



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Transportation and Public Facilities

OFFICE OF THE COMMISSIONER
Katherine Keith, Deputy Commissioner

PO Box 112500
Juneau, Alaska 99811-2500
Main: 907.465.3900
dot.alaska.gov

February 11, 2025

Jerry Cleworth
Policy Board Chair, FAST Planning
100 Cushman Street, Suite 105
Fairbanks, AK 99701

RE: Index of Authorities Governing National Highway System Facilities in the Metropolitan Planning Area

Dear Chair Cleworth:

Pursuant to your request at the December 18, 2024, FAST Planning Policy Board meeting, we are providing the attached summary of legal authorities governing National Highway System (NHS) facilities within the Metropolitan Planning Area (MPA). This index includes controlling state and federal requirements and is intended to serve as a readily accessible reference to facilitate discussions among the Policy Board, the Technical Committee, and the public. The index is expandable, so please advise if any additional topics related to Metropolitan Planning Organization (MPO)-State coordination should be included.

The legal authorities governing the inclusion of NHS projects in planning documents, as well as the selection or rejection of NHS projects within the MPA, are the primary focus of this summary. From the State's perspective, a key source of friction and delay in the planning process is the MPO's assertion of authority over the inclusion of NHS projects in planning documents. NHS projects are per se regionally significant under federal law and, as such, must be incorporated into the MPO's Transportation Improvement Program (TIP) and the Statewide Transportation Improvement Program (STIP) in accordance with governing federal regulations. While both the State and the MPO have a duty to cooperate in the development of the TIP and STIP, federal law mandates that this cooperation be directed toward ensuring the inclusion of the State's selected NHS projects in these planning documents, rather than their exclusion.

Additionally, federal regulations do not limit the definition of "regionally significant" projects to NHS facilities. As such, MPO projects may also benefit from this classification. The governing regulations further establish that the State selects all NHS projects for inclusion in the TIP and STIP in coordination with the MPO. The State has consistently considered the MPO responsible for the selection of non-NHS projects for inclusion in the TIP and, subsequently, the STIP, in coordination with the State. However, under 23 U.S.C. § 134(k)(5) and 23 C.F.R. § 450.332(b), federal law directs that, in metropolitan areas with populations under 200,000, the State, in cooperation with the MPO, shall select highway projects.

Under 23 C.F.R. § 450.104, an MPO serving an urbanized area with a population of 200,000 or more is designated as a Transportation Management Area (TMA) and is subject to additional federal planning and programming requirements. AMATS qualifies as a TMA, whereas FAST, with a population under 50,000, remains a non-TMA MPO. Historically, the State has not distinguished between AMATS as a TMA and FAST as a smaller MPO in terms of project selection authority for NHS projects.

"Keep Alaska Moving through service and infrastructure."

Given the challenges that have recently emerged in project selection and planning, the Policy Board may find it beneficial to explore opportunities to enhance regulatory clarity, project efficiency, and technical support. Federal law allows flexibility in how State-MPO coordination is structured, and there may be ways to refine this process to ensure greater alignment with state and federal requirements while continuing to support regional transportation priorities. A more clearly defined role for DOT&PF in technical planning and programming could help streamline coordination and improve long-term planning outcomes. If the Policy Board sees value in strengthening technical programming partnerships, DOT&PF remains committed to providing expertise and support in a way that best serves the region's needs while respecting the autonomy of the Policy Board.

The MPO's assertion of authority to include or exclude projects from the TIP within the MPA has disrupted what was previously a cooperative highway planning process and is impeding the State's project delivery. To restore clarity regarding decision-making authority over NHS routes within the MPA, the State requires an update to the operating agreement. Federal regulations mandate such an update when there is a substantial change in decision-making authority or responsibility. The State considers the MPO's continuing assertion of authority over NHS routes within the MPA to constitute a "substantial change," necessitating a process to establish and document the procedures governing these newly claimed authorities.

The attached index also summarizes legal processes under state and federal law that permit member municipalities to assume responsibility for portions of the NHS or specific components of project development, delivery, or maintenance. DOT&PF can collaborate with the MPO and member municipalities to transfer such authorities and obligations or to relinquish, modify, or review NHS routes within the MPA. The Alaska Department of Transportation and Public Facilities (DOT&PF) can collaborate with the MPO and member municipalities to transfer such authorities and obligations or to relinquish, modify, or review NHS routes within the MPA. However, any such changes must be mutually agreed upon and formally documented to delineate responsibilities for specific transportation facilities and the corresponding planning processes.

FAST Planning's proposed MPA boundary expansion includes a portion of the Richardson Highway, and the FAST Planning Executive Director continues to claim authority to include or exclude any highway project within the MPA. Until the MPO and its members establish a common understanding of planning responsibilities for the NHS and complete the transfer of any NHS authorities in alignment with that understanding, DOT&PF cannot recommend the Governor's approval of an expanded MPA that includes additional NHS miles. We acknowledge that the Technical Committee, on December 4, 2024, voted to recommend that the Policy Committee table indefinitely the proposed revisions to the operating agreement. However, a substantial change in decision-making authority or responsibility necessitates documentation in an updated operating agreement. Any proposal to indefinitely defer discussion of the MPO's newly asserted authorities or to disregard procedural requirements arising from those assertions is non-cooperative and contradicts applicable statutory and regulatory requirements. To ensure compliance, the State and all public transportation providers must cooperatively determine their mutual responsibilities in administering the metropolitan transportation planning process.

We look forward to continuing to work with you to enhance communication and cooperation among all entities engaged in delivering this critical surface transportation planning process.

Sincerely,


Katherine Keith, PMP, PMI-ACP
Northern Region Director (Acting)
Deputy Commissioner

Incl.: Index of Authorities.pdf

Cc: AMATS Policy Committee, Chair, Sean Holland, sean.holland@alaska.gov, MVP Policy Board Chair, Mayor Glenda Ledford, gledford@ci.wasilla.ak.us, DOT&PF MPO Coordinators: Randi Bailey, randi.bailey@alaska.gov, Adam Bradway, adam.bradway@alaska.gov, James Starzec, james.starzec@alaska.gov

INDEX OF AUTHORITIES REGARDING NHS FACILITIES WITHIN MPAs

Under State law, the State of Alaska is mandated to maintain full responsibility and authority over the State highway system. The State of Alaska, through DOT&PF, is similarly obligated to plan, construct, and maintain the network of highways linking the cities and communities in the various regions of the State. The highway system linking the various regions of State of Alaska has been designated as part of the National Highway System.

1. State must construct and maintain state highway system – [AS 19.10.030](#)
2. DOT&PF obligated to plan construct and maintain the regional NHS – [AS 19.05.125](#)
3. Alaska's regional routes have been designated part of NHS – [23 USC 103\(b\)](#) and [Maps](#)

State and Federal laws and regulations mandate a collaborative approach to transportation planning within metropolitan areas. However, these laws and regulations do not grant a Metropolitan Planning Organization power or authority to veto or “de-select” the State’s selected NHS projects that are located within a municipal planning area; nor do these laws and regulations grant the State the power to veto or “de-select” the MPO’s non-NHS projects located within the municipal planning area.

4. MPO selects non-NHS projects in the MPA – [23 USC 134\(k\)\(5\)\(A\)](#)
5. State selects NHS projects in the MPA – [23 USC 134\(k\)\(5\)\(B\)](#)
6. TIP shall contain “All regionally significant projects” – [23 CFR 450.326\(f\)](#)
7. STIP shall contain “All regionally significant projects” – [23 CFR 450.218\(h\)](#)
8. The State’s NHS projects are “regionally significant projects” – [23 CFR 450.104](#)

Re-designation of a MPO, including updates to its operating agreement, is required when there is a substantial change in decision-making authority or responsibility. The MPO’s assertion of selection or “de-selection” authority over NHS projects located in the MPA is a substantial change in decision-making authority. The extent of the MPO’s new change in decision-making authority or responsibility over NHS projects or routes, and the procedures to implement any new authority and responsibility must be documented in writing.

9. Operating agreement must be amended with substantial change in decision-making authority – [23 CFR 450.310\(j\)](#)
10. Periodic review of operating agreement required – [23 CFR 450.314\(b\)](#)
11. Division of responsibility over NHS projects located in the MPA must be in writing – [23 CFR 450.314\(a\)](#)

State law authorizes DOT&PF to delegate planning authority over NHS projects located in the MPA, and Federal law even authorizes the State to propose modifications of the NHS, although both actions must be done by cooperative agreement between the MPO and the State.

12. Municipality may request planning authority for NHS corridors within the MPA—[AS 19.20.015](#)
13. State can delegate NHS planning authority to municipality—[AS 19.15.030](#).
14. State can propose any modification to the NHS, in cooperation with local and regional officials. [23 USC 103\(b\)\(3\)](#).

The MPO's metropolitan transportation plan, from which it selects its projects for inclusion into the TIP, is required to include "major roadways" and smaller transportation facilities to function as an integrated metropolitan transportation system. State and Federal laws and regulations do not contemplate NHS projects, and similar corridor projects that connect rural and urban areas, as the type of transportation facilities for which the MPOs have primary decision making responsibilities.

15. MPO's MTP identifies facilities that function as an integrated metro system that serves regional transportation functions. [23 USC 134\(i\)\(2\)\(A\)](#):
16. MPO's MTP shall include facilities that function as an integrated metro system that serves regional transportation functions. [23 CFR 450.324\(f\)](#):
17. Municipality shall ensure proper integration of State highway connections in municipal highway plan — [AS 19.20.080](#)

1. [AS 19.10.030](#). The department is responsible for the construction and maintenance of the state highway system. [\(Return\)](#)
-

2. [AS 19.05.125](#). The purpose of AS 19.05 - AS 19.25 is to establish a highway **department capable of carrying out a highway planning, construction, and maintenance program that will provide** a common defense to the United States and the state, **a network of highways linking together cities and communities throughout the state** (thereby contributing to the development of commerce and industry in the state, and aiding the extraction and utilization of its resources), and otherwise improve the economic and general welfare of the people of the state. [\(Return\)](#)
-

3. [23 USC 103\(b\)](#) National Highway System.-(1) Description.-The National Highway System consists of the highway routes and connections to transportation facilities that shall-(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations; (B) meet national defense requirements; and (C) serve interstate and interregional travel and commerce.[\(Return\)](#)
-

4. [23 USC 134\(k\)\(5\)](#) "Selection of Projects. (A) In general.-**All Federally funded projects** carried out within the boundaries of a metropolitan planning area serving a transportation management area under this title (**excluding projects carried out on the National Highway System**) or under chapter 53 of title 49 **shall be selected for implementation from the approved TIP by the metropolitan planning organization** designated for the area in consultation with the State and any affected public transportation operator." [\(Return\)](#)
-

5. [23 USC 134\(k\)\(5\)\(B\)](#): "**National Highway System projects**.-Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System **shall be selected for implementation from the approved TIP by the State** in cooperation with the metropolitan planning organization designated for the area." [\(Return\)](#)
-

6. [23 CFR 450.326\(f\)](#) "**The TIP shall contain all regionally significant projects** requiring an action by the FHWA or the FTA whether or not the projects are to be funded under title 23 U.S.C. Chapters 1 and 2 or title 49 U.S.C. Chapter 53 (e.g., addition of an interchange to the Interstate System with State, local, and/or private funds and congressionally designated projects not funded under 23 U.S.C. or 49 U.S.C. Chapter

53). For public information and conformity purposes, the TIP shall include all regionally significant projects proposed to be funded with Federal funds other than those administered by the FHWA or the FTA, as well as all regionally significant projects to be funded with non- Federal funds.” [\(Return\)](#)

7. [23 CFR 450.218\(h\)](#): “**The STIP shall contain all regionally significant projects** requiring an action by the FHWA or the FTA whether or not the projects are to be funded with 23 U.S.C. Chapters 1 and 2 or title 49 U.S.C. Chapter 53 funds (e.g., addition of an interchange to the Interstate System with State, local, and/or private funds, and congressionally designated projects not funded under title 23 U.S.C. or title 49 U.S.C. Chapter 53). For informational and conformity purposes, the STIP shall include (if appropriate and included in any TIPs) all regionally significant projects proposed to be funded with Federal funds other than those administered by the FHWA or the FTA, as well as all regionally significant projects to be funded with non-Federal funds.” [\(Return\)](#)
-

8. [23 CFR 450.104](#): “**Regionally significant project means a transportation project** (other than projects that may be grouped in the TIP and/or STIP or exempt projects as defined in EPA's transportation conformity regulations ([40 CFR part 93, subpart A](#))) **that is on a facility that serves regional transportation needs** (such as access to and from the area outside the region; major activity centers in the region; major planned developments such as new retail malls, sports complexes, or employment centers; or transportation terminals) and would normally be included in the modeling of the metropolitan area's transportation network. At a minimum, this includes all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel.” [\(Return\)](#)
-

9. [23 CFR 450.310\(j\)](#): “**Redesignation of an MPO** (in accordance with the provisions of this section) **is required** whenever the existing MPO proposes to make: ... (2) A substantial change in the decisionmaking authority or responsibility of the MPO, or in decisionmaking procedures established under MPO by-laws.” [\(Return\)](#)
-

10. [23 CFR 450.314\(b\)](#): “The MPO, the State(s), and the providers of public transportation should periodically review and update the agreement, as appropriate, to reflect effective changes.” [\(Return\)](#)
-

11. [23 CFR 450.314\(a\)](#). The MPO, the State(s), and the providers of public transportation **shall cooperatively determine their mutual responsibilities** in carrying out the metropolitan transportation planning process. These responsibilities shall be **clearly identified in written agreements** among the MPO, the State(s), and the providers of public transportation serving the MPA. [...] [\(Return\)](#)

12. [AS 19.20.015](#). Local control of state transportation corridors. **(a) A municipality, by resolution of its governing body, may request of the department the assumption of the department's responsibilities relating to planning of transportation corridors that are to be located within the boundaries or operating area of the municipality.** ... The parties may by mutual agreement provide for joint or cooperative assumption of responsibilities by the department and the municipality. [\(Return\)](#)

13. [AS 19.15.030](#). Participation by municipality in federal highway construction. When a federal-aid highway is routed through a municipality, it may participate in the financing, planning, construction, acquisition of right-of-way, and maintenance of the highway **in the manner and proportion the department determines is reasonable and proper.** [\(Return\)](#)

14. [23 USC 103\(b\)\(3\)](#). Modifications to NHS.—(A)In general.—The Secretary may make any modification to the National Highway System, including any modification consisting of a connector to a major intermodal terminal or the withdrawal of a road from that system, that is proposed by a State if the Secretary determines that the modification—

- (i) meets the criteria established for the National Highway System under this title after the date of enactment of the MAP–21; and
- (ii) (I) enhances the national transportation characteristics of the National Highway System; or
- (II) in the case of the withdrawal of a road, is reasonable and appropriate.

(B) Cooperation.—(i) In general.— In proposing a modification under this paragraph, a State shall cooperate with local and regional officials. (ii) Urbanized areas.— In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134. [\(Return\)](#)

15. [23 USC 134\(i\)\(2\)\(A\)](#) “Identification of transportation facilities [for the MTP].- (i) In general.-An identification of **transportation facilities** (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, nonmotorized transportation facilities, and intermodal connectors) **that should function as an integrated metropolitan transportation system**, giving emphasis to those facilities that serve important national and regional transportation functions.” [\(Return\)](#)

16. [23 CFR 450.324\(f\)](#): “**The metropolitan transportation plan shall, at a minimum, include:** ... (2) Existing and proposed **transportation facilities** (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, nonmotorized transportation facilities (e.g., pedestrian walkways and bicycle facilities), and intermodal connectors) **that should function as an integrated metropolitan transportation system**, giving emphasis to those facilities that serve important national and regional transportation functions over the period of the transportation plan.” [\(Return\)](#)
-

17. [AS 19.20.080](#). A municipality of over 5,000 population, according to the latest available census, together with the department, shall develop and adopt a master highway plan, which **shall insure the proper location and integration of the Alaska highway connections in the municipality**. In selecting and designating the master highway plan, they shall take into account the important principal streets that connect residential areas with business areas and the streets that carry important rural traffic into and across the municipality, in order to ensure a system of highways upon which traffic can be controlled and protected in a manner to provide safe and efficient movement of traffic in the municipality. [\(Return\)](#)

[\(Back to first page\)](#)