

current regulation states the following with regards to flexibility in TCP development: "Provisions may be made to permit contractors to develop their own TCP's and use them if the State and FHWA find that these plans are as good as or better than those provided in the plans, specifications, and estimates (P.S. & E.)." The current regulation also requires a responsible person from the State, at the project level, to ensure that the TCP and other safety aspects of the contract are effectively administered. Representatives of the contracting industry have also indicated that they are reluctant to develop their own TCPs primarily because of liability concerns, and because there is an impression that contractors may do this by cost-cutting at the risk of safety.

When asked if certification should be required for TCP developers, about 34 percent of the respondents indicated no; 27 percent did not respond; about 5 percent of the responses were unclear; while 34 percent said yes. All respondents who said no were from DOTs. Of the respondents that indicated yes, 78 percent belonged to DOTs, 17 percent represented trade associations, and 4 percent did not indicate their agency affiliations. Most States currently require TCPs to be signed and sealed by licensed Professional Engineers (P.E.). A few respondents recommended that all TCP developers be certified, or have undergone the Traffic Control Supervisor (TCS) training. Some respondents suggested the use of "pre-qualified" designers and contractors for the development of TCPs, to avoid the possibility of unsafe or inadequate TCPs. The regulation currently states that all persons responsible for the development, design, implementation, and inspection of traffic control shall be adequately trained.

When asked how TCPs should address considerations that are required by the Americans with Disabilities Act (ADA) (Pub. L. 101-336, July 26, 1990, 104 Stat 327, as amended), several respondents reasserted that TCPs should include ADA considerations<sup>11</sup> for urban projects with pedestrian and other urban issues. They recommended several ways for including ADA considerations in TCPs. Also, several

respondents indicated that TCPs should address ADA considerations only when ADA considerations are already being met by the job-site (prior to deployment of the work zone).

When asked if mobility and safety audits should be required for work zones, 28 percent of the respondents who commented on specific questions in the ANPRM said no; about 13 percent did not respond; 3 percent of the responses were unclear; while 55 percent of the respondents said yes. About 95 percent of the respondents who said no belonged to DOTs. Of the respondents who said yes, 81 percent belonged to DOTs, 3 percent were from private agencies, 14 percent represented trade associations, and 3 percent did not indicate their agency affiliations. The current regulation mentions the need for training for personnel responsible for traffic control inspection, but there are no statements that require work zone safety inspections or mobility/safety audits. Several States have policies that require work zone traffic control and safety inspections to be performed by their construction and safety inspectors.

*ANPRM "Managing for Mobility and Safety In and Around Work Zones" Section—FHWA Response and Proposed Action*

The responses to this section indicate strong support for expanding TCPs to address sustained traffic management, operations and safety to help mitigate the impacts of work zones. Sustained transportation management and operations strategies include transportation systems management, ITS, traveler information, incident management, procedures for work zone operations during emergencies, and conduct of mobility audits. Additional considerations include transportation operational safety considerations such as enforcement in work zones, speed monitoring and management, and conduct of safety audits.

The proposed amendments therefore include provisions that facilitate the consideration of transportation management and operations components that address sustained management, operations and safety. These amendments include provisions for flexibility in decisionmaking on the need for such strategies, and their scope and level of detail, based upon individual project requirements and work zone impacts. As suggested by the ANPRM comments, the proposed changes would provide for flexibility as to who develops the TCP and the transportation management and operations strategies, with ultimate responsibility belonging to the State.

The issue of certification for TCP developers and/or other personnel responsible for design, development and implementation of work zone safety and mobility requirements was addressed by proposing to include provisions in the regulation that require training for State personnel involved in work zone related decision making, with provisions that allow for flexibility in implementation commensurate with the State's needs.

Since security aspects of construction related to critical infrastructure are best addressed in other comprehensive security planning efforts, the proposed changes do not address this issue. With regard to ADA considerations for work zones, we propose language that refers to the appropriate sections of the Code of Federal Regulations (CFR) that address Federal ADA compliance.

*ANPRM "Public Outreach and Communications" Section—Comments Summary*

To reduce the anxiety and frustration of the public, it is important to sustain effective communications and outreach with the public regarding road construction and maintenance activity, and the potential impacts of these activities. This also increases the public's awareness of such activities and their impacts on their lives. The lack of information is often cited as a key cause of frustration for the traveling public. Therefore, this section of the ANPRM attempted to identify the key issues that need to be considered from a public outreach and information perspective.

An overwhelming majority of the respondents were supportive of reaching out to the public and keeping them informed about planned and ongoing construction and maintenance activities. When asked if projects with substantial disruption should include a public communications plan, 10 percent of the respondents who commented on specific questions in the ANPRM said no; 9 percent did not respond, while 81 percent indicated yes. Of the respondents who indicated yes, 81 percent were from DOTs, 2 percent belonged to private agencies, 13 percent represented trade associations, and 4 percent did not indicate their agency affiliation. Several States have recognized the need for communicating with the public, both on an ongoing basis, and for specific projects, and have been using various communications techniques and media sources for getting the word out.

<sup>11</sup> The U.S. Access Board, the Federal agency charged with developing accessibility guidelines for buildings and facilities under the ADA and other statutes, is currently completing work on proposed guidelines for sidewalks, street crossings, and related pedestrian facilities in the public right-of-way that will include accessibility provisions for work zones that are on or along pedestrian routes. Draft proposed guidelines for public rights-of-way accessibility were posted to the Board's Web site at [www.access-board.gov](http://www.access-board.gov) in June 2002.