



Martha's Vineyard Public Participation Plan (PPP)



**DRAFT PPP Public Comment Period (minimum of 45 days)
February 17, 2016 to April 5, 2016**

Comments are welcome; please comment to MVC / JTC at 33 New
York Avenue, Oak Bluffs, MA 02557
or email to Leclerc@mvcommission.org

Draft PPP, February 2016

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1. Purpose of the Public Participation Plan

The purpose of this Martha's Vineyard Public Participation Plan (PPP) is to provide information for the public on the transportation planning process for Dukes County and how one may participate. Dukes County includes both Martha's Vineyard, which contains the towns of Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury, and West Tisbury, and the Elizabeth Islands that comprises the Town of Gosnold.

Why participate?

It is an opportunity to have input into island, state and federal decision-making through the local level discussions and votes on the documents required under federal legislation for the transportation planning process. As residents or visitors in and around the area, whether walking, bicycling, in a car, bus, or boat, one experiences various aspects of the transportation system. Transportation planning includes a review of the system use, issues, and potential solutions, however, user input brings up ideas and issues for consideration. The system improves with input from its users—our public, albeit at times progress seems slow mostly due to associated design and improvement costs and the time it takes to implement solutions. Public support may also assist in moving a local solution forward within the available limited financial resources.

The PPP attempts to engage the public, towns, and stakeholders in transportation planning, to provide an overview of the area, the federally supported transportation planning process main documents and meetings, and the federal and state requirements in the Appendix. Comments are welcome at any time and should be directed to the Martha's Vineyard Commission, Priscilla Leclerc, Senior Transportation Planner, at 33 New York Avenue, Oak Bluffs, MA 02557; email: leclerc@mvcommission.org, telephone: 508-693-3453.

2. Overview of the Transportation Planning Area

Although neither the Island of Martha's Vineyard nor Dukes County technically qualify as an urbanized metropolitan area under federal definitions as a federal designated Metropolitan Planning Organization (MPO), the Commonwealth of Massachusetts initiated comprehensive planning areas for all parts of the state back in the 1970's, and now considers each regional planning agency as an MPO, whether the federal minimum population of 50,000 residents is met or not. The Martha's Vineyard Commission receives federal and state funding under contract with MassDOT for transportation planning on the eleven islands of Dukes County: Martha's Vineyard Island and the Elizabeth Islands. This gives people in all areas of the state the ability to participate locally in the transportation planning process.

Most of the people in Dukes County reside on Martha's Vineyard, with the towns of Oak Bluffs and Edgartown respectively with the most population, and together comprising 52% of the County population. By contrast only 7.6% of the total County population lives in Chilmark, Aquinnah, and Gosnold combined. The Towns of Tisbury and West Tisbury

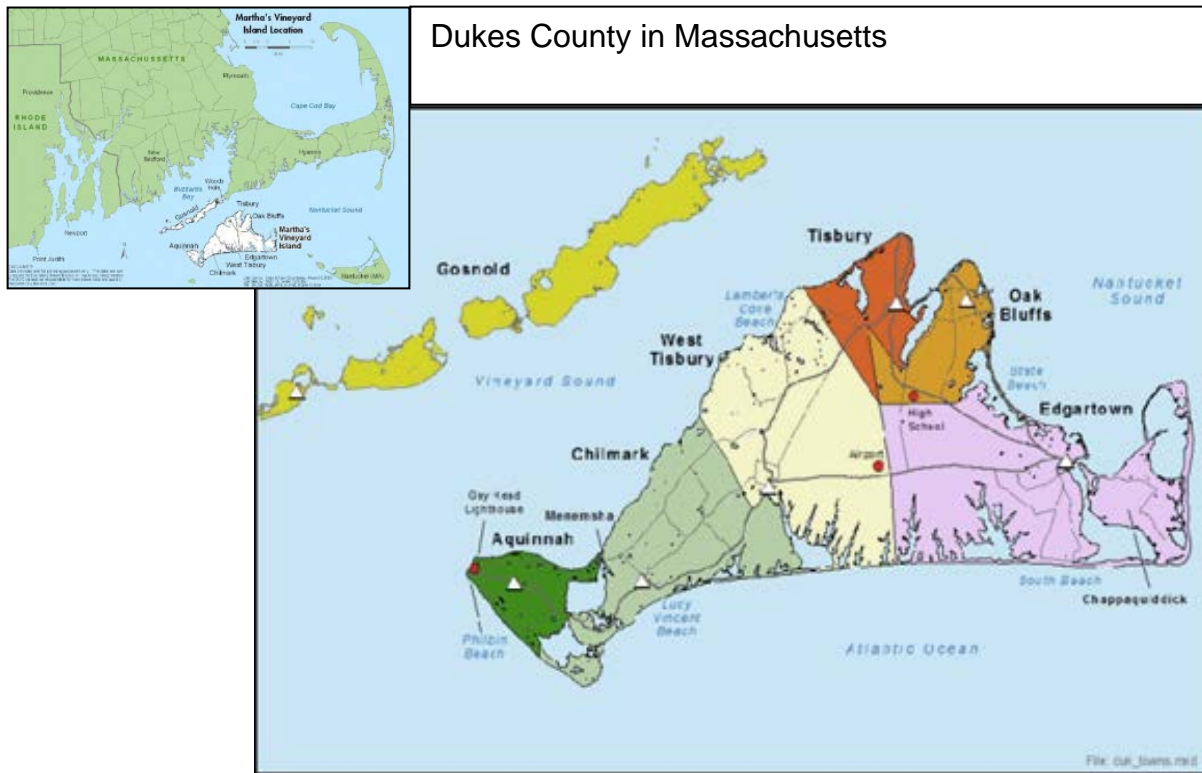
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come in third and fourth in total population within Dukes County. The Towns with the most growth from 2000 to 2010 were Oak Bluffs at 22% followed by West Tisbury with 11% growth. Housing units are more than the population number according to the 2010 United States Census of Population [17,188 total housing units; total population 16,535], however, most of the units are vacant in the off-season while in the summer housing is difficult to find as visitors and seasonal workers add to the demand.

Martha's Vineyard is an island with six towns, year-round transit service, two ferry ports with year-round ferry service at Vineyard Haven, Tisbury, and a main airport with scheduled commercial flights. The public road network comprises about 177 miles of paved surface roads and about 37 miles of Shared Use Paths. There are many gravel or dirt roadways connecting rural areas to the main roadways. The Martha's Vineyard Transit Authority (VTA) operates twelve fixed route bus services year round, and coordinates with partners on additional transit services for medical appointments on island, and extending off-island to Boston.

Islanders in general may use various modes for trips, and many visitors arrive on the island without a vehicle. The Vineyard Transit Authority (VTA) fixed route bus services carried 1.3 million passengers in Fiscal Year 2015, and VTA services cover much of the island year round.



The ten Elizabeth islands in Dukes County have one Town—the Town of Gosnold. Gosnold is accessed by year-round ferry service between New Bedford and Cuttyhunk Island which runs daily in season and twice per week in the off season. During the off-



season, from mid-October to mid-April, the Cuttyhunk Ferry has one trip each on Mondays and Fridays only between the island and New Bedford. In season the ferry runs daily and may run more than one trip on weekends and holidays. Most of the residents and visitors get around the island by walking or on golf carts. There is also a heliport on the island. In season, Charter boats may be hired to run from Menemsha to Cuttyhunk.

3. Metropolitan Planning Organization (MPO); What is it and Who votes

An MPO is a regional transportation planning organization leading a partnership consisting of representatives from local government, regional transit operators, and state transportation agencies. Federal legislation passed in the early 1970s required the formation of an MPO for any urbanized area with a population greater than 50,000. The Commonwealth of Massachusetts also designated rural areas with smaller populations as MPOs for planning purposes to encourage local input across the state. MPOs were created to ensure that existing and future expenditures for transportation projects and programs were based on a “3-C planning process”:

- Continuing – Planning must be maintained as an ongoing activity and should address both short-term needs and the long-term vision for the region;
- Cooperative – The process must involve a wide variety of interested parties through a public participation process; and
- Comprehensive – The process must cover all transportation modes and be consistent with regional and local land-use and economic-development plans.

A. JTC / “MPO” Meetings and Who Votes

Each MPO across the state has a voting membership, and on Martha's Vineyard, the voting members of the Joint Transportation Committee (JTC) are the decision-makers for the ongoing process. The JTC was created in 1979, along with the official signatories of the MPO (then called the Committee of Signatories) through an agreement with MassDOT (then the Executive Office of Transportation and Construction and the Commonwealth of Massachusetts Department of Public Works). The transportation planning process and documents are also presented at the MVC meetings, and the local signatures for main document endorsement are the Chairmen of the MVC and Vineyard Transit Authority (VTA). The MassDOT signatories are the MassDOT Secretary / Chief Executive Officer and the MassDOT Highway Administrator.

The JTC voting members include: one member each from the Town of Aquinnah, Town of Chilmark, Town of Edgartown, Town of Oak Bluffs, Town of Tisbury, and Town of West Tisbury, the County, the Wampanoag Tribe of Gay Head (Aquinnah), VTA staff, and MVC staff. A list of the current JTC Members is included in the Appendix.

JTC meets on the third Wednesday of each month typically, when there is business to accomplish, and all JTC meetings are publicly noticed and open to the public. The JTC usually meets at the MVC Office, 33 New York Avenue, Oak Bluffs, MA. The JTC meeting notices are emailed and posted on the MVC website calendar.



B. Transportation Planning Process and Main Resulting Documents

The transportation planning process is an ongoing process as shown in the graphic. Data is collected on usage, physical and safety aspects as time and resources allow, vision and goals reviewed, problem area discussions, evaluations of projects and strategies are conducted, and the long range transportation plan is developed.

Three principal planning documents are developed with the JTC and public on a regular basis; these are:

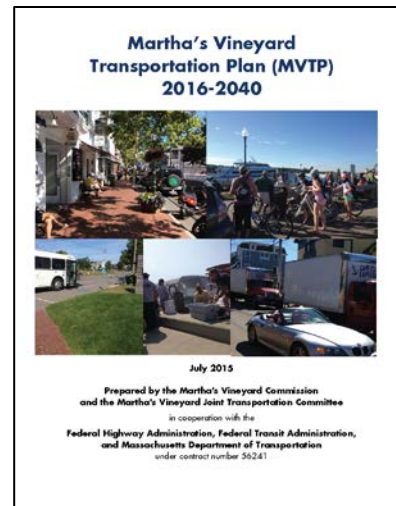
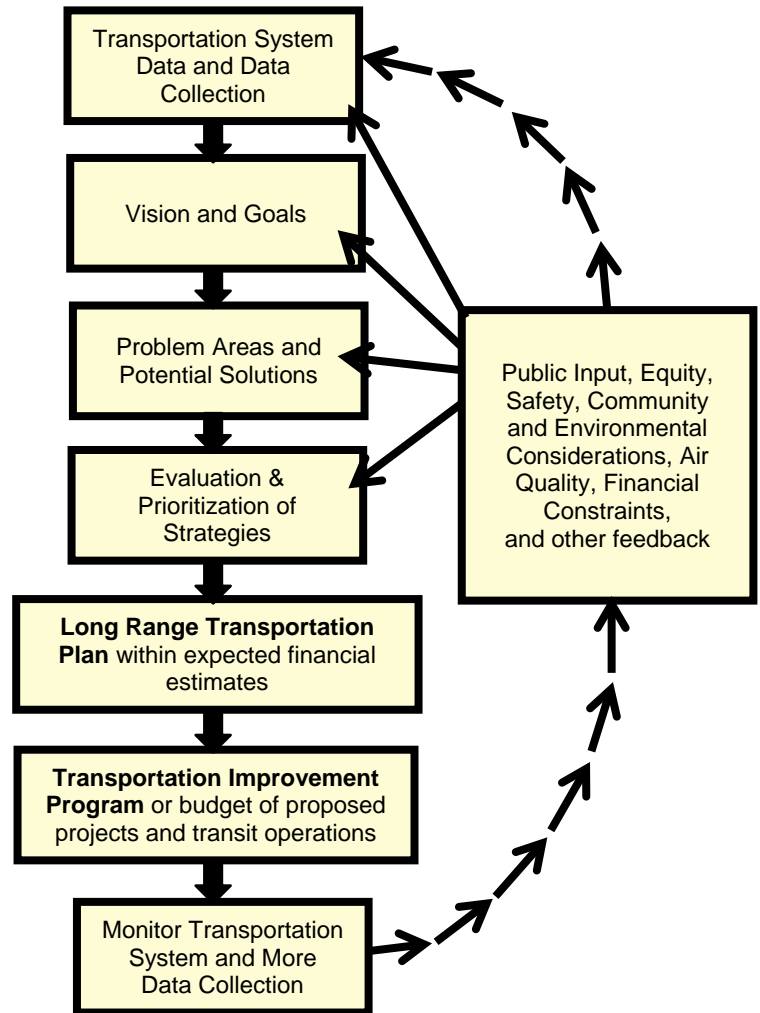
- 1) long range transportation plan
- 2) Transportation Improvement Program (TIP)
- 3) Unified Planning Work Program (UPWP)

The long range transportation plan is developed once every four years, and both the UPWP and TIP are developed every year. These three documents are required under federal law to be accomplished for the transportation planning process.

1. Long Range Transportation Plan – plan for 20 years

The long range transportation plan is the policy and visioning document of the MPO. This document results from regional and statewide collaboration and consensus on a region's transportation system and serves as the defining vision for the region. The document also contains an estimate of financial resources or budget to align estimated funding with top priority projects. The long range transportation plan also guides and shapes the actions an MPO undertakes as they fulfill the region's visions and objectives. This 20-year transportation plan is developed every four years by the MPO, and the latest version was endorsed in July 2015: **Martha's Vineyard Transportation Plan for Federal Fiscal Years 2016-2040.**

Transportation Planning Process





2. The Transportation Improvement Program (TIP)

The TIP is an opportunity to implement improvements to the transportation system and to keep ongoing operations funded.

The TIP is a program of transportation projects, capital improvements, or operations that are eligible for federal surface transportation funds or state funding that are estimated to be available for Martha's Vineyard transportation system. The TIP covers four or five years of transportation system operations and improvements for transit, roadway, or bicycle-pedestrian projects within estimated highway and transit funds. Transit funds from the TIP include a portion of operating funds and capital purchases, e.g. purchase of a new bus. "Highway" projects, where 80% of the funding is from the United States Department of Transportation (USDOT) Federal Highway Administration (FHWA) may include construction / reconstruction of a pedestrian, bicycle, or roadway facility; highway funds may also be transferred to transit use, e.g., to buy a bus.

The TIP document is for programming what will be done within potentially available financial resources. The TIP criteria are used to select and prioritize projects includes the following:

- Promote greater roadway, bicycle and pedestrian safety.
- Favor the use of alternative modes of transportation, other than the private automobile.
- Reduce traffic congestion with physical improvements, particularly at the most problematic locations.
- Respect and reinforce the scenic, historic, and natural values of the Vineyard.
- Preserve existing infrastructure.

Design of individual TIP projects is a separate process typically directed and paid for by the project proponent. MassDOT reviews the project design plans and holds a formal 25% design level public hearing in the Town of the project location.

First year TIP projects need to be "ready to go" in the next federal fiscal year beginning on October 1, and then these first year projects are able to move forward. For example, a roadway project must be 100% designed, submitted to and reviewed by MassDOT, all permits in place and ready to advertise for construction. The projects in the TIP are aligned by TIP year with potential funding, however, no funds are obligated for a project until the project is advertised by MassDOT for construction. If a project is listed in the first year and then is not ready to advertise, Martha's Vineyard may lose the funds that were estimated for the region that year.

The TIP is prepared annually in Massachusetts, and is required to be updated once every four years by federal law.

3. The Unified Planning Work Program (UPWP)

The UPWP is prepared each year and includes the planning tasks to be performed by MVC staff and others performing transportation planning in the area over the next Federal Fiscal Year. The UPWP allows for continued 80% federal and 20% state matching funds



for planning, data collection, collaboration with towns, other regions, state, and federal partners. Additional funding for transportation planning may be spent by the VTA, SSA, MassDOT or others for transportation planning in the region, and should also be listed in the local UPWP for public information. The UPWP includes any major planning studies or programs to be undertaken in the region, as required in federal law.

4. Public Participation Goals

The following public participation goals that MVC staff and others working in the region on transportation planning, projects, and initiatives shall incorporate are:

1) Obtain Quality Input and Participation

All comments are welcome. MVC should encourage the public to participate in plan and project related discussions, recognizing that people who take the time to participate feel it is worth the effort to join the discussion and provide feedback. Comments received by MVC will be reviewed and evaluated to the extent they can be useful, relevant, and constructive, and contribute to better plans, projects, programs, and decisions.

2) Establish Communications

MVC strives to communicate regularly and develop trust and partnerships with the public, communities, stakeholders, and state and federal partners, while helping build capacity to provide the public opportunities to provide input.

3) Ensure Accessibility

Every effort should be made to ensure that participation opportunities are physically, geographically, linguistically, and culturally accessible. Anyone that requires assistance to be able to access information and/or participate in transportation planning efforts should contact the MVC.

4) Provide Information Online

Every effort should be made to provide current information online related to the transportation planning process, including the latest certification documents and meeting notices.

5. Public Participation Procedures

Transportation decision-making and planning processes have requirements in federal and state legislation and follow these procedures, which includes providing the public with opportunities to participate in the decision-making process. This PPP intends to comply with applicable federal and state requirements, and will be reviewed periodically for any necessary changes and updates.

MVC encourages participation and makes an effort to have an open public planning process.



A. Public Notice and Location of Meetings

Public notice of Joint Transportation Committee (JTC) meetings day, date, time, and location for the calendar year is made in the late fall of the previous year. It is posted and may be adjusted at times as necessary. Specific meeting agendas are sent out about one week prior to the meeting date. The JTC meeting agendas are emailed to the JTC members, Towns, Martha's Vineyard Transit Authority (VTA), Steamship Authority, Dukes County and Dukes County Airport, MassDOT, the Bicycle Pedestrian Advisory Committee, and Other Interested Parties – and anyone who would like an agenda by email.

Most of the transportation related meetings are held at the MVC Office first floor conference room, which is an accessible location.

1. MVC Website

The MVC Website calendar includes the meetings and agendas as public notice. The MVC Website has basic transportation information and the main transportation documents in Adobe Acrobat format.

2. Meeting Types

Joint Transportation Committee (JTC) Meetings

MVC meetings on transportation are typically the open publicly held Joint Transportation Committee (JTC) meetings to present information to the members and all others present and discuss certification document developments, problem areas, issues, or projects. Anyone is welcome to speak, and members vote approvals and recommendations.

Workshops, Public Meetings, or Open Houses

Workshops, Public meetings, and Open Houses are held to present information to the public and obtain input. Meetings provide a time and place for face-to-face contact and two-way communication between the public and the MVC staff. These are typically less formal than the JTC meetings because there is not committee business but rather more of an open time to brainstorm, collaborate, or just find out what is going on lately in transportation planning. Sometimes the MVC conducts a quick survey during these open meetings on a specific topic to gain direction from community members present.

Public Hearings

A public hearing is more formal than a public meeting. The public hearing is an opportunity for members of the public to state their name and make recorded statements of their views during project decision-making. MassDOT holds a public hearing at the 25% design level of a TIP project, and this is an opportunity for the public to comment on the proposed design prior to the completed design, permitting, and construction process.

Other Meetings

MVC staff are also available to attend and present information to people at local meetings, and have presented information to the All Island Selectmen, the All Island Planning Boards, along with other local workgroups and town committees. MVC staff also meet with

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Town staff and others to discuss programs and projects or provide local information or assistance.

Project Workgroup Meetings

For a major project in the region, it is sometimes desirable to form a workgroup of stakeholders with the Town and MVC included to discuss and comment on a specific project design during its development and continue during construction, as necessary. This has been successful with the Lagoon Pond Drawbridge Committee and is expected to continue to facilitate communications during major project design and construction. The Towns were able to be kept abreast of progress, delays, adjustments, issues, and the need to inform the public when the drawbridge would be unable to open for the approximately six month period.

B. Public Comments Welcome Anytime

The public is welcome to comment on the transportation system or its components at any time. Email is the best way to comment, and it is helpful if your comments are stated in one page or less; comments on transportation may be sent anytime via email to leclerc@mvcommission.org.

C. Public Notice for Comments on Draft Documents

Public notice of the availability of the draft main documents is sent via email to the local members participating on the local transportation committees, the Joint Transportation Committee (JTC), the Bicycle Pedestrian Advisory Committee, Towns, Wampanoag Tribe of Gay Head (Aquinnah), Dukes County, Dukes County Airport, Steamship Authority, MassDOT, and all others that have requested to be on the email list for transportation information.

As described in Section 3 under the transportation planning process, the three main documents regularly developed locally are:

- the Martha's Vineyard Transportation Plan (**MVTP**) or long range plan,
- the Transportation Improvement Program (**TIP**), and,
- the Unified Planning Work Program (**UPWP**)

Draft documents are released by a vote of the Joint Transportation Committee, and a minimum comment period of thirty (30) days follows the vote to release for public comment.

The Draft documents are made available online and hard copies may be requested, but there will be a cost to produce.

This Public Participation Plan (PPP) is required to have a minimum of 45 days for public comment from release of a draft document by the JTC. With no major comments in the public comment period, the document will become final.



6. Appendix

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A. List of MPO Signatories, JTC Members, and MVC Staff

Martha's Vineyard Metropolitan Planning Organization (MPO) Signatories

Stephanie Pollack	Secretary of Transportation, MassDOT
Thomas Tinlin	Highway Administrator, MassDOT
James Vercruysse	Chairman, Martha's Vineyard Commission (MVC)
Alice Butler	Chairman, Vineyard Transit Authority (VTA)

Martha's Vineyard Joint Transportation Committee (JTC)

JTC Voting Members

Adam Wilson	Town of Aquinnah
(vacant)	Town of Chilmark
Stuart Fuller	Town of Edgartown
Richard Combra, Jr.	Town of Oak Bluffs
John Grande	Town of Tisbury
Jennifer Rand	Town of West Tisbury
Leon Brathwaite	County of Dukes County
Durwood Vanderhoop	Wampanoag Tribe of Gay Head/Aquinnah
Adam Turner or appointee	Martha's Vineyard Commission (MVC)
Angela Grant	Vineyard Transit Authority (VTA)

JTC Ex-Officio Members (Non-Voting)

Gabriel Sherman	MassDOT
Pamela S. Stephenson	Federal Highway Administration
Mary Beth Mello	Federal Transit Administration
Bridget Tobin	Steamship Authority
David Whitmon	Oak Bluffs (Bicycle and Pedestrian)
(vacant)	Martha's Vineyard Airport
Pamela Haznar, P.E.	MassDOT District 5
Timothy Kochan	MassDOT District 5
Priscilla Leclerc	Martha's Vineyard Commission
William Venno	Martha's Vineyard Commission

Staff of the Martha's Vineyard Commission

Adam Turner	Executive Director
Curt Schroeder	Administrator
William Venno, AICP	Senior Planner
Priscilla Leclerc	Senior Transportation Planner
Chris Seidel	GIS Coordinator
Paul Foley, AICP	DRI Analyst/Planner
Sheri Caseau	Water Resources Planner
Christine Flynn	Economic and Affordable Housing Planner
Jo-Ann Taylor	Coastal Planner
Donna Stewart	Administrative Assistant

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B. Federal Highway Administration Public Involvement Statute, Regulation and Executive Orders

Public Involvement

Statute, Regulation and Executive Orders

Statute, Regulations, and Executive Orders

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Introduction

Developing an effective public involvement/participation plan involves the identification of techniques designed to meet the needs of a given situation relating to the development of a transportation plan, program, project, or the need for public input regarding the operation and management of a transportation facility. Current Federal statutes and regulations provide general guidelines for public involvement processes and procedures. There is great flexibility available to transportation agencies in developing specific public involvement/participation plans. However, while the set of techniques for any given situation may differ depending upon such factors as demographics and identified potential impacts, the general approach to developing a public involvement/participation plan contains element that are relevant and responsive to all communities. This information is provided to help practitioners identify legal requirements related to engaging the public that were created to protect and promote good practices. Phrases are provided from statute,

regulation, and executive orders relating to different aspects of engaging the public. To understand the broader context of those requirements, we encourage you to refer to the complete statute, regulation, or executive order.

Accessible locations and activities

Americans with Disabilities Act (ADA), Title II, Subpart D-Program Accessibility §35.149
Discrimination prohibited

"Except as otherwise provided in §35.150, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity."¹ ²

Rehabilitation Act of 1973, Section 504 provides: "No otherwise qualified individual with a disability in the United States, as defined in section 7(20) shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."

Air Quality Conformity

"Public consultation procedures. Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with these requirements and those of 23 CFR 450.316(a)." 40 C.F.R. Part 93.105(e)

Early and Continuous Opportunities

Establish early and continuous public involvement opportunities... 23 CFR 450.210 (a)(1) (viii)&(ix) and 450.316 (a)(1)(vii)

Early coordination, public involvement, and project development.

"Early coordination with appropriate agencies and the public aids in determining the type of environmental review documents an action requires, the scope of the document, the level of analysis, and related environmental requirements. This involves the exchange of information from the inception of a proposal for action to preparation of the environmental review documents." 23 CFR 771.111(a)(1)

Early and continuing

"For the Federal-aid highway program: (1) Each State must have procedures approved by the FHWA to carry out a public involvement/public hearing program pursuant to 23 U.S.C. 128 and 139 and CEQ regulation. (2) State public involvement/public hearing procedures must provide for:

- i. Coordination of public involvement activities and public hearings with the entire NEPA process.
- ii. Early and continuing opportunities during project development for the public to be involved in the identification of social, economic, and environmental impacts, as well as impacts associated with relocation of individuals, groups, or institutions.
- iii. One or more public hearings or the opportunity for hearing(s) to be held by the State highway agency at a convenient time and place for any Federal-aid project which requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect, or for which the FHWA determines that a public hearing is in the public interest.
- iv. Reasonable notice to the public of either a public hearing or the opportunity for a public hearing. Such notice will indicate the availability of explanatory information. The notice shall also provide information required to comply with public involvement requirements of other laws, Executive orders, and regulations.
- v. Explanation at the public hearing of the following information, as appropriate:
 - A. The project's purpose, need, and consistency with the goals and objectives of any local urban planning,
 - B. The project's alternatives, and major design features,
 - C. The social, economic, environmental, and other impacts of the project,
 - D. The relocation assistance program and the right-of-way acquisition process.
 - E. The State highway agency's procedures for receiving both oral and written statements from the public.
- vi. Submission to the FHWA of a transcript of each public hearing and a certification that a required hearing or hearing opportunity was offered. The transcript will be accompanied by copies of all written statements from the public, both submitted at the public hearing or during an announced period after the public hearing.
- vii. An opportunity for public involvement in defining the purpose and need and the range of alternatives, for any action subject to the project development procedures in 23 U.S.C. 139.
- viii. Public notice and an opportunity for public review and comment on a Section 4(f) de minimis impact finding, in accordance with 49 U.S.C. 303 (d)." 23 CFR 771.111 (h)

Electronically provided information

"Make public information available in electronically accessible format and means, such as the World Wide Web..." 23 CFR 450.210 and 450.316

Electronically provided information (Federal Agencies)

Rehabilitation Act of 1973, Section 508 establishes requirements for electronic and information technology developed, maintained, procured, or used by the Federal government. Section 508 requires Federal electronic and information technology to be accessible to people with disabilities, including employees and members of the public.³

Section 508 of the Rehabilitation Act of 1973, as amended 29 U.S.C. §794 (d) Electronic and information technology (a) Requirements for Federal departments and agencies

"(1) Accessibility

- A. Development, procurement, maintenance, or use of electronic and information technology
- B. When developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency, including the United States Postal Service, shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology --
 - i. individuals with disabilities who are Federal employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and
 - ii. individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities."

Interested Parties

"Providing citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the transportation planning process." 23 CFR 450.210(a) and 450.316(a)

Limited-English-Proficiency

"...to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP)"

(Goals) "...The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency." Limited-English-Proficiency, Executive Order #13166⁴

FHWA has made our Recipients and Sub-Recipients responsible for satisfying the requirements of LEP. Recipients and Sub-Recipients are responsible for satisfying the LEP requirements, including conducting a Four-Factor Analysis and developing a Language Access Plan.

"The United States Department of Transportation (DOT) is publishing guidance concerning services and policies by recipients of Federal financial assistance from the Department of Transportation related to persons with limited English proficiency. The guidance is based on the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, as it affects limited English proficient persons." Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons, Federal Register Volume 70, Number 239, Wednesday, December 14, 2005⁵

Public Input on Performance-based Planning

"The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

- A. The extent to which the State is making progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed appropriate performance targets.
- B. The extent to which the State has made transportation investments that are efficient and cost-effective.
- C. The extent to which the State-
 - i. has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and
 - ii. provides reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State." 23 U.S.C. 135 (h)(1)

Public Meetings and Hearings

Public hearings - "Any State transportation department which submits plans for a Federal-aid highway project involving the by passing of or, going through any city, town, or village, either incorporated or unincorporated, shall certify to the Secretary that it has had public hearings, or has afforded the opportunity for such hearings..." 23 USC §128 -

"Ensure that public meetings are held at convenient and accessible locations and times..." 23CFR450.210 and 450.316

"Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected." CEQ Regulations 40 CFR 1506.6(b)

"Provide accessibility in programs, activities, and facilities. Not discriminate on the basis of disability regarding admission and access to its programs and activities and its employment practices." Ensure appropriate accessibility standards to all transportation facilities in an accessible and safe manner. Section 504 of the Rehabilitation Act of 1973⁶

Program Accessibility, Discrimination prohibited. "Except as otherwise provided in §35.150, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity." State and Local Government Activities, covers all activities of State and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities.⁷ Americans with Disabilities Act (ADA), Title II, Subpart D Sec.35.149

Public Meetings and Hearings (Federal Agencies)

Sunshine Act - Federal requirements (Pub.L. 94-409, 90 Stat. 1241, enacted September 13, 1976, 5 U.S.C. §552b) Federal agencies, "In the case of each meeting, the agency shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting... The agency shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes (as required by paragraph (1)) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the agency determines to contain information which may be withheld under subsection (c)."

(Practitioners should check if state Sunshine or Open Meeting Laws apply in their state.)

Prohibiting Discrimination

Title VI of the Civil Rights Act of 1964

"Title VI prohibits exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on grounds of race, color, or national origin." (Pub. L. 88-352) (Title VII) (42 USC 2000)

In addition to Title VI, there are other Nondiscrimination statutes that afford legal protection. These statutes include the following: Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 USC 324) (sex), Age Discrimination Act of 1975 (age), and Section 504 of the Rehabilitation Act of 1973/Americans With Disabilities Act of 1990 (disability) Taken together, these requirements define an over-arching Title VI/Nondiscrimination Program. It is important to also understand that Title VI and the additional Nondiscrimination requirements are applicable to Federal

programs in addition to programs receiving federal financial assistance due to the Civil Rights Restoration Act of 1987.⁸

Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 USC 324)

"No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee."⁹

Rehabilitation Act of 1973, Section 504 provides:

"No otherwise qualified individual with a disability in the United States, as defined in section 7(20) shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."¹⁰

Americans With Disabilities Act of 1990; (Pub. L. 101-336, 104 Stat. 327 as amended;

42 U.S.C. Sec. 12132. Discrimination. "... no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

Limited-English-Proficiency

"...to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP)"

(Goals) "...The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency." Limited-English-Proficiency, Executive Order #13166

FHWA has made our Recipients and Sub-Recipients responsible for satisfying the requirements of LEP. Recipients and Sub-Recipients are responsible for satisfying the Limited-English-Proficiency requirements including conducting a Four-Factor Analysis and developing a Language Access Plan.

"The United States Department of Transportation (DOT) is publishing guidance concerning services and policies by recipients of Federal financial assistance from

the Department of Transportation related to persons with limited English proficiency. The guidance is based on the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, as it affects limited English proficient persons." Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons, Federal Register Volume 70, Number 239, Wednesday, December 14, 2005

Title VI Program And Related Statutes - Implementation And Review Procedures ¹¹

Purpose "The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Transportation." 23 CFR 200

Public Interest

Recipients and Sub-Recipients to "assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decision on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services and the costs of eliminating or minimizing such adverse effects and the following: (1) air, noise, and water pollution; (2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services; (3) adverse employment effects, and tax and property values losses; (4) injurious displacement of people, businesses and farming; and (5) disruption of desirable community and regional growth." 23 USC 109 (h)

Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898¹²

"...make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands."

Age Discrimination Act of 1975

42 U.S.C Section 6101. Statement of purpose

"It is the purpose of this chapter to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance."

42 U.S.C.

"Pursuant to regulations prescribed under section 6103 of this title, and except as provided by section 6103(b) of this title and section 6103(c) of this title, no person

in the United States shall, on the basis of age, be excluded from participation, in be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance..."

Traditionally Underserved by Existing Transportation Systems

"Include a process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services;" 23 CFR 450.210(a)(1)(viii) and 450.316(a)(1)(vii)

Public Participation Plan

"The MPO shall develop and use a documented participation plan that defines a process for providing ... interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process." 23 CFR 450.316(a)

Public Involvement Process

"...The State shall develop and use a documented public involvement process that provides opportunities for public review and comment at key decision points." 23 CFR 450.210(a)

Public Involvement/Public Hearing Procedures for NEPA

"For the Federal-aid highway program: (1) Each State must have procedures approved by the FHWA to carry out a public involvement/public hearing program pursuant to 23 U.S.C. 128 and 139 and CEQ regulation. (2) State public involvement/public hearing procedures must provide for:

- i. Coordination of public involvement activities and public hearings with the entire NEPA process.
- ii. Early and continuing opportunities during project development for the public to be involved in the identification of social, economic, and environmental impacts, as well as impacts associated with relocation of individuals, groups, or institutions.
- iii. One or more public hearings or the opportunity for hearing(s) to be held by the State highway agency at a convenient time and place for any Federal-aid project which requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect, or for which the FHWA determines that a public hearing is in the public interest.
- iv. Reasonable notice to the public of either a public hearing or the opportunity for a public hearing. Such notice will indicate the availability of explanatory information. The notice shall also provide information required to comply with public involvement requirements of other laws, Executive orders, and regulations.
- v. Explanation at the public hearing of the following information, as appropriate:
 - A. The project's purpose, need, and consistency with the goals and objectives of any local urban planning,

- B. The project's alternatives, and major design features,
 - C. The social, economic, environmental, and other impacts of the project,
 - D. The relocation assistance program and the right-of-way acquisition process.
 - E. The State highway agency's procedures for receiving both oral and written statements from the public.
- vi. Submission to the FHWA of a transcript of each public hearing and a certification that a required hearing or hearing opportunity was offered. The transcript will be accompanied by copies of all written statements from the public, both submitted at the public hearing or during an announced period after the public hearing.
 - vii. An opportunity for public involvement in defining the purpose and need and the range of alternatives, for any action subject to the project development procedures in 23 U.S.C. 139.
 - viii. Public notice and an opportunity for public review and comment on a Section 4(f) de minimis impact finding, in accordance with 49 U.S.C. 303(d)." 23 CFR 771.111 (h)

Public Interest

Recipients and Sub-Recipients to "assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decision on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services and the costs of eliminating or minimizing such adverse effects and the following: (1) air, noise, and water pollution; (2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services; (3) adverse employment effects, and tax and property values losses; (4) injurious displacement of people, businesses and farming; and (5) disruption of desirable community and regional growth." 23 USC 109 (h)

Public Records

The Freedom of Information Act (5 U.S.C. 552)

The Freedom of Information Act (FOIA) is a federal law that gives the public the right to make requests for federal agency records. All federal agencies are required to make requested records available unless the records are protected from disclosure by certain FOIA exemptions. FHWA FOIA - Freedom of Information Act¹³

Executive Order 13392 "Improving Agency Disclosure of Information" (Federal Agencies)

Traditionally Underserved By Existing Transportation Systems

"Include a process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services;" 23 CFR 450.210(a)(1)(viii) and 450.316(a)(1)(vii)

Tribal

For information on Tribal Transportation involvement; go to <http://www.fhwa.dot.gov/tribal/references/>

Transit

For information on Federal Transit Administration, Public Involvement Process; go to <http://www.fta.dot.gov/15589.html>

Visualization

"Use visualization techniques to describe the proposed long-range statewide transportation plan and supporting studies" 23 CFR 450.210(a) and 450.316(a)

1 Department of Justice, 'A Guide to Disability Rights Laws' <http://www.ada.gov/cguide.htm#anchor65610>

2 Americans with Disabilities Act Title II Regulations http://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm#a35149

3 Department of Justice (DOJ), 'A Guide to Disability Rights Laws' <http://www.ada.gov/cguide.htm#anchor65610>

4 DOJ, Executive Order 13166 Improving Access To Services For Persons With Limited English Proficiency <http://www.justice.gov/crt/federal-coordination-and-compliance-section-180>

5 Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons, Federal Register Volume 70, Number 239, Wednesday, December 14, 2005 <http://www.gpo.gov/fdsys/pkg/FR-2005-12-14/html/05-23972.htm>

6 DOJ, 'A Guide to Disability Rights Laws' <http://www.ada.gov/cguide.htm#anchor65610>

7 DOJ, 'A Guide to Disability Rights Laws' <http://www.ada.gov/cguide.htm#anchor65610>

8 FHWA, Title VI Of The Civil Rights Act Of 1964 And Additional Nondiscrimination Requirements <http://www.fhwa.dot.gov/civilrights/programs/tvi.cfm>

9 23 U.S.C. Section 324 - Prohibition of discrimination on the basis of sex www.fhwa.dot.gov/civilrights/programs/tvi.cfm

10 DOJ, 'A Guide to Disability Rights Laws' <http://www.ada.gov/cguide.htm#anchor65610>

11 <http://www.law.cornell.edu/cfr/text/49/part-21>

12 Executive Order 12898 of February 11, 1994 Federal Actions To Address Environmental Justice in

Minority Populations and Low-Income Populations <http://www.archives.gov/federal-register/executive-orders/pdf/12898.pdf> 

13 FHWA FOIA - Freedom of Information Act
<http://www.fhwa.dot.gov/foia/dotfoiamessage.htm>

Martha's Vineyard Public Participation Plan



C. Federal Transit Administration on Public Involvement



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Public Involvement & Outreach

In accordance with 23 CFR 450.316, a [metropolitan planning organization](#) (MPO) is required to engage in a metropolitan planning process that creates opportunities for public involvement, participation, and consultation throughout the development of the [Metropolitan Transportation Plan](#) (MTP) and the [Transportation Improvement Program](#) (TIP). Under this requirement, MPOs must allow for:

- adequate public notice of public participation activities;
- review and comment at key decision points in the development of the MTP and TIP; and
- multiple, accessible participation formats, including electronic and in-person.

The MPO should develop a collaborative and comprehensive Public Participation Plan, in full collaboration with the public and stakeholder communities, to be used in the development of the MTP and TIP, as well as to frame the strategies for public and stakeholder communication and collaboration in all phases of the planning process. The Participation Plan itself must be prepared by the MPO with a 45-day public review and comment period. Similarly, States are required to have a documented public participation process.

- Guidance - Regulation - Statute

<u>Name</u>	<u>Data Table</u>	<u>Description</u>
Limited English Proficiency		This FHWA resource gives tips on how to engage low-literacy and limited-English-proficiency populations in transportation decisionmaking.
TPCB Public Engagement Resources		The Public Engagement focus area page is a one-stop shop for resources about public engagement and equity in transportation planning on the Transportation Planning Capacity Building (TPCB) website.
NTI Course: Public Involvement in Transportation Decisionmaking		National Transit Institute (NTI) course designed to provide an overview of public involvement techniques strategies.
NTI Webinar: Friends, Fans, and Followers: How Transit Agencies Use Social Media		This webinar presented the findings from TCRP Synthesis 99, Uses of Social Media in Public Transportation. The report explores use of social media among transit agencies in the United States and Canada.
Public Transportation Participation Pilot Program		
TCRP Synthesis 99: Uses of Social Media in Public Transportation		This Transit Cooperative Research Program (TCRP) synthesis report explores the use of social media among transit agencies and documents successful practices in the United States and Canada.
Environmental Justice		
Transportation Research Board Committee on Public Involvement		The TRB Committee on Public Involvement in Transportation strives to provide meaningful opportunities for information development and exchange on public involvement for transportation agencies and other practitioners. This website provides the transportation community with information on research, conferences, publications, training, tools, and techniques related to public involvement in transportation.
Dots & Dashes: Piecing together Transit's Future		This Public Transportation Participation (PTP) report was developed by the Delaware Valley Regional Planning Commission

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