

Final Rule

23 CFR Parts 450 and 500

49 CFR Part 613

Statewide Transportation Planning;
Metropolitan Transportation Planning

Guiding Principles

- Minimize the areas and levels of controversy;
- Use statutory requirements and language to the extent possible; and
- Use “plain language.”

Overview of Rulemaking Schedule

- SAFETEA-LU Passed August 10, 2005
- NPRM Published June 9, 2006
- Extensive Public Outreach with 90-Day Open Docket
- Comment Period Closed September 7, 2006
- Final Rule Published: February 14, 2007
- Final Rule Effective: March 16, 2007
- SAFETEA-LU Compliance Date: July 1, 2007

Major Comments on NPRM

- 150 sets of correspondence containing more than 1,600 individual comments.
- State DOTs, MPOs/COGs, and advocacy organizations accounted for approximately 85 percent of comments
- 4 Major issues:
 1. Including Fiscal Constraint Guidance in Appendix
 2. Including guidance for Linking Transportation Planning and Project Development/NEPA Processes in Appendix
 3. Schedule for meeting the July 1, 2007 SAFETEA-LU compliance date
 4. Coordinated Public Transit-Human Services Transportation Plans

Key Changes from NPRM

Issue 1: Fiscal Constraint

- Appendix B removed
- Elements of former Appendix B brought into Rule:
 - **“Year of expenditure dollars” - effective December 11, 2007** [See 23 CFR 450.216(l), 450.322(f)(10)(iv) and 450.324 (h)]
 - **Financial plan shall contain systems-level estimates of costs and revenue sources to adequately operate and maintain federally funded highway and transit facilities** [See 23 CFR 450.216(m), 450.322(f)(10)(i), and 450.324(h-i)]
 - **Optional use of “cost ranges/cost bands” beyond first 10 years of the metropolitan transportation plan** [See 23 CFR 450.322(f)(10)(v)]

Key Changes from NPRM

(Continued)

Issue 2: Linking the Transportation Planning and Project Development/NEPA Processes

- 23 CFR 450.212 and 23 CFR 450.318 encourage linkages between the transportation planning and project development/NEPA processes
- Clarifying that Appendix A is not regulatory and binding
- Emphasis was added to the preamble and the Rule text that the proposed Final Rule fulfills the intent of TEA-21 section 1308 [See 23 CFR 450.212(a) and 450.318(a)]
- All existing rule references to the MIS as a stand-alone requirement have been removed

Key Changes from NPRM

(Continued)

Issue 3: Schedule for meeting July 1, 2007 SAFETEA-LU compliance date

- Adopted the approach outlined in May 2, 2006 clarifying guidance
- FHWA/FTA actions beginning July 1, 2007, require SAFETEA-LU compliance of the documents that are being approved
- States/MPOs advised to keep FHWA/FTA apprised of progress in achieving compliance

Key Changes from NPRM

(Continued)

Issue 4: Coordinated Public Transit-Human Services Transportation Plans

- Descriptive detail provided in FTA Circulars for 5310, 5316, and 5317 programs
- Local officials determine who prepares the Coordinated Plan
- Consistency required between preparation of the Coordinated Plan and applicable metropolitan or Statewide transportation planning processes *[23 CFR 450.306(g)]*

Rule Structure

Title 23, Part 450

- Subpart A – Transportation Planning and Programming Definitions
- Subpart B – Statewide Transportation Planning and Programming
- Subpart C – Metropolitan Transportation Planning and Programming
- Appendix A – Linking the Transportation Planning and NEPA Processes

Rule Structure (Continued)

- Title 23, Part 500 – Management and Monitoring Systems
- Title 49, Part 613 – Metropolitan and Statewide Planning

Final Rule Key Requirements

Statewide Transportation Planning;
Metropolitan Transportation Planning

Expanded Factor – Consistency with Growth and Economic Development

- Planning factor to “protect and enhance environment, promote energy conservation and improve quality of life” expanded to also include “promote consistency between transportation improvements and State and local planned growth and economic development patterns” *[23 CFR 450.206 and 450.306]*
- Flexibility for States and MPOs to determine which agencies with whom to coordinate

Separate Factor –Security

- Security and Safety Stand-Alone Planning Factors
 - De-coupling Safety and Security adds emphasis to each [23 CFR 450.206 and 450.306]
 - Encourages transportation planning process to be consistent with applicable security plans, programs, and projects [23 CFR 450.208(h) and 450.306(h)]
- Long-range statewide and metropolitan transportation plans should include a security element that incorporates or summarizes the priorities, goals, or projects set forth in other transit safety and security planning and review processes, plans, and programs, as appropriate [23 CFR 450.214(e) and 450.322(h)]

Separate Factor - Safety

- Strategic Highway Safety Plan
 - Encourages transportation planning process to be consistent with new Strategic Highway Safety Plan *[23 CFR 450.208(h) and 450.306(h)]*
 - Long-range statewide and metropolitan transportation plans should include a safety element that incorporates or summarizes the priorities, goals, countermeasures, or projects contained in the Strategic Highway Safety Plan *[23 CFR 450.214(d) and 450.322(h)]*

Planning and the Environment

- Environmental Mitigation Activities and Consultation
 - Long-range statewide transportation plans/metropolitan transportation plans include a discussion of potential environmental mitigation activities (at the policy and/or strategic-levels). *[see 23 CFR 450.214(j) and 450.322(f)(7)]*
 - Developed in consultation with Federal, State and Tribal wildlife, land management, and regulatory agencies
 - Allows States/MPOs to establish reasonable timeframes for performing consultation

Planning and the Environment

(Continued)

- Linking Planning and NEPA *[see 23 CFR 450.212 , 450.318(b), and Appendix A]*
 - Included as Appendix A – non-binding guidance, based on February 2005 FHWA/FTA program guidance
 - Fulfills TEA-21 requirement for Secretary of Transportation to eliminate the major investment study as a separate requirement and, as appropriate, integrate the requirement into the transportation planning and NEPA process
 - **Permissive – identifies conditions for planning studies to inform environmental reviews**

Operational and Management Strategies

- Metropolitan transportation plans shall include operational and management strategies to:
 - Improve the performance of existing transportation facilities to relieve congestion and
 - Maximize the safety and mobility of people and goods *[see 23 CFR 450.322(f)(3)]*

Operational and Management Strategies (Continued)

- Long-range statewide transportation plans should include: capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of existing transportation system *[see 23 CFR 450.214(b)]*

Congestion Management Process in Transportation Management Areas (TMAs)

- Coordination as part of Congestion Management Process (CMP):
 - CMP should result in multimodal system performance measures and strategies *[see 23 CFR 450.320]*
 - Revises 23 CFR 500.109 regarding Congestion Management Systems
 - Key Input to Development of Metropolitan Transportation Plans in TMAs

MPO Designations/Redesignations

- Official agreements required among multiple MPOs in UZAs *[see 23 CFR 450.310(l)-(m)]*
- Redesignation required if substantial change:
 - In proportion of voting members
 - In decision-making authority or responsibility of MPO

MPO Designations/Redesignations (Continued)

- Redesignation not required as result of:
 - New Urbanized Area census designation;
 - New members from expanded planning area;
 - New members as a result of TMA designation; or
 - Periodic rotation of membership.
- **Prior MPO designation remains in effect until redesignation**

Consultation

- Definitions for “Consultation,” “Coordination,” “Consideration,” and “Cooperation” *[23 CFR 450.104]*
- Repeats SAFETEA-LU language for consultation with State, Tribal and local agencies *[23 CFR 450.214(i), 450.316(b) and 450.322(g)]*
- No change to requirements for consultation with non-metropolitan local officials *[23 CFR 450.210(b)]*

Consultation (Continued)

- Long-range statewide transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for:
 - Land Use Management;
 - Natural Resources;
 - Environmental Protection;
 - Conservation; and
 - Historic Preservation.
- Shall involve comparison of transportation plans to State/Tribal conservation plans or maps, and to inventories of natural or historic resources, if available [*see 23 CFR 450.214(i)*]
- Similar provisions for the development of metropolitan transportation plans [*see 23 CFR 450.322(g)*]

Coordination of Planning Process Activities

- States shall coordinate data collection and analyses with MPOs and public transportation operators *[see 23 CFR 450.208(a)(7)]*
- States/MPOs may apply asset management principles and techniques to establish planning goals, define STIP/TIP priorities, and assess transportation investments *[see 23 CFR 450.208(e) and 450.306(e)]*
- Statewide/metropolitan transportation planning processes shall (to the maximum extent practicable) be consistent with the development of regional ITS architectures *[see 23 CFR 450.208(f) and 450.306(f)]*

Interested Parties, Public Involvement, and Consultation

- List of “interested parties” now includes: representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, freight shippers and providers of freight transportation services *[see 23 CFR 450.210(a)(1)(i) and 450.316(a)]*
- Documented State and MPO processes on consulting with Indian Tribal governments and Federal land management agencies (to the extent practicable) *[see 23 CFR 450.210(c) and 450.316(e)]*
- Documented MPO processes also should reference consultation with other planning agencies and officials affected by transportation (to the extent practicable) *[see 23 CFR 450.316(e)]*

Participation Plan

- MPO shall develop a participation plan in consultation with interested parties *[see 23 CFR 450.316(a)]*
- Minimum 45-day comment period
- Adequate, timely public notice and reasonable access
- Employ visualization techniques
- Make information available in electronic formats; and
- Hold meetings at convenient and accessible locations and times
- Statewide public involvement process similar *[see 23 CFR 450.210]*

Visualization

- New SAFETEA-LU requirement *[see 23 CFR 450.210(a)(1)(v) and 450.316(a)(1)(iii)]*
- Recognizes range of capabilities and needs
- Emphasis on promoting improved understanding of transportation plans and programs in the definition

Metropolitan Planning Agreements

- Locally determined “rules of engagement” [*see 23 CFR 450. 314*]
- Shall provide for cooperative development and sharing of financial data used in metropolitan transportation plans, TIPs, STIPs, and Annual Listing of Obligated Projects
- Ideally, a single Agreement among MPO, State, and transit operators
- Describes coordination arrangements in areas with overlapping planning areas

Definitions

- Planning cycles
 - Update
 - Revision
 - Amendment
 - Administrative modification
- Fiscal constraint
 - Available funds and
 - Committed funds
 - Financial plan
- Air quality conformity

Planning Cycles

- Metropolitan transportation plans must be updated at least every four years in air quality nonattainment and maintenance areas *[see 23 CFR 450.322(c)]*
- Metropolitan transportation plans in attainment areas must be updated at least every five years *[see 23 CFR 450.322 (i)]*
- STIPs and metropolitan TIPs must be updated at least every four years *[see 23 CFR 450.216(a) and 450.324(a)]*
- STIPs and TIPs shall cover a period of no less than four years *[see 23 CFR 450.216(a) and 450.324(a)]*

July 1, 2007 Compliance Date

- All State, MPO and FHWA/FTA actions on transportation plans and programs taken on or after July 1, 2007 (i.e., updates, amendments, STIP approvals, and conformity determinations) are subject to these provisions *[23 CFR 450.224 and 450.338]*

Fiscal Constraint

- Fiscal constraint required for STIPs, TIPs, and metropolitan transportation plans
- Retains provision that projects included in the first two years of the TIP/STIP in air quality nonattainment and maintenance areas shall be limited to those for which funds are “available or committed” *[see 23 CFR 450.324(i) and 450.216(m)]*
- “Agreed to” list of projects required at TIP/STIP updates only

Annual List of Obligated Projects

- Reflects expanded requirement to specifically include bicycle and pedestrian projects *[see 23 CFR 450.332]*
- Annual listing cooperatively developed by the MPO, State(s), and public transportation operator(s) - within 90 days of end of program year
- Cooperative effort between the MPO, State(s), and public transportation operator(s) to assemble supporting financial information must be identified in the Metropolitan Planning Agreement *[see 23 CFR 450.314(a)]*

Coordinated Public Transit-Human Services Transportation Plan

- Coordinated plan needed for funding under Elderly/Disabled, JARC and New Freedom Programs under Title 49 (transit)
- Consistency required between preparation of the Coordinated Plan and applicable metropolitan or Statewide transportation planning processes *[see 23 CFR 450.306(g)]*
- Local officials to determine appropriate “lead;” does not have to be MPO
- Projects reflected in applicable metropolitan transportation plan, TIP, and STIP

Public Outreach

- April 19, 2007: CTE national broadcast
 - <http://cte.ncsu.edu/CTE/TechTransfer/Teleconferences/>
- National and regional stakeholder group events by invitation
- Others as appropriate

Questions

- FHWA Division Office

- www.fhwa.dot.gov/hep/hepdivoff.htm

- FTA Regional Office

- www.planning.dot.gov/Contacts.asp#ftareg