

## **Freight Provisions of SAFETEA-LU Questions**

**Q:** There is language under the NCIIP program stating that projects must apply to the Secretary; however, the account is fully earmarked. Does this mean that funding for earmarked projects are still at the discretion of the Secretary and States need to submit applications for their respective projects?

**A:** No. Since it's earmarked, there is no discretion. However, to understand how the projects relate to the criteria articulated in the legislation and so that FHWA may prepare a meaningful report to Congress on the programs, grant recipients will need to submit project descriptions to FHWA prior to the release of designated funds. The review process will go from grant recipient to State DOT to FHWA Division Office to FHWA Office of Freight Management and Operations. FHWA, together with the Secretary of Transportation and other appropriate agencies, will review the description and provide comments to the grant recipient. Detailed project description submission procedures will be posted on FHWA's Office of Freight Management and Operations website.

**Q:** How is FHWA going to handle formula distributions that are included in the bill for FY05?

**A:** The only formula program addressed in the presentation is the border infrastructure program and these funds were apportioned on September 1, 2005. The program is administered by the FHWA Office of Interstate and Border Planning.

**Q:** Is there a timeline for the first cut of the legislative implementation plan (LIP)? As I commented on the past drafts, the LIP is an internal document. It will not be posted for external audiences.

**A:** The current LIP identifies the Office of Freight Management and Operations (in FHWA) as the lead program office for the implementation of SAFETEA-LU Sections 1301 (Projects of National and Regional Significance), 1302 (National Corridor Infrastructure Improvement Plan), 1305 (Truck Parking Facilities), 1306 (Freight Intermodal Distribution Pilot Grant Program), and 5204 (g) (Freight Capacity Building Program). The LIP is an internal document. It will not be posted for external audiences.

**Q:** When will a version of USDOT's LIP be available for viewing outside the agency?

**A:** See previous answer.

**Q:** Is the LIP available for the Division Offices to review?

**A:** The FHWA LIP can be accessed by FHWA employees on StaffNet. Select Information Systems from the main menu.

**Q:** For the 1301 and 1302 projects that are totally earmarked, has anyone compiled a list of who got the earmarks?

**A:** The earmarks are enumerated in the bill.

**Q:** When will applications for pilot projects under Section 1306 be available?

**A:** Grant recipients for pilot projects designated in the legislation must submit project descriptions to FHWA prior to the release of designated funds. The review process will go from grant recipient to State DOT to FHWA Division Office to FHWA Office of Freight Management and Operations. FHWA, together with the Secretary of Transportation and other appropriate agencies, will review the description and provide comments to the grant recipient. Detailed project description submission procedures have been posted on FHWA's Office of Freight Management and Operations website. Grant recipients may submit project descriptions any time.

**Q:** How broadly or narrowly, modally speaking, can the future transportation study commission define "surface transportation system"?

**A:** This can be found in Section 1909. The definition is fairly broad, designed for surface transportation. It will be up to the commission to make those determinations.

**Q:** Have the credit risk premium requirements under RRIF been reduced or otherwise impacted by SAFETEA-LU?

**A:** No, there is no change to the requirement, however, there was a change in the amount of authorized credit from \$3.5 billion to \$35 billion.

**Q:** There was some language in the legislation about including freight shippers in the planning process. Could you comment on that?

**A:** SAFETEA-LU Section 6001 amends 23 U.S.C 134(i)(5)(A) to require that "Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, *freight shippers*, *providers of freight transportation services*, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan."

**Q:** If the earmark does not provide enough funds to complete the project, is there an implied federal commitment to provide further support.

**A:** No.

**Q:** In 1303 there is a requirement for the Freight Coordinator. What are FHWA's expectations for the duties of this position and is there funding for the position?

**A:** This was in the previous version of the legislation but did not get passed in the final bill.

**Q:** How will the intent of the desired Freight Coordinator provision still be accomplished in USDOT's implementation of SAFETEA LU?

**A:** In the administration's original proposal, there was a provision to require a State Freight Coordinator. While that requirement was not included in the final version of the legislation, several states have already started to put together state freight coordinators, either as individuals or offices located in various parts of the Department. We held a meeting in Columbus, Ohio in April '05 to get together with these state freight coordinators and their FHWA Division Office counterparts, and talk about how to start to share ideas on what they are doing, what sorts of things work, what sorts of training they needed and so forth. While this is not a requirement, it is certainly an action which we see going on in many states. We will continue to actively support and provide continuing training and peer-to-peer exchanges through the Freight Professional Development program and other office activity to these individuals and offices.

**Q:** What is specific for maritime freight or short sea shipping with its emphasis on intermodal freight integration

**A:** Maritime legislation is handled outside of SAFETEA-LU. The Administration is still looking at a SEA-21 concept that could complement SAFETEA-LU. However, SAFETEA-LU includes several programs that encourage ports and terminal operators to coordinate with metropolitan planning organizations and States in the development of intermodal freight transportation projects under the TIFIA, RRIF, and Freight Intermodal Distribution Pilot Grant Programs.

**Q:** What is the status of a National Freight Policy?

**A:** The desire for a National Freight Policy was expressed during the meeting in Columbus, Ohio that assembled State DOT and FHWA Division Office representatives

involved in freight activity. The National Freight Policy was unveiled at the TRB meeting in January 2006 by Under Secretary Jeff Shane. This policy is available at [www.dot.gov/freight](http://www.dot.gov/freight). That Web site also has a “contact us” email address for input on the strategies and tactics that people feel should be added.

**Q:** Have the 12 members of the National Surface Transportation (NST) Policy and Revenue Study Commission been selected? If not, how will they be selected?

**A: No, they have not.** They are assigned according to the legislation.

**Q:** Is the Technical Advisory Committee of the NST Policy and Revenue Study Commission already selected? If not, who will appoint?

**A:** No, it is not. The Transportation Secretary will establish the Technical Advisory Committee in a manner that includes input from federal, state and local officials, transportation and trade associations, emergency management officials, freight providers, the general public, and other entities and persons deemed to be appropriate by the secretary.

**Q:** In the aftermath of Hurricane Katrina, are there particular provisions of the bill that may relate to expedited program and project funding for freight-related projects (such as railroad relocation, truck/rail intermodal terminal rebuilding/relocation, etc.)?

**A:** The Federal Highway program includes an emergency relief (ER) program, and a lot of resources are being mobilized to quickly deal with all the damage done down along the Gulf Coast and further inland. Every effort is being made to work closely with the affected states to expedite getting funds to where they are needed to repair damage.

**Q:** Who is eligible for the funding through the pilot program for parking – the Interstate Oasis program?

**A:** The Truck Parking Facilities Program (Section 1305) and The Interstate Oasis Program (1310) are separate and distinct programs. States, MPOs and local governments are eligible grant recipients under Section 1305. Section 1310 is not a grant program.

**Q:** How will the Truck Parking program work and when you expect those performance measures to be determined?

**A:** The criteria for this program are currently under development. Once they are established, and we are hoping to do so within 180-days of the legislation being signed into law (8/10/05), they will be publicly released.

**Q:** On the projects of national significance, is that all earmarked out now? And do you expect that criteria will be used in the next round [of legislation]? Do you think there will be other earmarks?

**A:** Yes, it's all earmarked this round. We will publish eligibility criteria in accordance with the legislation and establish an equitable selection process. It is our hope that this activity will change the dynamics in the next legislation.

**Q:** Given the level of earmarking in Projects of National Significance and other discretionary programs, does the Department still plan to develop criteria for selection similar to the Transit New Starts Program?

**A:** The law does require the Department to create those selection criteria and we will do so.

**Q:** Are you soliciting input from agencies in the development of the criteria, or is it an internal process?

**A:** We are working internally with other DOT agencies in the drafting of the Notice of Proposed Rulemaking. In addition, there will be an opportunity for notice and comment in the standard regulatory process.

**Q:** Can you provide additional information on the 50-state traffic count-sharing mandate (Real-Time Systems Management Information Program)?

**A:** This answer can be found in the Talking Operations web cast on the Implications of Reauthorization on Operations and ITS. The recording can be viewed at <http://talkingoperations.webex.com>.

**Q:** What organizational changes are anticipated in FHWA to implement Freight provisions of SAFETEA-LU?

**A:** I don't believe any organizational changes are contemplated at the moment. The structure seems to be pretty well set for dealing with the various issues that have come out of SAFETEA-LU. We will be working very closely with our colleagues in MARAD, the Office of the Secretary, and elsewhere in the Department to move forward with these programs.

**Q:** Are all the funds under the National Corridor Infrastructure Improvement Program

earmarked? Some analyses suggest only 90% is actually earmarked.

**A:** Yes, it's completely earmarked.

**Q:** Where is the best place to obtain the final signed bill and the accompanying conference report?

**A:** <http://www.fhwa.dot.gov/safetealu/index.htm>

**Q:** Is it correct to assume that NCFTRP (Section 5209) will be a division of TRB?

**A:** The MOU between the National Academy of Sciences (NAS) and the Secretary is being drafted. What component of the NAS the NCFRP will reside with is up to the NAS.

**Q:** Can shippers, as well as freight carriers, be considered eligible parties for freight infrastructure funding projects?

**A:** Within a public-private partnership, creative arrangements are encouraged.

**Q:** Can you discuss a bit about the MPO TIP requirements for Operations and Management Review?

**A:** SAFETEA-LU Section 6001 amends 23 U.S.C 134(i)(2)(D) to require Transportation plans to contain "operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods."

**Q:** How will FRA and FHWA be coordinating their efforts since many of these programs cover both modes?

**A:** Certainly at the policy level the agencies talk on an almost daily basis. The purpose of the legislative implementation plan is to identify who has the lead for any individual provision, but to also identify who needs to work in close cooperation with whomever has the lead. So as the Office of the Secretary decides who will have the lead between FHWA and FRA we will work with our colleagues to move forward in each of the provisions.

**Q:** Will the ITS program (and its Freight components) be transferred to the new RITA as proposed by the Secretary?

**A:** The Act that established the Research and Innovative Technology Administration (RITA) stated that it's up to the Secretary whether the ITS Joint Program Office should or should not be moved, but he must wait until the authorizing committee has had a chance to weigh in. The conference report, the Senate version and the House version were all silent on the location of the Joint Program Office, which essentially leaves it to the Secretary to decide to leave it where it is or move it. Action is underway to move the ITS Joint Program Office to RITA.

**Q:** How will environmental issues be dealt with given railroads are exempt from Environmental Impact Report type processes for new projects?

**A:** Privately funded rail projects on private ROW need not go through the environmental review process. But, projects funded with Federal-Aid are subject to Title 23 USC requirements, including environmental review.

**Q:** Are there any plans to make the freight data (Transearch Database) more "affordable" to the MPOs?

**A:** On the data side the FHWA Freight Office is working closely with our colleagues at the Bureau of Transportation Statistics (BTS), the Federal Railroad Administration (FRA), and elsewhere, to update the Freight Analysis Framework and improve coverage. We will have the initial products of that effort released in time for the TRB Annual Meeting in January 2006. The new version of the Freight Analysis Framework will be publicly available and provide a basic framework within which MPOs can work. The geography of FAF data will be the 114 regions of the Commodity Flow Survey, which provides a national perspective of freight flows. We will be looking at ways through the state development program and our other analytical work to improve tools, methods and give people knowledge on how to supplement the FAF data either with locally collected data or commercial data such as Transearch to meet the more detailed data needs for MPOs and project level planning. We will be holding a national conference, in early Fall 2006 to lay out ways to improve freight modeling, ways to improve local data collection and set an agenda that we can collectively pursue at all levels to improve the quality of data and modeling. However, to answer your question directly, we have no control over the price charged for the Transearch Database.

**Q:** There was not a lot of significant language change with respect to freight and goods movement. But given the emphasis in the bill, will that be considered when new planning regulations are issued?

**A:** The FHWA and the FTA are jointly proposing revisions to the regulations governing the development of transportation plans and programs for urbanized (metropolitan) areas and State transportation plans and programs. These proposed revisions generally would

revise existing regulatory language to make it consistent with current statutory requirements. Freight and goods movement issues will be appropriately addressed in the proposed regulations.

**Q:** Fiscal year '05 ended on September 30th. Will the FY05 funding distribution come to us retroactively?

**A:** Yes.