



## NYSAMPO comments on Metropolitan Planning NPRM (§450.300...)

- §450.300 No comment
- §450.302 No comment
- §450.304 No comment
- §450.306(d)(2) Setting performance targets is a necessary and important part of performance-based planning, but it also very complex. The language lacks guidance on when targets should be set (as part of the update of the metropolitan transportation plan, for example?) and how frequently they should be updated. New York currently has 13 MPOs, with a 14<sup>th</sup> to be designated. They are each on their own plan update cycle. Since there is no required update cycle for statewide plans, it is not clear how New York State DOT will coordinate target setting exercises with each MPO, and whether that will be an administrative burden.
- 450.306(d)(4) “An MPO shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes...”  
*We recognize that this is statutory language from MAP-21 §1201(h)(2)(D). Nonetheless, we express concern about what “integrate” means in this context. We note that the term is not defined in MAP-21, nor in §450.104.*  
Do FHWA and FTA presume that MPOs will accept without change the content of these various statewide plans? While MPOs may have been involved as stakeholders in the development of some of these plans, that does not mean that the plans reflect the policies or priorities of the MPOs. This approach appears to be entirely top-down, with the State dictating goals, objectives, performance measures, and targets to the MPOs. This contradicts longstanding Federal policy that empowers the local officials that comprise the MPO to establish the policies and priorities that are most meaningful to their metropolitan area.
- 450.306(d)(4)(vii) “Other State transportation plans and transportation processes required as part of a performance-based program.”  
*Again, this is statutory language from MAP-21 §1201(h)(2)(D).*  
Because there is no definition of the subject plans and processes, this statement could be used to allow a State to impose a broad range of policies, goals, and objectives on an MPO. We propose that the open-ended language be modified to define transportation plans and processes.
- 450.310(d) We are supportive of the FTA guidance on transit agency representation on TMA MPOs that provides flexibility in how MPOs select among multiple transit operators. There is concern about the “2 hats” issue, in which for example a County Executive on the Board would not also be considered the transit representative when the transit is owned/operated by County government. NYSAMPO supports allowing such an official to be the transit representative if that is explicitly agreed to in MPO operating procedures. What is most important is that the Planning Rule and FTA guidance are the same.

- 450.312 No concerns with the MPA Boundary process.
- 450.314(a) The requirement for Metropolitan Planning Agreements has proven beneficial in that the roles and responsibilities of the primary participants in the MPO process are clearly spelled out and agreed upon. However, we are concerned that in states like New York, with a large number of MPOs, the administrative burden of revising/renegotiating these agreements may be significant.  
Because performance based planning and programming is such a significant change to the planning process, we recognize the value of including as part of the cooperative agreement responsibility for items related to data collection, performance monitoring, and target setting and reporting.  
However, (1) the rule should recognize the time required to create this system, and the schedule that will be based on the yet to be determined issuance of the Final Rule on performance management. Before that rule is promulgated, both MPOs and states will be less than fully informed about what is required to meet performance management plans; (2) as the system matures, there are likely to be changes in the roles and responsibilities of participating agencies. Revising the MPA each time a new decision is made would be overly burdensome.  
We propose that the rule specify that existing agreements may be modified via addendums or amendments to include “specific provision for cooperatively developing and sharing information related to transportation systems performance data, the selection of performance targets, ....” without having to reopen the actual MPA.
- 450.316 The process of developing the required participation plan, and the required content, remain largely unchanged from current practice. We appreciate the flexibility granted to MPOs in many of the aspects of public participation. There are no concerns.
- 450.318 We support the longstanding efforts to streamline the process of linking planning to NEPA through the incorporation of planning work performed in corridor or subarea studies into the NEPA assessment. This section spells out appropriate responsibilities and decision making. The FHWA PEL program has demonstrated where overlaps may occur, including in the Statement of Purpose and Need, scoping, and initial definition and analysis of project alternatives.
- 450.320 We agree with providing an opportunity for MPOs to develop programmatic mitigation plans, and strongly support leaving this as optional. We recognize that developing the plan may be resource intensive for both MPO and environmental resource agencies.
- 450.322(c) We strongly support the recognition in this section that decisions about congestion are variable, and that flexibility in defining and addressing congestion is important. These decisions appropriately rest at the MPO level. FHWA may want to consider a similar approach to other performance management topics.
- 450.322(d)(3) We support a coordinated plan for data collection. We propose adding public safety agencies to the last sentence, as they are often the source of data related to incident management and other aspects of non-recurring congestion.

- 450.322(d)(4)(iv) “ITS technologies” are not a congestion management strategy; this language should be removed. ITS is a tool for improving regional transportation system management & operations through improved traveler information, ramp metering, variable speed limits, and others. It may be more appropriate to reference the importance of implementing the adopted ITS Regional Architecture.
- 450.324(f)(4) The NPRM states “A system performance report and subsequent updates...” The statutory language in MAP-21 §1201(i)(2)(C) is in the section on the Metropolitan Transportation Plan. There is not statutory language on the expected frequency of updates. Is the system performance report to be updated only when the Metropolitan Transportation Plan is updated? This requires clarification.
- 450.324(h) We support the flexibility afforded to MPOs by making the incorporation of the key elements of the State’s Strategic Highway Safety Plan and transit operator’s Public Transportation Agency Safety Plan a “should” rather than a “shall” condition. We believe this principle should apply to other state level plans. There is a question as to whether the “should” condition here is contradictory to the language in §450.306(d)(4)(ii) that includes the SHSP in the list of state plans that “shall” be integrated into the MPO planning process.
- 450.324(i) We agree that scenario planning should be a voluntary approach that may be encouraged but not required. There is a question about the language in 450.324(i), subsections (v) and (vi) [(v) Revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and (vi) Estimated costs and potential revenues available to support each scenario.”] Does (vi) imply that fiscal constraint does not apply to that element of scenario planning?
- 450.326(d) We support the language that makes it clear that the impact of the projects in the TIP on achievement of performance targets can only be anticipated at the time of TIP adoption.
- 450.332(b) While this language reflects the statutory language in MAP-21 §1201(k)(4)(A), we believe that MPOs not designated as TMAs should have the same project selection authority as TMAs, as described in 450.332(c).
- 450.334 No comments. The procedures with respect to reporting project obligations have not changed.
- 450.336 No comments on the self-certification and TMA certification review processes.
- 450.340 We agree that 2 years after the promulgation of the Final metropolitan planning rule is an adequate phase-in period for requiring that MPOs conform to the new rule. However, §450.340(e) and (f) refer to the performance measurement rule. While we are aware of the intent to promulgate a single Final Rule that includes the three Proposed Rules that address the performance measure requirements for the MAP-21 national goals, that does not provide certainty.

The primary concern is that MPOs will be subject to phase-in dates that reflect a number of starting lines. This will be confusing and may prove unworkable. We propose that the language be changed to begin the phase-in period on the last date of promulgation of a Final Rule as defined in 450.340 subsections (a) through (f).