public meetings where matters related to the Federal-aid highway and transit programs are being considered;

(iv) Require adequate public notice of public involvement activities and time for public review and comment at key decision points, including, but not limited to, approval of plans and TIPs (in nonattainment areas, classified as serious and above, the comment period shall be at least 30 days for the plan, TIP and major amendment(s));

(v) Demonstrate explicit consideration and response to public input received during the planning and program development processes;

(vi) Seek out and consider the needs of those traditionally underserved by existing transportation systems, including but not limited to low-income and minority households;

(vii) When significant written and oral comments are received on the draft transportation plan or TIP (including the financial plan) as a result of the public involvement process or the interagency consultation process required under the U.S. EPA's conformity regulations, a summary, analysis, and report on the disposition of comments shall be made part of the final plan and TIP;

(viii) If the final transportation plan or TIP differs significantly from the one which was made available for public comment by the MPO and raises new material issues which interested parties could not reasonably have foreseen from the public involvement efforts, an additional opportunity for public comment on the revised plan or TIP shall be made available;

(ix) Public involvement processes shall be periodically reviewed by the MPO in terms of their effectiveness in assuring that the process provides full and open access to all;

(x) These procedures will be reviewed by the FHWA and the FTA during certification reviews for TMAs, and as otherwise necessary for all MPOs, to assure that full and open access is provided to MPO decisionmaking processes;

(xi) Metropolitan public involvement processes shall be coordinated with statewide public involvement processes wherever possible to enhance public consideration of the issues, plans, and programs and reduce redundancies and costs;

(2) Be consistent with Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under

23 U.S.C. 324 and 29 U.S.C. 794, which ensure that no person shall, on the grounds of race, color, sex, national origin, or physical handicap, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program receiving Federal assistance from the United States Department of Transportation;

(3) Identify actions necessary to comply with the Americans With Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, as amended) and U.S. DOT regulations "Transportation for Individuals with Disabilities" (49 CFR Parts 27, 37, and 38);

(4) Provide for the involvement of traffic, ride-sharing, parking, transportation safety and enforcement agencies; commuter rail operators; airport and port authorities; toll authorities; appropriate private transportation providers, and where appropriate city officials; and

(5) Provide for the involvement of local, State, and Federal environmental, resource and permit agencies as appropriate.

(c) In attainment areas not designated as TMAs simplified procedures for the development of plans and programs, if considered appropriate, shall be proposed by the MPO in cooperation with the State and transit operator, and submitted by the State for approval by the FHWA and the FTA. In developing proposed simplified planning procedures, consideration shall be given to the transportation problems in the area and their complexity, the growth rate of the area (e.g., fast, moderate or slow), the appropriateness of the factors specified for consideration in this subpart including air quality, and the desirability of continuing any planning process that has already been established. Areas experiencing fast growth should give consideration to a planning process that addresses all of the general requirements specified in this subpart. As a minimum, all areas employing a simplified planning process will need to develop a transportation plan to be approved by the MPO and a TIP to be approved by the MPO and the Governor.

(d) The metropolitan transportation planning process shall include preparation of technical and other reports to assure documentation of the development, refinement, and update of the transportation plan. The reports shall be reasonably available to interested parties, consistent with Sec. 450.316(b)(1).

Sec. 450.318 Metropolitan transportation planning process: Major metropolitan transportation investments.

(a) Where the need for a major metropolitan transportation investment is identified, and Federal funds are potentially involved, major investment (corridor or subarea) studies shall be undertaken to develop or refine the plan and lead to decisions by the MPO, in cooperation with participating agencies, on the design concept and scope of the investment. Where the studies have not been completed prior to plan approval, the provisions of Sec. 450.322(b)(8) apply.

(b) When any of the implementing agencies or the MPO wish to initiate a major investment study, a meeting will be convened to determine the extent of the analyses and agency roles in a cooperative process which involves the MPO, the State department of transportation, public transit operators, environmental, resource and permit agencies, local officials, the FHWA and the FTA and where appropriate community development agencies, major governmental housing bodies, and such other related agencies as may be impacted by the proposed scope of analysis. A reasonable opportunity, consistent with Sec. 450.316(b)(1), shall be provided for citizens and interested parties including affected public agencies, representatives of transportation agency employees, and private providers of transportation to participate in the cooperative process. This cooperative process shall establish the range of alternatives to be studied, such as alternative modes and technologies (including intelligent vehicle and highway systems), general alignment, number of lanes, the degree of demand management, and operating characteristics.

(c) To the extent appropriate as determined under paragraph (b) of this section, major investment studies shall evaluate the effectiveness and cost-effectiveness of alternative investments or strategies in attaining local, State and national goals and objectives. The analysis shall consider the direct and indirect costs of reasonable alternatives and such factors as mobility improvements; social, economic, and environmental effects; safety; operating efficiencies; land use and economic development; financing; and energy consumption.

(d) These major investment studies will serve as the "alternatives analyses" required by section 3(i)(1)(A) of the Federal Transit Act (49 U.S.C. app. 1602(i)) for certain projects for which discretionary section 3 "New Start" funding is being sought. The studies will also be used as the primary source of information for the other section 3(i)(1)(A)

Secretarial findings on cost-effectiveness, local financial commitment and capacity, mobility improvements, environmental benefits, economic development, operating efficiency, etc.

(e) These major investment studies also will, when appropriate, serve as the analysis of demand reduction and **operational management strategies pursuant to 23 CFR 500.109(b)**.

(f) A major investment study will include environmental studies which will be used for environmental documents as described in paragraphs (f)(1) and (2) of this section:

(1) As a minimum the participating agencies will use the major investment study as input to an environmental impact statement or environmental assessment prepared subsequent to the completion of the study. In such a case, the major investment study reports shall document the consideration given to alternatives and their impacts; or

(2) The participating agencies may elect to develop a draft environmental impact statement or environmental assessment as part of the major investment study. At any time after the completion of the study and the inclusion of the major transportation investment in the plan and the TIP the participating agencies may request the development of final environmental decision documents required under NEPA for such major transportation investments, culminating in the execution of a Record of Decision or Finding of No Significant Impact by the FHWA and/or the FTA.

(g) Major investment studies may lead to decisions that modify the project design concept and scope assumed in the plan development process. In this case, the study shall lead to the specification of a project's design concept and scope in sufficient detail to meet the requirements of the U.S. EPA conformity regulations (40 CFR Part 51).

(h) Major investment studies are eligible for funds authorized under sections 8, 9 and 26 of the Federal Transit Act (49 U.S.C. app. 1607, 1607a, and 1622) and planning and capital funds apportioned under title 23, U.S.C., and shall be included in the UPWP. If CMAQ, STP, NHS, or other capital funds administered by the FHWA are utilized for this purpose, the study must also be included in the TIP.

(i) Where the environmental process has been completed and a Record of Decision or Finding of No Significant Impact has been signed, Sec. 450.318 does not apply. Where the environmental process has been initiated but not completed, the FHWA and the FTA shall be consulted on appropriate modifications to meet the requirements of this section.

Sec. 450.320 Metropolitan transportation planning process: Relation to management systems.

(a) **Within all metropolitan areas, congestion, public transportation, and intermodal management systems, to the extent appropriate, shall be part of the metropolitan transportation planning process required under the provisions of 23 U.S.C. 134 and 49 U.S.C. 5303-5305.**

(b) In TMAs designated as nonattainment for ozone or carbon monoxide, Federal funds may not be programmed for any project that will result in a significant increase in carrying capacity for single occupant vehicles (a new general purpose highway on a new location or adding general purpose lanes, with the exception of safety improvements or the elimination of bottlenecks) unless the project results from a congestion management system (CMS) meeting the **requirements of 23 CFR Part 500. Such projects shall** incorporate all reasonably available strategies to manage the SOV facility effectively (or to facilitate its **management in the future**). **Other travel demand reduction and operational management strategies, as appropriate** for the corridor, but not appropriate for incorporation into the SOV facility itself, shall be committed to by the State and the MPO for implementation in a timely manner, but no later than the completion date for the SOV project. Projects that had advanced beyond the NEPA stage prior to April 6, 1992, and which are actively advancing to implementation, e.g., right-of-way acquisition has been approved, shall be deemed programmed and not subject to this provision.

(c) In TMAs, the planning process must include the development of a CMS that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management **strategies and meets the requirements of 23 CFR Part 500.**

(d) The effectiveness of the management systems in enhancing transportation investment decisions and improving the overall efficiency of the metropolitan area's transportation systems and facilities shall be evaluated periodically,

preferably as part of the metropolitan planning process.

Sec. 450.322 Metropolitan transportation planning process: Transportation plan.

(a) The metropolitan transportation planning process shall include the development of a transportation plan addressing at least a twenty year planning horizon. The plan shall include both long-range and short-range strategies/actions that lead to the development of an integrated intermodal transportation system that facilitates the efficient movement of people and goods. The transportation plan shall be reviewed and updated at least triennially in nonattainment and maintenance areas and at least every five years in attainment areas to confirm its validity and its consistency with current and forecasted transportation and land use conditions and trends and to extend the forecast period. The transportation plan must be approved by the MPO.

(b) In addition, the plan shall:

(1) Identify the projected transportation demand of persons and goods in the metropolitan planning area over the period of the plan;

(2) Identify adopted congestion management strategies including, as appropriate, traffic operations, ridesharing, pedestrian and bicycle facilities, alternative work schedules, freight movement options, high occupancy vehicle treatments, telecommuting, and public transportation improvements (including regulatory, pricing, management, and operational options), that demonstrate a systematic approach in addressing current and future transportation demand;

(3) Identify pedestrian walkway and bicycle transportation facilities in accordance with 23 U.S.C. 217(g);

(4) Reflect the consideration given to the results of the management systems, including in TMAs that are nonattainment areas for carbon monoxide and ozone, identification of SOV projects that result from a congestion management system that meets the requirements of 23 CFR part 500.

(5) Assess capital investment and other measures necessary to preserve the existing transportation system (including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities) and make the most efficient use of existing transportation facilities to relieve vehicular congestion and enhance the mobility of people and goods;

(6) Include design concept and scope descriptions of all existing and proposed transportation facilities in sufficient detail, regardless of the source of funding, in nonattainment and maintenance areas to permit conformity determinations under the U.S. EPA conformity regulations at 40 CFR Part 51. In all areas, all proposed improvements shall be described in sufficient detail to develop cost estimates;

(7) Reflect a multimodal evaluation of the transportation, socioeconomic, environmental, and financial impact of the overall plan, including all major transportation investments in accordance with Sec. 450.318;

(8) For major transportation investments for which analyses are not complete, indicate that the design concept and scope (mode and alignment) have not been fully determined and will require further analysis. The plan shall identify such study corridors and subareas and may stipulate either a set of assumptions (assumed alternatives) concerning the proposed improvements or a no-build condition pending the completion of a corridor or subarea level analysis under Sec. 450.318. In nonattainment and maintenance areas, the set of assumed alternatives shall be in sufficient detail to permit plan conformity determinations under the U.S. EPA conformity regulations (40 CFR Part 51);

(9) Reflect, to the extent that they exist, consideration of: the area's comprehensive long-range land use plan and metropolitan development objectives; national, State, and local housing goals and strategies, community development and employment plans and strategies, and environmental resource plans; local, State, and national goals and objectives such as linking low income households with employment opportunities; and the area's overall social, economic, environmental, and energy conservation goals and objectives;

(10) Indicate, as appropriate, proposed transportation enhancement activities as defined in 23 U.S.C. 101(a); and

(11) Include a financial plan that demonstrates the consistency of proposed transportation investments with already available and projected sources of revenue. The financial plan shall compare the estimated revenue from existing and proposed funding sources that can reasonably be expected to be available for transportation uses, and the estimated costs of constructing, maintaining and operating the total (existing plus planned) transportation system over the period of the plan. The estimated revenue by existing revenue source (local, State, and Federal and private) available for transportation projects shall be determined and any shortfalls identified. Proposed new revenues and/or revenue sources to cover shortfalls shall be identified, including strategies for ensuring their availability for proposed investments. Existing and proposed revenues shall cover all forecasted capital, operating, and maintenance costs. All cost and revenue projections shall be based on the data reflecting the existing situation and historical trends. For nonattainment and maintenance areas, the financial plan shall address the specific financial strategies required to ensure the implementation of projects and programs to reach air quality compliance.

(c) There must be adequate opportunity for public official (including elected officials) and citizen involvement in the development of the transportation plan before it is approved by the MPO, in accordance with the requirements of Sec. 450.316(b)(1). Such procedures shall include opportunities for interested parties (including citizens, affected public agencies, representatives of transportation agency employees, and private providers of transportation) to be involved in the early stages of the plan development/update process. The procedures shall include publication of the proposed plan or other methods to make it readily available for public review and comment and, in nonattainment TMAs, an opportunity for at least one formal public meeting annually to review planning assumptions and the plan development process with interested parties and the general public. The procedures also shall include publication of the approved plan or other methods to make it readily available for information purposes.

(d) In nonattainment and maintenance areas for transportation related pollutants, the FHWA and the FTA, as well as the MPO, must make a conformity determination on any new/revised plan in accordance with the Clean Air Act and the EPA conformity regulations (40 CFR Part 51).

(e) Although transportation plans do not need to be approved by the FHWA or the FTA, copies of any new/revised plans must be provided to each agency.

Sec. 450.324 Transportation improvement program: General.

(a) The metropolitan transportation planning process shall include development of a transportation improvement program (TIP) for the metropolitan planning area by the MPO in cooperation with the State and public transit operators.

(b) The TIP must be updated at least every two years and approved by the MPO and the Governor. The frequency and cycle for updating the TIP must be compatible with the STIP development and approval process. Since the TIP becomes part of the STIP, the TIP lapses when the FHWA and FTA approval for the STIP lapses. In the case of extenuating circumstances, FHWA and FTA will consider and take appropriate action on requests to extend the STIP approval period for all or part of the STIP in accordance with Sec. 450.220(d). Although metropolitan TIPs, unlike statewide TIPs, do not need to be approved by the FHWA or the FTA, copies of any new or amended TIPs must be provided to each agency. Additionally, in nonattainment and maintenance areas for transportation related pollutants, the FHWA and the FTA, as well as the MPO, must make a conformity determination on any new or amended TIPs (unless the amendment consists entirely of exempt projects) in accordance with the Clean Air Act requirements and the EPA conformity regulations (40 CFR Part 51).

(c) There must be reasonable opportunity for public comment in accordance with the requirements of Sec. 450.316(b)(1) and, in nonattainment TMAs, an opportunity for at least one formal public meeting during the TIP development process. This public meeting may be combined with the public meeting required under Sec. 450.322(c). The proposed TIP shall be published or otherwise made readily available for review and comment. Similarly, the approved TIP shall be published or otherwise made readily available for information purposes.

(d) The TIP shall cover a period of not less than 3 years, but may cover a longer period if it identifies priorities and financial information for the additional years. The TIP must include a priority list of projects to be carried out in the first three years. As a minimum, the priority list shall group the projects that are to be undertaken in each of the years, i.e., year 1, year 2, year 3. In nonattainment and maintenance areas, the TIP shall give priority to eligible TCMs identified in the approved SIP in accordance with the U.S. EPA conformity regulation (40 CFR part 51) and shall

provide for their timely implementation.

(e) The TIP shall be financially constrained by year and include a financial plan that demonstrates which projects can be implemented using current revenue sources and which projects are to be implemented using proposed revenue sources (while the existing transportation system is being adequately operated and maintained). The financial plan shall be developed by the MPO in cooperation with the State and the transit operator. The State and the transit operator must provide MPOs with estimates of available Federal and State funds which the MPOs shall utilize in developing financial plans. It is expected that the State would develop this information as part of the STIP development process and that the estimates would be refined through this process. Only projects for which construction and operating funds can reasonably be expected to be available may be included. In the case of new funding sources, strategies for ensuring their availability shall be identified. In developing the financial analysis, the MPO shall take into account all projects and strategies funded under title 23, U.S.C., and the Federal Transit Act, other Federal funds, local sources, State assistance, and private participation. In nonattainment and maintenance areas, projects included for the first two years of the current TIP shall be limited to those for which funds are available or committed.

(f) The TIP shall include:

(1) All transportation projects, or identified phases of a project, (including pedestrian walkways, bicycle transportation facilities and transportation enhancement projects) within the metropolitan planning area proposed for funding under title 23, U.S.C., (including Federal Lands Highway projects) and the Federal Transit Act, excluding safety projects funded under 23 U.S.C. 402, emergency relief projects (except those involving substantial functional, locational and capacity changes), and planning and research activities (except those funded with NHS, STP, and/or MA funds). Planning and research activities funded with NHS, STP and/or MA funds, other than those used for major investment studies, may be excluded from the TIP by agreement of the State and the MPO;

(2) Only projects that are consistent with the transportation plan;

(3) All regionally significant transportation projects for which an the FHWA or the FTA approval is required whether or not the projects are to be funded with title 23, U.S.C., or Federal Transit Act funds, e.g., addition of an interchange to the Interstate System with State, local, and/or private funds, demonstration projects not funded under title 23, U.S.C., or the Federal Transit Act, etc.;

(4) For informational purposes and air quality analysis in nonattainment and maintenance areas, all regionally significant transportation projects proposed to be funded with Federal funds, including intermodal facilities, not covered in paragraphs (f)(1) or (f)(3) of this section; and

(5) For informational purposes and air quality analysis in nonattainment and maintenance areas, all regionally significant projects to be funded with non-Federal funds.

(g) With respect to each project under paragraph (f) of this section the TIP shall include:

(1) Sufficient descriptive material (i.e., type of work, termini, length, etc.) to identify the project or phase;

(2) Estimated total cost;

(3) The amount of Federal funds proposed to be obligated during each program year;

(4) Proposed source of Federal and non-Federal funds;

(5) Identification of the recipient/subrecipient and State and local agencies responsible for carrying out the project;

(6) In nonattainment and maintenance areas, identification of those projects which are identified as TCMs in the applicable SIP; and

(7) In areas with Americans with Disabilities Act required Paratransit and key station plans, identification of those projects which will implement the plans.

- (h) In nonattainment and maintenance areas, projects included shall be specified in sufficient detail (design concept and scope) to permit air quality analysis in accordance with the U.S. EPA conformity requirements (40 CFR part 51).
- (i) Projects proposed for FHWA and/or FTA funding that are not considered by the State and MPO to be of appropriate scale for individual identification in a given program year may be grouped by function, geographic area, and work type using applicable classifications under 23 CFR 771.117 (c) and (d). In nonattainment and maintenance areas, classifications must be consistent with the exempt project classifications contained in the U.S. EPA conformity requirements (40 CFR Part 51).
- (j) Projects utilizing Federal funds that have been allocated to the area pursuant to 23 U.S.C. 133(d)(3)(E) shall be identified.
- (k) The total Federal share of projects included in the TIP proposed for funding under section 9 of the Federal Transit Act (49 U.S.C. app. 1607a) may not exceed section 9 authorized funding levels available to the area for the program year.
- (l) Procedures or agreements that distribute suballocated Surface Transportation Program or section 9 funds to individual jurisdictions or modes within the metropolitan area by predetermined percentages or formulas are inconsistent with the legislative provisions that require MPOs in cooperation with the State and transit operators to develop a prioritized and financially constrained TIP and shall not be used unless they can be clearly shown to be based on considerations required to be addressed as part of the planning process.
- (m) For the purpose of including Federal Transit Act section 3 funded projects in a TIP the following approach shall be followed:
- (1) The total Federal share of projects included in the first year of the TIP shall not exceed levels of funding committed to the area; and
 - (2) The total Federal share of projects included in the second, third and/or subsequent years of the TIP may not exceed levels of funding committed, or reasonably expected to be available, to the area.
- (n) As a management tool for monitoring progress in implementing the transportation plan, the TIP shall:
- (1) Identify the criteria and process for prioritizing implementation of transportation plan elements (including intermodal trade-offs) for inclusion in the TIP and any changes in priorities from previous TIPs;
 - (2) List major projects from the previous TIP that were implemented and identify any significant delays in the planned implementation of major projects;
 - (3) In nonattainment and maintenance areas, describe the progress in implementing any required TCMs, including the reasons for any significant delays in the planned implementation and strategies for ensuring their advancement at the earliest possible time; and
 - (4) In nonattainment and maintenance areas, include a list of all projects found to conform in a previous TIP and are now part of the base case for the purpose of air quality conformity analyses. Projects shall be included in this list until construction or acquisition has been fully authorized, except when a three year period has elapsed subsequent to the NEPA approval without any major action taking place to advance the project.
- (o) In order to maintain or establish operations, in the absence of an approved metropolitan TIP, the FTA and/or the FHWA Administrators, as appropriate, may approve operating assistance.

Sec. 450.326 Transportation improvement program: Modification.

The TIP may be modified at any time consistent with the procedures established in this part for its development and approval. In nonattainment or maintenance areas for transportation related pollutants if the TIP is amended by adding or deleting projects which contribute to and/or reduce transportation related emissions or replaced with a new TIP, new conformity determinations by the MPO and the FHWA and the FTA will be necessary. Public involvement

procedures consistent with Sec. 450.316(b)(1) shall be utilized in amending the TIP, except that these procedures are not required for TIP amendments that only involve projects of the type covered in Sec. 450.324(i).

Sec. 450.328 Transportation improvement program: Relation-ship to statewide TIP.

(a) After approval by the MPO and the Governor, the TIP shall be included without modification, directly or by reference, in the STIP program required under 23 U.S.C. 135 and consistent with Sec. 450.220, except that in nonattainment and maintenance areas, a conformity finding by the FHWA and the FTA must be made before it is included in the STIP. After approval by the MPO and the Governor, a copy shall be provided to the FHWA and the FTA.

(b) The State shall notify the appropriate MPO and Federal Lands Highways Program agencies, e.g., Bureau of Indian Affairs and/or National Park Service, when a TIP including projects under the jurisdiction of these agencies has been included in the STIP.

Sec. 450.330 Transportation improvement program: Action required by FHWA/FTA.

(a) The FHWA and the FTA must jointly find that each metropolitan TIP is based on a continuing, comprehensive transportation process carried on cooperatively by the States, MPOs and transit operators in accordance with the provisions of 23 U.S.C. 134 and section 8 of the Federal Transit Act (49 U.S.C. app. 1607). This finding shall be based on the self-certification statement submitted by the State and MPO under Sec. 450.334 and upon other reviews as deemed necessary by the FHWA and the FTA.

(b) In nonattainment and maintenance areas, the FHWA and the FTA must also jointly find that the metropolitan TIP conforms with the adopted SIP and that priority has been given to the timely implementation of transportation control measures contained in the SIP in accordance with 40 CFR Part 51. As part of their review in nonattainment areas requiring TCMs, the FHWA and the FTA will specifically consider any comments relating to the financial plans for the plan and TIP contained in the summary of significant comments required under Sec. 450.316(b). If the TIP is found to be in nonconformance with the SIP, the TIP shall be returned to the Governor and the MPO with the joint finding. If the TIP is found to conform with the SIP, the Governor/MPO shall be notified of the joint finding. After the FHWA and the FTA find the TIP to be in conformance, the TIP shall be incorporated, without modification, into the STIP, directly or by reference.

Sec. 450.332 Project selection for implementation.

(a) In areas not designated as TMAs and when Sec. 450.332(c) does not apply, projects to be implemented using title 23 funds other than Federal lands projects or Federal Transit Act funds shall be selected by the State and/or the transit operator, in cooperation with the MPO from the approved metropolitan TIP. Federal Lands Highways program projects shall be selected in accordance with 23 U.S.C. 204.

(b) In areas designated as TMAs where Sec. 450.332(c) does not apply, all title 23 and Federal Transit Act funded projects, except projects on the NHS and projects funded under the bridge, interstate maintenance, and Federal Lands Highways programs, shall be selected by the MPO in consultation with the State and transit operator from the approved metropolitan TIP and in accordance with the priorities in the approved metropolitan TIP. Projects on the NHS, and projects funded under the bridge and Interstate maintenance programs shall be selected by the State in cooperation with the MPO, from the approved metropolitan TIP. Federal Lands Highway Program projects shall be selected in accordance with 23 U.S.C. 204.

(c) Once a TIP that meets the requirements of Sec. 450.324 has been developed and approved, the first year of the TIP shall constitute an "agreed to" list of projects for project selection purposes and no further project selection action is required for the implementing agency to proceed with projects, except where the appropriated Federal funds available to the metropolitan planning area are significantly less than the authorized amounts. In this case, a revised "agreed to" list of projects shall be jointly developed by the MPO, State, and the transit operator if requested by the MPO, State, or the transit operator. If the State or transit operator wishes to proceed with a project in the second or third year of the TIP, the specific project selection procedures stated in paragraphs (a) and (b) of this section must be used unless the MPO, State, and transit operator jointly develop expedited project selection procedures to provide for the advancement of projects from the second or third year of the TIP.

(d) Projects not included in the Federally approved STIP will not be eligible for funding with title 23, U.S.C., or Federal Transit Act funds.

(e) In nonattainment and maintenance areas, priority will be given to the timely implementation of TCMs contained in the applicable SIP in accordance with the U.S. EPA conformity regulations at 40 CFR part 51.

Sec. 450.334 Metropolitan transportation planning process: Certification.

(a) The State and the MPO shall annually certify to the FHWA and the FTA that the planning process is addressing the major issues facing the area and is being conducted in accordance with all applicable requirements of:

- (1) Section 134 of title 23, U.S.C., section 8 of the Federal Transit Act (49 U.S.C. app. 1607) and this part;
- (2) Sections 174 and 176(c) and (d) of the Clean Air Act (42 U.S.C. 7504, 7506(c) and (d));
- (3) Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794;
- (4) Section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102-240) regarding the involvement of disadvantaged business enterprises in the FHWA and the FTA funded planning projects (sec. 105(f), Pub. L. 97-424, 96 Stat. 2100; 49 CFR Part 23); and
- (5) The provisions of the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, as amended) and U.S. DOT regulations "Transportation for Individuals with Disabilities" (49 CFR Parts 27, 37, and 38).

(b) The FHWA and the FTA jointly will review and evaluate the transportation planning process for each TMA (as appropriate but no less than once every three years) to determine if the process meets the requirements of this subpart.

(c) In TMAs that are nonattainment or maintenance areas for transportation related pollutants, the FHWA and the FTA will also review and evaluate the transportation planning process to assure that the MPO has an adequate process to ensure conformity of plans and programs in accordance with procedures contained in 40 CFR part 51.

(d) Upon the review and evaluation conducted under paragraphs (b) and (c) of this section, if the FHWA and the FTA jointly determine that the transportation planning process in a TMA meets or substantially meets the requirements of this part, they will take one of the following actions, as appropriate:

- (1) Jointly certify the transportation planning process;
 - (2) Jointly certify the transportation planning process subject to certain specified corrective actions be taken; or
 - (3) Jointly certify the planning process as the basis for approval of only those categories of programs or projects that the Administrators may jointly determine and subject to certain specified corrective actions being taken.
- (e) A certification action under this section will remain in effect for three years unless a new certification determination is made sooner.

(f) If, upon the review and evaluation conducted under paragraphs (b) or (c) of this section, the FHWA and the FTA jointly determine that the transportation planning process in a TMA does not substantially meet the requirements, they may take the following action as appropriate, if after September 30, 1993, the transportation planning process is not certified:

- (1) Withhold in whole or in part the apportionment attributed to the relevant metropolitan planning area under 23 U.S.C. 133(d)(3), capital funds apportioned under section 9 of the Federal Transit Act, and section 3 funds under the Federal Transit Act (49 U.S.C. 1607(a)); or

(2) Withhold approval of all or certain categories of projects.

(g) If a transportation planning process remains uncertified for more than two consecutive years after September 30, 1994, 20 percent of the apportionment attributed to the metropolitan planning area under 23 U.S.C. 133(d)(3) and capital funds apportioned under the formula program of section 9 of the Federal Transit Act (49 U.S.C. app. 1607a) will be withheld.

(h) The State and the MPO shall be notified of the actions taken under paragraphs (f) and (g) of this section. Upon full, joint certification by the FHWA and the FTA, all funds withheld will be restored to the metropolitan area, unless they have lapsed.

Sec. 450.336 Phase-in of new requirements.

(a) Except for reflecting the consideration given the results of the management systems, the planning process and plans in nonattainment areas requiring TCMs shall comply, to the extent possible, with the requirements of this subpart by October 1, 1994. All other metropolitan areas shall comply to the extent possible with the requirements of this subpart by December 18, 1994. Where time does not permit a quantitative analysis of certain factors, a qualitative analysis of those factors will be acceptable. If a forecast period of less than twenty years is acceptable for SIP development and air quality conformity purposes, that same time period will be acceptable for transportation planning. The initial plan update shall be financially feasible, taking into account capital costs and the funds reasonably available for capital improvements, as well as addressing to the extent possible the costs of and revenues available for operating and maintenance of the transportation system. Where TCMs are required, the plan update process shall be coordinated with the process for developing TCMs. The planning process for subsequent updates of the plan and the updated plans shall comply with the requirements of this subpart. Plan updates performed in all areas must consider the results of the management systems (specified in 23 CFR Part 500) as they become available. The plan shall reflect this consideration.

(b) (1) During the period prior to the full implementation of the CMS in a TMA, the MPO in cooperation with the State, the public transit operators, and other operators of major modes of transportation shall identify the location of the most serious congestion problems in the metropolitan area and proceed with the development of actions to address these problems.

(2) Prior to the full implementation of a CMS, an adequate interim CMS in a TMA designated as nonattainment for carbon monoxide and/or ozone shall, as a minimum, include a process that results in an appropriate analysis of all reasonably available (including multimodal) travel demand reduction and operational management strategies for the corridor in which a project that will result in a significant increase in SOV capacity is proposed. This analysis must demonstrate how far such strategies can go in eliminating the need for additional SOV capacity in the corridor. If the analysis demonstrates that additional SOV capacity is warranted, then all reasonable strategies to manage the facility effectively (or to facilitate its management in the future) shall be incorporated into the proposed facility. Other travel demand reduction and operational management strategies appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself must be committed to by the State and the MPO for implementation in a timely manner but no later than completion of construction of the SOV facility. If the area does not already have a traffic management and carpool/vanpool program, the establishment of such programs must be a part of the commitment.

(3) In TMAs that are nonattainment for carbon monoxide and/or ozone, the MPO, a State and/or transit operator may not advance a project utilizing Federal funds that provides a significant capacity increase for SOVs (adding general purpose lanes, with the exception of safety improvements or the elimination of bottlenecks, or a new highway on a new location) beyond the NEPA process unless an interim CMS is in place that meets the criteria in paragraphs (b)(1) and (b)(2) of this section and the project results from this interim CMS.

(4) Projects that are part of or consistent with a State mandated congestion management system/plan are not subject to the requirements in paragraphs (b)(1) and (b)(2) of this section.

(5) Projects advanced beyond the NEPA process as of April 6, 1992 and which are being implemented, e.g., right-of-way acquisition has been approved, will be deemed to be programmed and not subject to this requirement.



[FHWA Home](#) | [Directives](#) | [23 CFR TOC](#) | [Feedback](#)

United States Department of Transportation - **Federal Highway Administration**