Overview of the Final Rule on Metropolitan and Statewide Transportation Planning
Part 4 of the SAFETEA-LU Series
April 19, 2007

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McDermott: 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 new policies, research applications and best practices in the field. Today’s program is titled “Overview of the Final Rule on Metropolitan and Statewide Transportation Planning.” Our panel will discuss the final rule issued in the February 14th Federal Register, which revises the statewide and metropolitan planning provisions of the federal transportation legislation known as the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users or SAFETEA-LU.

This broadcast is part of the Federal Transit Administration and the Federal Highway Administration’s public outreach efforts to discuss the final rule and its changes resulting from the Notice of Proposed Rulemaking held in June through September of 2006. This broadcast is also the fourth in CTE’s series of programs on SAFETEA-LU’s planning and environment provisions. We hope
that you’ll take advantage of the opportunity to be active participants in the Q&A segments scheduled during both hours of the program. Starting now you can use the phone numbers that will be appearing on your screen over the next two hours to call in or fax in your questions and comments at any time during the live broadcast, or you can email us at cte_email@ncsu.edu. Closed captioning for today’s program is also being provided by the North Carolina Agency for Public Telecommunications and a phone bridge for program audio is available at area code 919-733-2416.

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 broadcast with our panel and other audience members. The CTE discussion forum starts at three o’clock Eastern daylight time today and will remain active for several weeks.

A few more details before we get started. First I hope you’ve already downloaded the program handout, a copy of the panelists PowerPoint slides from CTE’s website. If not, I encourage you to do so using the URL address shown on your screen. From this site you can also replay this broadcast in its entirety or order a copy of the DVD. We’d also like to get your feedback on today’s program, and to do that, for those of you participating at satellite downlink sites, you can complete the evaluation form located in your handout and turn that into your site coordinator before you leave today, or web participants can complete the online evaluation form located on CTE’s website, and we thank you very much for your attention to this.
At this time it is my pleasure to introduce your moderator, Mr. Victor Austin. Victor is a community planner with FTA’s headquarters office in Washington, DC where he oversees FTA’s outreach efforts on the final rule for planning. Victor previously moderated CT’s broadcast on the proposed rule in July of last year and we’re delighted to have him back. Welcome to the program, Victor.

Austin: Thank you, Katie. Good afternoon and welcome. This broadcast is part of the Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) public outreach efforts to review and clarify the joint FTA/FHWA final rule governing metropolitan transportation plans and programs, statewide transportation plans and programs, and the regulations on congestion management systems. The final rule was published in the Federal Register on February 14, 2007, and became effective March 16, 2007, and was primarily prepared for implementing the planning provisions of SAFETEA-LU. The final rule also incorporates changes from its predecessor legislation, the Transportation Equity Act for the 21st Century, and generally makes the regulations consistent with statutory requirements.

Today we’ll walk you through the key changes to the federal rule, and we’ll do our best to answer questions to clarify the material. Our purpose in this broadcast is to assist you in understanding the new and revised planning requirements to enable you to meet the SAFETEA LU compliance date of July 1, 2007. Now, I will go over the format of this broadcast. In the first hour, there will be three segments. The first segment will provide an overview of the final
rule, the guiding principles that we use in preparing the regulations and the key changes from the Notice of Proposed Rulemaking to the final regulation published on February 14, 2007. In the second segment we will discuss the expanded scope of the planning process followed by five minutes of questions and answers. In the third segment we will discuss the new and expanded consultation and participation requirements, followed by five minutes of questions and answers. We will then take a 10-minute break and resume with a 10-15 minute presentation on the products from the transportation planning process. Then we will respond to your questions for the remainder of the program.

I would like to introduce the two speakers who will share duties in presenting their information to you today. Mr. Charles Goodman is director of systems planning in the Office of Planning and Environment with the Federal Transit Administration in the headquarters office. Welcome, Mr. Goodman.

Goodman: Hello, Victor. Good afternoon, good morning everyone.

Austin: And Mr. Larry Anderson, who is the oversight & stewardship team leader in the Office of Environment and Planning with the Federal Highway Administration in the Washington, DC office. Welcome, Mr. Anderson.

Anderson: Hello, Victor. Hello, everyone. It’s good to be here today.

Austin: Thank you both. Let me mention that you can go ahead and send in your questions for this program. The information, the numbers will be shown on the bottom of the screen. Now I will turn the program over to Mr. Anderson and Mr. Goodman. Thank you.
Anderson: Hello. Again, on the behalf of the Federal Highway Administration, it’s my pleasure to be here today. As Victor alluded to, our intent today is to provide an overview of the various provisions that are outlined in this new final rule. As Victor mentioned, it was published in the Federal Register on February 14th of this year, and became effective on March 16th of this year. And as I remarked a couple minutes ago, this is an overview presentation of the various provisions and requirements in the final rule, and this is our primary outreach effort on a national level, and will be followed up through efforts of FTA regional offices, the FHWA division offices in providing additional support and outreach to their various states, metropolitan planning organizations and other stakeholders in their respective states or regions.

What I want to do first is just kind of go over the presentation once again. I’m going to cover the guiding principals and some of the background information that led to the development of the final rule, and talk briefly about some of the rulemaking process and how we got to this point, and there will be three other sections that will cover actual provisions of the rule. So with that, I first want to talk a little bit about the guiding principles. Federal Highway Administration and Federal Transit Administration, when we embarked upon this rulemaking effort, we defined several key guiding principles to lead us through the development of the final rule. First we wanted to minimize the areas and levels of controversy. We also wanted to use and rely upon statutory requirements and language to the greatest extent possible. For those additional provisions that we felt were necessary and appropriate, including the carryover of some previous rule
provisions, we wanted to use plain language. In addition with that other guiding principle, we wanted to look at the organization and flow from the former rule, and to try to make it a very user-friendly and easily understandable format to provide good, clear expectations for implementation of the final rule.

What I want to do next is to talk about the rulemaking schedule that we used. Just to reiterate a little bit, SAFETEA-LU was enacted in August 2005. We published the Notice of Proposed Rulemaking on June 9, 2006. We had a 90-day comment period that closed on September 7, 2006. As I mentioned earlier, the final rule was published on February 14th of this year, became effective on March 16, 2007, and the July 1, 2007, date that is articulated in SAFETEA-LU is also another key date to keep in mind, and we’ll be alluding to that date and discussing that in further depth as we progress with today’s presentation, but that’s a little bit of a schedule that led us through the development and promulgation of this final rule.

What I want to do next is to talk a little bit about some of the comments and the docket process that was utilized for the Notice of Proposed Rulemaking. We received approximately 150 sets of correspondence from a number of stakeholders from across the country, and when you tally them up, it added up to more than 1,600 individual comments. As I’d mentioned, the state DOTs, metropolitan planning organizations, councils of government and other advocacy organizations accounted for approximately 85% of all of these comments. What I want to do next is to talk about some of the comments that we did receive on the Notice of Proposed Rulemaking.
In general, there were four major issues that kept repeating themselves as we were going through the various comments and I just want to briefly discuss those over the next couple minutes. One involves the inclusion of the fiscal constraint guidance in the appendix, or what was known in the Notice of Proposed Rulemaking as Appendix B. Another issue was the inclusion of guidance for linking transportation planning and project development in NEPA processes in an appendix as part of the Notice of Propose Rulemaking. Another key issue area was the schedule for meeting the July 1, 2007, date established in SAFETEA-LU, as well as the coordinated public transit and human services transportation plans.

There are the four basic and key areas that we received a lot of comments on as part of the Notice of Proposed Rulemaking.

I want to talk a little bit about how we addressed each of these main issue areas as we developed the final rule. First, on Issue One, regarding fiscal constraint. You will note when you look at the final rule that there is no longer an Appendix B in the final rule. We received a lot of comments on the content and the type and amount of information in an appendix to the rule. And we took those comments very seriously, took them into account, and you’ll see that there is no longer an Appendix B regarding fiscal constraint. However, we did feel that there were several aspects of Appendix B that merited inclusion that merited inclusion as part of the rule text in the final rule, and those three key features are the inclusion of year of expenditure dollars, and developing cost and revenue estimates. So that, that provision has carried forward, and we’ll talk about it in a little more depth later on, but we have put in a transition date of December 11,
2007, where we want to see, begin seeing the consideration of year of expenditure dollars in revenue and cost estimates.

This reflects the time-based value of money, which is particularly crucial and critical as areas are beginning to grapple with larger, more regional, longer term transportation issues and developing solutions and strategies to address those issues, as well the fact that year of expenditure dollars is also consistent with the FHWA’s major project guidance as well.

Another aspect that we’ve carried forward into the final rule is the discussion and clarification of the financial plans that accompany metropolitan transportation plans and transportation improvement programs is the fact that we are now looking for a systems level estimate of cost and revenue sources to adequately operate and maintain federally funded highway and transit facilities.

Again, these are systems level types of estimates, not facility or service specific, but that’s something that we received a lot of input and comment upon, and we wanted to address those with some fairly straightforward language about what the level of expectation would be.

Another aspect of fiscal constraint that we carried forward into the final rule is the optional use of cost ranges or cost bands beyond the first 10 years of the metropolitan transportation plan. This was something that we first mentioned in our interim guidance on fiscal constraint approximately two years ago; it was included in Appendix B in the Notice of Proposed Rulemaking. We feel that beyond 10 years, in a long-range transportation plan, that putting an exact number on costs and revenues is very challenging and will continue to be so, so we’ve put
in some language that allows MPOs the opportunity to establish cost ranges or cost bands to not pinpoint necessarily on one number as long as any of the revenue sources that would be expected to cover that cost range or cost band are also reasonable.

Next issue area I want to touch upon is linking transportation planning and project development in NEPA processes, Issue Two. The first thing we did was really to look at the comments that we received again on the level and extent and use of appendices as a part of rulemaking. Because Appendix A as we proposed it in the Notice of Proposed Rulemaking provides amplifying information about how state DOTs and MPOs and public transportation operators can choose to conduct planning level choices and analysis, we wanted to continue to have that information available, to supplement and support and provide amplifying and clarifying information and guidance within the actual rule provisions themselves which are in section 450.212 and section 450.318. Again, these two sections in the rule encourage linkages between the planning and project and development NEPA processes, and to reiterate, Appendix A is not regulatory and is not binding; it merely supports the information that is reflected in the rule itself if a state or an MPO chooses to take advantage of the opportunity to carry forward planning-level information analyses and decisions into the project development NEPA processes. Another point to bring forward is that the information contained in Appendix A does supersede the February 22, 2005, program guidance on linking transportation planning and NEPA processes.
To continue with Issue Two, we also added emphasis to the preamble in the rule text that the final rule fulfills the intent of section 1308 of the
*Transportation Equity Act for the 21st Century* (TEA-21). If you will recall that that former legislative requirement required the Secretary to eliminate the major investment study as a separate requirement and also required that the Secretary promulgate regulations to integrate such requirements, not only for transportation planning but also for project development in NEPA purposes. So these sections in the new final rule implement the requirements in the language of section 1308 of TEA-21. It eliminates the MIS requirement as a stand-alone requirement, and in fact, all previous rule references to the major investment studies as a stand-alone requirement have also been removed.

Regarding Issue Three, we received a lot of comments on the July 1 SAFETEA-LU compliance date and how to approach the implementation of the various rule provisions. Again, SAFETEA LU established this date and law carries forward into statute. What we ended up doing based on a lot of comments that we received, and we received a number of comments on the Notice of Proposed Rulemaking, that we decided to adopt the approach that we used in outlining and crafting and developing May 2, 2006, interim guidance on the transition and implementation of the SAFETEA-LU planning provisions. Again, FHWA and FTA actions beginning on and after July 1, 2007, require SAFETEA-LU compliance that are being approved by, or being acted upon by FHWA and FTA. We will have some more discussion and provide some more information on that transition and that particular date, further in the presentation.
The other issue that we address regards a coordinated public transit, human services transportation plans. The descriptive detail provided in FTA circulars for sections 5310, 5316, and 5317 programs that SAFETEA-LU actually requires that these decisions be made by local officials, and there are actually circulars that were published on March 29th for those three programs. The other key thing to keep in mind is that the coordinated public transit human services transportation plans are not an MPO requirement; however, all of the section 5310, 5316, and 5317 projects and programs must come from a coordinated public transit human services transportation plan.

I want to wrap up by talking a little bit about the structure of the rule itself. Again, similar to the prior rule, it contains three subparts and also contains an appendix as I mentioned earlier. Subpart A covers transportation planning and programming definitions. Subpart B covers statewide transportation planning and programming. Subpart C covers metropolitan transportation planning and programming, and Appendix A again covers the linking transportation planning and NEPA process linkages. There are also a couple of other aspects of the final rule that are worth noting quickly. First is Title 23, Part 500, regarding management and monitoring systems. The former section regarding congestion management system in 23 CFR 500.109 has been modified and much of that information and the requirements have been carried back into the actual planning provisions in 23 CFR 450. In addition, there is information contained in a reference that ties Title 49, Part 613 back to the planning rule as well to include the FTA portion of the rule.
So, with that, that’s an overview of how we got to this point, and with that, I’ll turn it over to Charlie.

Goodman: Thank you, Larry. Again, good morning, good afternoon everyone. We’re going to begin now with an overview of the key new and change provisions in this final regulation from the prior regulation which dates back to 1993. Larry set the context, he gave us the background on the rulemaking process, the key changes from the proposed regulation to where we are now. Now from this point on we’re going to focus on the key changes, new and revised, on three topic areas. We’re following the sequence and topic areas of, first, the broadened scope really set forth in SAFETEA-LU of the transportation planning processes of metropolitan statewide areas. Secondly, the broader reach of the stakeholder mix. The organizations, the entities to work with in developing these more comprehensive transportation planning processes, and thirdly, the products of the processes and the particular delivery dates, the update schedules and so forth, and the rest of the presentation by myself, and Larry and Victor are going to go into those.

So let me begin with the first topic of the broadened scope. And that deals with the planning factor, the expanded planning factor. It’s an expansion of a preexisting planning factor that is entitled “protect and enhance the environment, promote energy conservation and quality of life.” It was expanded in SAFETEA-LU in statutory languages that we have incorporated directly into the final regulation to include promoting consistency between transportation improvements and state and local planned growth and economic development patterns. Again, this was taken directly from the statute, and the language there is important, and
we’ve included that directly in the final regulation, and we use the term “promote,” again, it’s in keeping with statute, but secondly, recognizing this is a new, anytime the profession is reaching out to areas that previously really have no history of working with the transportation planning process, we’re very uneven across the country, it may be a challenge, it may be easy in some areas, so the term “promotes” recognizes the challenges that could be brought to bear in reaching out and coordinating with these different planning processes, different update schedules and so forth.

The rule language allows for flexibility in determining which agencies to be for MPOs and states and transit operators to reach out and coordinate with, and the extent to which consistency is actually achieved; a good faith is in the end what’s complicated. Among the agencies that could be targeted for the reach-out, could be local units of government, regional planning agencies, rural planning organizations, state, local, regional, economic development, community development organizations, a whole range, and the intent is to recognize that transportation is not an end unto itself, but it’s part and parcel of an overall quality initiative that begins with economic growth, personal sustainability and so forth. The extent and type of consistency reaching out to these groups really depends on a location-by-location basis on the scale and complexity of issues facing them.

The second scope expander is the separation of previously coupled safety and security into separate planning factors, the intent being to recognize the importance of each individually as well as their unique characteristics individually. There is a bit of overlap, but quite a bit separate that it’s important
for the transportation planning process to address, and again, it’s in keeping with the SAFETEA-LU provisions. The rule encourages consistency with both metropolitan and statewide planning processes and any number of security plans, programs, and documents. One example might be, for some areas, a requirement of the Department of Homeland Security, the regional transit security strategy. It’s not required nationwide, certain areas, but that would be an example of the type of planning process and documentation that should be developed consistent with the applicable metropolitan statewide planning process. But there are others, and the rule recognizes that and basically promoting and encouraging consistency.

Continuing with the separate planning factor for security is a specific discussion on the contents of metropolitan transportation plans and long-range statewide transportation plans, and there should be a security element that specifically summarizes the priorities, goals, projects set forth in these other transit, transportation, safety and security planning review processes. Again, a security element that incorporates or summarizes the key plans and programs and evaluation processes. Again, the scope of how security is addressed in the transportation plans, metropolitan statewide should encompass both motorized and non-motorized users.

The separate planning factor is associated with safety. Again, part of the coupling here was special recognition of another SAFETEA-LU requirement that’s not in the planning revisions but in the Title 23, calling for state departments of transportation to prepare strategic highway safety plans. Very important requirement, very important that has been recognized in this final
regulation for there to be consistency between those strategic highway safety plans and the applicable metropolitan and statewide transportation planning processes. So, in working in concert with the attention to safety, the coordination of planning process activity specifically mentions this strategic highway safety plan, both metropolitan and statewide need to be consistent. Specifically, the safety elements to be incorporated in the metropolitan and statewide plans should include the priorities, the goals, the countermeasures and projects as they are set forth in the strategic highway safety plan.

Another broadening feature of the final regulation gets into the area of planning in the environment. And I guess there are really three levels where this takes place and discussion now is going to cover them. First, with regard to transportation plans of the metropolitan planning organizations and states; secondly, in dealing with the broader mix of stakeholders with which consultation needs to take place and incorporating environmental consideration in the planning process; and then thirdly, at the corridor and project studies levels, and Larry mentioned that a couple minutes ago in regards to the planning NEPA connections, so first, on this slide, we’re going to talk about the SAFETEA-LU requirement that was brought forward into the final regulation for including in the long-range statewide transportation plan and the metropolitan transportation plan, the discussion of potential environment of the mitigation activities and the types of activities, and where they should take place to restore and maintain environmental quality of the area that could be affected by the plan. A project focus is not at all required, it’s intended to be a regional, to be regional in scope,
and I’d suggest that you take a look at the definition of environmental mitigation strategies that set forth in the final regulation for a full layout of the types of strategies, the types of environmental features but again punctuated with the statement that the consideration is intended to be regional in scope.

Planning an environmental mitigation activities is continued as specifically dealing with consultation that I mentioned a minute ago, and that the discussion of the types of measures and where to consider them should be developed in consultation with the key wildlife, land management and regulatory agencies at the federal, state and tribal government levels. And again, as with coordination of planned land use and economic development, we know these are new organizations and new stakeholders to work with, and so it’s an important new consideration.

Planning and environment continued looking specifically at linking planning and NEPA. Larry mentioned the change from the proposed rulemaking, basically bringing forward into Appendix A and in sections 450.212 and 450.318, the provisions for better connecting the planning and environment and NEPA processes. Appendix A basically fulfills the requirement to eliminate the major investment studies as stand alone; it provides explanatory information that really complements the rule text as intended to be as an appendix, readily available, non-binding information for use by practitioners. Continuing on with linking planning and NEPA, it’s entirely permissive. In the appendix is a discussion and examples of how information is considered, who and how the studies may be
conducted, and if they’re conducted, how the results may be used in subsequent documents and how those documents may be used in the continuing review.

Moving on to operation and management strategies in the broader scope, metropolitan transportation plans must include operational management strategies for both to improve the performance of systems as well to maximize the safety and mobility of people and goods. Following on, continuing operation management strategies, the transportation plans of states should include, and the distinction between the “should” and the “must” is that statewide transportation plans can continue to be policy plans. Congestion management process in transportation management areas, again, this is just the largest of MPOs, intended to be multi-modal, the process continues from the preceding congestion management system requirement in that, number one, the intent is that the ongoing consideration of monitoring and evaluation of performance of the system, and that it be an integral contributing component to the development of the metropolitan transportation plans and transportation approval programs in those areas, emphasis on ongoing defining objectives and associated performance measures.

The last topic in this broader scope are MPO designations and redesignations. These basically build upon the March 2005 guidance that sought to clarify conditions under which a formal redesignations is required or not required, and as this slide indicates, it is required if there’s a significant change in proportion of voting members, or the decision-making authority, the next slide indicates where it is not required as a normal course of events as result of the

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designation by the Bureau of the Census of a new urbanized area, as well as new
members coming to the MPO by virtue of expanded planning area and periodic
rotation of members and new members as a result of TMA. Importantly in the
designation or redesignations of an MPO it’s very clear in the final regulation that
the preexisting designation remains in force until the formal redesignation takes
place, and with that we will stop, and I’ll go to you, Victor, for Q&A.

Austin: Thank you very much. At this part of the program we will field your questions.

Also, I would like to make a suggestion. I think it’s very important that we get
the information out to you today, so I’m going to suggest that during the third
segment, if we need to hold off with questions until the final hour of the program,
that we might want to do that, just so that we can get all the information and
material to you.

All right, with that, let me start with question number one, which is from
the Metro Transportation Commission in Oakland, CA. “Discussion in the final
planning regulations stated that FHWA/FTA will shortly issue revised guidance
on fiscal constraint and financial planning for the transportation plans and
programs. What will be the extent of changes from the current guidance and will
the guidance first be issued in a draft format or a comment?” Who would like to
field that question?

Anderson: I can start, and Charlie, you can help me out here. A couple things to keep in
mind here, one is the fact that we did issue some interim guidance on June 30,
2005, and some of that information was utilized and carried forward, in the Notice
of Proposed Rulemaking under Appendix B, and some of that information, in fact,
as I mentioned earlier has actually carried forward into the final rule itself, and what we see right now is a fact that the final rule is out, it contains new, updated, clarifying guidance and provisions and requirements related to fiscal constraint, and that for the time being, that is the guidance. The interim guidance that was issued back in June 2005 has been superseded by the final rule, and that as I mentioned a second ago, the final rule is the guidance in play right now, and that right now is the game plan and the intent is for the rule to stand on its own relative to financial planning and fiscal constraint. We will continue to be working with all of our respective field offices as they work with the states, MPOs, and transit operators in implementing the SAFETEA-LU planning provisions and this final rule, but at this point, there is not additional guidance developed or forthcoming. For the time being we want to rely on the final rule language, and to work with everybody in implementing those particular provisions.

Goodman: I would only add the extensive outreach and comment to the docket was very important in crafting the language in the final rule, so let’s take advantage of that, and the intent was to put sufficient detail in there for folks to be able to use.

Austin: Thank you. Another question from the First Coast MPO, Jacksonville, FL. “Five years ago, we would never have anticipated that costs would escalate the way they have. How can we reasonably be expected to estimate cost in the year of expenditure dollars even 10 years out?”

Goodman: I’ll start that. That’s a very good question. We do transportation planning, but no one gave us the crystal ball, and so costs are just another facet of that. The best we could suggest first off is for you to work with your Federal Highway division

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office and applicable Federal Transit regional office who may have information on your part of the country, on cost indices and how they may have changed over time, but I think the bottom line is, is to make a good faith assumption, recognize that it serves no one to underestimate costs in the long run, and to the extent that you can be conservative, recognize the kinds of changes that have taken place in industry, and perhaps incorporate that into your future year of expenditure estimates, there’s a better chance that your costs will be more realistic and if in fact the costs end up coming in under estimate, well, all the better, more funds have been found, but there’s not magic cure or solution to this; work with your applicable field office federal folks, look at the industry, and I think it’s very important to document the basis of your assumptions.

Anderson: I would also, too, that we realize that this is in many places and in many cases going to be a cultural and an organizational shift, but we also feel very, very strongly about the need for a transportation planning and programming processes to be transparent, truth in advertising if you will, when you look at the reasonableness of cost estimates and the revenues sources, and as Charlie mentioned, make good faith efforts in trying to put forth the best estimates as possible, good coordination and communication amongst and between the MPO or MPOs, in your urbanized area as well with the transit operators, as well as with the state DOT or state DOTs depending on if you have multiple state MPO area, but that good cooperation, coordination and also with some assistance and some guidance provided by field offices, as Charlie mentioned, is going to be very crucial.
The other thing to keep in my mind too is keeping the three “C’s” in mind, that it is continuous, and that as time progresses, and especially as you have a project or a strategy that’s in the outer 10 years, as it’s moving closer towards implementation, that information is going to get better as time progresses as well, and so that can be actually inputs into revising, refining cost estimates as additional looks and updates of metropolitan transportation plans occur over time.

Austin: Thank you, Larry. We’re going to move on to segment three of this program and that begins with you, Mr. Anderson.

Anderson: Great, thanks, Victor. What I want to do for the next few minutes is to talk about several aspects that look at things such as consultation, coordination, consideration, cooperation, and look at also how participation and public involvement occur, and so what I want to start with is consultation. One thing to keep in mind is, with the final rule, that when we talk about the definitions, the final rule really addresses a lot of different new terms and definitions when you look and compare to the October 1993 rule that was promulgated, we recognize that a lot has occurred and changed over time, and we attempted to provide additional terms and definitions that really try to keep things current and try to consider changes that have occurred since over 13 years ago. You look at definitions such as consultation, coordination, consideration and cooperation. The one thing to keep in mind for the definition of consultation in particular that there are some context issues to keep in mind. SAFETEA-LU included a particular type of consultation that I’ll touch upon in a couple of minutes regarding the comparison of transportation plans to environmental resource information data,
maps and things of that nature as well, so there is a bit of a subtle difference, an additional type of consultation that’s involved as well.

When we also talk about consultation and to think back about three or four years ago, that we had promulgated a rulemaking to address state consultation procedures with non-metropolitan local officials as well, and an important thing to keep in mind is that we retained practically verbatim those prior regulatory requirements carried them forward into this new final rule because of the fact that that has been a successful, those have been successful provisions, and to carry forward the spirit and intent of not only TEA-21 but of SAFETEA-LU but that those provisions have been carried forward as well for statewide planning, and the fact, too, that again, as in the past, that the consultation procedures with non-metropolitan local officials is separate and discrete from the general statewide public involvement processes.

To touch upon again a little more in-depth on consultation, when you look at the long-range statewide transportation plan, it is to be developed as appropriate in consultation with state, tribal and local agencies responsible for that list of partnering agencies that cover land use management, to natural resources, to environmental protection, conservation and historic preservation. Again, it says as appropriate, within the context of that particular state, as they’re developing their respective long-range statewide transportation plans.

Next, to talk a little bit more about consultation, I had mentioned it a minute ago that there is also a provision that’s based on SAFETEA-LU, carried forward into the final rule, consultation that involves a comparison of
transportation plans as they are being developed to state and tribal conservation plans or maps and to inventories of natural or historic resources if available. There is similar regulatory language for metropolitan transportation plans as well, except that there is actually instead of an “and” there is an “or” provision. When you look at the transportation plans, being compared to state conservation plans or maps, if they’re available, or to the comparison of transportation plans, to inventories of natural or historic resources. And again, this carries forward the SAFETEA-LU language.

I’m going to talk a little bit about coordination of planning process activities. Incorporated in not only statewide but also metropolitan transportation planning, we have put forth some additional coordination activities for both statewide and metropolitan planning. First, we look at the states shall coordinate data collection and analysis with MPOs and public transportation operators, again at the statewide level, we’d look not only at what the state does in terms of statewide planning for the non-metropolitan areas but also that linkage with the metropolitan areas also as part of statewide transportation planning, and the rule that states can play in terms of coordinating data collection and analysis with the MPOs and the public transportation operators.

Also, we put forth a provision where states and MPOs may apply asset management principles and techniques, as they’re establishing planning goals, defining STIP and TIP priorities and assessing transportation investments. Again when you look at things such as system preservation, for example, being one of the planning factors, that we felt that a mention of asset management principles
and techniques and practices as part of good transportation planning was worth noting and including in the final rule.

Also along similar lines, we have provisions where the statewide and metropolitan transportation planning processes shall to the maximum extent practicable, be consistent with the development of regional ITS architectures. When you look at operations and management, strategies and solutions, as part of good transportation planning and program development, that we wanted to make sure there was that continued linkage with ITS regional architectures as well, which was actually predated in the former rule, but we wanted to kind of catch up into more current times by having the provision articulated as well.

I want to talk a little bit next about interested parties and public involvement and other types of consultation. With SAFETEA-LU, it expanded the list of interested parties that had been defined in previous legislation. Interested parties, and that term now also includes representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, freight shippers, providers of freight transportation, as well as a host of other interested parties, such as citizens, affected public agencies, representatives of public transportation employees, representatives of users of public transportation, private providers of transportation and other interested parties. So the rule reflects this expanded list of interested parties, not only for statewide but for metropolitan transportation planning.

To continue, we’ve also included, because of the importance of consulting with Indian tribal governments and federal land management agencies, we’ve also
included provisions for states and MPOs to development documented processes on consultation with tribal governments and federal land management agencies, again to the extent practicable, these are documented MPO processes also should reference consultation with other planning agencies and officials affected by transportation as well, again, to the extent practicable and that goes along the lines of some of the expanded scope that Charlie mentioned earlier.

Next, I want to talk a little bit about the participation plan. Again, this is a requirement brought forth by SAFETEA-LU that applies to metropolitan planning organizations. MPOs shall develop a participation plan in consultation with the interested parties, and I think that’s a very key difference from prior rule, prior legislation, is that the MPOs are to be consulting with the interested parties in defining that participation plan. There is a minimum 45-day comment period; also included as part of a participation plan requirements, adequate and timely public notice and reasonable access. Also, the use of visualization techniques as well as making information available in electronic formats and holding meetings at convenient and accessible locations and times and all of that language carries forward from SAFETEA-LU and has been incorporated into the language for participation plans as part of metropolitan transportation planning.

Similarly, we built upon the former rule regarding statewide public involvement processes. These are to be documented processes as well, as I mentioned earlier, that this particular process is supposed to be and needs to be separate and discrete from those consultation processes with the non-metropolitan local officials.
Finally, I want to talk a little bit about visualization. As you know, SAFETEA-LU introduced a new requirement for the use of visualization techniques as part of statewide and metropolitan transportation planning. We have defined what visualization is as part of the definitions in section 104. The purpose of using visualization techniques is to promote the improved understanding of transportation plans and programs. We have not defined what techniques and what modes are to be used in employing those techniques. They can be anything from low-tech to high-tech; that we have not prescribed what those forms of visualization are to be, except to set the level of expectations as to the fact and when visualization techniques should be used in the development of transportation plans and programs.

So with that, that is, in a nutshell, some of the consultation and participation requirements that are contained in the new final rule, and with that I will go ahead and turn it back to Victor, and we’ll entertain some more questions.

Austin: Excellent. Thank you very much, Mr. Anderson. This question is from Rockingham Planning Commission. “Is the intent of the rule regarding financial plans for system level estimates for cost and revenues that they be carried to a sub-state level for MPOs? From the perspective of an MPO, this information is critical to making informed judgments about fiscal constrains of our plan and TIP.”

Anderson: Well, I can take the first attempt at that, and I’m assuming that the question is regarding the system level estimates for the operations and maintenance of those facilities, and the intent was not to pin it down to a particular project by project by
project, but at least to get an appreciation for the level of investment, cost, revenue, needs and sources to operate and maintain those systems within that area, and that applies not only at a statewide level, but as the question also relates to the fact that in particular at the metropolitan level it’s also very key and critical, but to reiterate, these are for the purposes of operations and maintenance, we are not looking for line item by line item estimates of revenue streams or cost estimates. Again, we’re looking at a systems-level projection of those needs and those resources.

Goodman: And I can just add that the systems can be modal systems, but they certainly need to be at the level of geography for which a plan and a TIP are prepared, so certainly for metropolitan planning, it would need to be need for the geographic, the metropolitan planning area. I think a systems level can be the highway system, it could be the transit system, could be the components of the transit system. The intent is though, as Larry indicated, we have to emphasize that these systems-level estimates really apply to the estimates of operating and maintenance costs and revenues, not to the capital, not to the capital side.

Austin: I think what we’ll do is take one more question before we take out break. This is from KIPDA in Louisville, KY. “Do the consultations on the long-range transportation plan cover the consultation requirements for the TIP? This would be similar to conducting a regional admission analysis only on the long-range plan, recognizing that the TIP is derived from the long-range plan.”

Goodman: Let me take a first cut at that. The rulemaking and the section goes in very lockstep fashion, the plan, the development of the plan, the TIP and so forth,
recognize that dealing with the public and dealing with stakeholders, it’s important that it makes sense to them, and I, again, this is locally determined, how the venue and the context for these consultations, if you want to have a consultation that deals with both, the metropolitan transportation plan and the metropolitan TIP, the same time, you want to have separate sets of consultations, I would think obviously it needs to make sense to the organizations that you’re reaching out to, and you need to be careful that this is new, this is a new area of involvement on their part, so act accordingly, but the intent is that there is consultation for both, they’re done together or done apart, I think it’s your determination.

Anderson: And the other to keep in mind also is the fact that there are differing contexts in applications for consultation as well. General consultation in terms of consulting with the interested parties is part of the development of the metropolitan transportation plan and the TIP, that should all in some form or fashion be part of the participation plan that the MPO develops and adopts and provides opportunity for all the interested parties to be party to in the development of. So you have that aspect, and then when it comes to the development of the metropolitan transportation plan, then the consultation with the other agencies that consider environment and natural resources that there are other aspects of consultation that apply as well.

Austin: Okay, thank you very much. With that, we are going to take a 10-minute break and we will resume in 10 minutes. Thank you very much.

[BREAK]
Austin: Good afternoon and welcome back. We are going to move right into the next segment, “Products from the Transportation Planning Processes,” with Mr. Charlie Goodman.

Goodman: Thank you, Victor. Okay. We are going now to the products, as Victor said. And let’s begin first with the metropolitan planning agreements. A couple of points. These, basically, they characterized the rules of engagement for the various participants in the metropolitan planning process.

So, going to the slide there, first off, and it’s a critical one, and it reinforces, supports the financial planning aspects of a lot of what we talked about. And that the planning agreement needs to identify how the MPO, the state and transit operator are going to develop and share the financial information that is critical at the front end of the programming process, basically in preparing plans, TIPs and STIPs. And at the back end, in terms of developing the financial information to support the publication of the annual listing of obligated projects.

In addition, the metropolitan planning agreements call, to the extent possible, for a simplicity facet, whereby there be a single agreement among the state, the MPO and the transit operator. We do understand that these agreements may sometimes take years in the making, and to the extent that they have already separate agreements out there and have stood the test of time, of course that is respected. But to the extent that as agreements are revised, there is an opportunity to consolidate into a single agreement, that would be an important element.

The agreement also ought to identify the layout of responsibilities, where there are multiple MPOs serving a single urbanized area and basically ensuring
that there be consistency in the transportation planning processes between the adjacent MPOs and, again, making up the urbanized area.

Moving forward into definitions. Very, very key terms here. For the most part, many of these terms have been in common parlance in transportation planning for some time. We’ve taken advantage in this rulemaking to put them out there in the proposal, get docket comments and ultimately publish them, so, to the extent possible, we are all consistent in using these terms.

Two groups here. Let me first talk about the planning cycles and the provisions for update and revision. An update to a transportation plan, transportation improvement program, a statewide transportation improvement program, is basically making it current. It’s bringing it up to its full required horizon year, to on the agreed upon or the required update cycle, which I will discuss in about a slide or two. Basically, it is the regular update that happens every four years in terms of metropolitan transportation plans, every four years in terms of TIPs and statewide TIPs, and every five years for metropolitan transportation plans in attainment areas, and four years for metropolitan transportation plans in non-attainment and maintenance areas. That’s the update.

With an update, an update is a significant event that brings with it public review, reestablishment of the horizon year—for example, the 20-year horizon requirement for the long-range plan would be reestablished at its formal update time. It brings forth a re-demonstration of fiscal constraint, and in areas that are non-attainment and maintenance, it brings forth the requirement to re-determine conformity with the statewide implementation plan.
Okay, that’s an update. In between update cycles, again, the four- or five-year, are what we call revisions. And the revisions can be of two types. These are intermediate changes, again, between update cycles. Revisions can be significant changes, which in definitions are characterized as amendments, or they can be minor changes characterized as administrative modifications.

Amendments involve major changes to a project, to add a project, to delete a project, to make a significant change to a cost, significant change to the phasing, the project initiation timing, the design concept and scope of a project. An amendment brings forth the same type of public review, re-determination of fiscal constraint, re-determination of conformity and non-attainment in maintenance areas as an update.

Alternatively, a lesser revision, administrative modification, would involve minor cost change, change of funding source, minor change in the timing of the project, and that would not require, at least in this federal regulation, any new public review, re-determination of fiscal constraint. That isn’t to say that it wouldn’t be good practice for the appropriate planning organization to do that, it’s just not a requirement in this regulation. So, again, in attempt to clarify and put us all on a consistent realm in terms of these terms.

The second area is in the area of fiscal constraint, again, in definitions, clarifying what it means to have funds available or committed. And, again, the requirement remains under fiscal constraint for the transportation improvement programs in non-attainment and maintenance areas have only projects in the first two years for which funding is either available or committed. So, in the
definitions, you’ll see what we feel are clear definitions of “available” and “committed.” “Available” being basically existing sources of funding that are dedicated or historically used for transportation, federal dollars that have been authorized or appropriated for transportation, extrapolation of past formula funds and discretionary funds. “Committed” are those funds that are actually dedicated, actually obligated already. These are funds in the state level, only those funds for which the governor controls, and the governor’s approval of the transportation improvement program constitutes the governor’s commitment. Nontraditional sources, which is increasingly a part of the fiscal picture, letters of commitment from the appropriate organizations or entities that are contributing the funds.

Okay, those are the terms “available” and “committed.” “Financial plan” is the last here, a very important document to a company. The metropolitan transportation plan, the metropolitan transportation improvement program, basically, is a provision for demonstrating consistency between the revenues that are available and the projected costs for transportation projects, looking across all sources of funds.

Moving on to the planning cycles. I think I mentioned these a few minutes ago. But, again, metropolitan transportation plans need to be updated, again, this is the formal update process, at least every four years, and non-attainment and maintenance areas for air quality every five years for attainment areas. With regard to update cycles for transportation improvement programs and STIPs, next slide, the update cycle for both is every four years. Information is certainly fine to include in the TIPs and STIPs for years five and beyond, but
recognize that only the first four years really are the program—represent the program period; years five and beyond are there for information purposes.

Moving on to the July 1, 2007, compliance date. Larry spoke about this and our inclusion in the final regulation of the May 2\textsuperscript{nd} clarifying guidance. Basically, again, calls for all actions on transportation plans and programs taken by Federal Highway, FTA, jointly to be after July 1\textsuperscript{st} to be predicated upon SAFETEA-LU-compliant documents and underlying planning processes. Plans, TIPs and STIPs that are adopted and approved before July 1, or TEA-21 version, and in that clarifying May 2\textsuperscript{nd} guidance and inter-final regulation is a provision for a TEA-21 plan to be the basis of a SAFETEA-LU compliant transportation improvement program, statewide transportation improvement.

A couple of quick points. Historically, where FTA and Federal Highways, they’ve interpreted the deadlines such as this, July 1\textsuperscript{st}, to be the date where the final action is taken. If it’s a federal action, such as a conformity determination, such as a statewide transportation improvement program approval, states and MPOs need to be cognizant of—if they’re preparing documents, expecting final action by July 1—they need to work with the appropriate field organizations of FTA and Federal Highway to be sure they get the materials to our offices in time to complete that review. Secondly, a review and approval by Federal Highway/FTA after July 1 involves a determination that the underlying planning process of that organization is substantively complying with SAFETEA-LU. That means that it would be important for—as timeframe appropriate—for correspondence, for information to be shared by the applicable MPO and state
department of transportation, with the Federal Highway division and FTA region office on their progress and complying with SAFETEA-LU, undertaking the consultations, participation plan and so forth, so the information is available to the field officers when they have to make such a determination.

Moving on to fiscal constraint. It’s required in TIPs, STIPs, as it has been since ISTEA. I think we talked about the first two years being available committed funds only and non-attainment and maintenance areas for TIPs. The agreed-to list is the projects for implementation in the four year span of years of TIPs and STIPs. That four-year span is reestablished at update cycles, as I mentioned a little bit. And I guess I’d suggest, again, to take a look at the definition of fiscal constraint to see what is meant, reference to the sufficient financial information to determine that the funds are reasonably expected to be available to support the cost.

Moving on to the annual list of obligated projects. This is a preexisting requirement that has been expanded in SAFETEA-LU, specifically to identify the inclusion of bicycle and pedestrian projects. We’ve included pretty much verbatim in the final regulation what is in the statute, but added elements there again after the proposal and the document comment process, whereby the information that’s included in this annual listing should be first, the dollars that were originally requested in the TIP for that project. Secondly, the amount was actually obligated. And then thirdly, if there is a remainder, that amount that is remaining, it could be available for reprogramming. And, again, this is for public information, and that is that third piece of the information to be useful to the
effort. To make all this information most useful is that it be available within 90 days of the end of the program year, so that there is time to turn that around. I suggest to take a look at the definition of “obligation,” which is there to clarify exactly what that means. Again, it’s a cooperative effort of states and MPOs with financial information as set forth in the agreement that we mentioned earlier.

The last thing I’ll talk about is the coordinated public transit human services transportation plan. First off, it’s—as Larry indicated—it’s a requirement as a condition for applying and receiving grants under FTA sections 5310, which is elderly and persons with disabilities, 5316, which is job access and reverse commute, 5317, which is new freedom program. As part of that, as a condition for receiving funding, there needs to be this locally developed coordinated public transit human services transportation plan. I want to emphasize that such a coordinated plan is not a requirement of the MPO. It is not a requirement of the statewide planning process. But there are important connections in consistency that are set forth in the final regulation, so that the development of those coordinated plans takes place consistent with the applicable metropolitan and statewide planning process.

It is important for a couple of reasons, first for TMAs. The actual solicitation for implementers of projects will take place. It’s set forth in the section dealing with these FTA programs in coordination and cooperation with the MPO, so the MPO is involved there. Secondly, to secure the funds, ultimately apply and receive the funds under these three programs, the projects need to be in the metropolitan plan and in the metropolitan TIP. So, again, it’s important that
those efforts to prepare the coordinated plan take place consistent with the metropolitan and transportation planning process, statewide transportation planning processes.

And with that, I will turn back to Victor to wrap us up.

Austin: All right. Thank you, Charlie. What we are going to do now for the remainder of the program is field your questions. So, please keep the questions coming in, and we will try to get to all of them as quickly as we can. The first question is from the Alaska DOT, “A summary sheet listing the new quote “Shall” requirements associated with the new planning rule would be helpful for practicing planners. Has one been developed?”

Goodman: Okay. I’ll take that one. Larry, you can chime in if you wish. Certainly, the “Shalls,” for the most part, I think as we’ve said numerous times in this presentation really track with statutory requirements. It would be pretty easy for anyone to go through the final regulation with a word search and pull out every “Shall.” Recognize a couple of things; first, the “Shall’s”—all the “Shall’s” that appear are not absolute requirements. Many of them are “Shall’s” as appropriate or “Shall’s” to the extent practicable. So, that is a concern, number one, of having a list of “Shall’s” or “May’s” or “Should’s.” Secondly, is more of a philosophical, and that is we view this final regulation as a framework for process improvement, for implementing the concept and contents specifically of SAFETEA-LU and to cherry pick the specific provisions and identify these as “Shall’s” and the others as some lesser status I think is a disservice to the architects of this legislations. So, we’re promoting it as an entire framework.
Rest assured though, on a practical level, when if you are a TMA, and you are going through a certification review or as part of a statewide planning finding, yes, the “Shall’s” have significance in terms of complying with the regulation and with the statute. But in terms of our work, we aren’t preparing separate lists of “Shall’s” and “Should’s.”

Anderson: And I think just quickly to add upon what Charlie said, that even if you look and inventory the “Shall’s” within the final rule, that there are several places you’ll see that say something to the extent of, “to the extent practicable,” “as appropriate” and those kinds of qualifiers are included there, too. So, if you were to do just a pure count of an inventory of “Shall’s” and “Should’s,” that it is important to keep in mind that the context, especially with some of those “Shall’s,” is important to keep in mind as well.

Austin: Great. Thank you. The next question is from Caltrans, “Regarding slide 19, which SAFETEA-LU sections replace the former section 1308 MIS requirement?”

Anderson: Actually, when we talked about the former MIS requirements and how they are reflected or not reflected in the new rule, that section 1308 actually comes from TEA-21. And since we had a rule that was last promulgated in its entirety, back in October of 1993, there admittedly was a lag in time there. So, we did catch up, if you will, a little bit in terms of including that language and getting it fully articulated into the new final rule. So, it wasn’t SAFETEA-LU itself that addressed major investment studies, but it was actually back in TEA-21 under section 1308, which we have addressed now in the final rule.
Austin: Okay, thank you. We have another question in from the Michigan DOT, “FHWA/FTA, has chosen not to include financial constraint provisions, Appendix B, in the final rule. How will the financial constraint guidance be different from what was in the proposed rule?”

Goodman: Okay. I’ll answer that Victor, thank you. As I mentioned earlier, the significant outreach and comment that we received to the docket on the full litany of financial planning guidance—if you remember, Larry referenced Appendix B, which was in the Notice of Proposed Rulemaking. That contained our financial planning guidance, and we got very important feedback, which led us to (A) drop Appendix B, and secondly to incorporate the key provisions that remained into the rule text itself. Our feeling is that the rule text itself is sufficiently detailed and procedural that it will serve as the guidance. We have no plans at this point for any new guidance. And in fact, that rulemaking, this final rule, supersedes any preceding fiscal constraint guidance.

Austin: Okay, thank you. We have a question from the First Coast MPO in Jacksonville, FL. “How is the public participation plan different from the public involvement plan required under ISTEA?”

Anderson: Well, there is actually a couple of key differences. One is the fact that that participation plan has to be developed now in consultation with those interested parties. So, it’s not just a matter of developing strategies and then saying here’s how we plan to conduct business. But the expectation now is that that participation plan be developed in consultation with the interested parties, so, in essence, you’re consulting on how to consult down the line, in terms of
developing the metropolitan transportation plan and the TIP. So, that is one of the key differences, as well as the fact, as I mentioned earlier that that list of interested parties has now expanded per SAFETEA-LU.

Austin: Thank you. The next question is from the New York DOT, Schenectady, NY—if I pronounced that right—“Is there any language that addresses the connection between the long-range cost of transportation and infrastructure and sprawl? Are there recommendations to evaluate alternative land use scenarios that will reduce infrastructure cost while simultaneously improve the social and environmental context?”

Goodman: Okay. I’ll take that one, Victor, thank you. This is a great question, and it’s a perfect follow on to I think the very piece that I presented as an expansion of the planning factor to include the consistency of the metropolitan statewide planning processes with planned land development, planned land use and economic development. That is as far as that and the consultation provisions that Larry spoke to, which call for reaching out and consulting with broader stakeholder groups, including the resource organizations, planning organizations, land use planning organizations. That is as far procedurally as this final regulation goes. But if you look at the totality, what’s in the regulation, there is reference to visualization techniques, which speak to the opportunity to work with these—between transportation planning processes and the land use community plan, the economic development planning organizations. Perhaps doing scenario planning and scenario testing using visualization techniques as a means to engage the public, better understand the impacts. We feel that the provisions in the
SAFETEA-LU and set forth in the final regulation really set the framework for the initial contact that MPOs and state DOTs can make, if they haven’t already done so, with the land use and economic planning organizations to begin such a venture. But the regulations stop short of absolutely requiring such an undertaking.

Anderson: And I think one thing also to keep in mind, not just on this question, which was great one, but just in general also, is that this rule really sets forth the set of expectations from the perspective of FHWA and FTA, in terms of the “what’s” and “when’s” and “with whom’s.” We do not get into a lot of the “how’s,” but as Charlie mentioned, the rule does set the basic premise in foundation to address some of those other issues that were mentioned in that question, which was very good. We also have other means and mechanisms that, over time, will supplement and complement the Final Rule as well. Things such as through our capacity building program with FTA, peer exchanges, good practices, noteworthy practices, to collect and share those. So, there are going to be other means as we all get more acclimated with SAFETEA-LU and implementing it, that we are going to be looking to everybody for insight, examples that we can package and share and help advance the state of the practice in transportation planning.

Austin: Okay, great. We have a question from the California DOT, “Should MPOs include documentation in their regional transportation plan appendix to support their public outreach, consultation and coordination efforts?”

Anderson: I will take the first attempt at that one, Victor. The rule itself does not prescribe how all of that needs to be documented. That there is various ways that that can
be addressed. I think the main thing and the most important thing is for the state and MPOs to consult with the FHWA division office, the FTA regional office, on how best to address those requirements. But the short answer is, if there is no prescribed way where or how to document that that’s occurred—Charlie, if you wanted to expand on that.

Goodman: I think that’s fine. I just would add that part of the audience for reviewing the various consultations and participations are the stakeholders and the citizen community groups themselves. So, consider maybe not a single particular place to document this, but a variety. Because I think if I were in a community group, I’d be very interested to see my organization mentioned in some public document that we contributed to the development of a plan or a program. So, as Larry indicated, we’re not identifying where it should be accepted; there should be documentation. But consider, you know, some of the spin-off uses as a way to build the market even further and the local stakeholder mix.

Austin: We have a question from the MWCOG in Washington, D.C, “Can you please describe the changes to the congestion management process and the requirements of the MPO for development of the CPM?”

Goodman: Okay. Long story short, other than the name change, the significance of that name change is this. And I need to emphasize, I thought I mentioned it, but let me again—process as opposed to system is one part. And that is intended to indicate that this is an ongoing process, a process of identifying performance measures, monitoring the system in accordance to those performance measures, evaluating strategies to where there are thresholds of need that are crossed, and
sending forth possible strategies to address the problems into the transportation plan update process. So, process meaning ongoing. The second element is the business of having where the requirement is located in statute and in the final regulation. It’s not a separate item, as the management systems ended up being a separate rulemaking. This is a subset, a contributing component, to the metropolitan transportation plan. I think that is very key. So, while many of the processes, maybe the procedures, are very similar, it’s for the purpose of developing the metropolitan long-range transportation and, I would add, the transportation improvement program, to the extent that those performance measures are used—could be used in setting priorities to take projects from the long-range transportation plan to the transportation improvement program. So, two components: ongoing and contributing to the development of the metropolitan transportation plan.

Anderson: Well, in addition, too, that in the past, the former rule had that former section 500.109 that was aimed at the congestion management system. And the other thought behind it was to get that language pulled over, so that there is a much more—just a visible, tighter connection as well. And when we revised 500.109 as part of this rulemaking, it’s a much more streamlined version of the wording that applies only to the congestion management systems that states and the smaller MPOs, if they wish, can develop. So, we try to also draw that line of distinction as well when we took a lot of that language from the former 500.109 and pulled it over for the TMAs as part of the new congestion management process.
Goodman: Let me just add one more piece to this. Part of the expanded scope of metropolitan and statewide transportation planning is greater attention to operation and management strategies. You know, we see these additional components, areas of focus for transportation plans, to be a very important consideration, obviously, in the congestion management processes. So, here again, it’s an integral, the CMP, an integral part of the planning process needing the other performance measures, monitoring, operational management strategies within the total transportation investment decision-making process.

Anderson: I think over time you will see further emphasis and efforts on the part of FHWA and FTA to not only in terms of implementing SAFETEA-LU but also to advance the USDOT congestion initiative. We’re embarking upon some efforts to gather information, examples, good case practices that address development and implementation of congestion management processes and TMAs. Also, the consideration of operational and management strategies as part of metropolitan transportation plan development, as well as a piece regarding the long-range statewide transportation plan as well and operational management strategies. So, those are our efforts that we’ve recently begun embarking upon to recognizing that some of this is new territory, especially when you look at operational management strategies as part of transportation planning. But also to provide additional emphasis on the need for the congestion management process to be an integral part of transportation plan and program development and future implementation.
Austin: Great. We have a question from Metro Transportation Commission, Oakland, CA, “Establishing consultation contacts per SAFETEA-LU at various federal and state agencies, during development of our recent TIP, has been challenging. Could FHWA headquarters provide a point of contact for each federal agency referenced by the planning regulations and notify them in writing about the new SAFETEA-LU consultation requirements and how it involves them?”

Anderson: Well, that’s a very good point. And we have begun hearing some similar sentiments and some similar feedback from around the country. We recognize that, again, this is one of those changes that are organizational and that are new requirements that everybody is working through and working with. Since the enactment of SAFETEA-LU, we and FTA have begun efforts to provide outreach and working with the various federal agencies to explain and to help layout some of the various provisions and requirements related not only to section 6001 but also section 6002 of SAFETEA-LU. And that’s going to be a continued emphasis on our part. In fact, we are currently looking at working to get some additional outreach and information out to the various headquarters units of the various federal resource agencies, looking for enlisting their assistance to help us further get the word our to their various field units as well. So then, when they are contacted by state DOTs and MPOs in consultation for the development of metropolitan statewide transportation plans, that that can be used as a basis to help and foster and continue that consultation.
Austin: Thank you. We have a question from URS Corporation, FL, “Aside from the nomenclature, what are the substantial differences between the CMS and the CMP?”

Goodman: I think we just—in the interest of time, we just answered that—Ongoing integral part.

Austin: Exactly. Excuse me. I remember that now. From MWVCOG in Oregon, “How does the December 11th deadline requiring the use of year of expenditure dollars impact plans and TIPs that have been adopted before that date and that are otherwise SAFETEA-LU compliant?”

Goodman: Okay. I guess along, the short answer is we know now the December 11th deadline, it’s important for organizations to know that in advance and plan accordingly. The intent is that TIP actions, STIP actions, plan update actions, plan amendment actions after December 11th, reflect year of expenditure dollars. In order for these major undertakings, amendments or updates, remember they entail a determination of fiscal constraint. In order for that determination of fiscal constraint to make sense, there needs to be a common basis of the dollar. So, the intent is that, after December 11th, the next major action, be it amendment or update, all of the projects in the applicable document, be it the plan or the TIP, need to be in year of expenditure dollars. It would make sense for organizations to plan for that now, to the extent that they may have just adopted a plan or a TIP in, constant to your dollars, knowing that December we have a few months to go, but it could be right around the corner, that some time after December 11th there may well be a need to amend it. It would make sense, perhaps, for that
organization to assign a staff person to go in and estimate the cost of the projects in those documents in year of expenditure dollars, so that when the need may arise, after December 11\textsuperscript{th}, to make an amendment or perhaps to update entirely that document, that they are not faced with a start-from-scratch type of effort, that they’ve budgeted their time and staff effort accordingly and basically prepared year of expenditure cost estimates for projects at the time they need to bring them in for an action after December 11\textsuperscript{th}.

Anderson: I think we kept in mind that different areas, different states, are differing levels in terms of what they may have done in the past in terms of considering and using year of expenditure dollars. And, so that was—so, we didn’t want to add that on top of that July 1\textsuperscript{st} date. But however, we wanted to provide a little time for everybody to grasp it and to start working with it, start mapping out that strategy that Charlie is talking about, in terms of identifying critical path points in time when there might be an event or an occasion where, you know, they need to be starting to look at that particular provision and working towards that end in developing year of expenditure cost and revenue estimates.

Austin: Okay. Thank you. West Central Indiana Economic Development District, “Regarding the use of visualization in long-range planning, please clarify how detailed do we need to get? Should we take pictures of project areas that don’t yet exist or have anything to show, or can we simply show a map of the system and indicate generally the location of the project sites?”

Goodman: Okay, I’ll start, and Larry, please chime in. I think Larry gave, his summary really recognized the absolute absence of a definitive single path that’s set forth in
the final regulation for organizations to follow. We recognize that there are different levels of expertise, there are different levels of interest, there are different levels of sophistication on the part of the customer and the stakeholder mix and around the country and MPOs and state, you know, states. So, I guess I suggest, again, take a look at the definition of visualization techniques that has laid out the full menu of strategies, from basic maps on walls and colored overlays to full three dimensional dynamic simulation, with basically the determination made by local folks—the MPOs and state departments of transportation transit operators, as to the collection of techniques that work for them. I will say that the participation plan—because this is all about public participation—the participation plan needs to lay out—and the development of the participation plan, in consultation with the participants—needs to lay out the particulars of the visualization technique. So, that is an important way for areas to basically identify the specific visualization technique to deploy and where.

Austin: Okay. Thank you. We have another question from the New York area, Albany, NY, “An MPO is delayed until sometime after July 1st in approving its new TIP (fiscal year 2008 to 2012 to begin October 1st) but has an action plan and is making good faith efforts for SAFETEA-LU compliance. Would the MPO be able to make amendments, additions or deletions, to the current TIP, STIP, which ends September 30th, in the time period between July 1st and October 1st?”

Anderson: Okay. That is a lot to try to digest. I will try to do it as I read here. Again, the intent is that once we get past July 1st of 2007, that any major change or an update reflect SAFETEA-LU and the provisions of the rule. I guess without quite a full
understanding of the context of some of the issues laid out certainly would encourage the state and the MPO to work closely with our division office and FTA Region Two folks to lay out what the issues are and to try to assess and address the extent to which there might be some additional changes that are envisioned after July 1st but before October 1st. Charlie, do you have anything else to add?

Goodman: I think that’s it. I mentioned, again, it’s important for the planning partners to share with the applicable field offices of FTA and Federal Highways their progress along the way. That certainly will help the determination, the judgment call, by the field offices as to the extent to which they have achieved SAFETEA-LU compliance.

Austin: Thank you. Next question, New Jersey TPA, “Must a metropolitan region have a completed coordinated human services plan in place for the region’s MPO to be SAFETEA-LU compliant?”

Goodman: Okay. Let me take that then, and let me repeat, the locally developed public transit human services coordinated transportation plan is not a metropolitan planning requirement. It’s a very important requirement as the basis for securing funding under the three FTA programs I spoke to before, and it has very important connections, needs to be developed consistent with the metropolitan and statewide transportation planning processes. But determination of SAFETEA-LU compliance of a metropolitan planning process is not at all tied to the preparation of this coordinated plan. The preparation of coordinated plan, some areas the MPOs, local officials determine if the MPO can be the author of...
that. Many areas, it is not the MPO, it’s another organization; it could be the transit operator who is the designated recipient. Again, the locally developed coordinated transportation human services coordinated plan is not a metropolitan planning requirement. SAFETEA-LU compliance of metro planning processes is not based on that.

Austin: Okay. Let’s go on with the next question. Another one from the California area, Caltrans, “Should an MPO public participation plan be a separate stand-alone document from the metropolitan transportation plan?”

Goodman: Okay. I’ll take a cut at that. We are silent on the issue. The final regulation doesn’t identify the specifics. As I mentioned earlier, the part of the value of that public participation plan is its availability and visibility to the public. And so, whatever venue works to best serve that would be very important. It is a requirement that there be this participation plan. We are not stipulating that it needs to be tagged onto a metropolitan transportation plan, be an appendix to it, be a separate document. It does need to be a document, and we suggest that it be prepared in a way, and in a format, that is of most use to local officials, including certainly working with the public and stakeholders.

Austin: Great. Go ahead, Larry, I’m sorry.

Anderson: No, I think the key thing to—just to reiterate and build upon, too—again, as Charlie mentioned, we don’t prescribe the format. Keep in mind, too, that there is a 45-day comment period on that participation plan. You need to keep that in mind, as well as the fact that it not only governs the development of the metropolitan transportation plan, but it also governs the development of the TIP.
as well. So, those are some other things to keep in mind as everybody is working to try to document and develop their various processes and approaches.

Austin: Thank you. We have a question from KIPDA, another one, Louisville, KY, “Who determines the factors used in establishing that year of expenditure costs are reasonable? Is it FHWA, FTA? Will FHWA, FTA, provide anymore detailed guidance in determining the factors associated with the year of expenditure cost? If we are to use year of expenditure cost with developing MPO long-range plans, are we also to use the same factor for revenues?”

Anderson: I’ll take the first shot at that, Victor. A couple of things to keep in mind is that, within an MPO area, the key partners in developing the plans and the TIPs being the MPO, state transit operators, that it’s important for them all to cooperatively develop those. So, while FHWA and FTA may provide some feedback on that, that we are not going to dictate what they are. And they may or may not be the same rates for cost or revenues. We don’t speak to that as well. One thing I’d like to add, just as a quick aside, and I may have not clearly communicated something earlier in my remarks, but when we talk about some of the various types of consultation with resource agencies and the development of transportation plans, that requirement applies to both long-range statewide transportation plans as well as metropolitan transportation plans. We’ve also got some feedback here today that maybe I didn’t quite clearly communicate that. But the intent is that that provision covers both of those planning documents.

Austin: Great. Thank you very much for making that clarification. I think now what I would like to do is summarize quickly public outreach. In addition to this
program, we will be—well, when I say “we,” FHWA and FTA—we’ll be conducting a number of outreach sessions to a wide range of stakeholders. We are responding to as many invitations as we can to clarify and go over the new final rule. Questions? We, up on the screen you will see the website for both FHWA and FTA, and we would encourage that you, on an ongoing basis, direct your questions to the FTA regional office, as well as to the FHWA division office. Questions regarding the planning regulations, please feel free to call me. You can direct those calls to me, Victor Austin, and I would be more than happy to address your questions.

I think we had a really good program today. I want to thank Charlie and Larry both for being here. We covered a lot. We did not get to all the questions; however, I would like to remind you that the questions will be on CTE’s website, and we will respond to them in writing after this broadcast. Thank you very much. This has really been a pleasure.

Goodman: Thank you, Victor.

Anderson: Thanks.

McDermott: Thank you, Victor. And on behalf of CTE, thanks again to all of our panelists, and thanks especially to you for participating in today’s program. I would also like to acknowledge the many downlink sites across the country that tuned into the broadcast today, 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 and EastBay Media, all of whom helped make possible today’s satellite broadcast and web 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 “Final Rule for Statewide and Metropolitan Planning” in CTE’s “After the Program” discussion forum. This web forum, where you can post additional questions and comments to the panel, will begin today at three o’clock Eastern Daylight Time and remain active for the next several weeks before it is archived. DVDs or written transcripts of today’s broadcast can be ordered from our website. You can also view this broadcast in its entirety from CTE’s webcast archive. Also, online versions of the panelists’ slide presentations, as well as the program handout, will remain available for download as well. And please remember to complete the evaluation form. If you are located at a downlink site, you can turn that into your site coordinator before you leave, or, if you are participating in the webcast, you can complete the online evaluation form located on CTE’s website. And, finally, we invite you to regularly visit our website for more information on the national broadcast that CTE helps develop throughout the year. Well, that is our program for today. It has been a pleasure being with you. Until next time, thank you and good day from Raleigh, North Carolina.

[END OF BROADCAST]