

## REGULATIONS

The 2031 RTP is being prepared in compliance with the SAFETEA-LU requirements. FHwA and FTA are proposing the revision of some regulations governing the development of metropolitan plans and programs (23 CFR 450 and 500; 49 CFR 613), in order to respond to the requirements of SAFETEA-LU<sup>1</sup>. Interim guidelines have been issued in an attempt to address questions. The new process is clear in some respects, but remains murky in others. Below, sections of SAFETEA-LU, current and proposed federal regulations, and State regulations are presented with annotations relevant to this issue. Italics are used for emphasis.

### SAFETEA-LU Title VI, Section 6001.

23 USC 134(g)(3) Relationship with other planning officials.--The Secretary shall encourage each metropolitan planning organization to *consult with officials* responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to *coordinate* its planning process, *to the maximum extent practicable*, with such planning activities. Under the metropolitan planning process, transportation plans and TIPs shall be *developed with due consideration* of other related planning activities within the metropolitan area,....

23 USC 134(i)(4) Consultation –

(A) In general.--In each metropolitan area, the metropolitan planning organization shall *consult*, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

### Current Federal Regulations

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=481a0799906ec1337036f8bff71ee55a&rgn=div6&view=text&node=23:1.0.1.5.11.3&idno=23>

23 CFR 450.316(a) ...The following factors shall be explicitly *considered, analyzed as appropriate, and reflected in the planning process products*:

....

(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans (the analysis should include *projections of metropolitan planning area economic, demographic, environmental protection, growth management, and land use activities consistent* with metropolitan and local/central city development goals (community, economic, housing, etc.), and projections of potential transportation demands based on the interrelated level of activity in these areas);

23 CFR 450.322 (a) The metropolitan transportation planning process shall include the development of a transportation plan addressing at least a twenty-year planning horizon. ..The transportation plan shall be reviewed and updated at least triennially in nonattainment and maintenance areas <<*note: extended to four years by SAFETEA-LU*>> ... to conform its validity and *consistency* with current and forecasted transportation and land use conditions and trends and to extend the forecast period,...

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<sup>1</sup> Notice of Proposed Rulemaking; 23 CFR Parts 450 and 500; 49 CFR Part 613. FR June 9, 2006, Page 33509-33560 <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/06-5145.htm>

23 CFR 450.322 (b) In addition, the plan shall:

(1) Identify the projected transportation demand of persons and goods in the metropolitan planning area over the period of the plan;

....

(9) Reflect, to the extent that they exist, *consideration* of: the area's comprehensive long-range *land use plan* and metropolitan development objectives; national, State, and local housing goals and strategies, community development and employment plans and strategies, and environmental resource plans; local, State, and national goals and objectives such as linking low income households with employment opportunities; and the area's overall social, economic, environmental, and energy conservation goals and objectives;

### Proposed Federal Regulations

<http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/06-5145.htm>

23 CFR 450.322 (c) The MPO shall review and update the transportation plan at least every four years in air quality nonattainment and maintenance areas and at least every five years in attainment areas to confirm the transportation plan's validity and *consistency with current and forecasted transportation and land use conditions and trends* and to extend the forecast period to at least a 20-year planning horizon....

23 CFR 450.322 (e) The transportation plan update process shall include a mechanism for ensuring that the MPO, the State(s), and the public transportation operator(s) agree that the *data utilized in preparing other existing modal plans providing input to the transportation plan are valid*. In updating the transportation plan, the MPO shall base the update on the latest available estimates and assumptions for population, land use, travel, employment, congestion, and economic activity. The MPO shall approve transportation plan contents and supporting analyses produced by a transportation plan update.

23 CFR 450.322 (f) The metropolitan transportation plan shall, at a minimum, include:

(1) The projected transportation demand of persons and goods in the metropolitan planning area over the period of the transportation plan; ...

23 CFR 450.322 (g) The MPO shall *consult*, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of the transportation plan.

### State Regulations

[http://arcweb.sos.state.or.us/rules/OARS\\_600/OAR\\_660/660\\_012.html](http://arcweb.sos.state.or.us/rules/OARS_600/OAR_660/660_012.html)

#### **OAR 660-012-0016. Coordination with Federally-Required Regional Transportation Plans in Metropolitan Areas.**

1) In metropolitan areas, local governments shall prepare, adopt, amend and update transportation system plans required by this division in coordination with regional transportation plans (RTPs) prepared by MPOs required by federal law. Insofar as possible, regional transportation system plans for metropolitan areas shall be accomplished through a single coordinated process that complies with the applicable requirements of federal law and this division. *Nothing in this rule is intended to make adoption or amendment of a regional transportation plan by a metropolitan planning organization a land use decision under Oregon law.*

2) When an MPO adopts or amends a regional transportation plan that relates to compliance with this division, *the affected local governments shall review the adopted plan or amendment* and either:

(a) Make a finding that the proposed regional transportation plan amendment or update is consistent with the applicable provisions of adopted regional and local transportation system plan and comprehensive plan and compliant with applicable provisions of this division; or

(b) Adopt amendments to the relevant regional or local transportation system plan that make the regional transportation plan and the applicable transportation system plans *consistent* with one another and compliant with applicable provisions of this division. Necessary plan amendments or updates shall be prepared and adopted in coordination with the federally-required plan update or amendment. Such amendments shall be initiated no later than 30 days from the adoption of the RTP amendment or update and shall be adopted no later than one year from the adoption of the RTP amendment or update or according to a work plan approved by the commission. A plan amendment is "initiated" for purposes of this subsection where the affected local government files a post-acknowledgement plan amendment notice with the department as provided in OAR chapter 660, division 18.

(3) Adoption or amendment of a regional transportation plan relates to compliance with this division for purposes of section (2) if it does one or more of the following:

(b) Adds or *deletes* a project from the list of planned transportation facilities, services or improvements or from the financially-constrained project list required by federal law; <<*note: at a minimum, the West Eugene Parkway will be deleted from the financially constrained project list in the 2031 RTP*>>...

(e) Changes the *planning period or adopts or modifies the population or employment forecast or allocation* upon which the plan is based. <<*note: planning period and population/employment forecasts and allocation will all be updated in 2031 RTP*>>

.....

5) Adoption or amendment of a regional transportation plan that *extends the planning period beyond that specified in the applicable acknowledged comprehensive plan or regional transportation system plan* <<*note: planning period is 2031 .vs. 2015 for comprehensive plan*>> is consistent with the requirements of this rule where the following conditions are met:

(a) The future year population and employment forecasts are consistent with those adopted by the relevant county or counties for the metropolitan area. Where a county's adopted population or employment forecast is for a period of time shorter than the federally-required planning period, an MPO forecast is consistent with the county's adopted forecast if it *extrapolates the adopted county forecast* consistent with:

(A) The adopted forecast for long-term growth rate for the county, and

(B) A continuation of metropolitan area share of county population and employment growth;

(b) Land needed to accommodate future urban density population and employment and other urban uses is identified in a manner *consistent* with Goal 14 and relevant rules;

(c) Urban density population and employment are allocated to designated centers and other identified areas to provide for implementation of the metropolitan area's integrated land use and transportation plan or strategy; and

(d) Urban density population and employment or other urban uses are allocated to areas outside of an acknowledged urban growth boundary only where:

(A) The allocation is done in conjunction with *consideration* by local governments of *possible* urban growth boundary amendments consistent with Goal 14 and relevant rules, and

(B) *The RTP clearly identifies the proposed UGB amendments and any related projects as illustrative* and subject to further review and approval by the affected local governments.