PROCESS STREAMLINING AGREEMENT BETWEEN THE VIRGINIA DEPARTMENT OF TRANSPORTATION AND THE FEDERAL HIGHWAY ADMINISTRATION ON THE INTERSTATE 81 CORRIDOR NATIONAL ENVIRONMENTAL POLICY ACT PROCESS

Project Description

Interstate 81 serves as one of the Commonwealth's most important transportation facilities. It carries a substantial amount of traffic, including a high volume of truck traffic. The Virginia Department of Transportation (VDOT) and the Federal Highway Administration (FHWA) recognize that improvements to the I-81 corridor are necessary to improve safety and mobility as well as enhance the vitality of the region. Thus, it is the intent of both the VDOT and the FHWA to initiate a Tiered Environmental Impact Statement to evaluate improvement concepts for I-81 under the National Environmental Policy Act (NEPA). In response to the VDOT's request, the FHWA has given conditional provisional acceptance to I-81 as a toll pilot under Section 1216(b) of TEA-21, which requires compliance with NEPA.

Furthermore, it is the VDOT's present intent that any improvements to I-81 will:

1. Be consistent in their development and construction throughout the corridor;
2. Be funded, at least in part, through tolls; and
3. Include, at least, partial segregation of trucks and passenger vehicles.

Purpose

The purpose of this agreement is to define the decisions to be made and approvals to be granted at specific milestones related to the tiered environmental study and to define the study process and elements to be included in each stage of the tiered analysis.

Study Approach

The tiering of NEPA documents is the best approach for studying improvements to large corridors such as I-81 in Virginia. The Council on Environmental Quality's regulations for implementing NEPA encourage agencies to tier their Environmental Impact Statements (EIS) to focus on the issues ripe for decision at each level of environmental review (40 C.F.R. 1502.20). The study will follow the normal process

for tiered EISs – i.e., a Tier 1 Draft EIS, a Tier 1 Final EIS, and a Tier 1 Record of Decision (ROD) followed by Tier 2 NEPA document(s). The level of analysis for the Tier 1 study will be sufficient to enable informed decisions on those items listed in "Tier 1 Decisions" below. Site-specific analyses and approvals will be elements of subsequent Tier 2 studies.

Tier 1 Decisions

The VDOT and the FHWA agree that decisions on the following will be made upon completion of the Tier 1 study:

- Improvement concepts for highway and rail facilities, such as number of additional highway lanes, partial or complete segregation of trucks and passenger vehicles on I-81, and additional rail capacity;
- Approval to advance I-81 as a toll pilot;
- Roadway and rail components to be evaluated in Tier 2 NEPA document(s) and the type of NEPA document(s);
- The location of the corridor for studying future highway and rail alignments in Tier 2 NEPA document(s);
- Possible purchase of certain right-of-way parcels on a case-by-case basis.

Tier 2 Decisions

The VDOT and the FHWA agree that decisions on the following will be made upon completion of the Tier 2 studies utilizing the normal NEPA process consistent with a second tier study:

- Approval of conceptual design features of the improvements (e.g., typical section) for components identified in Tier 1;
- Authority to use federal funds on final design of the improvements;
- Authority to acquire right-of-way;
- Eligibility for federal funding for construction;
- Approval to modify access to I-81.

Resources and Timelines

The VDOT and the FWHA are committed to issuing a Tier 1 Record of Decision (ROD) 18 months after the notice of intent to prepare the Tier 1 EIS, which is approximately 1/3 of the amount of time it normally takes to issue a ROD.

The VDOT and the FHWA agree that they will:

- Provide sufficient staff and resources to expeditiously complete the NEPA process;
- Transmit the notice of availability of the Tier 1 Final EIS for publication in the *Federal Register* within 15 calendar days after the endorsement of improvement concept(s) by the Commonwealth Transportation Board;
- Issue a Tier 1 ROD 30 days after the notice of availability of the Tier 1 Final EIS, or as soon as practical after consideration of comments.

Additional Commitments

Throughout the study, the VDOT and the FHWA also agree that they will:

- Ensure the integrity and objectivity of the NEPA process;
- Appoint senior project managers with authority to make decisions;
- Appoint a core working team responsible for project level work;
- Communicate openly with local and regional governments, Metropolitan Planning Organizations, elected officials, and the public;
- Develop a project communications plan;
- Consult with state and federal agencies;
- Actively employ the VDOT/federal agency partnering process;
- Make decisions in a timely manner;
- Document decisions in writing;
- Approve jointly the consultant's scope of work for the Tier 1 study before commencement of the study;
- Be sensitive to the unique characteristics of communities, environmental resources, and businesses when determining the appropriateness of design exceptions such as Interstate access control;
- Continue to work on current I-81 projects that have already completed the NEPA process.

Conflict Resolution Process

It is the expectation of the VDOT and the FHWA that all issues will be resolved promptly between the team members. Concurrent reviews will be used where appropriate, and responses to correspondence will be given within 10 working days of a request. However, in the event that the team members cannot reach consensus on an issue that will affect the schedule, the following process will be followed:

1. Team members will immediately elevate the issue to the project managers for resolution. The project managers will review the information and make a decision within seven calendar days of receipt of the disputed issue.

2. In the event the project managers cannot resolve this issue, they will elevate the issue to the VDOT Commissioner and the FHWA Virginia Division Administrator for resolution. The VDOT Commissioner and the FHWA Virginia Division Administrator will review the information and make a decision within seven calendar days of receipt of the disputed issue.

_____
Commissioner
Virginia Department of Transportation

_____
Date

_____
Division Administrator
Federal Highway Administration

_____
Date