

MEMORANDUM OF AGREEMENT
FOR COMPLIANCE WITH THE
NATIONAL ENVIRONMENTAL POLICY ACT
FOR THE ESTABLISHMENT OF THE
NATIONWIDE DIFFERENTIAL GLOBAL POSITIONING SYSTEM
SERVICE

THIS AGREEMENT IS MADE AND ENTERED INTO BY AND AMONGST:

THE FEDERAL HIGHWAY ADMINISTRATION, THE U.S. COAST GUARD, AND THE FEDERAL RAILROAD ADMINISTRATION OF THE U.S. DEPARTMENT OF TRANSPORTATION.

I. Purpose

This Memorandum of Agreement (MOA), and such supplements as may be agreed to, provide the basis for cooperative efforts among the Federal Highway Administration (FHWA), US Coast Guard (USCG), and the Federal Railroad Administration (FRA) of the US Department of Transportation (USDOT) in the development and completion of appropriate required National Environmental Policy Act analysis and documentation, supporting the proposed implementation of the Nationwide Differential Global Positioning System (NDGPS) service.

II. Background

In Presidential Decision Directive (PDD) NSTC-6 of March 28, 1996, the President designated the Department of Transportation as the "lead agency for all Federal civil GPS matters." In addition, the President directed the USDOT to "develop and implement U.S. Government augmentations to the basic GPS for transportation applications."

In January 1997 the USDOT formed an interagency DGPS Executive Steering Group and a DGPS Policy and Implementation Team to investigate the development of a nationwide differential service to comply with Presidential direction. The findings of the Executive Steering Group determined that building upon existing infrastructure and resources - Coast Guard Maritime Differential Global Positioning System (DGPS) sites and conversion of existing US Air Force Ground Wave Emergency Network (GWEN) sites - was the most practical method available to adequately fulfill the PDD and meet the user agency operational and technical needs.

Section 346 of Public Law 105-66, dated October 27, 1997, (Attachment A) grants authority to the USDOT to "take receipt of such equipment and sites of the Ground Wave Emergency Network ... as ... necessary for the establishment of a nationwide system to be known as the 'Nationwide Differential Global Positioning System .'"

In November, 1998, the NDGPS MOA was signed, identifying the general responsibilities of the seven Federal Agencies involved in the planning and proposed implementation of the NDGPS service. Included in the NDGPS MOA is a brief section on NEPA responsibilities. The purpose of this NEPA MOA is to expand on the basic NEPA responsibilities outlined in the NDGPS MOA, identifying cooperating agencies under NEPA and their specific responsibilities, as well as specifying procedures to be used by the cooperating agencies and the lead agency in the preparation, completion, and approval, of all appropriate NDGPS NEPA analysis and documentation.

III Lead and Cooperating Agencies and their Applicable Responsibilities under NEPA

Given that multiple Federal agencies are involved in the funding, use, implementation, operation, and disposal of the proposed NDGPS service, this MOA specifies the roles, responsibilities, and applicable procedures of each agency cooperating in the NEPA analysis and documentation for the proposed NDGPS implementation

The FHWA will serve as lead agency (as defined by 40 CFR Part 1508.16) for all National Environmental Policy Act (NEPA) matters regarding the proposed implementation of the NDGPS service. The USCG, FRA, and the USDOT are designated as cooperating agencies (as defined by 40 CFR Part 1508.5).

The parties agree to use the FHWA implementing regulations (23 CFR 771) for environmental impact analysis and procedural compliance with NEPA. The FHWA will prepare NEPA documents for the proposed NDGPS service as well as any appropriate follow-on site-specific analysis and documentation that may be required for future implementation of the NDGPS service. FHWA will distribute copies of all NEPA documents to the Chairman of the Policy and Implementation Team and to the cooperating agencies participating in NDGPS deployment. The FHWA will give the technical and environmental reviewers of each of the cooperating agencies the opportunity to review and comment on the programmatic and site-specific NEPA documents for environmental and technical accuracy and adequacy at the preliminary draft stage (i.e. prior to release of the draft document to the public) and at the preliminary final document stage (i.e. prior to release of the final document to the public). Review periods shall be two weeks unless all parties agree to shorten or extend the review period.

The administrative record detailing the NEPA analysis and documentation will be maintained by FHWA, as the lead agency, for the life of the program. The USCG as the proposed primary operator of the NDGPS service shall receive a copy of the final administrative record. The signatories to this MOA will identify the individual office within their agency that will be responsible for these files.

IV. Modification and Termination

This MOA will be reviewed as deemed necessary by any party. It is subject to modification at any time upon joint written approval of all parties. Supplements to this MOA are allowed between all or some of the parties to further clarify agreements made herein or to address additional aspects of the project not foreseen in this MOA. The points of contact of the agencies participating in this MOA must be informed and provided copies of any supplements to this MOA. The FHWA shall maintain the original MOA and any supplements.

The participation in this agreement by any agency may be terminated by written notice to the other parties 180 days prior to the desired termination. Agencies seeking termination that have unfulfilled responsibilities under the MOA, such as disposal of equipment or property, must arrange for those responsibilities to be completed. In the event that an agency wishes to terminate their participation in this agreement, but cannot reasonably satisfy one or more of the remaining parties, then the agency seeking termination may forward an appeal to the FHWA.

V. Other Provisions:

Any activities undertaken by the parties pursuant to this MOA are subject to the availability of appropriated funds and proper authorization.

Nothing herein is intended to conflict with current directives of any participating agency. If the terms of this MOA are inconsistent with existing directives of any of the parties entering into the MOA, then those portions of the MOA which are determined to be inconsistent shall be invalid; but the remaining terms and conditions not affected by inconsistency shall remain in full force and effect. Any inconsistencies identified by the participating agencies shall be brought to the attention of all parties at the earliest opportunity. Changes deemed necessary by the NDGPS Policy and Implementation Team will be accomplished by an amendment or revision to this MOA.

VI. Effective Date

The effective date of this agreement shall be the last date of the last signature affixed on the following page.

VII. Execution of Agreement

This agreement is being executed in three (3) counterpart originals.

NDGPS NEPA

Memorandum of Agreement

APPROVED:

APPROVED:

THOMAS PTAK
Associate Administrator for
Program Development
Federal Highway
Administration

Date

JAMES D. HULL
Rear Admiral, U.S. Coast Guard
Director of Operations Policy
Directorate
U. S. Coast Guard

Date

APPROVED:

JAMES T. MCQUEEN
Associate Administrator for
Railroad Development
Federal Railroad
Administration

Date

**ATTACHMENT A
TO MEMORANDUM OF AGREEMENT
FOR COMPLIANCE WITH THE
NATIONAL ENVIRONMENTAL POLICY ACT
FOR THE ESTABLISHMENT OF THE
NATIONWIDE DIFFERENTIAL GLOBAL POSITIONING SYSTEM
(NDGPS) SERVICE**

PUBLIC LAW 105-66, October 27, 1997

SEC. 346. (a) As soon as practicable after the date of enactment of this Act, the Secretary of Transportation, acting for the Department of Transportation, may take receipt of such equipment and sites of the Ground Wave Emergency Network (referred to in this section as AGWEN \cong) as the Secretary of Transportation determines to be necessary for the establishment of a nationwide system to be known as the ANationwide Differential Global Positioning System \cong (referred to in this section as ANDGPS \cong).

- (b) As soon as practicable after the date of enactment of this Act, the Secretary of Transportation may establish the NDGPS. In establishing the NDGPS, the Secretary of Transportation may--
- (1) if feasible, reuse GWEN equipment and sites transferred to the Department of Transportation under subsection (a);
 - (2) to the maximum extent practicable, use contractor services to install the NDGPS;
 - (3) modify the positioning system operated by the Coast Guard at the time of the establishment of the NDGPS to integrate the reference stations made available pursuant to subsection (a);
 - (4) in cooperation with the Secretary of Commerce, ensure that the reference stations referred to in paragraph (3) are compatible with, and integrated into, the Continuously Operating Reference Station (commonly referred to as ACORS \cong) system of the National Geodetic Survey of the Department of Commerce; and
 - (5) in cooperation with the Secretary of Commerce, investigate the use of the NDGPS reference stations for the Global Positioning System Integrated Precipitable Water Vapor System of the National Oceanic and Atmospheric Administration.
- (c) The Secretary of Transportation may--
- (1) manage and operate the NDGPS;
 - (2) ensure that the service of the NDGPS is provided without the assessment of any user fee; and
 - (3) in cooperation with the Secretary of Defense, ensure that the use of the NDGPS is denied to any enemy of the United States.
- (d) In any case in which the Secretary of Transportation determines that contracting for the maintenance of 1 or more NDGPS reference stations is cost-effective, the Secretary of Transportation may enter into a contract to provide for that maintenance.
- (e) The Secretary of Transportation may--
- (1) in cooperation with appropriate representatives of private industries and universities and officials of State governments--
 - (A) investigate improvements (including potential improvements) to the NDGPS;
 - (B) develop standards for the NDGPS; and

- (C) sponsor the development of new applications for the NDGPS;
and
- (2) provide for the continual upgrading of the NDGPS to improve performance and address the needs of--
 - (A) the Federal Government;
 - (B) State and local governments; and
 - (C) the general public.