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Executive Director

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U.S. Department of Transportation
Docket Operations
M-30, West Building Ground Floor, Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590

RE: Notice of Proposed Rule Making Contained in Docket No. FHWA-2013-0053: National Performance Management Measures; Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program

The New York Metropolitan Transportation Council (NYMTC) and its member agencies have reviewed the Notice of Proposed Rule Making (NPRM) contained in above-mentioned docket regarding Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program. NYMTC's detailed comments and responses to specific questions raised in the NPRM are attached.

First and foremost, we are concerned about the lack of certainty around how much funding will be available for New York State and the NYMTC region in the next federal transportation authorization bill. In order to set realistic and achievable performance targets, we need to know how much funding will be available for New York State and the NYMTC region over the next five years. Without an increase in federal funding to cover the added costs of implementing all aspects of this NPRM, we predict that the condition of our nation's, state's, and region's infrastructure will continue to deteriorate. Assuming funding for pavement and bridge preservation remains flat or declines (consistent with recent trends), implementation of this NPRM as drafted is likely to result in several undesirable and unintended outcomes. Among these are a potential shift back to "worst first" preservation strategies (due to the emphasis of the performance measures and penalties on bridge deck area on structurally deficient bridges and NHS pavement in poor condition), an emphasis on the NHS at the expense of locally-maintained elements of the federal-aid system, and publication of performance targets and reports that reflect these declining conditions in terms of a limited set of measures on a subset of the state's and region's transportation network (as opposed to a broader set of measures for the full network).

NYMTC generally supports the principles FHWA used in the development of proposed regulations for national performance measures under 23 U.S.C. 150(c), as listed on page 334 of Federal Register Vol. 80, No.2. In particular, NYMTC recommends that FHWA allow for flexibility in the interpretation and implementation of the rules to the maximum extent feasible. Many of

the attached comments provide specific recommendations regarding how flexibility in interpreting and applying performance management provisions in a major metropolitan region as complex as NYMTC would help reduce the costs and burdens associated with effectively implementing these proposed rules.

NYMTC also encourages FHWA and FTA to ensure that implementation of performance management requirements is focused on improved transparency and decision-making and does not become a mechanism to increase or decrease funding to states, metropolitan regions, or individual direct recipients. Failure to meet targets could be the result of conditions outside the control of an MPO, and the way in these proposed rules would weave together layers of goals, objectives, measures, and targets across agencies and jurisdictions has the potential to introduce unintended consequences.

Thank you for the opportunity to provide our input and comments. We look forward to working with USDOT in implementing the Metropolitan Transportation Planning provisions of MAP-21 when required.

Should you have any questions or seek further input from NYMTC on the information provided, please contact me at (212) 383-7236 or joel.ettinger@dot.ny.gov

Respectfully submitted,


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Attachment (1)

Comments from New York Metropolitan Transportation Council on Notice of Proposed Rule Making Contained in Docket No. FHWA-2013-0053: National Performance Management Measures; Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program

NYMTC has significant concerns about the Proposed Rule as drafted. We recognize that some of the proposed rules relate directly to statutory language, but we are providing comments on all portions of the NPRM that we feel could be improved. In summary:

- In order to set realistic and achievable targets, we need to know how much funding will be available for New York State and the NYMTC region in the next transportation authorization bill. Absent this information, we are unable to produce a fiscally-constrained and realistic forecast of the future conditions of our region's transportation infrastructure and cannot set fiscally-constrained targets that have some basis in reality. Implementation of the rule's target setting and performance reporting requirements should be delayed until FHWA and all state DOTs and MPOs have complete information, and nationally-consistent information, about the current condition and projected future condition of the nation's highways and bridges under fiscally-constrained conditions.
- Without a corresponding increase in Federal funding to cover the added costs of implementing all aspects of this NPRM, we predict that the condition of our nation's, state's, and region's infrastructure will continue to deteriorate. Assuming funding for pavement and bridge maintenance remains flat or declines (consistent with recent trends), implementation of this NPRM as drafted is likely to result in several undesirable and unintended outcomes:
 - First, orienting the minimum condition thresholds toward pavement in poor condition and structurally deficient bridges would likely have the unintended consequence of shifting our approach to asset management back to “worst first,” which is a strategy that NYSDOT, other NYMTC members, and transportation agencies nationwide have worked hard to move away from. Based on our past experience, we know a “worst first” strategy is not as effective as a broader-based, system-wide approach to asset management. While there are six measures proposed in the NPRM (four for pavement and two for bridges), the two with associated penalties (those that focus on NHS bridge deck area on structurally deficient bridges and interstate pavement in poor condition) are going to garner the most attention from decision makers and the public. If we were to refocus our programming to reach the minimum condition targets in the NPRM, it could result in a “worst first” approach. However, continuing with our current System Preservation approach, we expect that we could be subject to the penalties.

- Second, to reach minimum conditions, as defined in the current NPRM, county and local governments and authorities that maintain a significant share of the federal-aid roadway system in the NYMTC region would likely have to abandon local projects in favor of preservation projects on National Highway System (NHS) roads, unless funding is substantially increased to fund NHS maintenance. If this were to occur, it could be devastating to the regional and local components of our transportation system. System preservation on local, non-NHS roadways would suffer a major setback in the event that NHS maintenance were to become the priority of every transportation agency in the region. Given that the performance measures, targets, and associated penalties outlined in this NPRM focus on the NHS, the declining performance of non-NHS facilities will not appear in any reports, although local residents will see and feel the fallout of this approach. (We also would note that a related NPRM concerning Transportation Asset Management Plans is more broadly concerned with the entire federal-aid system, which is better than, but not as desirable as, a preservation approach that looks at the entire transportation system.)
- Third, even if the FHWA were to subject New York State to the penalties in §490.317 and §490.413, we predict that the State and the region may not be able to meet the proposed minimum level for condition for pavements on the Interstate System (§490.315), and will not be able to meet the proposed minimum level for condition for bridges on the National Highway System (NHS) as currently defined. Rather than making progress toward these targets, we would more likely see performance declining over time. While the rulemaking recognizes the possibility of targets that reflect declining conditions in the preamble (page 338, third column, second paragraph), this language is not contained in the rule itself. We recommend that specific language be included in the rule to recognize that targets may anticipate declining conditions.
- While the NPRM’s focus on Interstate and NHS assets is a function of MAP-21, this focus creates an inherent conflict with the FHWA’s stated desire for states to improve overall systemwide pavement and bridge performance. New York State has worked with FHWA to transition to a systems-level approach to asset management, considering all components of our transportation system as we set priorities for asset management funding. The proposed provisions of this NRPM would move us away from the systems level approach and toward an approach focused solely on the NHS. We need clarification from the FHWA regarding how states should set priorities given the mismatch between funding levels, national performance measures that emphasize the NHS, and a desire to improve the performance of the entire transportation system.
- The data collection requirements envisioned by this NPRM will significantly increase the financial and resource burdens to ensure compliance. In the NYMTC region, two-thirds of the centerline miles of the NHS are maintained by county or local governments in some parts of the NYMTC region. The State currently collects data on the NHS and reports the data to the FHWA via HPMS. This NPRM will require that additional pavement data be collected. The establishment of statewide targets, and possibly MPO targets, will require significant time and coordination. In addition, County and local governments may become responsible in the future for providing

data collection and reporting support to NYSDOT. As no additional resources have been provided for these purposes, this is essentially an unfunded mandate.

The remainder of our comments are organized by section corresponding to the sections of the NPRM and specific areas in which FHWA requested comments. NYMTC has specific comments on the following areas of the NPRM:

- Extent to Which Proposed Regulations for National Performance Measures Support FHWA’s Performance Management Principles
- Timing of Implementation of Performance Management Requirements Relative to Transportation Authorization
- Use of Metropolitan Planning Agreements for DOT-MPO Coordination
- Definition and Evaluation of National Performance Management Measures for Pavement and Bridges
- Data Requirements for Locally-Maintained, Non-Interstate NHS Facilities
- Minimum Condition Levels and Penalties for Not Maintaining Condition
- Assessing Significant Progress Toward Achieving the Performance Targets for National Highway Performance Program

Extent to Which Proposed Regulations for National Performance Measures Support FHWA’s Performance Management Principles

On page 334 of Federal Register Vol. 80, No. 2, FHWA lays out nine principles that were considered in the development of proposed regulations for national performance measures under 23 U.S.C. 150(c). We believe the rules as proposed are inconsistent with these principles.

- By linking financial penalties to a single nationwide target for pavement performance (focused on Interstate pavement) and a single nationwide target for bridge performance (focused on NHS bridges), FHWA actions are not consistent with the following principles:
 - “Understand that Priorities Differ”: A single national target does not acknowledge regional differences in infrastructure age, infrastructure deterioration (due to climate, use, etc.), and long-term, system-wide asset management strategies.
 - “Recognize Fiscal Constraints”: NYSDOT, NYMTC, and our partners make asset investment decisions based on fiscal constraints specific to our state and region. These targets and penalties have the effect of limiting flexibility we have for investing in assets across our systems at the state, regional, and local levels, as we deem appropriate.
 - “Provide for Flexibility”: Tying penalties to the specific measures in §490.317 and §490.413 and requiring states to focus spending on two specific components of the transportation system (Interstate pavement and NHS bridges) is the antithesis of

flexibility. NYSDOT and other NYMTC members are responsible for the entire transportation system in the region, and all approach asset management from a system-level perspective (including both NHS and non-NHS assets). These thresholds and associated penalties could lead to an exclusive focus on Interstate pavement and NHS bridges at the expense of the remainder of the system. NYMTC urges FHWA to provide for more flexibility, not less, in this process.

- We are concerned about starting the clock on the data collection and reporting requirements on October 1, 2015 given that we have no information regarding long-term funding for transportation programs. Absent funding projections, we have no defensible way to establishing targets, and we have no basis for making changes to our investment strategies. The October 1, 2015 start date for data collection and its implication for future reporting is not consistent with the principles “Phase in Requirements” and “Recognize Fiscal Constraints.”
- Proposing measures that do not consider existing infrastructure age, levels of use by people and freight, regional variations in climate and other factors that impact infrastructure performance in different ways across the country is not consistent with the principle “Consider Risk.” There is no acknowledgement in the NPRM of these and other factors outside NYSDOT’s control and outside NYMTC’s control that could affect whether regional performance targets associated with nationally-standardized measures can reasonably be met. The biggest risk, financial risk (e.g., will there be sufficient resources available to maintain our nation’s transportation assets), seems to be completely ignored by the current rulemaking process.

Timing of Implementation of Performance Management Requirements

On page 332 of Federal Register Vol. 80, No. 2, FHWA requests comment on what would be an appropriate effective date for all three final rules addressing the National Performance Management Measures. In various other places, including on page 341, FHWA proposes that the final rules would be effective “no later than October 1, 2015.” Thus, the first performance period would begin on January 1, 2016, and the biennial reporting periods and associated reports would be linked to that date.

NYMTC supports a consistent start date for all rules under the National Highway Performance Program (NHPP), but we strongly object to the proposed October 1, 2015 effective date for the data collection and reporting requirements associated with the three rules associated with the National Performance Management Measures (NPMM) for the following reasons:

- FHWA should consider the impacts on this proposed rule on states and MPOs that must adjust their planning and programming processes to the new requirements. We would request that FHWA lengthen the amount of time (number of reporting cycles) before penalties are imposed so that states and other owners and operators of the federal-aid system can make adjustments as necessary while they have the maximum amount of flexibility in the use of available funding.

- We do not have sufficient information available about current pavement conditions using the measures and data collection methods proposed in §490.309, §490.313, and §490.409. We understand the desire to adopt nationally-consistent measures, but this proposed rule underestimates the magnitude of impacts that this shift in data collection and reporting will have on state DOTs, and on the counties and local governments who may be responsible for providing data collection and reporting support to NYSDOT. While state DOTs have been involved in discussions with FHWA, AASHTO, and others regarding national standards for pavement condition reporting, county and local governments that maintain significant portions of the NHS in the NYMTC region are not prepared should it become necessary to support NYSDOT's data collection and reporting efforts. They would need a much longer transition period than is envisioned in this rule so that they can be educated about the proposed requirements and make revisions to condition assessment procedures (which often flow into contracts with third parties who actually collect pavement condition data on their behalf).
- The effective date and associated reporting requirements assume that there will be a new multi-year transportation authorization bill in place. We are not confident that there will be information on whether long-term funding for transportation programs will be available by October 1, 2015, and even if the funding is in place, whether it will be at sufficient levels to enable states and MPOs to provide the required resources needed to ensure compliance. Further, once this information is available, states and MPOs will require a significant amount of time to alter our Transportation Improvement Programs to reorient asset management spending in ways that allow us meet the requirements of this proposed rule.
- The costs to meet the requirements in this NPRM are severely underestimated in the cost-benefit analysis in the proposed rule, as we will discuss below, and thus we do not feel that it is reasonable to require publication of pavement and bridge performance data as currently proposed in the Baseline Performance Period report and subsequent Biennial Reports in the proposed timeframe.
- Furthermore, given the constraints on available data and analysis tools, we cannot predict what future conditions may be if we make reasonable assumptions regarding future revenues for (and spending on) highway and bridge maintenance. Therefore, we do not anticipate that we will be in a position to set realistic and achievable targets for highway and bridge conditions by the dates proposed in the NPRM. More information is needed regarding existing conditions of the pavement and bridge networks in the NYMTC region, in New York State, and in MPOs and States across the country in order to determine what would be realistic and achievable performance targets for each state.
- In the absence of the above information, we fear that these regulations might have unintended consequences on funding decisions and outcomes for Interstate pavement (the focus of penalties in §490.317), non-Interstate pavement, NHS bridges (the focus of penalties in §490.413), and non-NHS bridges.

Scope of Data Collection and Evaluation of Performance Measures

Missing or invalid data should not automatically be considered Poor. There are many legitimate reasons for missing or invalid data. For example: if a roadway is under construction at the time that the collection was done and no data could be collected, the section shouldn't be considered poor. As a suggestion, either a value should be given to the section (say 60 IRI reflecting the ongoing work) or use the value from the prior collection date. Another example may be where it is not possible to get an accurate data value due to the inability to maintain a proper speed with the collection vehicle. In addition, FHWA should better define what may constitute "invalid" data, and should establish a process to flag and review this data with states before making a determination. "Invalid" data should be dealt with by appropriate coding of the electronic templates. Error messages during data entry should be provided when coding mistakes occur so that corrective actions can be taken prior to submittal to FHWA.

In addition, NYMTC requests that FHWA exclude the following pavement and bridges from the scope of the NPRM:

- Bridges and pavements that are maintained by self-financing transportation authorities, including but not limited to the New York State Thruway, Port Authority of New York and New Jersey, the Metropolitan Transportation Authority, the New York State Bridge Authority, and the Nassau County Bridge Authority. Neither NYMTC nor NYSDOT has any control or authority over the asset management practices and programming decisions at these agencies, and they do not rely on Federal funding to maintain their bridges and pavement.
- Bridges that are on the National Register of Historic Places and are not likely ever to be replaced, but may require significant ongoing maintenance.

Use of Metropolitan Planning Agreements for DOT-MPO Coordination

In §490.105 and §490.107, FHWA proposes that state DOTs and MPOs document procedures for reporting, target setting, target adjustment, and related coordination in Metropolitan Planning Agreements (MPAs). NYMTC and NYSDOT object to the use of MPAs for this purpose and would recommend that FHWA enable DOTs and MPOs maximum flexibility in establishing the coordination that is appropriate to each state and region. MPOs and states should not have to revisit the MPAs each time we make an adjustment to targets or related data collection and performance reporting procedures.

Definition and Evaluation of National Performance Management Measures for Pavement and Bridges

On page 363 of the Federal Register Vol. 80 No. 2, FHWA acknowledges that "the establishment of a measure for pavement condition poses challenges because current State DOT measure definitions and data collection approaches vary across State DOTs and local agencies and there is limited availability of consistent data at a national level." Given that FHWA is proposing new national standard definitions for what constitutes "good" "fair"

and “poor” conditions with respect to cracking, faulting, IRI, punchout, and rutting in this NPRM, NYMTC disputes the FHWA’s blanket assertion that “State DOTs currently use similar measurements and data items in their pavement management systems.” This is an oversimplification of the state of pavement management and data collection procedures among DOTs nationwide, and ignores the fact that county and local governments and other non-State-DOT transportation authorities are responsible for maintaining substantial portions of the NHS in the NYMTC region and in other regions of the U.S. (not to mention the vast majority of non-NHS roadways). The adoption of these national standards for data collection and reporting is consistent with FHWA’s principle “Ensure for Consistency,” but **NYMTC does not feel it is achievable or realistic for State DOTs, counties, local governments, and others responsible for maintaining the NHS to adjust their current data collection and reporting procedures in the time frame in which these rules and associated performance reporting requirements will take effect.**

Furthermore, the proposed rule is based on the old NBI which rates bridge conditions from 9 to 0, as in Figure 11 of the NPRM. These ratings will be superseded as of next year by new the AASHTO rating scale, 4 to 1. All states, including New York State, are adopting the new scale, and NBI will be overhauled by 2016. Thus the proposed data collection standards will be obsolete on arrival. **To ensure the relevance of the ratings, the proposed ratings should be consistent with the new AASHTO standards.**

NYMTC proposes that FHWA work with AASHTO, AMPO, and others to establish national standards for pavement condition data collection and reporting, similar to the standards in place for bridge inspection. Otherwise, the reporting of pavement condition data will be highly subjective and inconsistent from state to state.

In §490.307, FHWA proposes four measures for assessing pavement condition and in §490.407, FHWA proposes measures for assessing bridge condition. FHWA explicitly requested input on “whether the measures should reflect additional factors that could influence decision making, such as facility location, functional class, level of use, environment, or impact it may have on other aspects of transportation performance.” **NYMTC strongly encourages FHWA to incorporate some indication of the level of use into these measures** on the basis of, for example, vehicle miles traveled, person miles traveled, ton-miles traveled, average annual daily traffic, person trips, and/or freight tonnage moved. The measures would then be oriented toward the users of the passenger and freight transportation system rather than the infrastructure.

Data Requirements for Non-Interstate NHS Facilities

In §490.309, FHWA proposes that pavement performance data for the non-Interstate NHS be continuously collected in 0.1-mile increments in one direction of travel on at least a biennial frequency. Local municipalities in the NYMTC region that maintain significant portions of the federal-aid system in the region could be responsible for supporting and coordinating with NYSDOT’s future data collection efforts. FHWA’s calculation of costs associated with implementing these regulations severely underestimates the financial impact of compliance. For example, in just one county in the NYMTC region, there are 160 centerline miles of county-maintained roads, including approximately 40 centerline miles of county-maintained NHS roadways. In a dense and heavily-used transportation

network, including but not limited to the network in the NYMTC region, substantial portions of the federal-aid system may be maintained by agencies other than the state DOT.

Second, it may not be appropriate to collect data in 0.1-mile increments on local streets in heavily-urbanized areas with dense street grids. A typical 0.1 mile segment of a typical Avenue in Manhattan crosses three intersections and is subject to a 25 mph maximum speed limit. This raises at least two concerns that are not unique to Manhattan: First, road transitions due to crowns at each intersection will trigger spikes in IRI, as will street hardware. Second, red lights, stop signs, varying traffic speeds, and other street conditions may interfere with IRI calibration. It is not practical to close busy streets for routine inspections.

Minimum Condition Levels and Penalties for Not Maintaining Condition

With respect to the following sections of the proposed Rule:

- §490.315: Establishment of Minimum Level for Condition of Pavements on the Interstate System;
- §490.317: Penalties for Not Maintaining [Pavement] Condition;
- §490.411: Establishment of Minimum Level for Condition for Bridges; and
- §490.413: Penalties for Not Maintaining Bridge Condition:

As proposed, if the state is subject to the penalties envisioned in §490.317 and §490.413 (requiring additional funding for maintenance from existing sources), it could force a “worst first” approach to programming, which could jeopardize the larger transportation system. We believe a “worst first” approach is not as effective as a broader-based, system-wide approach to asset management and preservation. Measures with associated penalties are going to garner the most attention from decision makers and the public.

While NYMTC understands the intent of the FHWA in proposing nationally-consistent minimum levels of condition for pavement and bridges, **NYMTC requests that FHWA delay the establishment of a minimum condition level for pavement on the Interstate System and a minimum condition level for bridges until after the state DOTs have published their Baseline Performance Period Reports** (which could be included in the Second State Biennial Performance Report in 2018 for those states that cannot collect baseline data by 2016). At the time of this comment period, all of the stakeholders in this process, including the FHWA, state DOTs, and MPOs, do not have sufficient information to establish a minimum level for condition of pavements on the Interstate System.

Furthermore, we believe when the baseline condition data are available, it will be clear that **it is not reasonable or practical for all 50 states to be subject to the same minimum condition levels for pavement and bridges.** Similar to the establishment of targets for the national performance management measures, states should be free to set state-specific (and, potentially, region-specific) minimum condition levels in coordination with MPOs

and other stakeholders. These state-specific minimum condition levels would still enable FHWA to adhere to the performance management principles laid out on page 334 of Federal Register Vol. 80 No. 2, but would appropriately take into account:

- Geographic differences in the current age and condition of transportation infrastructure (infrastructure in New York is older than the national average and thus could be expected to be in worse condition on average, putting New York at a disadvantage with respect to national minimum condition levels and associated penalties);
- Geographic and climatic factors that contribute to varying rates of deterioration of pavement and bridges over time (roads and bridges in New York are subject to freeze-thaw cycles and are exposed to corrosive chemicals as part of winter maintenance, for example);
- Strategies, mechanisms, and funding sources for maintaining, rehabilitating, and replacing bridges and pavement that vary by operating agency (Roads and bridges in New York are maintained by a diverse array of state and local governments and transportation authorities, each of which has a unique approach to prioritizing bridge and pavement preservation and maintenance projects. Neither NYSDOT nor NYMTC has the authority to mandate changes to these bridge and pavement maintenance and preservation programs.); and
- State-specific methods of defining the extent of the National Highway System (In an urban state like New York, the NHS consists of many lane miles of high traffic volume roads and roads that are maintained by entities other than the state DOT that may not have the resources available to meet statewide targets).

Finally, **we request that FHWA provide maximum flexibility in defining minimum levels of condition, and applying any penalties.** While MAP-21 sets a minimum condition of 10 percent structurally deficient deck area for NHS bridges and requires a minimum condition for interstate pavements, the legislation does not define what is meant by “structurally deficient” bridge deck area, nor does it define the minimum threshold for interstate pavement. We would recommend that FHWA maximize flexibility and allow states to set minimum pavement condition targets that reflect specific state conditions and circumstances. Further, FHWA should define the term “structurally deficient” in a way that reflects the structural integrity of the bridge (focusing on the superstructure and substructure and de-emphasizing bridge decks which can be in poor condition while the bridge itself is still useful.) Lastly, FHWA should provide maximum flexibility in terms of when any penalties are applied, such as maximizing reporting cycles to reflect the availability of new data, and/or using the Significant Progress Determination process described in §490.107 and §490.109. This process appropriately would take into account state-specific factors and extenuating circumstances.

Assessing Significant Progress Toward Achieving the Performance Targets for National Highway Performance Program

In the proposed rule, §490.109: Assessing Significant Progress Toward Achieving the Performance Targets for National Highway Performance Program, suggests that state

DOTs will be evaluated on the basis of whether they are meeting or exceeding targets set in the Baseline Performance Period Report. **NYMTC requests that FHWA consider the possibility that some states and regions may be forced to set negative targets (e.g., targets that assume conditions will deteriorate over time) due to a lack of funding for pavement and bridge maintenance.** The text of the rule as proposed implies that every state and region will be able to improve bridge and pavement conditions year-over-year, which, unfortunately, is not the case in the current severely constrained funding environment. Additionally, given these constraints, it is not likely that states will voluntarily set “reach” targets as envisioned by FHWA.

Other Issues

- **Use of MPA vs. UZA Boundaries.** FHWA requested comments regarding whether state DOTs should be able to establish and evaluate targets for Metropolitan Planning Areas (MPAs) rather than (or in addition to) Urbanized Areas (UZAs). NYMTC recommends that state DOTs be given the flexibility to establish and evaluate targets for either MPAs or UZAs, or both, as desired. One benefit of using MPAs is the boundaries are likely to change less frequently than UZA boundaries, allowing for a longer period of time during which measures would be evaluated on a consistent basis.
- **Timing of MPO System Performance Report.** NYMTC requests clarification regarding the reporting requirements and associated timing in this Final Rule for pavement and bridge condition measures and in § 450.324 of the Final Rule for Statewide and Metropolitan Transportation Planning (which references the System Performance Report requirement). In the NPRM concerning Metropolitan Planning, FHWA proposed changes to §450.324(f) of the CFR that each MPO would be required to publish its first System Performance Report starting with the first Long Range Transportation Plan adopted after the 4-year performance target is set. We concur with this proposal, assuming that the first MPO System Performance Report would follow the publication of the first state DOT Baseline Performance Period Report and would be rooted in the same baseline information.
- **Technical Assistance.** FHWA requested comments on how states, MPOs and other stakeholders could benefit from technical assistance in the area of pavement and bridge performance. NYMTC understands that the State will be required to set statewide targets and that NYMTC may choose to set its own targets or support the statewide targets. We would anticipate working closely with NYSDOT as targets are developed, but would benefit from additional technical assistance related to the data and tools that are needed to help make informed decisions about target setting and the impacts of programming decisions on future pavement and bridge performance. For example, we are aware of the National Bridge Investment Analysis System (NBIAS), the Highway Economic Requirements System (HERS), and similar tools, but we currently do not have the staff resources or capabilities to run these tools. MPOs and local jurisdictions would benefit tremendously from access to data and decision support tools that provide information for subsets of a state transportation system, for

example all bridges in a Metropolitan Planning Area or all non-Interstate NHS pavement within a city's boundaries.

- **Outreach and Education Regarding the NHPP.** If County and local governments become responsible in the future for providing data collection and reporting support to NYSDOT for substantial portions of the NHS in the NYMTC region, FHWA will need to conduct a significant amount of outreach and education to inform these local governments about the requirements and provide technical assistance as data collection procedures are implemented as proposed by this NPRM and other NPRMs associated with the NHPP. This important point is being raised because in its outreach to these agencies, NYMTC has learned that these government agencies are completely unaware of the proposed requirements across all the areas covered by the NHPP.