made reasonably available to the public for inspection and copying, and
(ii) copies of all comments received shall be submitted with the application. The State should summarize the comments received, and note changes, if any, that were made in the application in response to public comments.
(c) The application shall be signed by the Governor or the head of the State agency having primary jurisdiction over highway matters. The application must also identify a point of contact for questions regarding the application. Applications may be submitted in electronic format.

§ 773.107 Application approval.
If a State DOT’s application is approved, then the State DOT will be invited to enter into a written Memorandum of Understanding (MOU) with the FHWA, as provided in 23 U.S.C. 327. None of FHWA’s responsibilities under NEPA or other environmental laws may be assumed by the State DOT prior to execution of the MOU.

§ 773.108 Application amendments.
(a) After a State DOT submits its application to the FHWA, but prior to the execution of a MOU, the State DOT may amend its application at any time to request additional highway projects, classes of highway projects, or more environmental responsibilities. However, prior to making any such amendments, the State DOT must provide notice and solicit public comments with respect to the intended amendments. In submitting the amendment to the FHWA, the State DOT must provide copies of all comments received and note the changes, if any, that were made in response to the comments.
(b) A State DOT may amend its application no earlier than one year after a MOU has been executed to request additional highway projects, classes of highway projects, or more environmental responsibilities. However, prior to making any such amendments, the State DOT must provide notice and solicit public comments with respect to the intended amendments. In submitting the amendment to the FHWA, the State DOT must provide copies of all comments received and note the changes, if any, that were made in response to the comments.

APPENDIX A TO PART 773—FHWA ENVIRONMENTAL RESPONSIBILITIES THAT MAY BE ASSIGNED UNDER SECTION 6005

Federal Procedures
FHWA Environmental Regulations at 23 CFR Part 771, 772 and 777
CEQ Regulations at 40 CFR 1500-1508
Clean Air Act, 42 U.S.C. 7401–7671(q). Any determinations that do not involve conformity.
Noise
Compliance with the noise regulations at 23 CFR part 772
Wildlife
Marine Mammal Protection Act, 16 U.S.C. 1361
Anadromous Fish Conservation Act, 16 U.S.C. 757(a)–757(g)
Fish and Wildlife Coordination Act, 16 U.S.C. 661–667(d)

Historic and Cultural Resources
Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470(f) et seq.
Archaeological Resources Protection Act of 1977, 16 U.S.C. 470(aa)–11
Archaeological and Historic Preservation Act, 16 U.S.C. 469–469(c)

Social and Economic Impacts

Water Resources and Wetlands
Clean Water Act, 33 U.S.C. 1251–1377
Section 404
Section 401
Section 319
Coastal Barrier Resources Act, 16 U.S.C. 3301–3310
Coastal Zone Management Act, 16 U.S.C. 1451–1465
Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j)(6)
§ 774.3 Section 4(f) approvals.

The Administration may not approve the use, as defined in § 774.17, of Section 4(f) property unless a determination is made under paragraph (a) or (b) of this section.

(a) The Administration determines that:

(1) There is no feasible and prudent avoidance alternative, as defined in § 774.17, to the use of land from the property; and

(2) The action includes all possible planning, as defined in § 774.17, to minimize harm to the property resulting from such use; or

(b) The Administration determines that the use of the property, including any measure(s) to minimize harm (such as any avoidance, minimization, mitigation, or enhancement measures) committed to by the applicant, will have a de minimis impact, as defined in § 774.17, on the property.

(c) If the analysis in paragraph (a)(1) of this section concludes that there is no feasible and prudent avoidance alternative, then the Administration may approve, from among the remaining alternatives that use Section 4(f) property, only the alternative that:

(1) Causes the least overall harm in light of the statute’s preservation purpose. The least overall harm is determined by balancing the following factors:

(i) The ability to mitigate adverse impacts to each Section 4(f) property (including any measures that result in benefits to the property);

(ii) The relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each Section 4(f) property for protection;

(iii) The relative significance of each Section 4(f) property;

(iv) The views of the official(s) with jurisdiction over each Section 4(f) property;

(v) The degree to which each alternative meets the purpose and need for the project;

(vi) After reasonable mitigation, the magnitude of any adverse impacts to