

Metropolitan Planning Organization Coordination and Planning Area Reform **Proposed Rule**

Introduction

The U.S. Department of Transportation (DOT) released a proposed rulemaking (NPRM) on June 27th that could radically change transportation and comprehensive planning processes across northeastern Illinois, northwestern Indiana, and southeastern Wisconsin by merging the metropolitan planning organizations (MPOs) serving those areas. The proposed rule was released with little prior national discussion of the issues, which would have been ripe during Congress' recently finished multi-year transportation law enacted in December 2015. Despite this lack of engagement and the monumental consequences of the rule, the proposed rule appears to be on a fast track to being finalized. Several entities, including the Chicago Metropolitan Agency for Planning (CMAP) and the Northwestern Indiana Regional Planning Commission (NIRPC), requested that DOT extend the short 60-day comment period that ends August 26, 2016 to give time for meaningful, informed comments. To date U.S. DOT, has rejected those requests.

Below is a brief description of the rule's likely impacts on the MPOs in the Illinois, Indiana, and Wisconsin area and initial identified concerns. CMAP is continuing to review the rule and compiling additional questions and concerns about the NPRM.

Rule Requirements

Metropolitan planning organizations (MPOs) serve "metropolitan planning areas" that are agreed upon between the MPO and the Governor. Metropolitan planning areas, in turn, are based on "urbanized areas," which are defined by the U.S. Census Bureau as census tracts meeting minimum population density requirements. At present, three MPOs plan for the largest metropolitan planning areas surrounding Chicago: CMAP, NIRPC, and SEWRPC. These metropolitan planning areas include seven urbanized areas, which are split between the MPOs where appropriate.

The proposed rule would require the entire urbanized area to be placed in a single metropolitan planning area. It would also require only one MPO to serve the tri-state metropolitan planning area unless the Governor(s) and affected MPOs agree that the complexity of the area warrants having more than one MPO. Even in that case, the MPOs would be required to have joint planning products, such as a single long-range plan and transportation improvement program (TIP).

Initial Areas of Concern

These proposed changes would have large consequences. Under federal law, each Governor has the authority to designate MPOs within his or her state boundaries. DOT has for decades interpreted this law to bound MPO planning areas to state borders. This proposed rule would change that by requiring MPOs in urbanized areas that cross state borders to combine or, with joint planning products, do what is functionally the same. While it may appear to be common sense that an urbanized area should have a single, unified planning process, forcing highly-functioning MPOs to consolidate could have unintended negative consequences.

In our region, the NPRM may require two, or all three, of the largest MPOs in our region to merge. This is problematic because it would create a vast planning area and the planning process would be difficult to govern. NIRPC, SEWRPC, and CMAP have all adapted their governance and their planning approach to fit their respective state regulatory contexts. For two or more states to comply with their respective and potentially different regulatory contexts, a plan would necessarily be less specific and tailored in its recommendations and therefore less influential in its guidance. For example, differing state-level transportation revenue sources and standards for distributing transportation dollars greatly affect both funding and programming recommendations in our respective plans. Similarly, per federal law, states and MPOs are required to set performance targets for safety, asset management, etc., as part of the emerging federal performance-measurement process.

Furthermore, DOT stated that the proposed rule would not preempt state law. However, DOT also did not contemplate how these organizations would maintain their individual responsibilities under state law. For instance, Illinois state law requires CMAP to produce a plan that integrates land use and transportation, yet an MPO merger or a joint plan focused only on transportation would make it difficult for CMAP to meet this state mandate.

Having one TIP, long-range plan, and other planning products for the multistate region would be cumbersome and problematic under current federal law and regulations. First, the approval process -- which is already complex in Illinois -- would be expanded to involve multiple states, MPO committees, and governing boards. Each Governor would be required to approve the TIP and long-range plan, thereby giving any of the Governors veto power over the TIP and long-range plan. To prevent delay in approval of the TIP or long-range plan, which could put federal funding in jeopardy for one or all states, the MPO(s) would be incentivized to approve plans that equal the lowest common denominator. This could stifle innovative and forward-thinking plans and TIPs. Or those products may not go to the full detail required in their state mandates for planning for land use and other topics as appropriate.

The proposed rule also requires DOT to “encourage” states to force smaller MPOs in neighboring urbanized areas to merge into one larger MPO. Any “encouragement” that may involve withholding federal funds would be very concerning and certainly force unhappy or inefficient marriages between MPOs. In Illinois this could require CMAP to absorb the MPO planning areas in DeKalb, Rockford, and Kankakee. If fully implemented across the three states, this could result in a single MPO encompassing the area from West Bend, Wisconsin, to the southwest corner of Michigan. That planning area would involve a substantial stakeholder community made up of over 500 municipalities, more than 10 million people, dozens of counties, and four Governors. Such a vast area far exceeds any of the generally agreed upon definitions of the Chicago metropolitan area, let alone the Milwaukee or other neighboring metropolitan areas, thereby dramatically complicating efforts at genuine public engagement in the regional planning process.

Conclusion

The proposed rule presents a high risk that, instead of making metropolitan planning work better, would in fact do the opposite. Several studies confirm that multi-state MPOs face challenges not faced by MPOs in one state. The proposed rule raises many concerns, ranging from the quality of

planning products to an overly complex and burdensome process to the fulfillment of state and local regulations. Moreover, challenges in coordination would potentially jeopardize access to federal transportation funding, undermining the very goals that this proposed rule intends to support.