

## **Appendix L: Plan Requirements and Regulatory Framework**

# Regulatory Framework for MTP/SCS

---

The contents of the Metropolitan Transportation Plan (MTP) and Sustainable Communities Strategies (SCS) are governed by inter-related state and federal requirements, as summarized below.

## FEDERAL LAW REQUIREMENTS

Federal law requires the MTP to provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian and bicycle facilities) that will function as an intermodal transportation system for the metropolitan planning area. (23 U.S.C. § 134(c).) MTPs must be developed in coordination with agencies and officials responsible for local planning activities affected by transportation, and shall consider the related planning activities within each jurisdiction. (23 U.S.C. § 134(g)(3); 23 C.F.R. § 450.316 (b).) MPOs must use the latest available estimates and assumptions for population, land use, travel, employment, congestion, and economic activity in the MTP. (23 C.F.R. § 450.322 (e).)

Planning factors that must be considered in the MTP include: (1) supporting economic vitality; (2) increasing the safety transportation system for motorized and non-motorized users; (3) increasing security of the transportation system; (4) increasing accessibility and mobility of people and freight; (5) protecting and enhancing the environment, promoting energy conservation, improving quality of life, and promoting consistency between transportation improvements and State and local planned growth and economic development patterns; (5) enhancing the integration and connectivity of transportation; (6) Enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight; (7) Promoting efficient system management and operation; (8) emphasizing the preservation of the existing transportation system; (9) Improving the resiliency and reliability of the transportation system and reduce or mitigate stormwater impacts of surface transportation; and (10) enhancing travel and tourism (23 U.S.C. § 134 (h); 23 C.F.R. § 450.306(a).).

At a minimum, the MTP must include: (1) the projected transportation demand of persons and goods in the planning area over the planning period; (2) existing and proposed transportation facilities (including major roadways, transit, multimodal and intermodal facilities, pedestrian walkways and bicycle facilities, and intermodal connectors) that should function as an integrated system; (3) operational and management strategies to improve performance of transportation facilities to relieve congestions and maximize safety and mobility; (4) consideration of the results of the congestion management process; (5) assessment of capital investments and other strategies to preserve the existing and projected future transportation infrastructure; (6) design concepts and scope descriptions for all existing and proposed facilities with sufficient detail to develop cost estimates, (7) a discussion of potential mitigation strategies; (8) pedestrian and bicycle facilities; (9) transportation and transit enhancement activities; and (10) a financial plan. (23 C.F.R. § 450.322 (f).)

In addition, the development of the MTP must be coordinated with state and federal clean air agencies. In nonattainment areas, such as the SACOG region, the MTP must be coordinated with the development of transportation control measures in the State Implementation Plan (SIP), and is subject to an air quality conformity determination by the United States Environmental Protection

Agency (EPA). (23 U.S.C. § 134 (i)(3); 40 C.F.R. § 93.106 (a).)

The air quality conformity determination must be based on the most recent planning assumptions in force at the time the conformity analysis begins, as determined by the interagency consultation process. (40 C.F.R. § 93.110 (a).) These assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO. (40 C.F.R. § 93.110 (b).) The conformity determination must also be based on the latest assumptions about current and future background concentrations. (40 C.F.R. § 93.110 (b).)

For each MTP horizon year, the EPA requires that the MTP quantify and document demographic and employment factors, including expected transportation demand and land use forecasts. The MTP must also describe the highway and transit system in terms of the regionally significant additions or modifications anticipated to be operational. Transit facilities and services must be identified in terms of design concept, design scope, and operating policies sufficient for modeling their anticipated ridership. (40 C.F.R. § 93.106 (a)(2).)

## STATE LAW REQUIREMENTS

State law also requires that each MPO prepare and adopt an MTP aimed at achieving a coordinated and balanced regional transportation system. Each MPO shall consider and incorporate in the MTP, as appropriate, the transportation plans of cities, counties, districts, private organizations, and state and federal agencies. (Gov. Code, § 65080 (a).)

In addition, state law requires that the MTP include an SCS, subject to the federal laws outlined above, including the requirement to utilize the most recent planning assumptions considering local general plans and other factors. (Gov. Code, § 65080 (b)(2).)

The SCS shall: (i) identify the general location of uses, residential densities, and building intensities within the region; (ii) identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment growth; (iii) identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584; (iv) identify a transportation network to service the transportation needs of the region; (v) gather and consider the best practically available scientific information regarding resource areas and farmland in the region as defined in subdivisions (a) and (b) of Section 65080.01; (vi) consider the state housing goals specified in Sections 65580 and 65581; (vii) set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas (GHG) emissions from automobiles and light trucks to achieve, if feasible, the GHG emission reduction target approved for the region by the California Air Resources Board (ARB); and (viii) allow the regional transportation plan to comply with Section 176 of the federal Clean Air Act (42 U.S.C. § 7506). (Gov. Code, § 65080 (b)(2)(B).)

In the event that the SCS is unable to reduce GHG emissions to achieve the GHG emissions reduction targets, the MPO must prepare an alternative planning strategy to show how the GHG

emissions reduction targets can be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. (Gov. Code, § 65080 (b)(2)(I).)

According to the California Transportation Commission's (CTC) *2017 Regional Transportation Plan Guidelines*, MPOs must use the most current household travel surveys, demographic, socioeconomic, and census data available in developing the MTP and SCS. (CTC, *2017 California Regional Transportation Plan Guidelines* (January 18, 2017). In regions that are nonattainment for CO or ozone, scenarios of land development shall be consistent with the future transportation system alternatives for which emissions are estimated, and the distribution of employment and residences for different transportation options shall be reasonable. (CTC, *2017 California Regional Transportation Plan Guidelines* (January 18, 2017), p. 68, citing 40 C.F.R. § 93.122 (b)(1) (iv).) In addition, in such nonattainment regions, a capacity-sensitive assignment methodology shall be used, and emissions estimates shall be based on a methodology which differentiates between peak- and off-peak link volumes and speeds and uses speeds based on final assigned volumes, and reasonable methods, in accordance with good practice, shall be used to estimate traffic speeds and delays in a manner that is sensitive to the estimated volume of travel on each roadway segment represented in the network-based travel model. (*Id.* at p. 45, citing 40 C.F.R. § 93.122 (b)(2).)

## PLAN UPDATES

Regional transportation planning is a dynamic process requiring continuous monitoring and periodic updating. Updating a MTP ensures the MPOs planning process is valid and consistent with current and forecasted transportation and land use conditions and trends for at least a 20-year planning horizon.

Federal and state law both require SACOG to update the MTP (known as a regional transportation plan under California state law) at least every four years. (23 C.F.R. § Part 450.322(a); Cal. Gov. Code, § 65080(d).) Failure of an MPO to adhere to the federal and state required update period could result in the United States Federal Highway Administration not approving the region's Federal Transportation Improvement Plan (FTIP) and a loss of federal and state funding since projects that are programmed for state or federal funding in the FTIP and State Transportation Improvement Plan must be included in the approved MTP.

An MTP can be either updated or revised. An update means making current the MTP "through a comprehensive review." (23 C.F.R. § 450.104.) Updates require public review and comment, a 20-year horizon year, demonstration of fiscal constraint, and a conformity determination.

Revisions are broken into 2 categories: a major revision is an "amendment" which requires public participation and a conformity determination; a minor revision is an "administrative modification" which does not require public participation or a conformity determination.

The following changes constitute an "amendment" (triggering public participation and a conformity determination): (1) adding or deleting a non-exempt project; (2) significantly changing the design concept or scope of a regionally significant project; or (3) changing the implementation year such that it affects a transportation conformity analysis year.

When an MPO prepares an amendment or update, it also needs to be aware that a conformity

determination may need to be conducted, depending on the type of changes, modifications or amendments. An amendment that makes any of the following changes to the RTP would require a new conformity determination for the RTP: (1) the amendment adds or deletes a non-exempt project; (2) the amendment significantly changes the design concept or scope of a regionally significant project; or (3) the amendment changes the implementation year such that it affects a transportation conformity analysis year.

There is little other guidance on what constitutes a “comprehensive review,” or when modifications to the land use component of the plan constitute an update, a major revision, or a minor revision. Interim modifications to the land use component of the plan are not addressed under the federal statutes or regulations. California Government Code section 65080 is similarly silent on the nature and extent to which the land use elements of a regional plan can be modified without a full update of a plan.

SACOG has concluded that this may provide the region some measure of flexibility to execute mid-cycle revisions to the land use forecast without requiring a new air quality conformity analysis. However, to protect the region’s ability to meet Clean Air Act requirements the next time a conformity analysis is required, the proposed land use revisions would be required to demonstrate that they would not increase air emissions beyond the currently adopted plan.

## Meeting Federal and State Air Emissions Standards

---

### FEDERAL CLEAN AIR ACT (42 U.S.C. §7401 ET SEQ. (1970))

The Clean Air Act (Act) is the comprehensive federal law that regulates air emissions from stationary and mobile sources. Among other things, this law authorizes the EPA to establish National Ambient Air Quality Standards (NAAQS) to protect public health and welfare, and to regulate emissions of hazardous air pollutants.

One of the goals of the Act was to set and achieve NAAQS in every state by 1975 in order to address the public health and welfare risks posed by certain widespread air pollutants. The setting of these pollutant standards was coupled with directing the states to develop state implementation plans (SIPs), applicable to appropriate industrial sources in the state, in order to achieve these standards. The Act was amended in 1977 and 1990, primarily to set new goals (dates) for achieving attainment of NAAQS since many areas of the country had failed to meet the deadlines.

Through the SIPs, states must demonstrate how they will attain and maintain the air quality standards and meet other elements of the Clean Air Act. SIPs must be submitted to EPA for approval. In California, the statewide SIP is prepared by the California Air Resources Board (CARB), in coordination with the local air quality management districts in federally-designated non-attainment areas. The Sacramento region is part of the Sacramento Federal Nonattainment Area (SFNA), which also includes all or parts of the following: Sacramento Metropolitan AQMD, Feather River AQMD (Yuba and Sutter counties), Placer County APCD, El Dorado County AQMD, and Yolo-Solano AQMD. These air districts coordinate with the CARB on the development and adoption of the Sacramento regional portions of the SIP.

There are multiple, current, designations for this portion of the plan area; severe-15 nonattainment area for the 2008 8-hour NAAQS for ozone and a moderate nonattainment area for the 2015 8-hour NAAQS for ozone; additionally, the Sutter Buttes area is classified as a marginal nonattainment area for the 2015 standard. The 2008 Ozone NAAQS classifying the Sacramento nonattainment area as severe-15 became effective on May 21, 2012. On April 6, 2015, the EPA revoked the 1997 8-hour ozone standard. However, on February 16, 2018 the DC Circuit Court of Appeals vacated portions of the EPA's 2008 Ozone Implementation Rule. This ruling vacated the revocation of Transportation Conformity requirements for the 1997 ozone standard; noting a need for areas to continue demonstration to the standard in specific circumstance. The region's designation status through the 2015 NAAQS for ground-level ozone became effective August 3, 2018. EPA has not yet revoked the previous 2008 standard.

Particulate matter (PM) is a mixture of solid and liquid particles. Because particles originate from a variety of activities and processes, their chemical and physical compositions vary. PM can be directly emitted or can be produced by secondary formation in the atmosphere when gaseous pollutants, such as nitrogen oxides and sulfur dioxide, chemically react with ammonia and other compounds to form fine aerosol particles. Sources of PM are mainly due to human (anthropogenic) activities caused by area-wide sources, such as residential wood and other fuel combustion smoke and other pollutants, motor vehicles including entrained road dust and exhaust, and off-road mobile sources including dust and equipment exhaust emissions from construction and farming activities. PM can also be generated from natural sources such as windblown dust and wildfires.

Adverse health effects related to particulate matter exposure result in a number of economic costs and social consequences. These include increased medical costs, hospital admissions, work loss days, school absences, caregiver burdens, and premature deaths. Numerous scientific studies have linked particle matter exposure to a variety of health related problems, such as irritation of the airways, coughing, or difficulty breathing, decreased lung function, aggravated asthma, development of chronic bronchitis, irregular heartbeat, and nonfatal heart attacks. People with heart or lung diseases, children and older adults are the most likely to be affected by particle pollution exposure. Studies also indicate that even healthy individuals may experience temporary symptoms from exposure to elevated levels of particle matter.

EPA changed the 24-hour standard for PM<sub>2.5</sub> from 65µg/m<sup>3</sup> to 35µg/m<sup>3</sup> in 2006 and two areas within the area of the proposed MTP/SCS were consequently designated as PM<sub>2.5</sub> nonattainment areas in 2009. Since the new standards were implemented, EPA approved the *Yuba City-Marysville PM<sub>2.5</sub> Nonattainment Area Redesignation Request and Maintenance Plan* on December 9, 2014. The area is now designated attainment, effective January 8, 2015. Until 2017, Sacramento County was in nonattainment for the standard. Following the development of the PM<sub>2.5</sub> Implementation/Maintenance Plan and Redesignation Request for the Sacramento PM<sub>2.5</sub> Nonattainment Area, EPA declared Sacramento County as attainment on May 10, 2017.

The SIP must include transportation conformity budgets and control measures. Transportation conformity budgets will require that future transportation projects stay within specified emission levels that meet attainment and progress goals. Failure to do so can result in withholding federal transportation project approvals and funding. The SIP also will establish budgets for new milestone years (to be identified in that SIP). The region also has budgets for PM<sub>10</sub>, because the area

previously violated the federal standards for this pollutant.

SACOG's MTP must forecast transportation sector emissions and must demonstrate that its emissions are within the established SIP budget limits, for ozone, PM2.5, and PM10, in order to be certified by the federal government and to be eligible for federal transportation funds. Any amendments to the MTP that might change its projected air emissions must demonstrate, through additional air emissions modeling, that the emissions from the entire MTP are still within the budgeted limits. This process inherently interconnects the future of the local governments of the region. A changed transportation project in one portion of the region has at least the potential to affect the entire region's ability to stay within its assigned air emission budgets, which in turn determines whether the entire region is eligible for federal transportation funds.

The state-of-the-practice in preparing MTPs and estimating their air emission impacts has substantially improved over the last several years. Three trends dominate the change. First, all levels of government (local, regional, state, and federal) are learning more about the strong connections between land use patterns, transportation systems, travel behavior, and air emissions, which is leading to more integrated planning. Second, regional scenario planning that creates and measures the impacts of a wide range of futures is becoming commonplace, and provides valuable information that is affecting the substance of MTPs. Third, data and modeling tools to forecast the likely impacts of different land use and transportation system futures are becoming much more detailed and accurate. The United States Department of Transportation (USDOT) and the EPA, the two key federal agencies overseeing the activities of metropolitan planning organizations (MPOs) as they adopt and implement MTPs and demonstrate compliance with the Federal Clean Air Act, are actively encouraging MPOs to proactively implement all three of these practices: integrated planning, scenario planning, and more accurate measurement tools.

SIP Transportation Control Measures (TCMs) and other control measures are typically individual projects or rules that may be amended or replaced as more is learned about the feasibility or effectiveness of the measure. Replacement requires approval by the air district, CARB, and the EPA, but is generally straightforward because the measures involve relatively low emission reduction levels that can be achieved through substituted measures. SACOG has one TCM, 'Spare the Air.'

Federal Clean Air Act conformity requirements pursuant to the Amendments of 1990, apply in all MPO/RTPA nonattainment areas. The Clean Air Act (42 U.S.C. § 7506(c)) "conformity" requirement ensures that federal funding and approval are given to transportation plans, programs and projects that are consistent with the air quality goals established by a SIP. For MPO nonattainment regions, the MPO and FHWA are responsible for making the MTP conformity determination. Both the MPO and FHWA must be able to determine that any new transportation projects will not cause new air quality violations, worsen existing violations or delay timely attainment of the National Ambient Air Quality Standards. The transportation conformity rule (40 C.F.R. Part 93) sets forth policy, criteria, and procedures for demonstrating and assuring conformity of transportation activities.

## SENATE BILL 375

Senate Bill 375 (SB 375) assigns three primary functions to CARB. First, at least every eight

years, the agency must establish passenger vehicle greenhouse gas emissions reduction targets for 2020 and 2035 that the 18 MPOs in the state must, if feasible, meet through their MTP/SCSs. Second, it must work with each MPO to determine an accurate method for measuring the greenhouse gas emissions performance of the MTP/SCS. Third, it must determine whether the adopted MTP/SCS, if implemented, would meet the established greenhouse gas emissions reduction targets.

At each step in this process, SACOG must document and explain the land use, as well as the transportation components, of the MTP/SCS in detail. For the first target setting cycle, CARB established the overarching principle that each MPO's target should be "the most ambitious achievable." To satisfy that principle, CARB requested, and the MPOs provided, detailed scenario planning information to illustrate the range of greenhouse gas emissions reduction that would result from variations in the land use pattern (e.g., growth near transit, percentage of new growth in traditional versus more compact housing product types, density of new growth, distance of new housing to job centers) and transportation network (e.g., roads, transit, bike, and pedestrian facilities). For the second function, determining an accurate method to measure emissions performance, CARB evaluated the capacity of the modeling tools used by the MPOs to determine whether they could accurately estimate greenhouse gas emissions, given a specified land use pattern and transportation network. To assist CARB in this effort, again, the MPOs submitted detailed information about the level of land use detail that the models can analyze and their sensitivity to how land use changes affect travel behavior.

## Summary

---

SACOG uses the same basic approach to documenting the land use component of the MTP/SCS, and to estimating air quality impacts, in order to address both federal and state regulatory requirements. A parcel specific GIS allows SACOG to document the projected land use pattern and estimate its travel and air quality impacts at a parcel level. This level of specificity has helped to persuade EPA, USDOT, and CARB that SACOG's methods are transparent and accurate. However, the land use pattern is represented in the plan graphically as a generalized land use map, showing the general location of uses, residential densities, and building intensities of projected growth in the region. Detailed annual monitoring ensures that actual performance is compared to projected performance, so that learning can occur and necessary adjustments made in each 4-year plan update cycle. The generalized land use map provides enough focus to design a transportation system to serve the projected land uses, but sufficient flexibility for land development markets to function.

A summary of key planning references follows.

# Summary of Key Planning References

---

## STATE REGULATIONS

### **California Clean Air Act**

Federal law requires each state with areas that have not met federal air quality standards to prepare a State Implementation Plan, or SIP. The sweeping 1990 amendments to the Clean Air Act (CAA) established new air quality requirements for the development of metropolitan transportation plans (MTPs) and programs. The California Clean Air Act (or CCAA) sets even tougher state goals. The CCAA provides a planning framework for attainment of California Air Quality Standards. Local air districts in violation of state standards are required to prepare air quality attainment plans.

The MTP/SCS must meet requirements to achieve air quality attainment. For air quality of each class (moderate, serious, severe), the CCAA specifies air quality management strategies that must be adopted. For all classes, attainment plans are required to demonstrate a five percent per year reduction in emissions of air pollutants or their precursors.

### **California Transportation Commission Regional Transportation Plan Guidelines**

Pursuant to Government Code section 65080(d), each regional transportation planning agency (RTPA) is required to adopt and submit an updated regional transportation plan (RTP) to the California Transportation Commission (CTC) and the Department of Transportation (Caltrans) every four years. SACOG is the designated RTPA for Sacramento, Yolo, Sutter and Yuba counties. Under Government Code section 14522, the CTC is authorized to prepare guidelines to assist in the preparation of RTPs. The CTC's RTP guidelines suggest that projections used in the development of an RTP should be based upon available data (such as from the Bureau of the Census), use acceptable forecasting methodologies, and be consistent with the Department of Finance baseline projections for the region. The guidelines further state that the RTP should identify and discuss any differences between the agency projections and those of the Department of Finance.

### **California Environmental Quality Act (CEQA)**

The MTP is subject to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. CEQA requires that state and local government agencies consider the cumulative regional impact and environmental consequences of projects over which they have discretionary authority before taking action on those projects. Although the individual programs and projects included in the MTP/SCS will be implemented by various public agencies, SACOG is responsible at a regional plan level for carrying out and approving the MTP and as such, is the lead agency for the purpose of preparing the environmental review of the proposed project.

### **The California Land Conservation Act (Williamson Act)**

The California Land Conservation Act, better known as the Williamson Act, was enacted by the California State Legislature in 1965 to encourage the preservation of agricultural lands. The

Williamson Act program permits property tax adjustments for landowners who contract with a city or county to keep their land in agricultural production or in approved open space uses for at least ten years. Lands covered by Williamson Act contracts are assessed on the basis of their agricultural value, instead of their potential market value under nonagricultural uses. In return for the preferential tax rate, the landowner is required to contractually agree to not develop the land for a period of at least ten years.

Williamson Act contracts are renewed annually for ten years unless a party to the contract files for non-renewal. The filing of a non-renewal application by a landowner ends the automatic annual extension of a contract and starts a nine-year phase-out of the contract. During the phase-out period, the land remains restricted to agricultural and open-space uses, but property taxes gradually return to levels associated with the market value of the land. At the end of the nine-year non-renewal process, the contract expires and the owner's uses of the land are restricted only by applicable local zoning.

The Williamson Act defines compatible use of contracted lands as any use determined by the county or city administering the agricultural preserve to be compatible with the agricultural, recreational, or open-space use of land within the preserve and subject to contract. (Gov. Code, § 51202(e).) However, uses deemed compatible by a county or city government must be consistent with the principles of compatibility set forth in Government Code section 51238.1.

### **Delta Reform Act**

In November 2009, the California Legislature enacted SBX7 1, the Delta Reform Act, one of several bills passed at that time related to water supply reliability, ecosystem health, and the Delta. The Delta Reform Act created the Delta Stewardship Council (DSC). The DSC is made up of seven members that are advised by a 10-member board of scientists. The DSC is charged with developing and adopting a Delta Plan by January 1, 2012. The DSC is tasked with addressing the coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. According to the Delta Reform Act, the coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

Under the Delta Reform Act, the DSC is charged with reviewing and advising local and regional agencies regarding the consistency of local and regional planning documents, including an SCS, with the Delta Plan. The DSC's input includes reviewing the consistency of local and regional plans with the ecosystem restoration needs of the Delta and the whether the lands set aside for natural resource protection are sufficient to meet the Delta's ecosystem needs. The Act requires that "covered actions," as defined by the Act, and which include plans, programs, or projects within the primary or secondary zones of the Delta, be consistent with the Delta Plan.

The Act also requires a metropolitan planning organization adopting a plan with land in the primary or secondary zones of the Delta to follow a consultation procedure with the DSC, including an early consultation to review the consistency of such plans with the Delta Plan, which was adopted in 2013. SACOG has considered the coequal goals of the Act in developing the MTP/SCS and follows the Act's consultation requirements.

Finally, the Act expressly provides that “covered actions” do not include the following: (1) regional transportation plans, such as this MTP/SCS; and (2) plans, programs, projects, activities (and any infrastructure necessary to support those plans, programs, projects, or activities) within the secondary zone of the Delta that SACOG has determined is consistent with the SCS. (Cal. Water Code, § 85057.5.)

### **Senate Bill 375**

Senate Bill 375, signed into law in 2008, built on California’s 2006 climate change law (AB 32). The new law’s core provision is a requirement for regional transportation agencies to develop a “Sustainable Communities Strategy” in order to reduce greenhouse gas emissions from passenger vehicles. The Sustainable Communities Strategy (SCS) is one component of the existing RTP.

The SCS will outline the region’s plan for combining transportation resources, such as roads and mass transit, with a realistic land use pattern, in order to meet a state target for reducing greenhouse gas emissions. The strategy must take into account the region’s housing needs, transportation demands, and protection of resource and farmlands.

Additionally, SB 375 modified the state’s Housing Element Law to achieve consistency between the land use pattern outlined in the SCS and the Regional Housing Needs Assessment allocation. The legislation also substantially improved cities’ and counties’ accountability for carrying out their housing element plans.

Finally, SB 375 amended the California Environmental Quality Act to ease the environmental review of developments that help reduce the growth of greenhouse gas emissions.

## **LOCAL REGULATIONS**

The most comprehensive land use planning for the MTP/SCS Area is provided by city and county general plans, which local governments are required by state law to prepare as a guide for future development. The general plan contains goals and policies concerning topics that are mandated by state law or which the jurisdiction has chosen to include. Required topics are: land use, circulation, housing, conservation, open space, noise, and safety. Other topics that local governments frequently choose to address are public facilities, parks and recreation, community design, or growth management, among others. County general plans must cover areas not included by city general plans (i.e., unincorporated areas).

## **FEDERAL REGULATIONS**

### **Civil Rights Act and California Government Code Section 11135**

Title VI of the federal Civil Rights Act and California Government Code Section 11135 address discrimination by recipients of federal and state funds. To implement and ensure compliance with these laws, a series of orders, regulations and guidance on environmental justice have been issued by federal and state agencies for MPOs in developing their regional transportation plans. MPOs are required to conduct an environmental justice analysis to determine whether the regional transportation plan benefits low-income and minority communities equitably, and whether the Plan’s

transportation investments have any disproportionate negative effects on minority and/or low-income populations in the MPO's region. Title VI ensures that all people have equal access to the transportation planning process. Title VI States that all people regardless of their race, sexual orientation or income level will be included in the decision-making process. It is important that MPOs/RTPAs comply with this federal civil rights requirement during the MTP development process. This legal framework is discussed in more detail in MTP/SCS Chapter 8- Equity.

## **FAST Act**

On December 4, 2015, President Obama signed the Fixing America's Surface Transportation (FAST) Act (Pub. L. No. 114-94) into law—the first federal law in over a decade to provide long-term funding certainty for surface transportation infrastructure planning and investment. The FAST Act authorizes \$305 billion over fiscal years 2016 through 2020 for highway, highway and motor vehicle safety, public transportation, motor carrier safety, hazardous materials safety, rail, and research, technology, and statistics programs. The FAST Act maintains the federal government's focus on safety, keeps intact the established structure of the various highway-related programs we manage, continues efforts to streamline project delivery and, for the first time, provides a dedicated source of federal dollars for freight projects.

The FAST Act also requires SACOG to have Public Transit and Human Services Transportation Coordinated Plan. The MTP/SCS is coordinated and consistent with this plan. SACOG Public Transit and Human Services Transportation Coordinated Plan was updated in August 2019. The plan is intended to show how human service agencies can work together with transportation providers to address the transportation needs of people with disabilities, seniors, and people with limited incomes. The SACOG Coordinated Plan is meant to broaden the dialogue and support further collaboration between public transportation providers, human service agencies, and others to link people with the transportation services that they need. This supports the goals and the desired outcomes of the MTP/SCS as well. The description of transportation services and the connections and relationships represented in this report are drawn from discussions with transportation and human services staff, stakeholder input, and outreach meetings.

## **SAFETEA-LU**

Federal requirements for the development of RTPs, designated as metropolitan transportation plans (MTPs) under federal law, are directed at the federally-designated MPOs. The primary federal requirements regarding MTPs are addressed in the MTP planning rules—Title 23 C.F.R. Part 450 and Title 49 C.F.R. Part 613. These Federal regulations incorporating both SAFETEA-LU and TEA-21 changes were updated by the Federal Highways Administration (FHWA) and the Federal Transit Administration (FTA) and published in the February 14, 2007, Federal Register. These regulations are commonly referred to as the Final Rule. In the Final Rule, the metropolitan transportation planning process provides for consideration of the following Federal planning factors:

1. Economic vitality and global competitiveness, productivity and efficiency;
2. Safety of the transportation system;

3. Security of the transportation system;
4. Accessibility and mobility of people and freight;
5. Protection of the environment, energy conservation, quality of life, and consistency between (regional) transportation improvements and local as well as State planned growth;
6. Integration and connectivity of the transportation system across modes for both people and freight;
7. Efficient transportation management and operations; and,
8. Preservation of the transportation system.

### **23 C.F.R. § 450.316—Metropolitan Transportation Planning Process: Elements**

Section 134(f) of Title 23 of the United States Code, and Federal Transit Act section 8(f) (49 U.S.C. app. 1607(f)) list 15 factors that must be considered as part of the planning process for all metropolitan areas. The following factors shall be explicitly considered, analyzed as appropriate, and reflected in the planning process products:

- Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently;
- Consistency of transportation planning with applicable federal, state, and local energy conservation programs, goals, and objectives;
- The need to relieve congestion and prevent congestion from occurring where it does not yet occur including: the consideration of congestion management strategies or actions which improve the mobility of people and goods in all phases of the planning process; and in TMAs, a congestion management system that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operation management strategies (e.g., various elements of IVHS) shall be developed in accordance with §450.320;
- 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);
- Programming of expenditures for transportation enhancement activities as required under 23 U.S.C. § 133;
- The effects of all transportation projects to be undertaken within the metropolitan planning area, without regard to the source of funding (the analysis shall consider the

effectiveness, cost effectiveness, and financing of alternative investments in meeting transportation demand and supporting the overall efficiency and effectiveness of transportation system performance and related impacts on community/central city goals regarding social and economic development, housing, and employment);

- International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations (supporting technical efforts should provide an analysis of goods and services movement problem areas, as determined in cooperation with appropriate private sector involvement, including, but not limited to, addressing interconnected transportation access and service needs of intermodal facilities);
- Connectivity of roads within metropolitan planning areas with roads outside of those areas;
- Transportation needs identified through the use of the management systems required under 23 U.S.C. § 303 (strategies identified under each management system will be analyzed during the development of the transportation plan, including its financial component, for possible inclusion in the metropolitan plan and TIP);
- Preservation of rights-of-way for construction of future transportation projects, including future transportation corridors;
- Enhancement of the efficient movement of freight;
- The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement (operating and maintenance costs must be considered in analyzing transportation alternatives);
- The overall social, economic, energy, and environmental effects of transportation decisions (including consideration of the effects and impacts of the plan on the human, natural and man-made environment such as housing, employment and community development, consultation with appropriate resource and permit agencies to ensure early and continued coordination with environmental resource protection and management plans, and appropriate emphasis on transportation-related air quality problems in support of the requirements of 23 U.S.C. § 109(h), and section 14 of the Federal Transit Act (49 U.S.C. § 1610), section 4(f) of the USDOT Act (49 U.S.C. § 303) and section 174(b) of the Clean Air Act (42 U.S.C. § 7504(b)));
- Expansion, enhancement, and increased use of transit services;
- Capital investments that would result in increased security in transit systems; and
- Recreational travel and tourism.

In addition, the metropolitan transportation planning process shall:

- Include a proactive public involvement process that provides complete information,

timely public notice, full public access to key decisions, and supports early and continuing involvement of the public in developing plans and meets the requirements and criteria specified as follows:

- Require a minimum public comment period of 45 days before the public involvement 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 (including but not limited to central city and other local jurisdiction concerns);
- Provide reasonable public access to technical and policy information used in the development of plans and open public meetings where matters related to the Federal-aid highway and transit programs are being considered;
- Require adequate public notice of public involvement activities and time for public review and comment at key decision points, including, but not limited to, approval of plans (in nonattainment areas, classified as serious and above, the comment period shall be at least 30 days for the plan and major amendment(s));
- 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;
- Provide a summary, analysis, and report on the disposition of comments as part of the final plan when significant written and oral comments are received on the final MTP (including the financial plan) as a result of the public involvement process or the interagency consultation process required under the U.S. EPA's conformity regulations;
- Provide additional opportunity for public comment on the revised plan or if the final transportation plan 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 involvement efforts;
- Update periodically the public involvement processes in terms of effectiveness in assuring that the process provides full and open access to all;
- Obtain review of these procedures by the FHWA and the FTA during certification reviews as necessary for all MPOs, to assure that full and open access is provided to MPO decisionmaking processes;
- Coordinate metropolitan public involvement processes with statewide public

involvement processes wherever possible to enhance public consideration of the issues, plans, and programs and reduce redundancies and costs;

- 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 USDOT;
- Identify actions necessary to comply with the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, as amended) and USDOT regulations “Transportation for Individuals With Disabilities” (49 CFR parts 27, 37, and 38);
- 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; and
- Provide for the involvement of local, state, and federal environment resource and permit agencies as appropriate.

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.

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).

### **23 C.F.R. § 450.318—Metropolitan Transportation Planning Process: Major Metropolitan Transportation Investments**

Where the need for a major metropolitan transportation investment is identified, and federal funds are potentially involved, major investment (corridor or subarea) studies shall be undertaken to develop or refine the plan and lead to decisions by the MPO, in cooperation with participating agencies, on the design concept and scope of the investment. Where the studies have not been completed prior to plan approval, the provisions of 23 C.F.R. § 450.322(b)(8) apply.

When any of the implementing agencies or the MPO wish to initiate a major investment study, a

meeting will be convened to determine the extent of the analyses and agency roles in a cooperative process which involves the MPO, the State department of transportation, public transit operators, environmental, resource and permit agencies, local officials, the FHWA and the FTA and where appropriate community development agencies, major governmental housing bodies, and such other related agencies as may be impacted by the proposed scope of analysis. A reasonable opportunity, consistent with 23 C.F.R. § 450.316(b)(1), shall be provided for citizens and interested parties including affected public agencies, representatives of transportation agency employees, and private providers of transportation to participate in the cooperative process. This cooperative process shall establish the range of alternatives to be studied, such as alternative modes and technologies (including intelligent vehicle and highway systems), general alignment, number of lanes, the degree of demand management, and operating characteristics.

To the extent appropriate as determined under paragraph (b) of this section, major investment studies shall evaluate the effectiveness and cost-effectiveness of alternative investments or strategies in attaining local, State and national goals and objectives. The analysis shall consider the direct and indirect costs of reasonable alternatives and such factors as mobility improvements; social, economic, and environmental effects; safety; operating efficiencies; land use and economic development; financing; and energy consumption.

These major investment studies will serve as the “alternatives analyses” required by section 3(i)(1)(A) of the Federal Transit Act (49 U.S.C. app. 1602(i)) for certain projects for which discretionary section 3 “New Start” funding is being sought. The studies will also be used as the primary source of information for the other section 3(i)(1)(A) Secretarial findings on cost-effectiveness, local financial commitment and capacity, mobility improvements, environmental benefits, economic development, operating efficiency, etc.

These major investment studies also will, when appropriate, serve as the analysis of demand reduction and operational management strategies pursuant to 23 C.F.R. § 500.109(b).

A major investment study will include environmental studies which will be used for environmental documents as described in paragraphs (f)(1) and (2) of this section: as a minimum, the participating agencies will use the major investment study as input to an environmental impact statement or environmental assessment prepared subsequent to the completion of the study (in such a case, the major investment study reports shall document the consideration given to alternatives and their impacts); or the participating agencies may elect to develop a draft environmental impact statement or environmental assessment as part of the major investment study (at any time after the completion of the study and the inclusion of the major transportation investment in the plan and the TIP, the participating agencies may request the development of final environmental decision documents required under NEPA for such major transportation investments, culminating in the execution of a Record of Decision or Finding of No Significant Impact by the FHWA and/or the FTA).

Major investment studies may lead to decisions that modify the project design concept and scope assumed in the plan development process. In this case, the study shall lead to the specification of a project's design concept and scope in sufficient detail to meet the requirements of the UEPA conformity regulations. (40 C.F.R. part 51.)

Major investment studies are eligible for funds authorized under sections 8, 9 and 26 of the Federal Transit Act (49 U.S.C. app. 1607, 16072, and 1622), and planning and capital funds apportioned under Title 23, U.S.C., and shall be included in the UPWP. If CMAQ, STP, NHS, or other capital funds administered by the FHWA are utilized for this purpose, the study must also be included in the TIP.

Where the environmental process has been completed and a Record of Decision or Finding of No Significant Impact has been signed, 23 C.F.R. § 450.318 does not apply. Where the environmental process has been initiated but not completed, the FHWA and the FTA shall be consulted on appropriate modifications to meet the requirements of this section.

### **23 C.F.R. § 450.320—Metropolitan Transportation Planning Process: Relation to Management Systems**

Within all metropolitan areas, congestion, public transportation, and intermodal management systems, to the extent appropriate, shall be part of the metropolitan transportation planning process required under the provisions of 23 U.S.C. § 134 and 49 U.S.C. §§ 5303-5305. In TMAs designated as nonattainment for ozone or carbon monoxide, federal funds may not be programmed for any project that will result in a significant increase in carrying capacity for single occupant vehicles (a new general purpose highway on a new location or adding general purpose lanes, with the exception of safety improvements or the elimination of bottlenecks) unless the project results from a congestion management system (CMS) meeting the requirements of 23 C.F.R. part 500. Such projects shall incorporate all reasonably available strategies to manage the SOV facility effectively (or to facilitate its management in the future). Other travel demand reduction and operational management strategies, as appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself, shall be committed to by the State and the MPO for implementation in a timely manner, but no later than the completion date for the SOV project. Projects that had advanced beyond the NEPA stage prior to April 6, 1992, and which are actively advancing to implementation, e.g., right-of-way acquisition has been approved, shall be deemed programmed and not subject to this provision.

In TMAs, the planning process must include the development of a CMS that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies and meets the requirements of 23 C.F.R. part 500.

The effectiveness of the management systems in enhancing transportation investment decisions and improving the overall efficiency of the metropolitan area's transportation systems and facilities shall be evaluated periodically, preferably as part of the metropolitan planning process.

### **23 C.F.R. § 450.322—Metropolitan Transportation Planning Process: Transportation Plan**

The metropolitan transportation planning process shall include the development of a transportation plan addressing at least a twenty year planning horizon. The plan shall include both long-range and short-range strategies/actions that lead to the development of an integrated intermodal transportation system that facilitates the efficient movement of people and goods. The transportation plan shall be reviewed and updated at least triennially in nonattainment and maintenance areas and at least every five years in attainment areas to confirm its validity and its

consistency with current and forecasted transportation and land use conditions and trends and to extend the forecast period. The transportation plan must be approved by the MPO.

In addition, the plan shall:

- Identify the projected transportation demand of persons and goods in the metropolitan planning area over the period of the plan;
- Identify adopted congestion management strategies including, as appropriate, traffic operations, ridesharing, pedestrian and bicycle facilities, alternative work schedules, freight movement options, high occupancy vehicle treatments, telecommuting, and public transportation improvements (including regulatory, pricing, management, and operational options), that demonstrate a systematic approach in addressing current and future transportation demand;
- Identify pedestrian walkway and bicycle transportation facilities in accordance with 23 U.S.C. § 217(g);
- Reflect the consideration given to the results of the management systems, including in TMAs that are nonattainment areas for carbon monoxide and ozone, identification of SOV projects that result from a congestion management system that meets the requirements of 23 C.F.R. part 500;
- Assess capital investment and other measures necessary to preserve the existing transportation system (including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities) and make the most efficient use of existing transportation facilities to relieve vehicular congestion and enhance the mobility of people and goods;
- Include design concept and scope descriptions of all existing and proposed transportation facilities in sufficient detail, regardless of the source of funding, in nonattainment and maintenance areas to permit conformity determinations under the EPA conformity regulations at 40 C.F.R. part 51. In all areas, all proposed improvements shall be described in sufficient detail to develop cost estimates;
- Reflect a multimodal evaluation of the transportation, socioeconomic, environmental, and financial impact of the overall plan, including all major transportation investments in accordance with 23 C.F.R. § 450.318;
- For major transportation investments for which analyses are not complete, indicate that the design concept and scope (mode and alignment) have not been fully determined and will require further analysis. The plan shall identify such study corridors and subareas and may stipulate either a set of assumptions (assumed alternatives) concerning the proposed improvements or a no-build condition pending the completion of a corridor or subarea level analysis under 23 C.F.R. § 450.318. In nonattainment and maintenance areas, the set of assumed alternatives shall be in sufficient detail to permit plan conformity determinations under the EPA conformity regulations (40 C.F.R. part 51);

- 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;
- Indicate, as appropriate, proposed transportation enhancement activities as defined in 23

U.S.C. § 101(a); and

- Include a financial plan that demonstrates the consistency of proposed transportation investments with already available and projected sources of revenue. The financial plan shall compare the estimated revenue from existing and proposed funding sources that can reasonably be expected to be available for transportation uses, and the estimated costs of constructing, maintaining and operating the total (existing plus planned) transportation system over the period of the plan. The estimated revenue by existing revenue source (local, State, and federal and private) available for transportation projects shall be determined and any shortfalls identified. Proposed new revenues and/or revenue sources to cover shortfalls shall be identified, including strategies for ensuring their availability for proposed investments. Existing and proposed revenues shall cover all forecasted capital, operating, and maintenance costs. All cost and revenue projections shall be based on the data reflecting the existing situation and historical trends. For nonattainment and maintenance areas, the financial plan shall address the specific financial strategies required to ensure the implementation of projects and programs to reach air quality compliance.

There must be adequate opportunity for public official (including elected officials) and citizen involvement in the development of the transportation plan before it is approved by the MPO, in accordance with the requirements of 23 C.F.R. § 450.316(b)(1). Such procedures shall include opportunities for interested parties (including citizens, affected public agencies, representatives of transportation agency employees, and private providers of transportation) to be involved in the early stages of the plan development/update process. The procedures shall include publication of the proposed plan or other methods to make it readily available for public review and comment and, in nonattainment TMAs, an opportunity for at least one formal public meeting annually to review planning assumptions and the plan development process with interested parties and the general public. The procedures also shall include publication of the approved plan or other methods to make it readily available for information purposes.

In nonattainment and maintenance areas for transportation related pollutants, the FHWA and the FTA, as well as the MPO, must make a conformity determination on any new/revised plan in accordance with the Clean Air Act and the EPA conformity regulations (40 C.F.R. part 51).

Although transportation plans do not need to be approved by the FHWA or the FTA, copies of any new/revised plans must be provided to each agency.

