

**MAP-21 Implementation Status Summary:  
Project Delivery, Environmental, and Planning Provisions**



**I. Project Delivery Provisions - Title I, Subtitle C**

Sec.	MAP-21 Provision	Implementation to Date	Still to Come
1301	<p><b>Declaration of Policy</b> <i>Not codified.</i></p> <ul style="list-style-type: none"> <li>• Declares national policy on expediting project delivery.</li> <li>• Directs DOT to establish a project delivery initiative.</li> </ul>	<p><a href="#">Letter</a> sent from USDOT Secretary to CEQ on 12/19/2012.</p>	<p>None expected.</p>
1302	<p><b>Early Acquisition of Right-of-Way</b> <i>Amends 23 USC 108.</i></p> <ul style="list-style-type: none"> <li>• Allows federal funds to be used for ROW acquisition prior to completion of NEPA, provided that certain conditions are met.</li> <li>• Makes it easier for States to obtain federal reimbursement after completion of NEPA for ROW acquired with State funds prior to completion of NEPA.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012.</p>	<p>Potential rulemaking to amend ROW regulations. (23 CFR 710).</p> <p>Potential rulemaking to amend NEPA regulations. (23 CFR 771).</p>
1303	<p><b>Letting of Contracts</b> <i>Amends 23 USC 112.</i></p> <ul style="list-style-type: none"> <li>• Allows “2-phase contracts” -- e.g., construction manager/general contractor (CM/GC) contracts -- prior to completion of the NEPA process.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012; revised 1/9/2014.</p>	<p>Rulemaking required by statute - likely involving amendments to 23 CFR 625 or 636. Statute does not set a deadline.</p>

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1304	<p><b>Innovative Project Delivery Methods</b>  <i>Amends 23 USC 120.</i></p> <ul style="list-style-type: none"> <li>Allows up to 100% federal share for projects that use innovative project delivery methods.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012.</p>	<p>None expected.</p>
1305	<p><b>Changes to Environmental Review Process</b>  <i>Amends 23 USC 139.</i></p> <ul style="list-style-type: none"> <li>Makes various changes to the ‘Section 6002’ process in 23 USC 139.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012; revised 5/15/2014.</p>	<p>Potential rulemaking to amend NEPA regulations (23 CFR 771).</p>
1306	<p><b>Issue Resolution and Financial Penalties</b>  <i>Amends 23 USC 139.</i></p> <ul style="list-style-type: none"> <li>Amends issue resolution process in 23 USC 139 to allow elevation to CEQ and the President (not just agency heads).</li> <li>Automatically imposes financial penalties on permitting agencies for delays in issuing permits or other required approvals.</li> <li>Requires reports to Congress every 120 days on the status of projects requiring a financial plan and a sample set of at least 5% of projects requiring EAs and EISs.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012; revised 5/15/2014.</p> <p><b>Draft Guidance on Financial Penalties issued on 9/4/2013.</b></p> <p><b><a href="#">Final Guidance</a> on Financial Penalties issued on 3/28/2014.</b></p> <p>Initial <a href="#">report to Congress</a> submitted on 3/4/2013. (It appears that only one such report has been submitted.)</p>	<p>Additional reports to Congress pursuant to reporting requirement.</p>

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1307	<p><b>Funding Agreements</b>  <i>Amends 23 USC 139.</i></p> <ul style="list-style-type: none"> <li>Requires a state, when providing funds to another agency for expediting reviews, to enter into an MOU that “establishes the projects and priorities to be addressed by the use of the funds.”</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012; revised 5/15/2014.</p>	None expected.
1308	<p><b>Statute of Limitations</b>  <i>Amends 23 USC 139.</i></p> <ul style="list-style-type: none"> <li>Changes the statute-of-limitations period in 23 USC 139 from 180 days to 150 days.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012; revised 5/15/2014.</p>	None expected.
1309	<p><b>Technical Assistance to Complete Ongoing EISs in Less than 4 Years</b>  <i>Amends 23 USC 139.</i></p> <ul style="list-style-type: none"> <li>Allows USDOT to provide technical assistance to assist in completing an EIS within 4 years following initiation of the NEPA process.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012.</p>	None expected.
1310	<p><b>Planning-NEPA Linkage.</b>  <i>Creates 23 USC 168.</i></p> <ul style="list-style-type: none"> <li>Creates new authority for planning decisions and analyses to be adopted for use in the NEPA process (aka “planning-NEPA linkages” or “PEL”).</li> <li>Preserves existing PEL authority under transportation planning regulations.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012.</p> <p><b><a href="#">Proposed regulations</a> issued on 9/10/2014 (23 CFR 450).</b></p>	Issuance of final regulations.

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1311	<p><b>Programmatic Mitigation Plans</b>  <i>Creates 23 USC 169.</i></p> <ul style="list-style-type: none"> <li>Creates a new 23 USC Section 169, which allows States and MPOs to develop “programmatic mitigation plans” as part of the statewide or metropolitan transportation planning process.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012.</p> <p><b><a href="#">Proposed regulations</a> issued on 6/2/2014 (23 CFR 450).</b></p>	Issuance of final regulations.
1312	<p><b>Assignment Program - CEs</b>  <i>Amends 23 USC 326.</i></p> <ul style="list-style-type: none"> <li>Makes various changes to CE assignment program in 23 USC 326.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012.</p> <p><b><a href="#">CE MOU template</a> issued on 9/30/2013.</b></p>	None expected or required.
1313	<p><b>Assignment Program - Full</b>  <i>Amends 23 USC 327.</i></p> <ul style="list-style-type: none"> <li>Makes various changes to full assignment program in 23 USC 327, including opening to all States and expanding to include transit and rail modes.</li> </ul>	<p><b><a href="#">Proposed regulations</a> issued on 8/30/2013 (23 CFR 773).</b></p> <p><b><a href="#">Final regulations</a> issued on 9/16/2014.</b></p> <p>TxDOT <a href="#">application and draft MOU</a> issued for notice and comment on 10/10/2014.</p>	Issuance of final decision on TxDOT MOU.
1314	<p><b>CEs for Multimodal Projects</b>  <i>Amends 49 USC 304.</i></p> <ul style="list-style-type: none"> <li>Created a new process under which one DOT agency can apply a CE issued by another DOT agency, when approving a multimodal project.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued 9/25/2012.</p> <p><b><a href="#">Guidance</a> issued on 2/12/2014.</b></p>	None expected.

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1315	<p><b>New CE for Emergency Projects</b>  <i>Not codified.</i></p> <ul style="list-style-type: none"> <li>Required DOT to issue a new CE for projects to repair/reconstruct facilities damaged in declared emergencies.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued 9/25/2012.</p> <p><b><a href="#">Proposed regulations</a> issued on 10/1/2012 (23 (CFR 771).</b></p> <p><b><a href="#">Final regulations</a> issued on 2/19/2013.</b></p>	None expected.
1316	<p><b>New CE for Projects in Existing ROW</b>  <i>Not codified.</i></p>	<p>Informal <a href="#">Q&amp;A guidance</a> issued 9/25/2012.</p> <p><b><a href="#">Proposed regulations</a> issued on 2/28/2013 (23 (CFR 771).</b></p> <p><b><a href="#">Final regulations</a> issued on 1/13/2014.</b></p>	None expected.
1317	<p><b>New CE for Projects with Limited Federal Financial Assistance</b>  <i>Not codified.</i></p>	<p>Informal <a href="#">Q&amp;A guidance</a> issued 9/25/2012.</p> <p><b><a href="#">Proposed regulations</a> issued on 2/28/2013 (23 (CFR 771).</b></p> <p><b><a href="#">Final regulations</a> issued on 1/13/2014.</b></p>	None expected.

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1318	<p><b>Additional New CEs and Programmatic CE Agreements</b>  <i>Not codified.</i></p> <ul style="list-style-type: none"> <li>• Required survey regarding existing use of CEs and suggestions for new CEs.</li> <li>• Required rulemaking to shift some existing CEs from “(d) list” to “(c) list.”</li> <li>• Required rulemaking to establish new CEs based on inputs from survey.</li> <li>• Established new statutory authority for Programmatic CE (PCE) agreements.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued 9/25/2012.</p> <p>Survey completed; <a href="#">report</a> published on 11/28/2012.</p> <p><a href="#">Proposed regulations</a> issued on 9/19/2013 (23 CFR 771).</p> <p><a href="#">Final regulations</a> issued on 10/6/2014.</p>	None expected.
1319	<p><b>Condensed FEIS and Combined FEIS/ROD</b>  <i>Not codified.</i></p> <ul style="list-style-type: none"> <li>• Clarifies an FEIS that consists of “errata pages” if the agency received only “minor comments” on the DEIS.</li> <li>• Requires FEIS and ROD to be issued as a single document (rather than having a waiting period before the ROD), except when certain conditions are met.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued 9/25/2012.</p> <p><a href="#">Interim guidance</a> issued on 1/13/2013.</p>	<p>Issuance of final guidance.</p> <p>Potential rulemaking to amend NEPA regulations (23 CFR 771).</p>

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1320	<p><b>Early Coordination</b>  <i>Not codified.</i></p> <ul style="list-style-type: none"> <li>• Encourages agencies to coordinate with “at the earliest possible time” in the environmental review process.</li> <li>• Requires USDOT and other federal agencies to provide technical assistance at the request of State or local planning agencies.</li> <li>• Lists examples of issues that can be addressed through early coordination.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued 9/25/2012.</p>	<p>None expected.</p>
1321	<p><b>Review of Project Delivery Procedures</b>  <i>Not codified.</i></p> <ul style="list-style-type: none"> <li>• Requires USDOT to develop consistent procedures for environmental permitting and procurement for highway projects and transit projects.</li> </ul>	<p>None listed on FHWA MAP-21 website.</p>	<p>Completion of report; statute does not set a deadline.</p>
1322	<p><b>GAO Study of Duplicative Reviews</b>  <i>Not codified.</i></p> <ul style="list-style-type: none"> <li>• Requires GAO to conduct a study of the costs of studies carried out at the federal level that duplicate reviews carried out under equivalent State laws.</li> <li>• Requires GAO to submit its report to Congress within two years after the date of enactment of MAP-21.</li> </ul>	<p>None listed on FHWA MAP-21 website.</p>	<p>Completion of GAO report.</p>

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1323	<p><b>USDOT Report on Project Review Times</b>  <i>Not codified.</i></p> <ul style="list-style-type: none"> <li>• Requires USDOT to prepare two reports on the completion times for CEs, EAs, and EISs for projects funded under Title 23 - the first within one year after enactment, and the second within five years.</li> </ul>	None listed on FHWA MAP-21 website.	Completion of first report is overdue; second report is due within five years after enactment.
1323	<p><b>USDOT Report on CEs</b>  <i>Not codified.</i></p> <ul style="list-style-type: none"> <li>• Requires USDOT to prepare a report on the additional CEs issued under sections 1316 and 1317 of MAP-21. Required within two years after enactment.</li> </ul>	None listed on FHWA MAP-21 website.	Completion of USDOT report.
1323	<p><b>GAO Report on Duplicative Reviews</b>  <i>Not codified.</i></p> <ul style="list-style-type: none"> <li>• Requires the USDOT OIG to assess the reforms carried out under the project delivery subtitle of MAP-21 and submit: <ul style="list-style-type: none"> <li>○ an “initial report” within two years after enactment, and</li> <li>○ a “final report” within four years after enactment.</li> </ul> </li> </ul>	OIG’s <a href="#">initial report</a> was submitted on May 22, 2013.	Completion of remaining reports as required by Section 1323.



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**II. Other Environmental Provisions**

Sec.	MAP-21 Provision	Implementation to Date	Still to Come
1113	<p><b>Changes to CMAQ Program</b>  <i>Amends 23 USC 149.</i></p> <ul style="list-style-type: none"> <li>• Amends the list of projects eligible for CMAQ funding.</li> <li>• Modifies the prioritization requirements for CMAQ funds to emphasize actions that reduce PM2.5 emissions.</li> <li>• Creates funding set-aside for PM2.5 projects.</li> <li>• Adds new 23 USC 149(m) to allow limited use of CMAQ funds for operating assistance.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued.</p> <p><a href="#">Interim program guidance</a> issued in November 2013.</p> <p><a href="#">Proposed regulations</a> issued on 8/4/2014 (23 CFR 790) (for ‘weighting factors’ used in calculating PM2.5 set-aside).</p>	<p>Issuance of final program guidance.</p> <p>Issuance of final regulations for PM2.5 weighting factors.</p>
1122	<p><b>Transportation Alternatives (TA) Program</b>  <i>Creates 23 USC 213.</i></p> <ul style="list-style-type: none"> <li>• Creates a new Transportation Alternatives (TA) funding program in 23 USC 213, replacing the former Transportation Enhancements Program.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued.</p> <p><a href="#">Guidance</a> issued on 6/10/2013 and revised on 3/6/2014.</p>	<p>None expected.</p>

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**III. Transportation Planning**

Sec.	MAP-21 Provision	Implementation to Date	Still to Come
1201 to 1202	<p><b>Transportation Planning</b>  <i>Amends 23 USC 134 and 135.</i></p> <ul style="list-style-type: none"> <li>• Requires MPOs in TMA to include representation of public transit agencies.</li> <li>• Requires incorporation of new performance management requirements into the planning process.</li> <li>• Allows “scenario planning” and lists factors that MPOs are encouraged to consider in scenario planning.</li> <li>• Allows States to designate regional transportation planning organizations (RTPOs) in non-metropolitan areas.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012.</p> <p><a href="#">Policy Guidance on MPO Representation</a> issued on 6/2/2014.</p> <p><a href="#">Proposed regulations</a> issued on 6/2/2014 (23 CFR 450) (for changes to statewide and metro planning process).</p>	<p>Issuance of final regulations.</p>

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<b>1203</b>	<p><b>Performance Management</b>  <i>Creates 23 USC 150.</i></p> <ul style="list-style-type: none"> <li>• Declares national policy on performance management for transportation.</li> <li>• Defines national goals in safety, infrastructure condition, congestion reduction, system reliability, freight movement and economic vitality, environmental sustainability, and reduced project delivery delays.</li> <li>• Requires USDOT to establish national performance measures for:               <ul style="list-style-type: none"> <li>○ Pavement Condition</li> <li>○ Safety</li> <li>○ Congestion</li> <li>○ Emissions</li> <li>○ Freight</li> </ul> </li> <li>• Requires States and MPOs to set performance targets.</li> </ul>	<p>Informal <a href="#">Q&amp;A guidance</a> issued on 9/25/2012; updated 7/9/2014.</p> <p><a href="#">Proposed regulations</a> issued on <b>3/11/2014 (23 CFR 490)</b> (for safety performance measures).</p> <p><a href="#">Proposed regulations</a> issued on <b>3/28/2014 (23 CFR 924)</b> (to incorporate performance management into Highway Safety Improvement Program).</p>	<p>Issuance of final regulations for safety performance measures and HSIP.</p> <p>Issuance of proposed and final regulations with performance measures for:</p> <ul style="list-style-type: none"> <li>• Infrastructure condition</li> <li>• Congestion</li> <li>• System reliability</li> <li>• Emissions</li> <li>• Freight movement</li> </ul>

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**IV. Financial Plans for Major Projects**

Sec.	MAP-21 Provision	Implementation to Date	Still to Come
<b>1503</b>	<p><b>Financial Plans for Major Projects</b>  <i>Amends 23 USC 106.</i></p> <ul style="list-style-type: none"> <li>• Allows a “phased financial plan” to satisfy air quality conformity requirements.</li> <li>• Requires a financial plan to include consideration of the appropriateness of using a public-private partnership.</li> </ul>	<p>Informal <a href="#">Q&amp;A Guidance</a> issued on 9/25/2012.</p> <p><b><a href="#">Interim guidance on financial plans issued on 9/24/2012</a></b> (on financial plan requirements).</p> <p><b><a href="#">Draft guidance on financial plans issued on 9/6/2013</a></b> (superseding interim guidance).</p>	<p>Issuance of final guidance.</p>

**Bold = formal guidance or rulemakings**