

# CHAPTER 1

## SAFETEA-LU COMPLIANCE

### INTRODUCTION

On August 10, 2005 President Bush signed into law the Safe, Accountable, Flexible, Transportation Efficiency Act – A Legacy for Users (SAFETEA-LU). SAFETEA-LU is the most recent federal transportation bill, having been preceded by the 1998 Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) and the 1991 Intermodal Surface Transportation Equity Act (ISTEA).

In addition to reauthorizing the funding levels for the various federal transportation programs, SAFETEA-LU established new transportation planning and programming requirements that impact the Regional Transportation Plan (RTP) and Federal Transportation Improvement Program (FTIP). This Chapter discusses the chronology of developing the 2011 Regional Transportation Plan to address these requirements, provides an overview of how SJCOG and the San Joaquin Valley as a whole coordinated in a good faith effort to comply with the requirements of SAFETEA-LU and includes a specific discussion of how SJCOG addresses the requirements of SAFETEA-LU.

Although SAFETEA-LU was signed into law in August of 2005 and federal guidance for implementing the new provisions began trickling out shortly thereafter, it wasn't until the Notice of Proposed Rulemaking (NPRM) was published in the Federal Register in June of 2006 that the large scale efforts to understand the planning impacts of SAFETEA-LU kicked into high gear.

As a result, SJCOG's efforts toward full SAFETEA-LU compliance began with the 2007 RTP update. As part of the 2007 RTP development process, SJCOG documented its work towards SAFETEA-LU compliance in the San Joaquin Council of Governments SAFETEA-LU Gap Analysis May 2007 document. The May 2007 Gap Analysis document outlined "gaps" in the planning process created by the transition from TEA-21 to SAFETEA-LU planning requirements as well as SJCOG's action plan to "fill" the "gaps" where necessary and applicable. As part of the 2011 RTP update SJCOG has updated the Gap Analysis document to reflect progress to date toward the implementation of the commitments contained in the May 2007 Gap Analysis document. Please see appendix 1-1 for full April 2011 update to the May 2007 RTP Gap Analysis.

## SAFETEA-LU COMPLIANCE

In 2007 SJCOG developed a gap analysis document that compared pre SAFETEA-LU planning and programming activities to the requirements of SAFETEA-LU. The intent of the analysis was to identify SAFETEA-LU compliance items and describe how they were currently being addressed or how SJCOG intended to address them. Recommendations to improve the planning process identified in the 2007 Gap Analysis include: development of more proactive techniques to encourage consultation with interested parties during the development of the public participation plan; include additional visualization techniques; enhance consultation efforts beyond those required by CEQA to discuss potential environmental mitigation activities with resource agencies; develop a process to encourage consultation with resource agencies to discuss potential environmental mitigation activities; and update the existing CMP to tie the existing program elements together to meet the federal requirements.

Since May 2007, SJCOG has included more proactive techniques to encourage consultation with interested parties in the development of the public participation plan. In June 2007, SJCOG distributed form letters to provide additional opportunity for interested parties to comment on the public participation plan and provide suggested revisions to the continued development of the participation plan. SJCOG will continue this process with the 2011 update to the SJCOG Public Participation Plan. In July 2007 SJCOG held a workshop for the public and interested agency stakeholders to solicit additional comments on the development of the SJCOG Public Participation Plan. The results of both of these outreach efforts were incorporated into the 2007 Public Participation Plan in spring 2008. SJCOG updated its website to provide interactive project maps and surveys and to make it more user-friendly. SJCOG has also done additional work to enhance its use of geographic information systems to produce maps utilizing census data to add additional visualization techniques to its planning process. SJCOG continues its efforts to encourage consultation with resource agencies to encourage early participation in the discussion regarding environmental mitigation activities.

In December 2007, SJCOG adopted an update to its Congestion Management Plan. As part of this update SJCOG updated its TDM strategies to be consistent with the voter-approved Measures K Renewal (San Joaquin County voter approved 1/2 cent sales tax) CMP requirements; defined a process which identified the roles and responsibilities for the relevant agencies to establish implementation and commitment requirements to ensure TDM strategies are incorporated into or committed to in conjunction with capacity increasing projects; and created, in cooperation with local jurisdictions, an ongoing evaluation of the CMP process at the corridor level.

In conjunction with its partner agencies, SJCOG performed a detailed multi-step assessment of projects proposed for consideration in the financially constrained tier I list of the 2011 RTP as part of the on-going congestion management process. This multi-

step assessment process resulted in the project formation process described in detail in chapter 6. Chapter 6 also provides a detailed description of the relationship of the congestion management process to the 2011 RTP.

Also since 2007, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) conducted SJCOG's quadrennial certification review in December 2009. During the quadrennial review, both FHWA and FTA review the SJCOG planning process to ensure it is compliant with SAFETEA-LU regulations. After the certification review is completed both FHWA and FTA provide a written report documenting whether SJCOG's planning process meets the planning requirements of SAFETEA-LU. In May 2009, FHWA and FTA jointly certified that the SJCOG planning process meets SAFETEA-LU planning requirements.

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

The California Environmental Quality Act (CEQA) was enacted in 1970 and requires State and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts. The RTP and any subsequent revisions, amendments, or updates, are required to comply with CEQA Public Resources Code §21002.1 (Supplement to the 1999 RTP Guidelines, 2003).

## **2011 RTP Environmental Impact Report**

Following the provisions and requirements of CEQA, SJCOG has prepared a programmatic environmental impact report for the 2011 RTP that describes strategy-level mitigation measures which could avoid or minimize significant adverse impact of implementing the 2011 RTP. In doing so, the 2011 RTP EIR identifies measures that will restore and maintain the environmental functions affected by the metropolitan transportation plan to the maximum extent feasible. The adopted mitigation measures are typical for transportation and development projects and have been demonstrated to be effective.

A Mitigation Monitoring and Reporting Program for the 2011 RTP EIR was also adopted in accordance with CEQA requirements to ensure implementation of the adopted mitigation measures to reduce significant effects on the environment. The entire list of mitigation measures and the corresponding Mitigation Monitoring Program is reflected in the 2011 RTP Final EIR.

As part of the development of the 2011 RTP EIR, SJCOG followed standard CEQA requirements for public outreach and agency consultation. This consultation included the: Notice of Preparation of the EIR, Notice of Completion of the Draft EIR, Draft Final EIR, and the Notice of Determination. Notifications were sent to all interested parties, including local agencies, other regional agencies, and the California State Office of Planning and Research – State Clearinghouse which distributes CEQA EIR documents to affected State resource agencies. In addition, comments and responses to

comments received during the 30-day Notice of Preparation comment period and the mandatory 45-day comment period for the Draft EIR are documented in the Final 2011 RTP EIR.

The draft 2011 RTP EIR will be for a 45 day public comment period under separate cover on May 19, 2010.

## **SAFETEA-LU Compliance**

CEQA requires the identification of potential environmental impacts due to the implementation of the 2011 RTP. In doing so, it also requires a discussion of activities that would serve to restore or maintain the environmental functions that are affected by the RTP. This is consistent with the SAFETEA-LU statute and regulation as included in the Final Rule. The discussions contained within the EIR are conducted at the program level, and, while they may be applied at the project-level, do not necessarily address specific project-level impacts.

Requirements under federal environmental regulations (NEPA) are different from the requirements under CEQA, however, the federal requirements specific to the RTP – those listed above – do not trigger a formal NEPA analysis (§450.336) and corresponding need to deal with the specific differences between NEPA and CEQA. Nor do they focus specifically or entirely on the avoidance of impacts. The focus of the environmental mitigation discussion as identified in SAFETEA-LU is on identifying, “activities that have the greatest potential to **restore and maintain** the environmental functions affected by the plan (SAFETEA-LU §134(i)(2)(B)).” [emphasis added]

Therefore, the CEQA analysis contained in the 2011 RTP EIR accomplishes the intent and spirit of the environmental mitigation discussion required in SAFETEA-LU.

## **CONCLUSION**

Together, the 2011 RTP, 2011 RTP EIR, 2011 FTIP Amendment, and Air Quality Document, present a complete picture of how SJCOG has incorporated the SAFETEA-LU requirements into the region’s transportation planning process.

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