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1 SUBCHAPTER A. TRANSPORTATION PLANNING

2
3 §15.1. Purpose, Applicability, and Introduction.

4 (a) Purpose. It is in the interest of the state to
5 encourage and promote the safe and efficient management,
6 operation, and development of transportation systems that will
7 serve the mobility needs of people and movement of freight, and
8 foster economic growth and development in both rural and
9 urbanized areas of the state, while minimizing transportation
10 related air pollution. These goals can be advanced through a
11 continuing, cooperative, and comprehensive transportation
12 planning process that includes the state, metropolitan, rural,
13 rail, and transit organizations, and promotes plans, programs,
14 and policies which consider all transportation modes and support
15 community development and social goals. Subchapters A, B, C, D,
16 and E of this chapter prescribe minimum standards for
17 metropolitan and rural transportation planning and program
18 development, describe how the state and planning organizations
19 will develop coordinated transportation planning processes,
20 plans, and programs, and ensure the eligibility of the state to
21 continue to receive federal transportation funds. The ultimate
22 goal is to establish a transparent, well-defined, and
23 understandable system of planning and programming that

1 integrates priorities, financial forecasts, and project
2 milestones.

3 (b) Applicability. The provisions of Subchapters A, B, C,
4 D, and E of this chapter apply to the Texas Department of
5 Transportation, all metropolitan planning organizations serving
6 urbanized areas as defined by the U.S. Bureau of the Census with
7 populations of at least 50,000, as well as rural planning
8 organizations and appropriate federally-funded publicly operated
9 transit agencies.

10 (c) Relationship to federal law and regulations.
11 Subchapters A, B, C, D, and E of this chapter incorporate by
12 reference federal transportation planning laws and regulations.
13 If there is a conflict between obligations imposed by federal
14 law or regulation governing the transportation planning, project
15 development, and programming process for the Texas Department of
16 Transportation and planning organizations, and those imposed by
17 Subchapters A, B, C, D, and E of this chapter, federal
18 requirements will control.

19 (d) Introduction.

20 (1) An effective transportation planning and programming
21 process requires continuous cooperation among many state, local,
22 and federal transportation entities and the integration of
23 numerous requirements imposed by state and federal law. It is a

1 multi-step process that is more dynamic than static and more
2 circular than linear in concept. The process includes
3 development by the Texas Department of Transportation
4 (department), metropolitan planning organizations (MPO), and
5 rural planning organizations (RPO) of separate but interrelated
6 long-range planning documents that identify projects,
7 strategies, and transportation needs, mid-range programming
8 documents that contain a listing of prioritized projects
9 anticipated to be ready for implementation in identified future
10 years, and short-range programming documents that contain a
11 listing of prioritized projects that are likely to be
12 implemented. Underlying the planning and programming process is
13 the need to develop reliable financial assumptions and forecasts
14 for common use by all participants at all levels of the process.
15 Finally, there is the allocation of available state and federal
16 resources by the department and MPOs to fund individual projects
17 that will address the long-range needs and goals. Strategic
18 performance measures are used to monitor and evaluate
19 effectiveness of the process and its participants and to
20 identify areas that need improvement.

21 (2) The planning and programming process involves a
22 number of documents that have similar names and overlapping
23 functions. Long-range planning documents include the statewide

1 long-range transportation plan (SLRTP) and metropolitan
2 transportation plan (MTP). The short-range and mid-range
3 programming documents merge the needs of project planning with
4 financial forecasting. Programming documents include the four-
5 year metropolitan transportation improvement program (TIP),
6 four-year statewide transportation improvement program (STIP),
7 metropolitan planning organization ten-year transportation
8 program (MTYTP), and ten-year statewide unified transportation
9 program (UTP). The planning and programming documents are more
10 particularly described as follows:

11 (A) The statewide long-range transportation plan
12 (SLRTP) is a comprehensive, statewide multimodal transportation
13 plan that covers a period of at least 24 years and serves as the
14 defining vision for the state's transportation system and
15 services. It is comprised of two components: a priority based
16 listing of projects that are expected to be developed within the
17 financial constraint of forecasted state and federal funding
18 levels, and a non-financially constrained component that
19 identifies projects, strategies, and other needs that could be
20 developed if additional funding resources become available. The
21 SLRTP considers the long-range plans and strategies of the
22 metropolitan and rural planning organizations and identifies the
23 state's transportation goals, measurable targets, and priority

1 projects and corridors.

2 (B) A metropolitan transportation plan (MTP) is a long-
3 range plan developed by each MPO for areas within its
4 boundaries, that covers a period of at least 20 years and
5 contains a priority based listing of projects for both long and
6 short-range strategies that are expected to be developed within
7 the financial constraint of forecasted state, federal, and local
8 funding levels. The funding levels are estimated in cooperation
9 with the department. The first four years of the MTP will be
10 developed to comply with federally mandated transportation
11 improvement program (TIP) and statewide transportation
12 improvement program (STIP) requirements and to identify those
13 projects that have a high probability of implementation during
14 the four-year period. The first ten years of the MTP will
15 include the prioritized list of projects from the metropolitan
16 planning organization ten-year transportation program (MTYTP)
17 and the four-year TIP and be consistent with the department's
18 ten-year unified transportation program (UTP).

19 (C) A rural planning organization (RPO) may make
20 recommendations to the department regarding projects and
21 priorities for areas within its boundaries to accommodate
22 preparation of the statewide long-range transportation plan
23 (SLRTP), statewide transportation improvement program (STIP),

1 and unified transportation program (UTP). Department districts,
2 with assistance of municipal and county officials, will prepare
3 similar recommendations for projects which are located outside
4 of the boundaries of both metropolitan and rural planning
5 organizations.

6 (D) A transportation improvement program (TIP) is a
7 short-range program developed by each MPO in cooperation with
8 the department and with operators of publicly owned transit
9 services that covers a four-year period and contains a
10 prioritized listing of all projects proposed for federal funding
11 and regionally significant projects proposed for state, federal,
12 and local funding in a metropolitan area. Projects may include
13 planning, engineering, design, right of way acquisition, and
14 construction. The TIP also contains an estimate of available
15 state, federal, and local finances and the estimated project
16 expenditures. A project's inclusion in the TIP and statewide
17 transportation improvement program (STIP) generally represents a
18 commitment that it is programmed for implementation.

19 (E) A statewide transportation improvement program
20 (STIP) is a four-year short-range program developed by the
21 department as a compilation of all metropolitan transportation
22 improvement programs (TIPs), together with recommendations from
23 RPOs and department districts for the non-metropolitan areas of

1 the state, including transportation between cities. The STIP
2 identifies a list of projects to be implemented statewide with
3 reasonably available funds over a multi-year period. The first
4 year of the STIP contains projects that are scheduled for
5 letting of construction contracts by the project sponsor. The
6 remaining three years identify projects and funding sources that
7 also have a high probability of implementation. In addition, in
8 nonattainment and maintenance areas, funding for projects in the
9 first and second years of the STIP must be available or
10 committed.

11 (F) A metropolitan planning organization ten-year
12 transportation program (MTYTP) is a program developed by each
13 MPO that represents an intermediate timeframe in the project
14 development process. It includes all of the projects, or phases
15 of projects, covered in the MPO's four-year transportation
16 improvement program (TIP) plus those projects, or phases of
17 projects, that it anticipates can proceed to letting within the
18 six years following the TIP. The metropolitan planning
19 organization ten-year transportation program must be consistent
20 with the criteria and funding levels described in the
21 department's ten-year unified transportation program.

22 (G) The unified transportation program (UTP) is a ten-
23 year financially constrained program developed by the department

1 that represents an intermediate timeframe in the statewide
2 project development process. It includes all of the projects, or
3 phases of projects, covered in the four-year statewide
4 transportation improvement program (STIP) plus those projects,
5 or phases of projects, within the state that it anticipates can
6 proceed to letting within the next six years. A project's
7 inclusion in the UTP also represents a commitment to its
8 continued development.

9 (3) A graphic flow chart and description of the
10 documents, interactions, and time frames involved in the
11 planning and programming process is shown in the following
12 Figure 1.

13

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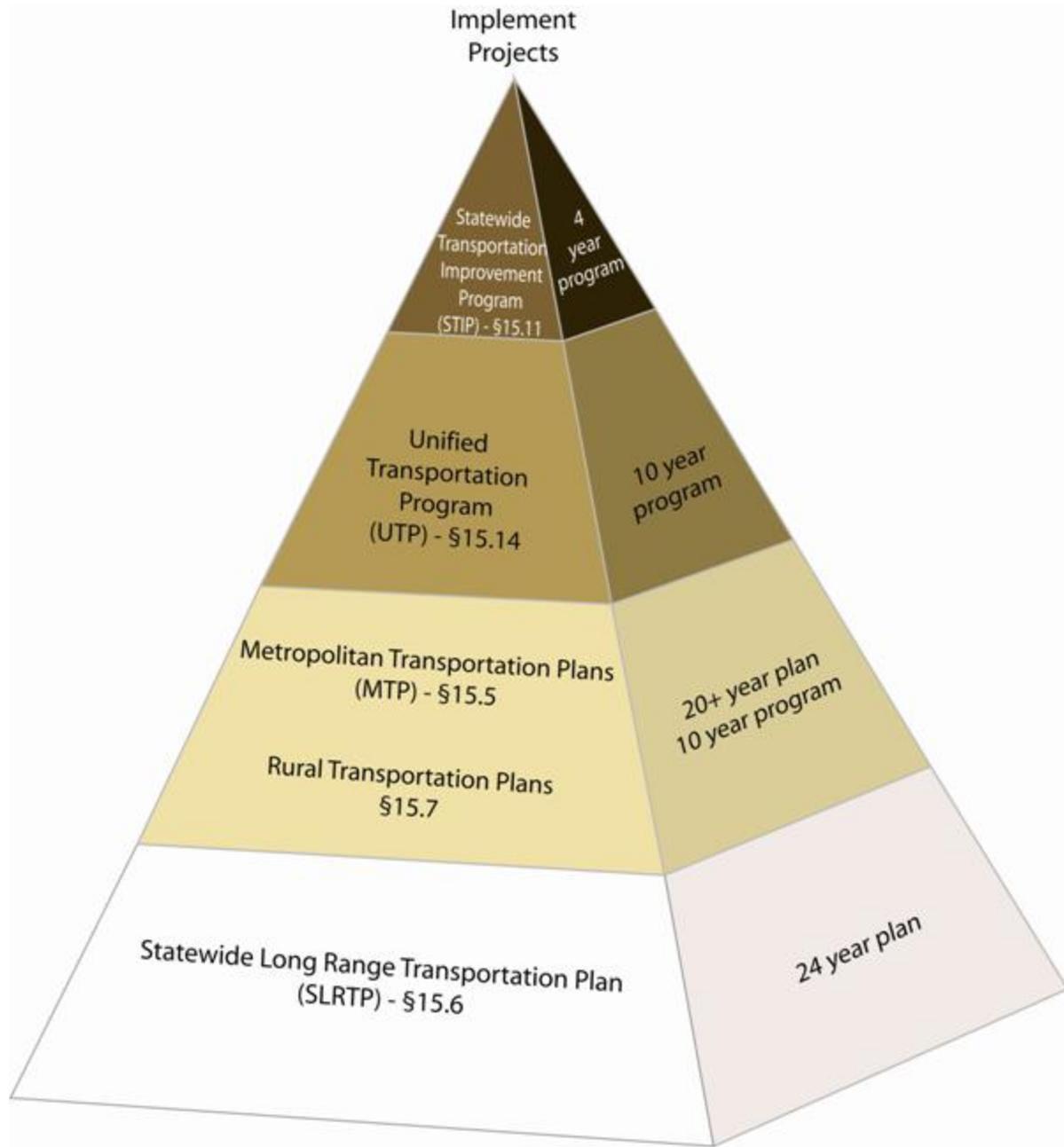


Figure 1

1 (4) This subsection and flow chart are for illustrative
2 purposes only and shall not be construed or interpreted to
3 abridge, enlarge, modify, or otherwise change the
4 responsibilities, requirements, and procedures described in
5 Subchapters A, B, C, D, and E of this chapter.

6

7 §15.2. Definitions. The following words and terms, when used
8 in this chapter, shall have the following meanings, unless the
9 context clearly indicates otherwise.

10 (1) Clean Air Act (CAA)--The Clean Air Act of 1970 and
11 Amendments of 1990 (42 U.S.C. §7401 et seq.), including
12 procedures that apply to all transportation plans, programs, and
13 projects as they relate to air quality.

14 (2) Commission--The Texas Transportation Commission.

15 (3) Conformity--Clean Air Act requirements that ensure
16 that federal funding and approval are given to transportation
17 plans, programs, and projects that are consistent with the air
18 quality goals established by the Texas State Implementation Plan
19 (SIP).

20 (4) Corridor--A broad geographical band with no
21 predefined size or scale that follows a general directional
22 flow, providing for the movement of people and freight and
23 connecting major sources of trips. It involves a nominally

1 linear transportation service area that may contain a number of
2 streets, highways, rail, utility, and transit route alignments.

3 (5) Department--The Texas Department of Transportation.

4 (6) District--One of the geographical areas into which
5 the department is divided in order to conduct its primary work
6 activities.

7 (7) District engineer--The chief administrative officer
8 in charge of a district, or his or her designee.

9 (8) Environmental Protection Agency (EPA)--An agency of
10 the federal government with broad responsibilities for
11 environmental protection and enforcement, including air quality
12 as it relates to this chapter.

13 (9) Executive director--The executive director of the
14 Texas Department of Transportation or his or her designee.

15 (10) Federal discretionary programs--Programs that
16 provide the United States Department of Transportation with
17 discretion to award funds for specific projects outside of the
18 normal transportation fund formulas. The United States Congress
19 may designate the projects which are eligible for discretionary
20 program funds and the scope of discretion may vary depending on
21 the applicable statutory provisions.

22 (11) Federal Highway Administration (FHWA)--The federal
23 agency primarily responsible for highway transportation.

1 (12) Federal Transit Administration (FTA)--The federal
2 agency primarily responsible for public transportation.

3 (13) Governor--The governor of the State of Texas or his
4 or her designee.

5 (14) Letting--The official act of opening contractors'
6 bids for a proposed highway improvement contract to construct,
7 reconstruct, or maintain a segment of the state highway system,
8 or to construct or maintain a building or other facility
9 appurtenant to a building.

10 (15) Local transportation entity--An entity that
11 participates in the transportation planning process. The term
12 includes but is not limited to: a metropolitan planning
13 organization; a rural planning organization; a regional tollway
14 authority organized under Transportation Code, Chapter 366; a
15 regional transportation authority operating under Transportation
16 Code, Chapter 452; a metropolitan rapid transit authority
17 operating under Transportation Code, Chapter 451; a rural
18 transit district as defined by Transportation Code, §458.001; a
19 coordinated county transportation authority operating under
20 Transportation Code, Chapter 460; a rural rail transportation
21 district operating under Transportation Code, Chapter 172; and a
22 commuter rail district operating under Transportation Code,
23 Chapter 174.

1 (16) Metropolitan planning organization (MPO)--The
2 organization or policy board of an organization created and
3 designated under 23 U.S.C. §134 and 49 U.S.C. §5303, as amended,
4 to make decisions for the metropolitan planning area and carry
5 out the metropolitan transportation planning process.

6 (17) Mobility projects--Transportation projects that add
7 additional mainlanes to an existing facility or construct lanes
8 on a new location and which have a length of at least one mile,
9 or otherwise improve transportation facilities for highways,
10 public transportation, or other modes of transportation in order
11 to decrease travel time and the level or duration of traffic
12 congestion, and to increase the safe and efficient movement of
13 people and freight.

14 (18) Non-Metropolitan area--An area of the state not
15 included within the boundaries of a metropolitan planning
16 organization.

17 (19) Planning organization--A metropolitan planning
18 organization, a rural planning organization, or, for an area
19 that is not in the boundaries of a metropolitan planning
20 organization or a rural planning organization, a district.

21 (20) Public transportation--Transportation of passengers
22 and their hand carried packages or baggage on a regular or
23 continuing basis by means of surface or water conveyance by a

1 governmental or private entity that receives financial
2 assistance from Federal Highway Administration, Federal Transit
3 Administration, the department, or a local political
4 subdivision.

5 (21) Rural planning organization (RPO)--A voluntary
6 organization created and governed by local elected officials
7 with responsibility for transportation decisions at the local
8 level, including an organization established by a council of
9 governments or regional planning commission designated by the
10 Governor pursuant to Local Government Code, Chapter 391, to
11 address rural transportation priorities and planning and provide
12 recommendations to the department for areas of the state not
13 included in the boundaries of a metropolitan planning
14 organization.

15 (22) Rural transportation improvement program (Rural
16 TIP)--A staged, multiyear, intermodal program of transportation
17 projects which is developed by the department, in consultation
18 with local officials, for areas of the state outside of the
19 metropolitan planning area boundaries. The rural TIP includes a
20 financially constrained plan that demonstrates how the program
21 can be implemented.

22 (23) State implementation plan (SIP)--The latest
23 approved version of the state adopted plan promulgated for each

1 nonattainment or maintenance area to achieve or maintain
2 compliance with the national ambient air quality standards
3 required by the federal Clean Air Act.

4 (24) Subarea--An area with no predefined size or scale
5 that focuses on a non-linear part of a metropolitan area, such
6 as an activity center or other geographic portion of a region.

7 (25) Surface Transportation Program (STP)--The funding
8 program established by 23 U.S.C. §133.

9 (26) Texas Commission on Environmental Quality (TCEQ)--
10 The state agency responsible for coordination of natural
11 resources and air quality for the state, including development
12 of the State Implementation Plan.

13 (27) Transportation control measure (TCM)--Any measure
14 used for the purpose of reducing emissions or concentrations of
15 air pollutants from transportation sources by reducing vehicle
16 use or changing traffic flow or congestion conditions.

17 (28) Transportation management area (TMA)--An urbanized
18 area with a population over 200,000 as defined by the Bureau of
19 the Census and designated by the U.S. Secretary of
20 Transportation, or any additional area where transportation
21 management area designation is requested by the Governor and the
22 metropolitan planning organization and designated by the U.S.
23 Secretary of Transportation.

1 (29) Transportation project--the planning, engineering,
2 right-of-way acquisition, expansion, improvement, addition, or
3 contract maintenance, other than the routine or contracted
4 routine maintenance, of a bridge, highway, toll road or toll
5 road system, railroad, enhancement of a roadway that increases
6 the safety of the traveling public, air quality improvement
7 initiative or transportation enhancement activity under 23
8 U.S.C. §101.

9 (30) Unified Planning Work Program (UPWP)--The governing
10 planning document, prepared by an MPO on an annual or bi-annual
11 basis, which identifies the transportation planning work to be
12 undertaken within the metropolitan planning area for the
13 applicable period.

14
15 §15.3. Responsibilities of Metropolitan Planning Organizations
16 (MPOs).

17 (a) General. Pursuant to 23 U.S.C. §134 and 49 U.S.C.
18 §5303, as implemented by 23 C.F.R. Part 450, the metropolitan
19 planning organization (MPO), in cooperation with the department
20 and with operators of publicly owned transit services, shall be
21 responsible for carrying out the metropolitan transportation
22 planning process. The MPO, department, and transit operators
23 shall cooperatively determine their mutual responsibilities in

1 the conduct of the planning process, including corridor
2 refinement (e.g., feasibility and major investment studies).
3 They shall cooperatively develop the unified planning work
4 program (UPWP), metropolitan transportation plan (MTP)
5 containing a long-range forecast of proposed projects, MPO ten-
6 year transportation program (MTYTP), and transportation
7 improvement program (TIP) containing a list of projects that
8 have been approved for development in the near-term. The MPO,
9 department, and transit operators shall coordinate the
10 development of the MTP and TIP with other providers of
11 transportation (e.g., 14 C.F.R. Part 139 airport sponsors,
12 maritime port operators, and rail operators). All
13 transportation plans and programs developed by the MPO as part
14 of the planning process must comply with federal requirements
15 and provide for public involvement.

16 (b) Membership of MPOs. According to 23 C.F.R. Part 450,
17 each MPO that serves a transportation management area shall
18 consist of local elected officials, officials of public agencies
19 that administer or operate major modes of transportation in the
20 metropolitan planning area, and appropriate state transportation
21 officials.

22 (c) Approval of boundaries. Approval of metropolitan area
23 boundaries by the Federal Highway Administration (FHWA) or the

1 Federal Transit Administration (FTA) is not required. However,
2 metropolitan planning area boundary maps must be provided to the
3 department for further handling with the FHWA, FTA, and other
4 applicable federal agencies. The boundaries and revisions to
5 approved boundaries must also be approved by the governor,
6 unless the governor delegates that responsibility to the
7 commission. The MPO must provide the governor and the
8 department with appropriate documentation and the rationale
9 supporting any recommended boundary change.

10 (d) Metropolitan planning area agreements.

11 (1) Planning contract. The responsibilities for
12 cooperatively carrying out transportation planning (including
13 corridor and subarea studies) and programming shall be clearly
14 identified in the planning contract between the department and
15 the MPO.

16 (2) MPO-transit operator planning agreement. There shall
17 be a written agreement between the MPO, the department, and
18 operators of publicly owned transit services that specifies
19 cooperative procedures for carrying out transportation planning
20 (including corridor and subarea studies) and programming as
21 required by this subchapter.

22 (3) Agreements in nonattainment MPOs. If the
23 metropolitan planning area does not include the entire

1 nonattainment or maintenance area, as defined by the federal
2 Clean Air Act (CAA), there shall be a written agreement among
3 the department, the Texas Commission on Environmental Quality
4 (TCEQ), affected local agencies, and the MPO describing the
5 process for cooperative planning and analysis of all projects
6 outside the metropolitan planning area, but within the
7 nonattainment or maintenance area. The agreement shall be in
8 accordance with federal requirements.

9 (4) Coordination of planning processes. If more than one
10 MPO has authority within an urbanized area or a nonattainment or
11 maintenance area, there shall be a written agreement between the
12 department and the MPOs describing how the processes will be
13 coordinated to assure the development of an overall
14 transportation plan for the metropolitan planning area. In
15 metropolitan planning areas that are nonattainment or
16 maintenance areas, parties to the agreement shall include the
17 TCEQ and any local air quality agencies.

18 (e) Coordination with State Implementation Plan (SIP)
19 development. In nonattainment or maintenance areas, the MPO
20 shall coordinate the development of the transportation plan with
21 the State Implementation Plan (SIP) development process,
22 including the development of any transportation control measures
23 (TCMs). The MPO shall develop or assist in developing the TCMs,

1 which may include any measure used for the purpose of reducing
2 emissions or concentrations of air pollutants from
3 transportation sources by reducing vehicle use or changing
4 traffic flow or congestion conditions. The MPO shall not
5 approve any metropolitan transportation plan or transportation
6 improvement program which does not conform with the SIP, as
7 determined in accordance with Environmental Protection Agency
8 (EPA) conformity regulations.

9 (f) Metropolitan planning in areas with multiple MPOs.
10 If more than one MPO has authority in a metropolitan planning
11 area (including multistate metropolitan planning areas) or in an
12 area which is designated as nonattainment or maintenance for
13 transportation related pollutants, the MPOs, the governor, and
14 the governor's counterpart in any other involved state shall
15 cooperatively establish the boundaries of the metropolitan
16 planning area (including the 20-year planning horizon and
17 relationship to the nonattainment or maintenance areas) and the
18 respective jurisdictional responsibilities of each MPO. The
19 MPOs shall consult with each other and the states to assure the
20 preparation of integrated plans and transportation improvement
21 programs for the entire metropolitan planning area. While an
22 individual MPO's metropolitan transportation plan and
23 transportation improvement program may be developed separately,

1 each plan and transportation improvement program must be
2 consistent with the plans and transportation improvement
3 programs of other MPOs in the metropolitan planning area. For
4 the overall metropolitan planning area, the individual MPO
5 planning process shall reflect coordinated data collection,
6 analysis, and development. In those areas where this provision
7 is applicable, coordination efforts shall be initiated and the
8 process and outcomes documented in subsequent transmittals of
9 the unified planning work program and various planning products
10 (e.g., the metropolitan transportation plan and transportation
11 improvement program) to the department for further transmittal
12 to the FHWA, FTA, and other applicable federal agencies.

13
14 §15.4. Unified Planning Work Program (UPWP).

15 (a) Planning activities. Under 23 C.F.R. Part 450, an MPO
16 is required to document planning activities in a unified
17 planning work program (UPWP) to indicate who will perform the
18 work, the schedule for completing it, and all products that will
19 be produced. The department is responsible for assisting in the
20 development of the UPWP, approving the format of work programs
21 submitted by metropolitan planning organizations (MPOs), and,
22 where required by federal law or regulation, monitoring an MPO's
23 performance of activities and expenditure of funds under a UPWP.

1 Where monitoring is not required, the department is responsible
2 for reviewing an MPO's activities and expenditure of funds, and
3 will comment on and make suggestions relating to those
4 activities and expenditures.

5 (1) Requirements. An MPO, in cooperation with the
6 department and operators of publicly owned transit systems, must
7 annually or bi-annually develop a UPWP that meets federal
8 requirements.

9 (2) Prospectus allowed. The metropolitan transportation
10 planning process may include the development of a prospectus
11 that establishes a multiyear framework within which the UPWP is
12 accomplished.

13 (3) UPWP development. The department will develop a time
14 line for development of the UPWP by the MPOs. Failure to adhere
15 to the time line may result in a delay in the authorization to
16 the MPOs to proceed in incurring costs.

17 (4) UPWP format. The department, in consultation with
18 the MPOs, shall develop a standard UPWP format to be used by all
19 MPOs. UPWPs submitted in a different format will not be
20 approved.

21 (5) UPWP approval and revisions. The MPO policy board
22 must approve the UPWP and any subsequent revisions, and shall
23 not delegate the approval authority.

1 (6) Annual performance and expenditure report. To allow
2 the department to monitor work programs, the MPOs shall prepare
3 and submit an annual performance and expenditure report of
4 progress no later than December 31 of each year. A uniform
5 format for the annual report will be established by the
6 department, in consultation with the MPOs.

7 (b) Funding. Federal transportation planning funds are
8 available to MPOs to develop the metropolitan transportation
9 plans and transportation improvement programs required by this
10 subchapter. Under 23 C.F.R. Part 420, the use of federal
11 planning funds must be documented by the MPO in a work program
12 acceptable to the FHWA setting out proposed work undertaken with
13 federal planning funds and the estimated cost of this work. A
14 work program acceptable to the FTA and other applicable federal
15 agencies is required for planning activities involving public
16 transportation plans and programs.

17 (1) Requirements. The UPWP shall reflect transportation
18 planning work tasks to be funded by federal, state, or local
19 transportation, or transportation related (e.g. air quality)
20 planning funds.

21 (2) Planning work eligibility. The use of federal
22 metropolitan transportation planning funds shall be limited to
23 transportation planning activities affecting the transportation

1 system within the Metropolitan Area Boundary (MAB). If an MPO
2 determines that data collection and analysis activities relating
3 to land use, demographics, or traffic or travel information,
4 conducted outside the MAB, affect the transportation system
5 within the MAB, then those activities may be undertaken using
6 federal planning funds, if the activities are specifically
7 identified in an approved UPWP. Any other costs incurred for
8 transportation planning activities outside the MAB will not be
9 eligible for reimbursement.

10 (3) Authorization for travel outside the state. The
11 department will approve travel outside the State of Texas by MPO
12 staff and other agencies participating in the MPO planning
13 process if the travel is funded with federal transportation
14 planning funds. The MPO must receive approval prior to
15 incurring any costs associated with the actual travel (e.g.,
16 registration fee). This provision will not apply if the travel
17 is at the request of the department. Travel to the State of
18 Arkansas by the Texarkana MPO staff and travel to the State of
19 New Mexico by the El Paso MPO staff shall be considered in-state
20 travel.

21 (4) Reimbursement of travel costs of elected officials.
22 The cost of travel incurred by elected officials is eligible for
23 reimbursement with federal transportation planning funds if the

1 costs are:

2 (A) specifically related to a grant, cost reimbursement
3 contract, or other agreement between a state, local and Indian
4 tribal government and the federal government (a federal award);

5 (B) necessary and reasonable for the proper and
6 efficient performance and administration of the federal award;

7 (C) not prohibited under:

8 (i) federal lobbying restrictions; or

9 (ii) state or local laws or regulations; and

10 (D) approved by the awarding federal agency prior to
11 incurring any costs associated with the actual travel.

12 (5) Funding limitations. The use of federal
13 transportation planning funds is limited to corridor/subarea
14 level planning or multimodal or systemwide transit planning
15 studies. Major investment studies and environmental studies are
16 considered corridor level planning. Unless otherwise authorized
17 by federal law or regulation, the use of such funds beyond
18 environmental document preparation or for specific project level
19 planning and engineering (efforts directly related to a specific
20 project instead of a corridor) is not allowed.

21 (6) Department approval of costs. The MPO shall not
22 incur any costs for work outlined in the UPWP or any subsequent
23 amendments (i.e., adding new work tasks or changing the scope of

1 existing work tasks) prior to receiving approval from the
2 department. Any costs incurred prior to receiving department
3 approval are not eligible for reimbursement from federal
4 transportation planning funds.

5 (7) Expenditure limitations. Costs incurred by the MPO
6 shall not exceed the total budgeted amount of the UPWP without
7 prior approval of the MPO policy board and the department.
8 Costs incurred on individual work tasks shall not exceed that
9 task budget by 25% without prior approval of the MPO policy
10 board and the department. If the costs exceed 25% of the task
11 budget, the UPWP shall be revised, approved by the MPO policy
12 board, and submitted to the department for approval.

13 (8) Distribution of funds. The department will make
14 available to MPOs all federal metropolitan planning funds and
15 provide the required non-federal match as authorized by the
16 commission. The department will distribute federal
17 transportation planning funds to the MPOs based on a formula
18 developed by the department, in consultation with the MPOs, and
19 approved by FHWA, FTA, and other applicable federal agencies.

20

21 §15.5. Metropolitan Transportation Plan (MTP).

22 (a) Requirements. Pursuant to 23 C.F.R. Part 450, each
23 metropolitan planning organization (MPO) shall develop a

1 metropolitan transportation plan (MTP) to address at least a 20-
2 year planning horizon and include both long-range and short-
3 range strategies or actions that lead to the development of an
4 integrated intermodal transportation system that facilitates the
5 efficient movement of people and freight. The projects listed
6 in the first ten years of the MTP must be consistent with the
7 ten-year transportation program developed under §15.12 of this
8 chapter. The MTP is cooperatively developed by the MPO, the
9 department, municipalities, counties, the public, local
10 transportation entities, and operators of publicly owned transit
11 services. The MTP must be based on the funding assumptions and
12 forecasts set forth in §15.20 and §15.21 of this chapter.

13 (b) Development. Development of a metropolitan
14 transportation plan (MTP) shall be conducted in accordance with
15 federal regulations. Each project in the MTP shall be assigned
16 a unique project number.

17 (c) Approval. Each metropolitan transportation plan must
18 be approved by the applicable MPO. Prior to any approval, there
19 must be adequate opportunity for public involvement in the
20 development of the plan, in accordance with federal regulations.

21 (d) Submission of new and revised plans. Copies of any new
22 or revised MTPs must be submitted to the governor, or to the
23 department if the governor delegates this authority to the

1 commission, for information purposes. Copies must also be
2 provided to the FHWA, FTA, and other applicable federal
3 agencies.

4

5 §15.6. Statewide Long-Range Transportation Plan (SLRTP).

6 (a) General. The department will develop a statewide
7 long-range transportation plan (SLRTP) covering a period of not
8 less than 24 years that contains all modes of transportation,
9 including:

10 (1) the systems and facilities for highways and
11 turnpikes, aviation, public transportation, railroads and high-
12 speed railroads, and waterways; and

13 (2) the transportation users of each type of
14 transportation facility.

15 (b) Requirements. The plan must:

16 (1) contain specific, long-term transportation goals
17 for the state, including maintenance of the existing
18 transportation system, reduction of congestion throughout the
19 state, enhancement of safety, and promotion of economic
20 development;

21 (2) contain specific, measurable targets for each
22 transportation goal;

23 (3) consider the projects and strategies proposed by

1 each metropolitan planning organization and rural planning
2 organization in the organization's long-range plans;

3 (4) identify priority corridors, projects, or areas of
4 the state that are of particular concern to the department in
5 meeting the goals established under paragraph (1); and

6 (5) contain a participation plan for obtaining input on
7 the goals, measurable targets, projects, and priorities under
8 this section from other state agencies, political subdivisions,
9 metropolitan planning organizations, rural planning
10 organizations, local transportation entities, other officials
11 who have local responsibility for the various modes of
12 transportation, and members of the general public.

13 (c) Financial considerations. The plan must include:

14 (1) a component that is financially constrained and
15 identifies proposed projects and strategies; and

16 (2) a component that is not financially constrained and
17 identifies corridors, projects, strategies, and other needs in
18 various areas of the state including transportation improvements
19 designed to relieve congestion.

20 (d) Updates. The department will update the plan every
21 four years or more frequently as necessary.

22 (e) Public involvement during development of the SLRTP.
23 There will be adequate opportunity for public involvement in

1 development of the SLRTP. The department will divide the state
2 into regions and hold at least one public meeting in each region
3 during development of the SLRTP and each update of the plan.
4 The public meetings will occur at as early a stage as the
5 department determines is feasible to assure public input into
6 the planning process.

7 (1) The department will publish notice of each public
8 meeting as appropriate to maximize attendance at the meeting.

9 (2) The department will report its progress on the plan
10 and provide a free exchange of ideas, views, and concerns
11 relating to proposed transportation goals, measurable targets,
12 projects, and priorities.

13 (f) Public involvement prior to final adoption.

14 (1) The department will hold at least one statewide
15 hearing prior to final adoption of the SLRTP and approval of any
16 updates to the plan by the commission.

17 (A) The department will publish a notice of the
18 applicable hearing in the *Texas Register* a minimum of 15 days
19 prior to it being held and will inform the public where to send
20 any written comments.

21 (B) The department will accept written public
22 comments, including comments submitted in electronic format, for
23 a period of at least 30 days after the date the notice appears

1 in the *Texas Register*.

2 (C) A copy of the SLRTP or any adjustments to the
3 plan will be available for review at the time the notice of
4 hearing is published, at each of the district offices and at the
5 department's Transportation Planning and Programming Division
6 offices in Austin. A copy will also be available on the
7 department website.

8 (g) Publication. The department will publish the entire
9 approved SLRTP, updates, and modifications on the department's
10 website. The documents will also be available for review at
11 each of the district offices and at the department's
12 Transportation Planning and Programming Division offices in
13 Austin.

14
15 §15.7. Long-Range Transportation Planning Recommendations for
16 Non-Metropolitan Areas. A rural planning organization (RPO)
17 shall make recommendations to the commission concerning
18 transportation projects, systems, or programs that impact the
19 area within the boundaries of the RPO over the 24-year statewide
20 long-range transportation plan horizon provided in §15.6 of this
21 subchapter, including strategies that lead to the development of
22 an integrated intermodal transportation system that facilitates
23 the efficient movement of people and freight. For a non-

1 metropolitan area outside the boundaries of an RPO, those long-
2 range planning recommendations will be made by the applicable
3 district engineer. All recommendations shall be delivered to
4 the department at the times and in the manner and format
5 established by the department and shall include:

6 (1) a prioritized list of mobility projects,
7 rehabilitation projects as described in §15.22(a)(1) of this
8 chapter, and safety projects as described in §15.22(a)(8) of
9 this chapter, for the area within its boundaries; and

10 (2) for each listed project, an estimate of project costs
11 as approved by the district(s) in which the project is located.

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1 SUBCHAPTER B. TRANSPORTATION PROGRAMMING

2

3 §15.10. Transportation Improvement Program (TIP).

4 (a) Requirements. Title 23 U.S.C. §134 and 23, C.F.R. Part
5 450, require the metropolitan transportation planning process to
6 include the development of a transportation improvement program
7 (TIP) for the metropolitan planning area, containing a list of
8 projects which have been approved for development in the near
9 term. The list must be prioritized by the category of funding
10 described in §15.22 of this chapter and by project within each
11 funding category. The TIP is required to be developed in
12 cooperation with the department and public transit operators,
13 and must be approved by the metropolitan planning organization
14 (MPO) and the governor, unless that responsibility has been
15 delegated to the commission in accordance with subsection (h).
16 After approval and any needed conformity determinations, a TIP
17 is included without modification in the statewide transportation
18 improvement program (STIP). After inclusion, the MPO and the
19 department will select projects for implementation in accordance
20 with federal regulations and the requirements of this
21 subchapter.

22 (b) Development.

23 (1) Metropolitan transportation improvement program

1 (TIP). The MPO designated for a metropolitan planning area, in
2 cooperation with the department and publicly owned transit
3 operators and with input from affected municipal and county
4 officials and officials of local transportation entities, shall
5 develop a transportation improvement program (TIP) and financial
6 plan in accordance with federal requirements. The department
7 will provide an MPO with estimates of available federal and
8 state funds to be used in developing the financial plan in
9 accordance with §15.21 of this chapter. The TIP shall cover the
10 metropolitan planning area and shall be updated and approved at
11 least every two years by the MPO and the governor, unless that
12 responsibility has been delegated to the commission in
13 accordance with subsection (h).

14 (2) Rural transportation improvement program (Rural TIP).
15 The department will develop transportation improvement programs
16 (TIP) for all areas of the state outside of metropolitan planning
17 areas, containing a prioritized list of projects which have been
18 approved for development in the near term. These rural TIPs
19 will be developed in cooperation with rural planning
20 organizations (RPO) and projects will be selected in accordance
21 with federal regulations and the requirements of this
22 subchapter.

23 (c) Grouping of projects. Projects that are not considered

1 by the department and the MPO to be of appropriate scale for
2 individual identification in a given program year may be grouped
3 by function, geographic area, or work type (e.g., minor
4 rehabilitation, preventive maintenance). In nonattainment and
5 maintenance areas, classification must be consistent with the
6 exempt project classifications contained in the EPA conformity
7 regulations.

8 (d) Projects excluded. The following projects may be
9 excluded from the metropolitan TIP by agreement between the
10 department and the MPO:

11 (1) safety projects funded under 23 U.S.C. §402 (highway
12 safety programs), and emergency relief projects, except those
13 involving substantial functional, location, and capacity
14 changes;

15 (2) planning and research activities, except those
16 activities funded with National Highway System or Surface
17 Transportation Program funds other than those used for major
18 investment studies; and

19 (3) projects under 23 U.S.C. §104(b)(1), 23 U.S.C.
20 §104(b)(4), and 23 U.S.C. §144 that are for resurfacing,
21 restoration, rehabilitation, reconstruction, or highway safety
22 improvement, and which will not alter the functional traffic
23 capacity or capability of the facility being improved.

1 (e) Consistency and conformity.

2 (1) Relationship to the metropolitan transportation plan.

3 A project in the metropolitan TIP must be consistent with the
4 metropolitan transportation plan. The unique project
5 identification number for each project that was included in the
6 metropolitan transportation plan will be the same number and
7 will be referenced for each project in the TIP.

8 (2) Relationship to the statewide long-range
9 transportation plan. A project in the metropolitan and rural
10 TIP must be consistent with the statewide long-range
11 transportation plan (SLRTP) developed under federal law and
12 §15.6 of this chapter.

13 (3) Relationship to the Clean Air Act and State
14 Implementation Plan. In nonattainment and maintenance areas, a
15 project selected for the TIP must conform with the Clean Air Act
16 (CAA) and the state implementation plan (SIP).

17 (4) Conformity requirements. The MPO in each urbanized
18 nonattainment and maintenance area will be responsible for
19 preparation of the conformity determination requirements of the
20 CAA and the Environmental Protection Agency (EPA) conformity
21 regulations. The department will be responsible for preparation
22 of the conformity determination requirements in nonattainment
23 and maintenance areas outside of metropolitan planning areas.

1 (f) Format. The department, in cooperation with the MPOs,
2 will develop a uniform TIP format to produce a uniform statewide
3 transportation improvement program (STIP). The department in
4 consultation with the MPOs may make modifications to the format.
5 The MPOs shall submit electronic and printed copies of their
6 TIPs to the department in this format.

7 (g) Financial plan. A financial plan that demonstrates
8 consistency with funding reasonably expected to be available
9 during the relevant period shall be developed for metropolitan
10 TIPs by the MPO in cooperation with the department and transit
11 operators. In nonattainment areas, the plan must demonstrate
12 that funding is available or committed for the first two years
13 of the TIP.

14 (h) Transportation improvement program (TIP) approval. The
15 MPO and the governor shall approve the metropolitan TIP and any
16 amendments. If the governor delegates this authority to the
17 commission, the commission or if further delegated, the
18 executive director will approve metropolitan and rural TIPs if
19 he or she finds the TIP has met all federal requirements and the
20 requirements of this subchapter.

21 (i) Management. As a management tool for monitoring
22 progress in implementation of the metropolitan transportation
23 plan, the metropolitan transportation improvement program (TIP)

1 shall identify the criteria and process for prioritizing
2 implementation of transportation plan elements for inclusion in
3 the TIP and any changes in priorities from previous TIPs in
4 accordance with the factors specified in federal regulations.

5 (j) Updating. The frequency and cycle for updating the
6 transportation improvement program (TIP) must be compatible with
7 the statewide transportation improvement program (STIP)
8 development process established by the department and described
9 in §15.11 of this subchapter.

10 (k) Modification.

11 (1) Amendments. The transportation improvement program
12 (TIP) may be amended consistent with the procedures established
13 in this section for its development and approval with the
14 following stipulations.

15 (A) An amendment to the TIP is required in attainment
16 areas if there is a change:

17 (i) adding or deleting a federally funded project in
18 the TIP;

19 (ii) in the scope of work of a federally funded
20 project;

21 (iii) in the phase of work (such as the addition of
22 preliminary engineering, construction, or right-of-way) of a
23 federally funded project;

1 (iv) in the TIP year if the MPO's project selection
2 procedure does not provide for selecting projects from the
3 second, third, or fourth year; or

4 (v) in funding sources or funding availability that
5 forces the addition or deletion of federally funded projects.

6 (B) An amendment to the TIP is required in
7 nonattainment areas if there is a change:

8 (i) adding or deleting a project in the TIP;

9 (ii) in a project's design concept or scope of work;

10 (iii) in the phase of work (such as the addition of
11 preliminary engineering, construction, or right-of-way) of a
12 project;

13 (iv) in the TIP year if the MPO's project selection
14 procedure does not provide for selecting projects from the
15 second, third, or fourth year;

16 (v) adding Congestion Mitigation and Air Quality
17 funding to a previously approved project; or

18 (vi) in funding from non-federal funding to any
19 combination of federal funding or federal and state funding, or
20 where the change in funding sources or funding availability
21 forces the addition or deletion of federally funded projects or
22 regionally significant state funded projects.

23 (C) An amendment to the transportation improvement

1 program (TIP) is not required if there is a change:

2 (i) in funding sources, except as provided in this
3 subsection;

4 (ii) in the cost estimate which change is not greater
5 than 50 percent of the approved cost estimate and the revised
6 cost estimate is less than \$1,500,000, and the change in the
7 cost estimate is not caused by a change in the project work
8 scope or limits;

9 (iii) in the letting date unless, in nonattainment
10 areas, the change affects conformity; or

11 (iv) that is administrative and does not require
12 public review and comment, redemonstration of fiscal constraint,
13 or a conformity determination.

14 (2) Conformity requirements. In nonattainment and
15 maintenance areas for transportation related pollutants, a
16 conformity determination must be made on any new or amended TIPs
17 (unless the amendment consists entirely of projects exempt under
18 subsection (c) of this section) in accordance with CAA
19 requirements and the EPA conformity regulations.

20 (1) Transportation improvement program (TIP) relationship
21 to statewide transportation improvement program (STIP).

22 (1) Metropolitan TIP. After approval, the TIP will be
23 included without modification in the statewide transportation

1 improvement program (STIP) except that in nonattainment and
2 maintenance areas, the FHWA and the FTA must make a conformity
3 determination before inclusion. The department will notify the
4 MPO and appropriate federal agencies when a TIP has been
5 included in the STIP.

6 (2) Rural TIP. After approval, rural TIPs will be
7 included in the statewide transportation improvement program
8 (STIP), except in nonattainment and maintenance areas outside
9 metropolitan planning areas, where federal determinations of
10 conformity must be made prior to placing projects in the STIP.

11 (m) TIP public involvement.

12 (1) Metropolitan public involvement process. Each MPO
13 will develop a public involvement process covering the
14 development of a metropolitan TIP in accordance with federal
15 regulations. The MPOs shall also use adopted public involvement
16 procedures in amending the TIP.

17 (2) Rural public involvement process.

18 (A) Initial adoption. Each district will coordinate
19 with the applicable rural planning organization (RPO), if any,
20 to develop and implement a public involvement process covering
21 the development of a rural TIP that, at a minimum, consists of
22 the following:

23 (i) publication, in a newspaper with general

1 circulation in each county within the district, of a notice
2 informing the public of the availability of the proposed rural
3 TIP and of a ten-day public comment period;

4 (ii) a request, in the published notice, for public
5 comments concerning the proposed rural TIP, to be submitted in
6 writing to the district; and

7 (iii) notification, in the published notice, that a
8 public hearing will be held in order to receive comments on the
9 initial adoption, along with a public comment period of at least
10 ten days subsequent to the hearing. The notice of public
11 hearing will be published a minimum of ten days prior to the
12 hearing.

13 (B) Revisions involving mobility projects. Each
14 district will, at a minimum, publish, in a local newspaper of
15 general circulation, a notice informing the public of the
16 availability of these revisions and of a ten-day public comment
17 period. The notice will also request public comments to be
18 submitted, in writing, to the district, and will also notify the
19 public that a public hearing will be conducted to receive
20 comments on the proposed revision.

21 (n) Project selection procedures. Under federal
22 regulations, project selection from an approved metropolitan TIP
23 varies depending on whether a project selected for

1 implementation is located in a transportation management area
2 and what type of federal funding is involved.

3 (1) General. Project selection procedures must be
4 developed for each metropolitan area and for state projects that
5 lie outside of metropolitan planning areas. The department will
6 develop and reevaluate annual project selection procedures for
7 state projects which lie outside of metropolitan planning areas
8 in accordance with §15.11(g) of this subchapter (relating to
9 Statewide Transportation Improvement Programs).

10 (A) Project agreement. The first year of both the TIP
11 and the STIP constitute an agreed to list of projects for
12 project selection purposes. Project selection may be revised if
13 the apportioned funds, including the highway obligation ceiling
14 and transit appropriations, are significantly more or less than
15 the authorized funds. In such cases, if requested by the MPO,
16 the department, or the transit operator, a revised agreed to
17 list of projects for project selection purposes may be
18 developed.

19 (B) Eligibility. Only projects included in the
20 federally approved statewide transportation improvement program
21 (STIP) will be eligible for funding with Title 23, U.S. Code, or
22 Federal Transit Act (49 U.S.C. §5307 et seq.) funds.

23 (2) Project selection in non-transportation management

1 areas. In an area not designated as a transportation management
2 area (TMA), the commission or the transit operator, in
3 cooperation with the MPO, will select projects to be implemented
4 using federal funds from the approved metropolitan TIP. Federal
5 lands highways program projects shall be selected in accordance
6 with 23 U.S.C. §204.

7 (3) Project selection in transportation management areas
8 (TMAs). In an area designated as a transportation management
9 areas (TMA), an MPO, in consultation with the department and
10 transit operators, shall select from the approved metropolitan
11 TIP and in accordance with the priorities of the approved
12 metropolitan TIP, all Title 23, U.S. Code and Federal Transit
13 Act (49 U.S.C. §5307 et seq.) funded projects, except projects
14 on the National Highway System and projects funded under the
15 bridge, interstate maintenance, safety, and Federal lands
16 highways programs. The commission, in cooperation with the MPO,
17 will select projects on the National Highway System and projects
18 funded under the bridge, interstate maintenance, and safety
19 programs. Federal lands highways program projects shall be
20 selected in accordance with 23 U.S.C. §204.

21

22 §15.11. Statewide Transportation Improvement Program (STIP).

23 (a) Purpose. Title 23, U.S.C. §135, as implemented by 23

1 C.F.R. Part 450, requires each state to carry out a continuing,
2 comprehensive, and intermodal statewide transportation planning
3 process that facilitates the efficient, economic movement of
4 people and freight in all areas of the state, including those
5 areas subject to federal metropolitan planning requirements.

6 (b) Statewide transportation improvement program (STIP)
7 development. The department, in cooperation with the MPOs
8 designated for metropolitan areas and RPOs designated for non-
9 metropolitan areas, will develop a statewide transportation
10 improvement program (STIP) covering a period of four years for
11 all areas of the state in accordance with federal requirements.

12 (1) Projects included.

13 (A) A highway or transit project funded under Title 23,
14 U.S. Code or the Federal Transit Act (49 U.S.C. §5307 et seq.)
15 will be included in a federally approved STIP. A project in the
16 STIP will be consistent with the statewide long-range
17 transportation plan, metropolitan transportation plan, and
18 metropolitan transportation improvement program (TIP), and the
19 program will reflect expected funding and priorities for
20 programming.

21 (B) Projects that are not considered by the department
22 and MPO to be of appropriate scale for individual identification
23 in a given program year (e.g., minor rehabilitation, preventive

1 maintenance, non-urbanized transit projects) may be grouped by
2 function, geographic area, or work type.

3 (C) In a nonattainment area, only those projects which
4 have been determined to conform with the requirements of the
5 Clean Air Act (CAA) and which comply with the state
6 implementation plan (SIP) may be included in the STIP.

7 (D) Regionally significant projects to be funded with
8 non-federal funds will be included in the STIP for planning,
9 coordination, and public disclosure purposes.

10 (E) Projects may be excluded from the STIP by agreement
11 between the department and the MPO in accordance with
12 requirements established in §15.10(d) of this subchapter
13 (relating to Transportation Improvement Programs).

14 (2) Statewide transportation improvement program (STIP)
15 funding. The federal funding level for each year of the STIP is
16 the annual authorization as outlined in 23 U.S.C. §101 et seq.
17 and funds appropriated under 49 U.S.C. §5307 et seq., in
18 addition to the appropriate state and local match.

19 (c) Statewide transportation improvement program (STIP)
20 financial plan. The STIP will reflect the priorities for
21 programming and expenditure of funds and will:

22 (1) include a financial plan that demonstrates how the
23 transportation improvements can be funded and reasonably

1 implemented;

2 (2) be consistent with funding reasonably expected to be
3 available during the relevant period as provided under the
4 unified transportation program in §15.14 of this subchapter; and

5 (3) be financially constrained by year.

6 (d) Statewide transportation improvement program (STIP)
7 public involvement process. The governor is responsible for
8 providing for public involvement in the STIP development
9 process. If the governor delegates this responsibility to the
10 commission, the commission or if further delegated, the
11 executive director will provide for public involvement in
12 accordance with this subsection.

13 (1) Initial adoption of the STIP.

14 (A) There must be adequate opportunity for public
15 involvement in development of the STIP. The department will
16 divide the state into regions and hold at least one public
17 meeting in each region during development of the STIP at as
18 early a stage as the department determines is feasible to assure
19 public input into the process.

20 (i) The department will publish notice of each public
21 meeting as appropriate to maximize attendance at the meeting.

22 (ii) The department will report its progress on the
23 program and provide a free exchange of ideas, views, and

1 concerns relating to proposed projects and priorities.

2 (B) In developing the STIP, the department will hold at
3 least one statewide public hearing regarding the adoption of the
4 proposed STIP.

5 (i) The department will publish a notice of the
6 hearing in the *Texas Register* a minimum of 15 days prior to it
7 being held and will inform the public where to send any written
8 comments.

9 (ii) The department will accept written public
10 comments, including comments submitted in electronic format, for
11 a period of at least 30 days after the date the notice appears
12 in the *Texas Register*.

13 (iii) A copy of the proposed STIP will be available
14 for review, at the time the notice of hearing is published, at
15 each of the department's district offices, at the department's
16 Transportation Planning and Programming Division offices in
17 Austin, and on the department website.

18 (iv) The approved STIP will also be made available at
19 each of the district offices, at the department's Transportation
20 Planning and Programming Division offices in Austin, and on the
21 department website.

22 (2) STIP amendments.

23 (A) General. The governor will approve amendments to

1 the STIP. If the governor delegates this authority to the
2 commission, the commission or if further delegated, the
3 executive director will approve amendments according to a
4 published schedule developed in accordance with subsection (f)
5 of this section, which the department will make available at the
6 district offices, to the MPOs, and on the department website on
7 an annual basis.

8 (B) Amendments to the STIP. The STIP may be amended
9 consistent with the requirements established in §15.10(k) of
10 this subchapter (relating to Transportation Improvement
11 Programs). The public involvement process for amendments to the
12 STIP will be the same as for initial adoption of the STIP.

13 (e) Statewide transportation improvement program
14 (STIP) approval.

15 (1) The governor will approve the STIP. The governor, or
16 if the governor delegates this authority to the commission, the
17 commission or if further delegated, the executive director must
18 approve the STIP if it finds the STIP has met all the
19 requirements of this section.

20 (2) The governor, or if the governor delegates this
21 authority to the commission, the commission or if further
22 delegated, the executive director may approve a partial STIP if
23 difficulties are encountered in cooperatively developing the TIP

1 portion for a particular metropolitan or rural area.

2 (f) Statewide transportation improvement program (STIP)
3 revisions.

4 (1) Schedule of revisions. The department and the MPOs
5 will be required to adhere to a quarterly STIP revision cycle,
6 except as provided in paragraph (2) of this subsection. Project
7 information and MPO approval documentation for the quarterly
8 revisions must be received by the department's Transportation
9 Planning and Programming Division by the close of business on
10 the submittal date established by the department.

11 (2) Exceptions.

12 (A) Request. An MPO may submit a written request for
13 an exception to the quarterly revision schedule. The request
14 must include reasons justifying the need for the exception.

15 (B) Approval. The executive director may approve an
16 exception to this requirement if:

17 (i) additional funding becomes available; or

18 (ii) the revision involves a project which is
19 expected to have a significant effect on capacity, connectivity,
20 or public safety and security on transportation systems.

21 (g) Project selection procedures. Under 23 C.F.R.
22 §450.220, project selection from an approved STIP varies
23 depending on whether a project selected for implementation is

1 located in a metropolitan planning area and on what type of
2 federal funding is involved. The purpose of this subsection is
3 to prescribe project selection procedures and specify which
4 entity may select a project for implementation.

5 (1) General. Project selection procedures must be
6 developed for each metropolitan area and for state projects that
7 lie outside of metropolitan planning areas. The department will
8 develop and reevaluate annual project selection procedures for
9 state projects which lie outside of metropolitan planning areas.

10 (A) Project agreement. The first year of both the TIP
11 and the STIP constitute an agreed to list of projects for
12 project selection purposes. Project selection may be revised if
13 the apportioned funds, including the highway obligation ceiling
14 and transit appropriations, are significantly more or less than
15 the authorized funds. In such cases, if requested by the MPO,
16 the department or the transit operator, a revised agreed-to list
17 of projects for project selection purposes may be developed.

18 (B) Eligibility. Except as provided in 23 C.F.R.
19 §450.220, only those projects included in the federally approved
20 STIP will be eligible for funding with Title 23, U.S.C., or
21 Federal Transit Act (49 U.S.C. §5307 et seq.) funds.

22 (2) Project selection in metropolitan planning areas. In
23 metropolitan planning areas, transportation projects shall be

1 selected in accordance with the project selection procedures
2 established in §15.10(n) of this subchapter (relating to
3 Transportation Improvement Programs).

4 (3) Project selection outside metropolitan planning
5 areas. Outside metropolitan planning areas, transportation
6 projects undertaken on the National Highway System with Title 23
7 funds and under the bridge and interstate maintenance programs
8 shall be selected by the department in consultation with
9 affected local officials. Federal lands highways projects shall
10 be selected in accordance with 23 U.S.C. §204. Other
11 transportation projects undertaken with funds administered by
12 the FHWA shall be selected by the department in cooperation with
13 the affected local officials, and projects undertaken with
14 Federal Transit Act funds shall be selected by the department in
15 cooperation with the affected local officials and transit
16 operators.

17
18 §15.12. Metropolitan Planning Organization Ten-Year
19 Transportation Program (MTYTP).

20 (a) Requirement. Each metropolitan planning organization
21 (MPO) shall develop a ten-year transportation program that is
22 consistent with the criteria developed for the department's
23 unified transportation program, as set forth in §15.14 of this

1 subchapter. The program must include a prioritized list of
2 projects and programs for the area within the MPO's boundaries.
3 Projects that are not considered by the department and the MPO
4 to be of appropriate scale for individual identification in a
5 given program year may be grouped by function, geographic area,
6 or work type (e.g., minor rehabilitation, preventive
7 maintenance).

8 (b) Relationship to the transportation improvement
9 program. The first four years of the program shall be developed
10 so as to comply with the requirements of federal law and §15.10
11 of this subchapter for a metropolitan transportation improvement
12 program.

13 (c) Cost estimates. The department will provide estimates
14 to planning organizations for the project costs of all
15 transportation projects on the state highway system.

16
17 §15.13. Ten-Year Transportation Programming Recommendations for
18 Non-Metropolitan Areas. A rural planning organization (RPO)
19 shall make recommendations to the commission concerning the
20 prioritization of projects and programs in the department's
21 unified transportation program to be developed within the
22 boundaries of the RPO. For a non-metropolitan area outside the
23 boundaries of an RPO, those programming recommendations will be

1 made by the applicable district engineer. All recommendations
2 shall be delivered to the department at the times and in the
3 manner and format established by the department and shall
4 include a prioritized list of projects with input from officials
5 of affected municipalities, counties, and local transportation
6 entities.

7
8 §15.14. Unified Transportation Program (UTP).

9 (a) General. The department will develop a unified
10 transportation program (UTP) that covers a period of ten years
11 to guide the development and authorize construction of
12 transportation projects and projects involving aviation, public
13 transportation, rail, and the state's waterways and coastal
14 waters. During this process, the department will cooperate with
15 officials who have local responsibility for the various modes of
16 transportation and transportation infrastructure including
17 officials of municipalities, counties, and local transportation
18 entities.

19 (b) Requirements. The program will:

20 (1) be financially constrained and estimate funding
21 levels and the allocation of funds to each district and
22 metropolitan planning organization (MPO) for each year in the
23 program in accordance with Subchapter C of this chapter;

1 (2) list all projects and programs that the department
2 intends to develop or initiate construction during the program
3 period, after consideration of the:

4 (A) statewide long-range transportation plan (SLRTP),

5 (B) MPO ten-year transportation programs (MTYTP),

6 (C) MPO four-year transportation improvement programs
7 (TIP),

8 (D) statewide transportation improvement programs
9 (STIP), and

10 (E) recommendations of rural planning organizations
11 (RPO) as provided in this subchapter; and

12 (3) be organized by funding category, district, mode of
13 transportation, and the year of the project.

14 (c) Project selection.

15 (1) The commission will consider the following criteria
16 for project selection in the UTP as applicable to the program
17 funding categories described in §15.22 of this chapter:

18 (A) the potential of the project to:

19 (i) increase the safety of the transportation
20 system for all transportation users;

21 (ii) maintain and preserve the existing
22 transportation system;

23 (iii) provide congestion relief;

1 (iv) increase the accessibility and mobility of the
2 transportation system for all transportation users;

3 (v) support the economic vitality of the area,
4 especially by enabling global competitiveness, productivity, and
5 efficiency; and

6 (vi) promote efficient system management and
7 operation; and

8 (B) adherence to all accepted department design
9 standards as well as applicable state and federal law and
10 regulations.

11 (2) The commission will determine and approve the final
12 selection of projects and programs to be included in the UTP,
13 except for the selection of federally funded projects by an MPO
14 serving in an area designated as a transportation management
15 area (TMA) as provided in §15.10(n) of this subchapter. A
16 federally funded project selected by an MPO designated as a TMA
17 will be approved by the commission, subject to:

18 (A) satisfaction of the project selection criteria in
19 paragraph (1) of this subsection;

20 (B) compliance with federal law; and

21 (C) the district's and MPO's allocation of funds for
22 the applicable years.

23 (d) Approval of unified transportation program (UTP). The

1 commission will, no later than March 31 of each even-numbered
2 year, adopt the unified transportation program. The UTP may be
3 updated more frequently if necessary. The commission will hold
4 a hearing prior to:

5 (1) final adoption of the UTP and any updates; and

6 (2) approval of any adjustments to the program
7 resulting from changes to the allocation of funds under §15.28
8 of this chapter.

9 (e) Program revisions.

10 (1) Projects within the UTP may be moved forward or
11 delayed if there is a change in the status of a listed project
12 or projects, and projects may be added to the UTP, if the moved
13 or added project(s) can be developed and constructed within the
14 district's or MPO's allocated funds for the applicable year.

15 (2) The department, an MPO, RPO, or transit operator
16 may request a revision of the UTP. If a revision is requested,
17 the department will, in coordination with the other affected
18 parties, determine whether a revision is appropriate and may,
19 consistent with the authority to select projects under
20 subsection (c), develop a revised list of projects for the
21 applicable period. A revision under this subsection shall not
22 be deemed an update or adjustment to the program under
23 subsection (d).

1 (f) Public involvement during development of the unified
2 transportation program. There will be adequate opportunity for
3 public involvement in development of the UTP. The department
4 will divide the state into regions and hold at least one public
5 meeting in each region during development of the UTP and each
6 update of the program at as early a stage as the department
7 determines is feasible to assure public input into the process.

8 (1) The department will publish notice of each public
9 meeting as appropriate to maximize attendance at the meeting.

10 (2) The department will report its progress on the
11 program and provide a free exchange of ideas, views, and
12 concerns relating to project selection, funding categories,
13 level of funding in each category, each region's allocation of
14 funds for each year of the program, and the relative importance
15 of the various selection criteria.

16 (g) Public involvement prior to final adoption. The
17 department, prior to adoption of the unified transportation
18 program and approval of any updates to the program, will hold at
19 least one statewide hearing on its project selection process
20 including the UTP's funding categories, the level of funding in
21 each category, each region's allocation of funds for each year
22 of the program, and the relative importance of the various
23 selection criteria.

1 (1) The department will publish a notice of the
2 applicable hearing in the *Texas Register* a minimum of 15 days
3 prior to it being held and will inform the public where to send
4 any written comments.

5 (2) The department will accept written public comments
6 for a period of at least 30 days after the date the notice
7 appears in the *Texas Register*.

8 (3) A copy of the proposed project selection process, the
9 UTP, and any adjustments to the plan, as applicable, will be
10 available for review at the time the notice of hearing is
11 published at each of the district offices and at the
12 department's Finance Division offices in Austin. A copy will
13 also be available on the department website.

14 (h) Publication. The department will publish the entire
15 approved unified transportation program, updates, and
16 adjustments together with any summary documents highlighting
17 project benchmarks, priorities, and forecasts on the
18 department's website. The documents will also be available for
19 review at each of the district offices and at the department's
20 Finance Division offices in Austin.

21

22

23

1 SUBCHAPTER C. TRANSPORTATION FUNDING

2

3 §15.20. Long-Term Planning Assumptions. The department, in
4 cooperation with metropolitan planning organizations (MPO) will
5 develop mutually acceptable assumptions for the purposes of
6 long-range federal and state funding forecasts that are
7 consistent with the project selection criteria prescribed under
8 §15.14 of this chapter. The department and each planning
9 organization will use those funding assumptions to guide
10 development of the statewide long-range transportation plan and
11 metropolitan transportation plans under §15.6 and §15.5 of this
12 chapter.

13 (a) Factors. The assumptions will include the following
14 factors:

15 (1) anticipated level of available state gas tax revenues
16 to be deposited to the state highway fund;

17 (2) anticipated level of registration fees and other
18 state non-gas tax revenues to be deposited to the state highway
19 fund and Texas Mobility Fund;

20 (3) anticipated level of federal transportation funding;

21 and

22 (4) other factors deemed appropriate by the commission
23 for projection of available revenue.

1 (b) Optional factors. An MPO may also include reasonable
2 funding assumptions based on one or both of the following
3 factors to guide development of a separate supplement to the
4 MPO's metropolitan transportation plan and its portion of the
5 statewide long-range transportation plan that is in addition to
6 the funding forecasts developed under section (a). The factors
7 are:

8 (1) local funding options; and

9 (2) a contingency factor not to exceed 10% for potential
10 increases in state and federal funding.

11

12 §15.21. Cash Flow Forecast.

13 (a) Forecast. On or before September 1 of each year, the
14 department's chief financial officer will issue a cash flow
15 forecast for each source of funding that covers a period of not
16 less than the 20 years following the date the forecast is issued
17 and is based on the funding assumptions developed under §15.20
18 of this subchapter.

19 (b) Requirements. The forecast must identify:

20 (1) all sources of funding available for transportation
21 projects and projects involving aviation, public transportation,
22 rail, and the state's waterways and coastal waters, including
23 bond proceeds; and

1 (2) any limitations imposed by state or federal law on
2 the use of a funding source.

3 (c) First two years. The first two years of the forecast
4 in even-numbered years must be based on the appropriation of
5 funds in the General Appropriations Act for the department for
6 that biennium. The first year of the forecast in odd-numbered
7 years must be based on the appropriation of funds in the General
8 Appropriations Act for the department for the second year in
9 that biennium.

10 (d) Updates. The department's chief financial officer will
11 update the forecast more frequently as needed if significant
12 changes in the department's funding occur.

13 (e) Publication. Each cash flow forecast and update will
14 be available on the department's website for viewing by the
15 public and the documents will also be available for review at
16 each of the district offices and at the department's Finance
17 Division offices in Austin.

18 (f) Uses of forecast. The commission will use the cash flow
19 forecast to estimate funding levels for each year, determine the
20 annual amount of funding in each of the program funding
21 categories described in §15.22 of this subchapter, and allocate
22 funding to the districts, metropolitan planning organizations,
23 and other authorized entities in accordance with §15.23 of this

1 subchapter.

2 (g) Funding definition. In this subchapter, unless the
3 context clearly indicates otherwise, "funds" or "funding" means
4 the estimates of federal, state, and local money reasonably
5 expected to be available for expenditure on transportation
6 projects and projects involving aviation, public transportation,
7 rail, and the state's waterways and coastal waters during the
8 relevant period.

9
10 §15.22. Funding Categories.

11 (a) Highway program funding categories. The ten-year
12 unified transportation program (UTP) described in §15.14 of this
13 chapter will contain the following 12 program funding categories
14 for highway related projects:

15 (1) Category 1 Preventive Maintenance and Rehabilitation
16 - preventive maintenance and rehabilitation on the existing
17 state highway system, including:

18 (A) Rehabilitation - installation, rehabilitation,
19 replacement, and maintenance of pavement, bridges, traffic
20 control devices, traffic management systems, and ancillary
21 traffic devices; and

22 (B) Preventive maintenance - minor roadway
23 modifications to improve operations and safety;

1 (2) Category 2 Metropolitan and Urban Corridor Projects -
2 mobility and added capacity projects along a corridor that
3 improve transportation facilities in order to decrease travel
4 time and the level or duration of traffic congestion, and to
5 increase the safe and efficient movement of people and freight
6 in metropolitan and urbanized areas;

7 (3) Category 3 Non-Traditionally Funded Transportation
8 Projects - transportation related projects that qualify for
9 funding from sources not traditionally part of the state highway
10 fund including state bond financing under programs such as
11 Proposition 12 (General Obligation Bonds), pass-through toll
12 financing, unique federal funding, regional toll revenue, and
13 local participation funding;

14 (4) Category 4 Statewide Connectivity Corridor Projects -
15 mobility and added capacity projects on major state highway
16 system corridors which provide statewide connectivity between
17 urban areas and corridors, to create a highway connectivity
18 network composed of the Texas Trunk System, National Highway
19 System, and connections from those two systems to major ports of
20 entry on international borders and Texas water ports;

21 (5) Category 5 Congestion Mitigation and Air Quality
22 Improvement - congestion mitigation and air quality improvement
23 area projects to address attainment of a national ambient air

1 quality standard in the nonattainment areas of the state;

2 (6) Category 6 Structures Replacement and Rehabilitation
3 - replacement and rehabilitation of deficient existing bridges
4 located on the public highways, roads, and streets in the state,
5 construction of grade separations at existing highway-railroad
6 grade crossings, and rehabilitation of deficient railroad
7 underpasses on the state highway system;

8 (7) Category 7 Metropolitan Mobility and Rehabilitation
9 (TMA)- transportation needs within the metropolitan area
10 boundaries of metropolitan planning organizations located in a
11 transportation management area;

12 (8) Category 8 Safety - safety related projects both on
13 and off the state highway system including the federal Highway
14 Safety Improvement Program, Railway-Highway Crossing Program,
15 Safety Bond Program, Safe Routes To School Program, and High
16 Risk Rural Roads Program;

17 (9) Category 9 Transportation Enhancement -
18 transportation related projects, including:

19 (A) categories outlined in federal law; and

20 (B) building new safety rest areas and visitor centers
21 along the state highway system;

22 (10) Category 10 Supplemental Transportation Projects -
23 transportation related projects that do not qualify for funding

1 in other categories, including landscape and aesthetic
2 improvement, erosion control and environmental mitigation,
3 construction and rehabilitation of roadways within or adjacent
4 to state parks, fish hatcheries and similar facilities,
5 replacement of railroad crossing surfaces, maintenance of
6 railroad signals, construction or replacement of curb ramps for
7 accessibility to pedestrians with disabilities, and
8 miscellaneous federal programs;

9 (11) Category 11 District Discretionary - projects
10 eligible for federal or state funding selected at the district
11 engineer's discretion; and

12 (12) Category 12 Strategic Priority - projects with
13 specific importance to the state including those that generally
14 promote economic opportunity, increase efficiency on military
15 deployment routes or to retain military assets in response to
16 the federal military base realignment and closure reports,
17 maintain the ability to respond to both man-made and natural
18 emergencies, and provide pass-through toll financing for local
19 communities.

20 (b) Program funding categories for other modes of
21 transportation and transportation infrastructure. The ten-year
22 unified transportation program described in §15.14 of this
23 chapter will contain the following program funding categories

1 for aviation, public transportation, rail, and state's waterways
2 and coastal waters projects:

3 (1) Aviation Capital Improvement Program - projects based
4 on the anticipated funding levels of the Federal Aviation
5 Administration Airport Improvement Program and the Texas
6 Aviation Facilities Development Program for general aviation
7 airport development in Texas;

8 (2) Public Transportation - multimodal related projects
9 based on the anticipated federal funding levels for transit
10 including fixed route city bus service, rural demand response
11 service, special transit service for elderly and persons with
12 disabilities, and intercity bus service from city to city;

13 (3) Rail - rail related projects including light rail,
14 freight rail, passenger rail, and high-speed rail; and

15 (4) State's waterways and coastal waters - lands,
16 easements, and rights of way for the widening, deepening and
17 expansion of the main channel of the Gulf Intracoastal Waterway
18 (GIWW), including beneficial use projects of dredged material,
19 and other maritime related projects.

20 (c) Determination of funding allocations. The commission
21 will determine, subject to the mandates of state and federal law
22 and specific requirements contained in other chapters under this
23 title for programs and projects described in subsection (b), the

1 amount of funds to be allocated to each program funding category
2 for the appropriate period of time.

3

4 §15.23. Transportation Allocation Funding Formulas.

5 (a) Formula allocations. The commission will, subject to
6 the mandates of state and federal law, allocate funds from
7 program funding Categories 1, 2, 4, 5, 7, 9, and 11 described in
8 §15.22 of this subchapter to the districts and metropolitan
9 planning organizations (MPO) in the following manner:

10 (1) Category 1 Preventive Maintenance and Rehabilitation
11 - will be allocated to all districts according to the following
12 formulas:

13 (A) preventive maintenance:

14 (i) 98% for roadway maintenance with 65% based on on-
15 system lane miles, and 33% based on the pavement distress score
16 Pace factor; and

17 (ii) 2% for bridge maintenance based on square
18 footage of on-system span bridge deck area;

19 (B) rehabilitation: 32.5% based on three-year average
20 lane miles of pavement distress scores less than 70, 20% based
21 on on-system vehicle miles traveled per lane mile, 32.5% based
22 on equivalent single axle load miles for on-system, off-system,
23 and interstate, and 15% based on the pavement distress score

1 Pace factor;

2 (2) Category 2 Metropolitan and Urban Corridor Projects -
3 will be allocated to MPOs in the following manner:

4 (A) 90% to MPOs operating in areas that are
5 transportation management areas, according to the following
6 formula: 30% based on total vehicle miles traveled on and off
7 the state highway system, 17% based on census population, 10%
8 based on lane miles on-system, 14% based on truck vehicle miles
9 traveled on-system, 7% based on percentage of census population
10 below the federal poverty level, 15% based on congestion, and 7%
11 based on fatal and incapacitating vehicle crashes;

12 (B) 10% to MPOs operating in areas that are not
13 transportation management areas, according to the following
14 formula: 20% based on total vehicle miles traveled on and off
15 the state highway system, 25% based on census population, 8%
16 based on lane miles on-system, 15% based on truck vehicle miles
17 traveled on-system, 4% based on percentage of census population
18 below the federal poverty level, 8% based on centerline miles
19 on-system, 10% based on congestion, and 10% based on fatal and
20 incapacitating vehicle crashes;

21 (3) Category 4 Statewide Connectivity Corridor Projects -
22 will be allocated to districts for specific projects selected by
23 the commission based on engineering analysis of projects on

1 three corridor types:

2 (A) Mobility corridors - congestion considerations in
3 areas that are not in the boundaries of an MPO;

4 (B) Connectivity corridors - two-lane roadways
5 requiring upgrade to four-lane divided to connect the urban
6 areas of the state;

7 (C) Strategic corridors - strategic corridor additions
8 to the state highway network;

9 (4) Category 5 Congestion Mitigation and Air Quality
10 Improvement - will be allocated to districts and MPOs for
11 projects in a nonattainment area population weighted by ozone
12 and carbon monoxide pollutant severity;

13 (5) Category 7 Metropolitan Mobility and Rehabilitation
14 (TMA) - will be allocated to MPOs operating in areas that are
15 transportation management areas based on the applicable federal
16 formula;

17 (6) Category 9 Transportation Enhancement - Fifty percent
18 of all funds in this program funding category will be allocated
19 to MPOs operating in areas that are transportation management
20 areas based on the following formula: census population; and

21 (7) Category 11 District Discretionary - will be
22 allocated to all districts based on state legislative mandates,
23 but if there is no mandate or the amount of available funding in

1 this category exceeds the minimum required by a mandate, the
2 funding allocation for this category or the excess funding, as
3 applicable, will be according to the following formula: 70%
4 based on annual on-system vehicle miles traveled, 20% based on
5 annual on-system lane miles, and 10% based on annual truck
6 vehicle miles traveled.

7 (b) Pace factor definition. In this section, Pace factor
8 shall mean a calculation used to adjust funding among districts
9 in order to react to increases and decreases in a district's
10 need to improve its pavement distress scores. It will slow the
11 rate of improvement for districts with the highest condition
12 scores and accelerate the rate of improvement for districts with
13 the lowest condition scores. The factor is calculated as
14 follows:

15 (1) determine the district with the highest distress
16 score;

17 (2) determine the deviation of a district's distress
18 score from the highest score;

19 (3) total all deviations for all districts from the
20 maximum score; and

21 (4) allocate either a 33% factor under subsection
22 (a)(1)(A), or a 15% factor under subsection (a)(1)(B), as
23 applicable, based on a district's percentage of total

1 deviations.

2 (c) Non-formula allocations. The commission will
3 determine, subject to the mandates of state and federal law and
4 specific requirements contained in other chapters under this
5 title for programs and projects described in subsection (b), the
6 amount of funding to be allocated to a district, metropolitan
7 planning organization, political subdivision, governmental
8 agency, local governmental body, or recipient of a governmental
9 transportation grant, from each of the following program funding
10 categories described in §15.22 of this subchapter:

- 11 (1) Category 3 Non-Traditionally Funded Transportation
12 Projects;
- 13 (2) Category 6 Structures Replacement and Rehabilitation;
- 14 (3) Category 8 Safety;
- 15 (4) Fifty percent of all funds in Category 9
16 Transportation Enhancement;
- 17 (5) Category 10 Supplemental Transportation Projects;
- 18 (6) Category 12 Strategic Priority;
- 19 (7) Aviation Capital Improvement Program;
- 20 (8) Public Transportation;
- 21 (9) Rail; and
- 22 (10) State's waterways and coastal waters.
- 23 (d) Formula revisions. The commission will review and, if

1 determined appropriate, revise both the formulas and criteria
2 for allocation of funds under subsections (a) - (c) every four
3 years or more frequently as necessary.

4

5 §15.24. Surplus Revenue and Contract Payments Not Allocated by
6 Formula.

7 (a) Chapter 228 revenue. Revenue from Transportation Code,
8 §228.005, §228.0055, and §228.006 will be allocated in
9 accordance with Subchapter A, Chapter 228.

10 (b) Toll project funds. Funds associated with toll
11 projects under Chapter 228 are not considered revenue allocated
12 by a formula under §15.23 of this subchapter.

13

14 §15.25. Limitation on Allocation of Funds.

15 (a) Toll project conditions. Neither the commission or the
16 department may require that a toll project be included in a
17 region's transportation plan or program as a condition for the
18 allocation of funds for the construction of projects in the
19 region.

20 (b) Limitations on allocation decrease. Neither the
21 commission or the department may:

22 (1) revise a formula as provided in the unified
23 transportation program under §15.14 of this chapter, or its

1 successor document, in a manner that results in a decrease of an
2 allocation to a district or metropolitan planning organization
3 (MPO) because of:

4 (A) the failure of a region to include toll projects in
5 a region's transportation plan or program;

6 (B) participation by a political subdivision in the
7 funding of a transportation project in the region, including
8 the use of money collected in a transportation reinvestment zone
9 under Transportation Code, §222.106 or §222.107; or

10 (C) payments, project savings, refinancing dividends,
11 and any other revenue received by the commission or the
12 department under a comprehensive development agreement and used
13 to finance the construction, maintenance, or operation of
14 transportation projects or air quality projects in the region;
15 or

16 (2) take any other action that would reduce funding
17 allocated to a district or MPO without the prior consent of the
18 MPO because of:

19 (A) the failure of a region to include toll projects in
20 a region's transportation plan or program; or

21 (B) receipt by a region of payments, project savings,
22 refinancing dividends, and any other revenue received by the
23 commission or the department under a comprehensive development

1 agreement; or

2 (C) the need of another district or MPO for increased
3 funding to complete a pending project.

4 (c) Financial assistance for toll projects. Nothing
5 contained in this section shall preclude the commission or the
6 department from using funds to design, develop, finance,
7 construct, maintain, repair, or operate or assist in the design,
8 development, financing, construction, maintenance, repair, or
9 operation of toll projects in a region.

10

11 §15.26. Use of Allocated Funds. The funds allocated to a
12 district or metropolitan planning organization (MPO) under
13 §15.23 of this subchapter may be used to:

14 (1) pay project costs, provide toll equity, or make
15 payments under a pass-through toll agreement, for selected
16 transportation projects; or

17 (2) fund operations costs of an MPO in accordance with
18 §15.4 of this chapter.

19

20 §15.27. Encumbrance of Allocated Funds. The allocation of
21 funds to a district or metropolitan planning organization (MPO)
22 will be encumbered in an amount equal to the engineer's estimate
23 of the project cost and periodically adjusted to reflect:

1 (1) the bid award;

2 (2) any change orders issued during construction that
3 modify the bid award; and

4 (3) the total amount paid for a project as of the time it
5 is completed and closed out.

6

7 §15.28. Voluntary Transfer of Allocated Funds.

8 (a) Transfer of allocated funds. The allocation of funds
9 to a metropolitan planning organization (MPO) under §15.23 of
10 this subchapter is subject to a voluntary agreement for the
11 transfer of a portion of one MPO's allocated funds to another
12 MPO.

13 (b) Agreement. An agreement for the transfer of allocated
14 funds shall be in written form, executed by both MPOs, and
15 approved by the department's executive director. The agreement
16 must include:

17 (1) the amount of funding to be transferred and the
18 program funding category described in §15.22 of this subchapter
19 from which it will be re-allocated;

20 (2) the total amount of funds to be reimbursed from
21 allocations to the recipient MPO in future years, the applicable
22 program funding category, the reimbursement period, and the
23 payment schedule; and

1 (3) a description of the project or projects to be
2 developed with the transferred funds, including the project
3 limits, connections with other transportation facilities, and
4 the geographic area affected.

5 (c) Commission approval. In determining whether to approve
6 the transfer, the commission will consider the:

7 (1) transportation need for and anticipated public
8 benefit of the transfer, including:

9 (A) possible loss of federal obligation authority or
10 apportionment in one or more fiscal years; and

11 (B) need of an MPO for increased funding in order to
12 complete a pending project;

13 (2) reasonableness of the financial terms submitted in
14 the agreement; and

15 (3) relationship of the transfer to furthering the
16 purposes of this chapter.

17 (d) Reimbursement priority. The obligation of a recipient
18 MPO to reimburse the lending MPO in accordance with the terms of
19 the agreement described in subsection (b) of this section shall
20 have priority over all other considerations relating to the
21 allocation of future funding in the applicable program funding
22 category to each of the participating MPOs. If, in any fiscal
23 year, there are not funds in the applicable program funding

1 category available to the recipient MPO sufficient to reimburse
2 the scheduled payment or payments, all of the recipient MPO's
3 available funds in that category for that fiscal year will be
4 re-allocated to the lending MPO. Any remaining unpaid balance
5 of the scheduled reimbursement shall in the next fiscal year
6 have priority over all other considerations relating to the
7 recipient MPO's allocation of funding from the applicable
8 program funding category. The priorities described in this
9 subsection are subject to an amendment of the agreement as
10 authorized by all parties to the agreement.

11 (e) Federal requirements. The transfer and reimbursement
12 of funds under this section shall be subject to and accomplished
13 in compliance with all applicable federal requirements.

14
15 §15.29. Funding Allocation Adjustments.

16 (a) Changes in funding. The allocation of funds to each
17 program funding category under §15.22 of this subchapter and
18 from the program funding categories to the districts and
19 metropolitan planning organizations (MPO) under §15.23 of this
20 subchapter are subject to the occurrence of significant changes
21 in the department's funding.

22 (b) Allocation revisions. If a significant change in
23 funding is identified by the department's chief financial

1 officer in an updated cash flow forecast, the commission may
2 revise the allocation of funds to each program funding category
3 and from the program funding categories to the districts and
4 MPOs and approve:

5 (1) a specific percentage increase or decrease in the
6 allocation of funds and, subject to the mandates of state and
7 federal law, apply the percentage change equally to each program
8 funding category; or

9 (2) an increase or decrease in the allocation of funds to
10 one or more program funding categories, after considering the:

11 (A) total amount of the change;

12 (B) priority of the funding category based on the
13 category's relationship to the stated commission goals as
14 provided in the statewide long-range transportation plan under
15 §15.6 of this chapter;

16 (C) mandates of state and federal law; and

17 (D) best interests of the state.

18 (c) Adjustment of programs. After the commission approves a
19 change in the allocation of funds to a program funding category
20 under subsection (b), the funds allocated to individual
21 districts and MPOs will be proportionally adjusted and the
22 unified transportation program, metropolitan planning
23 organization ten-year transportation programs, statewide

1 transportation improvement programs, and metropolitan
2 transportation improvement programs will be revised in
3 accordance with the applicable change in funding. Specific
4 projects will be advanced or delayed in the order of the
5 planning organization's and department's listed priorities.

6 (d) Preference for allocation of funding increases. If the
7 allocation of funds to a district or MPO is reduced under
8 subsection (c), any subsequent increase in the allocation of
9 funds to the applicable program funding category will be
10 allocated first to the accounts of the districts and MPOs that
11 were previously reduced.

12 (e) Public involvement. The department will hold at least
13 one statewide public hearing regarding a proposed change in the
14 allocation of funds to a program funding category under this
15 section with an available comment period of at least 30 days
16 after the date the hearing notice appears in the *Texas Register*
17 in accordance with the procedures set forth in §15.14(g) of this
18 chapter.

19 (f) Publication. Documents describing each change in the
20 allocation of funds to a program funding category will be
21 available for viewing by the public on the department's website
22 and at each of the district offices and at the department's
23 Finance Division offices in Austin.

1 SUBCHAPTER D. PROJECT AND PERFORMANCE REPORTING

2

3 §15.30. Project and Performance Reporting System.

4 (a) General. The department will establish a project and
5 performance reporting system that makes available in a central
6 location on the department's website information regarding the:

7 (1) delivery of individual transportation projects as
8 provided in §15.31 of this subchapter;

9 (2) operation and condition of the department's statewide
10 transportation system as provided in §15.32 of this subchapter;
11 and

12 (3) funding available for the department's statewide
13 transportation system and actual expenditures related to the
14 system as provided in §15.33 of this subchapter.

15 (b) Entry of information. Each district will enter
16 information about each of its transportation projects into the
17 project and performance reporting system.

18 (c) Department website. The department will make the
19 statistical information provided under this subchapter available
20 on the department's website in more than one downloadable
21 electronic format. The information will be easily accessible,
22 understandable, and in a format that allows a person to conduct
23 electronic searches for information about a specific district, a

1 county, a highway under the jurisdiction of the department, or a
2 type of road.

3

4 §15.31. Reporting System for Delivery of Individual Projects.

5 (a) Work plan. The department will develop a business work
6 plan for tracking the delivery of individual transportation
7 projects, including grouped rehabilitation and preventive
8 maintenance projects, that are being developed or under
9 construction and identified in the unified transportation
10 program (UTP) described in §15.14 of this chapter.

11 (1) Each district will develop a consistently formatted
12 work plan based on the UTP that contains all projects the
13 district intends to implement during the next fiscal year and
14 the following three consecutive fiscal years.

15 (2) The work plan must contain the following information
16 for each project:

17 (A) an identification of each phase of project
18 development, including planning, route and environmental impact
19 studies, design, right-of-way acquisition, utility adjustment,
20 and construction;

21 (B) the estimated cost of each phase of project
22 development;

23 (C) a project schedule with timelines for completing

1 each phase of the project;

2 (D) a summary of progress on the project that
3 identifies whether the project is being completed on-time and
4 on-budget; and

5 (E) a list of department employees responsible for the
6 project, including information as to how each person on that
7 list may be contacted.

8 (3) The department will use the work plan to:

9 (A) assist in preparation of a budget for the district
10 and the department;

11 (B) monitor the performance of the district; and

12 (C) evaluate the performance of district employees.

13 (4) The department will consolidate the districts' work
14 plans into a statewide work plan and publish it on the
15 department's website.

16 (5) The department will update the information contained
17 in the project and performance reporting system for delivery of
18 individual transportation projects under this section at least
19 monthly.

20 (b) Annual Report. As a component of the project and
21 performance reporting system required by this section, the
22 department will conduct an annual review of the benchmarks and
23 timelines of all transportation projects funded under program

1 funding Categories 2, 3, 4, 5, 6, 7, and 12 described in §15.22
2 of this chapter to determine the completion rates of the
3 projects and whether the projects were completed on-time and on-
4 budget. The review will include a report on the level of
5 achievement statewide and by district, and a status report on
6 each transportation project listed in the work plan and included
7 in the program funding categories described in this subsection.

8 (c) Legislative districts. The department will make
9 available to each member of the legislature a copy of the annual
10 reports required by this section for each department district
11 located within the boundaries of a legislative district, and at
12 the request of a member of the legislature, a senior management
13 employee of the department will meet with the member to explain
14 the report.

15 (d) Legislature. The department will provide a copy of the
16 complete annual report required by this section to the
17 lieutenant governor, the speaker of the house of
18 representatives, and the chair of the standing committee of each
19 house of the legislature with primary jurisdiction over
20 transportation issues.

21

22 §15.32. Performance Reporting on the Operation and Condition of
23 the Statewide Transportation System.

1 (a) System performance. The department will develop a set
2 of performance measures for evaluating the effectiveness of it's
3 expenditures on the statewide transportation system in achieving
4 the transportation goals identified by the statewide long-range
5 transportation plan under §15.6 of this chapter. The
6 transportation goals include:

- 7 (1) reduce congestion;
- 8 (2) enhance safety;
- 9 (3) expand economic opportunity;
- 10 (4) preserve transportation assets; and
- 11 (5) improve air quality.

12 (b) Performance measures. At a minimum, the performance
13 measures adopted under subsection (a) will include the:

- 14 (1) percentage of transportation construction projects
15 for which the planning, design, and project development phases,
16 including environmental clearance, right-of-way acquisition, and
17 utility coordination, are completed on or before the planned
18 implementation timelines and on-budget;
- 19 (2) percentage of transportation construction projects
20 for which construction is completed on or before the planned
21 implementation timelines and on-budget;
- 22 (3) total amount spent for right-of-way as a percentage
23 of the original estimated amount;

1 (4) number of vehicle miles traveled;

2 (5) peak hour travel congestion in the eight largest
3 metropolitan areas;

4 (6) number of fatalities per 100 million vehicle miles
5 traveled;

6 (7) percentage of bridges that have a condition rating of
7 good or better;

8 (8) amounts of money deposited in the state highway fund
9 and disbursements compared to forecasted amounts;

10 (9) amounts obligated to be spent in connection with
11 contracts or participation in contracts with historically
12 underutilized businesses, disadvantaged business enterprises,
13 and small business enterprises as a percentage of the amounts
14 spent on all contracts; and

15 (10) percentage of lane miles on the state highway
16 system that have a pavement condition rating of good or better.

17 (c) Additional performance measures. The commission, as it
18 deems appropriate, may adopt performance measures in addition to
19 those listed in subsection (b).

20 (d) Updates. The department will update the information
21 contained in the project and performance reporting system for
22 performance measures under this section at least annually.

23 (e) Annual Report. As a component of the project and

1 performance reporting system required by this section, the
2 department will evaluate and publish a report about the status
3 of each transportation goal that is identified by the statewide
4 long-range transportation plan under §15.6 of this chapter. The
5 department will report on the level of achievement statewide and
6 by district.

7 (f) Legislative districts. The department will make
8 available to each member of the legislature a copy of the status
9 reports for each department district located within the
10 boundaries of a legislative district, and at the request of a
11 member of the legislature, a senior management employee of the
12 department will meet with the member to explain the report.

13 (g) Legislature. The department will provide a copy of the
14 complete status report to the lieutenant governor, the speaker
15 of the house of representatives, and the chair of the standing
16 committee of each house of the legislature with primary
17 jurisdiction over transportation issues.

18

19 §15.33. Reporting System for Funding and Expenditures.

20 (a) Account information system. The department will
21 develop an account information reporting system for tracking
22 money deposited in each separate account and subaccount of the
23 state highway fund, including subaccounts for toll projects

1 under Chapter 228. The account information will include:

2 (1) the source and amount of the deposited funds;

3 (2) the amount and general type or purpose of expenditure
4 as described in the comptroller's statewide accounting system;
5 and

6 (3) the balance in each account and subaccount.

7 (b) Updates. The department will update the account
8 information reporting system at least quarterly.

9
10 §15.34. Department Information Consolidation. To the extent
11 practicable and to avoid duplication of reporting requirements,
12 the department may combine the reports required under this
13 subchapter.

14

15

16