



U.S. Department  
of Transportation

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**Federal Transit Administration**

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Ann R. Goering  
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730 Second Avenue South  
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Minneapolis, MN 55402

Dear Ms. Goering:

This letter is in response to your letter dated May 8, 2015, which claims there were significant inaccuracies in the 2012 Transportation Management Area (TMA) certification review report pertaining to the Metropolitan Planning Organization (MPO) designation of the Metropolitan Council (Council) for the Minneapolis-St. Paul Metropolitan Area. You assert that the 2012 Report erroneously concluded that the Council's Advisory Board is part of the Twin Cities MPO. Additionally, you assert that Council is not in compliance with 23 U.S.C. §134, requiring that the MPO be redesignated.

The wording used in the last TMA certification review, describing the MPO as the Council and the Transportation Advisory Board (TAB), was inaccurate. The TMA certification review report section covering the MPO designation will be changed to more accurately describe the designation and responsibilities in the next certification review.

The Council is the designated MPO for the Twin Cities Region, and the Council officials are responsible for carrying out the metropolitan transportation planning process [MN Statute 473.146 subd. 4(a)]. The TAB is an advisory body to the Council [MN Statute 473.146 subd. 4(b)]. The TAB is not designated as the MPO, and its membership is not consistent with 23 U.S.C. 134(d)(2).

That said, the Council is the properly designated MPO, in compliance with 23 U.S.C. §134. The limitation on statutory construction, known as the grandfathering exemption, continues to apply to the Council. Specifically, 23 U.S.C. §134 states in relevant part:

- (3) Limitation on statutory construction.-Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities-
  - (A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and
  - (B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

- (4) Continuing designation.-A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

*See* 23 U.S.C. 134(d)(3) & (4).

The Minnesota State Law, that provided the Council with multimodal transportation responsibilities, was in effect on December 18, 1991. The exemption from the MPO structural requirements contained in 23 U.S.C. 134(d)(2) has been continued in law under 23 U.S.C. 134(d)(4) until such time as the MPO is redesignated.

While the Council has been altered by State Statute a few times over the years, the changes were not 'substantial' so as to require a redesignation. 23 C.F.R. 450.310(k) sets forth those instances when redesignation of a MPO would be required. It states:

Redesignation of an MPO (in accordance with the provisions of this section) is required whenever the existing MPO proposes to make:

- (1) A substantial change in the proportion of voting members on the existing MPO representing the largest incorporated city, other units of general purpose local government served by the MPO, and the State(s); or
- (2) A substantial change in the decision making authority or responsibility of the MPO, or in decision making procedures established under MPO by-laws.

23 C.F.R. 450.310(l) sets forth those instances when redesignation of a MPO would **not** be required. It states:

The following changes to an MPO do not require a redesignation (as long as they do not trigger a substantial change as described in paragraph (k) of the section):

- (1) The identification of a new urbanized area (as determined by the Bureau of the Census) within an existing metropolitan planning area;
- (2) Adding members to the MPO that represent new units of general purpose local government resulting from expansion of the metropolitan planning area;
- (3) Adding members to satisfy the specific membership requirements for an MPO that serves a TMA; or
- (4) Periodic rotation of members representing units of general-purpose local government, as established under MPO by-laws.

While you claim the Council has changed over the years, requiring redesignation, a review of those changes does not support your position. Specifically:

- The Council became a public corporation and political subdivision of the state. This change does not result in a substantial change to the proportion of voting members or decision-making authority [23 C.F.R. 450.310(k)].

- The appointment terms of the Council members was changed, but the proportion of voting members was sustained [23 C.F.R. 450.310(k)(1)]. Changes related to the periodic rotation of the members does not require redesignation [23 C.F.R. 450.310(l)(4)].
- The Council became able to manage the grant funding without depositing the money into the State Treasury. This change does not result in a substantial change to the proportion of voting members or decision-making authority [23 C.F.R. 450.310(k)].
- The Council membership districts were altered to represent the population changes from the census. This change does not result in a substantial change to the proportion of voting members [23 C.F.R. 450.310(k)(1)], and changes to the urbanized area within the metropolitan planning area do not require redesignation [23 C.F.R. 450.310(l)(1)].
- The Twin Cities urbanized area now extends into Wisconsin (St. Croix County) and two 2 MN counties (Wright and Sherburne) outside of the designated seven (7) counties. The Council can rebalance its representation because of the expansion of the urbanized area, and the rebalancing does not require redesignation [23 C.F.R. 450.310(l)(2)].

The Council may restructure, at any time, to meet the requirements of 23 U.S.C. 134(d)(2) for the policy board to be comprised of local elected officials; officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and appropriate State officials without redesignation [23 U.S.C. 134(d)(5)(B)]. While we would encourage the Council to move toward the structure described in 23 U.S.C. 134(d)(2) in order to make the MPO more directly accountable to its public, it remains their decision, because restructuring is not required until a substantial change necessitates redesignation.

FHWA and FTA have concluded the 1973 designation of the Council as the MPO for the Twin Cities by then Governor Anderson was in conformance with both the Federal law and regulations and that the existing structure remains compliant. If you have any questions or would like to discuss the matter further, please feel free to contact our offices.

Sincerely,



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Division Administrator  
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Cc: Adam Duinick, Metropolitan Council  
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