

# National Capital Region Transportation Planning Board

777 North Capitol Street, N.E., Suite 300, Washington, D.C. 20002-4290 (202) 962-3310 Fax: (202) 962-3202 TDD: (202) 962-3213

## **Item #5**

### **MEMORANDUM**

**February 10, 2011**

**TO:** Transportation Planning Board

**FROM:** Ronald F. Kirby  
Director, Department of  
Transportation Planning

**RE:** Letters Sent/Received Since the January 19<sup>th</sup> TPB Meeting

The attached letters were sent/received since the January 19<sup>th</sup> TPB meeting. The letters will be reviewed under Agenda #5 of the February 16<sup>th</sup> TPB agenda.

Attachments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

JAN 31 2011

Mr. Mark R. Kehrli  
Division Administrator  
Federal Highway Administration,  
District of Columbia Division  
1990 K Street, NW, Suite 510  
Washington, D.C. 20006-1103

Dear Mr. Kehrli:

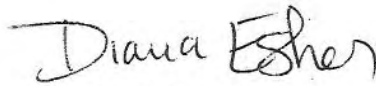
The United States Environmental Protection Agency (EPA), Region III has reviewed the 8-Hour Ozone, Carbon Monoxide and Fine Particulate Matter (PM<sub>2.5</sub>) Amended Conformity Determination for the 2010 Constrained Long-Range Plan (Plan) and the Fiscal Year 2011-2016 Metropolitan Washington Transportation Improvement Program (TIP) as adopted by the National Capital Region Transportation Planning Board (TPB) and submitted to us by the Federal Highway Administration (FHWA) on December 17, 2010. EPA has reviewed the Conformity Determination in accordance with the procedures and criteria of the Transportation Conformity Rule contained in 40 CFR Part 93.

Our review of the conformity determinations for the Washington, D.C. Metropolitan Area indicates that the determinations meet the requirements of the Clean Air Act and the applicable regulations promulgated under 40 CFR Part 93. Enclosed, please find EPA's detailed evaluation titled "Technical Support Document for the Review of the 1997 8-Hour Ozone, Carbon Monoxide and 1997 Fine Particulate Matter National Ambient Air Quality Standard (NAAQS) Conformity Determinations of the 2010 Constrained Long Range Plan and the Fiscal Year (FY) 2011-2016 Metropolitan Washington Transportation Improvement Program." It should be noted that in our technical support document, we are again deferring to the FHWA on the question of whether the Plan and TIP are fiscally constrained. Therefore, our concurrence on the overall conformity determination is predicated upon FHWA's determination.



Please feel free to call Ms. Cristina Fernandez, Associate Director, Office of Air Program Planning at (215) 814-2178 or Mr. Martin Kotsch, at (215) 814-3335 to discuss this review.

Sincerely,



Diana Esher, Director  
Air Protection Division

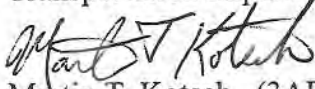
Enclosure


cc: Kwame Arhin (FHWA, MD)  
Sandra Jackson (FHWA, DC)  
Howard Simons (MDOT)  
Diane Franks (MDE)  
Ron Kirby (TPB)  
Gail McFadden-Roberts (FTA)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103

January 19, 2010

**SUBJECT:** Technical Support Document for the Review of the 1997 8-Hour Ozone, Carbon Monoxide and 1997 Fine Particulate Matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS) Conformity Determinations of the 2010 Constrained Long Range Plan and the Fiscal Year (FY) 2011-2016 Metropolitan Washington Transportation Improvement Program

  
**FROM:** Martin T. Kotsch, (3AP30)

  
**THRU:** Cristina Fernandez, Associate Director  
Office of Air Program Planning (3AP30)

**TO:** Administrative Record of the Environmental Protection Agency (EPA) Review of the 1997 8-Hour Ozone, Carbon Monoxide and 1997 PM<sub>2.5</sub> NAAQS Conformity Determinations of the 2010 Constrained Long Range Plan and the FY 2011-2016 Metropolitan Washington Transportation Improvement Program

The purpose of this document is to review the December 2010, 1997 8-Hour Ozone, Carbon Monoxide and 1997 PM<sub>2.5</sub> NAAQS conformity determinations of the 2010 Constrained Long Range Plan (CLRP) and the FY 2011-2016 Metropolitan Washington Transportation Improvement Program (TIP) prepared by the Metropolitan Washington Council of Governments, National Capital Region Transportation Planning Board (TPB). The TIP and CLRP conformity determinations were submitted to the EPA on December 17, 2010 by the District of Columbia Division of the United States Federal Highway Administration (FHWA).

The Metropolitan Washington D.C. Area is a moderate 8-hour nonattainment area for the 1997 ozone NAAQS. For the 8-hour conformity analysis for ozone, under section 93.109 of the Federal conformity rule, the existing 2008 8-hour Reasonable Further Progress Plan Volatile Organic Compounds (VOCs) and Nitrogen Oxides (NO<sub>x</sub>) emission budgets which EPA declared adequate on September 21, 2009 are applicable to the ozone conformity determinations. The area is also a carbon monoxide (CO) maintenance area with an emissions budget which requires a conformity determination.

The Metropolitan Washington District of Columbia (D.C.) Area is a nonattainment area for 1997 PM<sub>2.5</sub> annual standard. Since there are no current PM<sub>2.5</sub> budgets, the TPB used its

transportation model to develop the necessary vehicle miles traveled (VMT) and related emission factors to complete the conformity analysis and determination using the less than base year test.

The conformity determination was reviewed in accordance with the procedures and criteria of the Transportation Conformity Rule, 40 CFR Part 93, sections 93.102(b)(1), 93.102(b)(2)(iv), 93.102(b)(2)(v), 93.102(b)(3), 93.106, 93.108, 93.110, 93.111, 93.112, 93.113(b), 93.113(c), 93.118, and 93.119.

**Evaluation of the 2010 Constrained Long Range Plan and the FY 2011-2016 Metropolitan Washington Transportation Improvement Program**

**GENERAL CRITERIA APPLICABLE TO THE TIP AND CLR P**

SECTION of 40 CFR Part 93	CRITERIA	Y/N	COMMENTS
93.106(a) (1)	Are the horizon years correct?	Y	The horizon years chosen, 2011, 2020, 2030, and 2040 represent appropriate horizon years for the 8-Hour Ozone, CO, and PM <sub>2.5</sub> conformity determination. 2011 is within the first 5 years of the transportation plan.
93.110	<p>Is the conformity determination based upon the latest planning assumptions?</p> <p>(a) Is the conformity determination, with respect to all other applicable criteria in §93.111 - 93.118, based upon the most recent planning assumptions in force at the time of the conformity determination?</p> <p>(b) Are the assumptions derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the Metropolitan Planning Organization (MPO) or other designated agency? Is the conformity determination based upon the latest assumptions about current and future background concentrations?</p>	Y	<p>(a) &amp; (b) The conformity determination is based upon latest planning assumptions in force and approved by the TPB at the time of the determination. The assumptions include:</p> <p><b>1) Travel Demand Modeling Assumptions:</b>                      - Use of newer Version 2.2 travel demand model process.                      -New travel forecasts incorporated.</p> <p><b>2) Emissions Model Assumptions:</b>                      MOBILE6.2 modeled emissions factors were developed for years; 2011, 2020, 2030, and 2040 for all pollutants.</p> <p><b>3) Emissions Factor Assumptions</b>                      -Enhanced I/M was assumed in DC, Maryland, Virginia.                      -Low emission vehicle program was modeled. (MD only)                      -No oxygenated fuels were assumed for wintertime. (all areas)                      -Tier 2 / low sulfur vehicle controls were modeled. (all areas)</p>

	<p>(c) Are any changes in the transit operating policies (including fares and service levels) and assumed transit ridership discussed in the determination?</p> <p>(d) The conformity determination must include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.</p> <p>(e) Does the conformity determination use the latest existing information regarding the effectiveness of the Transportation Control Measures (TCMs) and other implementation plan measures which have already been implemented?</p> <p>(f) Are key assumptions specified and included in the draft documents and supporting materials used for the interagency and public consultation required by §93.105?</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>	<p><b>4) Vehicle Registration Data:</b> 2005 data for Maryland, DC and Virginia.</p> <p><b>5) Land Activity Assumptions</b> (growth forecasts): In January, 2010 round 8.0 forecasts were added by the TPB for use in the conformity determination. As a result, household data as well as employment data have been updated. New growth figures between 2002 and 2040 used in this determination are shown below:</p> <p>-Household: 43% increase -Employment: 47% increase</p> <p>(c) Transit policies such as frequency and hours of operation were updated from the last conformity determination.</p> <p>(d) Transit ridership and services were adjusted to reflect increased fares from several providers within the affected region. No changes in bridge tolls are anticipated at this time. However revised highway tolls have been incorporated including the Inter County Connector project.</p> <p>(e) All of the TCMs listed in the previous 2005 Ozone Attainment Plan for the Metropolitan Washington D.C. area were implemented. The latest information regarding TCMs and other implementation plan measures effectiveness has been used.</p> <p>(f) Appendix A of the previous conformity determination provided the key assumptions for this conformity determination. This document and its earlier drafts were developed through the interagency and public consultation process detailed in Appendix C.</p>
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**Evaluation of the 2010 Constrained Long Range Plan and the FY 2011-2016 Metropolitan Washington Transportation Improvement Program**

**GENERAL CRITERIA APPLICABLE TO THE TIP AND CLRP**

93.111	Is the conformity determination based upon the latest emissions model?	Y	This conformity determination used the mobile emissions model: MOBILE6.2, the latest EPA emissions model available to do the emissions analysis.
93.112	Did the MPO make the conformity determination according to the consultation procedures of the conformity rule or the state's conformity State Implementation Plan (SIP)?	Y	<p>Consultation procedures were followed in accordance with the TPB consultation procedures. These procedures are based on the procedures of the state Conformity SIP.</p> <p><u>Interagency Consultation</u> The TPB has consulted with all appropriate agencies. This includes the District of Columbia Department of the Environment, Maryland Department of the Environment, Maryland Department of Transportation, Maryland Office of Planning, Virginia Department of Environmental Quality, Virginia Department of Transportation, Federal Highway Administration, EPA, and county representatives of the counties of the Metropolitan Washington D.C. area.</p> <p><u>Public Consultation</u> The TPB has provided opportunities for public comment on the Conformity Determination. On October 14, 2010, the TPB released for public comment for 30 days, the draft air conformity analysis for the TIP and CLRP. There were no comments relevant to air quality on the Conformity Determination.</p>



**Evaluation of the 2010 Constrained Long Range Plan and the FY 2011-2016 Metropolitan Washington Transportation Improvement Program**

**CRITERIA ONLY APPLICABLE TO THE CLR P**

93.102(b)(2)(iv)	Has the EPA and the State made a finding that NOx is an insignificant contributor to the direct mobile PM emissions or does any applicable implementation plan (or implementation plan submission) fail to establish an approved (or adequate) NOx budget as part of a PM <sub>2.5</sub> reasonable further progress, attainment or maintenance strategy?	N	NOx is included in the PM emission analysis.
93.102(b)(2)(v)	Has the EPA or State made a finding that VOCs, Sulfur Oxides (SOx) or Ammonia (NH <sub>3</sub> ) as precursors are a significant contributor to the mobile PM emissions or has an applicable implementation plan (or implementation plan submission) established an approved (or adequate) budget for VOCs, SOx or NH <sub>3</sub> as part of a PM <sub>2.5</sub> reasonable further progress, attainment or maintenance strategy?	N	VOCs, SOx and NH <sub>3</sub> as precursors are not included in the emissions analysis.

**Evaluation of the 2010 Constrained Long Range Plan and the FY 2011-2016 Metropolitan Washington Transportation Improvement Program**

**CRITERIA APPLICABLE ONLY TO THE CLRP**

93.102(b)(3)	Has the EPA or the State made a finding that re-entrained road dust is a significant contributor to the PM mobile emissions or has an applicable implementation plan (or implementation plan submission) established an approved (or adequate) budget that includes re-entrained road dust as part of a PM <sub>2.5</sub> reasonable further progress, attainment or maintenance strategy?	N	Re-entrained road dust is not included in the emissions analysis.
93.106(a)(2)(i)	Does the plan quantify and document the demographic and employment factors influencing transportation demand?	Y	Pages 21-23 of the conformity determination summarizes; population, employment, and households for the Metropolitan Washington D.C. area. These forecasts were based upon the Round 8.0 forecast.
93.106(a)(2)(ii)	Is the highway and transit system adequately described in terms of the regionally significant additions or modifications to the existing transportation network which the transportation plan envisions to be operational in the horizon years?	Y	Appendix A and B of the conformity determination lists the amended project and provides a description of the projects anticipated to be completed during the evaluation period of the conformity analysis.
93.108	Is the transportation plan fiscally constrained?	N/A	EPA is deferring to TPB and the States of Maryland and Virginia and the District of Columbia's transportation agencies who have determined that the plan is fiscally constrained.

93.113(b)	Are TCM's being implemented in a timely manner?	Y	All the TCMs listed in the Phase II Attainment Plan for the Metropolitan Washington D.C. area were implemented. The latest information regarding TCMs and other implementation plan measures effectiveness has been used.																								
93.118	For areas with SIP Budgets: is the Transportation Plan consistent with the motor vehicle emissions budget(s) in the applicable SIP?	Y	<p>On April 4, 2005 (70 FR 16958) EPA approved the new CO maintenance Plan for the Washington, D.C. metropolitan area. The mobile budgets contained therein are applicable to this conformity determination.</p> <p>On September 21, 2009, EPA declared adequate mobile emissions budgets contained in the 2008 Reasonable Further Progress Plans for Maryland, Virginia and the District of Columbia. Therefore, those mobile budgets are the applicable budgets to be used in this conformity determination. All three of these attainment mobile budgets are identical.</p> <p><u>2008 Mobile Budget: 2011 Analysis</u></p> <table data-bbox="878 919 1328 1010"> <tr> <td>70.8 T/D (VOC)</td> <td>60.6 T/D (VOC)</td> </tr> <tr> <td>159.8 T/D (NOx)</td> <td>120.3 T/D (NOx)</td> </tr> <tr> <td>1671.5 T/D (CO)</td> <td>688.3 T/D (CO)</td> </tr> </table> <p><u>2008 Mobile Budget 2020 Analysis</u></p> <table data-bbox="878 1083 1328 1173"> <tr> <td>70.8 T/D (VOC)</td> <td>39.1 T/D(VOC)</td> </tr> <tr> <td>159.8 T/D (NOx)</td> <td>44.4 T/D (NOx)</td> </tr> <tr> <td>1671.5 T/D (CO)</td> <td>576.0 T/D (CO)</td> </tr> </table> <p><u>2008 Mobile Budget 2030 Analysis</u></p> <table data-bbox="878 1268 1328 1358"> <tr> <td>70.8 T/D (VOC)</td> <td>36.8 T/D(VOC)</td> </tr> <tr> <td>159.8 T/D (NOx)</td> <td>31.8 T/D (NOx)</td> </tr> <tr> <td>1671.5 T/D (CO)</td> <td>585.1 T/D (CO)</td> </tr> </table> <p><u>2008 Mobile Budget 2040 Analysis</u></p> <table data-bbox="878 1453 1328 1543"> <tr> <td>70.8 T/D (VOC)</td> <td>38.7 T/D(VOC)</td> </tr> <tr> <td>159.8 T/D (NOx)</td> <td>31.6 T/D (NOx)</td> </tr> <tr> <td>1671.5 T/D (CO)</td> <td>602.6 T/D (CO)</td> </tr> </table>	70.8 T/D (VOC)	60.6 T/D (VOC)	159.8 T/D (NOx)	120.3 T/D (NOx)	1671.5 T/D (CO)	688.3 T/D (CO)	70.8 T/D (VOC)	39.1 T/D(VOC)	159.8 T/D (NOx)	44.4 T/D (NOx)	1671.5 T/D (CO)	576.0 T/D (CO)	70.8 T/D (VOC)	36.8 T/D(VOC)	159.8 T/D (NOx)	31.8 T/D (NOx)	1671.5 T/D (CO)	585.1 T/D (CO)	70.8 T/D (VOC)	38.7 T/D(VOC)	159.8 T/D (NOx)	31.6 T/D (NOx)	1671.5 T/D (CO)	602.6 T/D (CO)
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**Evaluation of the 2010 Constrained Long Range Plan and the FY 2011-2016 Metropolitan Washington Transportation Improvement Program**

**CRITERIA APPLICABLE ONLY TO THE CLRP**

93.119	<p>For areas without emission budgets: Does the Transportation Plan demonstrate contribution to emission reductions?</p>	Y	<p>There are no PM<sub>2.5</sub> SIP budgets for the area, therefore an interim test of using the less than base year (2002) test analysis was conducted and the results are shown below. Under 40 CFR 93.109 (e), this interim test is permissible as the area had a choice of either the less than base year test or build/no greater than build analysis for the area. The base year emissions are based on emissions modeling done by the TPB and agreed upon by the air agencies in the three jurisdictions and are shown as tons per year below. The analysis shows that the PM<sub>2.5</sub> non-attainment area passes the interim emissions test.</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;"><u>2002 Base Year</u></td> <td style="text-align: center;"><u>2011 Analysis</u></td> </tr> <tr> <td style="text-align: center;">1693 tpy (Direct PM) 100,000 tpy (NOx)</td> <td style="text-align: center;">969 tpy (Direct PM) 42,000 tpy (NOx)</td> </tr> <tr> <td style="text-align: center;"><u>2002 Base Year</u></td> <td style="text-align: center;"><u>2020 Analysis</u></td> </tr> <tr> <td style="text-align: center;">1693 tpy (Direct PM) 100,000 tpy (NOx)</td> <td style="text-align: center;">692 tpy (Direct PM) 16,000 tpy (NOx)</td> </tr> <tr> <td style="text-align: center;"><u>2002 Base Year</u></td> <td style="text-align: center;"><u>2030 Analysis</u></td> </tr> <tr> <td style="text-align: center;">1693 tpy (Direct PM) 100,000 tpy (NOx)</td> <td style="text-align: center;">697 tpy (Direct PM) 11,000 tpy (NOx)</td> </tr> <tr> <td style="text-align: center;"><u>2002 Base Year</u></td> <td style="text-align: center;"><u>2040 Analysis</u></td> </tr> <tr> <td style="text-align: center;">1693 tpy (Direct PM) 100,000 tpy (NOx)</td> <td style="text-align: center;">721 tpy (Direct PM) 11,000 tpy (NOx)</td> </tr> </table>	<u>2002 Base Year</u>	<u>2011 Analysis</u>	1693 tpy (Direct PM) 100,000 tpy (NOx)	969 tpy (Direct PM) 42,000 tpy (NOx)	<u>2002 Base Year</u>	<u>2020 Analysis</u>	1693 tpy (Direct PM) 100,000 tpy (NOx)	692 tpy (Direct PM) 16,000 tpy (NOx)	<u>2002 Base Year</u>	<u>2030 Analysis</u>	1693 tpy (Direct PM) 100,000 tpy (NOx)	697 tpy (Direct PM) 11,000 tpy (NOx)	<u>2002 Base Year</u>	<u>2040 Analysis</u>	1693 tpy (Direct PM) 100,000 tpy (NOx)	721 tpy (Direct PM) 11,000 tpy (NOx)
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**Evaluation of the 2010 Constrained Long Range Plan and the FY 2011-2016 Metropolitan Washington Transportation Improvement Program**

**CRITERIA APPLICABLE ONLY TO THE TIP**

93.102(b)(2)(iv)	Has the EPA and the State made a finding that NOx is an insignificant contributor to the direct mobile PM emissions or does any applicable implementation plan (or implementation plan submission) fail to establish an approved (or adequate) NOx budget as part of a PM <sub>2.5</sub> reasonable further progress, attainment or maintenance strategy?	N	NOx is included in the PM emission analysis.
93.102(b)(2)(v)	Has the EPA or State made a finding that VOCs, SOx or NH <sub>3</sub> as precursors are a significant contributor to the mobile PM emissions or has an applicable implementation plan (or implementation plan submission) established an approved (or adequate) budget for VOCs, SOx or NH <sub>3</sub> as part of a PM <sub>2.5</sub> reasonable further progress, attainment or maintenance strategy?	N	VOCs, SOx and NH <sub>3</sub> as precursors are not included in the emissions analysis.
93.102(b)(3)	Has the EPA or the State made a finding that re-entrained road dust is a significant contributor to the PM mobile emissions or has an applicable implementation plan (or implementation plan submission) established an approved (or adequate) budget that includes re-entrained road dust as part of a PM <sub>2.5</sub> reasonable further progress, attainment or maintenance strategy?	N	Re-entrained road dust is not included in the emissions analysis.

93.113(b)	Are TCM's being implemented in a timely manner?	Y	All the TCMs listed in the 2005 Ozone Attainment Plan for the Metropolitan Washington D.C. area were implemented. The latest information regarding TCMs and other implementation plan measures effectiveness has been used.																								
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93.119	For areas without emission budgets: Does the TIP demonstrate contribution to emission reductions?	Y	<p>There are no PM<sub>2.5</sub> SIP budgets for the area therefore, an interim test of using the less than base year (2002) test analysis was conducted and the results are shown below. Under 40 CFR 93.109 (e), this interim test is permissible as the area had a choice of either the less than base year test or build/no greater than build analysis for the area. The base year emissions are based on emissions modeling done by the TPB and agreed upon by the air agencies in the three jurisdictions and are shown as tons per year below. The analysis shows that the PM<sub>2.5</sub> nonattainment area passes the interim emissions test.</p> <table data-bbox="917 562 1445 1176"> <thead> <tr> <th><u>2002 Base Year</u></th> <th><u>2011 Analysis</u></th> </tr> </thead> <tbody> <tr> <td>1693 tpy (Direct PM)</td> <td>969 tpy (Direct PM)</td> </tr> <tr> <td>100,000 tpy (NOx)</td> <td>42,000 tpy (NOx)</td> </tr> <tr> <th><u>2002 Base Year</u></th> <th><u>2020 Analysis</u></th> </tr> <tr> <td>1693 tpy (Direct PM)</td> <td>692 tpy (Direct PM)</td> </tr> <tr> <td>100,000 tpy (NOx)</td> <td>16,000 tpy (NOx)</td> </tr> <tr> <th><u>2002 Base Year</u></th> <th><u>2030 Analysis</u></th> </tr> <tr> <td>1693 tpy (Direct PM)</td> <td>697 tpy (Direct PM)</td> </tr> <tr> <td>100,000 tpy (NOx)</td> <td>1,000 tpy (NOx)</td> </tr> <tr> <th><u>2002 Base Year</u></th> <th><u>2040 Analysis</u></th> </tr> <tr> <td>1693 tpy (Direct PM)</td> <td>721 tpy (Direct PM)</td> </tr> <tr> <td>100,000 tpy (NOx)</td> <td>11,000 tpy (NOx)</td> </tr> </tbody> </table>	<u>2002 Base Year</u>	<u>2011 Analysis</u>	1693 tpy (Direct PM)	969 tpy (Direct PM)	100,000 tpy (NOx)	42,000 tpy (NOx)	<u>2002 Base Year</u>	<u>2020 Analysis</u>	1693 tpy (Direct PM)	692 tpy (Direct PM)	100,000 tpy (NOx)	16,000 tpy (NOx)	<u>2002 Base Year</u>	<u>2030 Analysis</u>	1693 tpy (Direct PM)	697 tpy (Direct PM)	100,000 tpy (NOx)	1,000 tpy (NOx)	<u>2002 Base Year</u>	<u>2040 Analysis</u>	1693 tpy (Direct PM)	721 tpy (Direct PM)	100,000 tpy (NOx)	11,000 tpy (NOx)
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## CONCLUSION

Pursuant to FHWA's December 17, 2010 request, EPA has reviewed the 1997 8-Hour Ozone, carbon monoxide and 1997 PM<sub>2.5</sub> conformity determinations for the 2010 Constrained Long Range Plan and the FY 2011-2016 Metropolitan Washington Transportation Improvement Program prepared by the Metropolitan Washington Council of Governments, National Capital Region Transportation Planning Board. EPA has determined that the 2010 CLRP and the FY 2011-2016 Metropolitan Washington TIP meet the requirements of the federal conformity rule.

GERALD E. CONNOLLY  
11TH DISTRICT, VIRGINIA

COMMITTEE ON THE BUDGET

COMMITTEE ON  
OVERSIGHT AND GOVERNMENT REFORM

SUBCOMMITTEES:  
FEDERAL WORKFORCE, POSTAL SERVICE,  
AND THE DISTRICT OF COLUMBIA

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MIDDLE EAST AND SOUTH ASIA

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Washington, DC 20515-4611

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January 10, 2011

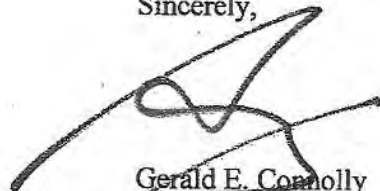
The Honorable David F. Snyder  
Chairman  
National Capitol Region Transportation Planning Board  
777 North Capitol St  
Washington, DC 20002

Dear Chairman Snyder,

*David!*

Thank you for contacting me with respect to surface transportation reauthorization legislation. As you know, I strongly support the Surface Transportation Authorization Act or similar legislation, and am willing to support gas taxes or other potential revenue mechanisms to pay for it. Unfortunately, the theological opposition of the new majority renders such an authorization bill infeasible for the next two years. In fact, the very first bill passed by the Republican House majority authorized *raiding* the highway trust fund, over the objection of the business community and Democratic members. Our region needs continued transit investment and reinvestment, as well as continued development of connecting streets and bike/ped infrastructure. Without these investments we will not be able to continue attractive investment to places like Tysons Corner. At present, the Department of Transportation is developing a surface transportation reauthorization blueprint. With changes in the political climate, perhaps in a couple of years the House will be able to have a realistic conversation about the necessity of a reauthorization that fixes our crumbling infrastructure and makes new investments designed to spur economic growth.

Sincerely,



Gerald E. Connolly  
Member of Congress  
11<sup>th</sup> District, Virginia

GC/ZF

*I hope you are well!*





In Reply Refer To:  
HFPD

The Honorable Judith F. Davis  
Mayor of Greenbelt  
Greenbelt, MD 20770-1886

Dear Mayor Davis:

Thank for your letter regarding your concerns about the planned study of the feasibility of widening the Baltimore-Washington Parkway to six lanes.

The feasibility study was requested in a report accompanying the Departments of Transportation, and Housing and Urban Development, and Related Agencies Appropriations Bill, 2008. Because Congress did not provide funds for the study at the time, we limited contact with the National Park Service (NPS) and the Maryland State Highway Administration (MSHA) to determining its probable cost. In developing the Department of Transportation's 2010 Appropriations Act, Congress designated the study to receive \$1 million in discretionary Public Lands Highways funding.

With funding now available, our Eastern Federal Lands Highway Division (EFLHD) initiated the study this month. As requested in the congressional report, the study will cover the feasibility of adding a lane in each direction to the Maryland Route 295/Baltimore-Washington Parkway from its intersection with I-695 (Baltimore Beltway) to New York Avenue in the District of Columbia. The congressional report also asked us to assess the impact of the Base Realignment and Closure process on traffic in the corridor.

Our EFLHD is working with the NPS's National Capital Region Office, the MSHA, the Metropolitan Washington Council of Governments (MWCOC), the Baltimore Metropolitan Council, and the Maryland-National Capital Park and Planning Commission to decide on the details of the study. Based on initial discussions with the NPS, EFLHD identified three major areas of analysis for the study:

- An examination of present day and future year traffic volumes in the study corridor with and without implementation of the proposed mainline widening of the parkway. The future base year or no-build condition will assume the continued existence of only two general travel lanes in each direction. The future-year build alternative will assume the



addition of one general travel lane in each direction as described in the legislation. All future-year traffic forecasts will use the most recent population and employment forecasts for the region developed by MWCOCG through its comprehensive planning process.

- An examination of the basic engineering feasibility and estimated cost associated with the possible addition of a third mainline travel lane to the parkway over the defined project limits. We will estimate the initial capital improvement costs and the continuing operations and maintenance costs over the next 20-25 years.
- The identification of the full range of environmental impact factors that would need to be examined in greater detail if any further study of the mainline widening concept is determined to be reasonable to undertake. While a formal environmental impact assessment will not be conducted as an element of this initial feasibility study, the factors to be examined and the general timing and cost associated with such an activity will be identified. These factors would include consideration the types of concerns you expressed as well as alternative solutions for meeting traffic demand in the corridor.

You asked FHWA to conduct a public meeting in Greenbelt in late January. At this preliminary stage, we are not ready to reach out to the public as yet. I can assure you that the study will include outreach to local officials, stakeholders, and the public.

Division Engineer Melisa L. Ridenour of EFLHD (202-493-3021) is available if you would like further information on the study.

Sincerely,

Victor M. Mendez  
Administrator

FHWA:HIF:RWeingroff:rw:6-4856:01/05/11

File Name: MD/B-W Parkway Study.Greenbelt.doc

FHWA Control No. 101227-015

cc: HOAES

Mr. Haussler HFPD

Reader HFL-1

Mr. Baxter HFL-1

Files E76-334

HFL-15

## SUMMARY SHEET

**SUBJECT:** Report to Congress on Maryland Route 295/Baltimore-Washington Parkway

**ISSUE:** Mayor Judith Davis of Greenbelt is concerned that the widening could cause problems in her city and the area. She asked FHWA to come to Greenbelt in late January to conduct a public meeting to explain why the study has been requested; what the purpose is; and whether it will examine the feasibility of alternatives other than widening.

**FHWA POSITION:** With funds finally available this month, we are reaching out to partners in the study. A public meeting in January would be premature, but we will reach out to affected agencies, local officials, stakeholders, and the public in the course of the study.

**BACKGROUND:** The Baltimore-Washington Parkway was completed in 1954—built by the Bureau of Public Roads for the National Park Service (NPS). NPS provided 100 percent of the funds for the parkway from the U.S. 50 interchange near the District of Columbia to Maryland Route 175 near Fort Meade, and this section of the parkway remains under NPS jurisdiction. Maryland provided and still owns the expressway extension into Baltimore. Over the years, traffic has exceeded the capacity of the four-lane expressway/parkway. Maryland expanded its section to six lanes, but widening of the parkway has not gone forward, in part because widening would eliminate much of the present scenic aspect of the drive. (The Baltimore-Washington Parkway is on the National Register of Historic Places.)

The Federal-Aid Highway Act of 1970 authorized \$65 million for upgrading the parkway to six lanes in compliance with Interstate standards. Implementation was contingent on completion of an agreement with the State to accept the upgraded parkway as part of its Federal-aid primary system. When agreement with the State could not be reached, the Surface Transportation Assistance Act of 1978 amended the law to maintain the existing four lanes and preserve the parkway characteristics as agreed upon by the U.S. Transportation Secretary and the Maryland Secretary of Transportation.

At the request of Congressman C. A. Dutch Ruppersberger, House of Representatives Report No. 110-238 on the DOT, HUD, and Related Agencies Appropriations Bill, 2008, asked us to study the feasibility of widening the parkway to six lanes, but did not provide funding for the study. The Conference Report on the DOT's 2010 Appropriations Act designated the study for \$1 million in Public Lands Highways funding – which was approved in August, but became available in January 2011. EFLHD is reaching out to Federal, State, and local partners to shape the study.

**POINT OF CONTACT:** Richard Weingroff, HIF, 64856

**SUPERVISOR:** John R. Baxter, 69494

rec'd 2/11/2011



# COMMONWEALTH of VIRGINIA

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

Gregory A. Whirley  
Commissioner

January 25, 2011

National Capital Region Transportation Planning Board  
C/o Mr. Ronald F. Kirby  
Director of Transportation Planning  
Metropolitan Washington Council of Governments  
777 North Capitol Street, Suite 300  
Washington, DC 20002-4201

Dear Mr. Kirby,

I want to thank each of you for your interest and participation in the recent VDOT and DRPT Planning and Programming meetings held on December 7, 2010 in Roanoke and January 21, 2011 in Richmond. I appreciate your understanding as we had to reschedule the December 16th meeting due to inclement weather.

The purpose of these meetings was to discuss the following items:

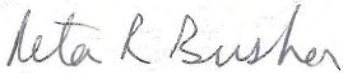
- Current process for identifying priorities for programming statewide discretionary funds,
- Regional priorities identified by your MPO and/or PDC,
- Legislative requirements for Regional Surface Transportation Funds (RSTP) and Congestion Mitigation and Air Quality (CMAQ) Funds,
- Maximizing the use of federal funding,
- New reporting tool available to monitor project changes,
- Schedule for updating the Statewide and Metropolitan Transportation Improvement Program for FY12-15 (STIP/TIPs) and SYIP, and
- The 5303 Program.

In my November 8th invitation letter for these meetings, we requested your input on regional priorities. Although the meetings have concluded, I would like to extend the opportunity for you to provide your region's priorities for an additional week. If you haven't already done so, please forward your list of priorities to me at [Reta.Busher@vdot.virginia.gov](mailto:Reta.Busher@vdot.virginia.gov) by next Monday, January, 31, 2011.

Mr. Ronald F. Kirby  
January 25, 2011  
Page Two

As we begin development of the SYIP Update and the STIP/TIP Update, we look forward to continuing to work with each of you and your respective regional organizations.

Sincerely,

A handwritten signature in cursive script that reads "Reta R. Busher".

Reta R Busher  
Chief of Planning and Programming

cc: Mr. Gregory A. Whirley

# National Capital Region Transportation Planning Board

777 North Capitol Street, N.E., Suite 300, Washington, D.C. 20002-4290 (202) 962-3310 Fax: (202) 962-3202 TDD: (202) 962-3213

Ms. Reta R. Busher  
Chief of Planning and Programming  
Virginia Department of Transportation  
1401 East Broad Street  
Richmond, VA 23219-2000

February 8, 2011

RE: Request to Provide the Region's Priorities for Statewide Discretionary Funds

Dear Ms. Busher,

Thank you for your January 25, 2011 letter (which we received on February 1, 2011) regarding identifying priorities for programming statewide discretionary funds. Among the issues you discussed in your letter were priorities identified by Metropolitan Planning Organizations (MPOs), requirements for Congestion Management and Air Quality (CMAQ) Funds, and maximizing the use of federal funds. While I was unable to meet the January 31, 2011 deadline specified in your letter, I still would like to take the opportunity to highlight two priorities from the perspective of the National Capital Region Transportation Planning Board (TPB): the relatively new Metropolitan Area Transportation Operations Coordination (MATOC) Program, and the longstanding regional Commuter Connections Program.

Established in 2008, MATOC is a joint program of the District of Columbia, Maryland, and Virginia DOTs and the Washington Metropolitan Area Transit Authority (WMATA). Its mission is ensuring regional situational awareness of transportation conditions and incidents, with the goals of improving traveler safety and reducing transportation delays. MATOC activities include:

- Monitoring and communicating reliable information during major incidents
- Enabling operating agencies and the traveling public to make effective, coordinated and timely decisions
- Maintaining a web-based transportation information system
- Facilitating standard operating procedures among transportation agencies.

MATOC's activities are complementary to and effectively integrated with VDOT's own traffic management activities and systems. The Regional Integrated Transportation Information System (RITIS), developed and operated as part of MATOC, shares information automatically and directly with VDOT's own information systems. MATOC's minimally-sized staff complements this data sharing through targeted notifications and telephone calls to facilitate interjurisdictional coordination. Through these efforts, MATOC helps reduce the "ripple effects" of major incidents that disrupt transportation systems.

As the region's MPO, the TPB championed the development of the MATOC Program in the wake of the tragic 9/11 attacks, to improve the Washington region's ability to handle regional incidents impacting transportation. On numerous occasions, the TPB has expressed its support for MATOC as a top priority for the region, and has provided concomitant support for MATOC planning and administrative activities through planning funding from the region's Unified Planning Work

Program (UPWP). However, as you are aware, the use of UPWP funds is limited to planning activities, and cannot be used for MATOC's operational activities.

In a March 17, 2010 letter to the TPB (attached), VDOT Commissioner Gregory Whirley stated that VDOT "supports the efforts and goals of MATOC to communicate consistent and reliable information to various agencies in response to emergencies or incidents." The TPB appreciates VDOT's support for this critical activity. The March 17 letter goes on to express VDOT's interest in the results of a benefit-cost analysis of the MATOC Program then underway. This benefit-cost analysis was commissioned by the MATOC Steering Committee, funded under MATOC's original federal earmark, and has since been completed. The analysis conservatively estimated an overall benefit-cost ratio of 10 to 1 for the MATOC Program. An executive summary of the analysis white paper is attached for your information, and the full report is available on the TPB's website at [www.mwco.org/transportation](http://www.mwco.org/transportation).

The MATOC Program was initiated with the support of a now-expended federal funding grant from the SAFETEA-LU legislation, totaling approximately \$1.7 million, including matching funds provided by the Virginia, District of Columbia, and Maryland Departments of Transportation (VDOT, DDOT, and MDOT). In 2010, upon the exhaustion of the original grant, the TPB requested that VDOT, DDOT, and MDOT each provide one-third of the annual cost of maintaining the MATOC Program (\$400,000 each annually for a total of \$1.2 million). DDOT and MDOT have each committed \$400,000 to the program for FY2011. To date, \$100,000 in FY2011 CMAQ funds have been allocated by the Northern Virginia Transportation Authority (NVTA) at the request of VDOT, and VDOT has committed to an additional \$50,000. The source of the other \$250,000 of funding requested from VDOT for basic MATOC operations in FY2011 has yet to be identified. This funding need will continue for FY2012 and for future fiscal years at the \$1.2 million level (\$400,000 per state). VDOT's funding of and participation in MATOC are critical for the program's success. Thus a top priority for the National Capital Region remains VDOT's ongoing full funding of a one-third share of the annual operating costs of the MATOC Program at \$400,000 per year.

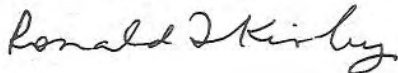
As noted at the outset of this letter, the TPB continues to strongly support the Commuter Connections Program as a regional priority. VDOT's funding support of Commuter Connections over many years has been greatly appreciated, and the TPB trusts that VDOT will continue that support in future programming allocations. As you may be aware, the TPB is required by federal regulations to approve a Congestion Management Process which includes travel demand management as part of the metropolitan transportation plan. Commuter Connections constitutes the major demand management component of the congestion management process to be approved by the TPB. Commuter Connections also provides transportation emission reduction measure benefits for inclusion in the air quality conformity determination, which must be approved by the TPB as part of the annual update of the Constrained Long Range Plan and Transportation Improvement Program. In addition, Commuter Connections programs will help provide Climate Change and Green House Gas emissions reductions for the region. Extensive monitoring and evaluation activities have been carried out for the Commuter Connections Program for over a decade and comprehensive data sets are available for reviewing the performance of the program. Commuter Connections has been shown through the FY 2006 – 2008 TERM Analysis Report to be

Ms. Reta R. Busher  
February 8, 2011  
Page 3

a highly cost-effective way to reduce vehicle trips (VT), vehicle miles of travel (VMT), and vehicle emissions associated with commuting in the Washington metropolitan region.

We would greatly appreciate your support and assistance in meeting these requests for the MATOC and Commuter Connections Programs as the Commonwealth begins the SYIP and STIP/TIP updates this year. If you have any questions, please feel free to contact me at [rkirby@mwcog.org](mailto:rkirby@mwcog.org) or (202) 962-3310.

Sincerely,



Ronald F. Kirby  
Director, Department of Transportation Planning  
Metropolitan Washington Council of Governments  
National Capital Region Transportation Planning Board

Attachments (2)

cc: Commissioner Gregory A. Whirley, VDOT



# EXECUTIVE SUMMARY

## MATOC Benefit-Cost Analysis White Paper



# MATOC

Metropolitan Area Transportator  
Operations Coordination

June 2010



"Working together to reduce incident-related travel delays through improved coordination, cooperation, and information-sharing."

## **1.0 EXECUTIVE SUMMARY**

The National Capital Region (NCR) is a diverse, multi-jurisdictional region, which includes travel by automobile, transit, rail, carpool, bicycle and foot. Within the NCR, there are multiple transit services, rail lines and over 300 centerline miles of interstates, parkways, tollways and HOV/HOT lanes under the jurisdiction of many DOT agencies (Federal, State, local), including the Park Service, one District, two States, 36 municipalities, 16 counties, and multiple transit agencies and toll authorities. Because of the close proximity of these governing jurisdictions, an incident that affects a transportation system in one jurisdiction (e.g., interstate highway) often will affect traffic operations and other modes of travel in adjacent jurisdictions, and the likelihood of this occurring increases with the length of time it takes to detect, mobilize and fully mitigate the incident – programs that facilitate coordination via the timely sharing of accurate incident information among NCR agencies are anticipated to reduce incident duration and be of significant benefit to the public.

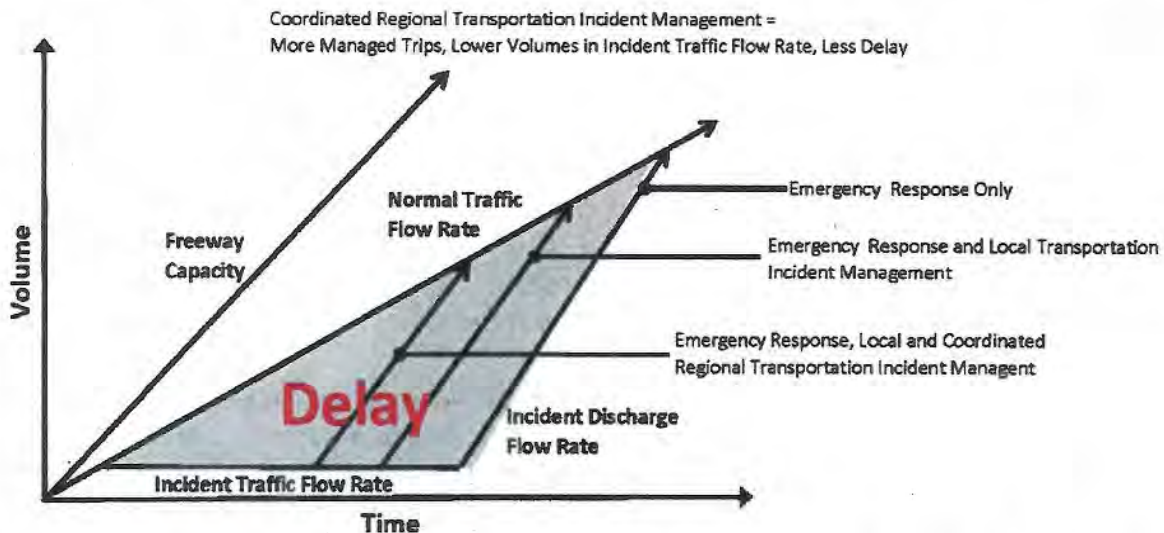
The Metropolitan Area Transportation Operations Coordination (MATOC) Program has an information-sharing mission to foster among transportation agencies a real-time situational awareness of transportation operations during regionally significant incidents that occur in the NCR. MATOC monitors, gathers and communicates accurate and timely incident and mobility information so that transportation agencies in the NCR may better coordinate their respective response activities to improve public safety (e.g., reduce secondary crashes), reduce travel delay and fuel consumption, and better inform the public, which allows individuals to make better informed travel decisions (e.g., defer or delay travel, take an alternate route or mode of travel). MATOC, however, does not usurp or override the policies or actions of other agencies, nor does it get involved in direct incident management or operational decision making, operation of service patrols, maintenance of traffic control systems, or snow removal.

Regional traffic incidents include incidents that have a significant impact on the transportation network in more than one jurisdiction; multiple minor incidents that create cascading additive impacts closely resembling that of a major incident; and severe weather that has an impact on the regional transportation network. Incidents of regional significance typically monitored by MATOC include traffic collisions, disabled vehicles, vehicle fires, hazardous materials incidents, medical emergencies, debris on roadway, road construction, weather events (e.g., thunderstorms, sleet and snow), or any combination of events that would propagate a regional transportation impact. In general, the more severe the incident, the longer its duration and impact to the traveling public.

Within the NCR, the average highway user spends 62 hours per year in congested traffic, 51% of which is non-recurring congestion caused by these traffic incidents. Interstate I-270 alone has an average of 7 incidents per day total both directions, end-to-end – 41% crashes and 59% non-crashes (e.g., disabled vehicles, police activity). On average, there are a total of 224 police-reported crashes per day on all roadways in the

NCR, and a percentage of these incidents are of such regional significance that MATOC involvement is warranted. For example, from December 1, 2009 to April 30, 2010, MATOC was involved with an average of 36 incidents per month.

It is well recognized that the coordinated sharing of incident and mobility information with potentially affected regional transportation agencies during traffic incidents has a positive effect in reducing the incident timeline in terms of detection, verification, information dissemination, response, clearance, and recovery. Programs that reduce the incident timeline and provide travelers with an earlier and regionally broader advance warning to modify their trips will reduce queue buildup, traffic delay and secondary crashes, which, in aggregate, will provide significant tangible benefits in terms of cost savings related to emissions, fuel consumption, value of time and safety. Modified trips in this context are considered trips made at a later time, on another route, by another mode, or cancelled. The following graphically illustrates this concept, where earlier incident detection and regionally broader coordination and notification by MATOC reduces the incident timeline (i.e., traffic delay and queuing) more than emergency response and local transportation incident management, which is the incremental benefit of MATOC:



This study uses traffic modeling techniques, the best available data, and engineering judgment to estimate loss of roadway capacity, vehicular queuing, travel delay, and costs (i.e., emissions, fuel consumption, value of time) associated with regionally significant traffic incidents for the purpose of quantifying benefits attributable to MATOC's real-time coordination and sharing of incident and mobility information among affected NCR transportation agencies during the incident timeline. The study uses procedures and methodologies that are commonly used and accepted in traffic engineering theory and practice, but attempts to maintain a straightforward and transparent approach. The study philosophy is to use reliable published data when available and, when assumptions are made, to be reasonable and conservative. The

following sketch-planning analysis was used in this study to quantify the benefits attributable to the implementation of MATOC:

1. Identify Representative Case Studies. The study identified the following three incidents involving MATOC that occurred on major roadway facilities in the NCR:
  - a. I-66 WB Bus Crash. On Friday, May 22, 2009 at approximately 4:45 PM, a multi-vehicle, rear-end crash (including two buses chartered for a school trip) occurred in the far left lane of WB I-66 just before the WB I-66 off-ramp to NB Nutley St. (MD 243) in Fairfax, VA. MATOC notified VDOT, Fairfax County, Maryland SHA CHART, Virginia Commuter, DDOT, and WMATA at key points during the incident timeline.
  - b. I-495 EB IL Vehicle Fire. On Thursday, September 17, 2009 at approximately 3:00 PM, a vehicle fire occurred in the far left lane of the EB I-495 Inner Loop west of MD 187 in Montgomery County, MD. MATOC notified Maryland SHA CHART and VDOT at key points during the incident timeline.
  - c. New York Avenue Shoulder Collapse. From 3:00 PM Friday, May 9 to 5:00 PM Sunday May 11, 2008, a storm sewer failure between the 1100 and 1200 blocks of New York Avenue (a major arterial link between DC 295 and I-395) caused a partial roadway collapse and the loss of the one or more travel lanes in the westbound direction into the District of Columbia, which is normally three lanes in the westbound direction. This inbound lane was closed for the entire weekend for emergency construction. MATOC coordinated the sharing of information among DDOT and Maryland SHA CHART.
2. Model Traffic Incidents. The study developed and calibrated a traffic model for each case study having MATOC involvement to reflect the actual incident timeline of events and the resulting primary queue length and duration reported by RITIS. Using each calibrated base model, the study conservatively adjusted the model's incident timeline of events (e.g., if and when DMS messages were posted) and the percent modified trips that would be expected if MATOC had not been involved – the independent variable being percentage and time of occurrence of modified trips.
3. Estimate Costs. The study estimated the costs of each incident with and, hypothetically, without MATOC in terms of emissions, fuel and value of time due to the resulting queue and traffic delay – the net benefit of MATOC for each incident being the difference in total cost of emissions, fuel and value of time (i.e., reduced emissions, fuel consumption, and wasted time).

4. Annualize Benefits. The study annualized the benefits of MATOC by conservatively estimating, based on historical data, how many incidents similar to the case studies would be expected to occur each year.
5. Determine the Benefit-to-cost Ratio. The study calculated the benefit-to-cost ratio as the ratio of the annualized benefits of MATOC to MATOC's annual operating cost.

Based on this conservative analysis, MATOC is demonstrated to have a benefit-to-cost ratio of 10:1. Note that this assessment is conservative as it does not include potential savings for reduced or eliminated secondary queues, secondary incidents or the potential delay reduction due to rubbernecking in the opposite direction. Also note that this assessment is conservative because the study does not attempt to quantify costs or benefits of the aggregate impacts of multiple simultaneous incidents being greater than the sum of their parts – an exacerbation effect.

The study concludes that MATOC has yielded positive benefits in cost savings associated with reduced traffic delay, reduced emissions and reduced fuel consumption. Although not directly evaluated in the analysis, it is also known through previous research of similar programs that MATOC indirectly improves the safety of incident responders and other motorists. At the current level of operation, it is expected that an even higher benefit-to-cost ratio would be realized with only a nominal percent increase in the occurrence of minor incidents and only a few additional major incidents in one year. Furthermore, MATOC benefits could be increased by providing supportive direct traveler information through, for example, a branded website for:

- real-time travel time information,
- trip planning,
- transit and toll information,
- notices/advisories (e.g., road closures), and
- information on additional arterials, local roadways and local transit service.

MATOC benefits can also be increased by developing standard operating procedures and action plans for recurring special events and major construction projects.



## COMMONWEALTH of VIRGINIA

### DEPARTMENT OF TRANSPORTATION

1401 EAST BROAD STREET  
RICHMOND, VIRGINIA 23219-2000

**GREGORY A. WHIRLEY**  
ACTING COMMISSIONER

March 17, 2010

The Honorable David Snyder, First Vice Chairman  
National Capital Region Transportation Planning Board  
777 North Capitol Street, N.E., Suite 300  
Washington, D.C. 20002-4290

Dear Councilman Snyder:

Thank you for your letter regarding funding for the Metropolitan Area Transportation Operation Coordination (MATOC) Program and for the fact sheet regarding the program.

The Virginia Department of Transportation (VDOT) supports the efforts and goals of MATOC to communicate consistent and reliable information to various agencies in response to emergencies or incidents. As you know, Mr. Richard W. Steeg (VDOT's Northern Regional Operations Director) served as the previous Chairman of the MATOC Steering Committee and has remained involved in the support of this program. Also, at the request of VDOT, the Northern Virginia Transportation Authority (NVTA) allocated \$100,000 in FY 2011 CMAQ funds toward the support of MATOC.

The request for commitment to provide additional funding over the next several years for MATOC support comes at a critical moment. The Commonwealth is dealing with significant shortfalls in revenues – the Commonwealth Transportation Board (CTB) has had to cut \$4.6 billion from transportation programs since the spring of 2008, and VDOT's implementation of the "Blueprint" to cope with reduced funding has meant layoffs of employees and cuts in services.

Finally, we understand that funding has been obtained for a consultant study of MATOC and its operation. I trust the study will provide the necessary information for a better understanding of the specific benefits of MATOC's deliverables, as well as its relation to the Regional Integrated Transportation Information System (RITIS) Program also operating under tri-state oversight.

Again, thank you for your letter and for your support to improve regional coordination for improved transportation and mobility.

Sincerely,

Gregory A. Whirley

C: The Honorable Sean T. Connaughton  
Ms. Connie Sorrell  
Ms. Reta Busher  
Morteza Salehi, P.E.



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*Powering Change  
Through Partnership*

January 28, 2011

Christian Kent, Assistant General Manager, Access Services  
Frank Roth, Director of the Office of Eligibility Certification  
Department of Access Services  
Washington Metropolitan Area Transit Authority  
600 5<sup>th</sup> Street, NW  
Washington, D.C. 20001

Dear Mr. Roth and Mr. Kent:

The Quality Trust for Individuals with Disabilities, the Protection and Advocacy Agencies of the District of Columbia, Virginia and Maryland, and other advocacy groups and stakeholders representing people with cognitive or intellectual disabilities have the concerns described below about WMATA's Metro Access policy, communicated by letter of August 30, 2010, requiring people with "disabilities of a cognitive nature" to be accompanied by legal guardians or persons with power of attorney ("POA") who can make "healthcare and travel decisions" on the persons behalf during eligibility assessment appointments ("Policy"). We appreciated the opportunity to begin discussing this at the November Project Action meeting and look forward to continuing the conversation with you at our meeting on January 31<sup>st</sup> before the policy is further implemented. We urge WMATA to immediately retract this Policy.

Our concerns are as follows:

1. First, while WMATA's August 30, 2010 letter states that the Policy is "in the interest of protecting the Metro Access applicant's rights, and safety," the Policy instead arbitrarily discriminates against a large and diverse class of applicants in violation of the Rehabilitation Act, Title II of the Americans with Disabilities Act, and the U.S. Department of Transportation's regulations implementing those laws by imposing an extraordinary barrier to using a public service without justification. Title II, Part B of the ADA requires a public entity charged with operating a fixed route transit system to provide persons with disabilities with paratransit services that are:

comparable to the level of designated public transportation services provided to individuals without disabilities[.]

42 U.S.C. § 12143(a).

Additionally, 49 C.F.R. 37.5 states:

- (a) No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

WMATA does not impose conditions on any other class of individuals for using public transit.

Further, the Department of Transportation's implementing regulations state that:

A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration: ... That have the purpose or effect of defeating or substantially reducing the likelihood that handicapped persons can benefit by the objectives of the recipient's program or activity.

49 C.F.R. § 27.7(4)(ii) (implementing the ADA under the U.S. Department of Transportation).

The new WMATA Policy has the effect of substantially reducing the likelihood that persons with developmental or cognitive disabilities can benefit from Metro Access services because it excludes people with cognitive disabilities who do not have a guardian or power of attorney. In fact, most people with cognitive or intellectual disabilities and/or reduced decision making abilities do not have and do not need guardians or persons with power of attorney. A policy which results in an individual being required to have either in order to access Metro services is a violation of the American with Disabilities Act and its implementing regulations.

2. The Policy's requirement of a POA or legal guardian is also overbroad and inconsistent with local laws. Most people with cognitive disabilities have family or paid supports who help them with a number of things, including accessing transportation and Metro Access services, which makes it unlikely that a guardian would be appointed. When the courts look to whether a person needs a guardian they ask a two-part question: (1) Is the person incapacitated; and (2) Does the court need to intervene to ensure the individual is protected? *See, e.g.*, D.C. Code 21-2044(b). In determining whether there is a need for court intervention, the Court looks, among other things, to see whether the person already has community supports in place. If so, there is likely no need for a guardian to be appointed. For example, in Maryland, many state-funded service providers assist individuals to use Metro Access without the involvement of guardians.
3. Next, the August 30, 2010 letter states that the Policy applies "to all applicants over the age of 18 whose disability prevents them from making independent decisions [including] disabilities of a cognitive nature." At best, the standard is unclear and is over-inclusive. More problematically, in addition to violating Federal law, it violates DC law which holds that all people are presumed to be competent and able to make their own decisions, with or without support. *See, e.g.*, DC ST § 21-2002(d).
4. The Policy's implementation can only lead to improper and potentially discriminatory assessments based on a person's ability to communicate effectively. For example, who at Metro Access would determine that a particular person cannot make an "independent decision," on what basis, and what qualifications or training would the decision-maker



have to make such a determination? For people who have non-traditional communication skills, or for people with diminishing abilities, it may not be easily discernible whether they are unable to make "independent decisions." We also have serious concerns about the potential for discriminatory impact in such determinations on applicants who have limited proficiency in English

5. WMATA's policy is not reasonably connected to safety concerns. Our understanding is that one of the reasons for this policy is that at least one person with an intellectual disability was dropped off at your office by a nursing home without anyone to accompany them and you had a concern for this person's safety. Federal regulations consider the need for personal care attendants, and WMATA could make such a determination on an individual basis at the eligibility stage; however, blanket assumptions regarding the needs of all members of a class of individuals with disabilities are improper.
6. Finally, but perhaps most critical, the Policy runs counter to the goal of community integration, which is a civil right for persons with cognitive or intellectual disabilities. Denying such people Metro Access services will isolate them and adversely effect their health, happiness, and livelihood.

We understand that WMATA strives to "[p]revent the denial, reduction or delay in benefits related to programs that benefit minority populations or low-income populations." We look forward to working with you toward that goal. Toward that end, we look forward to meeting with you and your team to discuss these concerns and ways to accomplish WMATA's objectives.

Sincerely,

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