

**Hampton Roads Metropolitan Planning Organization  
Transportation Planning Quadrennial Certification Review  
Final Summary Report**

**November 14-15, 2007**



**Conducted by:  
Federal Highway Administration, Virginia Division Office  
Federal Transit Administration, Region III Office**

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## FORWARD

Pursuant to 23 U.S.C. 134(k)(5) and 49 U.S.C. 5305(e), the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) must jointly certify the metropolitan transportation planning processes in Transportation Management Areas at least every four years (A TMA is an urbanized area, as defined by the U. S. Census, with a population of over 200,000).

Under the planning provisions, each MPO must, at least every four years, with submittal of the entire proposed TIP, self-certify that its planning process is being conducted in accordance with applicable requirements related to planning, air quality, Title VI of the 1964 Civil Rights Act (Title VI), Disadvantaged Business Enterprises (DBE), and the Americans with Disabilities Act (ADA). The Certification Reviews are essentially a look beyond the self-certification, and are not just a review of the MPO or its staff; rather, it covers all of the agencies (State, MPO, and transit operators) that are charged with cooperatively carrying out the process on a daily basis. This shared responsibility is specifically addressed in the regulations where:

*The MPO, the State(s), and the public transportation operators shall cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process.*  
[23 CFR 450.314(a)]

In general, the reviews consist of three primary activities: a site visit, review of planning products (in advance and during site visit), and preparation of a report which summarizes the review and offers findings. The reviews focus on compliance with federal regulations, challenges, successes, and, experiences of the cooperative relationship between the MPO, State DOT and transit operator in the conduct of the metropolitan planning process. Joint FTA/FHWA certification review guidelines provide agency field reviewers with latitude and flexibility to tailor the review to reflect local issues and needs. As a consequence, the scope and depth of the certification review reports will vary significantly.

It is important that the State, the MPO, and transit operators understand that the Certification Review is being done in the spirit of cooperation with the goal of enhancing the quality of the transportation planning process. FHWA and FTA approach the certification review as true partners in the process, holding a stewardship role to find out what is/is not working and, when appropriate, to *help* make improvements.

The certification review process is only one of several methods used to assess the quality of a local metropolitan planning process, compliance with applicable statutes and regulations, and the level and type of technical assistance needed to enhance the effectiveness of the planning process. Other activities provide opportunities for this type of review and comment, including Unified Planning Work Program approval, Metropolitan and Statewide Transportation Improvement Program Findings, air quality conformity determinations (in non-attainment and maintenance areas), as well as a range of other formal and less formal contact provide both FHWA/FTA an opportunity to comment on the planning process. The results of these other processes are considered in the certification review process.

## Executive Summary

### Purpose

The purpose of this report is to document the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) evaluation of whether the transportation planning process in the Hampton Roads Transportation Management Area (TMA) meets joint FTA and FHWA planning regulations, and to certify, as appropriate, the planning process required by 23 CFR 450.334 entitled "Self-Certifications and Federal Certifications." TMAs are MPOs for regions with populations of 200,000 or more.

### Organization of Report

This Certification report is organized into the following sections:

- **Executive Summary** (An overview of the Certification Actions).
- **Review Elements** (A discussion of the regulatory basis, observations, and findings for each focus area reviewed during this Certification cycle).
- **Appendices** (Appendices include federal, state, local, and citizen participants in the review, comments/handouts from citizens, agenda for the site visit, MPO staff handouts, a list of acronyms, federal regulations, MPO Agreement and Designation letter, and sections or pages from MPO products).

### Federal Actions by Topic

Each of the federal actions listed below is discussed in greater detail, with associated findings, in the next section of the report.

#### **MPO Designation, Structure, and Agreements**

*Commendation:* The federal team commends the good level of cooperation and coordination between the MPO, State, and transit operators.

*Recommendation:* The federal team recommends that the MPO, State, and transit operators complete a new agreement outlining mutual responsibilities within the next three months.

*Recommendation:* The federal team recommends that the MPO Policy Board establish clear bylaws that govern the internal affairs and actions of the MPO (including advisory committees).

*Recommendation:* The federal team recommends the MPO provide clarification to the public of the established relationship between the CAO Advisory Committee to the MPO, the

Transportation Technical Advisory Committee (TTC), the HRPDC staff, and the MPO.

*Corrective action:* The federal team requests that the MPO (including VDOT, HRT, WAT) provide clarification on why the CAO Advisory Committee to the MPO meets in private (versus a public setting) with HRPDC staff to deliberate and provide recommendations to the MPO on publicly funded transportation infrastructure projects for inclusion in the MPO Long Range Plan, whether this is a formally established MPO advisory committee, and whether these meetings were/are held in compliance with the state FOIA statute. Please submit a letter of clarification to the federal team. The compliance deadline for this request is May 2008.

*Corrective action:* The federal team requests that the MPO provide clarification on why the HRPDC “ratifies” or approves the actions of the MPO, and where in the agreement between the MPO and State is this authority provided. Please submit a letter of clarification to the federal team. The compliance deadline for this request is May 2008.

### **Air Quality/Conformity/CMAQ program**

*Commendation:* The federal team commends the HRPDC staff for assuming responsibility for analyzing the CMAQ projects in the region and doing so with a consistent methodology.

*Commendation:* The federal team commends the HRPDC staff for taking a regional approach with its CMAQ Program to address the air quality issues in the region.

*Commendation:* The federal team commends HRPDC staff for maintaining their knowledge of the CMAQ Program and its eligibility requirements.

*Recommendation:* The federal team recommends that the HRPDC staff ensure that the localities within the maintenance area are aware that regionally significant transportation projects that are subject to conformity include regionally significant projects carried out by localities, developers, or other federal and state agencies (i.e. military).

*Recommendation:* The federal team recommends that the MPO review its existing MPO Planning Agreement to determine if it satisfies the requirement of 23 CFR 450.314(b). If the MPO determines that the agreement does not, it should be revised and updated accordingly. A quick review of the agreement, however, reveals the following outdated statement: “The metropolitan planning area has been designated as a nonattainment area for transportation related pollutants under the Clean Air Act and *the [planning area] boundary adjusted to include the area so designated.*”

### **Long Range Multimodal Transportation Planning**

*Commendation:* The federal team acknowledges the external political conditions experienced by HRPDC staff during the development of the MPO Long Range Transportation Plan and

commends the HRPDC staff for maintaining for their commitment and focus.

*Commendation:* The federal team commends the HRPDC staff for their outstanding and professional work in developing the Intermodal Management System Regional Freight Study.

*Commendation:* The federal team commends the HRPDC staff's dedication to safety through its publication of the Hampton Roads Regional Safety Study

*Commendation:* The federal continues to be impressed with HRPDC staff efforts to produce quality CMS documents and we applaud there efforts for establishing a very good CMS process

*Commendation:* The federal team appreciates the strong technical capabilities of the HRPDC staff which results in quality products.

*Commendation:* The federal team commends Hampton Roads Transit (HRT), HRT TRAFFIX, and Williamsburg Area Transport (WAT) for its work as part of the development of the LRTP.

*Commendation:* HRPDC staff and the MPO are commended for its support of transit in the region through its continuing work with HRT and WAT on flex funding and the Norfolk LRT project.

*Commendation:* The federal team appreciates the HRPDC staff efforts to coordinate with environmental, land use, and other transportation related agencies during the development of the 2030 Plan.

*Commendation:* WAT and HRPDC are commended for their successful efforts in providing transportation logistics for the Jamestown 2007 celebration. In doing so, WAT worked admirably in coordinating efforts through many government agencies, including VDOT, VDRPT, FHWA, FTA, and the U.S. Navy.

*Recommendation:* The federal team recommends that the HRPDC staff and transit increase the attention, detail, and discussion regarding transit in the next MPO LRP (include strategies, needs, funding issues, etc.). A more comprehensive approach in considering transit as a viable alternative in augmenting the region's highway infrastructure should be implemented in the development of the next long range plan.

*Recommendation:* The federal staff recommends that the HRPDC staff better coordinate with the VDOT Hampton Roads District office to verify financial projection data for future MPO long range plans.

*Recommendation:* The federal team recommends that the MPO Policy Board assess its membership and the MPO structure in light of emerging regional transportation issues such as freight.

## **Transportation Improvement Program (TIP)**

*Recommendation:* The federal team recommends that the MPO include an introduction to the TIP that better enables the reading to understand the TIP development process and the relationship of the TIP to the MPO decisionmaking process.

*Recommendation:* The federal team recommends that the MPO coordinate with the HRTA as it develops its financial plan and project list. HRTA revenues and projects must be considered in the MPOs TIP and Long Range Transportation Plan.

*Corrective Action:* The federal team requests that the MPO in cooperation with the state and transit operators make available a financial plan for the TIP. Please submit a financial plan to FHWA and FTA. The compliance deadline for this request will be within 1 year following MPO's receipt of the certification review or before the MPO takes approval action on the next TIP update (whichever comes first).

## **Public Participation**

*Recommendation:* The federal team strongly recommends that the MPO Policy Board provide a citizen comment period prior to MPO public meetings.

*Recommendation:* The federal staff recommends that the MPO Policy Board provide a written description of the various advisory committees of the MPO outlining their purpose and voting membership for public consumption.

*Recommendation:* The federal team recommends that the MPO utilize some of its federal planning funds to contract with a firm specializing in public outreach to minority communities to assist the MPO in developing outreach strategies as part of its participation planning process.

*Recommendation:* The federal team recommends that the MPO develop an educational document aimed at informing citizens what the MPO is and does, the documents required by law to be produced by the MPO, and how citizen participation in the regional decisionmaking process is demonstrated in plan/program development.

*Corrective Action:* The federal team requests that the MPO (including VDOT and the transit operators) come into full compliance with federal regulations and state law (FOIA) as it pertains to open meeting and notification requirements for public meetings. The compliance deadline for this request is May 2008. After May 1, 2008, the FHWA and FTA will not be able to act on any approvals or amendments to the UPWP, Plan, and TIP until the MPO's public meetings come into full compliance with federal regulations and state law (FOIA). Please submit a letter of assurance to the federal team identifying a consensus among the MPO, VDOT, HRT, and WAT that federal regulations and state law (FOIA) regarding open meeting and notification requirements have been met for the MPO and its committees/subcommittees.

*Corrective Action:* The federal team requests that the MPO, state, and transit operators cooperatively reevaluate the effectiveness, openness, and fullness of the Hampton Roads MPO's (including advisory committees) transportation planning and programming process as it pertains to the intent of federal public participation requirements, and in consideration of the State's FOIA law. Please include a task in the UPWP to address this corrective action and submit an evaluation report to FHWA and FTA once completed. The compliance deadline for this request is August 2008.

*Corrective Action:* The federal team requests that the MPO (in cooperation with the state and transit operators) update their participation plan to clearly describe the explicit procedures, strategies, and desired outcomes for seeking out and considering the needs of those traditionally underserved by existing transportation systems such as low income and minority households, who may face challenges accessing employments and other services. The compliance deadline for this request will be August 2008. Please submit an updated participation plan to the federal team.

#### **Title VI, Environmental Justice (EJ), Limited English Proficiency (LEP)**

*Corrective Action:* The federal team requests that the Hampton Roads MPO (in cooperation with HRT and WAT) establish procedures for applying Environmental Justice; develop measures to test the achievement of Environmental Justice; assess both highway and transit investments; and undertake outreach activities to low-income and minority communities to solicit input. This request includes the completion of the LEP four factor analyses. The purpose of this corrective action is to ensure that the MPO addresses Environmental Justice as part of the development of the Regional Transportation Plan and Transportation Improvement Program. The compliance deadline for this request will be March 2009. Please submit the final report to the federal team.

*Corrective Action:* The federal team requests that that the MPO, through cooperation and coordination with the transit operators and VDOT, develop a Title VI Plan for the Hampton Roads MPO. The compliance deadline for this request will be March 2009. Please submit the plan to the federal team.

*Corrective Action:* The federal team requests that within 1 year following the approval of the MPO Title VI Plan, the VDOT (per 23 CFR 200.9 (B)(7)) conduct a comprehensive Title VI review of the Hampton Roads MPO and submit a findings report to FHWA and FTA. The compliance deadline is within 1 year following the approval of the MPO Title VI Plan.

*Corrective Action:* The federal team requests that the MPO, through cooperation and coordination with the transit operators and VDOT, establish procedural guidance for verifying the process and implementation of self-certification with respect to Title VI of the Civil Rights Act of 1964 and ADA. The compliance deadline for this request is August 2008. Please submit the final guidance report to the federal team.



## **Unified Planning Work Program (UPWP)**

*Recommendation:* The federal team recommends that only the UPWP that has been approved by the MPO be sent to FHWA and FTA for review and approval. We also recommend an introductory page be provided in the UPWP so that readers know what it is they are reading.

*Recommendations:* The MPO and PDC are separate organizations and the federal team recommends that the MPO draw a clear distinction between both organizations.

*Corrective Action:* The federal team requests the MPO to clearly identify in the UPWP the end product for each task, schedule for completing each task, and include a summary budget table that includes the federal, state, and local match for each task or activity. The compliance deadline for this request will be prior to the submittal of the MPO's FY 2009 UPWP to FHWA and FTA for approval.

## ***Certification Statement***

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The Federal Highway Administration and Federal Transit Administration through its oversight and stewardship responsibilities have determined that the transportation planning process of the MPO of the Hampton Roads TMA meets the requirements of the Metropolitan Planning Rule at 23 CFR Part 450 Subpart C and 49 CR Part 613 with the exception of those areas where corrective actions are identified in this report. The FHWA and FTA, therefore, conditionally certify the transportation planning process with the understanding that the corrective actions noted in the summary report will be accomplished within the specified time frame.

In addition, the MPO is expected to give serious consideration to full implementation of the recommendations for improvement within the next 12 months. The FHWA and FTA in taking action on future products, such as approval of the unified planning work program, approval of the TIP/STIP, and review of long-range plan updates will consider progress made by the Hampton Roads MPO in addressing these FHWA/FTA findings.

## Introduction

The purpose of this report is to document the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) evaluation of whether the transportation planning process in the Hampton Roads Transportation Management Area (TMA) meets joint FTA and FHWA planning regulations, and to certify, as appropriate, the planning process as required by 23 Code of Federal Regulations (CFR) 450.334, entitled "Self-certification and Federal Certification." Federal MPO regulations are included in Appendix J.

A team consisting of staff from the FHWA Virginia Division, the FHWA Resource Center, and the FTA Region III Office was formed to conduct the Certification Review of the Hampton Roads area planning process (federal certification notification letter is included in Appendix A, federal team members and participants in the review are listed in Appendix B, and citizen participants are included in Appendix C). The federal team interviewed and held discussions on November 15, 2007, with:

- Staff from the Hampton Roads Planning District Commission (HRPDC) which serves the Hampton Roads Area Metropolitan Planning Organization, the federally-designated metropolitan planning organization for the Hampton Roads TMA;
- Staff from the Hampton Roads Transit (HRT), and Williamsburg Area Transport (WAT) which are the local transit agencies;
- Staff from the Virginia Department of Transportation (VDOT); and
- Staff from the localities represented on the Hampton Roads Transportation Technical Advisory Committee.

The agenda for the site visit is included in Appendix D, and Appendix E contains a list of acronyms. Prior to the site visit, the federal team conducted a desk review by reviewing current planning documents and studies, including the Long-Range Transportation Plan (LRTP), the Transportation Improvement Program (TIP), the Unified Planning Work Program (UPWP), air quality planning documents, memoranda of agreement, self-certification, MPO and advisor committee structure, and public involvement materials and information. HRPDC staff was provided with a list of written review questions for the site visit which were based on the desk review and on the provisions of 23 United States Code (USC) 134 and the metropolitan planning regulations found in 23 CFR 450. This report is the result of oversight activities including discussions during the site visit, information from attendance and participation at the Hampton Roads MPO meetings, and interactions with the MPO and its partners.

## Description of the Hampton Roads MPO and MPO Membership

The Hampton Roads MPO Planning Area consists of the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, as well as, the Counties of Gloucester, Isle of Wight, James City, and York.

Voting Membership in the Hampton Roads MPO is as follows:

City of Chesapeake	Clifton E. Hayes, Jr., City Council Member
Gloucester County	William H. Whitley, County Administrator
City of Hampton	Randall A. Gilliland, Vice Mayor
Isle of Wight County	Stan D. Clark, Chairman, Board of Supervisors
James City County	Bruce C. Goodson, Chairman, Board of Supervisors
City of Newport News	Joe S. Frank, Mayor
City of Norfolk	Paul D. Fraim, Mayor
City of Poquoson	Charles W. Burgess, Jr., City Manager
City of Portsmouth	Douglas L. Smith, City Council
City of Suffolk	James G. Vacalis, City Manager
City of Virginia Beach	Louis R. Jones, Vice Mayor
City of Williamsburg	Jackson C. Tuttle II, City Manager
York County	James O. McReynolds, County Administrator
Hampton Roads PDC	Arthur L. Collins, Executive Director
Williamsburg Area Transport	Mark D. Rickards, Executive Director
Hampton Roads Transit	Michael S. Townes, Executive Director
Virginia Department of Trans.	Dennis W. Heuer, Hampton District Administrator

### Non-Voting Members:

Federal Highway Admin.	Ivan P. Rucker, Metropolitan Transportation Planner
Federal Transit Admin.	Tony Cho, Transportation Program Specialist
Federal Aviation Admin.	Terry Page, Manager

### Participants in this Review

Federal Highway Administration-Virginia Division: Ivan Rucker, Ed Sundra, Mohammed Dumbuya, Brian Betlyon, Janice Richard, Arturo Perez, Jorismar Torres-Hernandez, John Mazur

Federal Transit Administration: Tony Cho (via telephone)

Virginia Department of Transportation: Marsha Fiol, Irene Shuman, Eric Stringfield, Chris Voigt

Virginia Department of Rail and Public Transportation: Corey Hill

Hampton Roads Planning District Commission (MPO staff): Keith Nichols, Laura Surface, Sam Belfield, Mike Kimbrel, Robert Case, Andy Pickard, Art Collins, Nicole Fox, Camelia Ravanbakht, Dwight Farmer.

Hampton Roads Transit: Jayne Whitney, Vince Jackson, Ron Hodges (HRT TRAFFIX)

Williamsburg Area Transport: Richard Drumwright

City of Suffolk: Eric Nielsen

## Review Elements

This review was conducted to ensure that the metropolitan planning process for the Hampton Roads metropolitan area meets current federal law and regulations.

### MPO Designation, Structure, and Agreements

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#### **Regulatory Basis/ Requirements**

1. MPO – 23 CFR 450.310 (a) states, “To carry out the metropolitan transportation planning process under this subpart, a metropolitan planning organization (MPO) shall be designated for each urbanized area with a population of more than 50,000 individuals.”
2. Designation – 23 CR 450.310(b) states, “MPO designation shall be made by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population...”
3. Membership – 23 CFR 450.310(d) states, “Each MPO that serves a TMA, when designated or redesignated under this section shall consist of local elected officials, officials of public agencies that administer or operate major modes of transportation in the metropolitan planning area, and appropriate State transportation officials.”
4. Staffing – 23 CFR 450.310(f) states, “Nothing in this subpart shall be deemed to prohibit the MPO from using the staff resources of other agencies, non-profit organization, or contractors to carry out selected elements of the metropolitan planning process.”
5. Agreements – 23 CFR 450.314(a) states, “The MPO, State(s), and the public transportation operator(s) shall cooperatively determine their mutual responsibilities in carrying out the transportation planning process. These responsibilities shall be clearly identified in written agreements among the MPO, State(s), and public transportation operator(s) serving the MPA. To the extent possible, a single agreement between all responsible parties should be developed.”
6. Definition - 23 CFR 450.104 defines a Metropolitan Planning Organization (MPO) as “the policy board of an organization created and designated to carry out the metropolitan transportation planning process.”

#### **Findings**

The designated MPO for the Hampton Roads Region is the Hampton Roads Metropolitan Planning Organization and it has a designated agreement in place that outlines the mutual responsibilities of member agencies. Both VDOT and HRPDC staff are currently in negotiations to update the existing agreement to reflect changes in SAFETEA-LU. The MPO voting and

nonvoting membership is established in the agreement and the agreement, which is included in Appendix I, confirms that the HRPDC will serve as staff to the MPO. Per the agreement, the MPO has established a “Technical Advisory Committee to provide review and recommendations on items referred to it by the MPO.” It continues and states that “the MPO may establish such special and standing committees as it deems advisable for the transaction of its affairs.” The federal team reviewed the MPO Policy Board structure and voting members and confirms that the MPO Policy Board appropriately includes the voting members within the MPO study area boundary, VDOT, the transit operators and other members as determined by the MPO Policy Board.

The federal team requested a summary paragraph describing the purpose of all of the MPO Policy Board established advisory committees listed on its website, along with voting members on each committee. The committees listed on the MPO website at the time of our review are included in Appendix F. These committees included:

1. CAO Advisory Committee to the MPO
2. MPO Executive Committee
3. Lead planning Organization
4. Transportation Technical Subcommittee
5. ITS Committee
6. CMS Subcommittee
7. IMS Subcommittee
8. Non-Highway Advisory Committee
9. HOV Steering Committee
10. Regional Emergency Management Technical Advisory Committee (REMTAC)

The federal team requested clarification about the CAO Advisory Committee to the MPO since this committee meets in closed door session with HRPDC staff and appears to be advising both the MPO and the TTC on matters related to federal-aid dollars and regional transportation projects.

The HRPDC staff mentioned that the CAO advisory committee is not an advisory committee and that the committee listings on its website needed to be updated. However, the federal team’s review of the Hampton Roads 2030 LRTP (page 4) as well as the minutes of the MPO’s October 18, 2006, meeting, that are included in Appendix G, appears to confirm that the COA committee is acting in an advisory capacity. This appears to be a continuation of its role during the development of the 2026 plan where the CAO met on May 27, 2003, in a closed door meeting to develop recommendations on project selection and funding scenarios for the MPO’s draft 2026 plan. The CAO committee selected draft 2026 transit and highway projects to be funded with NHS, Primary, RSTP, tolls, and a regional gas tax. Later, the committee voted to construct the 2026 Plan with “building blocks and on June 18, 2003, in a closed door session divided the list into two blocks (projects funded with existing funding formula, and additional projects to be funded with a regional gas tax).

The federal team requested a list of the CAO advisory committee members to the MPO and was provided a copy which is included in Appendix H. Later, the federal team reviewed the CAO membership list and noticed that a few of the members on the CAO Advisory Committee to the MPO were also MPO voting members serving as elected officials or their designees. We also noticed that some of the voting members on the MPO (VDOT, HRT, WAT) appeared to not be represented on this MPO established advisory committee.

While the federal team recognizes that the MPO Policy Board has the full right to establish advisory committees (or other public bodies), the federal team's position is that deliberations taking place by advisory committees to the MPO that are related to publicly funded transportation infrastructure projects and regional transportation planning should be held in a public setting (see also Public Involvement section).

Also, unlike all other MPOs in the Virginia, the federal team noticed that the Hampton Roads MPO does not have bylaws in place that govern the internal affairs or actions of the MPO. The HRPDC's staff which handles the administrative affairs of the Hampton Roads MPO contends that it is not required.

The federal team agrees with staff in that federal regulations do not require the MPO to establish bylaws. However, we note that without bylaws it makes it very difficult to determine the organizational and voting structure of the MPO (including its advisory committees). An example of this is during PDC and MPO meetings where the PDC meets, then adjourns, the MPO convenes and then the PDC reconvenes to "ratify" the actions of the MPO. Both the PDC and MPO are separate organizations with different voting members, and the agreement between the MPO and State is clear in that the HRPDC will provide the staffing and administrative support to the MPO, but the action taken by the PDC leads one to believe that the MPO is subordinate to the HRPDC (see also Unified planning Work Program). Again, we note that with the exception of the Hampton Roads MPO, all other MPOs in Virginia have established bylaws.

*Commendation:* The federal team commends the good level of cooperation and coordination between the MPO, State, and transit operators.

*Recommendation:* The federal team recommends that the MPO, State, and transit operators complete a new agreement outlining mutual responsibilities within the next three months.

*Recommendation:* The federal team recommends that the MPO Policy Board establish clear bylaws that govern the internal affairs and actions of the MPO (including its advisory committees).

*Recommendation:* The federal team recommends the MPO provide clarification to the public of the established relationship between the CAO Advisory Committee to the MPO, the Transportation Technical Advisory Committee (TTC), the HRPDC staff, and the MPO.



*Corrective action:* The federal team is requesting the MPO (including VDOT, HRT, WAT) provide clarification on why the CAO Advisory Committee to the MPO meets in private (versus a public setting) with HRPDC staff to deliberate and provide recommendations to the MPO on publicly funded transportation infrastructure projects for inclusion in the MPO Long Range Plan, whether this is a formally established MPO advisory committee, and whether these meetings were/are held in compliance with the state FOIA statute. Please submit a letter of clarification to the federal team. The compliance deadline for this request is May 2008.

*Corrective action:* The federal team is requesting the MPO provide clarification on why the HRPDC “ratifies” or approves the actions of the MPO, and where in the agreement between the MPO and State is this authority provided. Please submit a letter of clarification to the federal team. The compliance deadline for this request is May 2008.

### **Air Quality/Conformity/CMAQ**

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#### **Regulatory Basis/Requirements**

Section 176 (c)(1) of the 1990 Clean Air Act Amendment (CAAA) states: “No metropolitan organization designated under Section 134 of title 23, United States Code, shall give its approval to any project, program, or plan which does not conform to an implementation plan approved or promulgated under section 110.” The Intermodal Surface Transportation Efficiency Act of 1991 subsequently included provisions responsive to the mandates of the CAAA. Implementing regulations have maintained this strong connection.

Provisions governing air-quality related transportation planning are incorporated in the metropolitan planning regulations. For MPOs that are declared to be air quality non-attainment or maintenance areas, there are many special requirements in addition to the basic requirements for a metropolitan process. These requirements include:

- Formal agreements to address air quality planning requirements,
- Requirements for setting metropolitan planning area boundaries,
- Interagency coordination,
- Transportation Plan content and updates,
- Requirements for CMS, public meeting requirements, and
- Conformity findings on Transportation Plans and Transportation Improvement Programs (TIPs).

Sections of the metropolitan planning regulations governing air quality that are specific to Metropolitan Planning Areas (MPA) and Transportation Control Measures (TCM) are:

- MPA Agreement – 23 CFR 450.314(b) states “if the MPA does not include the entire nonattainment or maintenance area, there shall be a written 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 MPA within the nonattainment or maintenance area.”

- Long Rang Transportation Plan – 23 CFR 450.322(d) states “In metropolitan areas that are in nonattainment for ozone or carbon monoxide, the MPO shall coordinate the development of the metropolitan transportation plan with the process for developing TCMs in the State Implementation Plan (SIP)”
- Long Range Transportation Plan – 23 CFR 450.322(f)(4) states that the Plan at a minimum shall include “consideration of the results of the congestion management process in TMAs that meet the requirements of this subpart, including identification of SOV project that result from a congestion management process in TMAs that are nonattainment for ozone or carbon monoxide.”
- TIP - 23 CFR 450.324(e)(5) states that in nonattainment and maintenance areas the TIP shall include for each project “identification of those projects which are identified as TCMs in the applicable SIP.”

## **Findings**

The Hampton Roads non-attainment area was reclassified as a maintenance area for EPA’s 8 – hour standard on June 1, 2007.

The federal team reviewed the membership of the Inter-agency Consultation Group. In addition to reviewing air quality issues within the Hampton Roads Maintenance area, the ICG is responsible for approving the modeling methodology, assumptions, and proposed list of regionally significant projects that are modeled in the conformity analysis. The ICG consists of staff from local governments, VDOT, Virginian Department of Environmental Quality, FHWA, FTA, EPA, and the MPO. For information on local (non-state and non-federal) regionally significant transportation projects gathered and incorporated into the conformity process, each locality as a member of the Inter-agency Consultation Group is responsible for reviewing, verifying, and ensuring that the list of regionally significant projects modeled in the conformity analysis for their locality is accurate. HRPDC staff, therefore, relies on the judgment of the localities to ensure that they are using accurate project inputs for their area. Regardless, the HRPDC staff was not aware of any upcoming or ongoing non-state or non-federal transportation projects that could be considered regionally significant.

The federal team asked HRPDC staff if the entire MPO study area boundary encompasses the entire maintenance area boundary, in particular, Gloucester County, and if so have there been any discussions with VDOT, DEQ, and Gloucester County that describes the process for cooperative planning within the full nonattainment area. HRPDC staff reported that the MPO study area boundary does not include the entire maintenance area boundary. Specifically, a portion of Gloucester County is outside the study area boundary even though the entire county is within the maintenance area boundary. HRPDC staff mentioned that coordination with Gloucester Counter occurs as necessary.

The federal team reviewed the MPO's CMAQ program and concluded that based on our experience in dealing with the CMAQ Programs in other nonattainment/maintenance areas around the state, the federal team considers the Hampton Roads' CMAQ Program to be one of the better programs in Virginia in terms of how they prioritize and select projects for funding and the regional focus that they take. In addition, the HRPDC staff has adopted a methodology for analyzing different types of CMAQ projects that ensures consistency among the projects and ensures that projects are being compared on an apples-to-apples basis. The PDC staff has a good grasp of the CMAQ requirements, and rarely do FHWA and FTA ever have any issues with eligibility.

*Commendation:* The federal team commends the HRPDC staff for assuming responsibility for analyzing the CMAQ projects in the region and doing so with a consistent methodology.

*Commendation:* The federal team commends the HRPDC staff for taking a regional approach with its CMAQ Program to address the air quality issues in the region.

*Commendation:* The federal team commends HRPDC staff for maintaining their knowledge of the CMAQ Program and its eligibility requirements.

*Recommendation:* The federal team recommends that the HRPDC staff ensure that the localities within the maintenance area are aware that regionally significant transportation projects that are subject to conformity include regionally significant projects carried out by localities, developers, or other federal and state agencies (i.e. military).

*Recommendation:* The federal team recommends that the MPO review its existing MPO Planning Agreement to determine if it adequately satisfies the requirement of 23 CFR 450.314(b). If the MPO determines that the agreement does not, it should be revised and updated accordingly. A quick review of the agreement, however, reveals the following outdated statement: "The metropolitan planning area has been designated as a nonattainment area for transportation related pollutants under the Clean Air Act and *the [planning area] boundary adjusted to include the area so designated.*"

## **Long Range Multimodal Transportation Plan**

### **Regulatory Basis/Requirements**

Federal regulations require the MPO to develop a Multimodal Transportation Plan with at least a twenty-year planning horizon as a key product of the metropolitan transportation planning process (see 23 CFR 450.322). The plan shall include both long-range and short-range strategies that lead to the development of an integrated multimodal transportation system that facilitates the efficient and safe movement of people and goods. The plan is to be updated every four years in air quality nonattainment and maintenance areas to ensure its consistency with changes in land use, demographics, and transportation characteristics.

Other required elements that must be addressed include:

- Include a financial plan that demonstrates fiscal constraint
- In developing the financial plan the MPO must consider Federal, State, local and private participation sources.
- In cases that the FHWA and FTA find a metropolitan transportation plan to be fiscally constrained and a revenue source is subsequently removed or substantially reduced (i.e., legislative or administrative action), the FHWA and FTA will not withdraw the original determination of fiscal constraint; however, in such cases, FHWA and FTA will not act on an updated or amended plan that does not reflect the changed revenue situation.
- A discussion of the types of potential environmental mitigation activities and potential areas to carry out these activities based on a consultation process with Federal, State, and Tribal land management, wildlife, and regulatory agencies.
- Demand analysis;
- Congestion Management Process (CMP);
- Planning Factors;
- Transit;
- Pedestrian walkway and bicycle facilities;
- System preservation
- For systems operations and maintenance the plan shall contain system-level estimates of costs and revenue sources that are reasonably expected to be available to operate and maintain Federal-aid highways and public transportation.
- Use of inflation rates in the plan to reflect year of expenditure dollars.
- Conformity determination on any update or amended transportation plans in accordance with CAA and EPA transportation conformity regulations; and
- Public official/agencies and citizen involvement (see also 23 CFR 450.316)

## **Findings**

One of the most noticeable efforts as it related to the development of the 2030 Plan was the Hampton Roads Toll Feasibility Study. Several major projects (Hampton Roads Third Crossing, Midtown Tunnel and MLK, Southeastern Parkway and Greenbelt, Route 460, and Improvement to I-64 on the Peninsula, and I-64 on the Southside) were considered as part of the study to determine what portion of the construction costs could be funded via toll collection. Both VDOT and the MPO work on this package and in 2005 the MPO included the six projects in the Plan and sought financial assistance from the Virginia General Assembly.

The General Assembly took no action on the MPO request during the 2006 session and the MPO later removed the projects from the Plan with the understanding that the plan would not meet the federal financial constraint requirements. However, in 2007, House Bill 3202 was passed by the General Assembly establishing the Hampton Roads Transportation Authority (HRTA) and giving it the ability to toll the subject highway and collect various sources of revenue to build the

subject transportation infrastructure projects. The HRPDC staff, which is also serving as temporary staff to the HRTA, concluded that the HRTA tax/fee revenue projections *plus* the anticipated toll revenue will be enough to construct the projects by 2030 thereby meeting the federal fiscal constraint requirement for planning purposes. As a result, the MPO voted to include the projects back into the Plan at the request of the HRTA.

Several supporting planning initiatives were underway during the time the plan was being developed. These include:

- Regional Freight Study
- Regional Safety Study
- Congestion Management System
- Elderly and Handicapped Transportation in 2030
- Improving the Mobility of Non-Drivers
- The State of Transportation in Hampton Roads

The federal team recognizes the outstanding job the HRPDC staff did in developing the Regional Freight Study, the staff's commitment to freight, and efforts to bring an awareness and sense of urgency to the need to maintain and build upon existing infrastructure to prepare the Hampton Roads Region for what some professionals have termed the "Hampton Roads Freight Tsunami." With the early opening of the Maersk terminal and the development of Craney Island the federal team recognizes the important need for the region to continue to analyze the impacts these freight related developments will mean to the transportation infrastructure, productivity, and overall quality of life for citizens in the Hampton Roads region.

Safety is one of eight planning factors identified in federal regulation that must be considered as part of the planning process. These planning factors are expressed as goals in the Hampton Roads 2030 Plan and in support of the safety goal the HRPDC staff has developed a very comprehensive safety study entitled, "Hampton Roads Regional Safety Study." The Safety Study is part of the MPO's Congestion Management System (CMS) and examines traffic crashes, injuries, and fatalities for the region.

The federal teams expressed its appreciation of HRPDC staff and its commitment to analyzing trends associated with crashes, injuries, and fatalities on a regional and jurisdictional level. The study completed by staff is an excellent tool that regional decisionmakers can use as a starting point to develop policies, target resources, or request more specific project level studies.

The Hampton Roads MPO began congestion management planning in 1991, as a response to the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The first CMS, as required by ISTEA, was documented in a report released in 1995. Updated CMS reports were released in 1997, 2001 and 2005. During this time, the HRPDC was recognized by FHWA for their good practice in implementing a CMS which embodied the spirit of the regulations and sought to bring operations and planning together to tackle congestion problems in the region.

With the passage of the SAFETEA-LU reauthorization bill in August 2005, the Congestion Management System requirements morphed into a new Congestion Management Process (CMP) planning requirement which was not radically different from its predecessor. The intent of the new CMP requirements was to do away with “stand-alone” CMS frameworks and integrate the CMP into the overall metropolitan planning process. The “toolbox” of congestion management strategies continued as a prominent feature, with renewed emphasis on operations and management strategies for evaluation and implementation.

The MPO maintains a comprehensive database for the CMS network and has expended significant effort in data collection activities for purposes of CMP implementation. The CMP network includes over 1400 centerline miles for which level-of-service (LOS) values are calculated. Speed and travel time data are also collected and analyzed. Another performance measure being considered to enhance the CMP is delay, which will enhance the current analysis of congested roadway segments. The CMP also contains operational and management strategies to improve performance of existing transportation facilities. Output from the CMP is also used to measure the effectiveness of projects for inclusion in the LTRP.

The CMP is used by member localities in making decisions regarding potential congestion mitigation activities in their respective jurisdictions. In general the HRPDC has demonstrated a commitment to implementation of the CMP and enhancing its effectiveness as an integral part of the transportation planning process in the region. They are commended for their noteworthy efforts and practices in meeting the challenges of congestion management in the context of systems planning activities. The federal team notes that the January, 2007, State of Transportation in Hampton Roads report is one of the best we’ve seen.

The federal team complimented HRPDC staff on their strong technical capabilities and reminded the staff how much the federal team appreciates the work that they do for the region that has in many instances allowed FHWA and FTA to promote and share many of their products as best practices throughout the state as well as the country.

The federal team also appreciates the HRPDC staff efforts to coordinate with environmental, land use, and other transportation related agencies during the development of the 2030 Plan. We encourage the HRPDC staff to develop a documented process per 23 CFR 450.316(e) that outlines the roles, responsibilities, and key decision points for consulting with these agencies. The federal team suggests that the documented process be included in the MPO’s participation plan.

### **Public Transit Planning**

The 2030 LRTP contains an inventory of existing and proposed transit facilities, emanating from the inclusion of long range plans from the transit service providers in the region.

The region includes two public transit providers, Hampton Roads Transit (HRT) and Williamsburg Area Transport (WAT). Of the two transit providers, HRT is the larger provider of transit in the

region and is actively engaged in the MPO process as a member of both the policy and technical committees of the HRPDC. They also perform most of the transit planning for the region.

The 2030 LRTP includes the WAT 2030 Plan and HRT 20 Year Transit Plan as appendices to the main document. The HRT portion of the plan was written in August 2006, and outlines a plan for several major fixed guideway capital projects, including the Norfolk Light Rail Transit (LRT) project and the Peninsula Fixed Guideway Project.

In the time since the HRT 20 year plan has been written, HRT has signed a Full Funding Grant Agreement (October 1, 2007) with FTA to secure Federal funding for the Norfolk LRT project, and has already begun construction. In addition to FTA New Starts funds, HRT has been successful in working with HRPDC to obtain RSTP funding for the LRT project. HRT is commended for bringing fixed guideway public transit to Norfolk, and HRMPO is also commended for its support of HRT in bringing light rail to the Hampton Roads region. Major capital construction for public transit is difficult to achieve without regional support, and HRMPO has been a major factor in the Norfolk LRT project's success. The Peninsula Fixed Guideway project is currently in the Alternatives Analysis phase of development, and the Plan outlines several alternatives that are currently under consideration. Along with the Norfolk LRT project, the Peninsula project is a major component of a long-term vision for a fixed-guideway transit system throughout the Hampton Roads region. HRT has been working closely with the City of Newport News in the development of alternatives for the Peninsula project.

In addition to the fixed guideway projects, HRT has several plans and studies that were used for the 2030 LRTP, including a visioning plan, regional bus plan, and comprehensive operations analyses. HRT is also planning to construct a new maintenance/administration facility (Southside facility), which would invite private investors to a joint development mixed-use project that would include retail and residential spaces. HRT plans to seek LEED certification for green architecture elements of the project. This project will be funded with Federal earmark funds, as well as STP funding support from HRMPO.

The region also has a travel demand management organization – TRAFFIX. TRAFFIX is provided \$1.1 million in RSTP funds by the MPO on an annual basis to promote regional congestion relief efforts, including ridesharing and bus programs. The TRAFFIX program is administered by HRT, with oversight by the TRAFFIX Steering Committee. Members of the steering committee include: HRT, HRPDC, FHWA, VDOT, VDRPT, and member local governments.

HRT's TRAFFIX Program is a program that compliments the MPO's CMS process. It is a public service that exists for the purpose of reducing congestion by providing a Single Occupancy Vehicle (SOV) commute to work alternative. Some of the programs include: Carpooling, Commuter Computer, Guaranteed Ride Program, Vanpooling, Van Leasing, and Telecommuting. FHWA and FTA have always been impressed with this program and encourage the MPO to continue to support the TRAFFIX program as a means of reducing SOV commuting.

Williamsburg Area Transport, the region's other transit provider, is also an active participant in the MPO process. WAT regularly receives support from the MPO through CMAQ and STP funding for various projects in the region. WAT's 2030 plan includes new initiatives such as shuttle service between Williamsburg and New Town in James City County, a vehicle replacement plan, an employment commuter service between Surry County and the Williamsburg region, two new transportation centers, and a medical circulator for the Doctors Hospital of Williamsburg.

In May 2006, WAT accepted the role as lead transportation agency to support Jamestown 2007, an event that commemorated the 400th anniversary of Jamestown, the first English settlement in North America. WAT was designated the lead transportation agency in support of Anniversary Weekend, from May 11-13, 2007.

Commemorative activities took place at Jamestown Settlement, Jamestown Island and Jamestown festival Park that had limited parking, limited roadway capacity and were located in a historically sensitive environment. Thus, WAT was challenged to help develop a coordinated transportation plan working with local, state and federal governments as well as the private sector. In addition given crowds of up to 30,000 daily with dignitaries including the British Monarchy, the President of the United States, the Governor of Virginia a comprehensive Safety/Security element was required for the transportation plan managed by WAT.

A park-and-ride plan using nine outlying Park-and-Ride Lots was supported by up to 300 buses daily from six neighboring school systems.

WAT and HRPDC are commended for their successful efforts in providing transportation logistics for the Jamestown 2007 celebration. In doing so, WAT worked admirably in coordinating efforts through many government agencies, including VDOT, VDRPT, FHWA, FTA, and the U.S. Navy.

The transit portion of the 2030 LRTP is a small section in the main plan; indeed the individual WAT and HRT plans are included only in the appendix. The main section of the report briefly summarizes the WAT and HRT plans; however, transit should be more comprehensively included in the Regional Transportation Plan. The Plan clearly separates highway planning and transit planning into two separate entities – rather, a true multimodal comprehensive approach should have been undertaken instead. For example, in a section labeled “Focusing Transportation Dollars on Construction,” projects are divided into three phases: Preliminary Engineering, Right-of-Way, and Construction. These three labels apply mostly to highway projects only, the majority of transit projects do not use this nomenclature, only major capital improvement projects such as the Norfolk LRT. By using these project categories, there is no opportunity for transit to be included.

In developing a list of candidate projects for the 2030 plan, there does not appear to be much of a role for transit in developing the plan's project list. In the list of questions for the 2005 HRPDC Phone Survey, only highway-specific questions were asked, and thus no transit projects arose with any significant response. In measuring the effectiveness of candidate projects, the plan offers data



for “candidate *highway* project measures of effectiveness data.” Again, there is no opportunity for transit to be involved in a true multi-modal comprehensive approach to transportation planning in the region.

The MPO should be commended for its support of transit in the region through its continuing work with HRT and WAT on flex funding and the Norfolk LRT project. However, the 2030 LRTP is segmented into distinct highway and transit sections, an approach that is not conducive to true multi-modal planning. Rather, a more comprehensive approach in considering transit as a viable alternative in augmenting the region’s highway infrastructure should be implemented in the development of the next long range plan.

*Commendation:* The federal team acknowledges the external political conditions experienced by HRPDC staff during the development of the MPO Long Range Transportation Plan and commends the HRPDC staff for maintaining their commitment and focus.

*Commendation:* The federal team commends the HRPDC staff for the outstanding and professional work in developing the Intermodal Management System Regional Freight Study.

*Commendation:* The federal team commends the HRPDC staff’s dedication to safety through its publication of the Hampton Roads Regional Safety Study.

*Commendation:* The federal team continues to be impressed with HRPDC staff efforts to quality CMS documents and we applaud there efforts for establishing a very good CMS program.

*Commendation:* The federal team appreciates the strong technical capabilities of the HRPDC staff which results in good products.

*Commendation:* The federal team commends Hampton Roads Transit (HRT), HRT TRAFFIX, and Williamsburg Area Transport (WAT) for its work as part of the development of the LRTP.

*Commendation:* The federal team appreciates the HRPDC staff efforts to coordinate with environmental, land use, and other transportation related agencies during the development of the 2030 Plan.

*Commendation:* HRPDC staff and the MPO are commended for its support of transit in the region through its continuing work with HRT and WAT on flex funding and the Norfolk LRT project.

*Commendation:* WAT and HRPDC are commended for their successful efforts in providing transportation logistics for the Jamestown 2007 celebration. In doing so, WAT worked admirably in coordinating efforts through many government agencies, including VDOT, VDRPT, FHWA, FTA, and the U.S. Navy.

*Recommendation:* The federal team recommends that the MPO and transit agencies increase the attention, detail, and discussion regarding transit in the next MPO LRP (include strategies, needs, funding issues, etc.). A more comprehensive approach in considering transit as a viable alternative in augmenting the region's highway infrastructure should be implemented in the development of the next long range plan.

*Recommendation:* The federal staff recommends that the HRPDC staff better coordinate with the VDOT Hampton Roads District office to verify financial projection data for future MPO long range plans.

*Recommendation:* The federal team recommends that the MPO Policy Board assess its membership and the MPO structure in light of emerging regional transportation issues such as freight.

### **Transportation Improvement Program (TIP)**

#### **Regulatory Basis/Requirements**

The MPO is required to develop a TIP in cooperation with the State and public transit operators (see 23 CFR 450.324 unless otherwise noted). Specific requirements include that the TIP shall:

- Be a management tool for monitoring progress in implementing the Transportation Plan, identify the criteria and process for prioritizing the implementation of Plan elements through the TIP, list major projects implemented from the previous TIP, and identify significant delays in implementation;
- Cover a period of at least four years;
- Include all transportation projects, including bicycle and pedestrian facilities, proposed for funding under title 23, USC; all regionally significant transportation projects for which FHWA or FTA approval is required for informational purposes; all regionally significant projects to be funded from non-Federal sources; and only projects that are consistent with the Transportation Plan;
- Provide sufficient descriptive material for each project to identify the project or phase, estimated cost, Federal funds proposed to be obligated during each program year, proposed source of Federal and non-Federal funds, funding recipient/project sponsor, and in nonattainment and maintenance areas, describe Transportation Control Measures (TCMs) in sufficient detail for conformity determination; and
- Describe progress in nonattainment and maintenance areas in implementing required TCMs and include a list of all projects found to conform in a previous TIP and which are part of the base case in determining conformity.
- Include a financial plan that demonstrates how the proposed TIP can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the TIP, and recommends any additional financing strategies for needed projects and programs.

- Financial constraint shall be demonstrated and maintained by year and shall include sufficient financial information to demonstrate which projects are to be implemented using current and/or reasonably available revenues
- A conformity determination by FHWA and FTA in nonattainment and maintenance areas.
- Provided interested parties to comment on the plan and hold at least on formal public meeting during TIP development.

## **Findings**

The MPO FY 06-09 TIP is developed from four key data sources. The Six Year Improvement Program is developed by y the VDOT, VDRPT, and adopted by the Commonwealth Transportation Board. This program provides information on the Interstate, Primary, and Urban projects funded in the region. Secondary Six Year Plans are prepared by VDOT and counties on an annual basis. These plans program funds to secondary road projects in York, Isle of Wright, and Suffolk. Transit capital and operating programs are developed and submitted to the MPO by HRT and WAT. Finally, each local government provides a listing of locally funded projects to be included in the TIP for air quality conformity purposes.

The MPO has established a well-documented procedure for the allocation of CMAQ and RSTP funds. When funds are available for allocation, HRPDC staff issues a notice for all localities to apply for CMAQ or RSTP funds. Applications are rated and forwarded to the Transportation Technical Advisory Committee who ultimately makes recommendations for funding to the MPO Policy Board. The procedures are documented on the MPO's website and have been admired by other MPOs in the state.

The federal team reviewed the TIP project list and found that the required elements for each project satisfy federal regulations. There are MPO approved procedures for when the TIP requires either an amendment or adjustment and these procedures are appropriately followed. One of the important requirements for an MPO's TIP is that it includes a financial plan. Taken from the definition in federal regulations, "a financial plan means documentation required to be included with the metropolitan transportation plan and TIP that demonstrates the consistency between reasonably available and projected sources of federal, state, local, and private revenues, and the costs of implementing proposed transportation system improvement." The financial plan supports the MPO, State, and transit determination of fiscal constraint for the TIP.

During the federal team's review of the Hampton Roads TIP, we could not locate the financial plan section which is required by federal law for the purpose of demonstrating fiscal constraint. The FHWA and FTA will not be able to make an approval action on the Hampton Roads TIP until the MPO develops a financial plan.

*Recommendation:* The federal team recommends that the MPO include an introduction to the TIP that better enables the reader to understand the TIP development process and the relationship

of the TIP to the MPO decisionmaking process.

*Recommendation:* The federal team recommends that the MPO coordinate with the HRTA as it develops its financial plan and project list. HRTA revenues and projects must be considered in the MPOs TIP and Long Range Transportation Plan

*Corrective Action:* The federal team is requesting the MPO (in cooperation with the VDOT and transit operators) make available a financial plan for the TIP. Please submit your financial plan to FHWA and FTA. The compliance deadline for this request will be within 1 year following MPO's receipt of the certification review or before the MPO takes approval action on the next TIP update (whichever comes first).

## ***Public Participation***

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### **Regulatory Basis/Requirements**

- Participation Plan – 23 CFR 450.316(a) requires the MPO to develop and use a documented participation plan that defines a process for providing all interested parties (i.e. citizens, public agencies, representatives of the disabled, bike and pedestrian representatives, providers of freight services, etc) reasonable opportunities to participate in the transportation planning process
- Development of Participation Plan – 23 CFR 450.316(a)(1)) states “The participation plan shall be developed by the MPO in consultation with all interested parties...”
- Participation Plan Content – 23 CFR 450.316(a)(1) states that the participation plan shall at a minimum describe explicit procedures, strategies, and desired outcomes for the following:
  - Provide adequate public notice of public participation activities and time for public review and comment at key decision points (include commenting on proposed plan and TIP);
  - Provide timely notice and reasonable access to information about transportation issues and processes;
  - Employee visualization techniques to describe metropolitan plans and TIPs;
  - Make public information (technical information and meeting notices) available in electronically accessible formats and means, such as the Internet;
  - Hold any public meetings at convenient and accessible locations and times;
  - Demonstrate explicit consideration and response to public input received during development of the metropolitan plan and TIP;
  - Seek out and consider the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who face challenges accessing employment and other services;
  - Provide additional opportunity for public comments if the final plan or TIP differs significantly from the one that was originally made available for review;
  - Coordinate with the statewide transportation planning public involvement process;

- and
- Periodically review the effectiveness of the procedures and strategies contained in the participation plan to ensure a full and open participation process

## **Findings**

The goal of the MPO's public participation process is to provide multiple and varied opportunities for public input into the regional transportation planning process. The strategy for achieving this goal is to use a variety of activities to inform the public and garner their input regarding transportation in the region. These strategies include: a telephone survey, public notices in newspapers, website, emails, a public meeting and the HRPDC newsletter. The region's Participation Plan was revised in July 2007. The MPO conducts regular evaluation of the effectiveness of the public involvement as required by federal regulations. The latest evaluation was published in June 2004.

Public involvement is a federally mandated core MPO activity that supports the overall metropolitan area transportation planning process and the development of all key MPO products. As mentioned above, one of the federal requirements as it pertains to public participation and the regional transportation decisionmaking process is that the MPO must periodically assess the effectiveness of its public participation policies and procedures to ensure a full and open public participation process.

In the 2001 federal certification report, the federal team wrote a strong recommendation, where we said, "the MPO needs to devise a method of receiving public comment." The federal team also noted that the MPO's technical advisory committee was not open to the public. Six years later, the federal team has noticed that not much appears to have changed with respect to the MPO and its advisory committees.

- The MPO Technical Advisory Committee meetings are still closed to the public;
- There are no public notices for technical advisory committee meeting times and dates posted in a public location or on the MPO website;
- It appears no technical advisory committee meeting minutes are posted or available to the public or on the MPO website; and
- MPO Policy Board meetings are open to the public; still however, there is no time allocated for the board members to receive public comment regarding regional transportation decisions.

First, the federal team is extremely concerned that the MPO advisory committee meetings (including CAO advisory committee and other advisory committees to the MPO) continue to not be advertised and continue to be closed to the public. The federal team's position is that these are public meetings and by not advertising them and keeping them closed to the public the MPO (including VDOT and transit operators) is not fulfilling its responsibilities for a full and open public participation process required under federal regulations.

Second, the federal team is concerned that these closed-door public meetings may not be in compliance with the open meeting and notification requirements that are contained in the state's FOIA law. The MPO Designation which is included in Appendix I, serves as the basis for the MPO's existence and is required by federal law between the MPO and Governor. It states, "The responsibilities of the Metropolitan Planning Organization shall be determined as prescribed in 23 CFR Part 450, and in accordance with the Constitution of Virginia and applicable state statutes." The federal team believes that the state's FOIA statute is applicable to the MPO.

Third, the team feels that the MPO's participation plan could do a better job in describing the explicit procedures, strategies, and desired outcomes for seeking out and considering the needs of low income and minority households who may face challenges accessing employment and other services. The HRPDC staff cited the placement of kiosks in minority communities as one way of meeting this requirement. The federal team feels that this is a novel approach. However, our review of the survey results did not allow us to reach a conclusion regarding what were the targeted needs of low income and minority households, their challenges to accessing employment and other services, and how their needs are considered as part of the regional transportation decisionmaking process. Furthermore, the federal team notes that the kiosks have not been in use for over three years.

Fourth, the federal team feels that part of the MPO's public outreach and involvement strategies should include an educational component. The MPO should make sure that the citizens of the region understand what the roles and responsibilities of the MPO are and how their involvement in the planning process is considered as part of the regional decisionmaking process.

Fifth, the federal team remains concerned that there is no opportunity for the citizens to address policy board officials at MPO meetings. Although an invitation is extended to the public to attend these meetings, any citizen that takes the time to attend and who wishes to share a regional concern or issue (i.e. regional transit, bike, pedestrian, highway) is not afforded an opportunity, and there exists no clear, alternative mechanism for their comment to be heard by the MPO policy board. At a minimum, the MPO should make some modifications to their meeting format to allow public comment, particularly at meetings where the MPO is voting on documents such as the Unified Planning Work Program, Long Range Transportation Plan, or the Transportation Improvement Program.

The Hampton Roads MPO is wholly funded by public dollars (80% federal, 10% state, 10% local) and is the officially designated, federally recognized, decisionmaking body for the Hampton Roads region with the responsibility for approving projects for inclusion into the regional plan and program. The federal team's opinion is that the MPO must do more to improve upon its required public participation process.

The federal team notes that with the exception of the Hampton Roads MPO, all other MPOs in Virginia advertise their advisory committee meetings as public meetings and welcome public comment at the MPO Policy Board meeting.

*Recommendation:* The federal team strongly recommends that the MPO provide a citizen comment period prior to MPO Policy Board meetings.

*Recommendation:* The federal recommends that the MPO utilize some of its federal planning funds to contract with a firm specializing in public outreach to minority communities to assist the MPO in developing outreach strategies as part of its participation planning process.

*Recommendation:* The federal staff recommends that the MPO Policy Board provide a written description of the various advisory committees of the MPO outlining their purpose and voting membership for public consumption.

*Recommendation:* The federal team recommends that the MPO develop an educational document aimed at informing citizens what the MPO is and does, the documents required by law to be produced by the MPO, and how citizen participation in the regional decisionmaking process is demonstrated in plan and program development.

*Corrective Action:* The federal team requests that the MPO (including VDOT and the transit operators) come into full compliance with federal regulations and state law (FOIA) as it pertains to open meeting and notification requirements for public meetings. The compliance deadline for this request is May 2008. After May 1, 2008, the FHWA and FTA will not be able to act on any approvals or amendments to the UPWP, Plan, and TIP until the MPO's public meetings come into full compliance with federal regulations and state law (FOIA). Please submit a letter of assurance to the federal team identifying a consensus among the MPO, VDOT, HRT, and WAT that federal regulations and state law (FOIA) regarding open meeting and notification requirements have been met by the MPO and its committees/subcommittees.

*Corrective Action:* The federal team requests that the MPO, State, and Transit Operators cooperatively reevaluate the effectiveness, openness, and fullness of the Hampton Roads MPO's (including advisory committees) transportation planning and programming process as it pertains to the intent of federal public participation requirements, and in consideration of the Virginia's FOIA law. Please include a task in the UPWP to address this corrective action and submit an evaluation report to FHWA and FTA once completed. The compliance deadline for this request is August 2008.

*Corrective Action:* The federal team requests that the MPO (in cooperation with the state and transit operators) update their participation plan to clearly describe the explicit procedures, strategies, and desired outcomes for seeking out and considering the needs of those traditionally underserved by existing transportation systems such as low income and minority households, who may face challenges accessing employments and other services. The compliance deadline for this request is August 2008. Please submit an updated participation plan to the federal team.

## **Title VI, Environmental Justice (EJ), Limited English Proficiency (LEP)**

### **Regulatory Basis/Requirements**

It has been the U.S. Department of Transportation's (DOT) longstanding policy to actively ensure non-discrimination under Title VI of the Civil Rights Act of 1964. Title VI states that "no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance." Title VI bars intentional discrimination as well as disparate impact discrimination (for example, neutral policy or practice that has the effect of a disparate impact on protected groups). 23 CFR 450.316(b)(2) requires consistency with Title VI, the Title VI assurance executed by each State adds sex and physical handicap to characteristics protected against discrimination.

### **Environmental Justice**

Executive Order 12898, issued in 1994, further amplifies Title VI by providing that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations." In compliance with Executive Order 12898, the U.S. DOT Order on Environmental Justice was issued in 1997.

The FHWA and the FTA issued a memorandum on October 7, 1999, entitled "Implementing Title VI Requirements in Metropolitan and Statewide Planning." The memorandum provided clarification for field offices on how to ensure that environmental justice is considered during current and future planning certification reviews. While Title VI and environmental justice have often been raised during project development, the law applies equally to the processes and products of planning. The FTA and FHWA have concluded that an appropriate time to ensure compliance with Title VI in the planning process is during the planning certification reviews conducted for TMAs and through the statewide planning finding rendered at approval of the Statewide Transportation Improvement Program (STIP).

### **Limited English Proficiency**

Executive Order 13166, issued in 2000, requires that "each Federal agencies to examine the services they provide, identify any need for services to those with Limited English Proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them."

To assist federal agencies in carrying out these responsibilities, the Department of Justice (DOJ) issued a Policy Guidance Document, "Enforcement of the Title VI of the Civil Rights ACT OF 1964 – National Origin Discrimination Against Persons with Limited English Proficiency" (LEP Guidance). The guidance identifies compliance standards that recipients of federal funds (i.e. MPOs and DOTs) must follow to ensure that their programs and activities do not discriminate on the basis of national origin.

The DOT guidance is modeled after the guidance issued by the DOJ and requires recipients and



subrecipients to take steps to ensure meaningful access to their program and activities to LEP persons. It outlines four factors recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons:

1. The number and proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee.
2. The frequency with which the LEP individuals come in contact with the program
3. The nature and importance of the program, activity, or service provided by the recipient to people's lives.
4. The resources available to the recipient and costs.

The greater the number or proportion of eligible LEP persons; the greater the frequency with which they have contact with a program, activity, or service; and the greater the importance of that program, activity, or service, the more likely enhanced language services will be needed. Smaller recipients with more limited budgets are typically not expected to provide the same level of language service as larger recipients with larger budgets. The intent of DOT's guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small organizations and local governments.

## **Findings**

The Hampton Roads MPO and VDOT jointly self certify (23 CFR 450.334) on an annual basis that the transportation planning and programming process for the Hampton Roads region meets the requirements of Title VI and ADA. However, the federal team found that there is no verification in place to ensure that the requirements included in the Self-Certification are actually being met. In addition, the federal team did not recognize a comprehensive, coherent, and consistent system for assuring nondiscrimination as part of the MPO's planning and programming process.

*Corrective Action:* The federal team is requesting that the Hampton Roads MPO (in cooperation with HRT and WAT) establish procedures for applying Environmental Justice; develop measures to test the achievement of Environmental Justice; assess both highway and transit investments; and undertake outreach activities to low-income and minority communities to solicit input. This request includes the completion of the LEP four factor analyses. The purpose of this corrective action is to ensure that the MPO addresses Environmental Justice as part of the development of the Regional Transportation Plan and Transportation Improvement Program. The compliance deadline for this request will be March 2009. Please submit the final report to the federal team.

*Corrective Action:* The federal team is requesting that the MPO, through cooperation and coordination with the transit operators and VDOT, develop a Title VI Plan for the Hampton Roads MPO. The compliance deadline for this request will be March 2009. Please submit the plan to the federal team.

*Corrective Action:* The federal team requests that within 1 year following the approval of the MPO Title VI Plan, the VDOT (per 23 CFR 200.9 (B)(7)) conduct a comprehensive Title VI review of the Hampton Roads MPO and submit a findings report to FHWA and FTA. The compliance deadline is within 1 year following the approval of the MPO Title VI Plan.

*Corrective Action:* The federal team requests that the MPO, through cooperation and coordination with the transit operators and VDOT, establish procedural guidance for verifying the process and implementation of self-certification with respect to Title VI of the Civil Rights Act of 1964 and ADA. The compliance deadline for this request is August 2008. Please submit the final guidance report to the federal team.

## **Unified Planning Work Program (UPWP)**

### **Regulatory Basis/Requirements**

23 CFR 450.308(e) states that "... each MPO, in cooperation with the State(s) and public transportation operator(s), shall develop a UPWP that includes a discussion of the planning priorities facing the MPA. The UPWP shall identify work proposed for the next one or two year period by major activity and task (including activities that address the planning factors in section 450.306(a)), in sufficient detail to indicate who will complete the work, the schedule for completing the work, the resulting products, the proposed funding by activity/task, and a summary of the total amounts and sources of Federal and matching funds."

Elements that must be included in the UPWP are:

- Discussion of the planning priorities facing the metropolitan planning area and
- Description of all metropolitan transportation planning and transportation-related air quality planning activities anticipated within the next 1 or 2-year period indicating:
  - Who will perform the work;
  - The schedule for completion of the work;
  - Resulting Products; and
  - Proposed funding by activity/task
  - Summary of total amounts of federal and matching funds (i.e. state and local)

### **Findings**

The Hampton Roads UPWP contains a thorough description of all metropolitan area transportation planning and transportation-related air quality planning activities anticipated within the necessary time period. It was mentioned by the federal team that while the PDC and

MPO are separate organizations they share the same UPWP that is submitted to FHWA and FTA for approval. This creates a problem for FHWA and FTA since our approval authority is only valid for MPO related tasks and budgets.

In addition, the federal team noticed that practically all of the MPO products (TIP, Plan, UPWP, MPO studies) that are financed by federal planning funds provided to the MPO acknowledge only PDC members and includes the PDC heading. There is nothing that identifies the product as being an MPO product. While we take no issue with the recognition of PDC members being identified in the products developed by the MPO, we remind the HDPC staff again that the PDC is a separate organization from the MPO and that it is the MPO members that endorse/approve the above mentioned products that are required by federal law.

Finally, while reviewing the UPWP the federal team noticed that it does not clearly identify what the resulting product will be for each task, a schedule for completing each task and matching funds.

*Recommendation:* The federal team recommends that only the UPWP that has been approved by the MPO be sent to FHWA and FTA for review and approval. We also recommend an introductory page be provided in the UPWP so that readers know what it is they are reading.

*Recommendation:* The MPO and PDC are separate organizations and the federal team recommends that the MPO draw a clear distinction between both organizations.

*Corrective Action:* The federal team requests the MPO to clearly identify in the UPWP the end product for each task, schedule for completing each task, and include a summary budget table that includes the federal, state, and local match for each task or activity. The compliance deadline for this request will be prior to the submittal of the MPO's FY 2009 UPWP to FHWA and FTA for approval.

### **Public Meeting -November 14, 2007**

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#### **Regulatory Basis/Requirements**

- 23 CFR 450.334(b)(4) – states “In conducting a certification review, the FHWA and FTA shall provide opportunities for public involvement within the metropolitan planning area under review. The FHWA and the FTA shall consider the public input received in arriving at the decision on a certification action.”

#### **Findings**

Prior to the certification review meeting with HRPDC staff, a public meeting was held on Wednesday, November 14, 2007, from 4-6:30 PM at The Regional Building located at 723 Woodlake Drive in Chesapeake, Virginia. The MPO followed its participation process and made

public notices available in local newspapers inviting citizens to share their feelings about the regional transportation planning and decisionmaking process.

Public turnout at the meeting was low but the conversations were very spirited. For the most part the public discussions were focused on public participation in the regional transportation decisionmaking process, specific projects such as the Hampton Roads Bridge Tunnel and the Third Crossing, regional congestion, transit in the region, and environmental justice. Additional public comments are included in Appendix K.

Some concern was expressed about the Hampton Roads Transportation Authority (HRTA) and the role that this body plays in the metropolitan transportation planning process and the selection of projects to be developed in the region. While the federal team made it clear that the HRTA was outside the purview of the certification review and it would not get involved in local decision making, the federal team also made it clear that the Hampton Roads MPO is the entity recognized by FHWA and FTA that was created and designated to carry out the metropolitan transportation planning process for the region. This includes the responsibility of determining which projects will be funded and eventually constructed by virtue of their selection for inclusion in the MPO's long range transportation plan. This responsibility carries with it some serious implications for federally funded projects because the MPO's decisions regarding the inclusion of projects in the long range transportation plan will effect what projects FHWA and FTA will be able to ultimately approve and authorize. Therefore, it is imperative that the MPO's project selection process remain as open and transparent as possible to ensure public confidence and buy-in in that process and the projects being advanced.

In addition, the federal team received a report from the Future of Hampton Roads, Inc. entitled; "Improving the Competitiveness of Hampton Roads". We have reviewed the report and find it to be pretty thorough with some good points that the MPO may want to consider. The report can be found/downloaded at: <http://www.fhrinc.org/>

The federal team appreciates all of the comments we have received from the citizens of the Hampton Roads region and we encourage their continued involvement and participation in the regional transportation planning and decision-making process.

**APPENDIX A- CERTIFICATION REVIEW NOTIFCATION LETTER**



U.S. Department  
of Transportation

Federal Transit Administration  
Region III  
1760 Market Street, Suite 500  
Philadelphia, PA 19103  
215-656-7100  
215-656-7269 (fax)

Federal Highway Administration  
VA Division  
400 North 8<sup>th</sup> Street, Room 750  
Richmond, VA 23240  
804-775-3320  
804-775-3356 (fax)

October 4, 2007

Mr. Paul Fraim, Chairman  
Hampton Roads Metropolitan Planning Organization  
The Regional Building  
723 Woodlake Drive  
Chesapeake, Virginia 23320

Dear Mr. Fraim:

This is to notify you that the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) will be conducting the Quadrennial Certification Review of the Hampton Roads Metropolitan Planning Organization on November 14 and 15, 2007.

The quadrennial certification review is intended to determine if the region's transportation planning process is addressing the major issues facing the area and if it is being conducted in accordance with the applicable Federal regulations.

It is expected that the review will begin at your office at 9:30 am and end at 6:30 pm, on November 15, 2007. Since policy and technical issues are likely to be discussed, please ensure that appropriate representatives are present during the review to address questions that may arise. An agenda and list of questions that may be discussed will be provided to the MPO staff prior to our meeting.

In addition, please take note that there will be a 2 1/2-hour period set aside on November 14, 2007, for public participation in the review process beginning at 4:00 pm and ending at 6:30 pm. Please ensure that this opportunity for public participation is advertised in accordance with your adopted Public Involvement Procedures. Also, although there will be a designated public involvement opportunity on November 14<sup>th</sup>, FHWA and FTA do not prohibit interested citizens from attending and observing the federal review on November 15, 2007. It is our intent to provide preliminary findings to the MPO Policy Committee at the next scheduled MPO meeting.

Finally, we are available should any member of the MPO or technical committee want to speak to us pertaining to any MPO subject matter.

We look forward to meeting with your staff on November 14 and 15, 2007. Should you have any questions prior to our meeting, please contact Ivan Rucker at (804) 775-3336 or Tony Cho with FTA at (215) 656-7250.

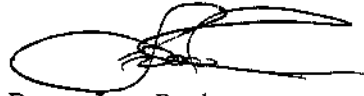
**RECEIVED**

OCT 05 2007

**HRPDC**

Sincerely,

Roberto Fonseca-Martinez  
Division Administrator

A handwritten signature in black ink, appearing to be 'Ivan Rucker', written over a horizontal line.

By: Ivan Rucker  
Metropolitan Transportation Planner

cc: Tony Cho, Federal Transit Administration  
Marsha C. Fiol, Virginia Department of Transportation  
Eric Stringfield, VDOT – Hampton Roads District

## **APPENDIX B- FEDERAL CERTIFICATION REVIEW PARTICIPANTS**



# HAMPTON ROADS METROPOLITAN PLANING ORGANIZATION QUADRENNIAL CERTIFICATION REVIEW

HRPDC BOARD ROOM

ATTENDANCE: NOVEMBER 15, 2007

NAME	AGENCY	ADDRESS	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
Robert P. Galt	HRADC	—	420-8300	—	R.P.GALT@HRADC.VA.GOV
Irene Shuman	VDOT	Richmond, VA	804 786-2813		Irene.Shuman@VDOT.virginia.gov
Marsha Fiol	VDOT	Richmond, VA	804 786-2985	804 225-4785	Marsha.Fiol@VDOT.Virginia.gov
Ed Sundra	FHWA	Richmond, VA	804 775-3338		Ed.Sundra@dot.gov
Mohamed Dumbuya	FHWA	"	804 775-3339		Mohamed.Dumbuya@fhwa.dot.gov
John MAZUR	FHWA	"	804 775-3329		John.MAZUR@FHWA.dot.gov
Jonismar Torres-Hernandez	FHWA	Richmond, VA	804-775-3343		torres.jonismar@FHWA.gov
Arturo Perez	FHWA	Richmond, VA	804-775-3352		orturo.perez@dot.gov
Janice Richard	FHWA	Richmond, VA	804-775-3360	804 775 3356	Janice.Richard@dot.gov
Joan Roberts	FHWA	Richmond, VA	804-775-3360	804-775-3356	Joan.Roberts@dot.gov
Brian Bethyon	FHWA	Resource Center Baltimore, MD	410-962-0086		brian.bethyon@fhwa.dot.gov
Eric Nielsen	City of Suffolk	Suffolk, VA	757-923-2468		ENVEISENECHTY@SUFFOLK.VA.US

# HAMPTON ROADS METROPOLITAN PLANING ORGANIZATION QUADRENNIAL CERTIFICATION REVIEW

HRPDC BOARD ROOM

ATTENDANCE: NOVEMBER 15, 2007

NAME	AGENCY	ADDRESS	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
ERIC STRINGSFIELD	VDOT HAMPTON ROAD DISTRICT	1700 N. MAIN ST. SUFFOLK, VA. 23434	757 925-3669	757 925-6039	ERIC.STRINGSFIELD@VDOT.VIRGINIA.GOV
SAM BELFIELD	HRPDC	713 WOODLAKE DR CHESAPEAKE, VA 23320	757-420-8300	757-523-4881	sbelfield@hrpdcva.gov
Keith Nichols	HRPDC	"	"	"	knichols@hrpdcva.gov
Andy Piccol	HRPDC	"	"	"	"
Laura Surface	HRPDC	"	"	"	lsurface@hrpdcva.gov
Nicole Fox	HRPDC	"	"	"	nfox@hrpdcva.gov
RICHARD DRUMWRIGHT	VAT	9239 DOCKMOUNTS TRAIL WILMINGTON, VA 23185	(571) 226-5547	(571) 226-6268	richardle.jones@ctmva.us
ART COLLINS	HRPDC/ MPO	723 WOODLAKE DR CHESAPEAKE, VA 23320	757-420-8300	757 523-4881	acollins@hrpdcva.gov
Dwight Fraener	HRPDC	"	"	"	dfraener@hrpdcva.gov
Camelia Ravanbakhsh	HRPDC	"	"	"	cravanbakhsh@hrpdcva.gov
Corey Hill	DRPT	1313 E. MAIN ST., STE 300 RICHMOND, VA 23219	804-786-4443	804-225-3664	corey.hill@drpt.virginia.gov
MIKE KIMBEL	HRPDC	723 WOODLAKE DR CHESAPEAKE, VA 23320	757-420-8300	757-523-4881	mkimbel@hrpdcva.gov



**APPENDIX C- CITIZEN MEETING PARTICIPANTS**

HAMPTON ROADS METROPOLITAN PLANING ORGANIZATION QUADRENNIAL CERTIFICATION REVIEW  
 HRPDC BOARD ROOM

ATTENDANCE: NOVEMBER 14, 2007

NAME	AGENCY	ADDRESS	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
Irene Shuman	VDOT	1401 E. Broad St Richmond, VA	804 786-2813		Irene.Shuman@ VDOT.virginia.gov
Richard Drumwright	WAT	7239 Pocahontas (not) Tonic Williamsburg, VA 23188	220-5547 (not) 220-6268		richarddejmes-city.va.us
Dwight Farmer	HRPDC	723 Woodlark Dr Ches. Vp. 23320	(757) 420-8300	(757) 523-4881	dffarmer@hrpdcva.gov
ART COLLINS	HRPDC/MPO	"	"	"	a.collins@HRPDCVA. GOV
<del>Robert B. Case</del>	HRPDC	"	"	"	RCase@HRPDCVA. GOV
MIKE KIMBREL	HRPDC	"	"	"	mkimbrelehrpdcva.gov
Carmelia Ravambakht	HRPDC	"	"	"	craambakht@hrpdc.gov
JOHN S. WALLER	CITIZEN	1004 ATLANTIC AVE #510 VIRGINIA BEACH, VA	757 617-2287	757-425-0213	BJW1@VERIZON.NET
JACK JOHN R GERGELY	SELF	449 WINTERHAVEN DR NH, VA 23606	757-930-3815		(SMALL LETTERS) GERGELY@VISTA.NET
VINCE THOMAS	FUTURE OF HAMPTON R&B	208 E PLUMME ST NORFOLK VA 23510	757 622-4688		VJ THOMAS@ FARTLINK.NET
RAY TAYLOR	EMR	813 MARIPOSA CT VA BEH VA 23445	757 671-7751		TAYLORRAK @COX.NET
CHUCK CAYTON	CITIZEN	821 KENNEDY AVE. VA BEACH, VA 23451	757.248.8389		CHUCKCAYTON@ GMAIL.COM



**APPENDIX D- MEETING AGENDA**

Hampton Roads Metropolitan Planning Organization  
Planning Certification Review  
November 15, 2007

AGENDA

- 9:30 AM            **Introduction**
- Introduction of Participants
  - Purpose of Certification Review
  - Review of Agenda and Schedule
- 9:45                **MPO Overview**
- The MPO will provide a summary of work accomplished since the last review and discuss upcoming issues/projects related to the planning process
- 10:45              **Certification Agreements**
- 2000 Census/Boundary Issues
  - Board Composition
- 11:00              **Long Range Planning**
- Bike and Pedestrian Planning
  - Transit Planning
  - Financial Planning
  - Freight Planning
  - Operations and Management
  - Congestion Management
  - Travel Model
- 12:30 PM           **LUNCH**
- 1:45                **Public Involvement**
- Participation Plan (Long Range Plan, TIP, etc.)
  - Traditionally Underserved Populations
  - Title VI (EJ, LEP)
  - Americans with Disabilities Act
- 3:15                **Air Quality / Conformity**
- 3:45                **Congestion Management**
- 4:30                **BREAK**



4:45

**Transportation Improvement Program**

- Project Selection and Prioritization
- Obligated Projects in Previous Year
- Amendment Process
- Programming
- Finance

6:00

**Unified Planning Work Program**

- Planning Priorities
- Planning Factors
- Development

6:30

**CLOSEOUT/ADJOURN**

## **APPENDIX E- ACRONYMS**

ADA	Americans with Disabilities Act
CAAA	Clean Air Act Amendment
CFR	Code of Federal Regulations
CLRP	Constrained Long Range Plan
CMS	Congestion Management System
DOT	Department of Transportation
EJ	Environmental Justice
EPA	Environmental Protection Agency
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
HRT	Hampton Roads Transit
ISTEA	Intermodal Surface Transportation Efficiency Act
ITS	Intelligent Transportation Systems
LEP	Limited English Proficiency
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
HRAQC	Hampton Roads Air Quality Committee
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
SIP	State Implementation Plan
TCMs	Transportation Control Measures
TEA-21	Transportation Equity Act for the 21 <sup>st</sup> Century
TIP	Transportation Improvement Program
TMA	Transportation Management Area
UPWP	Unified Planning Work Program
USC	United States Code
USDOT	United States Department of Transportation
VDOT	Virginia Department of Transportation
VDEQ	Virginia Department of Environmental Quality
VMT	Vehicle Miles Traveled
WAT	Williamsburg Area Transport

## **APPENDIX F- MPO COMMITTEES**



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## Committees

### Metropolitan Planning Organization (MPO)

- CAO Advisory Committee to the MPO
- MPO Executive Committee
- Lead Planning Organization (LPO)

### Transportation Technical Committee

- Transportation Technical Subcommittee - TIP
- ITS Committee
  - ITS Marketing Task Group
- CMS Subcommittee
- IMS Subcommittee
- Non-Highway Advisory Committee
- HOV Steering Committee
  - HOV Marketing Committee

### Regional Emergency Management Technical Advisory Committee (REMTAC)



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**APPENDIX G- OCTOBER 18, 2006, MEETING MINUTES**

**HAMPTON ROADS METROPOLITAN PLANNING ORGANIZATION  
MEETING – OCTOBER 18, 2006**

The Hampton Roads MPO Meeting was called to order at 10:44 a.m. at the Regional Boardroom, 723 Woodlake Drive, Chesapeake, Virginia, with the following in attendance:

**MPO MEMBERS:**

Jeanne Zeidler, Chair (WM)	Charles W. Burgess, Jr. (PQ)
Paul D. Fraim, Vice Chairman (NO)	Douglas L. Smith (PO)
James O. McReynolds, Treasurer (YK)	James G. Vacalis (SU)
Clifton E. Hayes, Jr. (CH)	Louis R. Jones (VB)*
William H. Whitley (GL)	Jackson C. Tuttle II (WM)
Randall A. Gilliland (HA)	Michael Townes (HRT)
W. Douglas Caskey (IW)	Dennis W. Heuer (VDOT)
Bruce C. Goodson (JC)	Mark Rickards (WAT)
Joe S. Frank (NN)	Arthur L. Collins (HRPDC)

\*Indicates late arrival or early departure.

**OTHERS RECORDED ATTENDING:**

Rebecca C. W. Adams, Amar Dwarkanath, Anne F. Odell, Ella P. Ward (CH); John J. Adams, Sr. (GL); Sanford B. Wanner (JC); Randy Hildebrandt (NN); Regina V. K. Williams, Barclay C. Winn (NO); James B. Oliver, Jr. (PO); Michael W. Johnson (SH); Harry E. Diezel, Barbara M. Henley, Meyera E. Oberndorf, James K. Spore (VB); Thomas G. Shepperd (YK); The Honorable Glenn Oder - House of Delegates; Karen Papasodora-Cochrane - Senator Harry B. Blevins 14th District; Katherine S. Powell - Senator Ken Stolle 8th District; Andrea R. Trotter - Senator Yvonne B. Miller 5th District; Earl Sorey - Chesapeake; Jeff Rafiski, Ron Williams - Norfolk; Sherri Neil, Brian Swets - Portsmouth; Martha McClees, Eric Nielsen, Jeryl Phillips - Suffolk; Bob Matthias, Tim Rayner - Virginia Beach; Joyce Heffington - HRSD; Marsha Fiol - VDOT Transportation & Mobility Planning; Jim Ponticello, Irene Shuman, Eric Stringfield, Chris Voigt, Horace Welsh - VDOT; Dusty Holcombe - VDOT Innovated Project Delivery; James Mock - VDOT Smart Traffic Center; Ken Myers - FHWA; Ray Taylor - FHR; William C. LaBaugh, III - DRPT; Alan Jensen - Navy MIDLANT; Dana Dickens, Donna Morris - Hampton Roads Partnership; W. Dewey Hurley - Branscome; Jake Keller - Parsons Brinckerhoff; Ben Dendy - Vectre Corporation; Brian Magee, Buddy Watson - Tidewater SKANSKA; Claudia Cotton - Tidewater Builders Association; Karen Smith - Southeastern Institute of Research; Germaine Fleet - Biggs & Fleet; Tom Holden - Virginian-Pilot; Staff: Shernita Bethea, Richie Bohr, John Carlock, Rick Case, Rob Case, Nancy Collins, Dwight Farmer, Kelly Freas, Marla Frye, Aimee Hadfield, Frances Hughey, Jim Hummer, Rob Jacobs, Rachael Patchett, Andy Pickard, Joe Paulus, Kelli Peterson, Camelia Ravanbakht, Joe Turner, John Whaley and Sheila Wilson.

## CONSENT AGENDA

Chair Zeidler asked for additions or corrections to the Minutes of September 20, 2006. No changes were noted. The Consent Agenda contained the following items:

- Summary Minutes of September 20, 2006 (MPO:MIN)
- FY 06-09 Transportation Improvement Program Amendments (THY:TIP FY06-09)
- FY 07 Unified Planning Work Program Amendments (THY:UPWP FY07)
- Endorsement of Enhancement Projects (THY:ENHANCEMENT PROJECTS)
- Revision of CMAQ Allocations For FY 2006-2011 (THY:CMAQ)

Mr. Goodson asked that an addition be made to Item 4, to show that Barrett's Ferry Bridge Underpass is also known as Judith Stuart Dresser Memorial Bridge.

Mr. Goodson then Moved to approve the Consent Agenda with the noted amendment; seconded by Mayor Fraim. The Motion Carried.

## HAMPTON ROADS 2030 LONG RANGE TRANSPORTATION PLAN (THY:2030)

Chair Zeidler asked Mr. Collins to explain the addendum.

Mr. Collins referred the MPO members to the addendum package placed before them and asked them to refer to it during discussion rather than the one originally sent in the agenda packet. He indicated the addendum contains the committed projects, the Regional Surface Transportation Projects (RSTP) as well as those being recommended (Plan B). The package reflects the Chief Administrative Officers' (CAO's) deliberations earlier in the week with one minor change, the addition of a revenue-neutral project in Virginia Beach.

He stated the issue before the MPO is a matter of fiscal constraint defined in the federal regulations as that which is reasonable with the expectation there will be real financial resources available over the 20-year term of the plan to build the projects, not just plan them. As outlined in the toll study conducted over a year ago, with the exception of the Midtown Tunnel, none of the projects would stand alone. They all required additional state revenues to be constructed and built over the 20-year period. This process was delayed until after the General Assembly's regular session and Special Session on Transportation to see if the Commonwealth would provide additional revenues for these toll projects to make them whole. This did not happen and it is the judgment of the CAOs and HRPDC staff that the Midtown Tunnel/Martin Luther King Freeway, fully supported by tolls, should stay in the plan. There is reasonable expectation the Dominion Boulevard project in Chesapeake separated from the Southeastern Parkway project can be constructed with tolls, a federal earmark and \$50 million in NHS funds. Similarly, the I-64 project on the Peninsula with \$134 million in NHS money and a PPTA using tolls can reasonably be expected to be constructed. These three projects are the only ones in the judgment of the



HRPDC staff and CAOs that should be included in the plan as credibly meeting the fiscal constraint test.

The Third Crossing, I-64 on the Southside, Southeastern Parkway and Route 460 projects would not meet the fiscal constraint test and cannot be included in the plan.

Mr. Collins stated these projects are recommended by the CAOs and Plan B needs to be approved in order to be sent to the state for air quality conformity analysis.

Mayor Fraim stated it has been argued to him by members of the General Assembly that the MPO members should take all of last year's plan, adopt it again, send it back through the approval process to let the federal government deny it again. Then it could be placed before the General Assembly again to show them the federal earmarks they cost the region and to accent the dilemma we are in.

Mayor Fraim Moved to adopt the long range plan as presented by Mr. Collins; seconded by Mayor Frank.

Mr. Heuer voiced his concerns regarding the CAO meeting held without the inclusion of a main participant, VDOT, who participates in the Technical Committee and the MPO. He stated he had just previewed the information shared at that meeting. He stated the financial constraint requirements from plans do not prohibit the inclusion of projects where funding is uncertain but require such projects be linked to new funding sources and a reasonable strategy for securing funds be included in that plan.

He then referred to the Transportation Commissioner's email and letter delivered to Mr. Collins advocating inclusion of Route 460 into the plan. Mr. Heuer stated there were PPTA proposals submitted by three offerors to the Commonwealth at the direction of the Commonwealth Transportation Board (CTB) for this project. Although time has not allowed for the review of the merits of one proposal over another, the proposals are in hand. The procurement schedule includes the Secretary of Transportation appointing a review commission by November 1st, completing the review, public comments and a proposal to CTB for the June 2007 meeting. Mr. Heuer encouraged the membership to include Route 460 and use language that has been used in other parts and other MPOs in the state saying this project will be financed under Virginia's Public Private Transportation Act of 1995. Financing will be arranged by a private contractor and will not make significant use of traditional funding sources. This would allow for the negotiation process to proceed to a logical conclusion rather than presupposing what that conclusion may be.

Mr. Heuer stated that negotiations could continue without Route 460 being in the plan, but it is his feeling it would diminish the stature of the person dealing with the proposer if an agreement is reached, but cannot be executed until the MPO is requested to put the project in the plan.

His other concerns include the message being sent to the development community and private sector when the project is removed from the plan since PPTAs have been aggressively solicited. Mr. Heuer offered for similar consideration the Southeastern Parkway project, which has been proposed as a PPTA. If it is included in the plan, it

allows for a stronger negotiating stance when the PPTA is solicited with the caveat to satisfy the fiscal constraint test. It is Mr. Heuer's belief that it would be prudent to include both projects in the plan.

Mr. Goodson asked if putting a project into the plan gives a record of decision for the project for environmental reasons.

Mr. Collins answered that it does not; the record of decision is an environmental process that is separate from what is being done here.

Mr. Goodson asked if that process could go forward even though a project is not in the plan.

Mr. Collins replied affirmatively.

Mr. Heuer stated the record of decision cannot be signed and completed by FHWA unless the project is in the constrained long range plan. He indicated this goes also to his point about seriousness of the negotiations. When a proposal for PPTA goes out and the risks have not all been quantified, then a dollar figure must be placed against an unidentified risk. The record of decision allows one to minimize and quantify those risks.

Mayor Frank stated that although members of the legislature think that Route 460 solves a lot of problems in Hampton Roads, those in Hampton Roads who have really studied and understand the transportation needs in the region do not believe Route 460 is a significant improvement to solving the region's transportation problems. The road currently carries about 8,500 cars per day with projections of not much more than that. Mayor Frank indicated it is his belief that if the original plan that was worked on cannot go forward, then the approach recommended by the CAOs should be the approach to take since Route 460 seems to be a legislature/VDOT-driven issue, not a Hampton Roads-driven issue.

If VDOT negotiates a successful plan with a private developer, then the long range plan can always be amended. By then, more details would be available such as the project scope, the costs and an understanding of the tolls that would be necessary to make it happen.

Mayor Frank recommended moving forward with what has been recommended. He indicated he had some reluctance in that decision since the Hampton Roads Third Crossing is not included in the plan which means the region will lose \$40 million of federal commitment for that project. He believes everybody around the table understands the critical importance of the Third Crossing to the ports, the military and to providing meaningful relief to other transportation systems in the region. To fall back on the Route 460 plan is not particularly relevant and seems politically driven, not transportation driven. Since the plan with the main projects that have been collaborated on and agreed upon after many years of study has failed, it is now time to pick out pieces of it in order to get something built. Then if there can be a change in membership of the legislature after the November 2007 election, the other projects can possibly be added back to the long range plan if there is some state commitment.

Mr. Spore asked Mr. Heuer about his comment that we must have a reasonable strategy to obtain funds in order to meet the fiscal constraint definition. The CAOs did not see a reasonable strategy to obtain the money. Everybody would have liked to have the Southeastern Parkway and Route 460 in the plan, but there just does not seem to be a reasonable strategy present other than what might come from tolls.

Mr. Heuer answered that it is difficult to delve into the details of the proposals until that part of the process is reached. As stated in the executive summary posted on the web site and mailed out, one of the offerers proposes to build Route 460 for \$16.5 million in public funding. Although that is not a small sum, it is not unachievable. He referred to the City Line Interchange federal aid amount of \$11 million and stated he did not see anything showing 20 percent is coming from the state match for it. Mr. Heuer stated if Route 460 were approved, the \$16 million could most likely be found.

He continued by referring to the recent storm that closed Route 460 due to high water not related to a hurricane. It is the major evacuation route on the Southside. He commented with that artery closed for a week, that it really is part of the transportation plan. He stated he is optimistic once the details are worked out the funding would be achieved.

Mr. Collins commented the last of the three plans Mr. Heuer mentioned include tolling I-64 and Route 460. Mr. Collins' stated his understanding is that part of I-64 is outside of Hampton Roads and the Richmond MPO does not have it in its plan. How can this MPO reasonably impose on another region that we are going to toll when their plan does not include the project? Crater MPO has not agreed to tolls on their portion of Route 460. This puts us in the unfortunate position of telling other regions we expect them to put a toll on a road that is not even included as an improvement in their Long Range Plans.

He then commented that the other two proposals call for state money between \$175 million and \$750 million dollars. If that kind of money is actually available at the state level when looking at Route 460 carrying 8,500 vehicles per day, compared with I-264 at Newtown Road carrying over 242,000 vehicles a day, this MPO would like to look at the relative merits of where that money is spent. Would it be wiser to put funding on Route 460 or some other substantial need that the region has? Nothing has been indicated that the PPTA cannot be continued on Route 460 along with the PPTAs on the other facilities. However, reflecting on what the CAOs and the MPO have said over the last three years that we are going to be credible and honest with the citizens of Hampton Roads, if we cannot demonstrate the money is there to give them transportation improvements, it should not be put in the plan.

Mr. Heuer replied that he could not speak for the other MPOs, but was trying to draw an analogy with the City Line Road Project since part of that project relies on the taxing districts in Chesapeake and Virginia Beach which has not happened yet either. VDOT is continuing with the Interstate Justification Request and he believes it would be prudent to have everything proceeding concurrently. He asked that Route 460 be included with the qualification that it is tied to negotiations and concluded with tolls.

Mayor Fraim commented on the respect the MPO has for Mr. Heuer and VDOT. It has been said to all who would listen if there were not additional resources made available

that the MPO plan would have to be rearranged and all these projects would come out of it with the exception of the Midtown Tunnel. That has been said in front of the public and the MPO has supported the Route 460 project, although with some reluctance, but the notion that it provided an evacuation route was important.

He then commented that the message to the business community was already sent, but not by the MPO. Everything was done to come up with and persuade the legislature to provide additional money. At this point it would seem irresponsible to do anything more than what Plan B includes. Hopefully the Route 460 PPTA effort moves forward and if it occurs, then the plan can be amended. The MPO is in a position of trying to be fiscally constrained and determining what can reasonably be accomplished.

Mr. McReynolds concurred and stated that given the relative priority of this and the fact that higher profile and higher demand projects had to be removed, the lack of information and the fact that this can be added at a later date, if this project is included now it may send the wrong message to the citizens as well as the legislators.

Mr. Smith disclosed that since his consulting firm is on one of the three teams associated with the Route 460 offers, he would ask Mr. Oliver to vote in his place.

Chair Zeidler asked for the Roll Call vote on the motion by Mayor Fraim.

Mr. Collins called the following vote: Mr. Burgess - yes; Mr. Caskey - yes; Mayor Fraim - yes; Mayor Frank - yes; Mr. Gilliland - yes; Mr. Goodson - yes; Mr. Hayes - yes; Mr. Heuer - abstain; Mr. Jones - yes; Mr. McReynolds - yes; Mr. Rickards - yes; Mr. Oliver - yes; Mr. Townes - yes; Mayor Zeidler - yes; Mr. Vacalis - yes; Mr. Whitley - yes.

The Motion Carried with fifteen yes votes and one abstention.

#### **VDOT VARIABLE TOLL PRICING PROPOSAL**

**(THY:UPWP FY06)**

Chair Zeidler introduced Marsha Fiol, VDOT Planning and Mobility Division Administrator, to present this report.

Ms. Fiol stated the value pricing opinion study for Hampton Roads is primarily to assess the attitudes and opinions of the people who will be affected by variable toll pricing. This effort is completely federally and state funded and requires no local match.

Virginia has been participating in the value pricing pilot program as one of fifteen states since 2003. Workshops began in January 2006. Funds were originally directed to Northern Virginia but have been redirected to Hampton Roads.

Variable toll pricing on area bridges and tunnels could mitigate traffic congestion by spreading the demand across the road system. Variable toll pricing on increasingly congested facilities could be a means to mitigate congestion while improving infrastructure through PPTAs.

The variable toll pricing implementation could take many different approaches including time of day, day of week, lanes used by each driver, size of vehicle or other

**APPENDIX H- CAO MEMBERSHIP LIST**

**CHIEF ADMINISTRATIVE OFFICERS**  
11/15/07

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**CHIEF ADMINISTRATIVE OFFICERS**  
11/15/07

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**CHIEF ADMINISTRATIVE OFFICERS**  
11/15/07

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**APPENDIX I- AGREEMENT AND DESIGNATION BETWEEN MPO AND  
GOVERNOR**



SHEILA S. NOLL, CHAIRMAN · LOUIS R. JONES, VICE-CHAIRMAN · MYLES E. STANDISH, TREASURER  
ARTHUR L. COLLINS, EXECUTIVE DIRECTOR/SECRETARY

September 21, 2001

**CHESAPEAKE**

John L. Pazour, *City Manager*  
Debbie Ritter, *Council Member*  
William E. Ward, *Mayor*

**FRANKLIN**

Mark S. Fetheroll, *Council Member*  
Rowland L. Taylor, *City Manager*

**GLOUCESTER COUNTY**

John J. Adams, Sr., *Board Member*  
William H. Whitely, *County Administrator*

**HAMPTON**

Marme E. Locke, *Mayor*  
George E. Wallace, *City Manager*  
Paige V. Washington, Jr., *Council Member*

**ISLE OF WIGHT COUNTY**

W. Douglas Caskey, *County Administrator*  
Robert C. Claud, Sr., *Board Member*

**JAMES CITY COUNTY**

John J. McGlennon, *Chairman*  
Sanford B. Wanner, *County Administrator*

**NEWPORT NEWS**

Charles C. Allen, *Vice-Mayor*  
Joe S. Frank, *Mayor*  
Edgar E. Maroney, *City Manager*

**NORFOLK**

Herbert M. Collins, Sr., *Vice-Mayor*  
Paul D. Fraim, *Mayor*  
Dawn S. Hester, *Council Member*  
Regina Y.K. Williams, *City Manager*  
Bailey C. Winn, *Council Member*

**POQUOSON**

Charles W. Burgess, Jr., *City Manager*  
Gordon C. Hessel, Jr., *Mayor*

**PORTSMOUTH**

J. Thomas Benn, III, *Council Member*  
Daniel M. Stuck, *City Manager*  
P. Ward Robinett, Jr., *Council Member*

**SOUTHAMPTON COUNTY**

Michael W. Johnson, *County Administrator*  
Charleton W. Sykes, *Board Member*

**SUFFOLK**

Dana E. Dickens, III, *Council Member*  
Myles E. Standish, *City Manager*

**SURRY COUNTY**

Ernest L. Blount, *Chairman*  
Terry D. Lewis, *County Administrator*

**VIRGINIA BEACH**

Margaret L. Eura, *Council Member*  
W. W. Harrison, Jr., *Council Member*  
Louis R. Jones, *Council Member*  
Robert C. Mandigo, Jr., *Council Member*  
Meyera E. Oberdorf, *Mayor*  
Nancy K. Parker, *Council Member*  
James K. Spore, *City Manager*

**WILLIAMSBURG**

Jackson C. Tittle, Jr., *City Manager*  
Jeanne Ecker, *Mayor*

**YORK COUNTY**

Sheila S. Noll, *Chairman*  
James C. McRavivolis, *County Administrator*

Mr. Kenneth E. Lantz, Jr.  
Transportation Planning Engineer  
Virginia Department of Transportation  
1401 East Broad Street  
Richmond, Virginia 23219

Re: MPO Planning Agreement  
(TRA)

Dear Mr. Lantz:

Enclosed please find a copy of An Agreement for Cooperatively Conducting the Metropolitan Transportation Planning and Programming Process in the Norfolk-Virginia Beach-Newport News Urbanized Area, dated October 25, 1996, which has been updated to reflect the merger of the Peninsula Transportation District Commission and the Tidewater Transportation District Commission into the Transportation District Commission of Hampton Roads (HRT) on October 1, 1999.

Please advise me of any additional information you may need in regard to the foregoing.

Sincerely,

Arthur L. Collins  
Executive Director/Secretary

JDP:fh

Enclosure

cc: Mr. Leo Bevon, VDRPT  
Ms. Patricia Kampf, FTA  
Mr. Thomas E. Glascock, HRT

**MAILED**

**SEP 21 2001**

**HRPDC**

TRA

**AN AGREEMENT FOR COOPERATIVELY CONDUCTING THE  
METROPOLITAN TRANSPORTATION PLANNING AND PROGRAMMING  
PROCESS IN THE NORFOLK-VIRGINIA BEACH-NEWPORT NEWS  
URBANIZED AREA**

THIS AGREEMENT, made and entered into as of this 25th day of October, 1996, by and between the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT, the Hampton Roads Metropolitan Planning Organization, hereinafter referred to as the MPO, the James City County Transit System, ~~the Peninsula Transportation District Commission and the Tidewater Transportation District Commission~~ <sup>the Transportation District Commission of Hampton Roads</sup> hereinafter referred to as the TRANSIT OPERATORS, the Hampton Roads Air Quality Committee, hereinafter referred to as the HRAQC, and the Hampton Roads Planning District Commission, herein after referred to as the HRPDC, for the purpose of identifying the roles and responsibilities of cooperatively conducting the metropolitan transportation planning and programming process in the Norfolk-Virginia Beach-Newport News urbanized area of Virginia.

*Alc  
9/19/2001  
WJS  
9/20/2001*

NOW, THEREFORE, THE DEPARTMENT, the MPO, the TRANSIT OPERATORS, the HRAQC, and the HRPDC do hereby agree as follows:

**ARTICLE I - METROPOLITAN TRANSPORTATION PLANNING AND PROGRAMMING PROCESS**

The DEPARTMENT, the MPO, the TRANSIT OPERATORS, and the HRPDC shall establish a continuing, cooperative, and comprehensive transportation planning and programming process as provided for by the Intermodal Surface

Transportation Efficiency Act of 1991; Section 134 of Title 23 of the United States Code; 49 U.S.C. Section 5303; 23 CFR Part 450, Subpart C; 49 CFR Part 613, Subpart A; and in accordance with the constitution and statutes of the Commonwealth of Virginia. This process shall result 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.

The MPO, which has been designated in accordance with 23 CFR Part 450, and has been authorized by Section 33.1-23.03:01 of the Code of Virginia (1950) as amended, shall be responsible for carrying out the metropolitan transportation planning process. The DEPARTMENT and the TRANSIT OPERATORS shall coordinate their responsibilities for transportation planning, programming and implementation with those of the MPO. The HRPDC shall provide staffing for the MPO to assist them in carrying out their responsibilities and to coordinate with the staffs of the DEPARTMENT and the TRANSIT OPERATORS.

The MPO, the DEPARTMENT, the TRANSIT OPERATORS, and the HRPDC shall jointly;

- a) Develop the transportation plan, the transportation improvement program, the required management systems and the annual unified planning work program which includes the allocation of the funds authorized to finance the planning process;
- b) Approve the work activities in the annual unified planning work program through the MPO voting process;
- c) Participate in the development of major investment studies; and
- d) Participate in work sessions that support carrying out the planning process.

The MPO has established a Technical Advisory Committee to provide review and recommendations on items referred to it by the MPO. The MPO may establish such special and standing committees as it deems advisable for the transaction of its affairs.

The DEPARTMENT shall coordinate its responsibilities for statewide transportation plans and programs with the metropolitan transportation plans and programs. The DEPARTMENT, the MPO, the TRANSIT OPERATORS, and the HRPDC shall cooperate in the reconciliation of such plans and programs as necessary to ensure connectivity within transportation systems.

The HRAQC, as the air quality planning organization designated in accordance with section 174 of the Clean Air Act (42 U.S.C. 7504), and the MPO shall coordinate their responsibilities to ensure that a transportation plan is developed that conforms to air quality standards for the area and the State Implementation Plan.

#### ARTICLE II - METROPOLITAN PLANNING AREA BOUNDARY

The metropolitan transportation planning process shall, as a minimum, cover the urbanized area as designated by the U. S. Bureau of the Census, and the contiguous geographic area likely to become urbanized within the twenty year period covered by the transportation plan. The metropolitan planning area has been designated as a nonattainment area for transportation related pollutants under the Clean Air Act and the boundary adjusted to include the area so designated. The planning area shall hereinafter be referred to as the Metropolitan Study Area.

The Metropolitan Study Area shall include the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg and the Town of Smithfield and the Counties of James City and York and a portion of the Counties of Gloucester and Isle of Wight.

The Metropolitan Study Area boundary may be adjusted by agreement between the DEPARTMENT and the MPO. If said adjustment extends the boundary into a jurisdiction not previously included, the jurisdiction shall be eligible for membership on the MPO.

#### ARTICLE III - TIME FRAME OF THE PROCESS

The metropolitan transportation planning and programming process shall be established as a continuing procedure effective the date of the execution of this AGREEMENT by all participants.

This AGREEMENT shall be terminated upon the occurrence of any of the following:

1. The Intermodal Surface Transportation Efficiency Act of 1991, or Section 134 of Title 23 of the United States Code, 49 U.S.C. Section 5303, and previously cited herein, are repealed or amended by the Congress of the United States to no longer require the metropolitan transportation planning and programming process, or;
2. The DEPARTMENT, the MPO, the local governments previously cited in ARTICLE II, a TRANSIT OPERATOR, or the HRPDC withdraws from the metropolitan transportation planning and programming process with not less than ninety (90) days written notice to the other parties, or;
3. There is a redesignation of the MPO, or;
4. There is a redesignation of the HRAQC.

#### ARTICLE IV - FINANCING THE PROCESS

The responsibilities of the MPO shall be supported by planning funds authorized by Title 23 of the United States Code, hereinafter referred to as PL Funds, and by Title 49 of the United States Code, hereinafter referred to as Section 5303 Funds. PL Funds and Section 5303 Funds shall be allocated to work activities in an annual unified planning work program at the direction of the MPO in cooperation with the DEPARTMENT and the TRANSIT OPERATORS. The use of PL Funds, Section 5303 Funds and other funding sources shall continue as additional monies are appropriated. The HRPDC shall enter into appropriate agreements on behalf of the MPO for the aforementioned funds, and shall be responsible for the administration of these funds in accordance with said agreements.

#### ARTICLE V - METROPOLITAN PLANNING ORGANIZATION

The Hampton Roads Metropolitan Planning Organization was designated by the Commonwealth of Virginia on July 1, 1991. The Metropolitan Study Area boundary and the membership to the MPO were expanded on October 15, 1992. A copy of the July 1, 1991, designation and the October 15, 1992, expansion are attached as Appendix A and hereby made a part of this AGREEMENT. The MPO constituted therein shall remain in effect until such time as the local jurisdictions and the Governor of the Commonwealth of Virginia redesignate the MPO in accordance with 23 CFR Part 450.

Each member locality or agency, whether voting or nonvoting, may appoint an alternate member. Voting privileges for alternates shall be the same as for the regular member in the absence of the regular member.

The MPO shall elect a chairman and other officers as deemed appropriate, and shall establish rules of order.


ARTICLE VI - TITLE VI AND EQUAL EMPLOYMENT OPPORTUNITY

The MPO, the DEPARTMENT, the TRANSIT OPERATORS, and the HRPDC shall abide by all applicable Title VI and Equal Employment Opportunity requirements contained in U.S. DOT/FHWA/FTA and VDOT/VDRPT agreements for the use of PL, SPR, and FTA Section 5303 Technical Studies grants. Third party contracts for the use of such funds shall also contain all applicable Title VI and Equal Employment Opportunity requirements.

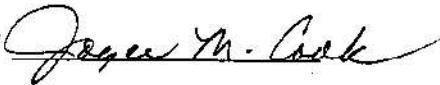
ARTICLE VII - AMENDMENTS


Amendments to this AGREEMENT, as mutually agreed to, may be made by written agreement between all parties of this AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the day and year first written above.

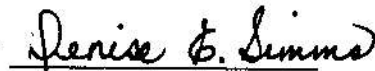
  
Alan P. Krasnoff  
Chairman  
Hampton Roads  
Metropolitan Planning Organization

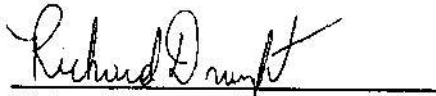
WITNESS BY



  
David R. Gehr  
Commissioner  
Commonwealth of Virginia  
Department of Transportation

WITNESS BY



  
Richard Drumwright  
Transit Administrator  
James City County  
Transit System

WITNESS BY





Michael Townes  
Michael S. Townes  
Executive Director  
Peninsula Transportation  
District Commission

Mc 9/19/2001

WITNESS BY

Joyce M. Cook

Michael S. Townes, Executive Director of Peninsula Transportation District Commission and Interim Executive Director of Tidewater Transportation District Commission (now the Transportation District Commission of Hampton Roads as of 10/1/99 merger.)

MS  
9/20/2001

L. A. Kimball  
L. A. Kimball  
Executive Director  
Tidewater Transportation  
District Commission

WITNESS BY

Joyce M. Cook

Mason C. Andrews  
Mason C. Andrews  
Chairman  
Hampton Roads Air  
Quality Committee

WITNESS BY

Joyce M. Cook

Arthur L. Collins  
Arthur L. Collins  
Executive Director  
Hampton Roads Planning  
District Commission

WITNESS BY

Joyce M. Cook

APPENDIX A - MPO Designation

# APPENDIX A

HAMPTON ROADS METROPOLITAN PLANNING ORGANIZATION  
DESIGNATION



## COMMONWEALTH of VIRGINIA

John G. Milliken  
Secretary of Transportation

Office of the Governor  
Richmond 23219

(804) 786-8032  
TDD (804) 786-7765

July 1, 1991

Mr. James M. Tumlin, Division Administrator  
Federal Highway Administration  
Post Office Box 10045  
Richmond, Virginia 23240-0045

Mr. Peter N. Stowell, Regional Administrator  
Urban Mass Transportation Administration  
841 Chestnut Street, Suite 714  
Philadelphia, Pennsylvania 19107

Gentlemen:

The Peninsula Metropolitan Planning Organization and the Southeastern Virginia Metropolitan Planning Organization feel that they can meet the federal transportation planning regulations in a more coordinated, efficient and effective manner if they were to merge and form one Metropolitan Planning Organization to represent the Hampton Roads Area of Virginia. At a joint meeting of the two MPO's held on March 20, 1991, they officially endorsed this concept and have formally requested that this designation be made.

Therefore, in accordance with Volume 4, Chapter 4, Section 2 of the Federal-Aid Highway Program Manual and 23 CFR 450.106, this is to redesignate the Metropolitan Planning Organization for the Hampton Roads Area (formerly the Peninsula and Southeastern Areas) effective July 1, 1991. This redesignation is performed on behalf of the Governor of Virginia, with the concurrence of the participating local governments, pursuant to the authority vested in me as Secretary of Transportation by Paragraphs 2.1-39.1 and 2.1-51.16 through 18 of the Code of Virginia (1950), as amended.

It is the policy of the Commonwealth that all state, local and regional entities empowered by statute with transportation planning and implementation responsibilities by state statute participate in the deliberations of the Metropolitan Planning Organization. State law, however, does not provide a forum for the effective representation of all those who should be involved in the transportation planning process.

Mr. James M. Tumlin  
Mr. Peter N. Stowell  
July 1, 1991  
Page Two

To comply with the federal regulation, applicable state statutes, and the actions of the respective MPOs taken at their joint meeting on March 20, 1991, the Hampton Roads Area Metropolitan Planning Organization is hereby redesignated and will be composed of the following membership:

One (1) representative appointed by and empowered to participate on behalf of each of the governing bodies of the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, and the Counties of James City and York. These representatives shall be those appointed by these local jurisdictions to serve on the Hampton Roads Planning District Commission's Executive Committee;

One (1) representative appointed by and empowered to participate on behalf of the County of Gloucester;

The Executive Director of the Tidewater Transportation District Commission;

The Executive Director of the Peninsula Transportation District Commission;

The Public Transit Manager of James City County Transit;

The Executive Director of the Hampton Roads Planning District Commission; and

One (1) representative designated by and empowered to participate on behalf of the Virginia Department of Transportation.

Non-voting membership is to include the Urban Mass Transportation Administration, Federal Highway Administration, Federal Aviation Administration, Virginia Department of Aviation, Virginia Port Authority and others as mutually agreed to by the Metropolitan Planning Organization and the Virginia Department of Transportation.

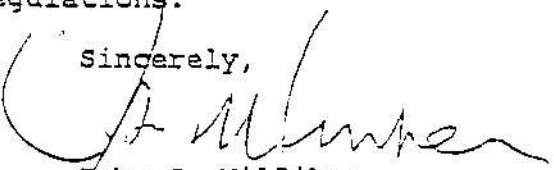
The responsibilities of the Metropolitan Planning Organization shall be determined as prescribed in 23 CFR Part 450, and in accordance with the Constitution of Virginia and applicable state statutes.

Mr. James M. Tumlin  
Mr. Peter N. Stowell  
July 1, 1991  
Page Three

This action does not preclude the Metropolitan Planning Organization from soliciting the staff support of other state, local, or regional organizations in the process.

Planning funds apportioned to the area by the Federal Highway Administration will be administered by the Virginia Department of Transportation consistent with the annual Unified Work Program developed by the Metropolitan Planning Organization as approved by the appropriate authorities. Planning funds apportioned to the area by the Urban Mass Transportation Administration will be administered by the authorized recipients on behalf of the Metropolitan Planning Organization consistent with the annual Unified Work Program as developed and approved by the Metropolitan Planning Organization. The Virginia Department of Transportation and the Hampton Roads Planning District Commission are authorized to execute contracts on behalf of the Metropolitan Planning Organization pursuant to resolutions adopted by that body after the determination that such contracts are within the scope of the transportation planning functions to be performed by the Metropolitan Planning Organization pursuant to federal statutes and regulations.

Sincerely,



John G. Milliken

JGM/cmg

cc: The Honorable Lawrence Douglas Wilder  
The Honorable Reba S. McClanan  
Mr. Robert M. Murphy  
Mr. Ray D. Pethtal



# COMMONWEALTH of VIRGINIA

John G. Milliken  
Secretary of Transportation

Office of the Governor  
Richmond 23219

(804) 786-8032  
TDD (804) 786-7765

October 15, 1992

Mr. James M. Tumlin  
Division Administrator  
Federal Highway Administration  
Post Office Box 10045  
Richmond, Virginia 23240-0045

Mr. Peter N. Stowell  
Regional Administrator  
Federal Transit Administration  
1760 Market Street, Suite 500  
Philadelphia, Pennsylvania 19103

Dear Messrs. Tumlin and Stowell:

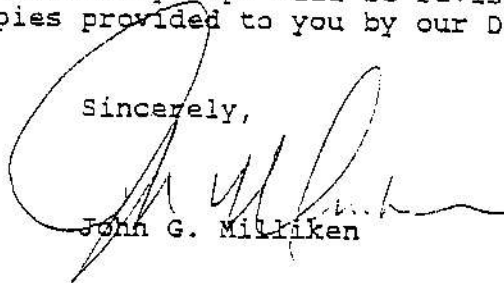
In accordance with the interim guidance for the metropolitan planning requirements of the 1991 Intermodal Surface Transportation Efficiency Act, the Hampton Roads Metropolitan Planning Organization (MPO) has reviewed the 1990 Census urbanized area boundary and re-evaluated the contiguous area expected to become urbanized within the 20 year forecast period. The MPO has approved the expansion of the metropolitan area (study area) to include a portion of Isle of Wight County which encompasses the Town of Smithfield. They also endorsed the inclusion of Isle of Wight County's Hampton Roads Planning District Commission Executive Committee member on the MPO as the representative for the added area. The Town of Smithfield has agreed with Isle of Wight representing their interest on the MPO. Smithfield will, however, have representation on the MPO's Continuing Transportation Study Technical Committee.

Pursuant to the authority vested in me as Secretary of Transportation, I concur on behalf of the Governor of Virginia with the expansion of the metropolitan area boundary and the membership to the MPO representing the additional area.

Mr. James M. Tumlin  
Mr. Peter N. Stowell  
October 15, 1992  
Page Two

The metropolitan area boundary maps will be revised to reflect the change and copies provided to you by our Department of Transportation.

Sincerely,



John G. Milliken

JGM/cmj

cc: The Honorable Lawrence Douglas Wilder  
The Honorable Reba S. McClanan  
Mr. Ray D. Pethel  
Mr. Leo J. Bevon  
Mr. Claude D. Garver, Jr.  
Mr. R. C. Lockwood

**APPENDIX J- FEDERAL MPO REGULATIONS**



(b) For STIPs that are developed under TEA-21 requirements prior to July 1, 2007, the FHWA/FTA action (i.e., STIP approval) must be completed no later than June 30, 2007. For long-range statewide transportation plans that are completed under TEA-21 requirements prior to July 1, 2007, the State adoption action must be completed no later than June 30, 2007. If these actions are completed on or after July 1, 2007, the provisions and requirements of this part shall take effect, regardless of when the long-range statewide transportation plan or the STIP were developed.

(c) The applicable action (see paragraph (b) of this section) on any amendments or updates to STIPs or long-range statewide transportation plans on or after July 1, 2007, shall be based on the provisions and requirements of this part. However, administrative modifications may be made to the STIP on or after July 1, 2007 in the absence of meeting the provisions and requirements of this part.

### Subpart C—Metropolitan Transportation Planning and Programming

#### § 450.300 Purpose.

The purposes of this subpart are to implement the provisions of 23 U.S.C. 134 and 49 U.S.C. 5303, as amended, which:

(a) Sets forth the national policy that the MPO designated for each urbanized area is to carry out a continuing, cooperative, and comprehensive multimodal transportation planning process, including the development of a metropolitan transportation plan and a transportation improvement program (TIP), that encourages and promotes the safe and efficient development, management, and operation of surface transportation systems to serve the mobility needs of people and freight (including accessible pedestrian walkways and bicycle transportation facilities) and foster economic growth and development, while minimizing transportation-related fuel consumption and air pollution; and

(b) Encourages continued development and improvement of metropolitan transportation planning processes guided by the planning factors set forth in 23 U.S.C. 134(h) and 49 U.S.C. 5303(h).

#### § 450.302 Applicability.

The provisions of this subpart are applicable to organizations and entities responsible for the transportation planning and programming processes in metropolitan planning areas.

#### § 450.304 Definitions.

Except as otherwise provided in subpart A of this part, terms defined in 23 U.S.C. 101(a) and 49 U.S.C. 5302 are used in this subpart as so defined.

#### § 450.306 Scope of the metropolitan transportation planning process.

(a) The metropolitan transportation planning process shall be continuous, cooperative, and comprehensive, and provide for consideration and implementation of projects, strategies, and services that will address the following factors:

(1) Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(2) Increase the safety of the transportation system for motorized and non-motorized users;

(3) Increase the security of the transportation system for motorized and non-motorized users;

(4) Increase accessibility and mobility of people and freight;

(5) Protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(6) Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(7) Promote efficient system management and operation; and

(8) Emphasize the preservation of the existing transportation system.

(b) Consideration of the planning factors in paragraph (a) of this section shall be reflected, as appropriate, in the metropolitan transportation planning process. The degree of consideration and analysis of the factors should be based on the scale and complexity of many issues, including transportation system development, land use, employment, economic development, human and natural environment, and housing and community development.

(c) The failure to consider any factor specified in paragraph (a) of this section shall not be reviewable by any court under title 23 U.S.C., 49 U.S.C. Chapter 53, subchapter II of title 5, U.S.C. Chapter 5, or title 5 U.S.C. Chapter 7 in any matter affecting a metropolitan transportation plan, TIP, a project or strategy, or the certification of a metropolitan transportation planning process.

(d) The metropolitan transportation planning process shall be carried out in coordination with the statewide transportation planning process

required by 23 U.S.C. 135 and 49 U.S.C. 5304.

(e) In carrying out the metropolitan transportation planning process, MPOs, States, and public transportation operators may apply asset management principles and techniques in establishing planning goals, defining TIP priorities, and assessing transportation investment decisions, including transportation system safety, operations, preservation, and maintenance, as well as strategies and policies to support homeland security and to safeguard the personal security of all motorized and non-motorized users.

(f) The metropolitan transportation planning process shall (to the maximum extent practicable) be consistent with the development of applicable regional intelligent transportation systems (ITS) architectures, as defined in 23 CFR part 940.

(g) Preparation of the coordinated public transit-human services transportation plan, as required by 49 U.S.C. 5310, 5316, and 5317, should be coordinated and consistent with the metropolitan transportation planning process.

(h) The metropolitan transportation planning process should be consistent with the Strategic Highway Safety Plan, as specified in 23 U.S.C. 148, and other transit safety and security planning and review processes, plans, and programs, as appropriate.

(i) The FHWA and the FTA shall designate as a transportation management area (TMA) each urbanized area with a population of over 200,000 individuals, as defined by the Bureau of the Census. The FHWA and the FTA shall also designate any additional urbanized area as a TMA on the request of the Governor and the MPO designated for that area.

(j) In an urbanized area not designated as a TMA that is an air quality attainment area, the MPO(s) may propose and submit to the FHWA and the FTA for approval a procedure for developing an abbreviated metropolitan transportation plan and TIP. In developing proposed simplified planning procedures, consideration shall be given to whether the abbreviated metropolitan transportation plan and TIP will achieve the purposes of 23 U.S.C. 134, 49 U.S.C. 5303, and these regulations, taking into account the complexity of the transportation problems in the area. The simplified procedures shall be developed by the MPO in cooperation with the State(s) and public transportation operator(s).

**§ 450.308 Funding for transportation planning and unified planning work programs.**

(a) Funds provided under 23 U.S.C. 104(f), 49 U.S.C. 5305(d), 49 U.S.C. 5307, and 49 U.S.C. 5339 are available to MPOs to accomplish activities in this subpart. At the State's option, funds provided under 23 U.S.C. 104(b)(1) and (b)(3) and 23 U.S.C. 105 may also be provided to MPOs for metropolitan transportation planning. In addition, an MPO serving an urbanized area with a population over 200,000, as designated by the Bureau of the Census, may at its discretion use funds sub-allocated under 23 U.S.C. 133(d)(3)(E) for metropolitan transportation planning activities.

(b) Metropolitan transportation planning activities performed with funds provided under title 23 U.S.C. and title 49 U.S.C. Chapter 53 shall be documented in a unified planning work program (UPWP) or simplified statement of work in accordance with the provisions of this section and 23 CFR part 420.

(c) Except as provided in paragraph (d) of this section, each MPO, in cooperation with the State(s) and public transportation operator(s), shall develop a UPWP that includes a discussion of the planning priorities facing the MPA. The UPWP shall identify work proposed for the next one- or two-year period by major activity and task (including activities that address the planning factors in § 450.306(a)), in sufficient detail to indicate who (e.g., MPO, State, public transportation operator, local government, or consultant) will perform the work, the schedule for completing the work, the resulting products, the proposed funding by activity/task, and a summary of the total amounts and sources of Federal and matching funds.

(d) With the prior approval of the State and the FHWA and the FTA, an MPO in an area not designated as a TMA may prepare a simplified statement of work, in cooperation with the State(s) and the public transportation operator(s), in lieu of a UPWP. A simplified statement of work would include a description of the major activities to be performed during the next one- or two-year period, who (e.g., State, MPO, public transportation operator, local government, or consultant) will perform the work, the resulting products, and a summary of the total amounts and sources of Federal and matching funds. If a simplified statement of work is used, it may be submitted as part of the State's planning work program, in accordance with 23 CFR part 420.

(e) Arrangements may be made with the FHWA and the FTA to combine the UPWP or simplified statement of work with the work program(s) for other Federal planning funds.

(f) Administrative requirements for UPWPs and simplified statements of work are contained in 23 CFR part 420 and FTA Circular C8100.1B (Program Guidance and Application Instructions for Metropolitan Planning Grants).

**§ 450.310 Metropolitan planning organization designation and redesignation.**

(a) To carry out the metropolitan transportation planning process under this subpart, a metropolitan planning organization (MPO) shall be designated for each urbanized area with a population of more than 50,000 individuals (as determined by the Bureau of the Census).

(b) MPO designation shall be made 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 largest incorporated city, based on population, as named by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

(c) Each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate MPOs shall, to the extent practicable, provide coordinated transportation planning for the entire MPA. The consent of Congress is granted to any two or more States to:

(1) 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 23 U.S.C. 134 and 49 U.S.C. 5303 as the activities pertain to interstate areas and localities within the States; and

(2) Establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(d) Each MPO that serves a TMA, when designated or redesignated under this section, shall consist of local elected officials, officials of public agencies that administer or operate major modes of transportation in the metropolitan planning area, and appropriate State transportation officials. Where appropriate, MPOs may increase the representation of local elected officials, public transportation agencies, or appropriate State officials on their policy boards and other committees as a means for encouraging greater involvement in the metropolitan transportation planning process, subject

to the requirements of paragraph (k) of this section.

(e) To the extent possible, only one MPO shall be designated for each urbanized area or group of contiguous urbanized areas. More than one MPO may be designated to serve an urbanized area only if the Governor(s) and the existing MPO, if applicable, determine that the size and complexity of the urbanized area make designation of more than one MPO appropriate. In those cases where two or more MPOs serve the same urbanized area, the MPOs shall establish official, written agreements that clearly identify areas of coordination and the division of transportation planning responsibilities among the MPOs.

(f) Nothing in this subpart shall be deemed to prohibit an MPO from using the staff resources of other agencies, non-profit organizations, or contractors to carry out selected elements of the metropolitan transportation planning process.

(g) An MPO designation shall remain in effect until an official redesignation has been made in accordance with this section.

(h) An existing MPO may be redesignated only by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city, based on population, as named by the Bureau of the Census).

(i) Redesignation of an MPO serving a multistate metropolitan planning area requires agreement between the Governors of each State served by the existing MPO and units of general purpose local government that together represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city, based on population, as named by the Bureau of the Census).

(j) For the purposes of redesignation, units of general purpose local government may be defined as elected officials from each unit of general purpose local government located within the metropolitan planning area served by the existing MPO.

(k) Redesignation of an MPO (in accordance with the provisions of this section) is required whenever the existing MPO proposes to make:

(1) A substantial change in the proportion of voting members on the existing MPO representing the largest incorporated city, other units of general purpose local government served by the MPO, and the State(s); or

(2) A substantial change in the decisionmaking authority or

responsibility of the MPO, or in decisionmaking procedures established under MPO by-laws.

(1) The following changes to an MPO do not require a redesignation (as long as they do not trigger a substantial change as described in paragraph (k) of the section):

(1) The identification of a new urbanized area (as determined by the Bureau of the Census) within an existing metropolitan planning area;

(2) Adding members to the MPO that represent new units of general purpose local government resulting from expansion of the metropolitan planning area;

(3) Adding members to satisfy the specific membership requirements for an MPO that serves a TMA; or

(4) Periodic rotation of members representing units of general-purpose local government, as established under MPO by-laws.

**§ 450.312 Metropolitan planning area boundaries.**

(a) The boundaries of a metropolitan planning area (MPA) shall be determined by agreement between the MPO and the Governor. At a minimum, the MPA boundaries shall encompass the entire existing urbanized area (as defined by the Bureau of the Census) plus the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan transportation plan. The MPA boundaries may be further expanded to encompass the entire metropolitan statistical area or combined statistical area, as defined by the Office of Management and Budget.

(b) An MPO that serves 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.*) as of August 10, 2005, shall retain the MPA boundary that existed on August 10, 2005. The MPA boundaries for such MPOs may only be adjusted by agreement of the Governor and the affected MPO in accordance with the redesignation procedures described in § 450.310(h). The MPA boundary for an MPO that serves 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.*) after August 10, 2005 may be established to coincide with the designated boundaries of the ozone and/or carbon monoxide nonattainment area, in accordance with the requirements in § 450.310(b).

(c) An MPA boundary may encompass more than one urbanized area.

(d) MPA boundaries may be established to coincide with the

geography of regional economic development and growth forecasting areas.

(e) Identification of new urbanized areas within an existing metropolitan planning area by the Bureau of the Census shall not require redesignation of the existing MPO.

(f) Where the boundaries of the urbanized area or MPA extend across two or more States, the Governors with responsibility for a portion of the multistate area, MPO(s), and the public transportation operator(s) are strongly encouraged to coordinate transportation planning for the entire multistate area.

(g) The MPA boundaries shall not overlap with each other.

(h) Where part of an urbanized area served by one MPO extends into an adjacent MPA, the MPOs shall, at a minimum, establish written agreements that clearly identify areas of coordination and the division of transportation planning responsibilities among and between the MPOs. Alternatively, the MPOs may adjust their existing boundaries so that the entire urbanized area lies within only one MPA. Boundary adjustments that change the composition of the MPO may require redesignation of one or more such MPOs.

(i) The MPA boundaries shall be reviewed after each Census by the MPO (in cooperation with the State and public transportation operator(s)) to determine if existing MPA boundaries meet the minimum statutory requirements for new and updated urbanized area(s), and shall be adjusted as necessary. As appropriate, additional 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.

(j) Following MPA boundary approval by the MPO and the Governor, the MPA boundary descriptions shall be provided for informational purposes to the FHWA and the FTA. The MPA boundary descriptions shall be submitted either as a geo-spatial database or described in sufficient detail to enable the boundaries to be accurately delineated on a map.

**§ 450.314 Metropolitan planning agreements.**

(a) The MPO, the State(s), and the public transportation operator(s) shall cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process. These responsibilities shall be

clearly identified in written agreements among the MPO, the State(s), and the public transportation operator(s) serving the MPA. To the extent possible, a single agreement between all responsible parties should be developed. The written agreement(s) shall include specific provisions for cooperatively developing and sharing information related to the development of financial plans that support the metropolitan transportation plan (see § 450.322) and the metropolitan TIP (see § 450.324) and development of the annual listing of obligated projects (see § 450.332).

(b) If the MPA does not include the entire nonattainment or maintenance area, there shall be a written 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 MPA within the nonattainment or maintenance area. The agreement must also indicate how the total transportation-related emissions for the nonattainment or maintenance area, including areas outside the MPA, will be treated for the purposes of determining conformity in accordance with the EPA's transportation conformity rule (40 CFR part 93). The agreement shall address policy mechanisms for resolving conflicts concerning transportation-related emissions that may arise between the MPA and the portion of the nonattainment or maintenance area outside the MPA.

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

(d) If more than one MPO has been designated to serve an urbanized area, there shall be a written agreement among the MPOs, the State(s), and the public transportation operator(s) describing how the metropolitan transportation planning processes will be coordinated to assure the development of consistent metropolitan transportation plans and TIPs across the MPA boundaries, particularly in cases in which a proposed transportation investment extends across the boundaries of more than one MPA. If any part of the urbanized area is a nonattainment or maintenance area, the agreement also shall include State and local air quality agencies. The

metropolitan transportation planning processes for affected MPOs should, to the maximum extent possible, reflect coordinated data collection, analysis, and planning assumptions across the MPAs. Alternatively, a single metropolitan transportation plan and/or TIP for the entire urbanized area may be developed jointly by the MPOs in cooperation with their respective planning partners. Coordination efforts and outcomes shall be documented in subsequent transmittals of the UPWP and other planning products, including the metropolitan transportation plan and TIP, to the State(s), the FHWA, and the FTA.

(c) Where the boundaries of the urbanized area or MPA extend across two or more States, the Governors with responsibility for a portion of the multistate area, the appropriate MPO(s), and the public transportation operator(s) shall coordinate transportation planning for the entire multistate area. States involved in such multistate transportation planning may:

(1) 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

(2) Establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(f) If part of an urbanized area that has been designated as a TMA overlaps into an adjacent MPA serving an urbanized area that is not designated as a TMA, the adjacent urbanized area shall not be treated as a TMA. However, a written agreement shall be established between the MPOs with MPA boundaries including a portion of the TMA, which clearly identifies the roles and responsibilities of each MPO in meeting specific TMA requirements (e.g., congestion management process, Surface Transportation Program funds suballocated to the urbanized area over 200,000 population, and project selection).

**§ 450.316 Interested parties, participation, and consultation.**

(a) The MPO shall develop and use a documented participation plan that defines a process for providing citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users

of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process.

(1) The participation plan shall be developed by the MPO in consultation with all interested parties and shall, at a minimum, describe explicit procedures, strategies, and desired outcomes for:

(i) Providing adequate public notice of public participation activities and time for public review and comment at key decision points, including but not limited to a reasonable opportunity to comment on the proposed metropolitan transportation plan and the TIP;

(ii) Providing timely notice and reasonable access to information about transportation issues and processes;

(iii) Employing visualization techniques to describe metropolitan transportation plans and TIPs;

(iv) Making public information (technical information and meeting notices) available in electronically accessible formats and means, such as the World Wide Web;

(v) Holding any public meetings at convenient and accessible locations and times;

(vi) Demonstrating explicit consideration and response to public input received during the development of the metropolitan transportation plan and the TIP;

(vii) Seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services;

(viii) Providing an additional opportunity for public comment, if the final metropolitan transportation plan or TIP differs significantly from the version that 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;

(ix) Coordinating with the statewide transportation planning public involvement and consultation processes under subpart B of this part; and

(x) Periodically reviewing the effectiveness of the procedures and strategies contained in the participation plan to ensure a full and open participation process.

(2) When significant written and oral comments are received on the draft metropolitan transportation plan and TIP (including the financial plans) as a result of the participation process in this section or the interagency consultation

process required under the EPA transportation conformity regulations (40 CFR part 93), a summary, analysis, and report on the disposition of comments shall be made as part of the final metropolitan transportation plan and TIP.

(3) A minimum public comment period of 45 calendar days shall be provided before the initial or revised participation plan is adopted by the MPO. Copies of the approved participation plan shall be provided to the FHWA and the FTA for informational purposes and shall be posted on the World Wide Web, to the maximum extent practicable.

(b) In developing metropolitan transportation plans and TIPs, the MPO should consult with agencies and officials responsible for other planning activities within the MPA that are affected by transportation (including State and local planned growth, economic development, environmental protection, airport operations, or freight movements) or coordinate its planning process (to the maximum extent practicable) with such planning activities. In addition, metropolitan transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the area that are provided by:

(1) Recipients of assistance under title 49 U.S.C. Chapter 53;

(2) Governmental agencies and non-profit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the U.S. Department of Transportation to provide non-emergency transportation services; and

(3) Recipients of assistance under 23 U.S.C. 204.

(c) When the MPA includes Indian Tribal lands, the MPO shall appropriately involve the Indian Tribal government(s) in the development of the metropolitan transportation plan and the TIP.

(d) When the MPA includes Federal public lands, the MPO shall appropriately involve the Federal land management agencies in the development of the metropolitan transportation plan and the TIP.

(e) MPOs shall, to the extent practicable, develop a documented process(es) that outlines roles, responsibilities, and key decision points for consulting with other governments and agencies, as defined in paragraphs (b), (c), and (d) of this section, which

may be included in the agreement(s) developed under § 450.314.

**§ 450.318 Transportation planning studies and project development.**

(a) Pursuant to section 1308 of the Transportation Equity Act for the 21st Century, TEA-21 (Pub. L. 105-178), an MPO(s), State(s), or public transportation operator(s) may undertake a multimodal, systems-level corridor or subarea planning study as part of the metropolitan transportation planning process. To the extent practicable, development of these transportation planning studies shall involve consultation with, or joint efforts among, the MPO(s), State(s), and/or public transportation operator(s). The results or decisions of these transportation planning studies may be used as part of the overall project development process consistent with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and associated implementing regulations (23 CFR part 771 and 40 CFR parts 1500-1508). Specifically, these corridor or subarea studies may result in producing any of the following for a proposed transportation project:

- (1) Purpose and need or goals and objective statement(s);
- (2) General travel corridor and/or general mode(s) definition (e.g., highway, transit, or a highway/transit combination);
- (3) Preliminary screening of alternatives and elimination of unreasonable alternatives;
- (4) Basic description of the environmental setting; and/or
- (5) Preliminary identification of environmental impacts and environmental mitigation.

(b) Publicly available documents or other source material produced by, or in support of, the transportation planning process described in this subpart may be incorporated directly or by reference into subsequent NEPA documents, in accordance with 40 CFR 1502.21, if:

(1) The NEPA lead agencies agree that such incorporation will aid in establishing or evaluating the purpose and need for the Federal action, reasonable alternatives, cumulative or other impacts on the human and natural environment, or mitigation of these impacts; and

(2) The systems-level, corridor, or subarea planning study is conducted with:

- (i) Involvement of interested State, local, Tribal, and Federal agencies;
- (ii) Public review;
- (iii) Reasonable opportunity to comment during the metropolitan transportation planning process and

development of the corridor or subarea planning study;

(iv) Documentation of relevant decisions in a form that is identifiable and available for review during the NEPA scoping process and can be appended to or referenced in the NEPA document; and

(v) The review of the FHWA and the FTA, as appropriate.

(c) By agreement of the NEPA lead agencies, the above integration may be accomplished through tiering (as described in 40 CFR 1502.20), incorporating the subarea or corridor planning study into the draft Environmental Impact Statement (EIS) or Environmental Assessment, or other means that the NEPA lead agencies deem appropriate.

(d) For transit fixed guideway projects requiring an Alternatives Analysis (49 U.S.C. 5309(d) and (e)), the Alternatives Analysis described in 49 CFR part 611 constitutes the planning required by section 1308 of the TEA-21. The Alternatives Analysis may or may not be combined with the preparation of a NEPA document (e.g., a draft EIS). When an Alternatives Analysis is separate from the preparation of a NEPA document, the results of the Alternatives Analysis may be used during a subsequent environmental review process as described in paragraph (a).

(e) Additional information to further explain the linkages between the transportation planning and project development/NEPA processes is contained in Appendix A to this part, including an explanation that it is non-binding guidance material.

**§ 450.320 Congestion management process in transportation management areas.**

(a) The transportation planning process in a TMA shall address congestion management through a process that provides for safe and effective integrated management and operation of the multimodal transportation system, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53 through the use of travel demand reduction and operational management strategies.

(b) The development of a congestion management process should result in multimodal system performance measures and strategies that can be reflected in the metropolitan transportation plan and the TIP. The level of system performance deemed

acceptable by State and local transportation officials may vary by type of transportation facility, geographic location (metropolitan area or subarea), and/or time of day. In addition, consideration should be given to strategies that manage demand, reduce single occupant vehicle (SOV) travel, and improve transportation system management and operations. Where the addition of general purpose lanes is determined to be an appropriate congestion management strategy, explicit consideration is to be given to the incorporation of appropriate features into the SOV project to facilitate future demand management strategies and operational improvements that will maintain the functional integrity and safety of those lanes.

(c) The congestion management process shall be developed, established, and implemented as part of the metropolitan transportation planning process that includes coordination with transportation system management and operations activities. The congestion management process shall include:

(1) Methods to monitor and evaluate the performance of the multimodal transportation system, identify the causes of recurring and non-recurring congestion, identify and evaluate alternative strategies, provide information supporting the implementation of actions, and evaluate the effectiveness of implemented actions;

(2) Definition of congestion management objectives and appropriate performance measures to assess the extent of congestion and support the evaluation of the effectiveness of congestion reduction and mobility enhancement strategies for the movement of people and goods. Since levels of acceptable system performance may vary among local communities, performance measures should be tailored to the specific needs of the area and established cooperatively by the State(s), affected MPO(s), and local officials in consultation with the operators of major modes of transportation in the coverage area;

(3) Establishment of a coordinated program for data collection and system performance monitoring to define the extent and duration of congestion, to contribute in determining the causes of congestion, and evaluate the efficiency and effectiveness of implemented actions. To the extent possible, this data collection program should be coordinated with existing data sources (including archived operational/ITS data) and coordinated with operations managers in the metropolitan area;

(4) Identification and evaluation of the anticipated performance and expected benefits of appropriate congestion management strategies that will contribute to the more effective use and improved safety of existing and future transportation systems based on the established performance measures. The following categories of strategies, or combinations of strategies, are some examples of what should be appropriately considered for each area:

- (i) Demand management measures, including growth management and congestion pricing;
- (ii) Traffic operational improvements;
- (iii) Public transportation improvements;
- (iv) ITS technologies as related to the regional ITS architecture; and
- (v) Where necessary, additional system capacity;

(5) Identification of an implementation schedule, implementation responsibilities, and possible funding sources for each strategy (or combination of strategies) proposed for implementation; and

(6) Implementation of a process for periodic assessment of the effectiveness of implemented strategies, in terms of the area's established performance measures. The results of this evaluation shall be provided to decisionmakers and the public to provide guidance on selection of effective strategies for future implementation.

(d) In a TMA designated as nonattainment area for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed for any project that will result in a significant increase in the carrying capacity for SOVs (i.e., 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 is addressed through a congestion management process meeting the requirements of this section.

(e) In TMAs designated as nonattainment for ozone or carbon monoxide, the congestion management process shall provide an appropriate analysis of reasonable (including multimodal) travel demand reduction and operational management strategies for the corridor in which a project that will result in a significant increase in capacity for SOVs (as described in paragraph (d) of this section) is proposed to be advanced with Federal funds. If the analysis demonstrates that travel demand reduction and operational management strategies cannot fully satisfy the need for additional capacity in the corridor and

additional SOV capacity is warranted, then the congestion management process shall identify all reasonable strategies to manage the SOV facility safely and effectively (or to facilitate its management in the future). Other travel demand reduction and operational management strategies appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself, shall also be identified through the congestion management process. All identified reasonable travel demand reduction and operational management strategies shall be incorporated into the SOV project or committed to by the State and MPO for implementation.

(f) State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process, if the FHWA and the FTA find that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of 23 U.S.C. 134 and 49 U.S.C. 5303.

**§ 450.322 Development and content of the metropolitan transportation plan.**

(a) The metropolitan transportation planning process shall include the development of a transportation plan addressing no less than a 20-year planning horizon as of the effective date. In nonattainment and maintenance areas, the effective date of the transportation plan shall be the date of a conformity determination issued by the FHWA and the FTA. In attainment areas, the effective date of the transportation plan shall be its date of adoption by the MPO.

(b) The transportation plan shall include both long-range and short-range strategies/actions that lead to the development of an integrated multimodal transportation system to facilitate the safe and efficient movement of people and goods in addressing current and future transportation demand.

(c) The MPO shall review and update the transportation plan at least every four years in air quality nonattainment and maintenance areas and at least every five years in attainment areas to confirm the transportation plan's validity and consistency with current and forecasted transportation and land use conditions and trends and to extend the forecast period to at least a 20-year planning horizon. In addition, the MPO may revise the transportation plan at any time using the procedures in this section without a requirement to extend the horizon year. The transportation plan (and any revisions) shall be approved by the MPO and submitted for information purposes to the Governor.

Copies of any updated or revised transportation plans must be provided to the FHWA and the FTA.

(d) In metropolitan areas that are in nonattainment for ozone or carbon monoxide, the MPO shall coordinate the development of the metropolitan transportation plan with the process for developing transportation control measures (TCMs) in a State Implementation Plan (SIP).

(e) The MPO, the State(s), and the public transportation operator(s) shall validate data utilized in preparing other existing modal plans for providing input to the transportation plan. In updating the transportation plan, the MPO shall base the update on the latest available estimates and assumptions for population, land use, travel, employment, congestion, and economic activity. The MPO shall approve transportation plan contents and supporting analyses produced by a transportation plan update.

(f) The metropolitan transportation plan shall, at a minimum, include:

- (1) The projected transportation demand of persons and goods in the metropolitan planning area over the period of the transportation plan;
- (2) Existing and proposed transportation facilities (including major roadways, transit, multimodal and intermodal facilities, pedestrian walkways and bicycle facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions over the period of the transportation plan. In addition, the locally preferred alternative selected from an Alternatives Analysis under the FTA's Capital Investment Grant program (49 U.S.C. 5309 and 49 CFR part 611) needs to be adopted as part of the metropolitan transportation plan as a condition for funding under 49 U.S.C. 5309;

(3) Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

(4) Consideration of the results of the congestion management process in TMAs that meet the requirements of this subpart, including the identification of SOV projects that result from a congestion management process in TMAs that are nonattainment for ozone or carbon monoxide;

(5) Assessment of capital investment and other strategies to preserve the existing and projected future metropolitan transportation

infrastructure and provide for multimodal capacity increases based on regional priorities and needs. The metropolitan transportation plan may consider projects and strategies that address areas or corridors where current or projected congestion threatens the efficient functioning of key elements of the metropolitan area's transportation system;

(6) Design concept and design scope descriptions of all existing and proposed transportation facilities in sufficient detail, regardless of funding source, in nonattainment and maintenance areas for conformity determinations under the EPA's transportation conformity rule (40 CFR part 93). In all areas (regardless of air quality designation), all proposed improvements shall be described in sufficient detail to develop cost estimates;

(7) A discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the metropolitan transportation plan. The discussion may focus on policies, programs, or strategies, rather than at the project level. The discussion shall be developed in consultation with Federal, State, and Tribal land management, wildlife, and regulatory agencies. The MPO may establish reasonable timeframes for performing this consultation;

(8) Pedestrian walkway and bicycle transportation facilities in accordance with 23 U.S.C. 217(g);

(9) Transportation and transit enhancement activities, as appropriate; and

(10) A financial plan that demonstrates how the adopted transportation plan can be implemented.

(i) For purposes of transportation system operations and maintenance, the financial plan shall contain system-level estimates of costs and revenue sources that are reasonably expected to be available to adequately operate and maintain Federal-aid highways (as defined by 23 U.S.C. 101(a)(5)) and public transportation (as defined by title 49 U.S.C. Chapter 53).

(ii) For the purpose of developing the metropolitan transportation plan, the MPO, public transportation operator(s), and State shall cooperatively develop estimates of funds that will be available to support metropolitan transportation plan implementation, as required under § 450.314(a). All necessary financial resources from public and private sources that are reasonably expected to

be made available to carry out the transportation plan shall be identified.

(iii) The financial plan shall include recommendations on any additional financing strategies to fund projects and programs included in the metropolitan transportation plan. In the case of new funding sources, strategies for ensuring their availability shall be identified.

(iv) In developing the financial plan, the MPO shall take into account all projects and strategies proposed for funding under title 23 U.S.C., title 49 U.S.C. Chapter 53 or with other Federal funds; State assistance; local sources; and private participation. Starting December 11, 2007, revenue and cost estimates that support the metropolitan transportation plan must use an inflation rate(s) to reflect "year of expenditure dollars," based on reasonable financial principles and information, developed cooperatively by the MPO, State(s), and public transportation operator(s).

(v) For the outer years of the metropolitan transportation plan (i.e., beyond the first 10 years), the financial plan may reflect aggregate cost ranges/cost bands, as long as the future funding source(s) is reasonably expected to be available to support the projected cost ranges/cost bands.

(vi) For nonattainment and maintenance areas, the financial plan shall address the specific financial strategies required to ensure the implementation of TCMs in the applicable SIP.

(vii) For illustrative purposes, the financial plan may (but is not required to) include additional projects that would be included in the adopted transportation plan if additional resources beyond those identified in the financial plan were to become available.

(viii) In cases that the FHWA and the FTA find a metropolitan transportation plan to be fiscally constrained and a revenue source is subsequently removed or substantially reduced (i.e., by legislative or administrative actions), the FHWA and the FTA will not withdraw the original determination of fiscal constraint; however, in such cases, the FHWA and the FTA will not act on an updated or amended metropolitan transportation plan that does not reflect the changed revenue situation.

(g) The MPO shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of the transportation plan. The consultation shall involve, as appropriate:

(1) Comparison of transportation plans with State conservation plans or maps, if available; or

(2) Comparison of transportation plans to inventories of natural or historic resources, if available.

(h) The metropolitan transportation plan should include a safety element that incorporates or summarizes the priorities, goals, countermeasures, or projects for the MPA contained in the Strategic Highway Safety Plan required under 23 U.S.C. 148, as well as (as appropriate) emergency relief and disaster preparedness plans and strategies and policies that support homeland security (as appropriate) and safeguard the personal security of all motorized and non-motorized users.

(i) The MPO shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan using the participation plan developed under § 450.316(a).

(j) The metropolitan transportation plan shall be published or otherwise made readily available by the MPO for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

(k) A State or MPO shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (f)(10) of this section.

(l) In nonattainment and maintenance areas for transportation-related pollutants, the MPO, as well as the FHWA and the FTA, must make a conformity determination on any updated or amended transportation plan in accordance with the Clean Air Act and the EPA transportation conformity regulations (40 CFR part 93). During a conformity lapse, MPOs can prepare an interim metropolitan transportation plan as a basis for advancing projects that are eligible to proceed under a conformity lapse. An interim metropolitan transportation plan consisting of eligible projects from, or consistent with, the most recent conforming transportation plan and TIP may proceed immediately without revisiting the requirements of this section, subject to interagency consultation defined in 40 CFR part 93. An interim metropolitan transportation

plan containing eligible projects that are not from, or consistent with, the most recent conforming transportation plan and TIP must meet all the requirements of this section.

**§ 450.324 Development and content of the transportation improvement program (TIP).**

(a) The MPO, in cooperation with the State(s) and any affected public transportation operator(s), shall develop a TIP for the metropolitan planning area. The TIP shall cover a period of no less than four years, be updated at least every four years, and be approved by the MPO and the Governor. However, if the TIP covers more than four years, the FHWA and the FTA will consider the projects in the additional years as informational. The TIP may be updated more frequently, but the cycle for updating the TIP must be compatible with the STIP development and approval process. The TIP expires when the FHWA/FTA approval of the STIP expires. Copies of any updated or revised TIPs must be provided to the FHWA and the FTA. In nonattainment and maintenance areas subject to transportation conformity requirements, the FHWA and the FTA, as well as the MPO, must make a conformity determination on any updated or amended TIP, in accordance with the Clean Air Act requirements and the EPA's transportation conformity regulations (40 CFR part 93).

(b) The MPO shall provide all interested parties with a reasonable opportunity to comment on the proposed TIP as required by § 450.316(a). In addition, in nonattainment area TMAs, the MPO shall provide at least one formal public meeting during the TIP development process, which should be addressed through the participation plan described in § 450.316(a). In addition, the TIP shall be published or otherwise made readily available by the MPO for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, as described in § 450.316(a).

(c) The TIP shall include capital and non-capital surface transportation projects (or phases of projects) within the boundaries of the metropolitan planning area proposed for funding under 23 U.S.C. and 49 U.S.C. Chapter 53 (including transportation enhancements; Federal Lands Highway program projects; safety projects included in the State's Strategic Highway Safety Plan; trails projects; pedestrian walkways; and bicycle facilities), except the following that may (but are not required to) be included:

(1) Safety projects funded under 23 U.S.C. 402 and 49 U.S.C. 31102;

(2) Metropolitan planning projects funded under 23 U.S.C. 104(f), 49 U.S.C. 5305(d), and 49 U.S.C. 5339;

(3) State planning and research projects funded under 23 U.S.C. 505 and 49 U.S.C. 5305(e);

(4) At the discretion of the State and MPO, State planning and research projects funded with National Highway System, Surface Transportation Program, and/or Equity Bonus funds;

(5) Emergency relief projects (except those involving substantial functional, locational, or capacity changes);

(6) National planning and research projects funded under 49 U.S.C. 5314; and

(7) Project management oversight projects funded under 49 U.S.C. 5327.

(d) The TIP shall contain all regionally significant projects requiring an action by the FHWA or the FTA whether or not the projects are to be funded under title 23 U.S.C. Chapters 1 and 2 or title 49 U.S.C. Chapter 53 (e.g., addition of an interchange to the Interstate System with State, local, and/or private funds and congressionally designated projects not funded under 23 U.S.C. or 49 U.S.C. Chapter 53). For public information and conformity purposes, the TIP shall include all regionally significant projects proposed to be funded with Federal funds other than those administered by the FHWA or the FTA, as well as all regionally significant projects to be funded with non-Federal funds.

(e) The TIP shall include, for each project or phase (e.g., preliminary engineering, environment/NEPA, right-of-way, design, or construction), the following:

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

(2) Estimated total project cost, which may extend beyond the four years of the TIP;

(3) The amount of Federal funds proposed to be obligated during each program year for the project or phase (for the first year, this includes the proposed category of Federal funds and source(s) of non-Federal funds. For the second, third, and fourth years, this includes the likely category or possible categories of Federal funds and sources of non-Federal funds);

(4) Identification of the agencies responsible for carrying out the project or phase;

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

(6) In nonattainment and maintenance areas, included projects shall be specified in sufficient detail (design concept and scope) for air quality analysis in accordance with the EPA transportation conformity regulation (40 CFR part 93); and

(7) In areas with Americans with Disabilities Act required paratransit and key station plans, identification of those projects that will implement these plans.

(f) Projects that are not considered to be of appropriate scale for individual identification in a given program year may be grouped by function, work type, and/or geographic area using the applicable classifications under 23 CFR 771.117(c) and (d) and/or 40 CFR part 93. In nonattainment and maintenance areas, project classifications must be consistent with the "exempt project" classifications contained in the EPA transportation conformity regulation (40 CFR part 93). In addition, projects proposed for funding under title 23 U.S.C. Chapter 2 that are not regionally significant may be grouped in one line item or identified individually in the TIP.

(g) Each project or project phase included in the TIP shall be consistent with the approved metropolitan transportation plan.

(h) The TIP shall include a financial plan that demonstrates how the approved TIP can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the TIP, and recommends any additional financing strategies for needed projects and programs. In developing the TIP, the MPO, State(s), and public transportation operator(s) shall cooperatively develop estimates of funds that are reasonably expected to be available to support TIP implementation, in accordance with § 450.314(a). Only projects for which construction or 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 plan, the MPO shall take into account all projects and strategies funded under title 23 U.S.C., title 49 U.S.C. Chapter 53 and other Federal funds; and regionally significant projects that are not federally funded. For purposes of transportation operations and maintenance, the financial plan shall contain system-level estimates of costs and revenue sources that are reasonably expected to be available to adequately operate and maintain Federal-aid highways (as defined by 23 U.S.C. 101(a)(5)) and



public transportation (as defined by title 49 U.S.C. Chapter 53). In addition, for illustrative purposes, the financial plan may (but is not required to) include additional projects that would be included in the TIP if reasonable additional resources beyond those identified in the financial plan were to become available. Starting [Insert date 270 days after effective date], revenue and cost estimates for the TIP must use an inflation rate(s) to reflect "year of expenditure dollars," based on reasonable financial principles and information, developed cooperatively by the MPO, State(s), and public transportation operator(s).

(i) The TIP shall include a project, or a 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. In nonattainment and maintenance areas, projects included in the first two years of the TIP shall be limited to those for which funds are available or committed. For the TIP, financial constraint shall be demonstrated and maintained by year and shall include sufficient financial information to demonstrate which projects are to be implemented using current and/or reasonably available revenues, while federally supported facilities are being adequately operated and maintained. In the case of proposed funding sources, strategies for ensuring their availability shall be identified in the financial plan consistent with paragraph (h) of this section. In nonattainment and maintenance areas, the TIP shall give priority to eligible TCMs identified in the approved SIP in accordance with the EPA transportation conformity regulation (40 CFR part 93) and shall provide for their timely implementation.

(j) Procedures or agreements that distribute suballocated Surface Transportation Program funds or funds under 49 U.S.C. 5307 to individual jurisdictions or modes within the MPA by pre-determined percentages or formulas are inconsistent with the legislative provisions that require the MPO, in cooperation with the State and the public transportation operator, 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 metropolitan transportation planning process.

(k) For the purpose of including projects funded under 49 U.S.C. 5309 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 MPA; and

(2) The total Federal share of projects included in the second, third, fourth, and/or subsequent years of the TIP may not exceed levels of funding committed, or reasonably expected to be available, to the MPA.

(l) As a management tool for monitoring progress in implementing the transportation plan, the TIP should:

(1) Identify the criteria and process for prioritizing implementation of transportation plan elements (including multimodal 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; and

(3) In nonattainment and maintenance areas, describe the progress in implementing any required TCMs, in accordance with 40 CFR part 93.

(m) During a conformity lapse, MPOs may prepare an interim TIP as a basis for advancing projects that are eligible to proceed under a conformity lapse. An interim TIP consisting of eligible projects from, or consistent with, the most recent conforming metropolitan transportation plan and TIP may proceed immediately without revisiting the requirements of this section, subject to interagency consultation defined in 40 CFR part 93. An interim TIP containing eligible projects that are not from, or consistent with, the most recent conforming transportation plan and TIP must meet all the requirements of this section.

(n) Projects in any of the first four years of the TIP may be advanced in place of another project in the first four years of the TIP, subject to the project selection requirements of § 450.330. In addition, the TIP may be revised at any time under procedures agreed to by the State, MPO(s), and public transportation operator(s) consistent with the TIP development procedures established in this section, as well as the procedures for the MPO participation plan (see § 450.316(a)) and FHWA/FTA actions on the TIP (see § 450.328).

(o) In cases that the FHWA and the FTA find a TIP to be fiscally constrained and a revenue source is subsequently removed or substantially reduced (i.e., by legislative or administrative actions), the FHWA and the FTA will not withdraw the original determination of fiscal constraint. However, in such cases, the FHWA and the FTA will not act on an updated or amended TIP that does not reflect the changed revenue situation.

#### **§ 450.326 TIP revisions and relationship to the STIP.**

(a) An MPO may revise the TIP at any time under procedures agreed to by the cooperating parties consistent with the procedures established in this part for its development and approval. In nonattainment or maintenance areas for transportation-related pollutants, if a TIP amendment involves non-exempt projects (per 40 CFR part 93), or is replaced with an updated TIP, the MPO and the FHWA and the FTA must make a new conformity determination. In all areas, changes that affect fiscal constraint must take place by amendment of the TIP. Public participation procedures consistent with § 450.316(a) shall be utilized in revising the TIP, except that these procedures are not required for administrative modifications.

(b) After approval by the MPO and the Governor, the TIP shall be included without change, directly or by reference, in the STIP required under 23 U.S.C. 135. In nonattainment and maintenance areas, a conformity finding on the TIP must be made by the FHWA and the FTA before it is included in the STIP. A copy of the approved TIP shall be provided to the FHWA and the FTA.

(c) The State shall notify the MPO and Federal land management agencies when a TIP including projects under the jurisdiction of these agencies has been included in the STIP.

#### **§ 450.328 TIP action by the FHWA and the FTA.**

(a) The FHWA and the FTA shall jointly find that each metropolitan TIP is consistent with the metropolitan transportation plan produced by the continuing and comprehensive transportation process carried on cooperatively by the MPO(s), the State(s), and the public transportation operator(s) in accordance with 23 U.S.C. 134 and 49 U.S.C. 5303. This finding shall be based on the self-certification statement submitted by the State and MPO under § 450.334, a review of the metropolitan transportation plan by the FHWA and the FTA, and upon other reviews as deemed necessary by the FHWA and the FTA.

(b) In nonattainment and maintenance areas, the MPO, as well as the FHWA and the FTA, shall determine conformity of any updated or amended TIP, in accordance with 40 CFR part 93. After the FHWA and the FTA issue a conformity determination on the TIP, the TIP shall be incorporated, without change, into the STIP, directly or by reference.

(c) If the metropolitan transportation plan has not been updated in

accordance with the cycles defined in § 450.322(c), projects may only be advanced from a TIP that was approved and found to conform (in nonattainment and maintenance areas) prior to expiration of the metropolitan transportation plan and meets the TIP update requirements of § 450.324(a). Until the MPO approves (in attainment areas) or the FHWA/FTA issues a conformity determination on (in nonattainment and maintenance areas) the updated metropolitan transportation plan, the TIP may not be amended.

(d) In the case of extenuating circumstances, the FHWA and the FTA will consider and take appropriate action on requests to extend the STIP approval period for all or part of the TIP in accordance with § 450.218(c).

(e) If an illustrative project is included in the TIP, no Federal action may be taken on that project by the FHWA and the FTA until it is formally included in the financially constrained and conforming metropolitan transportation plan and TIP.

(f) Where necessary in order to maintain or establish operations, the FHWA and the FTA may approve highway and transit operating assistance for specific projects or programs, even though the projects or programs may not be included in an approved TIP.

#### § 450.330 Project selection from the TIP.

(a) Once a TIP that meets the requirements of 23 U.S.C. 134(j), 49 U.S.C. 5303(j), and § 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 or where there are significant shifting of projects between years. In this case, a revised "agreed to" list of projects shall be jointly developed by the MPO, the State, and the public transportation operator(s) if requested by the MPO, the State, or the public transportation operator(s). If the State or public transportation operator(s) wishes to proceed with a project in the second, third, or fourth year of the TIP, the specific project selection procedures stated in paragraphs (b) and (c) of this section must be used unless the MPO, the State, and the public transportation operator(s) jointly develop expedited project selection procedures to provide for the advancement of projects from the second, third, or fourth years of the TIP.

(b) In metropolitan areas not designated as TMAs, projects to be implemented using title 23 U.S.C. funds (other than Federal Lands Highway program projects) or funds under title 49 U.S.C. Chapter 53, shall be selected by the State and/or the public transportation operator(s), in cooperation with the MPO from the approved metropolitan TIP. Federal Lands Highway program projects shall be selected in accordance with procedures developed pursuant to 23 U.S.C. 204.

(c) In areas designated as TMAs, all 23 U.S.C. and 49 U.S.C. Chapter 53 funded projects (excluding projects on the National Highway System (NHS) and projects funded under the Bridge, Interstate Maintenance, and Federal Lands Highway programs) shall be selected by the MPO in consultation with the State and public transportation operator(s) from the approved TIP and in accordance with the priorities in the approved 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 TIP. Federal Lands Highway program projects shall be selected in accordance with procedures developed pursuant to 23 U.S.C. 204.

(d) Except as provided in § 450.324(c) and § 450.328(f), projects not included in the federally approved STIP shall not be eligible for funding with funds under title 23 U.S.C. or 49 U.S.C. Chapter 53.

(e) In nonattainment and maintenance areas, priority shall be given to the timely implementation of TCMs contained in the applicable SIP in accordance with the EPA transportation conformity regulations (40 CFR part 93).

#### § 450.332 Annual listing of obligated projects.

(a) In metropolitan planning areas, on an annual basis, no later than 90 calendar days following the end of the program year, the State, public transportation operator(s), and the MPO shall cooperatively develop a listing of projects (including investments in pedestrian walkways and bicycle transportation facilities) for which funds under 23 U.S.C. or 49 U.S.C. Chapter 53 were obligated in the preceding program year.

(b) The listing shall be prepared in accordance with § 450.314(a) and shall include all federally funded projects authorized or revised to increase obligations in the preceding program year, and shall at a minimum include the TIP information under § 450.324(e)(1) and (4) and identify, for each project, the amount of Federal

funds requested in the TIP, the Federal funding that was obligated during the preceding year, and the Federal funding remaining and available for subsequent years.

(c) The listing shall be published or otherwise made available in accordance with the MPO's public participation criteria for the TIP.

#### § 450.334 Self-certifications and Federal certifications.

(a) For all MPAs, concurrent with the submittal of the entire proposed TIP to the FHWA and the FTA as part of the STIP approval, the State and the MPO shall certify at least every four years that the metropolitan transportation planning process is being carried out in accordance with all applicable requirements including:

(1) 23 U.S.C. 134, 49 U.S.C. 5303, and this subpart;

(2) In nonattainment and maintenance areas, sections 174 and 176 (c) and (d) of the Clean Air Act, as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR part 93;

(3) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1) and 49 CFR part 21;

(4) 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;

(5) Section 1101(b) of the SAFETEA-LU (Pub. L. 109-59) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects;

(6) 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;

(7) The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) and 49 CFR parts 27, 37, and 38;

(8) The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;

(9) Section 324 of title 23 U.S.C. regarding the prohibition of discrimination based on gender; and

(10) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

(b) In TMAs, the FHWA and the FTA jointly shall review and evaluate the transportation planning process for each TMA no less than once every four years to determine if the process meets the requirements of applicable provisions of Federal law and this subpart.

(1) After review and evaluation of the TMA planning process, the FHWA and

FTA shall take one of the following actions:

(i) If the process meets the requirements of this part and a TIP has been approved by the MPO and the Governor, jointly certify the transportation planning process;

(ii) If the process substantially meets the requirements of this part and a TIP has been approved by the MPO and the Governor, jointly certify the transportation planning process subject to certain specified corrective actions being taken; or

(iii) If the process does not meet the requirements of this part, jointly certify the planning process as the basis for approval of only those categories of programs or projects that the FHWA and the FTA jointly determine, subject to certain specified corrective actions being taken.

(2) If, upon the review and evaluation conducted under paragraph (b)(1)(iii) of this section, the FHWA and the FTA do not certify the transportation planning process in a TMA, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the MPO for projects funded under title 23 U.S.C. and title 49 U.S.C. Chapter 53 in addition to corrective actions and funding restrictions. The withheld funds shall be restored to the MPA when the metropolitan transportation planning process is certified by the FHWA and FTA, unless the funds have lapsed.

(3) A certification of the TMA planning process will remain in effect for four years unless a new certification determination is made sooner by the FHWA and the FTA or a shorter term is specified in the certification report.

(4) In conducting a certification review, the FHWA and the FTA shall provide opportunities for public involvement within the metropolitan planning area under review. The FHWA and the FTA shall consider the public input received in arriving at a decision on a certification action.

(5) The MPO(s), the State(s), and public transportation operator(s) shall be notified of the actions taken under paragraphs (b)(1) and (b)(2) of this section. The FHWA and the FTA will update the certification status of the TMA when evidence of satisfactory completion of a corrective action(s) is provided to the FHWA and the FTA.

**§ 450.336 Applicability of NEPA to metropolitan transportation plans and programs.**

Any decision by the Secretary concerning a metropolitan transportation plan or TIP developed through the processes provided for in 23

U.S.C. 134, 49 U.S.C. 5303, and this subpart shall not be considered to be a Federal action subject to review under NEPA.

**§ 450.338 Phase-in of new requirements.**

(a) Metropolitan transportation plans and TIPs adopted or approved prior to July 1, 2007 may be developed using the TEA-21 requirements or the provisions and requirements of this part.

(b) For metropolitan transportation plans and TIPs that are developed under TEA-21 requirements prior to July 1, 2007, the FHWA/FTA action (i.e., conformity determinations and STIP approvals) must be completed no later than June 30, 2007. For metropolitan transportation plans in attainment areas that are developed under TEA-21 requirements prior to July 1, 2007, the MPO adoption action must be completed no later than June 30, 2007. If these actions are completed on or after July 1, 2007, the provisions and requirements of this part shall take effect, regardless of when the metropolitan transportation plan or TIP were developed.

(c) On and after July 1, 2007, the FHWA and the FTA will take action on a new TIP developed under the provisions of this part, even if the MPO has not yet adopted a new metropolitan transportation plan under the provisions of this part, as long as the underlying transportation planning process is consistent with the requirements in the SAFETEA-LU.

(d) The applicable action (see paragraph (b) of this section) on any amendments or updates to metropolitan transportation plans and TIPs on or after July 1, 2007, shall be based on the provisions and requirements of this part. However, administrative modifications may be made to the metropolitan transportation plan or TIP on or after July 1, 2007 in the absence of meeting the provisions and requirements of this part.

(e) For new TMAs, the congestion management process described in § 450.320 shall be implemented within 18 months of the designation of a new TMA.

**Appendix A to Part 450—Linking the Transportation Planning and NEPA Processes**

*Background and Overview:*

This Appendix provides additional information to explain the linkage between the transportation planning and project development/National Environmental Policy Act (NEPA) processes. It is intended to be non-binding and should not be construed as a rule of general applicability.

For 40 years, the Congress has directed that federally-funded highway and transit projects

must flow from metropolitan and statewide transportation planning processes (pursuant to 23 U.S.C. 134–135 and 49 U.S.C. 5303–5306). Over the years, the Congress has refined and strengthened the transportation planning process as the foundation for project decisions, emphasizing public involvement, consideration of environmental and other factors, and a Federal role that oversees the transportation planning process but does not second-guess the content of transportation plans and programs.

Despite this statutory emphasis on transportation planning, the environmental analyses produced to meet the requirements of the NEPA of 1969 (42 U.S.C. 4231 *et seq.*) have often been conducted *de novo*, disconnected from the analyses used to develop long-range transportation plans, statewide and metropolitan Transportation Improvement Programs (STIPs/TIPs), or planning-level corridor/subarea/feasibility studies. When the NEPA and transportation planning processes are not well coordinated, the NEPA process may lead to the development of information that is more appropriately developed in the planning process, resulting in duplication of work and delays in transportation improvements.

The purpose of this Appendix is to change this culture, by supporting congressional intent that statewide and metropolitan transportation planning should be the foundation for highway and transit project decisions. This Appendix was crafted to recognize that transportation planning processes vary across the country. This document provides details on how information, analysis, and products from transportation planning can be incorporated into and relied upon in NEPA documents under existing laws, regardless of when the Notice of Intent has been published. This Appendix presents environmental review as a continuum of sequential study, refinement, and expansion performed in transportation planning and during project development/NEPA, with information developed and conclusions drawn in early stages utilized in subsequent (and more detailed) review stages.

The information below is intended for use by State departments of transportation (State DOTs), metropolitan planning organizations (MPOs), and public transportation operators to clarify the circumstances under which transportation planning level choices and analyses can be adopted or incorporated into the process required by NEPA. Additionally, the FHWA and the FTA will work with Federal environmental, regulatory, and resource agencies to incorporate the principles of this Appendix in their day-to-day NEPA policies and procedures related to their involvement in highway and transit projects.

This Appendix does not extend NEPA requirements to transportation plans and programs. The Transportation Efficiency Act for the 21st Century (TEA-21) and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) specifically exempted transportation plans and programs from NEPA review. Therefore, initiating the NEPA process as part of, or concurrently with, a

## **APPENDIX K- CITIZEN COMMENTS**

RAYNOR A.K. TAYLOR  
813 MARIPOSA COURT  
VIRGINIA BEACH, VIRGINIA 23455

December 3, 2007

**Memorandum for:**

Ivan Rucker, Regional Office, Federal Highway Administration  
Tony Cho, Regional Administrator, Federal Transit Administration  
Marsha C. Fiol, Virginia Department of Transportation  
Dennis Heuer, Regional Office, Virginia Department of Administration  
Brian Betlyon, FHWA Metropolitan Planning Specialist

**Subject:** Additional public comment inputs

**Reference:** Public Listening Session on Regional Transportation conducted on November 14, 2007 as part of the Federal Certification Review of the Hampton Roads Metropolitan Planning Organization (MPO) scheduled for the following day.

At the public listening session, I formally submitted a copy of the MPO Study Group Report dated September 15, 2007, a product of the Regional Structure Project of the Future of Hampton Roads organization in Hampton Roads, and a report that contains analysis and many recommendations that should assist the federal certification review process to contribute to ongoing (and needed) MPO reform.

At this listening session, I made three additional comments during the discussions:

1. Urged that the MPO's process of public involvement be greatly strengthened. Here, a comparison of procedures used by the (bi-state) MPO in Northern Virginia should be made, and a comparison of the procedures used to roll out the Transportation Authorities in Northern Virginia (with multiple publicly managed professional study groups) and Hampton Roads should also be made.
2. Noted that (per documentation) the FHWA representative is a non-voting member of the MPO Board but never sits at the Board meeting table, and therefore his or her voice and advice (which is needed) is never heard, and, therefore, I asked if this could be improved or made to be a corrective action.
3. Noted that the regional FTA representative, also a member of the MPO Board, seems rarely (if ever) to attend or participate in MPO Board meetings. While noting there were travel budget limitations, I asked if this situation could be improved or made to be a corrective action (perhaps formally scheduling a once a year FTA participation event at a Hampton Roads MPO Board meeting to give guidance, a briefing, and recommendations). FTA provides considerable assistance to the local Transit Authority and did participate all day during the

certification review, two forms of involvement that are much appreciated. Still, our MPO needs to be elevated to its next new level of performance, and FTA can assist.

Pursuant to the opportunity to provide additional comments within sixty days, the following additional comments are submitted all with the goal of strengthening the ability of our MPO to move up to the next level of expertise, effectiveness, and public and legislative support.

Institutional stature: As the 31<sup>st</sup> largest metro area in the nation and with one of the nation's largest export and import shipping centers with considerable bearing on the nation's economy, very few people in Hampton Roads know of the region's MPO. It is nearly invisible—it has no stationary, no logo, no motto, no separate Bylaws, and no separate website or distinctive section on the PDC website. The MPO's (considerable) budget is merged with that of the PDC, and its federally required UPWP document contains other matters which dilutes the federally intended focus on regional transportation. Nearly all MPO reports and studies do not show the name MPO and most often, they contain the list of PDC Board members (not the list of MPO Board members who were the persons who voted on the plan or report). Other shortcomings exist that in the aggregate diminish the desired, proud, and publicly recognized institutional stature of the Hampton Roads MPO. We think this unwittingly caps the otherwise excellent technical staff from achieving its full potential. To the extent these observations and public comments have merit; we hope the ongoing federal certification review will assist with strong guidance and recommended corrective actions that then leads to an improved and proud institutional stature of the Hampton Roads MPO.

Legitimacy. Per the state's MPO Letter of Designation, the PDC shall serve as the staff of the MPO. In reality, however, the MPO has been subordinated to the PDC. This current relationship is a de facto, not a de jure, arrangement. It is the source of immense confusion that requires work-arounds that contribute to the suppressed institutional stature noted above. The confusion limits certain MPO functions such as the duty to conduct advocacy (serve as the advocate of the region's transportation plans) or to do effective public involvement work, functions that are not granted to the PDC. The MPO Study Group Report addresses related legal challenges important to this question of legitimacy. This topic may be beyond the scope of the ongoing federal certification review, but pending FHWA and FTA findings, the certification review report may be able to provide recommended corrective actions that will improve the current confusing situation. Separating the MPO and PDC meetings (doing the MPO meeting first), separating the budgets and the UPWP, and placing all transportation agenda items on the MPO agenda instead of the PDC agenda are just a few suggestions toward that end. Please see the MPO Study Group Report.

Training. Hopefully, the federal certification review will examine this topic in depth. From our studies and numerous Board member interviews, there is truly great need for Board members to gain comprehensive training as concerns the history, mission, and duties of MPO organizations and MPO Board members. Of over fifty recommendations, our MPO Study Group report ranked this need for Board member training very high (as

did most of the Board members we interviewed) on the priority list of reform recommendations. For PDC and MPO Board members, there is a four hour (as reported during the listening session) PDC training program, but it is our judgment that this is far from sufficient for MPO purposes. This is a major topic that warrants urgent corrective action.

Clarity of terms. I would suggest that there is need for an improved rigor in the use of federal transportation planning terminology. With this in mind, I submitted a public comment earlier this month (copy attached). I request this topic be reviewed and that recommended corrective actions (as appropriate) be developed as a part of the federal certification review in order to improve the effectiveness of our MPO. The public comment specifically addressed the Hampton Roads 2030 Regional Transportation Plan (draft) document.

MPO Board meeting agendas. Recommend doing a detailed comparative analysis of MPO Board meeting agenda topics. From the view of an outside observer and from comparing agendas with those of Northern Virginia and those of other MPOs of our size around the country, there seems to be a golden opportunity to substantially increase the federal legislation topics that are addressed at our MPO Board meetings, especially the many new tenets of SAFETEA (in bite size pieces over several Board meetings), federal grant opportunities, new programs, in depth explanations of fiscal constraint, etc. Clear guidance and recommended corrective actions in this regard could only assist the Hampton Roads MPO.

The MPO's budget. Recommend doing a detailed analysis of the MPO's budget and budget procedures. We do not have access to this kind of data, but during our studies, many have worried about this, and, therefore, it should be analyzed.

Attachments:

- MPO Study Group report, September 15, 2007.
- Public Comments submitted with regard to the recently proposed Hampton Roads 2030 Regional Long Range Transportation Plan, dated November 10, 2007.

Submitted,

Ray Taylor  
Chair, MPO Study Group  
757-671-7751  
taylorrak@cox.net

813 Mariposa Court  
Virginia Beach, VA 23455

**Rucker, Ivan**

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**From:** Gergely [gergely@visi.net]  
**Sent:** Wednesday, November 14, 2007 11:05 PM  
**To:** Rucker, Ivan  
**Cc:** Mike Hazlewood; Manny Puma; Delegate Tom Gear; Tom Gear; Del Phillip Hamilton  
**Subject:** Public Feedback

Ivan Rucker

Metropolitan Transportation Planner

Federal Highway Administration

Ivan,

I first want to thank you for your consideration today. I sincerely appreciated it.

It was hard to get all of my points across, especially being only one of the two "public" at the meeting who wasn't connected to other political interests. I assure you that I have no political or financial connections involving these proceedings.

It was particularly hard trying to express the public outrage over the third crossing without other members of the interested public in attendance. This is rather typical of the advertisement that has gone on for the public meetings. No one knew it was going on. My wife happened to see the notice buried in our newspaper.

The only well attended meetings were those when a something like rogue newspaper or TV article publicized them. But, at those meetings, as Arthur Collins had trouble voicing today, the public input was "brutal".

I apologize for not being well versed on all of the acronyms of the several groups and authorities involved, but until today have found it unimportant, because they are all manned by essentially the same people, and all seem to be managed in one way or another by Arthur Collins.

My bottom lines are:



a.. The westbound tube of the Hampton Roads Bridge Tunnel (HRBT) is over 50 years old and the other is over 30 years old. Closing one tube down indefinitely would cripple traffic in this area. Regardless what the gentleman plugging mass transit said. The detour he referred to would not be realized until completion of Phase II construction. How many years, no one knows. 15, 20? Will the rebar in westbound HRBT tube last 70 years submerged under 50 feet of salt water. And then it would still be an unacceptable detour full of trailer trucks.

a.. The MPO's intermodal tube in the third crossing is nothing but lip service to satisfy a requirement, apparently a federal requirement. It has no purpose. Contrary to what was said today, there are no plans to make any connections to it on either side. Check it out. By time anything was ever thought of, funded and built, the tube would be technically obsolete. The old HRBT tube would be a much cheaper prospect to be converted to intermodal traffic particularly since it is undersized for modern trailer traffic.

a.. The third crossing has no purpose for existence other than to support the Maersk port. A layman's understanding of the local geography and traffic patterns can easily see through the sham. Is building it for the port good? Maybe. But it will serve no purpose to relieve traffic congestion. And, recently the Port Authority announced that it is not a factor in their design and is not needed by the port. A political bluff? Maybe. But the statement should be examined. If the third crossing is built at all, its' construction should be from some sort of economic development funds obtained from port interests, not public transportation funds.

a.. As for the Phase I plans, the widening of the Monitor Merrimack Bridge Tunnel is part-and-parcel only to support the eventual Phase II third crossing projects. It has virtually no traffic congestion relief purpose. Certainly not near the congestion relief that additional tubes at the HRBT would make.

For further input, I would suggest that you contact Virginia General Assembly Delegates Phillip Hamilton and Tom Gear, whom I have cc'd on this message and two local mayors, Mayor Gordon Helsei of Poquoson and Mayor Ross Kearney of Hampton.

I intend to put a package together for your information regarding all of the public input so far that has been generally ignored by the MPO.

I would be interested in receiving copies of any presentations tomorrow or reports generated.

Thank you again for your consideration,

John (Jack) Gergely PE

449 Winterhaven Dr.

Newport News, VA 23606

## SPEAKER'S CARD FOR PUBLIC MEETINGS

### Speaker Card

Hampton Roads MPO Certification Review

Public Meeting November 14, 2007

If you wish to make a comment during the meeting, please complete this card and provide it to the person at the sign-in desk. Knowing that you want to speak will allow us to better manage the time available during the meeting and will help assure that everyone has an opportunity for input. You may provide a written summary in the subject field if desired.

Name:

Bruce Williams

Address:

1068 Meadow Brook Rd Virginia Beach, VA

Agency/Group (if any):

HL Committee of 200 Plus MGN, VBS NAACT

Subject:

Mass Transit Planning for the HR Region  
needs to be comprehensive + planned well  
the dollars of investment + the benefit  
of that investment.

## SPEAKER'S CARD FOR PUBLIC MEETINGS

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Name:

JoAnn Clarke

Address:

3905 Balboa Cres, Ches.

Agency/Group (if any):

Subject: I would suggest if the group wishes  
better involvement - a time later in  
the day - after work hours - would  
allow for more citizen involvement.