

Subsec. (b). Pub. L. 109-59, §3004(g), substituted “Individual With a Disability” for “Handicapped Individual” in heading and “individual with a disability” for “handicapped individual” in text.

1998—Pub. L. 105-178, §3003(a), formerly §3003, as renumbered by Pub. L. 105-206, §9009(a)(1), amended section generally, revising and restating existing definitions and adding new pars. defining additional terms.

Subsec. (a)(1)(G)(i). Pub. L. 105-178, §3003(b), as added by Pub. L. 105-206, §9009(a)(2), substituted “daycare or” for “daycare and”.

1997—Subsec. (a)(1)(B), (C). Pub. L. 105-102 made technical correction to directory language of Pub. L. 104-50, §333(a). See 1995 Amendment notes below.

1996—Subsec. (a)(1). Pub. L. 104-287 made technical correction to directory language of Pub. L. 103-331, §335A. See 1994 Amendment note below.

1995—Subsec. (a)(1)(B). Pub. L. 104-50, §333(a)(1), as amended by Pub. L. 105-102, §3(a)(1), struck out “that extends the economic life of a bus for at least 5 years” after “rehabilitating a bus”.

Subsec. (a)(1)(C). Pub. L. 104-50, §333(a)(2), as amended by Pub. L. 105-102, §3(a)(2), struck out “that extends the economic life of a bus for at least 8 years” after “remanufacturing a bus”.

1994—Subsec. (a)(1). Pub. L. 103-331, §335A, as amended by Pub. L. 104-287, inserted “payments for the capital portions of rail trackage rights agreements,” after “rights of way).”

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-102, §3(a), Nov. 20, 1997, 111 Stat. 2214, provided that the amendment made by section 3(a) is effective Nov. 15, 1995.

Amendment by Pub. L. 105-102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105-102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-287, §6(c), Oct. 11, 1996, 110 Stat. 3398, provided that the amendment made by section 6(c) is effective Sept. 30, 1994.

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104-50, title III, §333(b), Nov. 15, 1995, 109 Stat. 457, provided that: “The amendments made by this section [amending this section] shall not take effect before March 31, 1996.”

§ 5303. Metropolitan transportation planning

(a) POLICY.—It is in the national interest—

(1) to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transpor-

tation planning processes identified in this chapter; and

(2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 5304(d).

(b) DEFINITIONS.—In this section and section 5304, the following definitions apply:

(1) METROPOLITAN PLANNING AREA.—The term “metropolitan planning area” means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

(2) METROPOLITAN PLANNING ORGANIZATION.—The term “metropolitan planning organization” means the policy board of an organization established as a result of the designation process under subsection (d).

(3) NONMETROPOLITAN AREA.—The term “nonmetropolitan area” means a geographic area outside designated metropolitan planning areas.

(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term “nonmetropolitan local official” means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term “regional transportation planning organization” means a policy board of an organization established as the result of a designation under section 5304(f).

(6) TIP.—The term “TIP” means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

(7) URBANIZED AREA.—The term “urbanized area” means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

(c) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for metropolitan areas of the State.

(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transpor-

tation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

(C) appropriate State officials.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

(5) REDESIGNATION PROCEDURES.—

(A) IN GENERAL.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as determined by the Bureau of the Census) as appropriate to carry out this section.

(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (2) without undertaking a redesignation.

(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1

metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

(2) INCLUDED AREA.—Each metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—

(A) IN GENERAL.—Notwithstanding paragraph (2), except as provided in subparagraph (B), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA-LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained.

(B) EXCEPTION.—The boundaries described in subparagraph (A) may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA-LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (d)(1);

(B) shall encompass the areas described in paragraph (2)(A);

(C) may encompass the areas described in paragraph (2)(B); and

(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

(f) COORDINATION IN MULTISTATE AREAS.—

(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and

the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(3) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded under this chapter or title 23, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

(B) REQUIREMENTS.—Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

(i) recipients of assistance under this chapter;

(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

(iii) recipients of assistance under section 204 of title 23.

(h) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and non-motorized users;

(C) increase the security of the transportation system for motorized and non-motorized users;

(D) increase the accessibility and mobility of people and for freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation; and

(H) emphasize the preservation of the existing transportation system.

(2) PERFORMANCE-BASED APPROACH.—

(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in section 150(c) of title 23, where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the

relevant State or provider of public transportation establishes the performance targets.

(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization 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, as well as any plans developed by recipients of assistance under this chapter, required as part of a performance-based program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

(B) FREQUENCY.—

(i) IN GENERAL.—The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

(I) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

(II) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

(ii) OTHER AREAS.—In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—

(i) IN GENERAL.—An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, nonmotorized transportation facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve

important national and regional transportation functions.

(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2), including—

(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

(ii) for metropolitan planning organizations that voluntarily elect to develop multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies and investments have impacted the costs necessary to achieve the identified performance targets.

(D) MITIGATION ACTIVITIES.—

(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(E) FINANCIAL PLAN.—

(i) IN GENERAL.—A financial plan that—

(I) demonstrates how the adopted transportation plan can be implemented;

(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

(III) recommends any additional financing strategies for needed projects and programs.

(ii) INCLUSIONS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(iii) COOPERATIVE DEVELOPMENT.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of

funds that will be available to support plan implementation.

(F) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

(G) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in non-attainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

(4) OPTIONAL SCENARIO DEVELOPMENT.—

(A) IN GENERAL.—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

(B) RECOMMENDED COMPONENTS.—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

- (i) potential regional investment strategies for the planning horizon;
- (ii) assumed distribution of population and employment;
- (iii) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);
- (iv) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;
- (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.

(C) METRICS.—In addition to the performance measures identified in section 150(c) of title 23, metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

(5) CONSULTATION.—

(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environ-

mental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

(B) ISSUES.—The consultation shall involve, as appropriate—

- (i) comparison of transportation plans with State conservation plans or maps, if available; or
- (ii) comparison of transportation plans to inventories of natural or historic resources, if available.

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

- (i) shall be developed in consultation with all interested parties; and
- (ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

- (i) hold any public meetings at convenient and accessible locations and times;
- (ii) employ visualization techniques to describe plans; and
- (iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(7) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).

(j) METROPOLITAN TIP.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—In cooperation with the State and any affected public transportation

operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the metropolitan planning area that—

- (i) contains projects consistent with the current metropolitan transportation plan;
- (ii) reflects the investment priorities established in the current metropolitan transportation plan; and
- (iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).

(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

(D) UPDATING AND APPROVAL.—The TIP shall be—

- (i) updated at least once every 4 years; and
- (ii) approved by the metropolitan planning organization and the Governor.

(2) CONTENTS.—

(A) PRIORITY LIST.—The TIP shall include a priority list of proposed Federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

- (i) demonstrates how the TIP can be implemented;
- (ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;
- (iii) identifies innovative financing techniques to finance projects, programs, and strategies; and
- (iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

(D) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

(3) INCLUDED PROJECTS.—

(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of Federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

- (i) by—
 - (I) in the case of projects under title 23, the State; and
 - (II) in the case of projects under this chapter, the designated recipients of public transportation funding; and
- (ii) in cooperation with the metropolitan planning organization.

(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

(7) PUBLICATION.—

(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review.

(ii) REQUIREMENT.—The listing shall be consistent with the categories identified in the TIP.

(k) TRANSPORTATION MANAGEMENT AREAS.—

(1) IDENTIFICATION AND DESIGNATION.—

(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

(2) TRANSPORTATION PLANS.—In a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

(3) CONGESTION MANAGEMENT PROCESS.—

(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23 through the use of travel demand reduction and operational management strategies.

(B) SCHEDULE.—The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

(4) SELECTION OF PROJECTS.—

(A) IN GENERAL.—All Federally funded projects carried out within the boundaries of

a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System) or under this chapter shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

(5) CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall—

(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

(C) EFFECT OF FAILURE TO CERTIFY.—

(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(l) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under

this section, taking into consideration the requirements of this subsection¹

(2) REPORT.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section and whether metropolitan planning organizations are developing meaningful performance targets; and

(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area of less than 200,000 and their ability to carry out the requirements of this section.

(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(m) ABBREVIATED PLANS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provisions of this chapter or title 23, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

(o) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this chapter or title 23.

(p) FUNDING.—Funds set aside under section 104(f) of title 23 or section 5305(g) shall be available to carry out this section.

(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under that Act.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 788; Pub. L. 104–287, §5(10), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–102, §2(4), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 105–178, title III, §§3004, 3029(b)(1)–(3), June 9, 1998, 112 Stat. 341, 372; Pub. L. 105–206, title IX, §9009(b), July 22, 1998, 112 Stat. 852; Pub. L. 109–59, title III, §3005(a), Aug. 10, 2005, 119 Stat. 1547; Pub. L. 110–244, title II, §201(b), June 6, 2008, 122 Stat. 1609; Pub. L. 112–141, div. B, §20005(a), July 6, 2012, 126 Stat. 628.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5303(a)	49 App.1607(a) (2d-last sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(a) (2d-last sentences)–(g), (n); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; re-stated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2098, 2104.
5303(b)	49 App.1607(f).	
5303(c)(1)	49 App.1607(b)(1).	
5303(c)(2)	49 App.1607(b)(2).	
5303(c)(3)	49 App.1607(b)(6).	
5303(c)(4)	49 App.1607(b)(4).	
5303(c)(5)	49 App.1607(b)(5).	
5303(c)(6)	49 App.1607(b)(3).	
5303(d)	49 App.1607(c).	
5303(e)	49 App.1607(d), (e).	
5303(f)	49 App.1607(g).	
5303(g)	49 App.1607(n).	
5303(h)	49 App.1607(p).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(p); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; re-stated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2105; Oct. 6, 1992, Pub. L. 102–388, §502(h), 106 Stat. 1566.

In this section, the word “together” is omitted as surplus. The words “Secretary of Commerce” are substituted for “Bureau of the Census” because of 15:1511(e).

In subsection (b)(2), the word “applicable” is omitted as surplus.

In subsection (b)(3), the words “where it does not yet occur” are omitted as surplus.

In subsection (b)(4), the words “the provisions of all applicable” are omitted as surplus.

In subsection (c)(4), before clause (A), the words “whether made under this section or other provisions of law” are omitted as surplus.

In subsection (d), the word “entire” is omitted as surplus.

In subsection (e)(2), the words “or compacts” and “joint or otherwise” are omitted as surplus.

¹ So in original. Probably should be followed by a period.

In subsection (f)(3), the word “area” is added for clarity and consistency with 42:7501(2).

In subsection (f)(5)(A), the words “published or otherwise” are omitted as surplus.

In subsection (g), before clause (1), the words “local governmental authorities” are substituted for “local public bodies”, and the words “departments, agencies, and instrumentalities of the Government” are substituted for “Federal departments and agencies”, for consistency in the revised title and with other titles of the United States Code.

In subsection (h)(6)(A), the words “for obligation”, “a period of”, and “the close of” are omitted as surplus.

PUB. L. 104-287

This amends 49:5303(f)(2) and (h)(4) to correct erroneous cross-references.

PUB. L. 105-102, §2(4)(A)

This amends 49:5303(c)(1) to correct an erroneous cross-reference.

PUB. L. 105-102, §2(4)(B)

This amends 49:5303(c)(4)(A) to correct an erroneous cross-reference.

PUB. L. 105-102, §2(4)(C)

This amends 49:5303(c)(5)(A) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsecs. (d)(2) and (l)(2), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

The Clean Air Act, referred to in subsecs. (e)(4)(A), (5)(D), (g)(1), (i)(3), (m)(2), and (n)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of the SAFETEA-LU, referred to in subsec. (e)(4)(A), (5), is the date of enactment of title III of Pub. L. 109-59, which was approved Aug. 10, 2005.

The National Environmental Policy Act of 1969, referred to in subsec. (q), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2012—Pub. L. 112-141 amended section generally, substituting provisions consisting of subsecs. (a) to (q), including requirement to submit report on performance-based planning processes, for former provisions consisting of subsecs. (a) to (p).

2008—Subsec. (f)(3)(C)(ii)(II). Pub. L. 110-244, §201(b)(1), added subcl. (II) and struck out former subcl. (II). Prior to amendment, text read as follows: “In addition to funds made available to the metropolitan planning organization for the Lake Tahoe region under other provisions of this chapter and title 23, 1 percent of the funds allocated under section 202 of title 23 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.”

Subsec. (j)(3)(D). Pub. L. 110-244, §201(b)(2), inserted “or the identified phase” after “the project” in two places.

Subsec. (k)(2). Pub. L. 110-244, §201(b)(3), struck out “a metropolitan planning area serving” before “a transportation management area,”.

2005—Pub. L. 109-59 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (h) relating to designation of a metropolitan planning organization for each urbanized area with a population of more than 50,000, general requirements, scope of planning process, boundaries of each area, coordination in multistate areas, development of long-range transportation plans, grants for studies and evaluations, and apportionment of funds.

1998—Subsecs. (a), (b). Pub. L. 105-178, §3004(a), added subsecs. (a) and (b) and struck out headings and text of former subsecs. (a) and (b) which related to development requirements and plan and program factors, respectively.

Subsec. (c)(1)(A). Pub. L. 105-178, §3004(b)(1)(B), substituted “or cities, as defined by the Bureau of the Census)” for “as defined by the Secretary of Commerce)”.

Pub. L. 105-178, §3004(b)(1)(A), as amended by Pub. L. 105-206, §9009(b)(1)(A), substituted “general purpose local government that together represent” for “general local government representing”.

Subsec. (c)(2). Pub. L. 105-178, §3004(b)(2), substituted “Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area when designated or redesignated under this subsection shall consist of” for “In a metropolitan area designated as a transportation management area, the designated metropolitan planning organization, if redesignated after December 18, 1991, shall include” and “officials of public agencies” for “officials of authorities”.

Subsec. (c)(3). Pub. L. 105-178, §3004(b)(3), as amended by Pub. L. 105-206, §9009(b)(1)(B), substituted “within an existing metropolitan planning area only if the chief executive officer of the State and the existing metropolitan organization determine that the size and complexity of the existing metropolitan planning area” for “in an urbanized area (as defined by the Secretary of Commerce) only if the chief executive officer decides that the size and complexity of the urbanized area”.

Subsec. (c)(4)(A). Pub. L. 105-178, §3004(b)(4), as added by Pub. L. 105-206, §9009(b)(1)(E), directed an amendment identical to that made by Pub. L. 105-102, §2(4)(B). See 1997 Amendment note below.

Subsec. (c)(5)(A). Pub. L. 105-178, §3004(b)(5)(A), formerly §3004(b)(4)(A), as renumbered and amended by Pub. L. 105-206, §9009(b)(1)(C), (D), substituted “general purpose local government that together represent” for “general local government representing”.

Subsec. (c)(5)(B). Pub. L. 105-178, §3004(b)(5)(B), formerly §3004(b)(4)(B), as renumbered by Pub. L. 105-206, §9009(b)(1)(D), substituted “or cities, as defined by the Bureau of the Census)” for “as defined by the Secretary of Commerce)”.

Subsec. (c)(5)(D). Pub. L. 105-178, §3004(b)(5)(C), formerly §3004(b)(4)(C), as renumbered by Pub. L. 105-206, §9009(b)(1)(D), added subpar. (D).

Subsec. (d). Pub. L. 105-178, §3004(c), inserted “Planning” after “Metropolitan” in subsec. heading, designated existing provisions as par. (1), inserted par. heading, realigned margins, inserted “planning” before “area” in first sentence and substituted pars. (2) to (4) for “The area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may include the Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Secretary of Commerce. An area designated as a non-attainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) shall include at least the boundaries of the nonattainment area, except as the chief executive officer and metropolitan planning organization otherwise agree.”

Subsec. (e)(2). Pub. L. 105-178, §3004(d)(1), inserted “or compact” after “2 States making an agreement” and substituted “making the agreements and compacts effective” for “making the agreement effective”.

Subsec. (e)(4) to (6). Pub. L. 105-178, §3004(d)(2), as amended by Pub. L. 105-206, §9009(b)(2), added pars. (4) to (6).

Subsec. (f). Pub. L. 105-178, §3004(e)(5), substituted “Developing Long-Range Transportation Plans” for “Developing Long-Range Plans” in heading.

Pub. L. 105-178, §3004(e)(6), which directed substitution of “long-range transportation plans” for “long-range plans” wherever appearing, could not be executed because “long-range plans” does not appear in text.

Subsec. (f)(1)(A). Pub. L. 105-178, §3004(e)(1)(A), substituted “national, regional, and metropolitan transportation functions” for “United States and regional transportation functions”.

Subsec. (f)(1)(B)(iii). Pub. L. 105-178, §3004(e)(1)(B), added cl. (iii) and struck out former cl. (iii) which read as follows: “recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects and programs;”.

Subsec. (f)(1)(C). Pub. L. 105-178, §3004(e)(1)(C), added subpar. (C) and struck out former subpar. (C) which read as follows: “assess capital investment and other measures necessary—

“(i) to ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, and operations, maintenance, modernization, and rehabilitation of existing and future mass transportation facilities; and

“(ii) to use existing transportation facilities most efficiently to relieve vehicular congestion and maximize the mobility of individuals and goods; and”.

Subsec. (f)(1)(E). Pub. L. 105-178, §3004(f)(1), as added by Pub. L. 105-206, §9009(b)(3), added subpar. (E).

Subsec. (f)(2). Pub. L. 105-178, §3004(e)(2), substituted “and any State or local goals developed within the cooperative metropolitan planning process as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process” for “as they are related to a 20-year forecast period”.

Subsec. (f)(4). Pub. L. 105-178, §3004(e)(3), inserted “freight shippers, providers of freight transportation services,” after “mass transportation authority employees,” and “representatives of users of public transit,” after “private providers of transportation.”.

Subsec. (f)(5)(A). Pub. L. 105-178, §3004(e)(4), inserted “published or otherwise” before “made readily available”.

Subsec. (f)(6). Pub. L. 105-178, §3004(f)(2), as added by Pub. L. 105-206, §9009(b)(3), added par. (6).

Subsec. (h)(1). Pub. L. 105-178, §3029(b)(1), (2), substituted “subsection (c) or (h)(1) of section 5338 of this title” for “section 5338(g)(1) of this title” and “sections 5304 and 5305 of this title” for “sections 5304-5306 of this title”.

Subsec. (h)(2)(A), (3)(A). Pub. L. 105-178, §3029(b)(1), substituted “subsection (c) or (h)(1) of section 5338 of this title” for “section 5338(g)(1) of this title”.

Subsec. (h)(4). Pub. L. 105-178, §3029(b)(3), substituted “subsection (c) or (h)(1) of section 5338 of this title” for “section 5338(g) of this title”.

1997—Subsec. (c)(1). Pub. L. 105-102, §2(4)(A), inserted “and sections 5304-5306 of this title” after “this section”.

Subsec. (c)(4)(A). Pub. L. 105-102, §2(4)(B), substituted “paragraph (5)” for “paragraph (3)”.

Subsec. (c)(5)(A). Pub. L. 105-102, §2(4)(C), inserted “and sections 5304-5306 of this title” after “this section”.

1996—Subsec. (f)(2). Pub. L. 104-287, §5(10)(A), substituted “subsection (b)” for “subsection (e)”.

Subsec. (h)(4). Pub. L. 104-287, §5(10)(B), substituted “section 5338(g)” for “5338(g)(1)”.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as

included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 8(1) of Pub. L. 104-287, as amended by Pub. L. 105-102, §3(d)(2)(A), Nov. 20, 1997, 111 Stat. 2215, provided that: “The amendments made by sections 3 and 5(10)-(17), (19), (20), (52), (53), (55), (61), (62), (65), (70), (77)-(79), and (91)-(93) of this Act [amending this section, sections 5307, 5309, 5315, 5317, 5323, 5325, 5327, 5336, 5338, 20301, 21301, 22106, 32702, 32705, 40109, 41109, 46301, 46306, 46316, 60114, 70102, and 70112 of this title, and section 1445 of Title 28, Judiciary and Judicial Procedure] shall take effect on July 5, 1994.”

PILOT PROGRAM FOR TRANSIT-ORIENTED DEVELOPMENT PLANNING

Pub. L. 112-141, div. B, §20005(b), July 6, 2012, 126 Stat. 642, provided that:

“(1) DEFINITIONS.—In this subsection the following definitions shall apply:

“(A) ELIGIBLE PROJECT.—The term ‘eligible project’ means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this division.

“(B) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to a State or local governmental authority to assist in financing comprehensive planning associated with an eligible project that seeks to—

“(A) enhance economic development, ridership, and other goals established during the project development and engineering processes;

“(B) facilitate multimodal connectivity and accessibility;

“(C) increase access to transit hubs for pedestrian and bicycle traffic;

“(D) enable mixed-use development;

“(E) identify infrastructure needs associated with the eligible project; and

“(F) include private sector participation.

“(3) ELIGIBILITY.—A State or local governmental authority that desires to participate in the program under this subsection shall submit to the Secretary an application that contains, at a minimum—

“(A) identification of an eligible project;

“(B) a schedule and process for the development of a comprehensive plan;

“(C) a description of how the eligible project and the proposed comprehensive plan advance the metropolitan transportation plan of the metropolitan planning organization;

“(D) proposed performance criteria for the development and implementation of the comprehensive plan; and

“(E) identification of—

“(i) partners;

“(ii) availability of and authority for funding; and

“(iii) potential State, local or other impediments to the implementation of the comprehensive plan.”

GUIDANCE ON DOCUMENTING COMPLIANCE WITH REQUIREMENTS OF PRIVATE ENTERPRISE PARTICIPATION IN PUBLIC TRANSPORTATION PLANNING AND TRANSPORTATION IMPROVEMENT PROGRAMS

Pub. L. 112-141, div. B, §20013(d), July 6, 2012, 126 Stat. 694, provided that: “Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall publish in the Federal Register policy guidance regarding

how to best document compliance by recipients of Federal assistance under chapter 53 of title 49, United States Code, with the requirements regarding private enterprise participation in public transportation planning and transportation improvement programs under sections 5303(i)(6), 5306(a), and 5307(c) of such title 49.”

SCHEDULE FOR IMPLEMENTATION

Pub. L. 109-59, title III, §3005(b), Aug. 10, 2005, 119 Stat. 1559, required the Secretary of Transportation to issue guidance on a schedule for implementation of the changes made to this section by section 3005(a) of Pub. L. 109-59 and required State or metropolitan planning organization plan or program updates to reflect such changes beginning July 1, 2007.

§ 5304. Statewide and nonmetropolitan transportation planning

(a) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 5303, to accomplish the objectives stated in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State.

(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 5303(a) and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5303 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) INTERSTATE AGREEMENTS.—

(1) IN GENERAL.—Two or more States may enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(d) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and non-motorized users;

(C) increase the security of the transportation system for motorized and non-motorized users;

(D) increase the accessibility and mobility of people and freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

(G) promote efficient system management and operation; and

(H) emphasize the preservation of the existing transportation system.

(2) PERFORMANCE-BASED APPROACH.—

(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in section 150(c) of title 23, where applicable, to use in tracking progress towards attainment of critical outcomes for the State.

(II) COORDINATION.—Selection of performance targets by a State shall be coordinated with the relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—In urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, selection of performance targets by a State shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

(C) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into