

## **Transportation Planning Requirements and Their Relationship to NEPA Process Completion (1/28/2008)**

### **Background**

This summary is intended to clarify the statutory and regulatory planning and conformity requirements that must be met with regard to the STIP/TIP, the Metropolitan Transportation Plan (MTP), and the Statewide Long Range Transportation Plan (SLRTP) prior to FHWA signing a Record of Decision (ROD) or Finding of No Significant Impact (FONSI), or approving a Categorical Exclusion (CE) for a project. Project sponsors may undertake the NEPA process with federal funds for a project or corridor that is included in the Metropolitan Transportation Plan as a project, corridor study, or NEPA study, if appropriate (some non-regionally significant projects may not need to be in the MTP) (23 CFR 450.324(g)). In the case of the SLRTP, the project, corridor, or NEPA study should be consistent with the SLRTP before proceeding with the NEPA process (23 CFR 450.216(k)). For federally funded NEPA studies, the STIP/TIP shall contain an item for NEPA and/or PE activity costs for the project prior to the authorization/obligation of federal funds to start the NEPA process. If a proposed NEPA study is not in the MTP (in metropolitan planning areas), consistent with the SLRTP (in non metropolitan planning areas), and contained in the STIP/TIP, only funds from non-federal sources can be used to conduct the NEPA process. Regardless of funding sources, the ROD, FONSI, or CE for a project can not be signed or approved by FHWA until the planning requirements described in the Q and A's listed below are met.

### **Questions and Answers**

1. What statutory and regulatory planning requirements and conformity requirements must be completed regarding a proposed project before a ROD or FONSI can be signed, or a CE approved, *for a project in a Metropolitan area*?

**Metropolitan Transportation Plan (MTP) Requirements:** Regulations require that the entire project described in the ROD, FONSI, or CE shall be consistent with the MTP. If phases (e.g., PE, final design, ROW, utility relocation, construction, and/or construction phases) of the project fall beyond the life of the MTP, they do not have to be included, however it is recommended that those phases (e.g., PE, final design, ROW, utility relocation, construction, and/or construction phases) beyond the life of the plan and the costs associated with those phases be referenced in the plan for informational purposes. All project phases (e.g., PE, final design, ROW, utility relocation, construction, and/or construction phases) planned within the life of the transportation plan have to be included in the fiscally constrained MTP in order for FHWA to sign the ROD, FONSI or approve the CE. In the event that there is construction phasing and "multiple or revised RODs" (for independent segments) of a larger project, FHWA can only sign the ROD, FONSI, or approve the CE for those segments of the project that have independent utility and logical termini, while contributing to the function of



the overall project, and are included in the MPO's fiscally constrained MTP. The timing of this phasing (construction phases for independent segments) in the MTP should be consistent with the timing of the phasing (construction phases for independent segments) of the future project implementation as described in the environmental document. Examples are given in the attachment to this document. The MTP must be approved by the MPO policy board, found to conform for air quality purposes (if applicable), and fiscally constrained. The MTP must demonstrate that revenues are reasonably expected to be available and sufficient to cover the costs of the entire project (all phases) (e.g., PE, final design, ROW, utility relocation, construction, and/or construction phases) that are included in the plan.

**STIP/TIP Requirements:** The planning regulations require that before FHWA can sign a ROD or FONSI, or approve a CE for a regionally significant project, the proposed project or a phase(s) (e.g., PE, final design, ROW, utility relocation, or construction, and/or construction phase(s)) of the project must come from an approved, financially constrained STIP/TIP. This is required because the final Planning Rule requires that both the STIP and TIP shall contain all regionally significant projects requiring an action by FHWA or FTA irrespective of the project's funding source (23 CFR 450.324(d); 23 CFR 450.216(h)). In order for FHWA to sign a ROD or FONSI, or approve a CE for a project or phase (e.g., PE, final design, ROW, utility relocation, construction, and/or construction phases) of a project with logical termini and independent utility (see CFR 771.111(f)), the STIP/TIP is required to show all phases (e.g., PE, final design, ROW, utility relocation, construction, and/or construction phases) of the project that are planned within the time frame of the STIP/TIP. This can include or be limited to non-construction funding (e.g., PE, final design, ROW, utilities relocation) and/or construction or construction phases if there are phases (e.g., PE, final design, ROW, utility relocation, construction, and/or construction phases) of the project that are planned beyond the horizon of the STIP/TIP. Those phases (e.g., PE, final design, ROW, utility relocation, construction, and/or construction phases) of the project beyond the horizon of the STIP/TIP do not have to be shown in the STIP/TIP. At least one subsequent phase (e.g., PE, final design, ROW, utility relocation, or construction) of the project has to be included in the approved STIP/TIP before FHWA can sign the ROD or FONSI or approve a CE. For example, the STIP/TIP might include final design, but not construction, if the construction phase is not planned within the horizon of the STIP/TIP. The timing of these subsequent phase(s) (e.g., PE, final design, ROW, utility relocation, construction, or construction phases) should be consistent with the MTP and the environmental document. In those unusual instances where no subsequent (subsequent to NEPA approval) phases (e.g., PE, final design, ROW, utility relocation, construction, or construction phases) of the project fall within the timeframe of the STIP/TIP, then a description of the project should be included in the STIP/TIP for informational purposes and identified as being beyond the horizon of the STIP/TIP. An example of including subsequent phases of a project in a STIP/TIP is included in the attachment to this document.

**Conformity Requirements:** Before a ROD or FONSI can be signed, or a CE approved, regulations require that a project level conformity determination shall be made for all projects that are subject to transportation conformity. Project level conformity can be demonstrated if the project is part of a conforming metropolitan transportation plan and TIP and meets all

project level conformity requirements (see 40 CFR 93.104(d); 40 CFR 93.109). See also, [http://www.fhwa.dot.gov/environment/conformity/feis\\_rod.htm](http://www.fhwa.dot.gov/environment/conformity/feis_rod.htm).

In the event that a “multiple ROD” approach is used, a project-level conformity determination must be completed prior to the signing of each ROD. The portion of the “overall project” being addressed by each ROD must be consistent with what was included in the regional emissions analysis for the MPO MTP and TIP (i.e., the design concept and scope of the project included in the conforming transportation plan cannot be significantly different from what was included in the environmental document). Project level conformity can be demonstrated if the project is part of a conforming metropolitan transportation plan and TIP and meets all project level conformity requirements (see 40 CFR 93.104(d); 40 CFR 93.109). Additionally, the financial plan supporting the MPO MTP and TIP must reflect the portions(s) of the “overall project” prior to the approval of each ROD.

2. What planning and conformity requirements must be completed regarding a proposed project before a ROD or FONSI can be signed, or a CE approved *for a project that is in a rural area?*

**Statewide Long Range Transportation Plan Requirements:** Before FHWA can sign a ROD/FONSI, or approve a CE, a project in a rural area must be found to be consistent with the Statewide Long Range Transportation Plan. The Planning Regulations allow Statewide Transportation plans to be policy plans and not project specific. In such cases, the project does not have to be specifically listed in the plan but should be consistent with the overall goals and objectives of the Statewide Plan. The Statewide Transportation Plan, by regulation, does not have to be fiscally constrained.

**STIP Requirements:** Before FHWA can sign a ROD or FONSI, or approve a CE for a regionally significant project, the proposed project or a phase (e.g., PE, final design, ROW, utility relocation, or construction) of the project must come from an approved, financially constrained STIP. The planning regulation requires that the STIP shall contain all regionally significant projects requiring an action by FHWA or FTA irrespective of the project’s funding source (23 CFR 450.324(d); 23 CFR 450.216(h)). In order for FHWA to sign a ROD or FONSI, or approve a CE for a project or phase of a project with logical termini and independent utility (see CFR 771.111(f)), the STIP is required to show all phases (e.g. PE, final design, ROW, utilities relocation, or construction) of the project that are planned within the 4 year time frame of the STIP. This can include or be limited to non-construction funding (e.g., PE, final design, ROW, utilities relocation) if there are phases of the project that are planned beyond the 4 year horizon of the STIP. Those phases of the project beyond the 4-year horizon of the STIP do not have to be shown in the STIP. At least one subsequent phase of the project does have to be included in the approved STIP before FHWA can sign the ROD or FONSI or approve a CE. For example, the STIP might include final design, but not construction. The timing of these subsequent phases should be consistent with the SLRTP and the environmental document (if it is a regionally significant project). In those unusual instances where no subsequent (subsequent to NEPA approval) phases of the project fall within the timeframe of

the STIP, then a description of the project should be included in the STIP for informational purposes and identified as being beyond the horizon of the STIP/TIP.

**Conformity Requirements:** The conformity regulations require that before FHWA signs a ROD/FONSI or approves a CE for a project that is in a nonattainment or maintenance area, the project must be found to be in conformity (see 40 CFR 93.104(d); 40 CFR 93.109). In nonattainment and maintenance areas, for a project in a “donut<sup>1</sup>” area, the project must be included in a regional emissions analysis that supported the conformity determination of the associated metropolitan transportation plan and TIP and meet all applicable project level conformity requirements before a project level conformity determination can be made. See 40 CFR 93.104(d); 40 CFR 93.109.

In isolated rural nonattainment and maintenance areas<sup>2</sup> a project level conformity determination must meet all the requirements in 40 CFR 109(l) prior to FHWA signing a ROD or FONSI or FHWA approval of a CE.

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<sup>1</sup> A “donut” area is a geographic area outside a metropolitan planning area boundary, but inside the boundary of a nonattainment or maintenance area that contains any part of a metropolitan area(s). These areas are not isolated rural nonattainment and maintenance areas.

<sup>2</sup> Isolated rural nonattainment and maintenance areas are areas that do not contain or are not part of any metropolitan planning area as designated under the transportation planning regulations. Isolated rural areas do not have federally required metropolitan transportation plans or TIPs and do not have projects that are part of the emissions analysis of any MPO’s metropolitan transportation plan or TIP. Projects in such areas are instead included in a statewide transportation improvement program. These areas are not donut areas. (40 CFR 93.101).

## **Project examples regarding fiscal constraint and NEPA approvals**

The following are project examples that highlight some scenarios where Divisions encountered challenges with fiscal constraint issues with pending, active or concluding NEPA processes. These examples are not included here to suggest that fiscal constraint issues can only be dealt with using the remedies described. Each project will have its own unique context. As a best-practice approach, fiscal constraint issues should be considered throughout the planning and NEPA processes, and if any issues are encountered, they should be considered before the NEPA process is initiated and addressed long before NEPA approval is considered.

### **Intercounty Connector (ICC), Maryland**

Example of securing additional funding from new sources early in NEPA process

The ICC is a \$2.4 billion project in Maryland, just north of Washington, DC. The project was not in the metropolitan transportation plan (MTP) at the time NEPA was initiated. Early in the process, it was recognized by FHWA and the State Highway Administration that the estimated cost of the project, and competing priorities in the region, would present challenges to demonstrating fiscal constraint by inclusion of the project in the MTP. Early in the NEPA process, a decision was made (for both fiscal and operational reasons) to explore tolling as an aspect of the alternatives being evaluated. The revenues from tolling enabled FHWA and SHA to address the fiscal issues, and the ICC was added successfully to the fiscally constrained MTP, and the ROD signed in May 2006.

For more information, contact Marlys Osterhues, 202-366-2052.

### **I-25 Valley Highway, Colorado**

Example of using a “phased decision-making” approach to address fiscal constraint issues

It was recognized early on in the NEPA process that the planning requirements regarding fiscal constraint must be satisfied prior to FHWA approving a ROD. Total funding for the entire project would not be available at the time the ROD was to be signed. Because the fiscally-constrained MTP did not contain the entire Preferred Alternative for the Valley Highway project, FHWA and Colorado DOT determined that it was appropriate to identify a phased project implementation process. The Draft and Final EIS discussed a phased implementation approach and presented six logical project phases. Phased implementation was discussed with the public and agencies. FHWA and CDOT identified a set of criteria to be used as guidelines in establishing independent project phases, which included, but were not limited to, logical termini and independent utility, contributing to accomplishing elements of the over all project purpose and need, and fiscal constraint (demonstrated by inclusion in the MTP). The phases of the project were included in the RTP before the ROD was approved in June 2007 on Segments 1 and 2.

For more information, contact Keith Moore, 202-366-0524.

### **I-83 Master Plan, Pennsylvania**

Example of consideration of fiscal issues and project phasing in planning studies

The I-83 Master Plan, prepared by the PennDOT in 2003, is a transportation planning study to identify, plan, and program future transportation improvement projects for an 11 mile section of I-83. The entire

corridor upgrade is estimated to cost at least \$1.5 billion. It was immediately clear that construction could not take place simultaneously on the entire corridor, in part because fiscal constraints would reduce the ability to fully fund all required projects at one time. Upon review and analysis of constructability and safety issues, the corridor was divided into four sections that could be funded through the MPO, advanced through PennDOT's project development process, and designed and constructed independently. Each section has both logical termini and independent utility. The corridor will have four independent (but related) environmental processes. Although a NEPA analysis is currently being conducted for the first phase of the study (I-83 East Shore Section 1 Project), this project provides an example of the consideration of phasing and fiscal constraint issues early, in pre-NEPA planning studies.

For more information, contact Spencer Stevens, 202-366-0149.

### **Project example regarding including subsequent phases of a project in the STIP and/or TIP**

The following example shows how subsequent phases (subsequent to NEPA) of a regionally significant project were shown in the TIP (and STIP). The project is also included in the Philadelphia area MPO's (DVRPC) MTP. This example also shows construction funding that is outside of the 4-year horizon of the TIP for the project but the TIP still includes it for information purposes in later years. For more information, please contact Spencer Stevens, 202-366-0149.

#### State Route 309 Project, Pennsylvania

Example of subsequent project phases (subsequent to NEPA) included in a STIP/TIP (continues on the next two pages).

# DVRPC FY 2007-2010 TIP for PA

Final Version

## Pennsylvania - Highway Program

### Montgomery

**MPMS# 16438 PA 309 Connector Project**  
 AQ Code 2020M PA 309 to PA 63, Sumneytown Pike  
 Major SOV Capacity New/Upgraded Connector Roadway  
 Subcorr(s): 2A, 11A, Hatfield Township; Franconia Township; Lower Salford Township; Towamencin Township  
 14C

Provide an adequate two lane roadway connection by upgrading two existing two lane roads (Wambold Rd. and Township Line Rd.) and connecting them with a two lane roadway approximately one mile in length. This project will correct the disjointed and inadequate road system serving the north/south movement between PA 309 and the PA Turnpike Lansdale Interchange. This project will proceed in 2 phases.

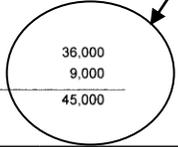
The Right-Sized Phase 1 Project includes the proposed realignment of Sumneytown Pike (PA 63) from Old Forty Foot Road to Freed Road and improvements to Wambold Road from Sumneytown Pike (PA 63) to Allentown Road. The proposed work includes a three lane relocation of PA 63 with shoulders (11' lanes and 8' shoulders) on Wambold Road and a two lane runaround around Mainland Village.

This project is integral to the Delaware Valley Freight Corridors Initiative.

SAFETEA DEMO #613 - \$1.280 MILLION

Phase	Fund	TIP Program Years (\$ 000)				Later FYs
		FY2007	FY2008	FY2009	FY2010	
FD	HWY	2,240				
FD	H-STATE	560				
FD	HWY		400			
FD	H-STATE		100			
ROW	HWY		480			
ROW	DEMO		1,280			
ROW	H-STATE		120			
ROW	H-STATE		120			
CON	SSPIKE		4,000			
CON	SPIKE		16,000			
CON	HWY					36,000
CON	H-STATE					9,000
Fiscal Year Total		2,800	22,500	0	0	45,000
		Total FY 07-10			25,300	

Construction funding outside timeframe of TIP, but included for information



# 2030 Major Regional Transportation Projects

ID	FACILITY	LIMITS	BRIEF DESCRIPTION	TIME PERIOD	PA	LOCATION	NJ	COST (\$ MILLIONS)
1	185	in Bucks County	Reconstruct	2005 - 2010				\$545.0
2	422	Bucks County to M. Swatoga	Reconstruct	2011 - 2020				210.0
3	US 30	PA 10 to Erton Bypass	Reconstruct	2021 - 2030				187.5
4	US 30	Downingtown-Cottswile Bypass	Reconstruct					20.0
5	US 7	(Media Bypass)	Reconstruct					20.0
6	US 1	(Media Bypass)	Reconstruct					20.0
7	PA 309	Greenwood Ave to Welsh Rd	Reconstruct					200.0
8	185	in Philadelphia	Reconstruct (see also 61)					500.0
9	185	PA 10 to I-76	Reconstruct					89.0
10	NJ 52	Atlantic City Expressway	Reconstruct					150.0
<b>HIGHWAY SAFETY/OPERATIONAL IMPROVEMENTS</b>								
11	PA 611	River to PA 611	Intersections and Corridor Improvements					\$25.0
12	PA 413	PA 611 to Delaware River	Access Management & Corridor Improvements					25.0
13	US 13	Leontown Parkway to Philadelphia line	Access Management & Corridor Improvements					25.0
14	US 13	at Leontown	Access Management & Corridor Improvements					5.0
15	Broad Rd	Old Leach Highway to Hainesville Rd	Add Center Turn Lane					5.0
16	PA 52	PA 926 to US 1	Realign Safety Improvements; Construct New Bridge					8.0
17	PA 52	PA 926 to US 1	Realign Safety Improvements; Construct New Bridge					10.0
18	US 30	PA 82 and Train Station	Realign Safety Improvements; Construct New Bridge					15.0
19	185	at I-476 and Chestnut St On-Ramp	Reconstruct Interchange					25.0
20	Ridge Pike	at I-476 and Chestnut St On-Ramp	Reconstruct Interchange					25.0
21	West Side Connector	at I-476 and Chestnut St On-Ramp	Reconstruct Interchange					35.0
22	West Side Connector	at I-476 and Chestnut St On-Ramp	Reconstruct Interchange					25.0
23	National Highway System Connectors	at I-476 and Chestnut St On-Ramp	Reconstruct Interchange					25.0
24	CR 530 (South Pemberton Rd)	at I-476 and Chestnut St On-Ramp	Reconstruct Interchange					35.0
25	CR 530 (South Pemberton Rd)	at I-476 and Chestnut St On-Ramp	Reconstruct Interchange					35.0
26	NJ 73	at I-476 and Chestnut St On-Ramp	Reconstruct Interchange					10.0
27	NJ 73	at I-476 and Chestnut St On-Ramp	Reconstruct Interchange					20.0
28	NJ 73	at I-476 and Chestnut St On-Ramp	Reconstruct Interchange					20.0
29	US 130 and CR 551	at I-476 and Chestnut St On-Ramp	Reconstruct Interchange					14.0
30	1-285	at Brooklawn Circle	Reconstruct Interchange					3.0
<b>HIGHWAY NEW CAPACITY</b>								
31	1-476	(PA Turnpike Northeast Extension)	Widen to 6 Lanes * **					\$ 0.0
32	US 130	at I-476 (PA Turnpike)	Widen to 6 Lanes					200.0
33	Cowart Lane Road	at I-476 (PA Turnpike)	Widen to 6 Lanes					20.0
34	185	at I-476 (PA Turnpike)	Widen to 6 Lanes					145.6
35	185	at I-476 (PA Turnpike)	Widen to 6 Lanes					0.0
36	185	at I-476 (PA Turnpike)	Widen to 6 Lanes					0.0
37	US 202-Sec. 100	at I-476 (PA Turnpike)	Widen to 6 Lanes					0.0
38	1-76	(PA Turnpike)	Widen to 6 Lanes					0.0
39	US 202-Sec. 100	at I-476 (PA Turnpike)	Widen to 6 Lanes					0.0
40	PA 100	at I-476 (PA Turnpike)	Widen to 6 Lanes					0.0
41	US 202-Sec. 300	at I-476 (PA Turnpike)	Widen to 6 Lanes					40.0
42	PA 41	at I-476 (PA Turnpike)	Widen to 6 Lanes					5.0
43	PA 41	at I-476 (PA Turnpike)	Widen to 6 Lanes					15.0
44	US 30	at I-476 (PA Turnpike)	Widen to 6 Lanes					50.0
45	1-76	(PA Turnpike)	Widen to 6 Lanes					50.0
46	US 105	at I-476 (PA Turnpike)	Widen to 6 Lanes					15.0
47	US 322	at I-476 (PA Turnpike)	Widen to 6 Lanes					0.0
48	US 105	at I-476 (PA Turnpike)	Widen to 6 Lanes					0.0
49	US 105	at I-476 (PA Turnpike)	Widen to 6 Lanes					0.0
50	1-476	(PA Turnpike Northeast Extension)	Widen to 6 Lanes					40.0
51	PA 23	at I-476 (PA Turnpike)	Widen to 6 Lanes					15.0
52	US 202-Sec. 600	at I-476 (PA Turnpike)	Widen to 6 Lanes					70.0
53	US 202-Sec. 600	at I-476 (PA Turnpike)	Widen to 6 Lanes					60.0
54	US 202-Sec. 600	at I-476 (PA Turnpike)	Widen to 6 Lanes					18.0
55	PA 109	at I-476 (PA Turnpike)	Widen to 6 Lanes					70.0
56	PA 109	at I-476 (PA Turnpike)	Widen to 6 Lanes					40.0
57	Ridge Pike	at I-476 (PA Turnpike)	Widen to 6 Lanes					40.0
58	1-276	(PA Turnpike)	Widen to 6 Lanes					50.0
59	1-276	(PA Turnpike)	Widen to 6 Lanes					50.0
60	Ridge Pike	at I-476 (PA Turnpike)	Widen to 6 Lanes					126.0
61	185	at I-476 (PA Turnpike)	Widen to 6 Lanes					200.0
62	Delaware Ave	at I-476 (PA Turnpike)	Widen to 6 Lanes					10.0
63	Delaware Ave	at I-476 (PA Turnpike)	Widen to 6 Lanes					10.0
64	Adams Avenue Connector	at I-476 (PA Turnpike)	Widen to 6 Lanes					10.0
65	PA 63 (Woodhaven Rd)	at I-476 (PA Turnpike)	Widen to 6 Lanes					25.0