The American Recovery and Reinvestment Act: 

FHWA as a Leader in NEPA Reporting

On February 17, 2009, the American Recovery and Reinvestment Act (ARRA) was signed into law by President Obama. ARRA was designed to enhance U.S. infrastructure investment, job preservation, educational efforts, energy efficiency, and scientific research. Recognizing the key role that the U.S. Department of Transportation (USDOT) and the Federal Highway Administration (FHWA) would play in achieving these objectives, Congress allocated $48.1 billion for transportation; $27.5 billion of that amount was designated for highways.

When obligating ARRA funds, agencies must comply with numerous reporting requirements that promote transparency and accountability. Teamwork between FHWA and State and local transportation agencies has been invaluable in FHWA's ability to fulfill ARRA's National Environmental Policy Act (NEPA) reporting requirements while distributing an unprecedented $15.5 billion to highway projects in four months (mid-February through mid-June).

**NEPA Reporting Requirements under ARRA**

ARRA targets economic stimulus and prioritizes efficient delivery of funds. To ensure that recipients will use funds effectively, ARRA mandates a strong effort to maintain transparency and accountability and to eliminate wasteful spending. Reporting requirements include the issuance of quarterly expenditure reports and monthly employment and status reports for all projects that use stimulus funds. Section 1609(c) of ARRA requires that the President "report to the Senate Environment and Public Works Committee and the House Natural Resources Committee every 90 days following the date of enactment until September 30, 2011 on the status and progress of projects and activities funded by this Act with respect to compliance with National Environmental Policy Act requirements and documentation."

The White House's Council on Environmental Quality (CEQ) assists Federal agencies if they encounter problems in completing NEPA actions. CEQ monitors agencies' progress to ensure that projects are delivered in a timely manner while complying with all environmental requirements. After ARRA's passage, CEQ was assigned responsibility for aggregating Federal agencies' NEPA status data on ARRA projects for the President's reports to Congress.

FHWA and other Federal agencies distributing ARRA funds must report the NEPA status of ARRA projects to CEQ every 90 days. CEQ's suggestions for efficient reporting include:

- Ensure that potential projects processed as categorical exclusions have been reviewed for extraordinary circumstances.
- Use concise and focused environmental assessments.
- Prepare programmatic analyses in cases where consolidated analysis will facilitate efficient compliance with NEPA.
- Review other Federal agencies' NEPA analyses and documentation for the project or activity for potential adoption.
- Engage CEQ to address any specific NEPA compliance concerns and issues.
FHWA’s Implementation of NEPA Reporting

FHWA and its State DOT (SDOT) partners combined their experience with NEPA reporting to carry out all of CEQ’s NEPA requirements and distribute ARRA funds efficiently. FHWA has currently obligated $15.5 billion, which represents over 50 percent of the total funds available. In a May 18, 2009 CEQ report to Congress, USDOT stated that it had distributed over $9 billion in ARRA funds, with FHWA projects accounting for almost $8 billion of the total. FHWA also delivered the majority of USDOT projects—4,122 of the 5,196 cited in the report.

FHWA has proven its ability to deliver information under extremely tight deadlines. On April 3, 2009, CEQ sent a request for data on NEPA actions to all Federal agencies, with a reporting deadline of April 9. FHWA was able to provide CEQ with data on more than 2,000 ARRA-funded projects within the six-day timeframe. Since this initial reporting request, FHWA has gathered data on all remaining ARRA projects and instituted a new computerized reporting system that will enhance the agency’s ability to deliver projects efficiently. The April 30, 2009 ARRA report from FHWA contained the NEPA status of more than 4,000 projects.

Three factors have helped FHWA to implement ARRA’s NEPA reporting requirements. These factors are:

- **The willingness of Federal, State, and local agencies to work as a team to fulfill the urgent need to approve ARRA projects and comply with all CEQ requirements.** Offices and departments at Federal and State levels that did not previously interact closely have begun to communicate about NEPA issues.

- **FHWA’s established procedure and protocols for providing guidance and training to the NEPA professionals at Federal, State, and local levels.** These professionals have assisted FHWA in fulfilling reporting requirements and obligating projects with large budgets. FHWA’s preexisting framework for NEPA compliance has allowed these individuals to focus on advanced issues rather than having to ask fundamental questions about whether NEPA compliance is required on individual projects.

- **FHWA’s ability to foresee the new ARRA reporting requirements and to create innovative reporting methods.** As soon as ARRA became effective, the FHWA Office of Highway Policy Information led FHWA team members in populating a data-collection framework containing information on jobs created, project status, and other ARRA requirements. NEPA reporting requirements were included in the framework and in the guidance that the FHWA issued for all ARRA projects. FHWA headquarters also conducted webinars with State and FHWA Division Offices and ensured that headquarters staff are available to address questions about the reporting process.

Looking to the Future: New Reporting Mechanisms

In May 2009, FHWA launched an automated ARRA database, the Recovery Act Data System (RADS). This online system allows SDOTs to directly upload updates and information on new ARRA projects, which removes the inefficiencies of paper-based ARRA reporting. FHWA plans to use RADS to examine changes that could affect the status of NEPA projects. RADS will also track projects during the permitting process to confirm that they are in compliance with NEPA.

The first RADS reporting cycle was completed in May. FHWA is continuing to reach out to State and local agencies regarding the technical aspects of RADS to ensure that all agencies are comfortable with it.

FHWA’s existing strengths and its use of innovative technologies ensures that the agency will remain a leader in ARRA implementation. While it is still going through growing pains, the new RADS reporting mechanism will enhance the efficiency of project delivery while maintaining a high standard of accountability. Teamwork and training will continue to be FHWA’s most important assets in NEPA permitting and reporting.
Contact Information

**Raja Veeramachaneni**
Office Director
Federal Highway Administration
Office of Project Development and Environmental Review
(202) 366-2058
Raja.Veeramachaneni@dot.gov

**Robert Bini**
Program Coordinator
Federal Highway Administration
Office of Program Coordination

Federal Lands Highway
(202) 366-6799
Robert.Bini@dot.gov

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**Look What's New!**

The Planning and Environment Linkages (PEL) Program, a joint effort of FHWA's Office of Planning and Office of Project Development and Environmental Review, is offering a training webinar titled "PEL 101: The Tools for Adopting and Implementing a PEL Approach". The purpose of the training is to help transportation professionals and resource agency practitioners to better understand, coordinate and integrate planning and environmental linkages. The first of webcast was held on Tuesday June 23. The webcast is being offered on the following two dates:

- **Monday, July 27** — 3pm to 5pm EDT (Register Here)
- **Thursday, August 20** — 1pm to 3pm EDT (Register Here)

Registration for each session is limited.

Registration is still open for the summer meeting of the Transportation Research Board (TRB) ADC10 Environmental Analysis in Transportation Committee. The meeting will be held July 13 - 16 in Shepherdstown, WV. For more information, visit the

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*Successes in Stewardship* is a Federal Highway Administration newsletter highlighting current environmental streamlining and stewardship practices from around the country. To subscribe, visit [http://environment.fhwa.dot.gov/sis_registration/Register.aspx](http://environment.fhwa.dot.gov/sis_registration/Register.aspx) or call 617-494-3259.
BIANNUAL ASSESSMENT OF SAFETEA-LU SECTION 6002 IMPLEMENTATION EFFECTIVENESS:
OCTOBER 2008 – MARCH 2009

Prepared by:
Office of Project Development and Environmental Review
Federal Highway Administration
U.S. Department of Transportation

With the Assistance of:
John A. Volpe National Transportation Systems Center
Research and Innovative Technology Administration
U.S. Department of Transportation
Summary of March 2009 EFFECTIVENESS Findings

This report, for the period between October 2008 and March 2009, describes the results of HEPE’ s efforts to monitor the implementation of key elements of the Section 6002 provisions. The findings are organized by each of the seven key elements interviewees were asked to assess:

- Project Initiation Notice
- Cooperative involvement and leadership of the Joint Lead Agencies
- Identification and new role of Participating Agencies
- Coordination Plan and Schedule
- Public opportunity for Input on the Purpose and Need
- Public opportunity for Input on Range of Alternatives
- Agency opportunity for Input on the Purpose and Need, Methodology, and Range of Alternatives

Each section provides basic ratings data and highlights the percentage of responses provided by interviewees that identified common explanatory responses. The results are then compared with the results of HEPE’s earlier Section 6002 data collection efforts.

Mean Effectiveness Ratings

Table 2 presents the mean and summary distribution for values for effectiveness ratings of all seven Section 6002 requirements. The mean, or average ranking, for five of the seven elements was 3.3 or higher, indicating a perception that the new requirements are somewhat to clearly more effective. In contrast, the mean values for two elements, effectiveness for the Project Initiation Notice (Project Initiation) and cooperative involvement and leadership of the Joint Lead Agencies (Joint Leads) were 3.2 or less. Most projects, were rated lower for these two elements, suggesting a perception that little or no benefit was gained by implementing these provisions. A majority of interviewees stated that the Project Initiation requirements had no impact or did not represent a significant change from existing procedures. Interviewees that rated the procedure as less effective tended to do so because they believed it created additional paperwork, delays, or confusion.
Table 2: Section 6002 Effectiveness Ratings for 139 Projects (collected in March 2009)

<table>
<thead>
<tr>
<th>Element</th>
<th>Mean</th>
<th>Ineffective (1-2)</th>
<th>Neutral (3)</th>
<th>Effective (4-5)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Initiation Notice</td>
<td>3.1</td>
<td>12%</td>
<td>58%</td>
<td>27%</td>
</tr>
<tr>
<td>Joint Lead Agencies</td>
<td>3.2</td>
<td>4%</td>
<td>71%</td>
<td>17%</td>
</tr>
<tr>
<td>Participating Agencies</td>
<td>3.5</td>
<td>5%</td>
<td>43%</td>
<td>40%</td>
</tr>
<tr>
<td>Coordination Plan and Project Schedule</td>
<td>3.4</td>
<td>7%</td>
<td>39%</td>
<td>40%</td>
</tr>
<tr>
<td>Public Input on the Purpose and Need</td>
<td>3.3</td>
<td>3%</td>
<td>50%</td>
<td>27%</td>
</tr>
<tr>
<td>Public Input on Range of Alternatives</td>
<td>3.3</td>
<td>3%</td>
<td>44%</td>
<td>21%</td>
</tr>
<tr>
<td>Agency Input on the Purpose and Need and Range of Alternatives</td>
<td>3.4</td>
<td>1%</td>
<td>44%</td>
<td>33%</td>
</tr>
</tbody>
</table>

Summary Distribution in Effectiveness Ratings

When the distribution of ratings is considered, a comparison of the highest percentage (i.e., the ranking scored for most projects) for effectiveness suggests that most interviewees perceived the requirements either as neutral or effective.

The high percentage of “neutral” values for elements such as “Project Initiation Notice” and “Joint Lead Agencies” may result from a variety of factors. Individual comments suggest these factors include the existence of pre-existing procedures that already implemented the new requirements, or that because these requirements are new and unfamiliar, more time will be needed to evaluate their ultimate effectiveness.

The highest percentages in the “effective” range occur only for the new requirements for Participating Agencies and Coordination Plan and Project Schedule. Thus, for a majority of projects, the perception was that these new requirements for Participating Agencies and the Coordination Plan were somewhat or clearly more effective. Interviewees that rated this element as more effective tended to believe that the Coordination Plan element clarified requirements for the agencies involved and enhanced public and participating agency participation. One respondent reported, “The Coordination Plan… helps us to get together early with resource agencies, telling us what they need up front. It gives us early warning signs about potential obstacles.”

Another factor that might affect effectiveness is whether a project was among the first initiated after these new requirements were defined or after a period of time where project teams may have become familiar with meeting these requirements. If you consider the date an EIS project was initiated versus the overall effectiveness rating for that project a pattern emerges. Over time, there is a trend of increasing effectiveness values. This is seen in mean rating of effectiveness values for the seven requirements averaged together, for projects initiated between 2005 and 2006 compared with those projects initiated after 2006. Also, when a regression line is used to describe the trend in the spread of the average effectiveness value against the date of the projects initiation, the line has positive slope over time, indicating an increase in the average effectiveness rating for individual projects over time.

SAFETEA-LU SECTION 6002 EFFECTIVENESS EVALUATION

April 28, 2009
Figure 1: Timing in Achieving Section 6002 Milestones

Figure 1. Average Milestone time line for projects subject to Sec. 6002 and a timeline for EIS projects completed between 1995 and 2005

One of the intended outcomes of Section 6002 is that EIS projects would be developed in a timelier manner without diminishing the quality of project decision making. While it is too early to assess whether decisions are of adequate quality, HEPE gathered data on the time frames for each key Section 6002 requirement on every project. Figure 1 indicates that the Section 6002 requirements for the Project Initiation Notice and the Coordination Plan/Schedule were met within the first 6 months (on average) after the Notice of Intent publication in the Federal Register. Twenty projects have reached the Draft EIS milestone, resulting in an average time frame of 21.56 months. Seven projects have reached the Final EIS milestone and only five have issued a Record of Decision (ROD).

This small sample of complete and nearly complete projects subject to the requirements of Section 6002 suggests that the environmental review process is proceeding more quickly than was the case for the projects completed between 1995 and 2005. As is shown in Figure 1, the time required to progress a project completed in that decade from its NOI to the concluding ROD is twice the time needed to develop and approve the Draft EIS. These preliminary data suggest that once a Draft EIS is approved, the time it takes to reach a ROD is less than the time from the average of projects completed in the decade prior to the passage of SAFETEA-LU. Whether the twenty post-Sec. 6002 projects which have so far reached the Draft EIS stage will exhibit this historic trend cannot be determined at this time.
FHWA’s Planning and Environment Linkages Quarterly Update

Providing updates on recent PEL activities, events and resources

FY 2009 Quarter 3 Updates

PEL 101 Webcast: The Tools for Adopting and Implementing a PEL Approach: The FHWA Office of Planning and Office of Project Development and Environmental Review are offering a training webcast to help transportation professionals and resource agency practitioners to better understand, coordinate and integrate planning and environmental linkages. The course will provide an overview of PEL, how it works and the associated benefits, and information on the tools and methods for implementing the PEL approach. Upon completion of the training participants will be able to: Identify the key elements of PEL; Identify opportunities and tools to integrate environmental considerations early in planning; and Identify methods to carry the goals and decisions identified in planning into the NEPA and project development process. The webcast was first offered on June 23 and will again be held Monday, July 27, 3-5pm EDT and Thursday, August 20, 1-3pm EDT. To register, visit http://www.npi.fhwa.dot.gov/resources/webconference/eventcalendar.aspx and select “Planning and Environmental Linkages” on the date you would like to participate.

Linking Conservation and Transportation Planning (LCTP) Workshops: The FHWA Nevada Division Office hosted a LCTP Workshop in Reno, Nevada on May 18-20, 2009. The workshop focused on one corridor and had a diverse group of participants, including the Nevada DOT, non-governmental organizations, resource agencies and bicycle advocates. More information on previous LCTP workshops, sample presentations, and related resources are available online at http://www.environment.fhwa.dot.gov/integ/resources_training.asp.

PEL Website Updates: A new item from Colorado has been posted to the PEL Effective Practices Page at http://www.environment.fhwa.dot.gov/integ/practices.asp. The Planning and Environmental Linkages Partnering Agreement, signed June 11, 2009, was developed to foster proactive working relationships and was signed by 15 Federal, state, regional, regulatory, and land management agencies. Each of the agencies commits to the concept of early communication and collaboration in the planning process and encourages the use of a PEL approach in an effort to meet agency needs while expediting transportation project delivery.

Upcoming Events

2009 Summer Meeting of the Environmental Analysis and Transportation Committee – July 13-16, Shepherdstown, West Virginia


The 2009 International Conference on Ecology & Transportation: Adapting to Change – September 13-17, 2009, Duluth, Minnesota

Looking for More PEL Information? — Visit the PEL website (http://www.environment.fhwa.dot.gov/integ/index.asp) for information on publications, training and workshops, data and analysis tools, and much more.
PLANNING AND ENVIRONMENT LINKAGES
Training Webcast

PEL 101: The Tools for Adopting and Implementing a PEL Approach

The Planning and Environment Linkages (PEL) Program, a joint effort of FHWA’s Office of Planning and Office of Project Development and Environmental Review, is offering a training webinar titled “PEL 101: The Tools for Adopting and Implementing a PEL Approach”. The purpose of the training is to help transportation professionals and resource agency practitioners to better understand, coordinate, and integrate planning and environmental linkages. The course will provide an overview of PEL, how it works and the associated benefits, and information on the tools and methods for implementing the PEL approach.

Upon completion of the training participants will be able to:

- Identify the key elements of PEL
- Identify opportunities and tools to integrate environmental considerations early in planning; and
- Identify methods to carry the goals and decisions identified in planning into the NEPA and project development process.

Target Audience: Public and private-sector transportation planning and environmental practitioners, and environmental resource agency staff.

Schedule: The webinar is being offered on the following three dates:

- Tuesday, June 23 - 10am to 12pm EDT (Register Here)
- Monday, July 27 - 3pm to 5pm EDT (Register Here)
- Thursday, August 20 - 1pm to 3pm EDT (Register Here)

Registration: Registration for each session is limited. To register online follow the link provided above for each specific date. Once you register, you will receive an email with instructions on how to access the Webcast.

For additional questions on the PEL Training Webcasts, contact Mary Gray at 360-753-9487 or Mary.Gray@dot.gov or Shana Baker at 202-366-4649 or Shana.Baker@dot.gov
Application of Travel and Land Use Forecasting in NEPA: Project Overview

Project Update
July 13, 2009

Michael Culp-FHWA
Michael.culp@dot.gov
202-366-9229

Motivation for project

- Forecasting is a foundation for many aspects of NEPA analysis
  - Purpose and need
  - Alternatives performance
  - Air quality and noise impacts
  - Indirect and cumulative effects
- Wide variety of practice
- Common forecasting problems on projects
- Recent litigation
- Emerging issues
- Supports broader DOT model improvement initiatives and NAS report
Key project components

- Process and procedural, not technical
- Flexible and scalable (type of project, available tools)
- Outreach to stakeholders
- Address relevant case law (review conducted by counsel)
- State-of-the-practice review/develop case studies
- Products
  - Process and procedural guidance
  - Case studies/Guidelines Report
  - Training and Outreach

Product: Guidance

- FHWA NEPA Guidance
- Process and procedural in nature
  - Not intended to deal with detailed technical issues in forecasting tool development (not prescriptive)
  - How to put forecasting in the context of NEPA (application orientation)
- Will address:
  - Scoping and documentation issues
  - Model and data validation and currency
  - Considerations for alternatives analysis
  - Use of tools in the context of direct, indirect and cumulative effects analysis
Framework for Corridor/Sub-area Studies Project

Project Update
July 13, 2009

Overall

• Will focus on how Corridor and Sub-area studies (planning studies) can be done in prep for NEPA
• Avoid duplication with NCHRP 435 "Guidebook for Transportation Corridor Studies"
Phase I – Synthesis of Practice, ID Best Practice

- Conduct peer exchange of practitioners (Oct 2009)
- Outreach to stakeholder agencies/organizations
  - AMPO, AASHTO, others
  - Resource Agencies
- Gap Analysis—what changed since NCHRP 435
- Products
  - Report on findings, synthesis
  - Recommendations for scope of Phase II
- Period of performance: 12 months

Phase II – Updated Guidebook or Addendum

- Based on FHWA, recommendations in Phase I
- Major components might include:
  - Statutory, regulatory bases, legal issues/background
  - Options for how to structure/scope study
  - Analysis examples, guidelines, esp. level of detail issues
  - Collaboration approaches
  - Performance measurement: What is success?
  - Comparison with Tier 1’s, considerations in choosing (link to TRB research)
  - Documentation recommendations