STREAMLINING THE NEPA PROCESS

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What is Streamlining?

- Improved efficiency of environmental review
- Integration of different processes
- Use of ‘best practices’
- Mandated cooperation / coordination among agencies
- Sound science and quality analysis
Streamlining History

- Reaction to perception that NEPA review was delaying transportation projects
- Repeated legislative attempts to revise NEPA process (TEA21, AIR21)
- Easy target
- Ignored NEPA umbrella function
NEPA PROCESS

- State Laws
- Local Approvals
- Participation & Politics
- MPO Review
- Engineering
- Economics
- Federal Envt'l Laws
Executive Order 13274
“Environmental Stewardship and Transportation Infrastructure Project Reviews” (9/02)

- Triggered by TEA-21/AIR-21 emphasis on streamlining
- DOT identifies list of high priority projects for expedited agency review
- Transportation Infrastructure Streamlining Task Force – affected federal agencies promote cooperation
E.O. 13274

- No enforceable obligations; political pressure by elevating issues
- Heavy on principles, light on specifics
- Burden on Army Corps, EPA, FWS to cooperate with FAA (not vice versa)
- Increased political pressure on local agencies not to be obstacles
- Annual report to President
E.O. 13274

- Limited experience
- LAX, PHL, SGU (St. George) have been ‘streamlined’ (or have they...)
- Senior and HQ attention by FAA
- Effect inconclusive so far
  - Timing
  - What is streamlining?
Vision 100:
Century of Aviation Reauthorization Act

- Aviation Streamlining Approval Process Act of 2003
- Airport Capacity Enhancement Projects are a national priority
- Various different approaches to streamline environmental review
Vision 100: Streamlining Elements

- **Sec. 228**: Judicial review in U.S. Court of Appeals
- **Sec. 304**: Noise abatement flight procedure commitments OK for capacity enhancement projects
- **Sec. 304**: Proprietor funding of FAA staff (including with AIP dollars)
Vision 100: Streamlining Elements

- **Sec. 305**: Eliminate state air/water quality certification
- **Sec. 307**: Direct FAA to revise environmental regs (Orders 1050, 5050)
Vision 100: 
Key Streamlining Process (1)

- **Sec. 304**: Streamlined Environmental Review Process –
  - Capacity enhancement projects at congested airports
  - Aviation safety and security projects – subject to five established criteria
Vision 100
Key Streamlining Process (2)

• Each agency with jurisdiction
  • **shall** give “highest possible priority” to environmental review
  • **shall** adopt policies to implement coordinated environmental review
• DOT **shall** identify all federal and state agencies with jurisdiction
• Governor **may** choose to participate
Vision 100
Key Streamlining Process (3)

• Interagency EIS teams
• FAA **shall** be lead agency
  • **shall** define scope and content of EIS
  • **shall** be given deference
  • **shall** define purpose and need
  • **shall** determine reasonable alternatives
• EO 13274 task force may monitor projects
FAA Environmental Orders

• Order 1050.1E and *Draft* 5050.4B
• Congressionally mandated revisions
• Updated and expanded list of categorical exclusions – remember these!
• New “documented categorical exclusion”
• Updates outdated language
CONCLUSIONS AND OBSERVATIONS

• Baseball, motherhood, apple pie and streamlining
• Effect of streamlining: administrative, perception, substantive
• Coordination between sponsor/FAA remains key
• Active sponsor involvement and political pressure
CONCLUSIONS AND OBSERVATIONS

• Streamlining ≠ faster approvals (?)
• Non-NEPA impediments can define critical path
• Sponsor must have its own streamlining process –
  • ‘Shadow team’
  • Preliminary analyses
  • Strategic plan
  • Critical path
QUESTIONS

Key documents are posted on our website

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