



## MEMORANDUM

**TO:** TPB Technical Committee  
**FROM:** Eric Randall, TPB Transportation Engineer  
**SUBJECT:** Update on Federal Planning Regulations  
**DATE:** September 2, 2016

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This memorandum provides an update for the TPB Technical Committee on recent activities in proposed federal planning rulemaking and for the performance-based planning and programming (PBPP) requirements set forth in the Statewide and Metropolitan Planning Rule. The memorandum provides an update on the recent proposed changes to the metropolitan planning area and coordination process and the final performance based planning and programming rules for transit asset management.

### **MPO COORDINATION AND PLANNING AREA REFORM PROPOSED RULE**

A Notice of Proposed Rulemaking (NPRM) for Metropolitan Planning Organization Coordination and Planning Area Reform<sup>1</sup> was published June 27, 2016. The proposed rule would revise transportation planning regulations to “promote more effective regional planning by States and metropolitan planning organizations (MPO)”.

Proposed requirements in the NPRM include:

- Metropolitan Planning Area (MPA) boundaries must include the entire Urbanized Area (UZA) and contiguous area expected to become urbanized within 20 years, with an exception for multiple MPOs in a single MPA if size and complexity make multiple MPOs appropriate.
- In MPAs where more than one MPO is designated, those MPOs within the MPA shall (1) jointly develop a single metropolitan transportation plan (e.g., CLRP) and a single transportation improvement program (TIP) for the MPA; (2) agree to a process for making a single conformity determination on the joint plan; and (3) jointly established the performance targets for the MPA to address the new federal PBPP requirements.
- Metropolitan planning agreements would have to be updated among other things to include coordination strategies<sup>2</sup> and dispute resolution procedures between the States and the MPOs and between adjacent MPOs.

The TPB was notified (attached memorandum) about the publication of the proposed rule and the due date for comments during its July 20, 2016 meeting.

Comments on the NPRM were due by August 26. Attached is the TPB’s comment letter. Over 500 comments were submitted to the federal docket, overwhelmingly in favor of withdrawing or significantly scaling back this proposed rulemaking. included as attachments are comments submitted by the Virginia and Maryland Departments of Transportation.

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<sup>1</sup> <https://www.gpo.gov/fdsys/pkg/FR-2016-06-27/pdf/2016-14854.pdf>

<sup>2</sup> The proposed rule would require rather than encourage the use of coordinated data collection, analysis and planning assumptions across the MPA.

## **TRANSIT ASSET MANAGEMENT RULE**

As part of the federal PBPP rulemaking, the final Transit Asset Management rule was published in the Federal Register on July 26, 2016, and becomes effective October 1, 2016.<sup>3</sup> Transit asset management (TAM) is “a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively through the life cycle of such assets.”

Under the final TAM rule, transit providers must collect and report data for four performance measures, covering equipment, rolling stock, infrastructure, and facility condition. For these measures, transit providers will have to set targets for the upcoming fiscal year, develop a four-year TAM plan for managing capital assets, and use a decision support tool and analytical process to develop a prioritized list of investments. This rule applies to all recipients and subrecipients of Federal transit funds (e.g., Section 53XX funds) that own, operate, or manage capital assets used in the provision of public transportation and would require accounting for all assets used in the provision of public transportation service, regardless of funding source, and whether used by the recipient or subrecipient directly, or leased by a third party. A one-page summary is attached.

Upcoming requirements include:

- Transit providers must establish performance targets for FY 2018 by January 1, 2017.
- Transit providers must report data and targets by January 30, 2017 in the National Transit Database.
- TPB adopts transit asset targets for the metropolitan region within 180 days (i.e., by June 30, 2017).
- Transit providers must develop four-year TAM Plans by October 2018.

The TPB Regional Public Transportation Subcommittee has discussed this rulemaking, and TPB staff will be following up with a formal request for coordination with all transit providers. Aside from WMATA and PRTC/VRE, it appears that this ruling applies to every county and city in the region that operates public transportation.

TPB staff is continuing collaboration with DDOT, MDOT, and VDOT, as well as with WMATA and other providers of public transportation, for each PBPP performance area: Highway Safety, Highway and Bridge Condition, System Performance (Congestion, Freight, and CMAQ), Transit Safety and Transit Asset Management.

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<sup>3</sup> <https://www.gpo.gov/fdsys/pkg/FR-2016-07-26/pdf/2016-16883.pdf>



## **MEMORANDUM**

**TO:** Transportation Planning Board  
**FROM:** Kanti Srikanth, TPB Staff Director  
Eric Randall, TPB Transportation Engineer  
**SUBJECT:** Proposed revisions to regional planning by Metropolitan Planning Organizations  
**DATE:** July 14, 2016

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In the June 27, 2016 edition of the Federal Register the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) published proposed revisions to the transportation planning regulations that govern the regional planning activities of Metropolitan Planning Organizations (MPOs) such as the TPB. FHWA and FTA are accepting comments on the proposed revisions to the planning regulations until August 26, 2016. The proposed revisions are substantive in scope and would require significant actions by the TPB, in close coordination with adjacent MPOs and the Governors of Maryland and Virginia and the Mayor of the District of Columbia to fully comply with the proposed revised requirements.

Staff is currently reviewing the proposed revisions to the planning regulations and plans to develop comments on the proposed revisions. Staff will be holding consultations with the transportation departments in Maryland, Virginia, and the District of Columbia, as well as the two adjacent MPOs (the Baltimore Regional Transportation Board and the Fredericksburg MPO) to develop their comments. Additionally, staff plans to coordinate the review and comment process with those being undertaken by the Association of MPOs (AMPO), the National Association of Regional Councils (NARC), and the American Association of State Highway and Transportation Officials (AASHTO). A nationwide webinar is being held by FHWA and FTA on July 15 to brief the stakeholder agencies on the proposed revisions.

Additionally, on April 22, 2016 FHWA published proposed rules under the National Performance Management Measures; Assessing Performance of the National Highway System, Freight Movement on the Interstate System, and Congestion Mitigation and Air Quality Improvement Program. This is the third set of rules proposed under performance management requirements of MAP-21. The proposed rules seek to establish national measures for traffic congestion; on-road mobile source emissions; freight movement on the Interstate System; performance of the Interstate System; and performance of the non-Interstate National Highway System. FHWA is accepting comments on the proposed rules until August 20, 2016. Staff is working with the Departments of Transportation in Maryland, Virginia and the District of Columbia to develop comments on the proposed rule.

Given that the comments on both of the above proposed rules are due in August when the board is not scheduled to meet, staff will work with the officers of the board in finalizing the comments prior to submitting them to the federal docket.

## **SUMMARY OF PROPOSED MPO COORDINATION AND PLANNING AREA REFORM RULE**

The stated purpose of the proposed revisions to the planning rule is to improve the transportation planning process by strengthening the coordination of MPOs and States and promoting the use of regional approaches to planning and decision-making.

The proposed rule would revise the regulatory definition of metropolitan planning area to “better align with the statutory requirements in 23 U.S.C. 134 and 49 U.S.C. 5303.” Currently, most MPOs including the TPB, treat their metropolitan planning area (MPA) as synonymous with the MPO’s boundary. The proposed revisions would specifically amend the definition of MPA to require the MPA, at a minimum, include the entire urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan transportation plan. The proposed revisions to the planning rule notes that a single MPO would conduct the metropolitan planning activities for a MPA (as defined above) unless the Governor(s) (and Mayor) and the affected MPOs determine that the size and complexity of the MPA make the designation of multiple MPOs for the MPA appropriate. If they determine that designation of multiple MPOs is appropriate, then the MPOs may remain separate, with separate boundaries of responsibility within the MPA, as established by the affected MPOs and the Governor.

The proposed revisions to the rule: (1) clarify that where more than one MPO serves an MPA, the Governor and affected MPOs will establish or adjust the boundaries for each MPO within the MPA by agreement; and (2) would establish additional coordination requirements for areas where multiple MPOs are designated within the MPA.

Furthermore, the proposed rule would require those multiple separate MPOs to jointly develop unified planning products: a single long range plan (the CLRP is the TPB’s long range plan), a Transportation Improvement Plan (TIP), and a jointly established set of performance targets for the MPA.

The TPB’s metropolitan planning area which coincides with its boundary includes three urbanized areas based on 2010 census data and is displayed in Figure 1 (attached). At present one of three 2010 census based urbanized areas within the TPB’s boundary stretches into the boundaries of the Baltimore and Fredericksburg MPOs.

Should the proposed revisions be integrated without change into the final planning rule a number of substantive activities will have to be undertaken. These include: (1) determining the change to TPB’s planning area to reflect the contiguous area expected to become urbanized within the 20-year forecast period of the CLRP; (2) determining the appropriateness of multiple MPOs within this metropolitan planning area; (3) creating multi-state, multi-MPO agreements on the boundaries for these multiple MPOs; (4) establishing procedures with the other MPOs in the MPA for joint decision-making in developing the CLRP, TIP, and performance targets and a process for resolving disagreements; and (5) having an agreed upon process with the States for resolving disagreements.

Staff will update the board on the comments submitted on the proposed revisions to the planning rule and the final resolution by the FHWA and the FTA on the proposed revisions.



National Capital Region  
**Transportation Planning Board**

August 26, 2016

The Honorable Gregory G. Nadeau  
Administrator  
Federal Highway Administration (FHWA)  
U.S. Department of Transportation (USDOT)  
1200 New Jersey Avenue SE  
Washington, DC 20590

Carolyn Flowers  
Acting Administrator  
Federal Transit Administration (FTA)  
U.S. Department of Transportation (USDOT)  
1200 New Jersey Avenue SE  
Washington, DC 20590

**Re: Comments on Proposed Metropolitan Planning Organization Coordination and Planning Area Reform Rule [Docket No. FHWA-2016-0016]**

Dear Administrator Nadeau and Acting Administrator Flowers:

I write to you on behalf of the National Capital Region Transportation Planning Board (TPB) to offer our comments on the recent Notice of Proposed Rulemaking (NPRM) on “Metropolitan Planning Organization Coordination and Planning Area Reform.” The TPB is the metropolitan planning organization (MPO) for the Washington metropolitan area.

While the TPB strongly supports the stated intent of the NPRM, we have significant concerns about the practicality of the proposed changes and the negative consequences those changes would have on metropolitan transportation planning and decisionmaking. We respectfully request that you withdraw the NPRM and work with individual MPOs and States to remedy specific instances in which a lack of coordination might be hindering the metropolitan transportation planning process.

Below are our chief concerns and the reasons why we urge that this NPRM be withdrawn:

- **Replacing the existing consultative process of defining Metropolitan Planning Area (MPA) boundaries with a “one-size-fits-all” approach would ignore local needs and processes.**

The NPRM proposes that Metropolitan Planning Areas (MPAs) encompass entire Urbanized Areas as defined by the U.S. Census Bureau, plus the contiguous area expected to become urbanized within the next 20 years. This one-size-fits-all approach would replace the existing process for defining boundaries in which States and MPOs engage in a consultative, cooperative process that take into account a variety of important factors, including population densities, local transportation needs, transportation and land-use interactions, and existing legislative and administrative processes.

These long-standing approaches have, in our view, enabled a more effective and productive planning process that more fully satisfies the statutory “3-C” requirement—for a continuing, comprehensive, and cooperative transportation planning process.

A number of other practical concerns about this one-size-fits-all approach impel us to call for the withdrawal of this NPRM:

- The U.S. Census Bureau’s process for defining Urbanized Area boundaries is not well understood and does not appear to consider transportation systems or mobility needs.
- Urbanized Area boundaries do not align with the boundaries of local government jurisdictions, which bear the greatest responsibility for early planning and programming of transportation projects.
- The boundaries of Census tracts, the basic unit of land area used by the Census Bureau to identify Urbanized Areas, do not align with the boundaries of Transportation Analysis Zones (TAZs), the basic unit of land area used by MPOs to define the boundaries of the MPA and to conduct transportation analyses.
- No recognized agency or entity currently exists to forecast future population and population densities to determine the future extent or congruity of Urbanized Areas. With no such system or process in place, reaching agreement on the boundaries of an MPA would be challenging and would add unnecessary complexity to the planning process.
- Conducting air quality conformity analysis for MPAs that span multiple existing metropolitan areas that are in various stages of meeting federal air quality standards would be extremely difficult. (See next section for more.)

***TPB Recommendation:*** States and MPOs should retain the full authority and flexibility to define MPA and MPO boundaries in a manner that considers the transportation needs and administrative and decisionmaking processes within the Metropolitan Planning Area.

- **Conducting metropolitan planning over more expansive areas would lead to less efficient and less effective planning and decisionmaking.**

The NPRM’s proposal that MPAs encompass entire Urbanized Areas and any contiguous areas expected to become urbanized within the next 20 years would lead to the creation of extremely large MPAs. The NPRM does provide for an exemption in which excessively large MPAs could have multiple MPOs, but it would still require those MPOs to jointly develop a single metropolitan transportation plan (Plan) and Transportation Improvement Program (TIP), to agree to a process for making a single air quality conformity determination, and to jointly establish performance targets to address new federal Performance-Based Planning and Programming requirements.

The TPB considers this to be the most onerous and impracticable change to the metropolitan planning process. Even under the current process of defining MPO boundaries and MPAs, many MPOs cover vast areas encompassing dozens of counties and cities, multiple states, and other regional entities and authorities. The TPB’s planning area already spans three state-level jurisdictions, encompasses 21 counties and cities, covers 3,500 square miles,

and is home to more than 5 million people. Under the proposed rule, that area would grow to cover 11,200 square miles, spanning six state-level jurisdictions from Virginia to New Jersey, with a population of more than 15 million people (see Figure 1 on p. 5). The mobility needs, local transportation and land use planning policies and priorities, and the availability and appropriateness of different travel modes would vary immensely across a region of this size.

Thus, the NPRM would make an already challenging task totally impracticable in the following ways:

- The vast diversity of needs and dispersed planning and decisionmaking processes would make it nearly impossible to develop a coherent and unifying set of priorities, goals, and objectives to guide the development of a Plan.
- Differences in the budgetary cycles and funding obligation procedures among different jurisdictions would make the process of developing and amending a joint TIP onerous and time-consuming and could delay or stop critical investments in transportation infrastructure improvements.
- The expansiveness of the planning area and the diversity of needs and people it encompasses would make it challenging to gather public input and to use it in a meaningful way when developing the Plan, TIP, and other products.
- Conducting air quality conformity analysis for such a large area with multiple MPOs, each of which may be in different levels of non-attainment or maintenance status for different criteria pollutants with different target years for analysis and different levels of motor vehicle emissions budgets, would be overwhelming and impracticable.

***TPB Recommendation:*** MPOs should continue to develop a Plan and TIP and make air quality conformity determinations for their respective planning areas as they currently exist.

- **Coordination between adjacent or affected MPOs is already occurring. Existing planning rules and practices do not preclude further efforts to strengthen such coordination.**

The NPRM suggests that having multiple MPOs in a given MPA is inefficient and that better coordination among those MPOs and with adjacent MPOs is needed.

The TPB believes that the MPO boundaries and MPAs in the National Capital Region and its vicinity that have existed over the past several decades have served the larger Urbanized Area and the States well. The TPB is not aware of any documented examples of existing boundary-setting practices that have systematically hindered metropolitan planning.

The TPB has coordinated effectively with adjacent MPOs on many occasions and at different levels. Here are a few examples:

- **Planning analyses coordination:** The TPB works closely with the Baltimore MPO (BRTB) on a number of planning activities, including collecting household travel data, developing land use assumptions for use in travel demand forecasting, and implementing transportation demand management programs.

Mr. Nadeau and Ms. Flowers  
August 26, 2016

- **Project-level coordination:** The TPB coordinated with the Fredericksburg Area MPO (FAMPO) in updating the Plan to include a multimodal Express Lanes project on I-95 that crossed the boundaries of both MPOs.
- **Cooperative agreement:** The TPB entered a cooperative agreement with FAMPO in 2004 to fulfill metropolitan planning responsibilities for a portion of Stafford County, Virginia, that was designated in the 2000 Census as contiguous to one of the Urbanized Areas within the TPB's planning area.
- **Coordination across multiple MPOs:** The TPB meets regularly with the MPOs in Baltimore (BRTB), Wilmington (WILMAPCO), and Philadelphia (DVRPC) as part of the Mid-Atlantic Regional Planning Roundtable. The coordination effort has been cited as a best practice in the Federal Highway Administration's "Regional Models of Cooperation Case Studies."

We are confident that any inefficiencies in the current metropolitan planning practices perceived by USDOT can be addressed within existing planning rules or with a few additional targeted requirements developed in consultation with the MPOs and States. We believe that a study jointly undertaken by USDOT, the States, and MPOs to identify the issues to be resolved and examine the best way to address them in a context-sensitive manner would be most informative.

***TPB Recommendation:*** USDOT should undertake a joint study with MPOs and the States to identify specific issues to be resolved and examine the best way to address these in a context-sensitive manner without drastic changes to existing processes and procedures.

We thank you for the opportunity to provide these comments on the proposed "Metropolitan Planning Organization Coordination and Planning Area Reform" rule. Again, we respectfully request that you withdraw the NPRM and work with individual MPOs and States to remedy specific instances in which a lack of coordination might be hindering the metropolitan transportation planning process. The concerns raised here about the practicality of the proposed rule and its negative consequences on metropolitan transportation planning process make this a particularly important request.

If you have any questions or would like to discuss this matter further, please contact TPB Staff Director Kanti Srikanth at ksrikanth@mwkog.org or (202) 962-3257.

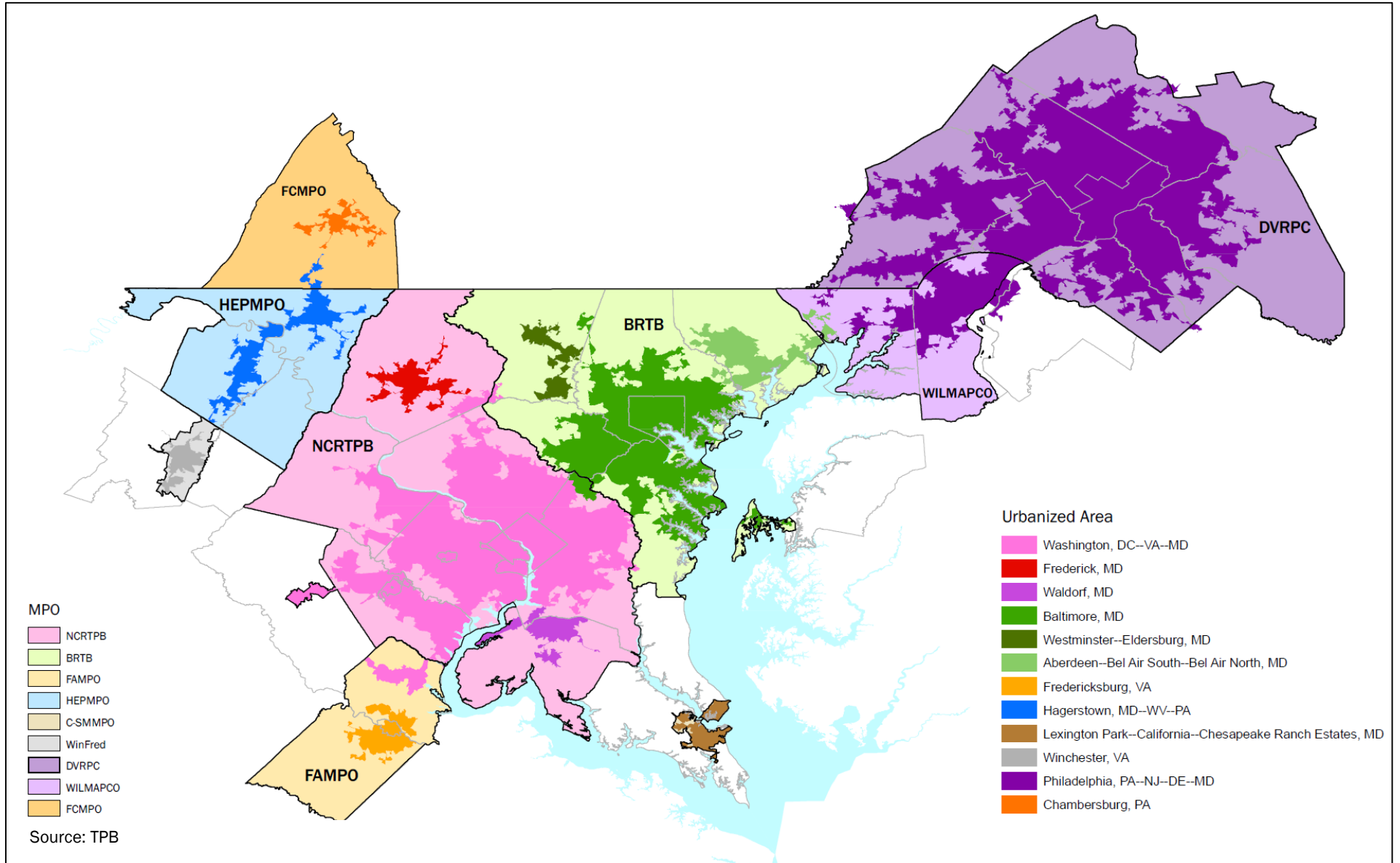
Sincerely,



Tim Lovain  
TPB Chairman



FIGURE 1. National Capital Region - MPO and Urbanized Area Boundaries, 2010 Census (smoothed)





**Maryland Department of Transportation**  
The Secretary's Office

**Larry Hogan**  
Governor

**Boyd K. Rutherford**  
Lt. Governor

**Pete K. Rahn**  
Secretary

August 26, 2016

Mr. Gregory G. Nadeau  
Administrator  
Federal Highway Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
Washington DC 20590

Ms. Carolyn Flowers  
Acting Administrator  
Federal Transit Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
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Dear Administrator Nadeau and Acting Administrator Flowers:

The Maryland Department of Transportation (MDOT) is pleased to submit comments on the Federal Highway Administration's (FHWA) and Federal Transit Administration's (FTA) "Metropolitan Planning Organization (MPO) Coordination and Planning Area Reform: Proposed Rule FHWA 2016-0016," published in the Federal Register on June 27, 2016.

The MDOT strongly opposes the proposed rule and respectfully requests that it be withdrawn for the reasons outlined in this letter. As a member of the American Association of State Highway and Transportation Officials (AASHTO), MDOT agrees with the docket comments provided by AASHTO with respect to the proposed rulemaking. The MDOT also concurs with the comments submitted by a number of the MPOs in Maryland, including those from the Baltimore Regional Transportation Board (BRTB), National Capital Region Transportation Planning Board (TPB), and Wilmington Area Planning Council (WILMPACO).

It appears that the U.S. Department of Transportation (USDOT) perceives that the transportation planning process, as it pertains to MPO coordination and boundaries, is not working. The MDOT's experience in this regard contradicts this perception. All seven MPOs in Maryland, five of which are multi-state MPOs, are already engaged in a planning process that fully includes and clearly defines the census-designated Urbanized Areas (UZAs) and Metropolitan Planning Areas (MPAs) through formal agreements. The proposed rule creates unnecessary complexity and adds no value to an already successful and comprehensive process in Maryland. It is unclear if implementing this rule would stand up to a legal challenge. In addition, implementing of this rule could create legal issues across state lines, particularly concerning fiscal constraint since the short-term Transportation Improvement Program (TIP) budgets must have both state legislature and gubernatorial approvals. The unintended consequences that could result from this proposed rule are far-reaching and more time should be dedicated to coordinating with the states and MPOs to determine the best way to address the perceived problems that USDOT has identified.

My telephone number is 410-865-1000  
Toll Free Number 1-888-713-1414 TTY Users Call Via MD Relay  
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Mr. Gregory G. Nadeau  
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Page Two

### ***Maryland MPOs Already Engage in an Active Coordination Process***

The proposed rule offers an overly generalized solution to the perceived problem of “a lack of coordination” that many states and MPOs, including Maryland, are not experiencing. The MDOT is already accomplishing the goals of regional coordination and cooperation between the MPOs and adjacent states, which share urbanized areas to satisfy current federal standards.

Maryland has seven MPOs, five of which are multi-state MPOs (see Attachment 1 for a description of Maryland MPOs and a corresponding map). Three of the five multi-state MPOs are Transportation Management Areas (TMAs) with populations exceeding 200,000. The MDOT maintains official agreements, which clearly identify where the MPA and UZAs overlap and which MPO is responsible for planning for each specific population. In addition, MDOT hosts a bi-annual meeting with all Maryland MPOs to engage staff and federal partners in improved coordination. Maryland MPO members often attend each other’s meetings throughout the year on various overlapping topics, such as maintaining the travel model and developing the cooperative forecast.

The planning processes in which Maryland participates have been successful in meeting federal regulations, as evidenced in the continued approvals of the TMA Certifications for TPB, BRTB, and WILMAPCO, which includes Maryland’s Cecil County. Another example of Maryland’s regional coordination process is that the BRTB contains not only the Baltimore UZA, but the Westminster and Aberdeen UZAs as well. Similarly, the TPB contains the primary Washington UZA, which stretches into Maryland (MD), Virginia (VA), and the District of Columbia (DC), as well as the Frederick and Waldorf UZAs. The Westminster, Aberdeen, Frederick, and Waldorf UZAs could have each designated their own separate MPOs, but in an effort to improve regional coordination, they chose to be included in the regional transportation planning body that would provide the greatest benefit to the region.

The MDOT actively engages MPO Board/Council members outside of the MPO process in many ways, one of which is through the annual Consolidated Transportation Program Tour. The Tour is a series of meetings held each Fall to coordinate transportation issues and review the proposed transportation budget with each of Maryland’s 24 primary local jurisdictions. This budget informs the development of the MPO TIPs and the Maryland Statewide Transportation Improvement Program (STIP). The proposed rule offers no “value added” to MDOT’s existing and extensive coordination process.

### ***Proposed Rule Creates Unnecessary Complexity***

The current obstacles in coordination will multiply when they are applied to implementing this rule concerning funding coordination and developing one regional transportation plan, TIP, conformity determination, and set of performance targets. The largest issue is the complexity involved in implementing the rule as written. Even if MPOs choose not to merge or re-designate their boundaries, the referenced planning products would still be required to be identical and coordinated.

Each MPO has evolved to meet the needs of the region it currently serves. There is flexibility in MPO structure, which has allowed vastly different regions to designate and form these organizations to best suit their areas. The individual MPO Board/Council structures will determine the effectiveness of this new rule, should it become final. At best, implementing this rule will be challenging to explain to the Board/Council members who must individually vote to implement these changes.

Mr. Gregory G. Nadeau  
Ms. Carolyn Flowers  
Page Three

Local elected officials who serve on MPO Boards/Councils *are not transportation specialists*. Maryland MPO Board/Council members spend as few as ten hours to as many as 30 to 50 hours *per year* on transportation planning issues, which is a very small amount of time considering the amount of time spent by staff to prepare documents and plans for boards to approve. This rule suggests and assumes that board members are willing to spend additional time on actions that may be implemented hundreds of miles away from the citizens that they represent. When an MPA or MPO grows to be too large in size, issues that are important to the State and local elected officials can get diluted across large geographic areas, further complicating an already complex process and making it impossible to think regionally but act locally.

Should this rule become final, merging MPOs would be a time-consuming, complex, and costly process, even if voluntary. The forced creation of a planning process to develop unified planning products would also be difficult, particularly so for Maryland's five multi-state MPOs, and redesignation or merging would require the agreement of as many as four governors and the Mayor of the District of Columbia to proceed.

The potential merging of MPOs will also marginalize the smaller local jurisdictions and smaller states associated with multi-state MPOs, thereby creating the potential for critical infrastructure improvements to be hindered by inter-state bureaucracy via the MPO approval process. This could result in potentially significant delays and additional costs to the delivery of safety and system preservation projects.

In addition, the states bordering Maryland are not all on the same legislative or budgetary schedule. The project ranking and funding mechanisms are also different. *Joint planning products that require five states, their governors, their legislatures, and state agencies coordinating on the same schedule would be virtually impossible to implement.* The number of TIP and STIP amendments and modifications that would need to be processed would dramatically increase, creating more work for states, MPOs, and our federal partners than had the MPOs remained separate. Delays in funding and project delivery will inevitably occur as a result.

There appear to be many inconsistencies between the stated goals in USDOT's explanatory paragraph of the NPRM's purpose and the manner in which it has been presented to stakeholders. While many of these goals appear to be non-controversial on the surface, the likelihood of complications and added layers of bureaucracy seem to be in conflict with wanting to "give MPOs a stronger voice in the regional planning process" and "improve regional coordination." If the U.S. Census becomes the primary mechanism for establishing MPO boundaries, regardless of current governmental structure, that means decision-making authority would be taken away from local jurisdictions, the states, and their governors by not allowing them to establish their MPO boundaries. This undermines a state's ability to determine how the metropolitan planning process will be coordinated. It also dilutes local jurisdictional influence in the MPOs as their stature diminishes and the states become larger forces on the MPOs. In multi-state MPOs, the majority of the coordination tends to happen between the states not the local jurisdictions.

Mr. Gregory G. Nadeau  
Ms. Carolyn Flowers  
Page Four

This rule implies that it is a simple or brief process to adjust the MPA to match the UZA. When UZAs do not align with state or local governmental authority, the result is confusion and a lack of ownership over regional authority. For example, MDOT was unable to meet the federal deadline to designate the Calvert-St. Mary's MPO, the most recent MPO established in Maryland, due to the fact that there were no clearly defined local elected officials that represented the small UZA (population 58,875). It took several years of intensive coordination to fully establish this small MPO.

Regardless of size or complexity, this new rule would affect 142 out of the 409 MPOs nationally, and it lacks a practical approach to implementing the required changes of either merging, redrawing boundaries, or coordinating combined planning products over large and diverse areas so soon before the next census is taken.

The proposed rule does not address how the census determines UZAs or a way that states could challenge or alter UZAs. States should have the authority to be able to adjust UZA boundaries, question the logic that develops the UZA boundaries, and establish reasonable MPOs.

The proposed rule acknowledges that there will be an initial expense in the merging of MPOs, but suggest that there could be long-term savings. While this may be true for single state MPOs, the additional travel and time requirements for newly formed and additions to existing multi-state MPOs will be an additional expense for the local board members. Although the time spent is reimbursable, the time that is taken away from their other priorities is a cost that has not been calculated.

### ***Potential Legal Concerns***

The potential for legal challenges and inter-state conflicts arising from the proposed rule could place jurisdictions in conflict with existing and superseding statutes. To the extent the proposed rule would force redesignations in some instances without local concurrence, the regulation would violate 23 USC §134 (d) (4) and (5), the MPO designation and redesignation clauses under which MPO designations remain in effect until a redesignation occurs. Redesignation requires the agreement between the governor and local governments that together represent at least 75 percent of the existing planning area population. The proposed rule is in conflict with the language of the existing statute.

Neither the statutory language nor the regulatory interpretation has changed in over 20 years. The statutory authorization for this new interpretation does not appear in the Fixing America's Service Transportation (FAST) Act. The USDOT should have sought Congressional approval through legislation to enact the aforementioned goals.

The methodology and metrics used to assess urbanized areas and planning area boundaries changed drastically between the 2000 census and 2010 census. Without knowing the measures and procedures that will be adopted for developing the 2020 census, it would be sheer guesswork to predict "the contiguous area expected to become urbanized within the 20-year forecast period" with any degree of accuracy.

Mr. Gregory G. Nadeau  
Ms. Carolyn Flowers  
Page Five

Inter-state conflicts could also arise if multiple MPOs in Maryland must have a single metropolitan transportation plan (MTP), TIP, conformity determination, and set of performance targets. Since the set of contiguous urbanized areas in the northeastern United States runs from the District of Columbia area to Massachusetts, the cascading effect of coordination requirements is a daunting proposition. While this approach might make sense for smaller MPAs, it is counter-productive when applied to multi-city mega-regions like the northeastern United States and California.

### ***Unintended Consequences and Suggested Changes to the NPRM***

The MDOT is concerned that insufficient time has been allotted to evaluating the consequences of the proposed rule. The rule could have many unintended consequences that could negatively affect the regional planning process and detract from the locally-developed and unique approaches that each region has created and refined over many years in conducting regional planning and coordination activities. MPOs traditionally have different rules based on their size and while consolidation by some MPOs might achieve the desired results for the USDOT, there are definitely unintended consequences that will hurt MPOs, local jurisdictions, and smaller states if this rule is implemented as written. One size does not fit all.

The MDOT's general concerns and suggestions for improving the NPRM are as follows:

- The proposed rule does not acknowledge any jurisdiction below the state level. States are made up of counties, cities, and towns. The census looks at block groups, or census tracts, and does not take the smaller jurisdictions' boundaries into consideration. The MPAs/UZAs break smaller state jurisdictions in two and may place them in separate UZAs. In general, governors might not be opposed to the consolidation of smaller MPOs within an individual state but it should be on a voluntary and cooperative basis. Local jurisdictions, on the other hand, would generally be opposed to it as larger MPOs may make local jurisdictions much smaller players. This goes against the original intent of the establishment of MPOs, which is to give local jurisdictions a voice in regional planning and a platform to voice their concerns and priorities.
- Shared boundaries between two UZAs should not be a determining test of contiguousness. Two adjacent urbanized areas should remain two different MPOs. The Washington and Baltimore UZAs share a border at the City of Laurel. These two UZAs have different characteristics and needs and should remain as separate UZAs and MPOs.

If USDOT proceeds to finalize the proposed rule despite widespread opposition, MDOT respectfully offers the following suggestions:

- The proposed rule should be a voluntary request that a state's governor would consider.
- The proposed consolidations should not create MPO mega-regions where already large MPOs (over 1,000,000 in population) are forced to merge. In place of a combined regional transportation plan, TIP, performance targets, and funding consolidation, adjacent regions could develop one over-arching policy document that all MPOs in the mega-region could agree to follow.

- There should be an exemption from the requirements of the proposed rule if the amount of population contained in a UZA that overlaps into a different MPA is less than ten percent of the total population in an MPO.
- Traditionally, MDOT staff has “smoothed” census-designated UZA boundaries to create FHWA-approved adjusted UZAs, taking into account future growth areas. The MDOT suggest that the ability to continue to “smooth” UZAs be retained so that they may continue to follow jurisdictional boundaries.
- The primary issue behind the proposed rule appears to be the existence of multiple MPOs within one MPA, whether wholly within a state or crossing state lines. The following are several examples of how complicated this process could become in Maryland if implemented:
  1. The Philadelphia MPA extends into portions of Cecil County, Maryland, which is under the planning auspices of WILMAPCO. Under the proposed rule, the governors of the respective states in the Philadelphia MPA would be required to designate multiple MPOs within the single MPA, maintaining the existing MPOs. Regardless of individual MPOs continuing to exist, however, they would now be required to jointly produce a single MTP and a single TIP. In effect, this would place MDOT projects in portions of Cecil County within a Philadelphia TIP. How exactly this would work is yet to be determined. The proposed rule says “the MPOs would be required to establish procedures for joint decision-making.” Whether the existing MPOs would still be free to amend their portions of the MTP and TIP or whether a joint-MPO committee would need to approve amendments is unclear. Conversely, the governors could conceivably consolidate the existing MPOs so that only one MPO served the Philadelphia MPA. The MDOT supports keeping the current structure intact, since it works well and WILMAPCO is a highly functioning MPO.
  2. The Aberdeen-Bel Air South-Bel Air North MPA is another example of multiple MPOs existing within one MPA. This MPA extends across the Susquehanna River, covering Aberdeen and Bel Air in Harford County and Port Deposit and Perryville in Cecil County. The proposed rulemaking would ideally see the entire MPA under one MPO. Currently, the Cecil County portion of this MPA is served by WILMAPCO through an agreement. As with the above example, were the two MPOs to remain in place, BRTB and WILMAPCO now would be required to jointly produce a single MTP and single TIP for the Aberdeen MPA, whether in conjunction with the Philadelphia and/or Baltimore MPAs or as an individual Aberdeen MPA.
  3. Further to the south, the BRTB (Baltimore) shares populations with TPB (Washington), which also shares populations with the Fredericksburg (VA) Area MPO (FAMPO). This could then in turn mean that there would be one MTP, TIP, etc., from Fredericksburg, VA all the way to Philadelphia, PA This is simply not an implementable framework or structure.

Mr. Gregory G. Nadeau  
Ms. Carolyn Flowers  
Page Seven

- If, as the proposed rule states, “when there are multiple MPOs within the same MPA, enhanced coordination and joint decision-making procedures are needed to ensure a coordinated and comprehensive planning process within the MPA,” what is the advantage of designating multiple MPOs within an MPA? While the intent may be a more “local” level of governance, the reality is that it adds is another layer of bureaucracy.
- It will be crucial to determine if all MPOs will need to be redesignated following any changes to their geography based upon the proposed rule. Who would make that final determination?
- The proposed rule states the new regulations will “ensure States and MPOs employ consistent data, assumptions, and analytical materials when doing transportation planning.” It is unclear the effect such regulations might have on performance measures/targets with respect to state DOTs and MPOs.
- The proposed rule includes a two-year phase-in period from the time of the final rule’s publication. The MDOT proposes pushing this timeline back to coincide with the next decennial census and subsequent MPA designations.
- States need to be given the opportunity to coordinate with the U.S. Census Bureau in designating UZA boundaries to consider more factors than covered by the census and adjust boundaries to correspond to political, geographic, and demographic realities. The census is not a transportation-determining authority and should not have the authority to dictate how transportation planning is coordinated. The information and data provided by the census is used as an important tool to inform the process, stakeholders, and jurisdictions involved. It should not be the sole determining factor in establishing MPAs, UZAs, and MPOs.

In closing, USDOT has stated that the purpose of this rule is to improve the planning process, strengthen coordination, promote increased regional approaches to decision-making, elevate the importance of regionalism, ensure that investments reflect the needs of the entire region, recognize the critical role of MPOs, and strengthen the voice of MPOs. The MDOT has demonstrated that all of those important activities are already occurring.

Furthermore, as indicated in the MDOT Statewide Planning Findings and in the TPB, BRTB, and WILMAPCO TMA Certifications that have been approved by USDOT, Maryland’s planning processes have been successful in meeting federal regulations. MDOT fails to see how the proposed rule will add value to an already comprehensive, well-documented, and inclusive process.

The MDOT appreciates the opportunity to provide comments and respectfully suggests that there are other methods to address the perceived issues that USDOT has identified as hindering the regional transportation planning process, other than through the proposed rulemaking.



Mr. Gregory G. Nadeau  
Ms. Carolyn Flowers  
Page Eight

If you have any additional questions or concerns, please contact Ms. Heather Murphy, MDOT Office of Planning and Capital Programming Director, at 410-865-1275, toll free at 1-888-713-1414, or via email at [hmurphy@mdot.state.md.us](mailto:hmurphy@mdot.state.md.us). Ms. Murphy will be happy to assist you.

Sincerely,



Pete K. Rahn  
Secretary

Attachment

cc: Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT

## Attachment 1

The following background information has been provided to offer insight into Maryland's complex planning environment, specifically related to overlapping urbanized areas, existing MPO and MPA boundaries, and regional and inter-state coordination.

Existing Maryland MPOs and their total UZA population:

- Baltimore Regional Transportation Board (BRTB), population 2,430,686
- Cumberland Area MPO (CAMPO)\*, population 49,619
- Calvert-St. Mary's MPO (C-SMMPO), population 58,875
- Hagerstown-Eastern Panhandle MPO (HEPMPO)\*, population 173,193
- National Capital Region Transportation Planning Board (TPB)\*, population 4,818,779
- Salisbury/Wicomico Area MPO (S/WMPO)\*, population 98,081
- Wilmington Area Planning Council (WILMAPCO)\*, population 540,164

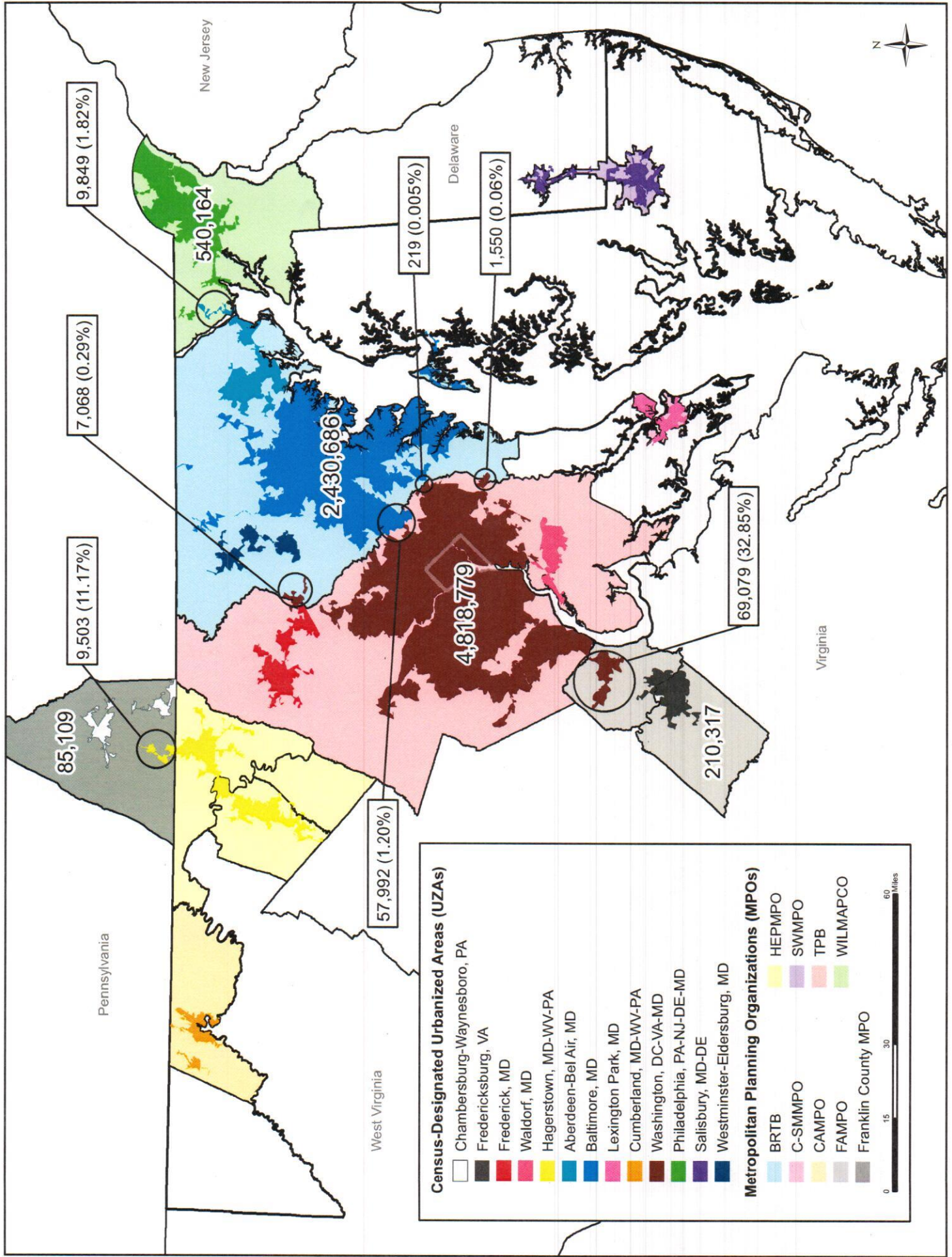
\* MPOs whose boundaries extend into adjacent states (PA, DE, VA, WV, and DC)

Existing Maryland-adjusted UZAs/MPAs include:

- **Aberdeen-Bel Air South-Bel Air North**, MD (Harford County portion of MPA under agreement with BRTB; Cecil County portion of MPA under agreement with WILMAPCO)
- **Baltimore\*\***, MD (Anne Arundel, Baltimore, Carroll, Howard, and Queen Anne's County portions of MPA and Baltimore City under agreement with BRTB; Montgomery and Prince George's County portions of MPA under agreement with TPB)
- **Cumberland**, MD-WV-PA (MPA under agreement with CAMPO)
- **Frederick**, MD (MPA under agreement with TPB)
- **Hagerstown**, MD-WV-PA (MPA under agreement with HEPMPO)
- **Lexington Park-California-Chesapeake Ranch Estates**, MD (MPA under agreement with C-SMMPO)
- **Philadelphia\*\***, PA-NJ-DE-MD (Cecil County portion of MPA under agreement with WILMAPCO)
- **Salisbury**, MD-DE (MPA under agreement with S/WMPO)
- **Waldorf**, MD (MPA under agreement with TPB)
- **Washington\*\***, DC-VA-MD (Frederick, Montgomery, and Prince George's County portions of MPA under agreement with TPB; Anne Arundel, Carroll, and Howard County portions of MPA under agreement with BRTB)
- **Westminster-Eldersburg**, MD (MPA under agreement with BRTB)

\*\* A TMA by virtue of 200,000+ population

# Maryland MPOs and Urbanized Areas (2010 Census)





# COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
1401 EAST BROAD STREET  
RICHMOND, VIRGINIA 23219 2000

**Charles A. Kilpatrick, P.E.**  
Commissioner

August 26, 2016

Gregory G. Nadeau  
Administrator, Federal Highway Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue S.E.  
Washington, DC 20590

Carolyn Flowers  
Acting Administrator, Federal Transit Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue S.E.  
Washington, DC 20590

RE: Notice of Proposed Rulemaking; Metropolitan Planning Organization Coordination and Planning Area Reform  
Docket No. FHWA-2016-0016; FHWA RIN 2125-AF68; FTA RIN 2132-AB28

Dear Administrator Nadeau and Acting Administrator Flowers:

The Virginia Department of Transportation (VDOT) and Virginia Department of Rail and Public Transportation (DRPT) jointly offer the following comments in response to the Federal Highway Administration/Federal Transit Administration/Department of Transportation June 27, 2016 Federal Register Notice of Proposed Rulemaking and Request for Comments: Metropolitan Planning Organization (MPO) Coordination and Planning Area Reform.

## **General Overview/Response**

As noted in the Summary section of the NPRM, this regulatory “action proposes to improve the transportation planning process by strengthening the coordination of MPOs and States and promoting the use of regional approaches to planning and decisionmaking. The proposed rule would emphasize the importance of applying a regional perspective during the planning process, to ensure that transportation investments reflect the needs and priorities of an entire region. Recognizing the critical role MPOs play in providing for the well-being of a region, this proposed rule would strengthen the voice of MPOs in the transportation planning process.”

While the stated purpose of the NPRM is laudable, due to the significant number of other related regulatory changes and the complexity of the potential implementation of the proposed rule, VDOT and DRPT request that the rulemaking be either withdrawn or postponed, and a working group established to study the issue.

VDOT and DRPT would note that the impacts of the regulatory changes proposed by this rulemaking are extremely difficult to assess, in light of the recent Statewide, Nonmetropolitan, and Metropolitan Transportation Planning Final Rule recently issued on May 27, 2016, as well as the several federal transportation performance management-related rulemakings that are in various stages of promulgation.

VDOT and DRPT are concerned about unintended consequences given state agency responsibility for the implementation and reporting requirements associated with the various new planning and performance related rulemakings and the interplay between the functions of MPOs and state agencies in complying with various aspects of the proposed rules. Most notably, unintended consequences could include significant delays in project delivery, increased project costs, and delayed or hindered implementation of the new rules.

VDOT and DRPT would, notwithstanding the recent rulemakings, also highlight one scenario to illustrate the proposed rule’s impact on current day planning processes and project delivery in Virginia. Based on our interpretation, the proposed rule would result either in establishment of a mega MPO from Caroline County in Virginia to Philadelphia, Pennsylvania (and potentially beyond Philadelphia), or at least would require single consolidated planning documents and conformity determinations for the multiple MPOs contained within that area. Creating collaborative documents for the multiple MPOs or consolidation of the MPOs as a mega MPO will add significant time, logistical challenges, complexities, effort and cost to the project development process. A significant hurdle would be to simply educate expanded or multiple MPO boards, stakeholders and the public on potentially unfamiliar projects that are outside of their normal planning areas, and on the newly created coordination process to secure approvals for said projects in plans and programs.

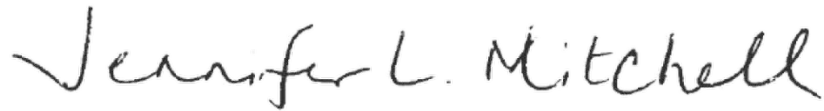
As stated above, given the complexities involved with assessing the impact of the proposed changes under this NPRM, VDOT and DRPT would propose that FHWA, FTA and USDOT withdraw or postpone this rulemaking and instead establish a working group or a similar body to study the potential issues and the objectives that may have prompted the proposed changes to current-day regulations under this NPRM.

In closing, VDOT and DRPT appreciate the opportunity to provide comments on this proposed rule. If you have any questions, do not hesitate to contact either of us at the email addresses or telephone numbers below.

Sincerely,



Charles A. Kilpatrick, P.E.  
Commissioner of Highways  
Virginia Department of Transportation  
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Jennifer Mitchell  
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## Transit Asset Management Final Rule Fact Sheet

The Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) required the Secretary to develop rules to establish a system to monitor and manage public transportation assets to improve safety and increase reliability and performance, and to establish performance measures, and the Fixing America's Surface Transportation (FAST) Act reaffirmed this requirement. On July 26, 2016, FTA published the Transit Asset Management (TAM) Final Rule. You may view the Final Rule at:

<https://federalregister.gov/a/2016-16883>



### State of Good Repair

The purpose of the Final Rule is to help achieve and maintain a state of good repair (SGR) for the nation's public transportation assets. Transit asset management is a business model that uses transit asset condition to guide the optimal prioritization of funding. Currently, there is an estimated \$85.9 billion transit SGR backlog.

The regulations apply to all Transit Providers that are recipients or subrecipients of Federal financial assistance under 49 U.S.C. Chapter 53 and own, operate, or manage transit capital assets used in the provision of public transportation.

### State of Good Repair

The condition in which a capital asset is able to operate at a full level of performance. A capital asset is in a state of good repair when that asset:

1. Is able to perform its designed function,
2. Does not pose a known unacceptable safety risk, and
3. Its lifecycle investments must have been met or recovered.

### TAM Plans

#### Tier I vs. Tier II Applicability

The Final Rule groups providers into two categories: Tier I and Tier II.

#### Tier I

- Operates rail
- OR**
- > 100 vehicles across all fixed-route modes
- OR**
- > 100 vehicles in one non-fixed route mode

#### Tier II

- Subrecipient of 5311 funds
- OR**
- American Indian Tribe
- OR**
- < 101 vehicles across all fixed route modes
- OR**
- < 101 vehicles in one non-fixed route mode

### TAM Plan Elements

The following graphic shows the TAM Plan elements that are required by each category of provider. Since Tier II providers generally operate less complex systems, their TAM Plan requirements are not as extensive.

- |                                  |                        |
|----------------------------------|------------------------|
| 1. Inventory of Capital Assets   |                        |
| 2. Condition Assessment          | <u>Tier I &amp; II</u> |
| 3. Decision Support Tools        |                        |
| 4. Investment Prioritization     |                        |
| 5. TAM and SGR Policy            |                        |
| 6. Implementation Strategy       | <u>Tier I Only</u>     |
| 7. List of Key Annual Activities |                        |
| 8. Identification of Resources   |                        |
| 9. Evaluation Plan               |                        |

## Assets Included in Plan

It is expected that all assets used in the provision of public transit will be included in the TAM Plan asset inventory. This includes (with the exception of equipment) assets that are owned by a third party or shared resources. The inventory must include all service vehicles, and any other owned equipment assets over \$50,000 in acquisition value. Agencies only need to include condition assessment for assets for which they have direct capital responsibility.

## Plan Responsibility

Tier I providers must develop and carry out their own TAM plans. Tier II providers may develop their own plans or participate in a Group Plan, which is compiled by a Group Plan Sponsor (generally the State DOT or designated §5310 recipient). Tier II §5307 sub-recipients are not required to be offered a group plan, but may participate in one if a Sponsor invites them. Each Transit Provider must designate an Accountable Executive to ensure that the necessary resources are available to carry out the TAM plan and the Transit Agency Safety Plan, regardless of whether it develops its own TAM Plan or participates in a Group Plan.

## Performance Management

Asset performance is measured by asset class, which means a subgroup of capital assets within an asset category. The following table shows the distinction between what assets must be included in asset inventories and the assets for which transit providers must measure performance.

<b>Assets:</b> <i>Only those for which agency has direct capital responsibility</i>	<b>Performance Measure</b>
<b>Equipment</b> Non-revenue support-service and maintenance vehicles	Percentage of vehicles met or exceeded Useful Life Benchmark
<b>Rolling Stock</b> Revenue vehicles by mode	Percentage of vehicles met or exceeded Useful Life Benchmark
<b>Infrastructure</b> Only rail fixed-guideway, track, signals and systems	Percentage of track segments with performance restrictions
<b>Facilities</b> Maintenance and administrative facilities; and passenger stations (buildings) and parking facilities	Percentage of assets with condition rating below 3.0 on FTA TERM Scale

## Useful Life Benchmark

The expected lifecycle of a capital asset for a particular Transit Provider's operating environment, or the acceptable period of use in service for a particular Transit Provider's operating environment

## Target Setting

Targets should be set by each transit provider or TAM plan sponsor for each applicable asset class for the coming year. Initial targets must be set by January 1, 2017 and then every fiscal year thereafter. It is recognized that Transit Providers may not have complete data while setting initial targets. To the extent feasible, targets should be supported by data such as the most recent condition data and reasonable financial projections for the future, but the overall end goal is to be in a system-wide SGR.

## Timeframes/Reporting

### TAM Plans

A TAM plan must be updated in its entirety at least every 4 years, and it must cover a horizon period of at least 4 years. An initial TAM plan must be completed no later than 2 years after the Final Rule effective date.

### NTD

Each entity developing a TAM Plan will have to report annually to FTA's National Transit Database (NTD). This submission should include: (1) projected targets for the next fiscal year; (2) condition assessments and performance results; and (3) a narrative report on changes in transit system conditions and the progress toward achieving previous performance targets.



## Additional Information

Mshadoni Smith (Mshadoni.Smith@dot.gov)

**Final Rule Docket Number:** FTA-2016-16883

<https://www.transit.dot.gov/TAM>

July 2016