



U.S. Department
of Transportation
**Federal Transit
Administration**

Memorandum

Federal Highway
Administration

Subject: ACTION: Federal Certification of the
MPO (TMA) Planning Process

Date: APR 28 1994

From: Federal Transit Administrator
Federal Highway Administrator

Reply to
Attn. of: TGM-21, Kirkland
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To: FTA Regional Administrators
FHWA Regional Administrators

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) has significantly enhanced the stewardship role of the FTA and FHWA in the implementation of the changes it mandates in the transportation planning process. Inherent within the approval of Statewide Transportation Improvement Programs (STIP), planning findings, conformity determinations and certification of the transportation planning process in Transportation Management Areas (TMA) is the fundamental leadership responsibility of FTA and FHWA in ensuring that the transportation planning process addresses the policy goals of the ISTEA. This memorandum articulates our general agency expectations with regard to this planning stewardship and the specific function that certification plays within this broader framework. While certification of the Metropolitan Planning Organization (MPO) TMA planning processes falls within the purview of the metropolitan planning regulations, the basic principles apply to both the statewide and metropolitan planning requirements.

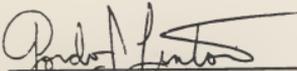
We view certification of the planning process within TMAs as one of a number of the critical mechanisms for ensuring the satisfactory implementation of the planning requirements identified in 23 USC 134 and 49 USC 1602. It is perhaps most critical in the sense that it will be a very visible action and formal indication that we have exercised our legal responsibility in meeting this stewardship function. However, the individual planning findings, necessary conformity determinations and STIP approvals provide critical input to this triennial action. We expect our regions to establish procedures for implementing this joint responsibility. While the substance of these decisions must remain consistent across regions, the variation in workload posed by the distribution of TMAs will dictate procedural accommodations by region.

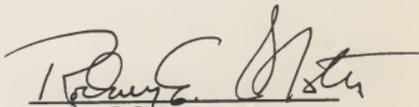
The attached statement of principles and guidance provides a framework for addressing the implementation of the certification requirement. We expect the responsibility for issuing certification determinations to rest jointly with our field offices, working in partnership with Headquarters. The effective implementation of the certification process will require a significant allocation of resources which you should address in the development of regional staffing and travel budgets.

Especially in this initial effort and in recognition of the phase-in provisions of the metropolitan planning regulations (Section 45.336), we expect the emphasis to rest on ensuring a good faith effort to implement plan updates and the priorities indicated in the attachment. We also expect that the message conveyed to MPOs, state DOTs and transit operators collectively will be that they are mutually responsible for the continuing enhancement and improvement of the planning process to meet the objectives of the ISTE A planning requirements.

We expect the primary responsibility for implementing our stewardship role to rest with FTA and FHWA field staff. However, this is manifested not only in the certification process, but also in STIP approvals, Transportation Improvement Program (TIP) and STIP planning findings, conformity findings, and unified planning work program approvals. In recognition of our national stewardship role and mandate from the ISTE A, we plan to conduct Enhanced Planning Reviews (EPR) in selected metropolitan areas which will be integrated with the certification processes for the respective metropolitan areas. These EPRs will be done at the request of states, MPOs, transit operators or FTA/FHWA field or Headquarters offices to pursue more complex planning process questions and to assist MPOs in improving their procedures. As a supplement to these EPRs, we plan to develop and implement an overall assessment of the planning process and its implementation under the ISTE A requirements over the next three fiscal years. The results of the planning reviews will provide input to this analysis. The challenge and the expectations are such that we believe that a very visible and substantial assessment is necessary to demonstrate our joint commitment and success in providing the leadership expected of both agencies. You will be hearing more about this initiative as it is developed.

We will be discussing the attached certification procedures and guidance with your offices at opportunities over the next several weeks. In conjunction with FHWA's Advance Planning Seminar which is scheduled for the week of April 10, we expect to have FHWA and FTA field staff participating in this seminar assist us in refining the attached certification procedures and guidance. Additionally, we will meet with field staff during May to discuss the certification process in more detail after additional guidance has been developed. As indicated in the attached paper, once this meeting has been held and the guidance refined, Headquarters staff will participate with field staff in conducting a pilot certification review in each region. Certification reviews should not be initiated by field staff pending the issuance of the additional guidance and/or completion of the pilot certification reviews. If you have questions on certification, please contact Deborah Burns, Office of Planning, TGM-21, at (202) 366-1637 or Sheldon Edner, Office of Environment and Planning, HEP-21, at (202) 366-4066.


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Rodney E. Slater
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GUIDANCE
CERTIFICATION OF THE METROPOLITAN PLANNING PROCESS IN TMAs

PRINCIPLES/PROCESS

- Must be a joint action by FHWA and FTA.
- Must be based on a serious examination of the planning process that documents the adequacy of the planning process. However, the workload involved in reviewing the planning process for approximately 135 MPOs once every 3 years combined with other oversight and administrative responsibilities demands a process that utilizes and builds on the other oversight functions including TIP findings, UPWP approvals and conformity findings.
- The certification process must recognize the differences among areas and not expect each area to respond to the requirements to some predefined minimum level/standard. The goal should be to encourage an improved planning process in each area rather than a process that only minimally meets the requirements.
- Process must recognize that certification is likely to involve negotiated improvements and schedules rather than pass or fail ratings. In this vein, the ISTEA sanction provisions are viewed as a "last resort" action to be used in situations where the parties involved are unresponsive to needed corrections or there are very serious inadequacies in the planning process. In almost all cases, it is likely that the "planning finding" process discussed below would probably have identified deficiencies and may have already affected the advancement of projects.
- While certification is the formal mechanism provided by ISTEA for determining the adequacy of the planning process in TMAs, a "once every three year look" at the planning process is not sufficient to ensure that the planning process, its products, and our actions related to the planning process meet the requirements. Fortunately, the regulations provide additional mechanisms for assuring the adequacy of the planning process, i.e., the planning finding that must be made on each TIP/TIP amendment in all metropolitan planning areas prior to its inclusion in an approved STIP, the air quality conformity determination process in nonattainment and maintenance areas, and the review and approval of the planning work programs for all metropolitan areas.

The planning finding provides a mechanism for identifying problems and requiring immediate corrective action without going through the more formal certification process. In addition, the planning finding process can provide an early warning mechanism for initiating a certification review prior to end of the normal 3 year certification period as

well as in highlighting parts of the planning process that need to be examined in more depth as part of regularly scheduled certification reviews (and conversely identifying those parts that are clearly meeting the regulatory requirements and therefore require less review in the certification process). Although pre-ISTEA planning findings may have relied primarily on the State and MPO self-certification statements, this is not expected to be the case under the regulations. It is expected that FHWA/FTA as part of the planning findings process will review the adequacy of public involvement, financial constraint, relationship of projects in TIP to the transportation plan, and satisfaction of the provisions relating to the restriction on SOV projects in TMAs that are nonattainment for CO and/or ozone.

The conformity regulations require consultation with a number of agencies (including FHWA and FTA) on key elements of the metropolitan planning process, including models to be used, proposed plans and TIPs, research and data collection related to the transportation planning process. The concerns that may be raised through this consultation process will provide another mechanism for identifying potential shortcomings in the planning process. Additionally as part of the conformity determination in nonattainment areas requiring TCMs, FHWA and FTA must specifically consider comments concerning the financial feasibility of the plan and TIP made through the conformity consultation process and the metropolitan planning public involvement process.

Where review of the work programs indicates that essential activities for complying with the regulations are not being adequately undertaken and/or the proposed schedules for completing the activities do not satisfy regulatory requirements, the need for revisions to the work program can be addressed. Where there is not a positive response, FHWA and FTA can pursue this through action on the UPWP or a certification review could be initiated without waiting the normal 3 years.

- It is expected that FHWA and FTA field staff will involve themselves in the planning process on at least a selective basis, e.g., participation in key MPO meetings, monitoring TIP revisions, etc. This can be a valuable mechanism for not only surfacing potential problems and deficiencies in the planning process, and in initiating corrective action but also providing contact with local officials. This is an enhancement of the traditional planning oversight role of FHWA and FTA field offices.

Population

Enhanced planning reviews (EPRs) similar to the ones that FHWA and FTA having been doing in areas over a million can provide valuable input to the certification reviews and other oversight functions. For example, where FHWA and FTA identify an apparent shortcoming in the technical process, a comprehensive review of this portion of the process could be undertaken with TSC staff. They could also be used to do "peer" type

reviews on a selected or request basis. In what ever form, these EPRs will require substantial additional resources.

- Reviews conducted under the FHWA Office of Program Review annual review program may also augment the certification reviews and other oversight functions. For example, last year implementation of the flexibility provisions and administration of joint FHWA/FTA projects was the subject of one of the reviews.
- Individual certification reviews should be tailored to reflect the information available from other oversight activities. While this may not be a significant factor for the certifications performed in the remainder of FY-94, this will become a significant factor as other oversight functions reflect the regulatory requirements. This means that while all aspects of the process will be addressed in the certification findings a significant amount of the information needed to make a decision on certification will be obtained from other oversight activities and day-to-day involvement in the planning process. It is expected that the certification process will include a discussion of the findings with the MPO policy body.

Certification reviews in the balance of 1994 (at least) will need to be done with the recognition that MPOs, States, and transit operators will have had little time to address new regulatory requirements and even less time to consider any nonregulatory guidance that may be issued to supplement the regulations. These reviews need to focus on how well they have addressed the interim guidance and what they are doing to begin to address the additional requirements in the final regulations.

- Guidance for DOT staff conducting certifications will have to be developed. This may include manuals, certification forms, checklists, etc.
- FHWA and FTA field staff will be the primary staff involved in certifying MPOs. An assessment will have to be made on training that may be necessary to equip DOT staff to perform certification reviews. One potential mechanism in lieu of any formal training is for Headquarters to lead the initial certification review in each Region.

As part of the process, the areas identified below represent focal points in the first round of certification reviews. They have been the subject of keen interest by several key constituencies, represent priority issues to FHWA and FTA and have been the subject of numerous questions by MPOs, States, and transit agencies. These areas should be addressed in a general way, reflecting the phase-in of the planning requirements.

Fifteen Factors—The planning regulations require that the 15 factors be explicitly

considered and analyzed as appropriate.

Public Involvement—The metropolitan transportation planning process should include provisions that encourage and ensure early and continuing involvement of citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties in the development of plans and TIPs, and in all other stages of the planning process.

Major Transportation Investments—Metropolitan Planning Organizations (MPO) and their planning partners must undertake detailed and participatory corridor and subarea studies of any major corridor investments contained in a regional plan. These studies will include detailed analysis of the forecasted effectiveness of alternative investments and strategies in terms of a broad array of criteria.

Congestion Management System—In TMA's, the planning process must include the development of a Congestion Management System (CMS) that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies. In TMA's that are nonattainment for carbon monoxide and/or ozone, Federal funds are not to be programmed for highway projects that increase Single Occupant Vehicle (SOV) carrying capacity unless such projects result from a CMS, meaning, in essence, that Transportation Demand Management (TDM), transit, operating strategies and other actions must be looked at as alternatives to new highway construction. Even if such strategies cannot completely satisfy the need for additional capacity, they must be implemented in conjunction with the SOV capacity enhancements.

The planning process and Clean Air Act Amendments (CAAA) of 1990 conformity—In nonattainment and maintenance areas, the MPO must have an adequate process to ensure conformity of plans and programs with state or Federal implementation plans, in accordance with procedures contained in the rules resulting from the CAAA.

Financially constrained plans and TIPs—The regulations require that MPOs have in place a process that produces current metropolitan plans and TIPs that are financially feasible. Plans must demonstrate the consistency of proposals with known and reasonably expected sources of revenue for transportation uses. The TIP must be financially constrained and include a plan that demonstrates how it can be implemented without detriment to operation and maintenance of the existing transportation system, and only projects for which funds can reasonably be expected to be available may be programmed. The metropolitan TIP is incorporated into the financially constrained State TIP which is jointly approved by FHWA and FTA. In nonattainment and maintenance areas, funds for projects in the first two years of a TIP must be available or committed.

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