

**Policy Resolution PR-9-19**  
**Title: AASHTO Reauthorization Policy Theme 6: Improve Project Delivery**

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Whereas, Modernizing processes and procedures related to the development and delivery of transportation projects would greatly improve and expedite project delivery and reduce costs, all the while protecting and enhancing built and natural environments;

Whereas, Notable examples of modernizing project delivery include assignment of federal authorities to states ready and equipped to handle such responsibilities, allowing states appropriate exemptions from process requirements and/or creating categorical determinations for routine projects with minor impacts improves project delivery, and programmatic approaches that group multiple similar projects;

Whereas, The Federal Transit Administration (FTA) approval of routine and recurring activities in a grant, such as the replacement of buses, are often held up while FTA works through issues pertaining to new initiatives;

Whereas, Right-of-way procurement and utility relocations are consistently one of the top reasons for delay in transportation project delivery and additional flexibilities would provide cost savings and time reductions;

Whereas, Restrictions and delays imposed on transportation agencies by railroad owners, either intentionally or unintentionally, significantly affect the timely delivery of transportation projects;

Whereas, Requiring air quality conformity determinations be made every time a Metropolitan Planning Organization (MPO) updates or amends its long-range transportation plan or Transportation Improvement Program (TIP)—even those that are likely to have minimal impact on air quality—is a source of unnecessary project delay;

Whereas, Requiring participating agency concurrence in developing project schedules and any changes that shorten the schedule greatly delays project delivery;

Whereas, The lack of recovery plans or outdated recovery plans for species listed as threatened or endangered creates numerous challenges for project sponsors in addressing these species as there is no guidance regarding species recovery goals or acceptable mitigation tools; and

Whereas, Permitting requirements under Section 404 of the Clean Water Act for the discharge of dredged or fill material into “waters of the United States” can be a significant burden on transportation project development, especially for minor maintenance and construction activities; new, therefore, be it

*Resolved*, That Congress should authorize any federal agency to apply a categorical exclusion (CE) that has been adopted by any other federal agency (Issue PEP-1);

*Resolved*, That USDOT should establish a set process and reasonable timeline—including templates or model agreements—for acquiring right-of-way from federal agencies to promote fairness and to speed up project delivery (Issue PEG-2);

*Resolved*, That Congress should direct the US Environmental Protection Agency (EPA) to amend the transportation conformity regulations to allow USDOT, in consultation with EPA, to make programmatic conformity determinations that can be relied upon as the basis for demonstrating conformity for individual plans, programs, and projects (Issue PEP-3);

*Resolved*, That the right-of-way acquisition process should be streamlined by: allowing state procurement procedures to be used on federal-aid projects; allowing protective purchases with preliminary engineering funding; increasing the waiver valuation threshold, or removing the threshold; removing the 4(f) restriction on the Early Acquisition process; allowing states the option to use the “short form” for appraisals; and allowing states to

voluntarily assume some or all of the Federal Highway Administration's (FHWA) responsibilities for approval of right-of-way acquisitions (Issue PEG-2);

*Resolved*, That Congress should eliminate the requirement to obtain "concurrence" from other agencies in NEPA project schedules, and clarify that posting on the dashboard satisfies the requirement to maintain and update the project schedule under Section 139 (Issue PEP-5);

*Resolved*, That FHWA should be directed to amend its National Environmental Policy Act (NEPA) regulations to allow utility relocations to begin prior to NEPA completion, with appropriate limitations to ensure the integrity of the NEPA process, and allow federal funds to be used for such relocation (Issue PEG-10);

*Resolved*, That Congress should require establishment of consistent requirements, commitments, and time frames across all public and private railroad owners to facilitate transportation work within and across railroad rights of way, and provide USDOT the authority to enforce those provisions with the railroads (Issue PEG-11);

*Resolved*, That Congress should require USDOT to establish template or model agreements for standard activities conducted by the state DOTs in railroad rights-of-way (and vice versa), and provide guidance on the establishment of agreements for special or more complex activities (Issue PEG-11);

*Resolved*, That Congress should direct the Government Accountability Office to study the federal transit grant approval process for routine and recurring procurements and provide recommendations to Congress and USDOT on effective strategies for streamlining existing processes and practices, and USDOT must work with the stakeholder community to take action and implement the study's recommendations (Issue PT-6);

*Resolved*, That Congress should allow delegation of the US Army Corps of Engineers (Corps) permitting responsibility to a state DOT for a subset of projects (Issue PEP-6);

*Resolved*, That Congress should require the US Fish and Wildlife Services (USFWS) to establish activities-based exemptions from the Endangered Species Act (ESA), which would avoid the need for Section 7 consultation and incidental-take permits for specific types of routine activities, such as road maintenance projects (Issue PEP-7);

*Resolved*, That Congress should Require USFWS and the National Marine Fisheries Service to issue interim guidance at the time of listing of a threatened or endangered species, and then to issue a full recovery plan within 12 months of listing (Issue PEP-9);

*Resolved*, That Congress should create an alternative process allowing approval of Section 404 permit for a surface transportation project through programmatic agreement that ensures no-net-loss at watershed level, in lieu of making a Least Environmentally Damaging Practicable Alternative (LEDPA) determination at the project level (Issue PEP-10);

*Resolved*, That Congress should direct USFWS to amend the Section 7 regulations to allow a "designated non-federal representative" to act on behalf of the federal action agency during both informal and formal consultation (Issue PEP-11); and

*Resolved*, That Congress should expand exemptions from Clean Water Act Section 404 permitting for routine maintenance projects with minor impacts and streamline the use of Nationwide Permits for projects that remain subject to Section 404 (Issue PEP-12).