From: Ossi, Joseph <FTA>
To: Van Wyk, Christopher <FTA>
Sent: 4/21/2006 12:47:08 PM
Subject: FW: Conflict between FTA's proposal to initiate scoping prior to PE approval and provisions of section 6002

-----Original Message-----
From: Fisher, Ronald <FTA>
Sent: Friday, April 14, 2006 8:47 AM
To: 'Emerson, Donald'
Cc: Ossi, Joseph <FTA>; Libberton, Sean <FTA>; Ryan, James <FTA>
Subject: RE: Conflict between FTA's proposal to initiate scoping prior to PE approval and provisions of section 6002

DON!

I agree if "type of work" means mode and "general alignment" means nailing down the vertical and horizontal alignment. Neither of those interpretations is obvious to me.

Ron

-----Original Message-----
From: Emerson, Donald [mailto:Emerson@pbworld.com]
Sent: Thursday, April 13, 2006 6:44 PM
To: Fisher, Ronald <FTA>
Cc: Ossi, Joseph <FTA>; Libberton, Sean <FTA>; Ryan, James <FTA>
Subject: RE: Conflict between FTA's proposal to initiate scoping prior to PE approval and provisions of section 6002

RON!!

If one must have a "proposed action" -- defined as type of work, terminus, and general alignment -- before the NOI, this would seem to preclude Option 1 1/2 and Option 2 (AA/DEIS). The five steps listed in my e-mail are similar to the old Option 1 from MIS days, except that the PE application is moved back until after scoping.

Is this the new sequence for all New Starts?

Don

From: Ronald.Fisher@dot.gov [mailto:Ronald.Fisher@dot.gov]
Sent: Thu 4/13/2006 11:27 AM
To: Emerson, Donald
Cc: Joseph.Ossi@dot.gov; Sean.Libberton@dot.gov; James.Ryan@dot.gov
Subject: RE: Conflict between FTA's proposal to initiate scoping prior to PE approval and provisions of section 6002

I don't think there is a conflict with the FHWA view with the 5-step process because an LPA has been selected. Their view that you need a project to go into scoping does not allow Option 1 as you point out. Yesterday we looked at the language and it said you must have a "proposed action" before you can do the NOI. Further a "proposed action" is defined by type of work, terminus, and general alignment. That definition seems broad enough to allow for an AA/DEIS study. However, the FHWA definition that it be a design concept and scope is too restrictive to allow for an AA/DEIS. Joe: should we clarify this with FHWA?

-----Original Message-----

From: Emerson, Donald [mailto:Emerson@pbworld.com]
Sent: Thursday, April 13, 2006 7:54 AM
To: Fisher, Ronald <FTA>
Cc: Ossi, Joseph <FTA>; Libberton, Sean <FTA>
Subject: RE: Conflict between FTA's proposal to initiate scoping prior to PE approval and provisions of section 6002

RON!!

I attended a FHWA-AASHTO session at TRB in January that covered FHWA's interpretation of SAFETEA-LU section 6002, which applies to both FHWA and FTA projects that require an EIS. FHWA explained that the 6002 requirements are "for a project" and do not kick in until a project has been selected. I heard this to me that the design concept and scope was decided before 6002 requirements apply. FHWA further stated that 6002 requirements are to be met before the NOI and official NEPA scoping.

If this same interpretation were applied to New Starts, and if your January 19 guidance on NEPA and New Starts were to go into effect, it would mean the following sequence:

1. AA
2. Selection of LPA
3. Section 6002 requirements
4. NOI and Scoping
5. PE application

The discussion in your proposed New Starts guidance and your listening sessions did not seem to recognize where 6002 fits into the chronology. There's not necessarily a conflict, but the FHWA interpretation seems at odds with the idea of doing NEPA Scoping during AA -- i.e., Option 1 1/2 -- or a combined AA/DEIS -- i.e., Option 2. (Joe's interpretation of the February 2005 FHWA/FTA guidance on Linking Planning and NEPA, as it would apply in Honolulu, also seems to deny the utility of Option 1 1/2.) Does FTA share this view? If so, this strikes me as a significant change in the AA practices dating back to 1978.

The five-step chronology listed above would certainly put off the PE application, which may be your intent. If this chronology matches your interpretation of 6002, I suggest that this be spelled out in guidance to the industry.

The FHWA interpretation of 6002 also puts a very different spin on what it means to link planning and NEPA, and it strikes me that our ongoing LP&N training and the February 2005 guidance need to be revisited in light of SAFETEA-LU. Linking Planning and NEPA is still relevant, and is addressed in the new environmental requirements in 6001. But the FHWA interpretation of 6002 seems to take the idea of doing NEPA and planning concurrently somewat off the table.

Joe, is this how you see things?

Don

From: Ronald.Fisher@dot.gov [mailto:Ronald.Fisher@dot.gov]
Sent: Wed 4/12/2006 5:57 PM
To: Emerson, Donald
Cc: Joseph.Ossi@dot.gov; Sean.Libberton@dot.gov
Subject: Conflict between FTA's proposal to initiate scoping prior to PE approval and provisions of section 6002

Don,

You mentioned at our APTA meeting that there was a conflict which I did

not understand. Was it that the local agency needs a "proposed action" to get permission from FTA to issue a NOI, and you were saying that FTA prevents them from having a proposed action until they have done scoping?

Ron