



MEMORANDUM

TO: TPB Technical Committee
FROM: Eric Randall, TPB Transportation Engineer
SUBJECT: MPO Coordination and Planning Area Reform Final Rule
DATE: December 28, 2016

This memorandum provides an update for the TPB Technical Committee on federal rulemaking for Metropolitan Planning Organizations (MPOs). The rule is an initiative of US DOT Secretary Foxx and federal agencies to revise transportation planning regulations to “promote more effective regional planning by States and metropolitan planning organizations (MPOs)”.

This rule establishes additional requirements that the TPB must now meet in order to be compliant with federal law. While the implementation of this rule is not immediate, TPB staff will be working with our Federal partners, with our State Departments of Transportation and our neighboring MPOs to take the necessary steps in order to achieve compliance within a timely manner. At a minimum, there will be additional coordination and staff time necessary to become compliant at a cost which has yet to be determined.

PUBLICATION OF MPO COORDINATION AND PLANNING AREA REFORM FINAL RULE

A final rule for Metropolitan Planning Organization Coordination and Planning Area Reform¹ was published on December 20, 2016. This final rule promulgates new requirements 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 goal of the revisions is to better align the planning regulations with statutory provisions concerning the establishment of metropolitan planning area (MPA) boundaries and the designation of MPOs. To achieve this purpose, the rulemaking incorporates the 23 U.S.C. 134 requirements that the boundaries of MPAs at a minimum include an urbanized area in its entirety and include the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan transportation plan. The rule includes new coordination and decisionmaking requirements for MPOs that share an MPA, to better ensure that transportation investments reflect the needs and priorities of an entire region.

Previously, the Technical Committee was briefed on the initial Notice of Proposed Rulemaking (NPRM), published on June 27, 2016. The TPB submitted formal comments in response to this NPRM. Additional questions and an extension for comment was published on September 23, 2016, and TPB also submitted formal comments in response to this detailed request.

SUMMARY OF MAJOR CHANGES MADE IN FINAL RULE

There are several significant changes made to the final rule from the NPRM.

¹ <https://www.gpo.gov/fdsys/pkg/FR-2016-12-20/pdf/2016-30478.pdf>

1. Exception to Unified Planning Products

A new compliance option is offered for Metropolitan Planning Areas (MPAs) with multiple MPOs (§450.312(i)). This option offers, under certain conditions, an exception to the requirement for unified planning products (Long Range Plan, TIP, Performance Targets). If approved by the Secretary, multiple MPOs in an MPA may continue to generate separate planning products if the affected Governor(s) and all MPOs in the MPA submit a joint written request and justification to FHWA and FTA that (1) explains why it is not feasible for the MPOs to produce unified planning products for the MPA, and (2) demonstrates how each MPO is already achieving the goals of the rule through an existing coordination mechanism with all other MPOs in the MPA that achieves consistency of planning documents. An approved exception is permanent.

The NPRM did not offer any exception to the unified planning products requirement, which could conceivably lead to a set of unified planning products for an MPA that includes least six state-level jurisdictions from Virginia to New Jersey (see Attachment 1).

2. Date of Implementation

The final rule phases in implementation of these coordination requirements and the requirements for MPA boundary and MPO jurisdiction agreements, with full compliance not required until the next Metropolitan Transportation Plan (e.g., TPB's CLRP) update occurring on or after the date 2 years after the date the U.S. Census Bureau releases its notice of Qualifying Urban Areas following the 2020 census. Historically, the Census Bureau issues its notice approximately two years after the census. For TPB, the date of implementation could conceivably be in 2023 or 2024. Under the NPRM, this implementation would have had to take place within two years of the final rule or 2018, just ahead of the 2020 census designating new urbanized areas.

3. Time Period to Adjust MPA Boundaries

The final rule changes the time period for adjustment of MPA boundaries following a decennial census from 180 days to 2 years, allowing for additional time for MPO compliance.

4. Air Conformity Determination

The NPRM language that called for MPOs sharing an MPA to agree on a process for making a single conformity determination on their plan and TIP has been removed in the final rule. Instead, FHWA and FTA will coordinate with the Environmental Protection Agency (EPA) on maintaining consistency with transportation conformity regulations and will work to provide technical assistance and training to help MPOs address conformity issues that may occur.

CONTINUED REQUIREMENTS OF THE RULE

Many requirements of the final rule are similar to those of the NPRM as reviewed by the Technical Committee. Important requirements 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 to include coordination strategies and dispute resolution procedures between the States and the MPOs and between adjacent MPOs.

FUTURE FEDERAL SUPPORT

In response to the many comments on the proposed rule, the FHWA and FTA note several times that further guidance or actions will be forthcoming. Areas for future federal support include:

- The FHWA and FTA intend to provide guidance regarding the types of situations where an exception to the requirement for unified planning products may be appropriate. Examples may include situations where the Governor(s) and MPOs show that the number of MPOs in the MPA, the number of political jurisdictions within separate MPOs serving a single MPA, the involvement of multiple States with differing interests and legal requirements, or transportation conformity issues make it infeasible to develop unified planning products; or they might show there would be unintended consequences of using unified planning products in the MPA that would produce results contrary to the purposes of the rule. The guidance also will address how Governor(s) and MPOs can demonstrate their current coordination procedures meet the exception requirements, such as by (1) documenting a history of effective regional coordination and decisionmaking with other MPOs in the MPA that has resulted in consistent plans and TIPs across the MPA; (2) submitting procedures used by the multiple MPOs in the MPA to achieve consistency on regional priorities and projects of regional impact through plans, TIPs, air quality conformity analyses, project planning, performance targets, and other planning processes to address regional transportation and air quality issues; and (3) demonstrating the technical capacity to support regional coordination.
- The FHWA and FTA do not intend this rule to require the establishment of extremely large MPAs or to require transportation planning on such a large scale as to be unworkable. The intent is to ensure MPAs comply with statutory boundary requirements, and, FHWA and FTA cannot provide exceptions to these requirements. The FHWA and FTA will provide guidance in the future about how to accomplish MPA boundary adjustments.
- FHWA and FTA plan to issue guidance and will offer technical assistance to help States and MPOs understand their options for complying with the rule, including additional guidance on the responsibilities and methodology for determining 20-year growth projections; determining the parameters for designating MPA boundaries when UZAs are contiguous, or when the 20-year forecast growth from two UZAs overlaps; developing dispute resolution agreements; and determining when the size and complexity of an MPA warrants the designation of multiple MPOs.
- FHWA and FTA appreciate concerns that UZAs may not reflect regional transportation patterns and systems, and, therefore, FHWA and FTA intend to engage with the U.S. Census Bureau to provide input into how UZAs should be delineated following the 2020 decennial census.

MPO and Urbanized Area Boundaries

2010 Census (smoothed)

