Changes in SAFETEA-LU

Promoting Efficient and Effective Collaboration in the Environmental Review Process
Changes in SAFETEA-LU --
Section 6002

- Defines an “environmental review process”
- Must be used for all projects involving an EIS.
- Similar to existing practices, but . . .
- Uses new terminology
- May require changes in your State’s process
- May create new opportunities
Section 6002 – Key Elements

- **Lead Agency**
  - USDOT must be lead agency for projects requiring its approval.

- **Participating Agencies**
  - USDOT must invite all agencies with interest in project to be “participating agencies”.
  - If invited, Federal agencies must accept, unless they don’t want to participate at all.
  - “Cooperating agencies” may also be named.
Section 6002 – Key Elements

- **Issue Identification and Resolution**
  - Lead agency must provide information about:
    - Environmental and socio-economic resources
    - General locations of alternatives
  - Participating agencies must identify any "issues of concern" – which are issues that could:
    - Substantially delay approval
    - Result in denial of permit
  - Issue resolution process can be invoked by project sponsor or Governor
Section 6002 – Key Elements

- **Purpose and Need**
  - Must provide “opportunity for involvement” by agencies and the public in defining P&N.
  - Decision on P&N is made by lead agency.
    - Applies to its study only.
- **Goals in P&N may include:**
  - Achieving objective in a transportation plan
  - Supporting local land use and growth objectives
  - Serving national defense, security needs.
Section 6002 – Key Elements

- Alternatives
  - Range of Alternatives:
    - Similar to P&N – after providing “opportunity for involvement,” lead agency makes decision.
  - Methodologies and Level of Detail:
    - Lead agency decides, in collaboration with participating agencies
  - Preferred Alternative
    - May be developed to higher level of detail than other alternatives
Section 6002 – Key Elements

- **Coordination Plan**
  - Must be established by lead agency
  - Must address agency, public coordination.
  - *May* be incorporated into inter-agency MOU.
  - *May* be program-wide or project-specific.
  - *May* include a project schedule, in consultation with participating agencies.
Section 6002 – Key Elements

- **Deadlines**
  - Maximum 60 days for DEIS comments, 30 days for all other comment periods
  - Longer time periods may be set by USDOT, "for good cause."
  - Savings clause: Nothing shall reduce any time period provided for public comment under existing federal law or regulation.
Section 6002 – Key Elements

- **Assistance to Other Agencies**
  - Activities are eligible for funding if they "meaningfully contribute to expediting" the process. Examples include:
    - pre-NEPA transportation planning activities
    - developing programmatic agreements
    - resource mapping
    - dedicated staffing; training
  - Agencies eligible to receive funds are:
    - Federal agencies (including USDOT)
    - State agencies and Tribes
Section 6002 – Key Elements

- **Statute of Limitations**
  - Applies to decisions by any Federal agency approving a highway or transit project.
  - Bars lawsuits unless filed within 180 days after Federal Register notice of decision.
  - Each Federal agency decision is a separate action; may have separate 180-day periods.
Section 6002 – What It Means

- *So what does this all mean?*
  - How will Section 6002 affect the project development process?
  - How will it affect efforts to promote streamlining and stewardship?
Section 6002 – What It Means

- **Section 6002 Should:**
  - Give the lead agency greater responsibility for overall management of the process
  - Ensure all agencies are at the table
  - Ensure a role for agencies and the public in defining P&N and range of alternatives
  - Establish a “normal range” for comment periods – while allowing for longer periods
Section 6002 – What It Means

- **Section 6002 Should (cont’d)**
  - Support concurrent compliance with NEPA and other requirements, such as Sec. 404
    - By allowing more detail for Preferred Alternative
  - Allow funding for activities that expedite NEPA reviews but occur *outside* the NEPA process
  - Encourage faster resolution of any litigation after NEPA is complete.
Section 6002 – What It Means

- **What Section 6002 Doesn’t Do:**
  - Doesn’t reduce resource agencies’ authority
  - Doesn’t reduce public opportunities for comment
  - Doesn’t require “rigid” comment deadlines
  - Doesn’t alter other laws
  - Doesn’t magically speed up the process
Conclusion

- **Section 6002:**
  - Promotes streamlining and stewardship.
  - Preserves existing authorities.
  - Leaves substantial flexibility for State DOTs.
  - Should be win-win for transportation project delivery and environmental protection.