

Freight Stakeholders Reauthorization Agenda Item

Streamline Environmental Permitting for Freight Projects

Proposal

Strengthen and expand the environmental streamlining provisions in TEA-21; Reform Section 4(f) of the Department of Transportation Act; Delegate U.S. DOT responsibilities under Federal environmental laws to state DOTs, for projects with no significant environmental impacts.

Background

Multiple and often duplicative federal laws and regulations delay review and permitting of freight transportation infrastructure projects. As a result, projects incur large cost increases and are poorly coordinated with private investment, transportation demand, and economic opportunities. To address this problem the following should be done:

1. Strengthen and expand the environmental streamlining provisions in TEA-21 because the National Environmental Policy Act (NEPA) process for large, complex projects has become increasingly lengthy and time-consuming.
2. Reform Section 4(f) of the Department of Transportation Act which applies to all historic properties that are listed in or eligible for the National Register of Historic Places and is triggered when a project involves the "use" of a protected resource, no matter how minor the use or impact may be.
3. Delegate U.S. DOT responsibilities under federal law to State DOTs, for projects with no significant environmental impacts. Currently, FHWA must be involved in all projects no matter how small the project is or how minor the impact.

Specifics

1. If the lines of authority in the NEPA process were clarified, U.S. DOT would have the ability to define the purpose and need, and a reasonable range of alternatives to be studied, thereby encouraging a practical, common-sense approach to alternatives analysis, without excess concern about litigation.
2. Projects that will have no significant impact on 4(f) resources should be exempted from analysis of alternatives and a more flexible standard of determining "prudent and feasible" should be established.
3. Delegation should be authorized to State DOTs for minor projects that qualify for categorical exclusions and environmental assessments. FHWA would maintain its current oversight role, but would be removed from the day-to-day activities, thereby allowing FHWA to focus its resources on the more complex projects and overall project management.

Benefits

Expedited approvals of permits for freight transportation infrastructure projects without reducing environmental protection or public involvement.