open or closed when the person who will be exposed approaches the equipment and the text shall be at least 10 millimeters (height). Labeling on the device must include the following statement:

> Attention: This sunlamp product should not be used on persons under the age of 18 years.

(B) Manufacturers shall provide validated instructions on cleaning and disinfection of sunlamp products between uses in the user instructions.

(ii) *Sunlamp products and UV lamps intended for use in sunlamp products.* Manufacturers of sunlamp products and UV lamps intended for use in sunlamp products shall provide or cause to be provided in the user instructions, as well as all consumer-directed catalogs, specification sheets, descriptive brochures, and Web pages in which sunlamp products or UV lamps intended for use in sunlamp products are offered for sale, the following contraindication and warning statements:

(A) ''Contraindication: This product is contraindicated for use on persons under the age of 18 years.''

(B) ''Contraindication: This product must not be used if skin lesions or open wounds are present.''

(C) ''Warning: This product should not be used on individuals who have had skin cancer or have a family history of skin cancer.''

(D) ''Warning: Persons repeatedly exposed to UV radiation should be regularly evaluated for skin cancer.''

(c) *Performance standard.* Sunlamp products and UV lamps intended for use in sunlamp products are subject to the electronic product performance standard at § 1040.20 of this chapter.

Dated: May 27, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–12546 Filed 5–29–14; 11:15 am]

BILLING CODE 4160–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 613

Federal Highway Administration

23 CFR Part 450

[Docket No. FTA–2013–0029]

Policy Guidance on Metropolitan Planning Organization (MPO) Representation

AGENCIES: Federal Transit Administration (FTA) and Federal Highway Administration (FHWA), DOT.

ACTION: Policy guidance.

SUMMARY: The FTA and FHWA are jointly issuing this guidance on implementation of provisions of the Moving Ahead for Progress in the 21st Century Act (MAP–21), that require representation by providers of public transportation in each metropolitan planning organization (MPO) that serves a transportation management area (TMA) no later than October 1, 2014. The purpose of this guidance is to assist MPOs and providers of public transportation in complying with this new requirement.

DATES: Effective June 2, 2014.

FOR FURTHER INFORMATION CONTACT: Dwayne Weeks, FTA Office of Planning and Environment, telephone (202) 366–4033 or *Dwayne.Weeks@dot.gov;* or Harlan Miller, FHWA Office of Planning, telephone (202) 366–0847 or *Harlan.Miller@dot.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

The FTA and FHWA are jointly issuing this policy guidance on the implementation of 23 U.S.C. 134(d)(2)(B) and 49 U.S.C. 5303(d)(2)(B), as amended by sections 1201 and 20005 of MAP–21, Public Law 112–141, which require representation by providers of public transportation in each MPO that serves an area designated as a TMA by October 1, 2014.[1] A TMA is defined as an urbanized area with a population of over 200,000 individuals as determined by the 2010 census, or an area with a population of fewer than 200,000 individuals that is designated as a TMA by the request of the Governor and the MPO designated for the area.[2] As of the date of this guidance, of the approximately 420 MPOs throughout the Nation, approximately 210 MPOs serve an area designated as a TMA. The FTA and FHWA will issue a joint notice of proposed rulemaking to amend 23 CFR part 450 and 49 CFR part 613 to make these planning regulations consistent with these and other current statutory requirements. Once FTA and FHWA issue a final rule amending the planning regulations, MPOs must comply with the requirements in those regulations.

To increase the accountability and transparency of the Federal-aid highway and Federal transit programs and to improve project decisionmaking through performance-based planning and programming, MAP–21 establishes a performance management framework. The MAP–21 requires FHWA to establish, through a separate rulemaking, performance measures and standards to be used by States to assess the condition of the pavements and bridges, serious injuries and fatalities, performance of the Interstate System and National Highway System, traffic congestion, on-road mobile source emissions, and freight movement on the Interstate System.[3] The MAP–21 also requires FTA to establish, through separate rulemakings, state of good repair and safety performance measures, and requires each provider of public transportation to establish performance targets in relation to these performance measures.[4]

To establish performance targets that address these performance measures, States and MPOs must coordinate their targets with each other to ensure consistency, to the maximum extent practicable.[5] For transit-related performance targets, States and MPOs must coordinate their targets relating to safety and state of good repair with providers of public transportation to ensure consistency with other performance-based provisions applicable to providers of public transportation, to the maximum extent practicable.[6] An MPO must describe in its metropolitan transportation plans the performance measures and targets used to assess the performance of its transportation system.[7] Statewide and metropolitan transportation

[1] ''Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of . . . officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation.'' 49 U.S.C. 5303(d)(2)(B). See also 23 U.S.C. 134(d)(2)(B).

[2] 23 U.S.C. 134(k)(1); 49 U.S.C. 5303(k)(1).

[3] 23 U.S.C. 150(c).

[4] 49 U.S.C. 5326(b), (c), 5329(b), (d).

[5] 23 U.S.C. 134(h)(2); 49 U.S.C. 5303(h)(2).

[6] 23 U.S.C. 134(h)(2); 49 U.S.C. 5303(h)(2).

[7] 23 U.S.C. 134(i)(2)(B); 49 U.S.C. 5303(i)(2)(B).

improvement programs (STIPs and TIPs) must include, to the maximum extent practicable, a description of the anticipated effect of the program toward achieving the performance targets established in the statewide or metropolitan transportation plan, linking investment priorities and the highway and transit performance targets.[8] These changes to the planning process will be addressed in FHWA and FTA's anticipated joint rulemaking amending 23 CFR part 450 and 49 CFR part 613.[9]

As part of its performance management framework, MAP–21 assigns MPOs the new transit-related responsibilities described above, i.e., to establish performance targets with respect to transit state of good repair and transit safety and to address these targets in their transportation plans and TIPs. Representation by providers of public transportation in each MPO that serves a TMA will better enable each MPO to define performance targets and to develop plans and TIPs that support an intermodal transportation system for the metropolitan area. Including representation by providers of public transportation in each MPO that serves an area designated as a TMA is an essential element of MAP–21's performance management framework and will support the successful implementation of a performance-based approach to transportation decisionmaking.

The FTA conducted an On-Line Dialogue on the MAP–21 requirement to include representation by providers of public transportation in each MPO that serves an area designated as a TMA from March 5 through March 29, 2013. Through this forum, FTA received input from MPOs, local elected officials, transit agencies, and the general public, with over 3,000 visits to the Web site. Over 100 ideas were submitted from 340 registered users who also provided hundreds of comments and votes on these ideas. Participants discussed the complex nature of MPOs and the advantages of providing flexibility for MPOs and providers of public transportation to decide locally how to include representation by providers of public transportation in the MPO.

To assist MPOs and providers of public transportation in understanding and satisfying the new requirement by the statutory deadline, FTA and FHWA issued proposed policy guidance for review and comment on September 30, 2013, with a 30-day comment period, under Docket Number FTA–2013–0029.[10] The FTA and FHWA received 53 individual responses that contained approximately 160 comments. This guidance incorporates FTA and FHWA's responses to those comments.

Summary Discussion of Comments Received in Response to the Proposed Guidance

The proposed guidance sought comments on several specific issues: (1) The specifically designated representative; (2) the eligibility of representatives of providers of public transportation to serve as specifically designated representatives; (3) the cooperative process to select a specifically designated representative in MPOs with multiple providers of public transportation; (4) the role of the specifically designated representative; and (5) restructuring the MPOs to include representation by providers of public transportation.

The FTA and FHWA received 53 individual responses that contained approximately 160 comments: 25 MPOs, 10 providers of public transportation, 9 individuals, 4 trade associations, 4 others (including municipalities and advocacy organizations), and a State department of transportation. Several comments were outside the scope of this guidance and are therefore not addressed in this guidance. For example, some comments were specific to a situation in a particular metropolitan area. Where appropriate, FTA has reached out to the commenters to address their concerns. Comments pertaining to the guidance and FTA and FHWA's responses are discussed below.

The Need for Guidance in General

The FTA and FHWA received 19 comments supporting the need for policy guidance to implement MAP–21's changes to 23 U.S.C. 134(d)(2)(B) and 49 U.S.C. 5303(d)(2)(B). These commenters agreed that policy guidance would provide needed direction on how MPOs and providers of public transportation may meet the MAP–21 requirements for representation of providers of public transportation on MPOs.

The FTA and FHWA received three comments that stated the change in language to 23 U.S.C. 134(d)(2)(B) and 49 U.S.C. 5303(d)(2)(B) does not warrant policy guidance because of the long history of granting MPOs latitude in deciding the composition of their policy boards. Moreover, these comments stated that the responsibilities added by the new language can be addressed through the existing certification review process and do not warrant additional guidance.

The FTA and FHWA have determined that policy guidance is necessary to provide direction to MPOs and providers of public transportation on how to meet this new statutory provision within the 2-year time frame.

A Specifically Designated Public Transportation Representative

Twenty-three commenters expressed concurrence with the proposed guidance that the intent of the MAP–21 provision to include ''representation by providers of public transportation'' is that representatives of providers of public transportation, once designated, should have equal decisionmaking rights and authorities as the other members that are on the policy board of an MPO that serves a TMA. Thirteen commenters indicated that they did not support that interpretation of the provision and urged FTA and FHWA to provide flexibility to allow MPOs to include transit representation in ways that would fit the unique circumstances of each metropolitan area. Two of these commenters asserted that MAP–21 did not change a local jurisdiction's authority to assign voting rights to policy board members. One commenter stated there is no basis in law for requiring MPOs to alter their board compositions. Many asserted that including public transit agencies as non-voting members or on MPO technical or policy committees is adequate to satisfy 23 U.S.C. 134(d)(2)(B) and 49 U.S.C. 5303(d)(2)(B). A few commenters stated that a policy or technical committee would be more appropriate for transit decisionmaking, as MPO policy boards deal with many issues outside of transportation.

The clear intent of this legislative provision is to ensure that providers of public transportation are represented on the MPO board and should have equal decisionmaking rights and authorities as the other members that are on the policy board of an MPO that serves a TMA. Contrary to the conclusions of some of the commenters, 23 U.S.C. 134(d)(2) and 49 U.S.C. 5303(d)(2) expressly provide that MPOs serving TMAs must alter their board compositions, if necessary, in order to attain the statutorily required structure. Congress amended 23 U.S.C. 134(d)(2)(B) and 49 U.S.C. 5303(d)(2)(B) to provide that, among other mandatory MPO members, MPOs serving an area designated as a TMA specifically ''shall consist of . . . representation by providers of public transportation.'' Congress also amended 23 U.S.C.

[8] 23 U.S.C. 134(j)(2)(D); 49 U.S.C. 5303(i)(2)(D) (TIPs) and 23 U.S.C. 135(g)(4); 49 U.S.C. 5304(g)(4) (STIPs).

[9] FHWA RIN 2125–AF52; FTA RIN 2132–AB10.

[10] 78 FR 60015 (Sept. 30, 2013).

134(d)(5)(B) and 49 U.S.C. 5303(d)(5)(B) to provide that an MPO ''may be restructured to meet the requirements of paragraph (2) without undertaking a redesignation.'' Additionally, the Conference Report accompanying MAP–21 states, ''The conference committee requires the structure of all Metropolitan Planning Organizations include officials of public agencies that administer or operate public transportation systems within two years of enactment.'' [11] Congress also made clear that the term *metropolitan planning organization* refers to ''the policy board'' of the organization, not its advisory or non-decisionmaking elements.[12]

Multiple MPOs that serve areas designated as TMAs commented that 23 U.S.C. 134(d)(3) and 49 U.S.C. 5303(d)(3) exempt them from having to comply with 23 U.S.C. 134(d)(2) and 49 U.S.C. 5303(d)(2) because the MPOs are acting pursuant to authority created under State law that was in effect on December 18, 1991. The exemption has existed in statute in some form since 1991. The FTA and FHWA's long-standing interpretation of this provision is that an exemption from the MPO structure requirements is only appropriate for an MPO where (1) the MPO operates pursuant to a State law that was in effect on or before December 18, 1991; (2) such State law has not been amended after December 18, 1991, as regards to the structure or organization of the MPO; and (3) the MPO has not been designated or re-designated after December 18, 1991. An MPO that claims an exemption should self-certify its exempt status with FTA and FHWA as part of the MPO certification process described at 23 CFR 450.334 or through some other documentation.

With respect to who should be eligible to represent providers of public transportation on the MPO, two commenters, including a transit industry trade association, requested that FTA and FHWA establish that the representative ''must'' be an elected official on the policy board of a provider being represented or a direct representative employed by a provider being represented. Another commenter expressed concern that the proposed qualifications of the representative were too specific. A few commenters requested that, in addition to the representative being an officer of a provider of public transportation or an elected official that serves on the board of directors of the provider of public transportation, the representative may also be a non-elected member appointed to the board of directors of the provider of public transportation. The FTA and FHWA concur that an appointed member of a public transportation provider's board of directors also can serve as a representative of providers of public transportation on the MPO. In keeping with FTA and FHWA's goal of providing flexibility to MPOs, the representative should be either a board member (elected or appointed) or officer of a provider of public transportation being represented on the MPO. The guidance remains suggestive rather than mandatory in this respect.

Fourteen entities requested that the guidance state definitively that a representative of providers of public transportation cannot fulfill multiple roles on an MPO board, for example, due to that person's position as a local elected official or an appropriate State official. These commenters asserted that an ''MPO board member cannot simultaneously represent multiple organizations'' and that an elected official who is appointed to the MPO as a representative of that official's local government does not necessarily represent the interests of transit, even if he or she happens to be on the public transportation provider's board. Eight commenters asserted that the presence on the MPO of local elected officials should fully satisfy the new requirement. Seven commenters sought clarity generally on this provision. The FTA and FHWA agree that this proposed provision needed clarification. The policy guidance states that a public transportation representative on an MPO should not serve as one of the other mandatory MPO members set forth in 23 U.S.C. 134(d)(2) and 49 U.S.C. 5303(d)(2). For example, a member of an MPO board whose assignment comes by virtue of his or her position as an elected official should not also attempt to serve as a representative of providers of public transportation on the MPO board.

A few commenters highlighted the potential conflict that could arise when a representative of providers of public transportation is the subordinate of another MPO board member and the superior board member's and the public transportation providers' interests do not align. Two commenters noted that when a local government is the provider of public transportation, that local government effectively would be given an additional vote, upsetting a carefully constructed balance on the MPO. Another commenter noted that a conflict could result when a public transportation provider other than the designated recipient [13] serves as the representative of the providers of public transportation on the MPO board. The FTA and FHWA appreciate that recommending a separate and distinct representative of providers of public transportation could introduce a conflict or upset a carefully constructed balance on the MPO. However, 23 U.S.C. 134(a)(2) and 49 U.S.C. 5303(a)(2) state that ''it is in the national interest . . . to encourage the continued improvement and evolution of the metropolitan and statewide planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators.'' The MAP–21's establishment of a performance-based approach to transportation decisionmaking evolves and improves the metropolitan and statewide planning processes, increasing the accountability and transparency of the Federal surface transportation program and improving project decisionmaking. The inclusion of a representative of providers of public transportation in each MPO that serves a TMA is a critical element of MAP–21's performance management framework as it will enable the MPO to establish balanced performance targets and improve its ability to develop plans and programs that support an intermodal transportation system for the metropolitan area. As such, it contributes to the continued improvement and evolution of the cooperative and collaborative metropolitan planning process.

Three commenters suggested that the term FTA and FHWA used to refer to a public transportation representative on an MPO board, ''specifically designated representative,'' implied a role and responsibilities that differed from other members of the MPO board or ''create[d] a subclass of board member.'' This was not the intention of the proposed guidance. The guidance affirms that a representative of providers of public transportation on an MPO that serves a TMA, once designated, should have equal decisionmaking rights and authorities as the other members that are on the policy board of an MPO that serves a TMA. The FTA and FHWA

[11] H.R. Conf. Rep. 112–557 (2012).

[12] 23 U.S.C. 134(b)(2); 49 U.S.C. 5303(b)(2).

[13] The term ''designated recipient'' means ''(A) an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or (B) a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.'' 49 U.S.C. 5302(4).

recognize that the term ''specifically designated representative'' generated considerable confusion. Consequently, the terms ''representative of providers of public transportation'' and ''public transportation representative'' replace it in the guidance.

Providers of Public Transportation

Eight commenters stated that to require the representative of providers of public transportation to be a direct recipient of the Urbanized Area Formula funding program is too restrictive, arguing that many large urbanized areas allocate transit funding through sub-recipients that would be precluded from participating in the MPO process. Four additional commenters interpreted this language to mean that a city or county that is not a direct recipient would be precluded from being able to represent transit interests on the MPO board. One commenter asserted that ''all public transportation agencies within the MPO should be eligible to serve in this important role.''

The FTA and FHWA agree that the use of the term ''direct recipient'' was overly restrictive. The policy guidance clarifies that the representative of providers of public transportation on an MPO that serves an area designated as a TMA should be a provider of public transportation in the metropolitan planning area and a designated recipient, a direct recipient, or a sub-recipient of Urbanized Area Formula funding, or another public transportation entity that is eligible to receive Urbanized Area Formula funding. The FTA and FHWA recommend selecting a representative from among those public transportation providers that are eligible to receive Urbanized Area Formula funding because most Federal transit funding planned by MPOs serving TMAs is awarded under this program, and an eligible recipient of Urbanized Area Formula funding will be in the best position to represent transit interests on the MPO.

Process for the Selection of Public Transportation Representatives

Three providers of public transportation expressed support for the proposed policy that MPOs that serve an area designated as a TMA should cooperate with providers of public transportation and the State to amend their metropolitan planning agreements to include the cooperative process for selecting representatives of providers of public transportation on the MPO board. Conversely, while agreeing that MPOs should use a cooperative process to select representatives of providers of public transportation, eight MPOs encouraged either the elimination or the softening of this policy recommendation, which would be ''an unnecessary burden'' that is not needed to meet the goals of MAP–21.

The metropolitan planning agreement is a productive mechanism that facilitates the working relationships among MPOs, States, and providers of public transportation as they fulfill their metropolitan transportation planning requirements. Regulations require that MPOs, States, and public transportation operators cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process and that these responsibilities be clearly identified in written agreements among the MPO, the State, and the public transportation operators serving the metropolitan planning area.[14] The process to select representatives of the providers of public transportation for the MPO board is one of the mutual responsibilities of the MPO, the State, and the providers of public transportation. Thus, FTA and FHWA encourage, but do not require, MPOs, States, and providers of public transportation to amend their metropolitan planning agreements to document the process for selecting representatives of providers of public transportation. However, given the statutory deadline of October 1, 2014, and the expectation that MPOs, States, and providers of public transportation may need to update their agreements to address the MAP–21 performance management requirements once finalized through rulemaking, the policy guidance clarifies that an MPO board resolution, or other documentation, adopting the process to select representatives of providers of public transportation should be sufficient.

While the guidance recommends that MPOs formally adopt some kind of process for the selection of public transportation representatives, the guidance does not prescribe a specific selection process. This guidance affords the flexibility for providers of public transportation, States, and MPOs to determine the process to select representatives of providers of public transportation for the MPO policy board. This could include the selection of representatives by the providers of transit services themselves, as suggested by one commenter who said that ''it should be up to the transit agencies to select whom they want to represent their interests [and] the vote for this representative should occur solely between the transit operators, and should be completely independent of the MPO board and staff's decision making.'' By analogy, in many urbanized areas, providers of public transportation engage with each other to select a designated recipient or to allocate Urbanized Area Formula funds that have been apportioned to the urbanized area. The guidance clarifies that MPOs, States, and providers of public transportation have the flexibility to determine the most effective process that best serves the interests of the metropolitan planning area.

Role of the Public Transportation Representative

Four commenters expressed concern that the requirement to specify the role and responsibilities of the representative of providers of public transportation would place restrictions on the role of the transit representative. This is not the intent. In the guidance, FTA and FHWA recommend that MPOs establish, at a minimum, that a representative must consider the needs of all eligible public transportation providers that provide service in the metropolitan planning area and, in exercising this responsibility, the representative should have equal decisionmaking rights and authorities as the other members that are on the policy board of an MPO that serves a TMA. This guidance is intended to recommend a base level for effective representation and is not intended to restrict the role of a transit representative on an MPO.

While one commenter expressed support for the proposal that MPOs serving TMAs should amend their bylaws to describe the collaborative process of selecting representatives of providers of public transportation and the role the selected representative should play ''because it would help ensure that transit-related issues and interests are appropriately and meaningfully represented in MPO decision-making,'' 10 commenters expressed strong concern, claiming that the proposal was unnecessary, onerous, and that it had no basis in law. The proposed policy guidance did not propose to require MPOs to establish or amend bylaws, but only recommended such action. The FTA and FHWA have retained in the policy guidance that MPOs should amend their bylaws, if the MPO has them, to provide that a public transportation representative should consider the needs of all eligible public transportation providers that provide service in the metropolitan planning area and that, in exercising this responsibility, the representative should have equal decisionmaking rights and

[14] 23 CFR 450.314.

authorities as the other members that are on the policy board of an MPO that serves a TMA. The guidance also recommends that an MPO could affirm these two policies in a board resolution or other documentation.

Restructuring MPOs To Include Representation by Providers of Public Transportation

Eighteen commenters expressed support for the proposal that an MPO that serves a TMA that has multiple providers of public transportation should cooperate [15] with the eligible providers to determine how the MPO will include representation by providers of public transportation on its policy board. The example methods that FTA and FHWA described in the proposed guidance included having all providers represented by a single board position, rotating the board position among several providers, or proportional representation of all eligible providers on the board. Many commenters proposed that representation should not be limited to a single transit representative. Thirteen commenters proposed that all providers of public transportation that operate in a TMA should be given representation on the MPO board. One commenter opined that ''each transit agency/provider should have a vote in matters before the MPO rather than having several transit providers share a single vote.'' Another commenter suggested that ''the best approach is one that rotates the board position among all eligible providers.'' Still another commenter proposed that ''all efforts be made to include the largest providers of public transportation in a region'' as this policy would ''ensure that the majority of public transportation users were represented in [the] MPO decision making process.''

The FTA and FHWA acknowledge that there are multiple ways to include representation of providers of public transportation on MPO boards and note that many MPOs currently do so. For example, the Regional Transportation Council of the North Central Texas Council of Governments (NCTCOG); the Portland, Oregon, MPO (JPACT); the Miami Valley Regional Planning Commission; the National Capital Region Transportation Planning Board that serves the Washington, DC, metropolitan area; and the Ozarks Transportation Organization in Springfield, Missouri, all cited their inclusion of transit representatives as voting members on their MPO boards.

An MPO serving one of the Nation's newest TMAs, the Portland Area Comprehensive Transportation System (PACTS) MPO in Portland, Maine, accommodates representation by providers of public transportation on the MPO policy board through a cooperative process. As documented in the PACTS bylaws, seven providers of public transportation serve on the Transit Committee of PACTS. The PACTS Transit Committee identifies a representative from the seven providers to serve on the Policy Committee, the Technical Committee, the Planning Committee, and the Executive Committee, and to represent transit for the entire metropolitan planning area. The representatives serve for 2 years and may serve successive terms.

The policy guidance provides MPOs, States, and providers of public transportation with the flexibility to determine the most effective arrangement to best serve the interests of the metropolitan planning area.

Policy Guidance

Representatives of Providers of Public Transportation

By October 1, 2014, MPOs that serve an area designated as a TMA must include ''(A) local elected officials; (B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and (C) appropriate State officials.'' [16] The requirement to include ''representation by providers of public transportation'' is a new requirement under MAP–21. The intent of this provision is that representatives of providers of public transportation, once designated, should have equal decisionmaking rights and authorities as the other members that are on the policy board of an MPO that serves a TMA. This expectation reflects the long-standing position of FHWA and FTA with respect to statutorily required MPO board members.

A representative of providers of public transportation should be an elected or appointed member of the provider's board of directors or a senior officer of the provider, such as a chief executive officer or a general manager.

A representative of providers of public transportation should not also attempt to represent other entities on the MPO. For example, if a local elected official is also a member of the board of directors of a provider of public transportation and the elected official represents his or her local jurisdiction's interests on the MPO, the local official should not also serve as a representative of public transportation providers generally.

An MPO is exempt from the structure requirements of 23 U.S.C. 134(d)(2) and 49 U.S.C. 5303(d)(2) if (1) the MPO operates pursuant to a State law that was in effect on or before December 18, 1991; (2) such State law has not been amended after December 18, 1991, as regards the structure or organization of the MPO; and (3) the MPO has not been designated or re-designated after December 18, 1991. An MPO that claims an exemption should self-certify its exempt status with FTA and FHWA as part of the MPO self-certification process described at 23 CFR 450.334 or through some other documentation.

Eligible Providers of Public Transportation

To satisfy 23 U.S.C. 134(d)(2)(B) and 49 U.S.C. 5303(d)(2)(B), a representative of a provider of public transportation that operates in a TMA should be eligible to be a designated recipient, a direct recipient, or a sub-recipient of the Urbanized Area Formula funding program.

Process for the Selection of Representatives of Providers of Public Transportation

To select representatives of providers of public transportation, MPOs, States, and providers of public transportation have the flexibility to determine the most effective process that best serves the interests of the metropolitan planning area. The FTA and FHWA encourage MPOs that serve an area designated as a TMA to amend their metropolitan planning agreements in cooperation with providers of public transportation and the State to include the cooperative process they have developed to select representatives of providers of public transportation for inclusion on the MPO board. The Metropolitan Transportation Planning rule at 23 CFR 450.314 provides for metropolitan planning agreements in which MPOs, States, and providers of public transportation cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process. Alternatively, an MPO should formally adopt the cooperative selection process through a board resolution or other documentation.

[15] Cooperation means that ''the parties involved in carrying out the transportation planning and programming processes work together to achieve a common goal or objective.'' 23 CFR 450.104.

[16] 23 U.S.C. 134(d)(2); 49 U.S.C. 5303(d)(2).

Role of a Representative of Providers of Public Transportation

A representative of providers of public transportation should consider the needs of all eligible public transportation providers that provide service in the metropolitan planning area. In exercising this responsibility, the representative should have equal decisionmaking rights and authorities as the other members that are on the policy board of an MPO that serves a TMA. An MPO serving a TMA should formally establish through a board resolution the role and responsibilities of a representative of providers of public transportation, including, at a minimum, that the transit representative should (1) consider the needs of all eligible providers of public transportation in the metropolitan planning area and to address those issues that are relevant to the responsibilities of the MPO, and (2) have equal decisionmaking rights and authorities as the other members that are on the policy board of an MPO that serves a TMA.

To the extent that an MPO has bylaws, the MPO should, in consultation with transit providers in the TMA, develop bylaws that describe the establishment, roles, and responsibilities of transit representatives. These bylaws should explain the process by which the public transportation representative will identify transit-related issues for consideration by the MPO policy board and verify that transit priorities are considered in planning products to be adopted by the MPO. In TMAs with multiple providers of public transportation, the bylaws also should outline how representatives will consider the needs of all eligible providers of public transportation and address issues that are relevant to the responsibilities of the MPO.

Restructuring MPOs To Include Representation by Providers of Public Transportation

Title 23 U.S.C. 134(d)(5)(B) and 49 U.S.C. 5303(d)(5)(B) provide that an MPO may be restructured to meet the law's representation requirements without having to secure the agreement of the Governor and units of general purpose government as part of a redesignation.

There are multiple providers of public transportation within most TMAs. An MPO that serves an area designated as a TMA that has multiple providers of public transportation may need to cooperate with the eligible providers to determine how the MPO will meet the requirement to include representation by providers of public transportation. There are various approaches to meeting this requirement. For example, an MPO may allocate a single board position to eligible providers of public transportation collectively, providing that one representative of providers of public transportation must be agreed upon through a cooperative process. The requirement for representation might also be met by rotating the board position among all eligible providers or by providing all eligible providers with proportional representation. However the representation is ultimately designated, the MPO should formally adopt the revised structure through a board resolution, bylaws, a metropolitan planning agreement, or other documentation, as appropriate.

Apart from the requirement for representation on the MPO's policy board, an MPO also may allow for transit representation on policy or technical committees. Eligible providers of public transportation that do not participate on the MPO's policy board may hold positions on advisory or technical committees.

The FHWA and FTA encourage MPOs, States, local stakeholders, and providers of public transportation to take this opportunity to determine the most effective governance and institutional arrangements to best serve the interests of the metropolitan planning area.

Issued on: May 21, 2014.

Therese McMillan,

Deputy Administrator, Federal Transit Administration.

Gregory G. Nadeau,

Deputy Administrator, Federal Highway Administration.

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BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 9662]

RIN 1545–BJ31

Designation of Payor To Perform Acts Required of an Employer; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 9662) that were published in the **Federal Register** on Monday, March 31, 2014 (79 FR 17860) relating to section 3504 of the Internal Revenue Code (Code) providing circumstances under which a person (payor) is designated to perform the acts required of an employer and is liable for employment taxes with respect to wages or compensation paid by the payor to individuals performing services for the payor's client pursuant to a service agreement between the payor and the client.

DATES: This correction is effective on June 2, 2014, and is applicable March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Jeanne Royal Singley at (202) 317–6798 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject of this document are under section 3504 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9662) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, 26 CFR part 31 is corrected by making the following correcting amendments:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT THE SOURCE

■ **Paragraph 1.** The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 31.3504–2 [Corrected]

■ **Par. 2.** In § 31.3504–2, paragraph (e)(9) *Example 9.* the language ''Corporation U'' is removed and the language ''Corporation V'' is added in its place.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

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