

and, prior to taking action(s), considers that party's views and periodically informs that party about action(s) taken."

Based on the comments received, the final rule uses the definition in the NACO–NADO–AASHTO proposed regulatory language. This definition is consistent with statutory language, resolves inconsistencies, includes a reference to an established consultation process, and focuses on keeping other parties informed.

#### Non-Metropolitan Area

In the June 2002 SNPRM, we proposed adding the definition of "non-metropolitan area." The proposed definition recognized that there are a variety of local officials who serve non-metropolitan areas. This definition specified the geographic area served by non-metropolitan officials to distinguish them from local officials in metropolitan planning areas who are involved through the MPO.

We received six comments on this proposed definition in the June 2002 SNPRM. All supported the definition. The definition proposed in the SNPRM is retained in the final rule.

#### Non-Metropolitan Local Official

In the May 2000 Planning NPRM we proposed adding the definition of a "non-metropolitan local official." This definition was not included in the June 2002 SNPRM.

Over 50 commenters requested that the FHWA and the FTA include a definition for this term in the final rule. Specifically, 23 local governments, 16 regional planning organizations, 9 associations, and 3 private citizens expressed concern that the definition for this term had been removed from the SNRPM. They commented that by allowing the States sole discretion to determine which non-metropolitan local officials to consult with, many rural officials will be excluded. They also commented that this did not fulfill the Congressional intent of "enhanced consultation between States and local officials."

The NACO–NADO–AASHTO proposed regulatory language included a proposed definition for "non-metropolitan local official" as "elected and appointed officials of general purpose local government in non-metropolitan areas with jurisdiction/responsibility for transportation as defined in the documented consultation process in Part 450, Section 212."

After considering the comments received, the FHWA and the FTA have included a definition of "non-metropolitan local official" in the final

rule that is based on the NACO–NADO–AASHTO proposed regulatory language. The definition provides a clear statement that non-metropolitan local officials are "elected and appointed officials of general purpose local government in non-metropolitan areas with jurisdiction/responsibility for transportation."

#### *Section 450.206 Statewide Transportation Planning Process: General Requirements*

Section 1204 of the TEA–21 clearly emphasizes the importance of recognizing non-metropolitan transportation issues and consulting with non-metropolitan local officials. In the June 2002 SNPRM, the FHWA and the FTA proposed revising § 450.206(b) and adding a new § 450.206(c) to clarify that effective consideration of non-metropolitan transportation issues and concerns and involvement of non-metropolitan local officials can be enhanced by coordinating statewide transportation planning with related planning in non-metropolitan areas.

There were 19 comments on this provision. Four regional planning organizations supported the regulatory language proposed in the June 2002 SNPRM. Nine State DOTs suggested amending "planning activities" in § 450.206(b) to "transportation-related planning activities" because they believed that without this change, State DOTs would be required to consult on non-transportation planning activities.

This section is specific to the statewide transportation planning process, and it is self-evident that the "planning activities" referred to in this section are related to transportation. Therefore, the FHWA and the FTA are not modifying it to specify transportation-related planning activities.

Three States also suggested modifying the language such that states "consider" planning outside of the metropolitan areas to be clear that coordination with non-metropolitan local officials is not required, as it is with metropolitan local officials. These commenters stated that a coordination requirement for non-metropolitan areas would exceed statutory authority, which only requires a "consultation" relationship.

The NACO–NADO–AASHTO proposed regulatory language would require States to "consider coordination with planning activities being carried out outside of the metropolitan areas."

The FHWA and the FTA agree with comments that the requirements for metropolitan areas and non-metropolitan areas are distinctly delineated in the statute. We have taken

the NACO–NADO–AASHTO proposed regulatory language and modified it to require States to "consider coordination with planning activities in non-metropolitan areas." The final rule includes a definition for the term "non-metropolitan area." The final rule also simplifies the suggested NACO–NADO–AASHTO proposed regulatory language.

The June 2002 SNPRM proposed a new subpart 450.206(c) that says that States shall "consider, with respect to non-metropolitan areas, the concerns of local elected officials representing units of general purpose local government." Three State DOTs requested editorial clarification on this proposed provision. The FHWA and the FTA believe that the provision is clear and have adopted as final the regulatory language proposed in the June 2002 SNPRM.

#### *Section 450.212 Public Involvement*

In developing the June 2002 SNPRM, the FHWA and the FTA considered comments received to the docket on this provision in the May 2000 NPRM. In addition, the FHWA and the FTA used information from other sources, including the FHWA–FTA study on participation of non-metropolitan local officials required by the TEA–21 and ten rural listening sessions held throughout the country.<sup>1</sup> The June 2002 SNPRM proposal focused on the intended result of "effective participation" of local officials in statewide transportation planning.

Thirteen states commented that the language "effective participation" in § 450.212(h) of the June 2002 SNPRM is a subjective term that exceeds statutory language in TEA–21. Section 1204 of TEA–21 states that USDOT will not "review or approve" a State's consultation process.

The Pennsylvania DOT suggested that the regulatory language state: "that provides an opportunity for their participation" rather than "that provides for their effective participation."

The NADO–NACO–AASHTO proposed regulatory language included language identical to that proposed by Pennsylvania DOT. It also included a

<sup>1</sup> The non-metropolitan local officials report has been transmitted to Congress and has been placed in the SNPRM docket. The report and its appendices (Rural Transportation Consultation Processes, May 2000, Rural Transportation Consultation Processes: State by State Summaries, April 2001, and Rural Transportation Consultation Processes: Report of a Workshop: May 2001) will soon be available at the following URL: <http://www.fhwa.dot.gov/planning.htm>. A summary of each of the ten rural workshops held in 1998–99 (Rural Transportation Planning Workshops, Summer 1999) is available at the following URL: <http://www.fhwa.dot.gov/hep10/state.rural.html>. These reports are in the May 2000 NPRM docket.