Hello, I’m Katie McDermott with the Center for Transportation and the Environment. This is CTE’s national broadcast series. The purpose of this live forum is to engage transportation and environmental professionals in a dialogue about current policy issues, research applications and best practices in the field. Today’s program is titled “Overview of the Proposed Rulemaking on Planning.” Our panel will discuss the proposed rule issued in the June 9th Federal Register on the statewide and metropolitan provisions of the new federal transportation legislation known as the “Safe, Accountable, Flexible, and Efficient Transportation Equity Act, A Legacy for Users,” also known as SAFETEA-LU. This broadcast is part of the Federal Transit Administration and the Federal Highway Administration’s public outreach efforts to introduce and discuss the proposed rule which will include six workshops coming up later this month and then in August in FTA’s region cities. This broadcast is also the third in CTE’s series of broadcasts on the planning and environmental provisions of SAFETEA-LU. We hope that you will take advantage of the opportunity to be active participants in today’s question-and-answer segment, and the panel will specifically address your questions and comments in the second hour. However, please note that your official comments on the proposed rule should be submitted to the federal docket and you have until September 7th of this year to do that. You will hear more about the process of doing that later in this broadcast.

Starting now you can use the numbers that will be appearing on your screen to phone or fax in your questions and comments at any time during today’s broadcast, or you can email us at cte_email@ncsu.edu. Closed captioning for today’s program is being
provided by the North Carolina Agency for Public Telecommunications, and a phone bridge for audio transmission only is available at 919-733-2441. After the broadcast, we invite you to participate in CTE’s web-based after-the-program discussion forum where you can continue to talk about the issues raised during the live broadcast with our panel and other audience members. The CTE discussion forum starts at 3:00 Eastern Daylight Time today and will remain active for the next several weeks.

A few more details before we get started. First, I hope you’ve already had an opportunity to download a copy of the program handout and a copy of the panelists’ PowerPoint slides off CTE’s website. If not I encourage you to do so from the URL address appearing on your screen. From this site you can also replay this broadcast in its entirety or order a copy of the DVD or a written transcript. We would also like to get your feedback on today’s program, and for those of you participating at satellite downlink sites you can do that by filling out the evaluation form and turning it in to your satellite downlink coordinator before you leave today. And if you are participating via the web, please complete the online evaluation form located on CTE’s website. We thank you very much for your attention to that.

At this time it is my pleasure to introduce today’s moderator, Mr. Victor Austin. Victor is a community planner with FTA’s Region V office in Chicago where he oversees several alternative analysis studies for the States of Illinois and Wisconsin. Victor has also worked closely with the Federal Highway Administration on numerous planning certification reviews in the states of Wisconsin, Indiana, and Michigan. Victor, welcome to the program.

Austin: Thank you very much, Katie. Good afternoon and welcome. This broadcast is part of the Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) public outreach efforts to facilitate review and comment by stakeholders and the public on the Notice of Proposed Rulemaking published in the Federal Register on June 9, 2006. The Notice of Proposed Rulemaking outlines the planning requirements for metropolitan and statewide transportation plans and programs. The proposed regulation results from the “Safe, Accountable, Flexible, Efficient Transportation Equity Act, A Legacy for Users,” commonly referred to as SAFETEA-LU. The Notice of Proposed Rulemaking, or NPRM, incorporates changes initiated by its predecessor legislation, the Transportation Equity Act for the 21st Century, and generally makes the regulations consistent with the statutory requirements.
Today we will walk you through key provisions of the NPRM and do our best to answer your questions and clarify the materials. The program is intended to prepare you to conduct a thorough review of the NPRM so that you can prepare comments, detailed comments, for our consideration as we begin preparation for the final version of the proposed regulation after September 7, which is the close of the public comment period.

When the NPRM on the planning requirements was published on June 9, 2006, it marked the beginning of the 90-day public comment period. Comments must be received on or before September 7, through the official comment period to the docket. In addition to this workshop, six outreach workshops are scheduled on the Notice of Proposed Rulemaking throughout the country at FTA regional cities. More information on the dates and the locations of these workshops will be provided later in the broadcast.

Now I will go over the format for this broadcast. The first hour will include a discussion of the NPRM on the metropolitan and statewide planning requirements of SAFETEA-LU. There will be three 20-minute segments and panel discussion. The second hour of the program will be dedicated to responding to your questions from the audience. We also want to express that the comments and questions provided on this broadcast should not be considered an official comment to the federal docket. A process has been established by the Federal Transit Administration and Federal Highway Administration to officially record your comments. We encourage that you send your comments through the appropriate channel set up for this purpose, and this will be provided to you later in the broadcast.

We also encourage you to provide to the docket both positive as well as critical comments on the planning requirements so that we can properly assess the industry sentiment towards the provisions. We need you to comment to the docket the provisions that you believe will be effective and that will improve the planning process as well as those provisions that you have concerns with. We also want to see your recommendations on the wording that should be used on the alternative approaches that should appear in the regulation.

I would like to introduce to you two speakers who will present information to you today: Mr. Charles Goodman, director of system planning in the FTA headquarters Office of Environmental Planning in Washington, DC, and Mr. Larry Anderson, planning, oversight, and stewardship team leader in the FHWA Office of Environment and Planning in Washington, DC. Welcome.

Goodman: Thanks, Victor, good to be here.
Austin: You can go ahead and begin to send in your questions to the program, so at this time I’d like to turn the program over to Mr. Goodman and Mr. Anderson. Thank you.

Goodman: Thank you, Victor. Good day, everyone. I want to start by presenting a summary overview on the structure of the Notice of Proposed Rulemaking, key framing definitions that are included in there, and the scope of the planning. That is our first segment. Let me quickly identify the other two segments. Victor spoke to a total of three 20-minute segments, so the first is really the structure of the proposed regulation to scope and the content. The second segment is going to go into the participation, the public involvement, the various provisions for consultation with interested parties and stakeholders that are set forth in statute and are part of the Notice of Proposed Rulemaking. The third segment and last gets into the details of the preparation and use of metropolitan/statewide plans and programs and next steps, and that is where we will get into some detail in terms of the workshops.

    So for today’s presentation I want to begin by sharing with you the guiding principles that really drove the rulemaking effort through a substantial staff writing effort on the part of both Federal Highways and FTA – and our rules of engagement, the do’s and don’ts that the federal team needs to follow, and responsibilities, as actually Victor had laid out for you all, in making comments and suggestions. And then the presentation will go for the most part then on to key concepts and provisions.

    In quick summary, SAFETEA-LU identified 15 significant elements in metropolitan planning that were new from prior legislation, 10 significant aspects of statewide planning new in SAFETEA-LU. Of those 10, eight are in common, so we are going to be really focusing on those eight common and additional provisions in the remainder of the presentation. The guiding principles that directed staff work to prepare this proposed regulation: number one, to do this as quickly as possible with the recognition that in statute is a deadline of July 1, 2007, for statewide and metropolitan planning processes to comply with the law. Obviously, the earlier the regulations are finalized that lay out the details and provide for the guidance in complying with the law, it will be helpful in meeting that July 1 date. So that is first and foremost is do this very quickly. Secondly is the guiding principle to learn from our past experiences from previous rulemaking efforts, guidance efforts and our work with the public and stakeholders, and use that to find common ground and minimize areas of disagreement and conflict in the proposed regulation, and you will be the judge if we struck that balance. Thirdly, portions of SAFETEA-LU are quite specific and procedural in product
detail, and in those areas we saw to use to the maximum extent statutory language—
didn’t see a need in our proposal to embellish very much upon that. And finally,
everywhere we could, is to try and make the proposed regulations as understandable as
possible using plain English.

Getting now into the do’s and don’ts in terms of this rulemaking effort. What the
Federal Transit Administration, Federal Highway Administration can do, and what we
are doing today, is to explain the context in the rulemaking process. And hopefully we
will do a thorough job of that. And to describe and clarify, responding to your questions,
various aspects of the proposed regulation. The final regulation has to make sense for it to
be implemented, so obviously if there are points of confusion in the draft we need to hear
that and hopefully we can help today in identifying that. Understand that we are very
limited in what we can say, by way of interpretation our intent and drafting the proposed
regulation was to implement the law as is. The preamble as we will speak to later on, or I
will speak to, really goes into the, a lot of the context, the—what is in the proposed
regulation, why it is there, and how it relates to previous regulations. That is as far as we
could go in terms of explaining where we are.

Finally, your role as reviewers of this is very important for you to, as Victor said,
to understand what the proposal is laying out and make comment to it. We very much
want to hear critical comments, most importantly to the point of identifying alternative
wording where you think something would better describe a provision. Areas that you
feel hit the mark in terms of the proposed regulation, areas that you are comfortable with,
we need to hear that you are comfortable with those. Recognize that in our development
of a final regulation, we will rely solely upon the comments of the docket, we need to
consider all of the comments are there, and if all we get are the critical comments and we
are not hearing of the numbers of folks who feel that certain provisions work for them,
then we will be obliged to consider those critical comments and perhaps make changes
that might not be in the best interest for all. So close review, comment to the docket, and
specific wording where you feel changes are needed.

In terms of the rulemaking schedule, again Victor described how we got to where
we are in terms of the publication of the proposed regulation. We are now in the outreach
period; comment period is closing September 7, 2006. Our goal is, as I said, to get the
final regulation out as quickly as possible. We are, as a goal we are shooting for early in
calendar year 2007, again to try and get as far in advance of the July 1, 2007, SAFETEA-
LU compliance date as possible. To be able to attain that final delivery date of the final
regulation is going to depend on the complexity of comments, the number and the extent that there is a commonality of them or they are all, you know, really in different directions—it is going to depend on the process as we go through the federal executive level review process as well. So our goal is as early as possible in calendar year 2007, but there are many factors that play into that.

In terms of the structure of the proposed regulation that you are reviewing, and we will be going through this, first is the preamble, and again the preamble discusses what was changed from the most recent system-wide metropolitan/statewide rulemaking, which was in 1993, why those changes were proposed in that rulemaking, and then how the changes were affected in the proposed language. The distribution tables you see on the slide there are really a layout of the section numbers from the 1993 regulation compared to the 2002 proposed regulation for now. The purpose of that is to, for folks who are familiar with that previous regulation, to try and maintain some consistency so that you can really understand what you are reviewing there.

Continuing on the structure, included in the proposed regulation are appendices, two: Appendix A, which is the guidance that was developed in February 2005 for linking the transportation planning and environmental review processes, and Appendix B, which is guidance put out in June of 2005 for ensuring fiscal constraint in transportation plans and programs. Additional parts of the proposed rulemaking rule structure are management and monitoring systems, and most significant aspects are the sections on metropolitan and statewide planning. There is also a section on proposed regulation that discusses the estimate of burden hours on the part of statewide and metropolitan planning processes, and again we encourage you to take a look at that and take a look at the results of the analyses.

Now we are going to switch gears, and, Larry, I am going to turn to you to discuss the preamble.

Anderson: Thanks, Charlie. Again, on behalf of the Federal Highway Administration, it is a pleasure to be part of today’s broadcast. What I want to do in the next few minutes is to talk about several items from an introductory nature. First, I want to briefly mention a little bit of the structure and intent of the preamble. I want to do a brief summary of the key definitions and terms that we have proposed as well as a discussion of the basic scope of the planning processes as we’ve laid it out in the NPRM, especially related to the planning factors as defined by SAFETEA-LU, as well as to talk a little about safety
considerations as part of the transportation planning process and the connection to the strategic highway safety plans that are now required as part of SAFETEA-LU.

Again, as Charlie mentioned, the preamble was really designed and is intended to lay out the rationale, regulatory intent, and the context behind the structure of the Notice of Proposed Rulemaking. This is where we tried to lay out our general approach and philosophy and our intent, and to really talk about some of the context in which we were working relative to not only SAFETEA-LU as it exists now, but also relative to the existing rulemaking or the existing rule that was last finalized in its entirety in 1993, as well as a synopsis of some of the interim guidance that we have developed and disseminated essentially over the last six years or so. And so, this is really our explanation of where we were coming from and our intent behind the Notice of Proposed Rulemaking. As part of the preamble, there is also discussion of, again as Charlie mentioned, the guiding principles and our general approach and structure of the NPRM. We tried to summarize some of the key statutory changes resulting from SAFETEA-LU. And what we also did was to lay out section-by-section summaries of key changes in the NPRM as well as Charlie mentioned there are some distribution tables that show a comparison and contrast of the three key sub-parts and the content and the structure of those various topic areas and the various rulemaking analyses and notices are also a part of that preamble.

The other thing I’d like to mention, too, as part of the preamble and some of our overall approach is to really build upon the existing rule even though it was last finalized in its entirety in October of 1993; we felt that from a general look-and-feel perspective the structure was something that we could work with, blend it in with the various SAFETEA-LU changes as well as some TEA-21 changes that had not been reflected since October of 1993. There were a couple of intermediate activities and events between 1993 and now that were part of some past rulemaking in terms of the non-metropolitan local official consultation processes. We are very mindful of that effort from a few years back and that essentially has been carried over into this in the proposed rulemaking as well as there was a waiver for the New York City metropolitan area which, that was a rulemaking done a few years back in response to the September 11, 2001, terrorist attacks that those provisions have since run their course. But the preamble really talks about our philosophy and some of these various events and activities that we try to respond to.

There are, as you will see in the Notice of Proposed Rulemaking, a number of terms and definitions. Since ISTEA, again that was the basis for the October 1993 rule;
there have been a number of new and additional terms in situations that we have tried to address with this Notice of Proposed Rulemaking. As we will discuss later in today’s broadcast, there has been a lot of expansion of the transportation planning process and a lot of lessons learned along the way that we tried to capture with some of these proposed definitions and terms. For example, there is much more than what is on the screen right there but a synopsis of some of the key terms that we have identified and defined beginning with revisions and updates, and that is pertaining to transportation plans and transportation improvement programs and the statewide transportation improvement programs that we have learned over the years that there is a lot of, there have been a lot of, different contacts in terms of the timing and extent of an update of a planner program versus a revision or some kind of an intermediate or intermittent change to those documents. So we have attempted to define terms such as “revision,” which then is a more general term that has two basic sub-sets to it: an amendment, being a more significant type of change, versus an administrative modification, which is a lesser type of an intermediate change. We’ve also provided a definition for the term “update,” which is based on the legislative and statutory schedules for the development of plans and programs. We’ve also defined terms such as “available funding” and “committed funding,” which builds upon largely the June 30, 2005, interim guidance on fiscal constraint that we developed and issued. There are also terms and definitions on things such as “consideration, consultation, cooperation,” and “coordination,” the Coordinated Public Transit and Human Services Transportation Plan that came about as part of SAFETEA-LU. Also environmental mitigation activities as part of SAFETEA-LU, and visualization techniques, as well as definition of terms such as “interim transportation plan” and “interim TIP” for situations in which a conformity lapse has occurred, and then these would be opportunities to develop interim documents in the event of a conformity lapse.

What I want to talk about next a little bit is the scope of the planning process, and we will touch upon this in a little bit as well, but SAFETEA-LU made two key changes when we talk about planning factors and the scope of the planning process. First, safety and security have been de-coupled. With TEA-21 it was a single planning factor; with SAFETEA-LU these are now separate and individual planning factors. Also, the TEA-21 planning factor regarding environment has been expanded, and it now includes to promote consistency with planned growth and economic development. And a key there is that we are talking about to promote the consistency, not necessarily requiring it, but to
put it on notice that those kinds of considerations need to be balanced as part of a transportation plan and program development.

The Notice of Proposed Rulemaking is really focused on implementation from three key factors. First, as Charlie mentioned earlier, we are building upon statutory language that came about from SAFETEA-LU as well as from some additional clean-up from TEA-21 as well. Also we try to outline some examples of how the planning factors can be used in transportation planning, such as through formulation of goals, objectives, and performance measures; through the evaluation and prioritization criteria that are developed for transportation plan and program development; as well as the development of short-range planning studies, strategic planning and policy studies, or transportation needs studies. We see those planning factors as helping to drive and to shape some of those other planning activities.

And finally I want to talk a little bit about safety. While it is not within Section 6001 or 3005 or 3006 of SAFETEA-LU, there is a key addition that came about as part of SAFETEA-LU and that is the establishment of a Strategic Highway Safety Plan that is part of a Highway Safety Improvement Program and that can be found under 23 US Code 148. And essentially what we wanted to do here is to recognize that the Strategic Highway Safety Plan is a key component of safety and that there is an extensive amount of coordination that occurs between the states and a whole host of stakeholders and partners in the development of the Strategic Highway Safety Plan that addresses engineering, management, operations, education, enforcement and emergency services elements. And what we are trying to do with the Notice of Proposed Rulemaking, in large part to promote the stand-alone safety planning factor, is to show a connection that those efforts through the SHSP development would be reflected, whether it be the priorities, goals, counter measures, or projects, but somehow or another we would like to see a connection between the SHSP effort and the development of long-range plans and ultimately programs.

So with that I am going to turn it back over to Charlie for a couple of minutes, and he is going to wrap up the first segment for us.

Goodman: Okay, thank you, Larry. Picking right up where Larry left off talking about security. Considering security in the metropolitan/statewide planning process, as Larry indicated, safety and security had been bundled together; they are separate. So the way the proposed regulation calls for ways to consider security, very much the same as Larry spoke to with the State Strategic Highway Safety Plan in that the transportation planning process should
be consistent with security strategies, and what is proposed here are the regional transit security strategies that areas will be developing as they consider applying for and receiving transit security grants from the Department of Homeland Security. Basically the statewide metropolitan plans in doing that will be incorporating and summarizing emergency relief and disaster preparedness plans and policies that support Homeland Security as well as considering the personal security of users. The Department of Homeland Security’s transit security grants are among others that involve the formation of regional transit security strategy workgroups, the preparation of regional transit security strategy plans, so again it would be an opportunity for metropolitan/statewide planning processes to be consistent with whatever the areas are doing and applying for these funds through the Department of Homeland Security to have the metropolitan and statewide planning processes appropriately be consistent with them.

In the definitions section of the proposed regulation there is actually a definition there for regional transit security strategy. It speaks to over-arching regional strategies with mode-specific goals and objectives, focused on prevention, detection, response and recovery, considering a sustainable effort to protect the transit’s critical infrastructure from terrorism. And again, all of this is set forth in the Department of Homeland Security grant program. So again, it is an opportunity for metropolitan/statewide planning to be consistent with that activity.

Other activities that are proposed for consistency: first, and this is a carryover from TEA-21, is the development of an ITS Regional Architecture. It is set forth in statute for TEA-21, and the proposed regulation calls for the transportation planning process to be consistent with the ITS Regional Architecture. Additionally, and we will talk later on about the growing importance of operation and management strategies in the transportation planning process. The proposed regulation calls for, to the extent possible, that they be consistent with the principles of asset management, and specifically as that speaks to goals and operational strategies. Again, it is a strategic approach to consider in taking care of the existing system, managing and operating it effectively. We will talk a little bit later, but I will mention here specifically is an opportunity again proposed for the metropolitan/statewide planning processes to be consistent with the Coordinated Public Transit-Human Services Transportation Plan that I will speak to a little bit more. Again, it is an opportunity; the proposed regulation calls for the processes that they should be consistent with such a plan but not that they necessarily shall be consistent. We will talk about that in a minute.
And then finally, as Larry indicated, the planning processes should be consistent with the Strategic Highway Safety Plan and the Regional Transit Security Strategy as required by the Department of Homeland Security. Other areas of consideration and consistency with the planning process, statewide planning processes, and proposed regulation are encouraged to rely upon information and studies prepared by metropolitan planning organizations for those portions of the state that lie within the planning areas of MPOs. Statewide planning processes should be coordinated with statewide trade and economic development plans. Statewide planning processes should be done in coordination with—federal lands and tribal government lands in the state should be prepared to be in coordination with them.

I am going to talk a little bit more about the Coordinated Public Transit-Human Services Transportation Plan. Basically, that is not an MPO requirement; that is a requirement of prospective grantees seeking funding from FTA under three grant programs: the elderly and disabled program, job access reverse commute program, and the new freedom program. Again, three programs under the transit title. The proposal is that the metropolitan and statewide transportation planning process be consistent with the development of such a coordination plan. In the definitions section of the proposed regulation there is a description of this Public Transit-Human Services Transportation Plan, and it basically identifies it as a unified strategy developed by public, private, non-profit organizations with full participation by all citizens and stakeholders to include disabled, the elderly, and those with low income to basically looking to developing a plan to minimize the location of service and maximize the collective coverage of transit services. Again, to the extent that that is an area-wide activity focused on efficiency, the proposed regulation calls for the metropolitan and statewide planning processes to be consistent with it. This is not an MPO requirement; again, it is a requirement—it is a condition of those grant receipts. However, the MPO can at the election of local officials play a more significant or less significant role in the development of such plans.

With that, Victor, I’d like to go back to you because I think you have some probing questions to help us clarify maybe some of these pieces in segment one.

Austin: Thank you very much, Charlie. Yes, I do have a couple of questions. What is the role of the MPO in preparing the Coordinated Public Transit-Human Services Transportation Plan?

Goodman: Okay, well let me start that, and it is good to pick up—we just finished talking about that. It is basically their role is as it will be determined by the local officials. The requirement of...
for such a plan again is not a metropolitan or statewide planning requirement; it is a requirement as a condition to receive grants under those programs. However, recognizing that the intent is to look at area-wide transit services across services provided by whether they are federally-funded, state, local, private, non-profit, it is very much a planning exercise. So again, the recommendations at a minimum they be consistent, but the specific role of the MPO is to be determined by local officials. The development of such a plan is to be locally-driven, let local elected officials drive it. In many areas the MPO is seen to be a fair broker, an independent fair arbiter of where services should be deployed, consolidated, expanded, and so forth. And in those areas the MPO is taking the lead in preparing these plans. In other areas for various reasons, institutional constraints, staffing constraints, the MPO may not be the best organization. I would say though that the MPO needs to be involved for a couple of reasons. Number one, in those grant programs this coordination plan in areas of 200,000 population or more, selection of projects for implementation from that plan needs to be done in cooperation with the MPO—that is, in SAFETEA-LU language. Secondly, all of the funds in projects from that coordination plan that involve federal funds need to find their way into the metropolitan or statewide transportation improvement program and the plans that lead to those. So involvement with the MPO is a requirement at some level, not necessarily to lead the effort.

Austin: Thank you. Also another question regarding the role of the MPO: what is the role of the MPO in preparing the Strategic Highway Safety Plan? Either of you?

Anderson: Yeah, I can field that one, Victor. As I mentioned earlier, the SHSP, the Strategic Highway Safety Plan, is a major part of the core Highway Safety Improvement Program as established by SAFETEA-LU. And as I mentioned also that the SHSP is developed by the state, and the development is expected to be with a whole host of partners and stakeholders within that state, including MPOs and other regional planning entities and the various sectors within the state regarding management and operation, education, enforcement, emergency services. Those various priorities and goals and countermeasures and projects all need to be reflected within that SHSP. Therefore, while the state has the responsibility for the development of it, they also have the responsibility for involving these various partners and stakeholders to develop a robust SHSP.

Austin: Thank you very much. We have completed the first segment of this program.....

Anderson: What I want to do right now—thanks Victor—what I want to do right now is I will start us off with the second segment, and this one is entitled “Participation and Consultation in Planning.” And what I want to do here in a couple of minutes is to talk about topics such
as MPO designation and re-designation, metropolitan planning boundaries, participation plans and public involvement plans as well as consultation, coordination, cooperation, and consideration. Trying to say all of that in one breath is quite a task, but we will give it a try.

First, regarding MPO designation and re-designation, the building blocks again, we started with the October 1993 rule. Also again, as we have throughout the NPRM to use the SAFETEA-LU language as a basis. We are really looking at having the establishment of the official agreements among multiple MPOs that serve a single urbanized area. We also, using some guidance we developed and disseminated back in March of 2005 with the FTA, we put out some additional information to clarify some scenarios that would or would not trigger re-designation of MPOs. We felt that those were some lessons learned and various scenarios and situations that we have faced and addressed over the now 13 years, we felt that some of that information was very valuable to put into the NPRM to help define some of these scenarios for designation or not to re-designate the MPO on. That may be not necessarily an exhaustive list but certainly some key triggers or non-triggers such as regarding the proportion of the voting members being required, the decision-making authority or the responsibility of the MPO being changed, re-designation would not be necessarily required for new urbanized areas, census designation, or if new members are included from the expanded planning area where periodic rotation of membership or if there are new members added if an area is now a transportation management area. So those are some of the key highlights regarding MPO designation and re-designation.

We also address metropolitan planning boundaries, again using the October 1993 rule, and then complemented with the language from SAFETEA-LU. We also built upon that and propose to build upon that the option of expanding the planning boundary to be consistent with growth and economic development forecast areas; that is a proposed option, an opportunity. There again, we felt that was a good complement to the expansion of the environment factor regarding economic development. And also there is some language regarding the development of agreements on dividing planning responsibilities between MPOs. When you look at—especially through the 2000 census—expansion of urbanized area boundaries into the existing metropolitan planning area boundary of an adjacent MPO, so there is some language in there as well that we have proposed.

Regarding the participation plan, that was a key addition from SAFETEA-LU and we, again we used the SAFETEA-LU language as a basis and also the language from
the existing rule regarding MPO public involvement, and we’ve essentially blended those two things together into, for MPOs in the participation plan, to guide the development and use of those in the key changes brought about by SAFETEA-LU, is the expansion of the set of the interested parties to be involved and engaged in planning, as well as that those interested parties must be consulted with in the development of that participation plan. So we have addressed it in such a way through the Notice of Proposed Rulemaking, a similar approach using largely the language in the 1993 rule, similar for the statewide public involvement processes as well.

So that is a quick overview of participation plan. The four “C’s” that I mentioned earlier, again we’ve proposed definitions for terms such as “consultation, coordination, consideration and cooperation.” The word “consultation” is used in a lot of different places and contexts within SAFETEA-LU. We have the basic definition of consultation but also as you are looking trough the NPRM, especially when it talks about the development of metropolitan and statewide long-range transportation plans, that there is SAFETEA-LU language regarding consultation, regarding comparison of maps and inventories for environmental features, and the use of that is part of transportation planning development, so we tried to capture that relationship within the actual proposed rule text. And as I mentioned earlier, we’ve retained and carried forward the language that we developed with a number of stakeholder groups three or four years ago regarding non-metropolitan local official consultation. That is carried forward with little change as part of the NPRN. So with that I am going to throw it back to Charles.

Goodman:  Okay, Larry, thank you. Visualization is a term used repeatedly in SAFETEA-LU, and it is in keeping with SAFETEA-LU’s theme to more broadly involve citizens, stakeholders, communities in understanding and running the decision-making process, if you will. So it is a new requirement emphasizing the transparency through visualization techniques to improve understanding of the contents of plans and programs. What is proposed in regulation attempts to recognize the broad range of capabilities and needs from community to community. They found sort of the common ground of all of this is laid out in the proposed regulation where again clarity and an easily-accessible format are key, but those can be achieved through a variety of means. In the definition section of the proposed regulation, I suggest you take a look at that, because there is a long list of possible visualization techniques that run the gamut from large computer simulation high-tech approaches all the way down to maps, photographs, displays. Again, the intent was to follow dutifully the mandate in SAFETEA-LU for visualization techniques but not
prescribe a particular approach but rather call for consideration of the ranges. One important trace back to an earlier section, the participation plan should have a section in it that identifies the particular types of visualization techniques that will be employed and the ways that they will be used. And if you remember, as Larry was indicating a few minutes ago, the participation plan is developed by the people for the people, so to speak, with the full involvement of communities and stakeholders and so are really local folks who determine the array of visualization techniques to use and when to use them.

Switching gears here, the next topic, a very important topic, is the connection between planning and project development. This is one of those, to use a term that Larry referred to, this a carry-over from TEA-21 where in statute it was called for the secretary to basically eliminate the major investment study as a stand-alone requirement but implement the principles through the planning and environmental review processes. And so what was done over the past couple of years is develop a pretty hefty brand of guidance, and as I indicated earlier it is actually in Appendix A, guidance developed in February of 2005 is in Appendix A that calls for various approaches to linking planning/NEPA. The fundamental principle concept of that guidance and a synopsis of that guidance are, in fact, provided in the narrative of the regulation and in section 212 or 318 is that it is entirely permissive and voluntary. The localities may conduct corridor and sub-area studies. They may offer up the results of those studies for use in the environmental review process, and the environmental review process obviously may elect to use those studies, so it is a very permissive, again volunteer thing.

What is proposed in the guidance and set forth in the proposed regulation are really this connection between planning a project development in two contexts; one is a discussion of the studies, and I suggest you take a look at the proposed language; it lays out the opportunities for what the studies can do in terms of perhaps producing statements of purpose and need, corridor, general mode, doing a preliminary screening, elimination of unreasonable alternatives, identifying significant environmental features. And then a second part of the proposed language deals with the documents and what to do with them and basically what might be some of the ingredients for having those documents truly considered as part of a project-level environmental review process.

Going to environmental considerations, stepping back to the plan level in both metropolitan and statewide planning it is required that the plans consider potential environmental mitigation strategies and the locales for their application. And that those environmental mitigation strategies be developed in consultation with all of the important
resource organizations at the federal, state, and tribal levels. Basically, it allows states and MPOs to begin this consultation with those groups for purposes of developing these mitigation strategies in a to-be-determined timeframe.

There is a very expansive definition in the proposed regulation on the types of environmental mitigation strategies; I’d ask you to take a look at that as well as a layout of examples in the proposed regulation. The key is that this is at a regional scope, it is at a plan level, the strategies may certainly have project-level relevance, but this is not a NEPA study in the planning process. And in fact a hold-harmless provision that was set forth in statute in TEA-21 and SAFETEA-LU says any federal actions on metropolitan/statewide plans and programs do not constitute a federal action reviewable under the terms of NEPA is there. So again this is an opportunity to consider potential strategies or a range of approaches, and in the interest of time we could perhaps talk about them later.

Victor you have some proving questions for us?

Austin: Actually in the light of time I think what we should do is go straight to segment III to get through the material, and then we can cover the questions if we have time at the end. Is that okay with both of you?

Anderson: Sounds good.

Austin: Thank you. We have about eight minutes left.

Anderson: Thanks, what I am going to do is I am going to start us off on segment III, and I want to take a couple of minutes to provide a summary on a congestion management process component as well as the consideration of operations and management strategies as part of the statewide/metropolitan transportation planning processes. First to start with the congestion management process, as you know SAFETEA-LU built upon what was once known as Congestion Management Systems and now has labeled it as Congestion Management Processes, that we have used that language and are seeking to build upon that and looking at it from a process standpoint and an integrated process standpoint, along with the development of long-range transportation plans and TIPs in the transportation management areas; and that is one thing I want to highlight is that much like the former CMS, the Congestion Management Process is for the transportation management areas.

Another key thing that we propose to do with this rulemaking is that you know a lot of the content on the CMS has been housed over in 23 CFR Part 500 as part of the six management monitoring systems that came about through ISTE AV and then were modified...
Transcript of CTE Teleconference #40:
Overview of the Proposed Rulemaking on Planning (Broadcast: July 13, 2006)

and made optional as part of the National Highway Safety System Designation Act of 1995, with the exception of the Congestion Management Systems at that time for the transportation management areas. What we have proposed to do is essentially take the lion’s share of that information out of 23 CFR part 500 regarding the Congestion Management Systems and to bring it over into 23 CFR part 450 regarding Congestion Management Processes. So that is a bit of our approach and mindset; we felt that not only to update the language to make it consistent with SAFETEA-LU but we also felt to encourage and promote more linkages between those projects and strategies identified in a congestion management process, to have them actually there within and adjacent to the plan and TIP language to promote additional integration into the actual development of plans and programs. A lot of the language as I mentioned earlier on CMS is carried forward to highlight things such as methods for monitoring and evaluating performance, defining congestion management objectives, coordinating data collection, evaluating usage and performance, implementing schedules for each strategy and the periodic assessment of the effectiveness of those implemented strategies. And we also propose to carry forward the single occupant vehicle provisions that had been part of the existing rule.

I am going to talk briefly on operations and management strategies. This is a key element of SAFETEA-LU that is new. And what we propose to do is to address operations and management strategies as part of the congestion management process. We also, per the language in SAFETEA-LU, propose that the operations and management strategies be included as part of metropolitan transportation plans and that they should be included as part of long-range statewide transportation plans as well. With that I am going to turn it over to Charlie for the next few minutes.

Goodman: Thank you Larry. Quickly, I think some of you know this is right out of the statute, but the update cycles and scopes of transportation plans and programs, just remember the number four — four-year update cycle for transportation plans in non-attainment maintenance areas stays at five years for attainment areas. The years of scope within scope of TIPs and STIPs is now four years. In the interest of time I will call that to your attention and take a look. One note here is, and this is a result of some earlier discussion in guidance, is the horizon year requirement for 20-year long-range plan stays the same, but it is only triggered to update that horizon year to another 20 years when there is a formal update at the four or five-year cycle, not if you need to amend it along the way.
Fiscal constraint, the next topic, very much spelled out in Appendix B. Again guidelines set forth in June of 2005—we have some probing questions you’ll see on the slides there. Those were subject to some debate, and we very much want to call those to your attention.

I want to move along to the last of the topic slides here and that is the annual list of obligated projects. This was a requirement in TEA-21 which changed with SAFETEA-LU and the proposed regulation cause for this is emphasizing the importance of including pedestrian and bicycle improvements and that it be a cooperative effort of the MPO state and transit operator. The way to ensure that it is a cooperative effort of those three entities, and I will go back to the financial plan called forth and fiscal constraint provisions, is that it be the arrangements for the three entities to develop the financial plans to support fiscal constraint and the annual listing be set forth in the MPO agreement. And at that point I want to flip back to Larry and he will wrap us up.

Anderson: Okay, Charlie, thanks. I’m catching my breath in the middle here. What I want to do is talk a little bit about the phase-in of the SAFETEA-LU requirements as we’ve proposed them in two places actually, 23 CFR 450.224 for statewide plans and Section 338 for metropolitan planning. As we have mentioned earlier today, within SAFETEA-LU there is that mention of a July 1, 2007, date at which time transportation plans and programs that are developed are to be reflective of the SAFETEA-LU planning provisions and other requirements. We have crafted some proposed language that again as we mentioned earlier, too, we have proposed definitions of terms such as “updates and revisions” and “amendments and administrative modifications” in terms such as those. Recognizing that the state of the practice varies so we encourage comment on what we have proposed in terms of the implementation schedule. Again I want to highlight what Charlie mentioned about the public outreach on the next slide you will see not only a mention of today’s broadcast but the six outreach sessions that will be held over the next several weeks.

And then the last slide is giving you more information about how to provide the official comments to the docket. I’d also like to mention quickly that the additional information on those six outreach sessions around the country was published in the July 6, 2006, Federal Register. Back to you, Victor.

Austin: Larry and Charlie, thank you both very much. I got a little bit ahead of myself earlier; I think now we are ready for a 10-minute break. That was a lot of work. Good job, gentlemen. We will be back in 10 minutes. Thank you.
Austin: Hello, and welcome back. In this segment of the program we are going to answer questions from you, the audience. The first question is from the Florida DOT regarding Appendix B fiscal constraint; some in the Florida DOT are concerned about the inclusion of this appendix into the rule because it will elevate guidance to the level of rule. The language includes a lot of “musts” that seem to overstep the rulemaking authority. For example, the requirement that the LRTPs must use year-of-expenditure dollars, that is in conflict with all of the LRTPs in Florida which are in present-day dollars. As long as both costs and revenues are expressed the same way, there doesn’t seem to be a basis for mandating one or the other in federal rule. Gentlemen?

Anderson: Well thanks, Victor. I can take the first attempt at that. I appreciate the question and the comment and would like to encourage the individual or individuals who submitted this question to certainly submit that comment to the docket. To give a little bit of background, we understand the comment and what one of the key things to keep in mind is the fact that especially now in an era from Federal Highway Administration perspective with the major highway projects and SAFETEA-LU has defined major highway projects now are those highway projects over $500 million. And then also within the context of the New Starts Program the FTA has that we are looking at the planning process as being the beginning point for a project continuum when it comes to the development of the financial plans and the major project management plans that get established and articulated actually in some separate guidance that FHWA issued back in January of 2006 to address the new SAFETEA-LU requirements regarding major highway projects. So that is a bit of some background and some insight that is really meant to strengthen that linkage between systems planning and the larger-scale project planning. Charlie, do you have anything to add?

Goodman: Well, that is the intent. If the language in the proposed regulation carried forward from the guidance doesn’t in your opinion accomplish that, then please recommend an alternative approach. But the intent is to strike that consistency, making the entire planning process transparent and providing for a clear understanding of the continuum from systems down to project planning. So please propose alternative language that makes it more workable.

Austin: Thank you. The next question is from Oahu MPO in Hawaii; I hope I pronounced that right. The question is if the update of the regional transportation plan is expected to be
completed by the end of the calendar year 2006, but the development of the Strategic Highway Safety Plan is not completed though currently underway, will the regional transportation plan need to be revised and/or updated based on the definition in the NPRM to be SAFETEA-LU compliant? Will reference to the development of the Strategic Highway Plan suffice?

Anderson: I think these are implementation issues that would come into play, I think, once we get to the finalization and completion of the rulemaking. But I think in general, and if you look at the May 2, 2006, guides that we put out to talk about the implementation date and plans and programs that are developed prior to July 1, 2007, relative to after that July 1, 2007, date, what we are looking for right now is any plans that are developed now that will be completed prior to that July 1, 2007, date to try to take advantage and to consider and reflect the SAFETEA-LU provisions to the greatest extent possible. And to start working on getting the overall process up to speed with SAFETEA-LU. Recognizing too that the Strategic Highway Safety Plans themselves are not, if memory serves me correctly, not due until October 1 of 2007. There will be an offset there; we recognize that, and certainly with the next update after July 1, 2007, of that plan then we would be looking for more of a direct connection. But again we recognize that there are some timing issues involved.

Goodman: Let me add a couple of points. The language proposed in the NPRM is that the planning process should be consistent, and you know it is a “should” as opposed to “shall be consistent.” So again, per Larry’s comments, it is do the best you can. I’ll speak as well the same concept before maybe another email comes in that has the same question on security on the transit security grants. Same situation; I know there is an active rulemaking preparation of a regulation now jointly by the Department of Transportation and the Department of Homeland Security. Not sure when that is going to conclude, so clearly transportation plans under development now, whenever they are complete there may or may not be a regional transit security strategy in place in their area. So it, again it is incumbent upon the planning advisors to do the best they can, use the information available at the time of their plan of adoption.

Anderson: I think on top of that, too, Charlie is we encourage any kind of comments, suggestions, situations or scenarios that you are working with right now along those lines. That will help us to finalize the rule. We will take anything we can get from you all into consideration so we can make sure that we are meeting the spirit and intent of law and statute and working with you all to develop some implementation strategies. So any of
these kinds of scenarios or situations please, you know, feel free to share those with us via the docket.

Austin: The next question is from Kentucky. It is related to the previous question regarding the planning cycle. SAFETEA-LU compliance for existing transportation plans; our plan is scheduled for updating four-year cycle in 2009. Retrofitting the plan to meet some compliance issues, for example, discussion of environmental mitigation activities, may prove difficult and may require significant revision to an existing plan. Please review how to best address compliance issues for an existing transportation plan. Either of you?

Goodman: Let me start with that. I guess I’d ask again, what we want to do is see if a proposed regulation would respond to that question. So look at the language in the proposed regulation—it calls for a discussion of the potential types of mitigation strategies, it is very—it is non-specific on those. I think to the extent that there are regional maps or statewide maps of environmental resources, habitat areas, certainly beginning to consider that as part of the development of a metropolitan/statewide plan even to the point of mapping environmental fragile areas is a good start. There is no bright line proposed in the draft regulations for what constitutes consideration or non-consideration of environmental mitigation strategies but rather a good-faith effort to consider the information available. And so again, an effort underway now to update a long-range transportation plan should consider the environmental information available in whatever form it is and act accordingly. There is no prescribed list of inventory features that must be included. This is not a NEPA analysis.

Anderson: And I think Charlie makes an excellent point that one of the key things that he mentioned a couple of times that I think will really ring true is the fact that it is the information available. For example, as we know that there is a whole host of information sources out there, use of GIS, which we are not proposing that it be mandated, but it is a tool out there, with information and data being very extensive right now. The capabilities to do overlays and some analyses are there. And what we’ve tried to do over the past several months is to keep our eyes and ears open to other sources of environmental data, maps, and inventories that might be of real value to use in this comparison effort, such as U.S. Fish and Wildlife Service required states to develop state wildlife action plans. Those were developed by the states back in the fall of last year. That is one of a whole host of examples of information that is available that can be used in this comparison. And so, as Charlie said, the key of it is really the available information and the fact that there is an
effort made to compare that information with what is being considered and deliberated about in terms of transportation plan development.

Austin: Thank you. We have a question from California, San Diego—the 315 06 Interim Guidance for JARC and New Freedom indicates that the recipient of these funds need to have designation by the governor. Slide 17 says local determination lead. Can you clarify? Can any local agency produce the coordinated plan without formal designation by the state?

Goodman: Okay, let me speak to this, Victor. The Slide 17 reference to locals designate lead was specifically talking about the role of the MPO or not the role of the MPO, the role of other organizations, in preparing that Public Transit Human Service Coordination Plan. It was not attempting to speak to who would basically be the grantee and the applicant for funding under those FTA programs. Those three FTA programs, elderly and disabled, job access, reverse commute and new freedom, are currently in a, not in a rulemaking but in an, effort now to prepare a draft circular. And so those are ongoing discussions as to what the guidelines would be, but that slide specifically spoke to whether or not the MPO has to be the lead, and that is a local determination; it doesn’t speak to the governor designating a lead organization for those grant applications.

Austin: Thank you. We have a question from the Georgia MPO. Should the public involvement plan become a part of the participation plan, making it one whole document rather than having two public involvement plans? Either of you?

Goodman: I’ll take a first cut at that. Should it be? If it is an opportunity, absolutely. I think as—and Larry spoke to the participation plan and what may have an emphasis in the proposed regulation from its predecessor the public involvement plan is a greater emphasis on involving citizens and stakeholders in the development of that plan. That said, certainly a public involvement plan as it exists today is a good first step and could very well be after working with local communities and citizens, could very well become the participation plan. So, without knowing any further, I’d say it certainly could be included within that; may need to be sure that was developed or verify that it was born out of a process that involved the local communities.

Anderson: And to echo what Charlie is saying, I think it certainly is a case-by-case basis. I think it really is a product of the level and extent to which those public involvement approaches or processes were developed in the first place. I’d say to those MPOs to work with your state DOTs, your FHWA division offices, your FTA regional offices, to really sit down with what is in place right now, to do a side-by-side with those elements compared to the
SAFETEA-LU provisions and to try to make an assessment of, you know, are there opportunities that, to really to take some or all of the existing public involvement techniques and to roll those forward into a participation plan? The key, as we mentioned a couple of times, is that the participation plan must involve and embrace and engage that expanded list of interested parties as defined in SAFETEA-LU. And while we are talking about that, that also includes per SAFETEA-LU representatives of the disabled as well as representatives of users of pedestrian and bicycle transportation facilities. So that is a starting point, and then that participation plan being developed in consultation with those interested parties as well rather than a kind of a unilateral development of a plan and it is given to those interested parties, but to really engage them as part of that participation plan development and then to use that plan then through the development of the metropolitan transportation plan and the TIPs.

Austin: We have a question from the Arizona DOT. Are there expected changes to the criteria required for the development of a new MPO, i.e., census population requirements?

Goodman: Well SAFETEA-LU essentially defines the criteria or defines the threshold at which point an MPO would need to be designated, and that has not changed; it is still 50,000 population based on the criteria that the U.S. Bureau of Census uses, so from that perspective the 50,000 is still the magic number in terms of population.

Anderson: Let me just add just to clarify, the census information is what is behind designation of an urbanized area. It is local officials and the governor that are behind the designation of an MPO to represent an urbanized area and those requirements have not changed since ISTEA, 75% local government officials representing 75% of the area’s population plus the largest city in the area.

Austin: Thank you. We have a question from the Nashville Area MPO. Are the new update cycles permissive, that is, if the MPO feels a three-year TIP suits their region best, is that allowed?

Goodman: Let me take a cut at that because the terminology is very important here. Update cycle, every three years is fine—update cycle is the frequency of update. So, okay, at a minimum, every four years, so every three years, every two years, would be quite fine. What would not be fine is number three if it is applied to the span of years in the TIP, and that is how the, the intent to have in SAFETEA-LU a four-year span of years in the Transportation Improvement Program and Statewide Transportation Improvement Program is to improve public awareness, understanding of projects a little further down the pike than before. And that is not allowable; that is in statute that there be a four-year
scope of projects. But the update cycle can be no less frequent than every four years; it certainly can be every three years.

Austin: Thank you. The New York DOT has a question. Are the outreach sessions the same as CTE national broadcasts? What are the similarities and differences of the two?

Goodman: I’ll take that, and they are similar in terms of the slides. We may actually, in a basis of these discussion questions today, we may modify the slides to add some more information to them, clarify some points that we are seeing may have been confusing based on your questions. So the subject matter will be exactly the same, some of the slides may change a little, and we will very much be having questions and answers. Our intent is to have a—very similar to today—is have a section of presentation followed by clarifying questions and answers, so it will be very much the same. What will be different is it will not be on the World Wide Web.

Anderson: I think on top of that, too, we wanted to explore a couple of different ways to conduct this outreach. One, which has certainly been done in the past, is to have some more one-on-one, face-to-face outreach, but recognizing too that we wanted to have that done in a timely manner so that you all have a fair and ample amount of time to ponder and think about and develop some good responses and reactions for us that, you know, we wanted to—and just the fact that it is tough to be everywhere in the short amount of time—that we wanted to have some outreach opportunities across the country, but also recognizing that out-of-state travel budgets are tight, that everybody’s time is tight, that this broadcast is really another way to have a broader outreach that, as Charlie mentioned, is not different than what we are going to be doing in those six locations. It is just a way to get the information out, to get you all in a position where you can review the NPRM and then provide us with good common-sense suggestions.

Austin: Great, thank you. Our next question is from the Washington State Federal Highway Administration. In the annual listing of obligated projects, if bike/ped facilities are part of a larger project, are they required to be reported separately? Our understanding is that this is not the intent of the law or regulation.

Goodman: I’ll take a first cut. The law and the proposed regulation track with the way the projects are described in the transportation improvement program. And specifically, the annual list of obligated projects is intended to follow that same format. So if a bicycle/pedestrian facility is embedded and not really readily visible, or costed-out within a larger project, the information is not readily available then again good faith effort—if the information is not there, it certainly can’t be recorded. However, if some information is there and an
example might be if everyone knows that in fact there is a component of a larger project that has a bicycle/pedestrian facility, but the particular amount of funding associated with it is unclear, that would be still useful information to provide. That you know there are projects for which some level of federal funds had been obligated in the prior year that involved some degree of bicycle/pedestrian facility.

One thing, I guess I wanted to answer this as well because I was cutting short the presentation before our break. We do have preliminary guidance out, and it has been on both the Federal Transit and Federal Highway Administration websites that lay out a number of excellent examples and current practice, websites you can go to for various organizations that really speak to the, you know, to a full range of recording approaches, all of which really center on providing information in the most understandable form to the public. I will call your attention though in the proposed regulation to improve the understanding and the usefulness of this information, there are a few guidelines set forth. Number one, the information be made available within 90 days of the close of the prior program year, understanding that after that time, maybe, who cares, so—early enough so that folks can understand. And then, secondly, in terms of what to do with that, that information provided involves first the original amount of federal funds programmed for that project, secondly the amount of federal funds that were actually obligated. And then, thirdly, if the amount obligated was less than what was programmed, then what the leftover amount is—and again thus the importance of that 90-day timeline because those would be funds that potentially could be made available to program another project, so again in the interest of public involvement and transparency that is useful information.

Anderson: I think to echo and supplement what Charlie said, too, is that the Notice of Proposed Rulemaking outlines, the basic fundamental requirements for the annual listing. The preliminary guidance that was issued back in February provides some additional information, some examples, it talks about—there is actually a question or two related directly to the question posed by Washington State in terms of how to treat and handle bicycle and pedestrian-type investments that are embedded as part of the larger project. I urge you to take a look at that preliminary guidance. As of right now the intent is that once we get the rulemaking finalized that we will take another look at that preliminary guidance to revise it, add to it, separate and apart from the rulemaking process, too, we will be on the lookout. If you’ve got some examples, we’d sure like to see those and to keep that supplemental guidance piece kind of a living document, if you will, to supplement what the fundamental requirements would be in the rule.
Austin: Great. We have a question from the New Jersey Transit on what is the update cycle for statewide plans.

Anderson: There isn’t one. Short answer, there has not been one since ISTEA, and SAFETEA-LU did not change that and certainly the proposed regulation doesn’t.

Austin: Okay, thank you. California COG has a question—please clarify that the transportation plan horizon year has to be 20 years from the adoption of the plan, not 20 years from the last year the plan was in effect.

Goodman: Okay, let me take a cut at that because this was interesting. And this is a result of some successive interim guidances that have happened along the way leading to SAFETEA-LU. The effective date is the term to keep in mind, and I suggest you take a look at the proposed regulation to read about that, but the effective date of a long-range transportation plan in a non-attainment maintenance area is the date of the Federal Highway/FTA joint determination of conformity of that transportation plan. The effective date of a transportation plan for a metropolitan planning organization in an attainment area is the date of the MPO approval. Those—at the date of those effective dates, the horizon year has to be 20 years. What is interesting in the proposed regulation, and it is an opportunity to elaborate upon it, is the regulations propose not to require MPOs to extend that horizon year during that update cycle, if you will. Once it has been adopted or approved by Federal Highway/FTA/ if it is a non-attainment maintenance area, has a 20-year horizon/ if there are along the way minor amendments, not even major amendments, but somewhere in that four-year or five-year span, it is not required that the MPO, in fact, extend that horizon year a few more years out to ensure that it is always 20 years. That is a significant undertaking. Proposed regulation again calls only for the MPO to ensure the horizon is 20 years at the time of formal update, four-year or five-year cycle.

Austin: Okay. We have a question from the Minnesota MPC. Our long-range plan was adopted in December 2004; does it need to be updated in December 2007 or December 2008? It is not clear from the wording of Section 450.338A.

Goodman: I will take the first crack at that one, Victor. I would first point everybody to some interim guidance, updated interim guidance we issued back in December of 2005. Essentially, once SAFETEA-LU was enacted back on August 10, 2005, those update cycles could come into play. We addressed that kind of issue and provided some updated and some refined guidance to that point as part of our December 8, 2005, clarifying guidance. So I would suggest that you work with your FTA regional office and FHWA...
division office on the strategy for addressing that, but essentially those new update cycles were effective upon enactment of SAFETEA-LU.

Anderson: And I might add that, just to re-emphasize, every action, every federal action or MPO action taken after July 1, 2007, means that document needs to be SAFETEA-LU compliant. So yes, there is the opportunity there for four-year update cycle, recognize in December of 2008 the resulting transportation plan needs to be SAFETEA-LU compliant.

Goodman: Actually, in either scenario it would need to be since it is past July 1, 2007.

Anderson: Good point, Charlie, that you made there.

Austin: Thank you. We have a question from the Southeast Michigan COG; actually, I think we may have covered this question, but maybe we can just reemphasize it. How should we consider Appendices A and B as part of the official rule or just guidance?

Anderson: The wording in the content of both appendices does carry the weight of rule. One thing I would like to note, though, above and beyond that simple answer is the fact that relative to Appendix A on the Linking Planning and NEPA that as that guidance was crafted back last year it would still hold true as a fact that we are not mandating or not proposing to mandate that everything be done up to NEPA standards necessarily. That it—just like the guidance is, we are proposing through the rule that it would be certainly an opportunity that if you want to take credit essentially for your planning work as part of NEPA that is certainly an option, certainly can be pursued. However, and then it is almost like an if/then scenario, if you choose to go that route, then there are several things that would need to be done in order for that planning work to be able to be carried over into NEPA and project development. So that is one caveat that above and beyond the appendix text being, you know carrying the weight of rule that there is that kind of if/then situation relative to Appendix A at least. Charlie?

Goodman: I agree.

Anderson: Okay.

Austin: We have a question from the Virginia DOT. Regarding 450.212, this suggests that planning studies must in essence be NEPA-level studies in order to be used in project development. What was this intent?

Goodman: Well, I’ll begin the answer to that. The intent is for the planning process to do the very best job to undertake studies so that they potentially could be used in some capacity in NEPA, perhaps for purpose of need or perhaps to identify the key mode; I mentioned that in the presentation before the break. So the intent is to enable studies done in the planning process to qualify to receive that kind of status. It is not that necessarily there needs to be
a NEPA study to the point of environmental assessment or more detailed study in the planning process, but the preparatory studies done in the planning process have the opportunity with all of the caveats mentioned earlier, have the opportunity to be considered and taken credit for to move the NEPA process a little further along, taking advantage of work done during planning, not to be a substitute for NEPA analysis.

Anderson: That is right, Charlie, and I guess to address this particular question, it is not a must that, again that these—what we are trying to do is express the opportunity that sub-area corridor, those kind of intermediate kinds of planning studies may be used as input into the NEPA and project development processes. And then, as I mentioned before, then it would be some of those other considerations that need to be factored in for that information or analysis to be used as part of kind of that hand-off to project development and NEPA.

Austin: Thank you. We have a question from the New York State DOT. Please clarify Section 450.328, “TIP action by FHWA and FTA.” Does this section mean that FHWA and FTA will be doing separate written findings on TIP consistency with the plan for each MPO in addition to the joint STIP finding now done? Currently, we have one STIP finding jointly done by FHWA and FTA. This section implies that we would have 13 MPO joint findings plus one for the STIP.

Anderson: I think what some of the intent would be, and I guess I would encourage the individual party that asked this question that you pose it to the docket as well, essentially there would be the, there are several different kinds of planning findings that are issued and has been the case at least since ISTEA. And that the, what—and so we are really not proposing anything any different and Charlie, if you want to elaborate.

Goodman: Yeah, let me—in fact there is a requirement in the 1993 regulation for a finding by the federal team at the time of the MPO development of the TIP. But it is not a formal action, as Larry indicated. The language in the proposed regulation really is carrying forward from the 1993 that looks at the self-certification by the MPO that they comply with all statutes, regulatory requirements, not just SAFETEA-LU, and that it is a checkpoint to be sure that self-certification is taking place. One thing we didn’t mention earlier, and it is an opportunity to now, in terms of federal oversight types of actions, the certification reviews for transportation management areas jointly by FTA and Federal Highways has the, the schedule for that has been relaxed to every four years as opposed to every three years. And so the proposed regulation calls for at least this internal planning/finding at the time of a TIP approval as a way to monitor the work of the planning process, to
ensure that it is meeting requirements, and most importantly if there are problems to cite them early on so that appropriate technical assistance, training, support can be provided to correct the problem before it gets worse.

Austin: Okay, thank you very much. We have another question from the Oahu MPO in Hawaii. Are there deadlines associated with the development of the Strategic Highway Safety Plan, participation plan, etc., similar to the deadlines from TEA-21 that was included for the ITS regional architecture?

Anderson: I will take the first attempt at this and rely on Charlie for help. There are a few things intertwined in that question, I believe, if I am reading it correctly. First, let’s start with the Strategic Highway Safety Plan. As I mentioned before, that there is a whole, another section of SAFETEA-LU and whole other portions of 23 U.S. Code that address the Strategic Highway Safety Plan. If you were to look at—and I will give a plug to a publication called The Strategic Highway Plan: A Champion’s Guide to Saving Lives. This was issued on April 5, 2006, by Federal Highway Administration in cooperation with the National Highway Traffic Safety Administration, the Federal Motor Carrier Safety Administration, Federal Transit Administration, the Federal Railroad Administration, and it is a great reference piece to take a look at a lot of information regarding the development and timing of the Strategic Highway Safety Plan. If you look in that document, that October 1, 2006, is when the obligation of funds for Section 148 “Eligible Activities” would come into play. I think I might have said—then there is also a date of October 1, 2007, at which time the apportionments of the HSIP funds would be held. So I think I mentioned October 1, 2007, in an earlier remark and actually when I look back at that Champion’s Guide the SHSP itself, the initial one should be October 1, 2006, so I apologize for the error in my earlier remarks. The participation plan, since that is an embedded piece of statewide and metropolitan transportation planning that the development and use of that particular product as part of planning would fall in line with the implementation date and schedule with everything else as part of this particular NPRM.

Austin: Great, thank you. Have a question from California regarding the annual listing of projects. If the obligation data rests with FHWA, why is it the responsibility of the MPO to produce this report?

Anderson: Well, I think what we were looking at here is, and really to highlight upon what SAFETEA-LU presents, is the fact that the development of the annual listing is to be cooperative among and between the state MPO or MPOs and the transit operators in that
region, it is not just the FHWA funds. And I can let Charlie speak to the FTA process, in that we’ve also proposed as part of the agreements portion of the NPRM to come up with a game plan and relationships on how that data is to be reported and generated and that can be put together in part of that overall annual listing.

Goodman: Yeah, I’ve just got to amplify a little bit, Larry, exactly. The intent there, certainly the intent in statute and the intent to replicate that in the proposed regulation, is to involve the public and involve the local officials in developing and seeing their report card in so many words in terms of their ability to obligate the funds. There is no question but that the Federal Management Systems, certainly the Federal Highways one, perhaps to some degree FTA, may provide information, and requests could certainly be made to the federal agencies to get those data. But pulling it together is the responsibility of the participants in the planning process and a very important element of the agreement that Larry spoke to of MPO agreements.

Austin: Great. We have another question from the California DOT. Would FHWA and FTA staff be willing to review public participation plans for technical assistance, such as providing examples to meet the requirements?

Goodman: I’ll stab at that, absolutely. In fact that is our job, and it may not be so much our job at headquarters where Larry and I work, but that is the job of the Federal Transit Administration region staff, the Federal Highway Administration division staff, is to be good partners, federal partners with the states’ MPOs, transit operators, and by all means bring information to us. If there is a question on the part of the field staff, certainly they will bring it to headquarters. And at headquarters we very much want to see good examples. So absolutely willing, we very much want to.

Anderson: And I think above and beyond that, too, that another key partner and player in all of this from the Federal Highway Administration’s perspective is our resource center and primarily our planning technical services team and whatever other technical services teams that we might need to bring in to provide that kind of assistance and those kinds of examples in outreach as well. So, as Charlie mentioned, please feel free to contact the respective field office for your state. They are there, ready, willing and able to help you out with any of the implementation activities that you all are embarking on per SAFTEA-LU.

Austin: Thank you very much. I think for the sake of time we are not going to be able to take any more questions at this time. I want to thank both of you, Charlie Goodman and Larry Anderson. I think we’ve had a good discussion here on the Notice of Proposed
Rulemaking. We had some excellent questions, and I just thank you very much. I would just like to wrap up in pointing to some of the outreach sessions that FTA/FHWA will conduct over the next couple of weeks. As I mentioned earlier in the broadcast, there are six additional outreach workshop sessions scheduled throughout the country, and these are posted on the website. Also, I would like to mention one of the slides on commenting to the federal docket. Unfortunately, we weren’t able to take everyone’s questions; we do appreciate you calling in and submitting your questions. We strongly encourage you to submit those questions to the docket so that we will have a record of them and will be able to review them. The 90-day comment period does end September 7. We are not anticipating any extensions to this public comment period, so again, please get your comments in. We mentioned earlier the appropriate channels for submitting your comments, you can send your comments via mail delivery or web to the address on the screen there. Also the docket number is provided on the screen, and our fax number is provided on the screen. So these are methods for which you can submit your comments to the docket. They will be officially recorded as comments from you, and we urge you to get those in.

Again thank both of you very much. We appreciate you being here, and I will turn it over to Katie.

Anderson: Thank you.

McDermott: Well thank you, Victor, and on behalf of CTE I would also like to thank our panelists from FTA and FHWA for being here. And thanks especially to you all for participating in our program. I would also like to acknowledge the many downlink sites across the country that tuned in to today’s broadcast, including EPA’s Air Pollution Distance Learning Network. And I must also recognize the efforts of the North Carolina Agency for Public Telecommunications, Microspace Communications, Eastbay Media, and the UNC Center for Public Television, all of whom helped produce the live satellite broadcast and Internet simulcast. And thanks again especially to the Federal Transit Administration whose financial support made possible today’s program.

Just a few reminders before we leave you. You can continue today’s discussion on the Proposed Rule for Planning in CTE’s after-the-program discussion forum. If your question or comment did not make it on the air today, we will make sure to post it to that forum over the next couple of days, and we also invite you to add any additional questions or comments that you would like our panel to consider or other audience members. We will keep that forum up for the next several weeks before it is archived.
And please remember, however, that your official comments on the proposed rule should be submitted to the federal docket by September 7. DVDs or written transcripts of today’s broadcast can be ordered from our website, and you can also view this broadcast in its entirety within the next couple of days from CTE’s webcast archive. Online versions of the handout and the panelists’ PowerPoint slides are available for download as well from the site. And finally, please remember to complete your evaluation form and turn it in to your downlink site coordinator if you are participating at one of our satellite downlink sites. And if you are participating via the web, please complete the online evaluation form located on CTE’s website.

We invite you to regularly visit our website for more information on the national broadcast that CTE develops throughout the year. Later this fall, our next program will feature the results of the Federal Highway Administration’s recent domestic scan tour and successful wetlands mitigation programs. So we hope you will be able to participate in that program later this year.

Well that is our program for today. It has been a pleasure being with you. Until next time thank you and good night from Raleigh, North Carolina.

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