

Possible Changes to TIP Amendment Procedures as per FHWA Guidance

NYSDOT Region 1 recently made CDTC staff aware of guidance from FHWA regarding TIP revisions that could affect CDTC's process with respect to public comment requirements. The attached letter to NYMTC, jointly authored by FHWA and FTA, points out that all changes to an approved TIP should not be treated the same, that a distinction should be made between "administrative modification" and "amendment". According to USDOT, an administrative modification is a revision that does not require public review and comment, re-demonstration of fiscal constraint or a conformity determination, whereas an amendment is a revision that requires all of these actions. These terms are defined in the attached letter.

While not defined as "administrative modifications" or "amendments", CDTC's TIP procedures do explicitly make a distinction between major and minor amendments by virtue of requiring Policy Board or Planning Committee approval (see attached Table 6 which describes CDTC's guidelines for TIP changes). In general, actions that require Policy Board approval (and could offer us a 30-day lead time for comment between Planning and Policy action) fit the USDOT definition of "amendments". All of the other actions -- at the discretion of NYSDOT or CDTA or through action by the Planning Committee -- may possibly fit the definition for "administrative modification". Therefore, it is possible that CDTC may only need to shift final approval of one or two actions from the Planning Committee to the Policy Board level (such as approval of significant scope changes) to conform to this guidance.

In evaluating the CDTC guidelines against this new information, CDTC staff has two major points of confusion. One point is that a different message is contained in the list of cases shown in the letter and federal rules. If all of these items, regardless of scale, constitute amendments, then there are very few items in CDTC's *Guidelines for TIP Changes* that could be considered "administrative modifications". The other point of confusion is that apart from conformity determination, it is unclear if the definition of the type of revision determines the term ("amendment" or "administrative modification") or if the term determines the definition and accompanying actions by the MPO and Region.

CDTC staff will work with FHWA to clarify the issues raised in the letter. Pending clarification from FHWA, the greatest possibility for the guidance affecting CDTC would be a requirement for 30-day public review of amendments. When these details are understood, CDTC staff will report back to the Planning Committee with all relevant information, particularly, with how the guidance affects CDTC's amendment procedures.