

APPENDIX 6 PUBLIC INVOLVEMENT REGULATIONS & POLICIES

HISTORY REGULATIONS AND POLICIES AFFECTING PUBLIC INVOLVEMENT

The following is a list of regulations and legislation pertaining to public involvement for federally funded agencies and projects. Many of these regulations overlap, but the overlying theme is the same, everyone must be given equal opportunity to become involved in the transportation planning process. The Public Participation Plan is a living document and will be continually reviewed for possible revisions and new legislation.

FAMPO fulfills the requirements and criteria provided for public involvement under recent SAFETEA-LU requirements [per Section 6001]: and 23 CFR 450.316(b)(1), that address elements of the metropolitan planning process. Public involvement also is addressed specifically in connection with the Constrained Long Range Transportation Plan (CLRP) in 450.322 (c) and the Transportation Improvements Plan (TIP) in 450.324(c); air quality-related public involvement requirements, which pertain to the CLRP and TIP, also are included in 450.322(c) and 450.324(c).

Americans with Disabilities Act (ADA)

The Federal Americans with Disabilities Act (ADA) of 1990 encourages the involvement of people with disabilities in the development and improvement of transportation and para-transit plans and services. The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation. This includes providing accommodations for persons with disabilities for all public involvement activities, including access to meetings, as well as effectively communicating with people who have hearing, vision, or speech disabilities.

Americans with Disabilities Act (ADA) – Section 508

In 1998, Congress amended the Rehabilitation Act to require federal agencies to make their electronic and information technology accessible to people with disabilities. Inaccessible technology interferes with an individual's ability to obtain and use information quickly and easily. Section 508 was enacted to eliminate barriers in information technology, to make available new opportunities for people with disabilities, and to encourage development of technologies that will help achieve these goals. The law applies to all federal agencies when they develop, procure, maintain, or use electronic and information technology. Under Section 508, agencies must give disabled employees and members of the public access to information that is comparable to the access available to others.

Code of Federal Regulations (CFR 23, Planning/Research, Public Involvement, Part 450)

The Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into 50 titles that represent broad areas subject to federal regulation.

Planning Assistance and Standards, Subsection 450.212 requires that the MPO shall have in place a documented process for carrying out public involvement efforts.

- a. Public involvement processes shall be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement. The processes shall provide for:
 1. Early and continuing public involvement opportunities throughout the transportation planning and programming process;
 2. Timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs, and projects;
 3. Reasonable public access to technical and policy information used in the development of the plan and Statewide Transportation Improvement Plan (STIP);
 4. Adequate public notice of public involvement activities and time for public review and comment at key decision points, including but not limited to action on the plan and STIP;
 5. A process for demonstrating explicit consideration and response to public input during the planning and program development process;
 6. A process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households which may face challenges accessing employment and other amenities;
 7. Periodic review of the effectiveness of the public involvement process to ensure that the process provides full and open access to all and revision of the process as necessary.
- b. Public involvement activities carried out in a metropolitan area in response to metropolitan planning requirements in §450.322(c) or §450.324(c) may by agreement of the State and the MPO satisfy the requirements of this section.
- c. During initial development and major revisions of the statewide transportation plan required under §450.214, the State shall provide citizens, affected public agencies and jurisdictions, employee representatives of transportation and other affected agencies, private and public providers of transportation, and other interested parties a reasonable opportunity to comment on the proposed plan. The proposed plan shall be published, with reasonable notification of its availability, or otherwise made readily available for public review and comment.

Likewise, the official statewide transportation plan (see §450.214(d)) shall be published, with reasonable notification of its availability, or otherwise made readily available for public information.

- d. During development and major revision of the statewide transportation improvement program required under §450.216, the Governor shall provide citizens, affected public agencies and jurisdictions, employee representatives of transportation or other affected agencies, private providers of transportation, and other interested parties, a reasonable opportunity for review and comment on the proposed program. The proposed program shall be published, with reasonable notification of its availability, or otherwise made readily available for public review and comment. The approved program (see §450.220(c)) if it differs significantly from the proposed program, shall be published, with reasonable notification of its availability, or otherwise made readily available for public information.
- e. The time provided for public review and comment for minor revisions to the statewide transportation plan or statewide transportation improvement program will be determined by the State and local officials based on the complexity of the revisions.
- f. The State shall, as appropriate, provide for public comment on existing and proposed procedures for public involvement throughout the statewide transportation planning and programming process. As a minimum, the State shall publish procedures and allow 45 days for public review and written comment before the procedures and any major revisions to existing procedures are adopted.
- g. The public involvement processes will be considered by the FHWA and the FTA as they make the planning finding required in §450.220(b) to assure that full and open access is provided to the decision making process.

Environmental Justice

Derived from Title VI of the Civil Rights Act of 1964, “Environmental Justice” is Presidential Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), issued on February 11, 1994. It focuses federal agencies’ attention on reaching out to certain segments of the community. This order requires each federal agency to achieve environmental justice by identifying and addressing, as appropriate, disproportionately high and adverse human health or *environmental* effects of its programs, policies, and activities on minority populations and low-income populations in the United States.

Inter-modal Surface Transportation Efficiency Act of 1991 (ISTEA) & Transportation Equity Act for the 21st Century (TEA-21)

ISTEA and its 1998 successor, TEA-21, emphasize public participation in the transportation planning and programming process. This legislation calls for early and continuing opportunities for the public to be involved in the identification of social, economic and environmental impacts, as well as impacts associated with the relocation of individuals, groups or institutions. TEA-21 requires states and MPOs to involve

constituents. Federal legislation also requires public involvement in developing and amending metropolitan and rural long-range transportation plans, Transportation Improvement Programs (TIPs), the Statewide Long-Range Transportation Plan (LRTP), the State Transportation Improvement Program (STIP), and project development.

Title VI/Civil Rights Act of 1964

This Act ensures that no person shall, on the grounds of race, color, sex, national origin, or physical handicap, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program receiving federal assistance from the United States Department of Transportation.

National Environmental Policy Act of 1969 (NEPA)

FHWA and other federal agencies implementing the National Environmental Policy Act (NEPA) of 1969, FHWA environmental procedures (23 CFR 771) and Council on Environmental Quality implementing regulations outline requirements for public input during the project development process. These regulations include publishing notices and providing the opportunity for public hearings to obtain input about transportation projects.

SAFETEA-LU - 2005

Public participation in the transportation planning and programming process is a priority for federal, state, and local officials. The current federal transportation legislation called the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA-LU), signed on August 10, 2005, continues this. SAFETEA-LU authorizes funding for Federal highway, highway safety, transit and other surface transportation programs and requires that Metropolitan Planning Organizations establish, periodically review, and update public participation processes to assure early and continued public awareness of, and access to, the transportation decision-making process.

SAFETEA-LU mandates that the metropolitan transportation planning process contain the following public participation elements:

1. Include a proactive public participation process that provides complete information, timely public notice, full public access to key decisions, and supports early and continuing participation of the public in developing plans and Transportation Improvement Programs (TIPs) and meets the requirements and criteria specified as follows:
 - ◆ Require a minimum public comment period of 45 days before the public participation process is initially adopted or revised
 - ◆ Provide timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs and projects

- ◆ Provide reasonable public access to technical and policy information used in the development of plans and TIPs and open public meetings where matters related to the Federal-aid highway and transit programs are being considered
 - ◆ Require adequate public notice of public participation activities and time for public review and comment at key decision points, including, LRTPs and TIPs
 - ◆ Demonstrate explicit consideration and response to public input received during the planning and program development processes
 - ◆ Seek out and consider the needs of those traditionally underserved by existing transportation systems, including but not limited to low-income and minority households
 - ◆ When significant written and oral comments are received on the draft LRTP or TIP (including the financial plan) as a result of the public participation process or the interagency consultation process required under the U.S. EPA's conformity regulations, a summary, analysis, and report on the disposition of comments shall be made part of the LRTP and TIP
 - ◆ If the final LRTP or TIP differs significantly from the one which was made available for public comment by the MPO and raises new material issues which interested parties could not reasonably have foreseen from the public participation efforts, an additional opportunity for public comment on the revised LRTP or TIP shall be made available
 - ◆ Public participation processes shall be periodically reviewed by the MPO in terms of their effectiveness in assuring that the process provides full and open access to all
 - ◆ These procedures will be reviewed by the FHWA and the FTA during certification reviews to assure that full and open access is provided to MPO decision-making processes
 - ◆ Metropolitan public participation processes shall be coordinated with statewide public participation processes wherever possible to enhance public consideration of the issues, plans, and programs and reduce redundancies and costs
2. Be consistent with Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794, which ensure that no person shall, on the grounds of race, color, sex, national origin, or physical handicap, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program receiving Federal assistance from the United States Department of Transportation.
 3. Comply with Presidential Executive Order 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

4. Comply with the Americans with Disabilities (ADA) Act of 1990 and US DOT regulations "Transportation for Individuals with Disabilities." Meetings and hearings must be held in ADA-compliant buildings and special accommodations must be made for those with disabilities to participate in meetings, planning, and programming activities.
5. Consult with entities responsible for planned growth, economic development, environmental protection, airport operations, freight movement, bicycles, pedestrians, the disabled community, land use management, natural resources, and historic preservation
6. Provide for the involvement of traffic, ridesharing, parking, transportation safety and enforcement agencies; commuter rail operators; airport and port authorities; toll authorities; appropriate private transportation providers, and where appropriate city officials.
7. Provide for the involvement of local, State, and Federal environment resource and permit agencies as appropriate.
 - a. In attainment areas not designated as TMAs simplified procedures for the development of plans and programs, if considered appropriate, shall be proposed by the MPO in cooperation with the State and transit operator, and submitted by the State for approval by the FHWA and the FTA. In developing proposed simplified planning procedures, consideration shall be given to the transportation problems in the area and their complexity, the growth rate of the area (e.g., fast, moderate or slow), the appropriateness of the factors specified for consideration in this subpart including air quality, and the desirability of continuing any planning process that has already been established. Areas experiencing fast growth should give consideration to a planning process that addresses all of the general requirements specified in this subpart. As a minimum, all areas employing a simplified planning process will need to develop a transportation plan to be approved by the MPO and a TIP to be approved by the MPO and the Governor.
 - b. The metropolitan transportation planning process shall include preparation of technical and other reports to assure documentation of the development, refinement, and update of the transportation plan. The reports shall be reasonably available to interested parties, consistent with §450.316(b)(1).