



## Comments Needed on Proposed DOT Planning Rule Support Continued Role of Rural Local Officials in Planning Process --Action Needed by September 7--

On June 9, 2006, the Department of Transportation's (DOT) Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) jointly issued a Notice of Proposed Rulemaking (NPRM) revising the regulations governing the development of metropolitan and statewide transportation plans (*Federal Register*, June 9, Pages 33510-33560).

The NPRM codifies a number of changes to the existing metropolitan and statewide planning process that were authorized in the recently enacted SAFETEA-LU legislation (PL 109-59). The rules lengthen the State Transportation Improvement Program (STIP) and Transportation Improvement Program (TIP) update cycle to four years. Planning factors for both metropolitan and statewide plans are expanded to include security and safety of the transportation system, environmental mitigation activities, consistency between transportation improvements and state and local planned growth and economic development patterns, and coordination with the new Strategic Highway Safety Plan (SHSP). States and Metropolitan Planning Organizations (MPOs) must now employ visualization techniques when developing plans. In addition, the rules impose new consultation requirements in the development of STIPs, TIPs and long-range plans to include state, local and tribal agencies responsible for land use, natural resources, environmental protection, conservation and historic preservation. The rules also require the development of a Coordinated Public Transit-Human Services Transportation Plan for FTA's Elderly and Persons with Disabilities, Job Access and Reverse Commute and New Freedom programs.

The proposed rule preserves the existing "enhanced consultation" regulations requiring states to maintain a documented public involvement process for non-metropolitan local officials that is separate and discrete from the public involvement process and requires states to review their process every five years beginning February 24, 2006.

NADO is urging DOT to:

- Retain the existing enhanced consultation provisions established in TEA-21 in the final regulations.
- Ensure that there is consistent application of the enhanced consultation provisions throughout the STIP and statewide transportation planning process.
- Recognize economic development districts as key stakeholders in coordinating transportation plans with trade and economic development plans.

### Action Needed:

- 1) **NADO members are urged to review the draft regulations.** NADO's analysis and summary of the new rules can be accessed at [www.nado.org](http://www.nado.org).
- 2) **Submit written comments by September 7, 2006** urging DOT to retain existing enhanced consultation provisions and utilize economic development districts as a resource in coordinating transportation plans with economic development planning activities (*sample comments are attached*). **Comments may be faxed to 202.493.2251 or filed electronically at [www.regulations.gov](http://www.regulations.gov).** **All comments must include docket number FHWA-2005-22986.**

For more information, contact NADO Legislative Director Jason Boehlert at 202.624.8590 or [jboehlert@nado.org](mailto:jboehlert@nado.org).

**ADVOCACY, EDUCATION, NETWORKING AND RESEARCH FOR THE NATION'S REGIONAL DEVELOPMENT ORGANIZATIONS**

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**NADO's Sample Comments on Proposed Planning Rules  
Comments due September 7, 2006**

Docket Clerk  
US Department of Transportation  
Dockets Management Facility  
Room PL-401  
400 Seventh Street, SW  
Washington, DC 20590

**Re: Docket No. FHWA-2005-22986**  
Statewide Transportation Planning;  
Metropolitan Transportation Planning

To Whom It May Concern:

On behalf of the [insert organization name] I am writing to provide formal comments on the Notice of Proposed Rulemaking (NPRM) issued in the June 9 *Federal Register* affecting 23 CFR Parts 450 and 500 (Statewide Transportation Planning; Metropolitan Planning Proposed Rule).

The expanded consultation requirements and planning factors mandated under the Safe, Accountable, Flexible, Efficient Transportation Act: a Legacy for Users (SAFETEA-LU; PL 109-59) provide significant opportunity for state, federal and local officials to craft transportation plans that better represent and respond to population growth and economic, social and environmental challenges and changes.

While we are generally supportive of the regulations outlined by the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) in the NPRM, there are areas where additional detail and guidance could provide a stronger reflection of SAFETEA-LU's legislative intent.

**SUBPART A-TRANSPORTATION PLANNING AND PROGRAM DEFINITIONS**  
§450.104 Definitions

**Consultation** means that one or more parties confer with other identified parties in accordance with an established process and, prior to taking action(s), considers the views of the other parties and periodically informs them about action(s) taken.

**Comments:** The slight modification to *consultation* is within the intent of both SAFETEA-LU and its predecessor TEA-21. However, we recommend striking “periodically” from the definition to better reflect that considering and informing other parties of actions taken should occur on an ongoing and regular basis after a decision is made, not on a periodic basis which lacks definition and is subject to interpretation. The intent of consultation includes both conferring prior to taking action and informing after taking action. The presence of “periodically” potentially obscures this process.

**SUBPART B-STATEWIDE TRANSPORTATION PLANNING AND PROGRAMMING**  
§450.208 Coordination of planning process activities

(a) In carrying out the statewide transportation planning process, each State shall:

(2) Coordinate planning carried out under this subpart with statewide trade and economic development planning activities.

**Comments:** SAFETEA-LU emphasizes the importance of coordinating trade and economic development with transportation planning. Currently, there exist over 320 Department of Commerce designated economic development districts, which coordinate and develop comprehensive economic development strategies for local governments on a regional basis. Economic development districts coordinate a variety of economic and land development activity in small metropolitan and rural areas and often serve as the sole professional staff for local officials in underserved areas.

Under the NPRM (§450.206(a)(5)), states are directed to carry out a statewide transportation planning process that addresses a variety of factors, including promoting consistency between transportation improvements and state and local planned growth and economic development patterns.

To enhance these requirements within the NPRM and strengthen long-range statewide plan and STIP attention to economic and land development issues, we strongly recommend that economic development districts be listed as a named stakeholder in §450.210(a)(1)(i), which outlines consultation with interested parties and the public. Economic development districts, which are governed by the local government officials and private sector business leaders in the region, are a vital component of local economic development activities in small and rural America, their involvement in coordinating land use and economic development activities with transportation planning processes should not be overlooked.

§450.208 Coordination of planning process activities

(a) In carrying out the statewide transportation planning process, each State shall:

(4) Consider the concerns of local elected and appointed officials with responsibilities for transportation in non-metropolitan areas

**Comments:** The term *consider* is not consistent with existing statutory or regulatory requirements that states have a documented consultation process, that is separate and discrete from the public involvement process, for consulting with non-metropolitan local officials for their participation in the development of the long-range statewide transportation plan and the STIP (see NPRM § 450.2109(b)). In addition, as reflected in the citation below, SAFETEA-LU requires states to consult with non-metropolitan local officials in the statewide planning process.

Title V – Transportation Planning and Project Delivery

Sec. 6001 Transportation Planning

“§ 135. Statewide Transportation Planning

“(2) Consultation with governments-

“(B) Nonmetropolitan Areas – With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in **consultation** with affected nonmetropolitan officials with responsibility for transportation.

Under the NPRM, *consideration* is a less substantial level of planning interaction than *consultation*. In addition, the use of the term is inconsistent with (TEA-21 & SAFETEA-LU) prescribed levels of interaction the state must maintain with non-metropolitan local officials in the planning process.

With respect to this section, we respectfully request that *consider* be replaced with *consultation* and the revised section to read:

*Consult with local elected and appointed officials with responsibilities for transportation in non-metropolitan areas.*

We believe this change will also make it consistent with NPRM §450.216(c), which states that the STIP shall “be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation...”

§450.210 Interested Parties, public involvement, and consultation

(b) The State shall provide for nonmetropolitan local official participation in the development of the long-range statewide transportation plan and the STIP. The State shall have a documented process(es) for consulting with non-metropolitan local officials representing units of general purpose local government and/or local officials with responsibility for transportation that is separate and discrete from the public involvement process and provides an opportunity for their participation in the development of the long-range statewide transportation plan and the STIP. Although the FHWA and the FTA shall not review or approve this consultation process(es), copies of the process document(s) shall be provided to the FHWA and the FTA for informational purposes.

**Comments:** We strongly support provisions that maintain states requirements to have a documented process, separate and discrete from the public outreach process, for consulting with non-metropolitan officials in the development of statewide plans. Requirements for enhanced consultation with non-metropolitan local officials has yielded tangible benefits in improved relations between state and local officials and, more importantly, improved the overall operations and planning of the transportation system. In addition, we feel that this level of interaction must be consistently reflected throughout the NPRM (see §450.208(a)(4)).

Thank you for the opportunity to express our concerns on this important matter.