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RULE FOR THE SENSIBLE TRANSPORTATION POLICY ACT

17-229-103

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SUBCHAPTER I

Section 1: SUMMARY

This rule is adopted pursuant to the Sensible Transportation Policy Act, 23 M.R.S.A. §73. The decisions made in the transportation sector are of critical importance to the people of Maine. The field of transportation is diverse ranging from pedestrian to motorized vehicles to telecommunications. This rule reflects the diversity in the decision-making which occurs in the planning and development of Maine's transportation network.

The rule provides a framework for examining a range of choices. It recognizes there are benefits and costs (social, financial, energy, and environmental quality) to transportation decisions. The safety of the traveling public is of paramount importance, but transportation as a resource needs to be both supplied as well as conserved. The livability of a community can be significantly influenced by transportation and land use decisions. The rule identifies policies and management strategies for the analysis of these diverse issues.

This rule has been developed in response to the Sensible Transportation Policy Act, as amended. There are other state and federal statutes that significantly affect the Maine Department of Transportation's activities. These statutes (e.g. 23 USC §101 *et seq.*, Intermodal Surface Transportation Efficiency Act of 1991, ((ISTEA)) Pub. L. No. 102-240, 105 Stat 1914 and its subsequent authorizations, the National Environmental Policy Act, 42 U.S.C. §4321 *et seq.*; Clean Air Act, 42 U.S.C. §7401 *et seq.* and the Clean Water Act 33 U.S.C. §1251 *et seq.*) and others have specific processes and evaluations which may require a substantial commitment of resources by the Maine Department of Transportation (MaineDOT). To the extent possible MaineDOT shall avoid duplication when utilizing the processes and evaluations set forth in this rule to meet its obligations under other state and federal laws.

Section 2: SCOPE

This rule applies to the transportation planning decisions, capital investment decisions, and project decisions of the Maine DOT.

The Maine Turnpike Authority's (MTA)'s governing statute is set forth in 23 M.R.S.A. §1961 *et seq.* (as amended). This rule also applies to the transportation planning, capital investment and project decisions of MTA.

In addition, this rule pertains to the growth management and transportation planning activities of municipalities.

Section 3: DEFINITIONS

The following definitions will apply to the terms used in this rule:

Abbreviations. The following abbreviations are used in the text of this rule:

FHWA	Federal Highway Administration
MaineDOT	Maine Department of Transportation
MPO	Metropolitan Planning Organization
MRSA	Maine Revised Statutes Annotated
MTA	Maine Turnpike Authority
NEPA	National Environmental Policy Act
RC(s)	Regional Council(s) per MRSA Title 30-A §2302
TIP	Transportation Improvement Program
USC	United States Code

Alternatives. See Strategies

Auxiliary Lane. The portion of the roadway adjoining the traveled way for parking, speed change, turning, storage for turning, passing, truck climbing, and other purposes supplementary to through-traffic movement.

Capacity. The maximum sustainable flow rate at which persons or vehicles can reasonably be expected to traverse a point or uniform segment of a lane or roadway during a specified time period under given roadway, geometric, traffic, location and control conditions; usually expressed as vehicles per hour, passenger cars per hour, or persons per hour.

Capital Improvement Project. A project which requires expenditure to provide new facilities or to increase the value of an existing fixed asset by increasing its capacity, efficiency or extending its original useful life.

Community Enhancements. Enhancements that improve environmental quality above and beyond any project mitigation requirements. They ensure the project is designed and built with minimal disruption to the community, incorporating safe and technically sound solutions that add value for both the user and the community.

Comprehensive or Long Range Land Use Plan. A Comprehensive or Long Range Land Use Plan is one that has been adopted by a municipality or a multimunicipal region within the past five years and that has been found by the State Planning Office to be consistent with the Comprehensive Planning and Land Use Regulation Act and by the MaineDOT to be consistent with the applicable sections of the Sensible Transportation Policy Act and their respective rules.

Context Sensitive Solutions (CSS). Solutions that result from a collaborative, interdisciplinary approach involving all stakeholders in developing a transportation facility that compliments its physical, cultural and social setting and preserves scenic, aesthetic, and natural resources while maintaining safety and mobility.

Efficient or Efficiently: For purposes of this rule, these terms relate to public or private actions that avoid or minimize negative effects on the transportation system, the state

economy or the state's natural and cultural resources. In addition, these terms relate to actions that prolong the life of existing transportation infrastructure.

Environmental Quality. For purposes of transportation and land use planning, environmental quality means avoiding, minimizing or mitigating impacts to the physical, cultural, social, scenic, aesthetic, and natural environment.

Interchange. A system of interconnecting roadways with one or more grade separations that provide for the movement of traffic between roadways on different levels. Interchanges include related bridges, overpasses, underpasses, ramps, and associated controlled access roads to the nearest state highway as defined by 23 M.R.S.A. §53.

Life Cycle Costs. The expected costs of building and maintaining a facility over the design life of that facility. These traditionally include:

- (1) Initial capital cost of construction;
- (2) Future capital costs of rehabilitation (overlays, reconstructions, etc.);
- (3) Maintenance costs recurring through design period;
- (4) Salvage at end of design life (a "negative cost");
- (5) Engineering and administration; and
- (6) Costs of investment.

Long-Range Transportation Plans. These plans include the long-range multimodal statewide transportation plan and its mid-range transportation improvement plan. The long-range plan may be one document or may consist of individual planning documents included by reference.

Maintenance. The preservation and repair of vehicles, machinery, equipment, and transportation facilities to their designed or accepted standards. It may be scheduled, planned, progressive, or periodic (preventive maintenance), or it may be unscheduled or corrective.

Major distribution areas. Major distribution areas are highway interchanges, major routes and arterials. The criteria used to determine whether a highway is a major route or arterial will include land use, relative annual daily traffic, trip length, network configuration and continuity, and route spacing.

Minor addition of a Through Travel Lane. A non incremental, localized project which does not connect major distribution areas and which does not require an Environmental Impact Statement or Environmental Assessment pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. §4321 *et seq.*

Multimunicipal Region. Two or more adjoining municipalities that have formally joined together for transportation and land use planning purposes.

Preference. To choose to fund and implement Reasonable Transportation Strategies before physically increasing the capacity of a transportation facility. Preference requires MaineDOT to give weighted consideration to those strategies that are cost-effective and that adequately respond to the purpose and need for the transportation project. For the purposes of Chapter III, preference means to choose to fund and implement transportation strategies in communities where the land use management system complements the functions of the affected transportation system.

Reasonable Transportation Strategies. Strategies that adequately respond to the identified deficiency or need in the transportation network, are cost effective, and are capable of being implemented within a reasonable time period necessary to meet the transportation deficiency or need are considered reasonable. Reasonable transportation strategies must be easily accessible, affordable to the general public, available during high use hours and serve to reduce congestion on the highways. Reasonable Transportation Strategies may also include land use management tools adopted, implemented and enforced at the local level.

Regional Councils (RCs) include Regional Planning Commissions and Councils of Governments and Economic Development Districts.

Significant Transportation Projects. Maine Turnpike Authority, State or Federally Funded projects that increase carrying capacity by constructing:

- (1) One or more through travel lanes that connect major distribution areas; (A minor addition of a through travel lane is not a significant transportation project.)
- (2) A new highway on new location; (Minor relocation of highway is not new location.)
- (3) A new bridge on new location; (Minor relocation of a bridge is not new location.)
- (4) Other public investments that create new capacity.

For purposes of this rule, Significant Transportation Projects only include projects that increase carrying capacity that rely fully or partially on Maine Turnpike Authority, state or federal funds.

Strategies. For the purposes of this rule, strategies are transportation and land use solutions used on their own or in combination to achieve a desired and agreed upon outcome.

Substantial Public Interest Projects. Projects where one or more affected communities through their municipal officials formally request MaineDOT to deem the project a Substantial Public Interest Project. Such formal requests must outline specific public interest considerations.

System Preservation. Capital project actions intended to retain the existing value of an asset and its ability to perform in its current configuration or as constructed.

Through Travel Lanes. Portions of a roadway designated for the movement of vehicles traveling through an area, exclusive of shoulders and auxiliary lanes.

Transportation Corridor. Transportation system elements that interconnect communities; a corridor includes highways, rail lines, bicycle or pedestrian trails and/or any ancillary support facilities (park and ride lots, rail stations, etc.), or any combination of these facilities.

Transportation Demand Management. The use of techniques designed to change travel behavior in order to improve performance of transportation facilities and to reduce need for providing additional highway capacity. Methods may include, but are not limited to, ride-sharing and vanpool programs, trip-reduction incentives and congestion mitigation pricing. These methods will generally be evaluated on a regional basis rather than a project by project basis. Transportation Demand Management methods may also include local and or regional land use planning and regulatory activities that promote compact mixed patterns of development that reduce the need for additional highway capacity.

Transportation Mode. A particular form of travel such as traveling by foot, bicycle, automobile, bus, passenger and freight intercity rail, urban light rail, waterborne passenger and freight vessels, and air transport.

Transportation System Management Options. Techniques for increasing the efficiency, safety, capacity or level of service of a transportation facility. Examples include, but are not limited to, traffic signal improvements, traffic control devices including installing medians, parking removal, channelization, limiting the number and location of access points, ramp metering and restriping for high occupancy vehicle lanes.

Section 4: PLANNING, POLICY OBJECTIVES, REGIONAL INVOLVEMENT AND PUBLIC PARTICIPATION

A. Introduction

Adequate, safe and efficient transportation facilities and services are essential to the economy and well being of the State. These facilities and services should serve the diverse mobility needs of the State and should be planned and developed through effective public participation. Transportation and land use planning should be integrated with social, environmental, and economic objectives and coordinated with local, regional and statewide planning efforts to address environmental quality objectives. Planning for these facilities and services should be done to improve transportation system efficiency, improve the efficiency of vehicles and vehicle usage, and reduce waste and unnecessary energy use.

MaineDOT is the state agency charged with the overall responsibility for balanced transportation policy and planning. Implementation of MaineDOT's plans and policies is achieved through a continuing planning process which creates and maintains a long-range, multimodal statewide transportation plan, a mid-range transportation improvement plan, and associated transportation improvement program.

Under the umbrella of transportation planning several levels of effort are commonly found, namely: statewide systems planning, regional planning, corridor planning and

project planning. It is important to note that each of these planning activities may involve different levels of complexity and require different levels of public involvement. The complexity of these planning activities requires integration of public input early and often from diverse sources at the regional and local levels. MaineDOT collaborates with the Regional Councils (RCs) who, as partners, play a vital role in ensuring the integration of public input and regional needs in MaineDOT's planning process. RCs are uniquely equipped to assist in soliciting coordinating and summarizing public input to MaineDOT's planning activities. The results of RC-led public involvement activities are incorporated into the Department's overall transportation plans.

B. Policy Objectives

The following policy objectives shall be used by MaineDOT, MPOs, RCs and municipalities in making transportation planning, capital investment and project development decisions:

- (1) Minimize the harmful effects of transportation on public health, air and water quality, land use and natural resources.
- (2) Coordinate the efficient use of all available and potential future modes of transportation.
- (3) Give preference to non-highway new capacity projects before building new highway capacity when such non-highway new capacity projects are cost effective, feasible and meet the identified purpose and need for the transportation investment.
- (4) Repair, maintain and improve Maine's transportation system to provide a safe, efficient, and adequate transportation network.
- (5) Reduce the state's reliance on foreign oil and promote reliance on energy efficient forms of transportation.
- (6) Meet the diverse transportation needs of the people of the State, including rural and urban populations and the unique mobility needs of the elderly and disabled.
- (7) Be consistent with the purposes, goals and policies of the Comprehensive Planning and Land Use Regulation Act.
- (8) Incorporate a public participation process in which state, regional and local governmental bodies and the public have timely notice and opportunity to identify and comment on concerns related to transportation planning decisions, capital investment decisions and project decisions.
- (9) Promote investment incentives for communities that adopt and implement land use plans that minimize over-reliance on the state highway network.
- (10) Be cost effective and operate within fiscal constraints.

C. Coordination with Regional Councils

MaineDOT in collaboration with the RCs will develop and implement a public participation process providing for early and effective public involvement in long and mid-range transportation planning. This process will be designed to provide MaineDOT with an improved perspective regarding statewide, regional and local needs, values and priorities.

To have a better understanding of regional needs outside the MPO areas, MaineDOT will work with RCs to solicit public input, assess regional and local needs and develop regional priorities. RCs may assist in:

- (1) Providing staff support to MaineDOT in the development of recommendations and regional needs assessments;
- (2) Coordinating, facilitating and reporting on public meetings or hearings for a variety of transportation initiatives;
- (3) Conducting regional outreach;
- (4) Identifying local/regional transportation needs and deficiencies;
- (5) Assimilating local and regional transportation data;
- (6) Identifying local and regional land use concerns and goals and assisting municipalities identify the local context surrounding a proposed transportation investment;
- (7) Developing regional and community transportation goals;
- (8) Coordinating opportunities for public review and comment on the Statewide Long-Range Transportation Plan and the Mid-Range Transportation Improvement Plan and other planning documents;
- (9) Coordinating and undertaking regional transportation planning;
- (10) Integrating transportation planning into long-range land use and comprehensive plans;
- (11) Identifying local cultural and historic resources; and
- (12) Other functions that are mutually agreed upon.

D. Municipal planning

In order to facilitate MaineDOT's consideration of local comprehensive or long range land use plans, municipal or multi-municipal plans should be developed in accordance with Subchapter III of this Rule.

E. **MPO Planning and Coordination**

Transportation planning within Maine's Metropolitan Planning Areas is the responsibility of each respectively designated Metropolitan Planning Organization (MPO). MPOs carry out their planning activities in cooperation with MaineDOT, and are subject to the same state and federal planning policies, processes and requirements as MaineDOT.

The transportation plans and transportation improvement programs developed by the MPOs are incorporated into MaineDOT's long-range plans and capital improvement plans. The MPOs are responsible for self-certifying to MaineDOT and FHWA that the MPO planning process conforms to both State and Federal rules for transportation planning.

When developing or updating MPO long range plans, MPOs in cooperation with MaineDOT and the Regional Councils will develop and maintain an inventory of existing and proposed transportation systems. This inventory will be comprehensive and will include such elements as system usage, system characteristics and system condition.

MPO long-range plans should also include consideration of municipal or multimunicipal land use development patterns and management efforts within the MPO planning area. MPO long-range plans may include transportation and land use planning policies that guide MPO and MaineDOT capital investment decisions and planning processes. MPOs may also include recommendations to MaineDOT and MPO area municipalities for land use and transportation goals, policies, objectives and strategies that assure the long-term benefits of the regional transportation system.

When an MPO Long-Range Plan includes recommendations for projects which add new highway capacity, the MPO long-range plan ~~must~~ may document existing land use conditions in the area(s) affected by the proposed project(s) and include land use policy recommendations to municipalities to preserve any added capacity.

Section 5: STATEWIDE LONG-RANGE TRANSPORTATION PLAN

A. **Introduction**

The Statewide Long-Range Transportation Plan will be MaineDOT's primary planning document. It will be developed using a context sensitive approach and will incorporate a comprehensive, cooperative and continuous planning process that considers all modes of transportation, socio-economic and demographic trends, as well as other state objectives and initiatives. It will be based on the policy objectives set forth in Subchapter I, Section 4-B of this rule. The plan will identify the State's multimodal transportation needs and deficiencies and will consider the current and forecasted transportation system deficiencies and needs identified by MaineDOT's asset management systems, the Maine Turnpike Authority (MTA), MPOs, RCs, local officials, and the public through a broad public participation process. It will then outline the goals and strategies for addressing the identified deficiencies and needs and will describe funding methods and allocations priorities to implement these strategies.

The Statewide Long-Range Transportation Plan will have as a minimum a twenty year planning horizon, but may include ten year investment initiatives. A longer planning horizon may be used as appropriate. The plan will be periodically updated (at least every

five years and no less frequently than is required by FHWA) as new needs and issues are identified using the same process that is described in this section of the rule.

B. Transportation System Inventory

As part of the statewide planning process MaineDOT, in cooperation with the MTA, MPOs and the RCs, will develop and maintain an inventory of the existing transportation systems. This inventory will be comprehensive and will include an analysis of trends and projections for system usage, system characteristics and system condition as well as environmental quality impacts.

C. Funding Scenarios and Future Implications

The Plan will discuss the implications of different funding scenarios for the long term performance of all modes of transportation.

D. Plan Development

MaineDOT, in cooperation with the MTA, MPOs and the RCs, will develop a long range statewide multimodal transportation plan. This plan will incorporate multimodal policies and programs to address priority safety needs, system preservation needs, system rehabilitation needs, and system efficiency needs and initiatives to meet, manage and reduce current and forecasted travel demand. In developing this Plan, transportation investment options and strategies that promote the policy objectives of Subchapter I, Section 4-B will be considered. MaineDOT may seek the input from other state or federal agencies whose missions may affect or be affected by transportation initiatives. MaineDOT will provide the public an opportunity to comment as it develops its draft plan. The Plan will include a discussion of the following:

- (1) Maintaining, improving, and expanding the current highway system;
- (2) Implementing, improving and expanding transit, passenger rail and ferry services;
- (3) Maintaining, improving and expanding bicycle lanes, paths and facilities, sidewalks and pedestrian paths;
- (4) Improving and expanding seaports, airports and freight rail service as well as access to these facilities;
- (5) Transportation system management techniques;
- (6) Transportation demand management techniques;
- (7) Implementing current and emerging technological innovations relative to transportation that will further the policies of Subchapter I, Section 4B; and
- (8) Land use management policy objectives and incentives designed to lengthen the life and preserve the function of transportation systems.

E. Finalization of the Statewide Long-Range Transportation Plan

At the completion of the public participation process, MaineDOT will formulate and issue a final Statewide Long-Range Transportation Plan. In the plan, or in a separate report issued concurrently, MaineDOT will address substantive public comments and suggestions and will explain its rationale for adopting or rejecting suggested changes. Similar comments need not be addressed individually.

Section 6: CAPITAL INVESTMENT DECISIONS

Based on the Statewide Long-Range Transportation Plan, MaineDOT develops a Mid-Range Transportation Improvement Plan (Mid-Range Plan). The Mid-Range Plan covers a horizon of at least six years and includes an outline of priority policies, programs, initiatives and projects that MaineDOT anticipates implementing over that horizon. The Mid-Range Plan is financially constrained and is updated as needed to support development of the Department's Capital Work Plan. The Mid-Range Plan may not include transportation maintenance investments or specific safety improvements as these types of investments are continually evaluated and prioritized. When developing a comprehensive revision of the Mid-Range plan, MaineDOT will consider input from state and federal agencies, utility companies, MPOs, RCs, municipal officials, the general public and other stakeholders (Maine Turnpike Authority, Northern New England Passenger Rail Authority, Maine Port Authority, etc.) to ensure broad based public input.

MaineDOT's capital investment decisions are reflected in its Capital Work Plan. The Capital Work Plan will be drawn primarily from the Mid-Range Plan, which will be presented to the Legislature in support of the Department's biennial budget request.

When developing the Capital Work Plan, MaineDOT will select projects based on regional importance, MPO Transportation Improvement Programs, identified need and municipal requests as well as on the priorities outlined in the Mid-Range Plan. The Capital Work Plan will be multimodal and include appropriate transportation demand management and system management options.

Projects and programs selected for inclusion in the Capital Work Plan will be those that best promote and implement the policy objectives set forth in Subchapter I, Section 4-B, are responsive to the identified transportation system deficiencies and needs, ensure the necessary maintenance and preservation of the existing transportation system, and are consistent with available financial resources.

Section 7: SIGNIFICANT TRANSPORTATION PROJECTS

A. Introduction

Whether initiated by MaineDOT, MPOs, municipalities or others, all planning for significant transportation projects shall adhere to the requirements of the Sensible Transportation Policy Act (STPA). Before funding a significant transportation project, the STPA requires that the department evaluate the full range of reasonable transportation strategies to address the transportation need. Both STPA and the National Environmental Policy Act (NEPA) require that MaineDOT identify and develop strategies that are context sensitive and minimize adverse affects to environmental quality. In an effort to streamline and integrate the federal and state decision-making processes, MaineDOT will

perform the STPA strategy evaluation process in coincident with undertaking the NEPA planning and decision-making process.

Land use and transportation decisions are interdependent. The STPA policies require consideration of land use impacts from transportation investments and consistency with the purposes, goals and policies of the Comprehensive Planning and Land Use Regulation Act. NEPA requires analysis of secondary and cumulative impacts from transportation actions. Before taking any action that adds transportation capacity, the Department and MPO's may consider or recommend potential land use strategies to be adopted by municipalities whose effect would be to preserve corridor capacity, manage corridor mobility, protect public investment in infrastructure and public services, and foster transportation-efficient land uses that combat the public costs of sprawl. Because neither MaineDOT nor the MPOs have land use authority, these agencies shall work in partnership with municipalities to achieve such goals.

This rule is intended to require a corridor planning and development process such that a series of individual transportation improvement projects, when viewed comprehensively, are evaluated in accordance with this section to determine if they increase capacity. In addition, this rule calls for an evaluation of strategies when existing highway features, such as breakdown lanes, auxiliary lanes, and sidewalks are considered for conversion to through lanes.

B. Transportation Strategy Evaluation

When a transportation need or deficiency has been identified through the transportation planning process and that need or deficiency results in a potential significant transportation project, MaineDOT's planning process will evaluate a full range of reasonable transportation strategies before funding the improvement. The strategies to be considered will include:

- (1) New facilities and services, including different modes of transportation or combinations of modes that could reasonably meet identified transportation needs. The different modes of transportation that should be included where appropriate under the strategy evaluation include but are not limited to:
 - (a) Highway and bridge
 - (b) Passenger and freight air services and facilities
 - (c) Transit services
 - (d) Rideshare options
 - (e) Ferry service or cargo/passenger port improvements
 - (f) Freight and passenger rail services and facilities
 - (g) Bicycle facilities
 - (h) Pedestrians facilities

- (i) Intermodal facilities
- (j) Tolling
- (2) Transportation system management options;
- (3) Transportation demand management options;
- (4) A no-build option;
- (5) Land use management strategies applied by local governments; and
- (6) Other reasonable alternatives generated through the public participation process.

Consideration of reasonable transportation and land use strategies should take place on a corridor or statewide basis as opposed to a project by project basis. Information gathered from a regional analysis may be used on multiple projects within the corridor.

The Department need not study or evaluate transportation and land use strategies that have been found to be unacceptable or infeasible along a corridor, providing that no significant changes have occurred affecting the prior analysis. This finding must be based on sufficient objective data, which should include consideration of public acceptability.

The State is not required to study or evaluate transportation or land use strategies along a corridor if the transportation strategies are in place and functioning as determined by MaineDOT, provided sufficient data exists to accurately assess the adequacy of the strategies.

MaineDOT, MPOs, RCs and/or municipalities will engage each other at the earliest possible opportunity in planning for and identification of significant transportation projects. In this way, the best combination of land use and transportation strategies for meeting the policies outlined in Subchapter I, Section 4-B of this rule may be evaluated. This will provide an opportunity for MaineDOT, MPOs, RCs and/or municipalities to address important land use strategies.

C. **Planning Meetings and Workshops**

In developing the range of reasonable strategies with which to evaluate significant transportation projects, MaineDOT will initiate a public participation process commensurate with the scope of the project. The information provided through the public participation process may include the following:

- (1) Outline the transportation deficiency and need in terms of safety, congestion, substandard infrastructure, and land use management or other appropriate measures;
- (2) Suggest various strategic solutions to the transportation deficiency or need;
- (3) Describe available information concerning projected life-cycle costs and operational costs of the strategies; and

- (4) Describe available information concerning the land use, energy, and environmental impacts of the various strategies, including the range of mitigation measures and community enhancement measures which could minimize such impacts.

The public involvement process will:

- (1) Solicit public comment on the suggested alternatives; and
- (2) Invite ideas from the public.

Where MaineDOT determines appropriate, form an advisory committee with which it would meet regularly as detailed evaluations and recommendations are developed.

D. Land Use Consistency Reports

In developing the range of transportation and land use strategies to evaluate, MaineDOT will determine whether the strategies under consideration are consistent with the Long-Range Land Use Plan and – if there is no plan – whether they are consistent with the goals of the Comprehensive Planning and Land Use Regulation Act. In place of MaineDOT's doing this analysis, MaineDOT may request that the State Planning Office (SPO) and/or the municipality and/or the RC and/or the MPO prepare a report to MaineDOT indicating whether the strategies under consideration are consistent with the local comprehensive plan, or if there is no local plan whether they are consistent with the Long-Range Land Use Plan, or if there is no local plan whether they are consistent with the goals of the Comprehensive Planning and Land Use Regulation Act.

If a preferred strategy conflicts with a Long-Range Land Use Plan, MaineDOT will make a good faith effort to address the conflict. If the Long-Range Land Use Plan policy recommendations are determined to potentially reduce the transportation benefits of the preferred transportation strategy, MaineDOT may a) request that the host or affected municipalities enact land use management strategies to avoid or minimize activities that could reduce the transportation benefits of the significant transportation project, b) decide the loss of transportation benefits outweighs the cost and not build the project, or c) apply a surcharge to the local cost share to offset the loss of benefits.

Absent a Long-Range Land Use Plan, MaineDOT will consider the project context by evaluating documented and regulated municipal resources of value such as historic districts or sites, wildlife habitat, trees/tree lines, stone walls and scenic vistas through the project scoping process.

E. Draft Analysis and Public Hearing

After receiving all transportation and land use strategy suggestions, MaineDOT will review the strategies to determine if they adequately address the agreed upon transportation deficiency or need in a safe manner at a reasonable cost with available technology while avoiding, minimizing, or mitigating impacts to regulated resources. The review may also be based on the available life cycle cost and operational cost of each strategy and its potential to reduce vehicle miles or hours traveled. It may also include a planning level review of how each strategy meets the policies of Subchapter I, Section 4-B.

MaineDOT will give preference to those reasonable transportation and land use strategies that best meet the identified transportation purpose and need and the policy objectives set forth in Subchapter I, Section 4-B of this rule.

MaineDOT will notify local officials, RCs and the public of the availability of the draft strategy evaluation and analysis. The draft analysis will be made available for public review at convenient locations. The public will be given a reasonable period of time to comment on the draft analysis. Based on the nature and number of comments received, MaineDOT may hold a public hearing on the draft strategy evaluation and analyses. Public notice shall be provided at least two weeks in advance of such a hearing.

F. Final Analysis

Upon completion of the public participation process, MaineDOT will issue a final strategy analysis, describing its analysis and addressing public comments. Similar comments need not be addressed individually.

G. Non-MaineDOT Initiated Significant Transportation Projects

Most significant transportation projects are initiated through MaineDOT's long-range planning process. This section outlines procedures by which Municipalities, MPOs, RCs and other stakeholders may directly request studies for significant transportation projects. MaineDOT may require that the party(ies) initiating the request provides the following before MaineDOT considers funding the study:

- (1) Formal resolution of support from elected State and local officials whose jurisdictions MaineDOT determines would likely be affected by the potential project;
- (2) Formal resolution of support from other stakeholders MaineDOT determines would likely be affected by the potential project, such as an adjacent municipality, MPO and/or RC;
- (3) Formal acknowledgement and commitment from requestor(s) to partner with MaineDOT as it conducts a thorough planning process, as required by applicable State and Federal Laws, including the evaluation of all reasonable transportation strategies prior to a decision to fund a significant transportation project;
- (4) Acknowledgement or commitment through a State and Local Agreement, by municipalities likely impacted by the potential project to address land use impacts, including any necessary land use plan, policy or ordinance, that will help preserve the long term life of any transportation investment that increases existing highway capacity or adds new capacity. MaineDOT, in consultation with the State Planning Office, reserves the right to determine whether the land use plans, policies or ordinances adopted by the affected municipalities will preserve the long term life of such transportation investments;
- (5) If needed in MaineDOT's determination, a broader public involvement process such as holding advertised public meeting(s) on the potential project;

- (6) A statement from the initiating party or parties that describes (i) the financial commitments it is prepared to make for the payment of costs related to the study, planning and preliminary design of the proposed project, and (ii) the further financial commitments it envisions will be in place for the payment of costs related to final design, permitting, construction and operation of the proposed project; and
- (7) An opinion of outside counsel as to the binding nature of any of the undertakings, statements, resolutions or commitments made pursuant to the provisions of this section.

Section 8: SUBSTANTIAL PUBLIC INTEREST PROJECTS

A. General

If MaineDOT determines that a transportation project is not a significant transportation project, but involves issues of substantial public interest, MaineDOT will engage a public participation program tailored to that project.

MaineDOT may require a report from a municipality, RC, or other entity representing the municipality documenting the proposed project's consistency with a Long-Range Land Use Plan. Absent a Long-Range Land Use Plan, MaineDOT may consider otherwise unregulated municipal resources of value that have been formally documented in a statement by the municipality's legislative body, such as historic districts or sites, wildlife habitat, trees/tree lines, stone walls and scenic vistas through the project scoping process. MaineDOT may seek advice from SPO, the affected RC and municipalities on how to avoid or mitigate those impacts which are found to be inconsistent with the Long-Range Land Use Plan and/or formally adopted statement.

MaineDOT will respond to such advice as the project is planned and developed. Whether or not a municipality has requested the substantial public interest transportation project, MaineDOT may require that the host municipality(ies) enact land use management mechanisms to avoid or minimize activities that could reduce the benefit of the transportation project consistent with the State and Local Agreement discussed in Subchapter I, Section 9.

B. New and Modified Interchanges

Since the establishment or modification of an interchange usually is of substantial interest to the public and may have potential impacts on land use, all interchange improvement projects with a purpose and need to add capacity shall be deemed to be substantial public interest projects.

MaineDOT, together or in consultation with the MTA, an MPO, RC and affected municipality(ies), as applicable, will:

- (1) Prepare or clarify a preliminary statement of the purpose and need for the proposed interchange;

- (2) Perform a comprehensive traffic analysis for the proposed new or modified interchange to assess its impact on the adjacent highways connected by the interchange.
- (3) Identify and assess land use impacts of the proposed improvements to determine whether the proposed interchange modifications and existing land use controls are consistent with the Long-Range Land Use Plan adopted pursuant to the Comprehensive Planning and Land Use Regulation Act, or if there is no local plan, whether it is consistent with the goals of the Act.
- (4) MaineDOT will engage a public participation effort tailored to that project. This effort will allow for early notice to the affected public and municipality and will allow the public the opportunity to comment on the project as it is being planned and developed. MaineDOT will respond to comments it receives through the public participation effort as the project is planned and developed. This public participation effort will be managed by either MaineDOT or its designated municipal or regional representative. MaineDOT may also include an evaluation of reasonable transportation strategies, transportation demand management options and transportation system management options to determine whether an alternative to the planned improvement may be more appropriate.

In the event that the proposed interchange is found to be inconsistent with a Long-Range Land Use Plan or the goals of the Act, or if its land use impacts are found to be adverse to the policies of Subchapter I, Section 4-B, MaineDOT shall seek the advice of the municipality or regional entity as to how to avoid, minimize or mitigate the inconsistency or adverse impact. Whether or not a municipality has requested the proposed interchange improvements, MaineDOT may require that the host municipality(ies) enact land use management mechanisms to avoid or minimize activities that could reduce the transportation benefit of the interchange project.

Section 9: COMMUNITY ENHANCEMENT, CONTEXT SENSITIVE SOLUTIONS and PROJECT SCOPING

In consultation with municipal officials and as part of the planning (project scoping) and preliminary design process, capital improvement projects will be reviewed to determine how they may be developed in support of community needs, values and livability. MaineDOT will assemble sufficient data to support an understanding of relevant community assets and values on all projects other than those described by the MaineDOT as “system preservation”. In addition, MaineDOT assembles data regarding natural and cultural resources that are protected by Federal and State Law.

MaineDOT may utilize the services of an architectural historian, a landscape architect/designer, an archeologist, an architect, an artist, a land use planner, a biologist, a geologist, or any other required expertise. The extent of this review will depend upon MaineDOT’s purpose and need for the transportation project. Unless otherwise provided for, the enhancement options identified by this review and requested by the community may be implemented by a shared investment program. Once the review is completed, a State and Local Agreement will be developed detailing the project scope and financial participation. Not every State and Local Agreement will have a community enhancement component. Community enhancements may include such provisions as facilities for pedestrians and bicycles, acquisition of scenic easements and historic sites,

landscaping, use of materials that enhance historical preservation or community character, mitigation of water pollution due to highway run off, and other similar enhancements.

Section 10: PROJECT DEVELOPMENT

A. Introduction

MaineDOT, as outlined in Subchapter I, Section 6, will develop a Biennial Capital Work Plan that describes which projects will be initiated, the funding prerequisites and the proposed schedule. Projects appearing in the Biennial Capital Work Plan or its updates will be implemented as prescribed.

During preliminary design of funded projects, at MaineDOT's discretion or if requested by municipal officials, MaineDOT will engage a public participation process to explain:

- (1) The scope and schedule of the project and how the selected strategy was decided upon, as well as the design features that will be utilized;
- (2) The impact of the construction on the community;
- (3) Any mitigation and community enhancements to be applied; and
- (4) The process for property acquisitions to be incorporated into the project development.

B. MaineDOT's public participation process will:

- (1) Notify abutters in compliance with MaineDOT's public involvement plan;
- (2) Solicit individual comments and concerns of those persons impacted by the project;
- (2) Be available to respond to individuals affected by the project; and
- (4) Incorporate additional citizen concerns and suggestions into the project design as appropriate.

SUBCHAPTER II – MAINE TURNPIKE AUTHORITY

This subchapter applies to the transportation planning decisions, capital investment decisions and project decisions of MTA. The definitions set forth in Section 3 of Subchapter I apply to this Subchapter. To the extent a RC for a region is designated by MaineDOT to perform the functions of a Planning and Development Organization for that region, references in this Subchapter to it shall include such RC.

Section 1: PLANNING

MaineDOT is the state agency charged with overall responsibility for balanced transportation planning and policy as reflected in the provisions of Subchapter II governing the development of the Statewide Long-Range Transportation Plan. MTA has responsibility for the development, management and operation of the Turnpike and related transportation systems in accordance with its enabling act, 23 MRSA §§ 1961, *et seq.* In connection with the development and adoption of the Statewide Long-Range Transportation Plan by MaineDOT, MTA shall develop and submit an MTA Planning Report that will be consistent with the policy objectives of the Sensible Transportation Act and will include:

- (1) An inventory (meeting the applicable requirements of Section 5-B of Subchapter I) of transportation systems under MTA jurisdiction;
- (2) Identification of the nature and extent of (i) current and future deficiencies and needs of transportation systems under MTA jurisdiction, and (ii) any other current and future transportation system deficiencies and needs related to or connected with the transportation systems under MTA jurisdiction, all based on an analysis which considers, at a minimum, the information developed by MTA under this section, information available from the activities of MaineDOT and the regional planning and development organizations under Subchapter I and identified state/regional/local transportation goals and policy objectives; and
- (3) MTA's recommendations for transportation improvement strategies, project priorities and multimodal projects and programs within its jurisdiction that should be considered by MaineDOT in preparing and approving the Statewide Long-Range Transportation Plan in order to address priority safety needs, system preservation needs, system rehabilitation needs and system efficiency needs and projects or programs to meet, manage and reduce current and forecasted travel demand.

The MTA Planning Report shall be considered by MaineDOT in developing the Statewide Long-Range Transportation Plan. The MTA Planning Report will be updated periodically (at a minimum every five years) as new needs and issues are developed using the same process that is described in this Section 1.

Section 2: SIGNIFICANT TRANSPORTATION PROJECTS

A. Introduction

All MTA planning for significant transportation projects, whether initiated by MTA or others, shall adhere to the requirements of the Sensible Transportation Policy Act

(STPA). Before funding a significant transportation project, the STPA requires that the MTA evaluate the full range of reasonable transportation strategies to address the transportation need.

The STPA requires that MTA transportation planning decisions be consistent with the purposes, goals and policies of the Comprehensive Planning and Land Use Regulation Act. Before taking any action that adds transportation capacity, the MTA may consider or recommend potential land use strategies that will work to preserve corridor capacity, manage corridor mobility, protect public investment in infrastructure and public services, and foster transportation-efficient land uses that combat the public costs of sprawl.

This rule is intended to require a corridor planning and development process such that a series of individual transportation improvement projects, when viewed comprehensively are evaluated in accordance with this section to determine if they increase capacity. In addition, this rule calls for an evaluation of strategies when existing highway features, such as breakdown lanes, auxiliary lanes, and sidewalks are considered for conversion to through lanes.

B. Transportation Strategy Evaluation

When a transportation need or deficiency has been identified through the transportation planning process, and that need or deficiency results in a potential significant transportation project, MTA's planning process will evaluate a full range of reasonable transportation strategies before funding the improvement. The strategies to be considered will include:

- (1) New facilities and services, including different modes of transportation or combinations of modes that could reasonably meet identified transportation needs. The different modes of transportation that may be considered under the strategy evaluation when appropriate include but are not limited to:
 - (a) Highway and bridge
 - (b) Passenger and freight air services and facilities
 - (c) Transit services
 - (d) Rideshare options
 - (e) Ferry service or cargo/passenger port improvements
 - (f) Freight and passenger rail services and facilities
 - (g) Bicycle facilities
 - (h) Pedestrians facilities
 - (i) Intermodal facilities
 - (j) Tolling

- (2) Transportation system management options;
- (3) Transportation demand management options;
- (4) A no-build option;
- (5) Land use management strategies applied by local governments; and
- (6) Other reasonable strategies generated through the public participation process.

Consideration of reasonable transportation and land use strategies should take place on a corridor or statewide basis as opposed to a project by project basis. Information gathered from a corridor analysis may be used on multiple projects within the corridor.

The MTA need not study or evaluate transportation or land use strategies that have previously been found to be unacceptable or infeasible along a corridor, providing that no significant changes have occurred affecting the prior analysis. This finding must be based on sufficient objective data, which should include consideration of public acceptability. The MTA is not required to study or evaluate transportation or land use strategies along a corridor if comparable strategies are in place and functioning as determined by MTA, provided sufficient data exists to accurately assess the adequacy of the strategies. MTA, MPOs and/or municipalities will engage each other at the earliest possible opportunity in planning for and identification of significant transportation projects. In this way, the best combination of strategies for meeting the policies of the Sensible Transportation Policy Act may be evaluated.

C. Planning Meetings and Workshops

In developing the range of reasonable strategies with which to evaluate significant transportation projects, MTA will initiate a public participation process commensurate with the scope of the project.

The information provided through the public participation process may include the following:

- (1) Outline the transportation deficiency and need in terms of safety, congestion, substandard infrastructure, and land use management or other appropriate measures;
- (2) Suggest various strategic solutions to the transportation deficiency or need;
- (3) Describe available information concerning projected life-cycle costs and operational costs of the strategies; and
- (4) Describe available information concerning the land use, energy and environmental quality impacts of the various strategies including the range of mitigation measures and community enhancement measures which could minimize such impacts;

The public involvement process will:

- (1) Solicit public comment and seek concurrence on transportation deficiencies and suggested strategies; and
- (2) Invite strategy ideas from the public;

When the MTA determines appropriate, it may form an advisory committee with which it will regularly meet as detailed evaluations and recommendations are developed.

D. Land Use Consistency Reports

In developing the range of transportation and land use strategies to evaluate, MTA will determine whether the strategies under consideration are consistent with the local Long-Range Land Use Plan and if there is no plan whether they are consistent with the goals of the Comprehensive Planning and Land Use Regulation Act. Instead of MTA doing this analysis, MTA may require that the municipality and/or the RC and/or the MPO prepare a report to MTA indicating whether the strategies under consideration are consistent with the applicable Long-Range Land Use Plan, or if there is no local plan whether they are consistent with the goals of the Comprehensive Planning and Land Use Regulation Act.

If a preferred strategy conflicts with a Long-Range Land Use Plan, MTA will make a good faith effort to address the conflict. If the Long-Range Land Use Plan policy recommendations are determined to potentially reduce the transportation benefits of the preferred transportation strategy, MTA may require the host or affected municipalities enact land use management strategies to avoid or minimize activities that could reduce the transportation benefits of the significant transportation project.

Absent a Long-Range Land Use Plan, MTA may consider documented municipal resources of value such as historic districts or sites, wildlife habitat, trees/tree lines, stone walls and scenic vistas through the project scoping process.

E. Draft Analysis and Public Hearing

After receiving all transportation and land use strategy suggestions, the strategies will be reviewed to determine if they adequately address the agreed upon transportation deficiency or need in a safe manner at a reasonable cost with available technology. The review may also consider the available life cycle costs and operational costs of each strategy and its potential to reduce vehicle miles or hours traveled. It may also include a planning level review of how each strategy meets the policies of the Sensible Transportation Policy Act.

MTA will give preference to those reasonable transportation and land use strategies that best meet the identified transportation purpose and need and the policies set forth in the Sensible Transportation Policy Act.

MTA will notify local officials, RCs, and the public of the availability of the draft strategy evaluation and analysis. The draft analysis will be made available for public review at the MTA headquarters. The public will be given a reasonable period of time to comment on the draft analysis. Based on the nature and number of comments received,

MTA may hold a public hearing on the draft strategy evaluation and analyses. Public notice shall be provided at least two weeks in advance of such a hearing.

F. Final Analysis

Upon completion of the public participation process MTA will issue a final strategy analysis, describing its analysis and addressing public comments. Similar comments need not be addressed individually.

G. Non-MTA Initiated Significant Transportation Projects

Most significant transportation projects are initiated through MTA's long-range planning process. This section outlines procedures by which a Municipality ("a proponent") may directly request significant transportation projects. MTA may require that proponent initiating the request provide the following before MTA considers the request:

- (a) A preliminary statement of the purpose of and need for the proposed project. This statement should identify existing and anticipated capacity, safety, and/or accessibility deficiencies and the basic project objectives. Technical measures such as traffic volumes, level of service, delays, queues, travel times, accident data, pedestrian data, land use data, and other relevant information should be supplied to demonstrate the need for the proposed project.
- (b) The current municipal comprehensive plan(s) along with a written statement by the municipality (ies) that the proposed project would be consistent with the applicable municipal comprehensive plan(s).
- (c) A list of alternatives that the proponent believes are worthy of consideration. This need not be exhaustive, but should include any alternatives that have been previously considered or discussed, even in a preliminary manner.
- (d) Documentation of any previous studies that have been conducted.
- (e) Minutes or transcripts of any public meetings or hearings that have occurred.
- (f) Letters of support from surrounding municipalities
- (g) A statement of why the expenditure of Authority funds for the proposed project would be justified.
- (h) A formal resolution of support from the proponent's legislative body, as well as the opinion of outside counsel to the proponent regarding the valid and binding nature of the resolution.
- (i) A description of the proponent's commitment to assist the MTA in the planning process required by the Sensible Transportation Act and these rules.
- (j) The financial commitment the proponent is prepared to make for the payment of costs related to the study, planning and preliminary design of the proposed project, as well as further financial commitments for the payment of costs related to final design, permitting, construction and operation of the proposed project.

Section 3: SUBSTANTIAL PUBLIC INTEREST PROJECTS**A. General**

If MTA determines that a transportation project is not a significant transportation project but involves issues of substantial public interest, MTA will engage a public participation effort tailored to that project.

MTA may request a report from a municipality, RC, or other entity representing the municipality documenting the proposed project's consistency with the local Long-Range Land Use Plan. Absent a Long-Range Land Use Plan, MTA will consider municipal resources of value that have been formally documented by the municipality's legislative body, such as historic districts or sites, wildlife habitat, trees/tree lines, stone walls and scenic vistas through the project scoping process. MTA may seek advice from SPO, the affected RC and municipalities on how to avoid or mitigate those impacts which are found to be inconsistent with the Long-Range Land Use Plan and/ or formally adopted statement. MTA will respond to such advice as the project is planned and developed. MTA may require as a condition of building the project that the host municipality or municipalities enact land use management mechanisms to avoid or minimize activities that could reduce the benefit of the transportation project.

B. New and Modified Interchanges

Since the establishment or modification of an interchange usually is of substantial interest to the public and may have potential impacts on land use, all interchange improvement projects with a purpose and need to add capacity shall be deemed to be substantial public interest projects.

MTA, together or in consultation with the applicable MPO, RC and affected municipality, will:

- (1) Prepare or clarify a preliminary statement of the purpose and need for the proposed interchange,
- (2) Perform a comprehensive traffic analysis for the proposed new or modified interchange to assess its impact on traffic on the adjacent highways connected by the interchange,
- (3) Identify and assess land use impacts of the proposed improvements to determine whether the proposed interchange modifications and existing land use controls are consistent with the local Long-Range Land Use Plan adopted pursuant to the Comprehensive Planning and Land Use Regulation Act, or if there is no local plan, whether it is consistent with the goals of the Act,
- (4) MTA will engage a public participation effort tailored to that project. This effort will allow for early notice to the affected public and municipality and will allow the public the opportunity to comment on the project as it is being planned and developed. MTA will respond to comments it receives through the public participation effort as the project is planned and developed. This public

participation effort will be managed by either MTA or its designated municipal or regional representative. MTA may also include an evaluation of reasonable transportation strategies, transportation demand management options and transportation system management options to determine whether an alternative to the planned improvement may be more appropriate.

In the event that the proposed interchange is found to be inconsistent with the applicable Long-Range Land Use Plan or the goals of the Sensible Transportation Act, MTA shall seek the advice of the municipality or regional entity as to how to avoid, minimize or mitigate the inconsistency or adverse impact. MTA may require as a condition of building the interchange or interchange improvement that the host municipality or municipalities enact land use management mechanisms to avoid or minimize activities that could reduce the transportation benefit of the interchange project.

Section 4: CAPITAL INVESTMENT DECISIONS; MTA CAPITAL INVESTMENT PLAN

MTA shall prepare annually a capital investment plan (the "MTA Capital Investment Plan") for MTA's capital investment decisions that will be comparable in scope and content to the TIP prepared by MaineDOT. MTA will select projects in consultation with local officials and regional planning and development organizations. The MTA Capital Investment Plan will be multimodal and include appropriate transportation demand management and system management options.

Projects and programs selected for inclusion in the MTA Capital Investment Plan will be those that best promote and implement the policy objectives set forth in the Sensible Transportation Act, are responsive to the identified transportation system deficiencies or needs, ensure the necessary maintenance and preservation of the existing transportation system and are consistent with financial resources available to MTA.

Before adopting an MTA Capital Investment Plan, MTA will make available to the public its draft Capital Investment Plan and provide citizens, regional councils, affected public agencies and other interested parties with an opportunity to review and comment on the draft Capital Investment Plan. Where substantial public interest exists, MTA will hold a public hearing on its draft Capital Investment Plan. MTA will respond to comments on its draft Capital Investment Plan either individually or through a published report. MTA will consider all comments in developing the final MTA Capital Investment Plan.

MTA may add, change scope, transfer, or delete a project from one MTA Capital Investment Plan to another as necessary and appropriate to best meet the overall policy objectives set forth in Section 4-B of Subchapter I of this Rule. Newly proposed significant highway projects will be subject to the evaluation and process set forth in Section 2 of this Rule. Projects which are not significant but which were not previously included in the MTA Capital Investment Plan may be implemented under an abbreviated public participation process in cooperation with the regional transportation advisory committee as necessary to meet the critical needs of the State. The addition of maintenance projects will not require a public participation process.

Section 5: COMMUNITY ENHANCEMENT

A. Introduction

In consultation with municipal officials and as part of the planning (project scoping) and preliminary design process, capital improvement projects will be reviewed to determine how they may be developed in support of community needs, values and livability. MTA will assemble sufficient data to support an understanding of relevant community values and assets on projects other than system preservation. In addition, MTA assembles data regarding natural and cultural resources that are protected by Federal and State Law.

The extent of this review will be dependent upon MTA's purpose and need for the transportation project. Unless otherwise provided for, the enhancement options identified by this review and requested by the community may be implemented through a shared investment program. If the MTA decides to implement an enhancement option, a Memorandum of Understanding (MOU) may be developed detailing the project scope and financial participation. Community enhancements may include such provisions as facilities for pedestrians and bicycles, acquisition of scenic easements and historic sites, landscaping, use of materials that enhance historical preservation or community character, mitigation of water pollution due to highway run off and other similar enhancements.

Section 6: PROJECT DEVELOPMENT

A. Introduction

MTA will develop a Capital Work Plan that describes which projects may be initiated, the funding prerequisites and the proposed schedule. Projects will be implemented as prescribed in the Capital Work Plan and its updates.

During preliminary design of funded projects, at MTA's discretion or if requested by municipal officials, MTA will engage a public participation process to explain:

- (1) The scope and schedule of the project and how the selected strategy was decided upon as well as the design features that will be utilized;
- (2) The impact of the construction on the community;
- (3) Any mitigation and community enhancements to be applied; and
- (4) The acquisition process which will be incorporated into the project development;

B. MTA's public participation process will:

- (1) Notify abutters in compliance with MTA Policy.
- (2) Respond to individual comments and concerns of those persons impacted by the project;
- (3) Be available to respond to individuals affected by the project; and

- (4) Incorporate (additional) citizen concerns and suggestions in the project design as appropriate.

Section 7: INTER-AGENCY COOPERATION

Recognizing that the activities of MTA under this Subchapter and those of MaineDOT under Subchapter I might sometimes be conducted more advantageously or economically on a joint basis, those agencies may agree that one or more of the activities described in this Subchapter and/or the parallel provisions of Subchapter I may be conducted by one of the agencies on behalf of both, with each agency retaining ultimate authority and responsibility for transportation planning decisions, capital investment decisions and project decisions under its jurisdiction. In discharging its responsibilities under this Subchapter, MTA may rely upon one or more of the evaluations, assessments or decisions reached or developed by MaineDOT under Subchapter I.

MaineDOT may consult with the MTA on any transportation plans submitted to MaineDOT pursuant to Subchapter III if those plans are submitted by a municipality through which the Turnpike runs through, a municipality adjacent to a municipality the Turnpike runs through, or a regional entity whose members include any such community. Any such plans will be submitted to MTA as early in the review process as possible to ensure that MTA's comments on the plans may be thoroughly considered by MaineDOT.

SUBCHAPTER III – MUNICIPAL PLANNING

Section 1 INTRODUCTION

The 121st Legislature amended the Sensible Transportation Policy Act by enacting PL 2002, Ch. 22, “An Act to Enhance Integration of Transportation and Land Use Planning.” The amendment requires MaineDOT to develop a rule that would establish a linkage between the comprehensive planning considerations of the Community Planning and Land Use Regulation Act (30-A MRSA, section 187, subchapter 2) and the transportation planning and decision-making processes required under the Sensible Transportation Policy Act. The 123rd Legislature enacted Title 23 §73-A which promotes coordinated land use and transportation decisions and offers funding preferences to those communities that enact plans, policies, ordinances, etc. that preserve transportation functionalities.

Section 2: REGIONAL TRANSPORTATION PLANNING: PURPOSE AND GOALS

Purpose & Goal

This chapter outlines a framework for working with municipalities to preserve and manage mobility and safety of the transportation system. The goal is to promote cooperative transportation management efforts between the state and its municipalities that sustain and enhance the functional and design life of transportation facilities and thus make for wise use of public investments. The use of these rules is required in order for MaineDOT to support the State Planning Office (SPO) in a finding of consistency for new or updated transportation chapters of comprehensive plans. Municipalities that collaborate on planning using these rules shall be eligible for transportation planning assistance and other transportation investment incentives.

Plan Considerations

This section applies to all municipalities in Maine whether undergoing land use or transportation planning efforts on their own or in conjunction with other adjoining municipalities.

Municipalities are strongly encouraged to seek concurrence on the results of sections A and B with MaineDOT and their Regional Councils, and the Maine Turnpike Authority where applicable, before proceeding to develop Section C Transportation Vision, Goals, Policies and Strategies.

Whether as part of a new or updated single focused transportation plan or a new or updated transportation chapter within a Comprehensive Plan, municipalities shall include:

A. Conditions and Trends

Minimum data required to address state goals:

- (1) The community’s Comprehensive Planning Transportation Data Set prepared and provided to the community by the Department of Transportation and the Maine State Planning Office, or their designees.

(2) Highways, Bridges, Sidewalks, and Bicycle Routes

Information on overall road condition and identify any deficiencies or concerns.

Location, condition, and estimated length of sidewalks, and road segments that provide space (paved shoulders) for bicycle access, by jurisdiction.

Identify potential off-road connections that would provide bicycle and pedestrian connections to neighborhoods, schools, waterfronts and other activity centers.

Identify major traffic (including pedestrian) generators, such as schools, large businesses, public gathering areas/activities etc. and related hours of operation.

Identify policies and standards for the design, construction and maintenance of public and private roads. Identify the location of private roads and assess their potential to become public roads.

Parking

List and locate municipal parking areas including size, condition, and usage.

Other Modes of Transportation

List and locate all airports within or adjacent to the community and describe applicable airport zoning and airspace protection ordinances in place.

Identify inter-local, fixed route, commuter and demand response bus or van services, including private or public operator information and local government involvement.

Coastal Communities only

Location of current and potential seaport terminals. Identify whether port is of local, regional or state significance, its ownership/management and use (type and quantity/frequency of goods shipped in or out). List land-side and water-side facilities associated with port.

Identify public ferry service and private boat transportation support facilities (may be covered under Marine Resources with cross reference) including related water-side (docks/piers/wharves) and land side (parking) facilities.

Environmental and Cultural Considerations

Location of evacuation routes identified in an emergency response plan, if applicable.

Identify areas with transportation related noise concerns.

Identify areas where inappropriate lighting affects transportation safety.

Identify and describe important scenic, historic, or cultural resources within or adjacent to transportation facilities that reflect community character, such as mature tree lines, rock walls, etc.

Known locations with opportunities to restore habitat connections disrupted by a transportation facility owned and maintained by the municipality.

Land Use

Identify current local land use management strategies (such as access management, zoning, density, minimum lot size standards) that enhance or detract from the safety and efficiency of the transportation system (including highway, air, bus, bike, pedestrian, marine and rail services.)

B. Analyses and Key Issues

To generate minimum analyses to address state goals, use Conditions and Trends data in Section C below to answer the following questions.

(1) Roads, Bridges, Sidewalks, and Bicycle Routes

What are the concerns for transportation system safety and efficiency in the community and region? What if any plans exist to address these concerns? For example:

- i. Safety
- ii. Traffic speed
- iii. Congestion and travel delay
- iv. Travel volume and type
- v. Traffic problems caused by such things as road and driveway locations and design, road maintenance needs, traffic control devices, growth patterns and lack of transportation options.
- vi. Lack of transportation links between neighborhoods, schools, recreation, shopping, and public gathering areas.
- vii. Closed or posted bridges or roads.
- viii. Pedestrian and bicycling safety
- ix. Light pollution

What conflicts are caused by multiple road uses, such as a major state or U.S. route that passes through the community or its downtown and serves as a local service road as well?

Upon review of state and regional transportation plans, what are their impacts on your current and future community plans? What actions can the community take to address identified impacts?

How do the community's land use regulations mesh with the MaineDOT, regional, and local objectives for transportation system facilities in the community? If growth areas are located on arterial highways, how will growth in these areas affect the ability of the arterial to efficiently move traffic?

What is the community's schedule for regular investments in road maintenance and improvement? How are MaineDOT Urban-Rural Initiative Program (URIP) funds used to off-set municipal road improvement costs?

What concerns does your community have regarding its policies and standards for design, construction and maintenance of public and private local roads and bridges?

Parking

What are the parking issues in the community?

Do local parking standards promote development in desired areas or do they drive it to outlying areas?

How do local ordinances consider safety related to parking lot layout and circulation for vehicles, pedestrians and all other users?

What community investments are needed to expand or improve parking?

Other Modes of Transportation

What transit services are available to meet the current and future needs of community residents? If transit services are not adequate, how will the community address the needs?

If the community hosts a major transportation terminal, such as an airport, rail or ferry terminal, how does it connect to other transportation systems?

If the community hosts any public airports, what coordination has been undertaken to ensure that required airspace is protected now and in the future? How does the community coordinate with the owner(s) of private airports?

Coastal Communities only

What land-side and water-side transportation facilities are needed?

How does the community protect access to facilities for island travelers, currently and in the future?

How do the community's land use regulations mesh with MaineDOT, regional and local objectives for marine transportation facilities?

Environmental and Cultural Considerations

What, if any, environmental degradation caused by state or local transportation facilities or operations (e.g. wildlife mortality, habitat fragmentation, erosion, groundwater contamination, non-point source pollution) is occurring?

What are the community's objectives for preserving or protecting important identified scenic, historic, or cultural resources adjacent to transportation facilities?

How does the community address any transportation-related noise concerns?

What steps can the community take to encourage development to occur in a manner that minimizes transportation-related environmental impacts such as habitat fragmentation and/or vehicular CO2 emissions?

Land Use

How do local land use decisions affect safety, congestion, mobility, efficiency and interconnectivity of the transportation system?

How do existing land uses and development trends support or inhibit cost effective passenger transportation systems and the efficient use of freight rail systems?

How do existing and proposed major transportation facilities complement the community's vision?

Does the community have in place, or does it need to put into place, access management or traffic permitting measures? How do these measures correlate with MaineDOT's access management program and regulations for traffic permitting of large development?

How do the community's local road design standards support the type of village, suburban, or rural land use patterns the town wants?

Do planned or recently built subdivision roads (residential or commercial) simply dead-end or do they allow for expansion to adjacent land and encourage the creation of a network of local streets? Where dead-ends are unavoidable, are mechanisms in place to encourage shorter dead-ends resulting in compact and efficient subdivision designs?

C. Transportation Vision, Goals, Policies and Strategies

Based upon sections A and B of Subchapter III, the Municipal Transportation Plan or Transportation Chapter in a Comprehensive Plan shall include:

A regional transportation vision statement;

Transportation goals or objectives.

Policies that address the objectives in Subchapter I, Section 4-B of this rule; at a minimum, the following policies shall be included to meet state transportation objectives:

- a. To prioritize community and regional needs associated with safe, efficient, and optimal use of transportation systems.
- b. To safely and efficiently preserve or improve the transportation system.
- c. To promote public health, protect natural and cultural resources and enhance livability by managing land use in ways that maximize the efficiency of the transportation system and minimize increases in vehicle miles traveled.
- d. To meet the diverse transportation needs of residents (including children, the elderly and disabled) and through travelers by providing a safe, efficient and adequate transportation network for all types of users (motor vehicles, pedestrians, bicyclists and other users).
- e. To promote fiscal prudence by maximizing the efficiency of the state or state-aid highway network.

A schedule of transportation and land use strategies designed to meet the goals and policies (implementation plan). At a minimum, the following strategies shall be included to meet state transportation objectives:

1. Develop or continue to update a prioritized ten-year improvement, maintenance and repair plan for local/regional transportation system facilities that reflects community, regional and state objectives.
2. Initiate or actively participate in regional and state transportation and land use planning efforts.
3. Enact or amend local ordinances as appropriate to be consistent with local, regional and state transportation policies identified in this plan.
4. Enact or amend local ordinances as appropriate to address or avoid conflicts with:
 - a. Policy objectives of the Sensible Transportation Policy Act (23 MRSA §73);
 - b. State access management regulations pursuant to 23 MRSA §704 - Entrances to highways regulated; and
 - c. State traffic permitting regulations for large developments pursuant to 23 MRSA §704-A - Traffic movement permit.
5. Enact or amend ordinance standards for subdivisions and for public and private roads as appropriate to foster transportation-efficient growth patterns and provide for future street and transit connections.

6. Work with the MaineDOT as appropriate to address deficiencies in the system or conflicts between local, regional and state priorities for the local transportation system.

These minimum requirements in no way limit a community from expanding its plan to include additional information, analyses, policies, and strategies.

The language may be altered to better suit a community, but the specific intent of the minimum policy must remain. Altered policies must reflect the desired future direction of the community as stated in the community's vision statement.

Alternative strategies may be substituted for those included in this Chapter provided a rationale for the alternative strategy is detailed in the Self Assessment Checklist developed by the Maine State Planning Office. Alternative strategies will be considered by the MaineDOT to determine if they, in combination with the other strategies in the plan, address the goals of the Growth Management and Sensible Transportation Policy Acts.

D. Submission Criteria

New or updated comprehensive or long range land use plans developed in accordance with these guidelines, shall be submitted for review and findings in accordance with the rules for submission and review of municipal comprehensive plans administered by the State Planning Office. Municipal or multi-municipal transportation plans developed in accordance with these guidelines shall be submitted for review and findings by MaineDOT.

E. Review Criteria

In order to be eligible for the Community Transportation Investment Incentives outlined in Subchapter III, Section 3 of this rule, MaineDOT, in consultation, with the State Planning Office, shall determine whether the plan meets the policies outlined in Subchapter I, Section 4-B and the requirements of Subchapter III Section 3.

F. Review and Update

Municipal transportation chapters or plans and related implementation mechanisms shall be reviewed, and if appropriate, updated at least every 5 years. If an update is not undertaken within 5 years, municipalities shall forward the review, with its conclusions and rationale for not undertaking an update, to MaineDOT. MaineDOT in consultation with SPO, shall issue a statement agreeing or disagreeing with municipal conclusions and rationale. In cases of disagreement, MaineDOT shall include in its statements, the basis for disagreement and recommendations for municipal action. Such disagreement may result in a MaineDOT finding of inconsistency for the transportation chapter or plan that could lead to loss of eligibility for transportation investment incentives outlined in Section 3. Subchapter III.

G. Public Involvement

All plans or related implementation mechanisms adopted pursuant to Subchapter III of this rule must be based on a public involvement process.

Section 3: COMMUNITY TRANSPORTATION INVESTMENT INCENTIVES

In addition to having developed a new or updated transportation plan or a new or updated transportation chapter within a Long-Range Land Use Plan, consistent with the policies of Subchapter I, Section 4-B, the municipality(ies) shall:

- A. Have adopted it through its legislative process. Municipalities with a plan or ordinance update or amendments to sections of plans or ordinances that are not consistent with subchapter 3 of this rule shall not be eligible for incentives.
- B. Enter into an agreement with MaineDOT that the Transportation Plan or Transportation chapter, including appropriate land use management strategies of the new or updated municipal or multimunicipal comprehensive or Long-Range Land Use Plan has been implemented or will be by an agreed upon date.
- C. Community Incentives shall include:
 - 1. Bonus prioritization points that increase access to funding in MaineDOT's competitive programs; a list of such competitive programs shall be published every two years.
 - 2. Incremental reductions in local match requirements.
 - 3. Bonus prioritization points when funding highway reconstruction and transportation mobility projects.
 - 4. Title 23 section 703-B and section 1821

EFFECTIVE DATE:

December 20, 1992

EFFECTIVE DATE (ELECTRONIC CONVERSION):

April 24, 1996

AMENDED:

October 27, 1996 - Subchapter 1, Section 3, paragraph I; Section 6, paragraph B(1 and 5 and rest of B).

NON-SUBSTANTIVE CORRECTIONS:

November 20, 1996 - minor punctuation and spelling

REPEALED AND REPLACED:

September 10, 2008 – filing 2008-351 (major substantive)