



MULTI-MODAL NEPA PEER EXCHANGE

Navigating NEPA to Advance Multimodal
Transportation Projects

This peer exchange summarized and built upon the research findings of NCHRP 25-43, *Navigating Multi-Agency NEPA Processes to Advance Multimodal Transportation Projects*. Participants shared their experience on several challenges that the sponsors of multimodal projects typically face: differing NEPA requirements; choosing lead and cooperating agencies; and interagency coordination. A panel of representatives from FHWA, FRA and FTA spoke with the peer exchange participants and offered guidance.

Center for Environmental Excellence by
AASHTO
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The Center for Environmental Excellence by AASHTO hosted this peer exchange in coordination with the AASHTO Standing Committee on Rail Transportation’s Annual Meeting, providing a unique opportunity for environmental practitioners to come together with state rail officials and key personnel from the Federal Railroad Administration (FRA), the Federal Transit Administration (FTA), and the Federal Highway Administration (FHWA). The purpose of this exchange was to share best practices and lessons learned among practitioners from throughout the country and to identify the challenges and opportunities associated with improving multimodal project delivery. The exchange was facilitated by Don Emerson of WSP | Parsons Brinckerhoff.

Attendees:

- Lexie Albe – AASHTO
- Eric Beightel – WSP | PB
- Don Emerson - WSP | PB
- Ella Claney – WSP | PB
- Neel Vanikar – FHWA
- Carlos Lopez – Arizona DOT
- Katie England – Indiana DOT
- Angel Deem – Virginia DOT
- Steve Plano – District of Columbia DOT
- Melissa Neely – Texas DOT
- Ed Lehey – Florida DOT
- Mark Imhoff – Colorado DOT
- Elkins Green – New Jersey DOT
- Laura Shick – Federal Railroad Administration
- Xavier Pagan – Florida DOT
- Michael Holthoff – Oregon DOT
- Michael Henry – Arkansas Highway Department
- James Bridges – North Carolina DOT
- Tammy Nicholson – Iowa DOT
- Chris Herman – Washington DOT
- Marsha Tolon – Washington DOT

Overview of NCHRP 25-43: Navigating Multi-Agency NEPA Processes to Advance Multimodal Transportation Projects

WSP | Parsons Brinckerhoff recently completed NCHRP 25-43, which set out to:

1. Characterize the challenges inherent in satisfying the National Environmental Policy Act (NEPA) requirements of more than one U.S. Department of Transportation (DOT) agency
2. Identify strategies and tactics used to overcome these challenges
3. Suggest new and innovative strategies

Key Strategies for overcoming challenges with Multimodal NEPA

- Committees, task forces, working groups
- Joint project offices
- Memoranda of agreement
- Frequent in-person meetings and conference calls
- Technical documents to address issues & record solutions

Five primary challenges of multimodal NEPA projects were identified at the outset of the research:

1. Unique agency-specific program requirements under “NEPA umbrella”
2. Differing agency interpretations of (or procedures for meeting) NEPA requirements
3. Anticipating which U.S DOT agencies will have a major federal action
4. Coordination among agencies
5. Securing funds for multimodal NEPA studies

The research consisted of twelve detailed case studies of NEPA processes where more than one U.S. DOT agency was involved in a significant way. The case studies were chosen to offer a diverse set of examples, including differing U.S. DOT agency roles, NEPA approaches, and challenges.¹



- I-90 East Link - Seattle
- I-5 Columbia River Crossing - Washington/Oregon
- Xpress West - California/Nevada
- Mountain View - Salt Lake City
- TREX and I-70 East - Denver
- Port of Miami Tunnel - Miami
- DART to DFW Airport - Dallas
- CREATE - Chicago
- Eastern Corridor - Cincinnati
- National Gateway Clearance – Ohio, Pennsylvania, Maryland, West Virginia
- Rail to Dulles Airport - Virginia

The case studies confirmed the first four challenges, and 23 strategies/tactics were identified that had been used to address them. While the fifth challenge was not confirmed, the research team and the NCHRP panel agreed that it should still be considered a challenge. The final report, not yet published, helps a reader identify those case studies that are most relevant to his/her situation. Each case study is documented in an appendix to the final report.

The final report also includes a questionnaire that practitioners can use, either individually or as a team, to assess how well prepared they are to face the challenges of multi-modal NEPA processes.

Participants in the peer exchange discussed each of the challenges, sharing their experiences and the strategies they had used to address them. The exchange also featured a Federal panel, including representatives of FHWA, FRA and FTA.

Differing Agency Requirements

The modal administrations within U.S. DOT have somewhat different NEPA policies and procedures. There are also notable differences in the structure of these U.S. DOT agencies and their relationships with funding recipients, stemming from the nature and history of individual programs. The degree to which particular agencies are willing and able to participate in the process can vary. Most notably, an agency's size and staff capacity can affect its willingness to sign on as a lead or cooperating agency.

¹ The NCHRP 25-43 objectives, goals, and lessons learned were summarized in a presentation that is attached to this report.

Examples of agency differences that were highlighted during the Federal Panel:²

	FHWA	FTA	FRA
Method of Funding	FHWA administers the federal-aid program and is responsible for allocating money to each state by formula - states are able to select their own projects.	For major projects, FTA provides discretionary funding through competitive programs such as TIGER and Capital Investment Grants (CIG).	FRA is executing a large number of grants without a dedicated stream of revenue.
Staff Capacity	Since FHWA has a division office in every state and a much larger staff than the other agencies, it is easier for them to become closely involved with a state's project.	FTA has a much smaller staff than FHWA, and does not have environmental protection specialists in every regional office, which can make it harder to form one on one project sponsor relationships while advancing the process.	FRA is smaller than the FTA. Currently all FRA staff are located at headquarters in Washington, DC.
NEPA Assumption	Several states are beginning the process to assume NEPA responsibility themselves. The only states that have completed NEPA assignment are CA, OH, and TX while UT, AK, and FL are all interested.	FTA has not assigned NEPA authority to any states. In most cases, transit projects are undertaken by local transit agencies, so there is less incentive for state DOTs to assume responsibility for the environmental review process	FRA has not assigned NEPA authority to any states.

Different modal agencies display varying levels of comfort with the use of a tiered NEPA process. For major rail projects, FRA uses tiering extensively while FHWA and FTA are less inclined to use tiering. Practitioners unfamiliar with FRA procedures and tiering may not appreciate the flexibility tiering provides for some rail projects developed outside the traditional transportation planning process. The following points were discussed during the peer exchange:

- Stakeholders can mistake a Tier 2 NEPA document as starting the NEPA process from the beginning, and may not account for work already done in a Tier 1, program-level EIS.
- The Eastern Corridor in Cincinnati, one of the case studies from NCHRP 25-43, used a tiered process. Afterwards the project sponsor concluded that a tiered NEPA process did not offer any advantage over good planning with linkages to NEPA.

Although there is no one-size-fits-all solution for overcoming differing agency requirements, nearly every success story credited its accomplishments to communication and coordination among all parties. Many noted that it was critical to identify the points of conflict early in the process, collaborate to develop a mutually-acceptable path forward, and cement support for that path forward through a formal MOU or informal senior leadership agreement. Federal panel members from each agency reminded the project sponsors that they may break multimodal programs into multiple, smaller projects with independent utility, thus simplifying the process.

² The Multimodal NEPA white paper distributed during this presentation includes a more in depth analysis of the many key regulatory and policy areas with potential conflicts for multimodal projects across FHWA, FTA, FRA, and FAA.

Lead and Cooperating Agencies

Most participants agreed that the key to success was looking ahead and evaluating which agency has the ability to get the project done. In many multimodal NEPA projects, FHWA serves as the lead agency because it has the largest staff and the most local offices, with a division office in each state.

FTA has been the lead for a number of commuter rail projects. Once Railroad Rehabilitation and Improvement Financing (RRIF) financing and FRA grant funds became available, the FRA was invited to participate as a cooperating agency for NEPA. Where FRA was not a cooperating agency and was introduced to the project late, it needed to re-circulate the Final Environmental Impact Statement (FEIS) before adopting and signing off on a Record of Decision (ROD), which greatly slowed those projects' approvals down. FTA invites more agencies to participate as cooperating agencies earlier, in order to avoid issues later.

- Under the FAST Act,³ if one agency is identified by the Secretary as the lead, projects may proceed sooner if there is uncertainty regarding which agency has the primary action. Also, under the FAST Act, a modal administration can adopt the FEIS of another mode without re-circulating to the public if the project is substantially the same.
- FTA tends to be a lead agency only on projects that it is directly funding. If another agency is providing a majority of the funding, FTA will often be a cooperating agency, rather than the lead.

Illustrative Example – Port of Miami Tunnel

- FHWA agreed to be the lead agency early in the project, before funding was finalized.
- An MOU between FHWA and the Coast Guard clarified roles and responsibilities early.
- Florida DOT's Project Development and Environmental processes milestones aligned with NEPA.



³ Fixing America's Surface Transportation Act (PL 114-94)

Efficient Coordination



Illustrative Example – Columbia River Crossing

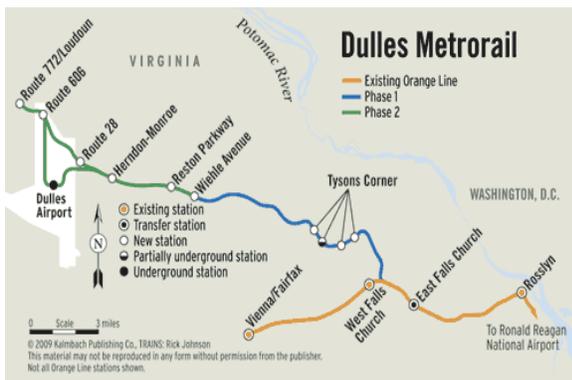
- Used a NEPA consultant well versed in FHWA and FTA processes who could facilitate a cross agency agreement.
- Identified differences in processes early.
- Sponsor fostered strong relationships with all agencies, the agencies had joint program offices.
- FHWA assigned a permanent staff person to the project.

The NCHRP 25-43 case studies illustrated that early communication and collaboration with all agencies involved in a multimodal project is critical when planning how to approach the NEPA process. When issues arose during the process, some case studies used mediation to resolve them. As seen through the illustrative projects, it can be helpful to reach agreement on which agency will be responsible for what tasks, potentially through an MOU. Peer exchange participants offered several examples of successful coordination.

For one multimodal project in Arizona, the FRA is the lead agency while FTA and FHWA are cooperating agencies. Early in the process, Arizona DOT organized a field review with FHWA, FTA, and FRA to show them the entire 100-mile corridor for the project, to open lines of communication, and to coordinate next steps and the path forward.

In Oregon and Washington, the Columbia River Crossing project had a joint project office which helped to foster cooperative relationships between the state and local agencies participating in the process – two state DOTs, two MPOs, two transit agencies, two cities – and the FHWA and FTA. FHWA assigned a permanent staff member to the project. Allowing representatives of the agencies to all be under one roof made it easier to communicate and collaborate.

Coordination that begins in the planning stage can extend into the construction stage. During NEPA, it is important to identify who will be delivering the commitments out in the field, making sure that the plans and specifications capture everything in the ROD., and that commitments in the ROD are actually feasible for the contractor to implement.



Illustrative Example – Dulles Corridor

- Established a joint project office, including staff familiar with FTA policies and procedures
- Relied on the local airport authority, Metropolitan Washington Airports Authority, to serve as the liaison with FAA, since it was familiar with FAA policies and procedures.