

Federal Highway Administration may prepare an environmental document pursuant to the implementing procedures of the Federal Highway Administration to comply with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

(A) requested by a project sponsor; and

(B) all areas of analysis required by the project sponsor can be addressed.

(3) FEDERAL LAND MANAGEMENT AGENCIES ADOPTION OF EXISTING ENVIRONMENTAL REVIEW DOCUMENTS.—

(A) IN GENERAL.—To the maximum extent practicable, if the Federal Highway Administration prepares an environmental document pursuant to paragraph (2), that environmental document shall address all areas of analysis required by a Federal land management agency.

(B) INDEPENDENT EVALUATION.—Notwithstanding any other provision of law, a Federal land management agency shall not be required to conduct an independent evaluation to determine the adequacy of an environmental document prepared by the Federal Highway Administration pursuant to paragraph (2).

(C) USE OF SAME DOCUMENT.—In authorizing or implementing a project, a Federal land management agency may use an environmental document previously prepared by the Federal Highway Administration for a project addressing the same or substantially the same action to the same extent that the Federal land management agency could adopt or use a document previously prepared by another Federal agency.

(4) APPLICATION BY FEDERAL LAND MANAGEMENT AGENCIES OF CATEGORICAL EXCLUSIONS ESTABLISHED BY FEDERAL HIGHWAY ADMINISTRATION.—In carrying out requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project, the project sponsor may use categorical exclusions designated under that Act in the implementing regulations of the Federal Highway Administration, subject to the conditions that—

(A) the project sponsor makes a determination, in consultation with the Federal Highway Administration, that the categorical exclusion applies to the project;

(B) the project satisfies the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(C) the use of the categorical exclusion does not otherwise conflict with the implementing regulations of the project sponsor, except any list of the project sponsor that designates categorical exclusions.

(5) MITIGATION COMMITMENTS.—The Secretary shall assist the Federal land management agency with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the Secretary in accordance with this subsection.

(Added Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 486; amended Pub. L.

114–94, div. A, title I, §1119, Dec. 4, 2015, 129 Stat. 1358; Pub. L. 117–58, div. A, title I, §§1112, 11311, Nov. 15, 2021, 135 Stat. 479, 536.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (c)(5) and (e), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 203, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 906; Pub. L. 86–657, §8(b), July 14, 1960, 74 Stat. 524; Pub. L. 87–866, §7, Oct. 23, 1962, 76 Stat. 1147; Pub. L. 94–280, title I, §117(b), May 5, 1976, 90 Stat. 437; Pub. L. 97–424, title I, §126(f), Jan. 6, 1983, 96 Stat. 2116; Pub. L. 102–240, title I, §1032(f), Dec. 18, 1991, 105 Stat. 1975; Pub. L. 105–178, title I, §1115(c), (e)(3), June 9, 1998, 112 Stat. 156, 158, related to availability of funds, prior to repeal by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473.

AMENDMENTS

2021—Subsec. (a)(1)(D). Pub. L. 117–58, §1112(1), substituted “\$20,000,000” for “\$10,000,000”.

Subsec. (a)(6). Pub. L. 117–58, §1112(2), added par. (6). Subsec. (e). Pub. L. 117–58, §11311, added subsec. (e).

2015—Subsec. (a)(1)(B). Pub. L. 114–94, §1119(1)(A), substituted “capital, operations,” for “operation”.

Subsec. (a)(1)(D). Pub. L. 114–94, §1119(1)(B), substituted “subparagraph (A)(iv)(I)” for “subparagraph (A)(iv)”.

Subsec. (b)(1)(B)(vi), (vii). Pub. L. 114–94, §1119(2)(A), added cls. (vi) and (vii).

Subsec. (b)(2)(B). Pub. L. 114–94, §1119(2)(B)(i), inserted “performance management, including” after “support” in introductory provisions.

Subsec. (b)(2)(B)(i)(II). Pub. L. 114–94, §1119(2)(B)(ii), substituted “; and” for “, and”.

Subsec. (c)(2)(B)(vi). Pub. L. 114–94, §1119(3), added cl. (vi).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§ 204. Federal lands access program

(a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the Federal lands access program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the cost of—

(A) transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, context-sensitive solu-

tions, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and—

(i) adjacent vehicular parking areas, including interpretive panels in or adjacent to those areas;

(ii) acquisition of necessary scenic easements and scenic or historic sites;

(iii) provisions for pedestrians and bicycles;

(iv) environmental mitigation in or adjacent to Federal land to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;

(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities;

(vi) contextual wayfinding markers;

(vii) landscaping;

(viii) cooperative mitigation of visual blight, including screening or removal; and

(ix) other appropriate public road facilities, as determined by the Secretary;

(B) operation and maintenance of transit facilities; and

(C) any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, Federal land.

(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands access transportation facilities shall be administered in conformity with regulations and agreements approved by the Secretary.

(4) COOPERATION.—

(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision for a Federal lands access transportation facility project shall be credited to appropriations available under the Federal lands access program.

(5) COMPETITIVE BIDDING.—

(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

(6) NATIVE PLANT MATERIALS.—In carrying out an activity described in paragraph (1), the

Secretary shall ensure that the entity carrying out the activity considers, to the maximum extent practicable—

(A) the use of locally adapted native plant materials; and

(B) designs that minimize runoff and heat generation.

(b) PROGRAM DISTRIBUTIONS.—

(1) IN GENERAL.—Funding made available to carry out the Federal lands access program shall be allocated among those States that have Federal land, in accordance with the following formula:

(A) 80 percent of the available funding for use in those States that contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

(i) 30 percent in the ratio that—

(I) recreational visitation within each such State; bears to

(II) the recreational visitation within all such States.

(ii) 5 percent in the ratio that—

(I) the Federal land area within each such State; bears to

(II) the Federal land area in all such States.

(iii) 55 percent in the ratio that—

(I) the Federal public road miles within each such State; bears to

(II) the Federal public road miles in all such States.

(iv) 10 percent in the ratio that—

(I) the number of Federal public bridges within each such State; bears to

(II) the number of Federal public bridges in all such States.

(B) 20 percent of the available funding for use in those States that do not contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

(i) 30 percent in the ratio that—

(I) recreational visitation within each such State; bears to

(II) the recreational visitation within all such States.

(ii) 5 percent in the ratio that—

(I) the Federal land area within each such State; bears to

(II) the Federal land area in all such States.

(iii) 55 percent in the ratio that—

(I) the Federal public road miles within each such State; bears to

(II) the Federal public road miles in all such States.

(iv) 10 percent in the ratio that—

(I) the number of Federal public bridges within each such State; bears to

(II) the number of Federal public bridges in all such States.

(2) DATA SOURCE.—Data necessary to distribute funding under paragraph (1) shall be

provided by the following Federal land management agencies:

- (A) The National Park Service.
- (B) The Forest Service.
- (C) The United States Fish and Wildlife Service.
- (D) The Bureau of Land Management.
- (E) The Corps of Engineers.

(c) PROGRAMMING DECISIONS COMMITTEE.—

(1) IN GENERAL.—Programming decisions shall be made within each State by a committee comprised of—

- (A) a representative of the Federal Highway Administration;
- (B) a representative of the State Department of Transportation; and
- (C) a representative of any appropriate political subdivision of the State.

(2) CONSULTATION REQUIREMENT.—The committee described in paragraph (1) shall cooperate with each applicable Federal agency in each State before any joint discussion or final programming decision.

(3) PROJECT PREFERENCE.—In making a programming decision under paragraph (1), the committee shall give preference to projects that provide access to, are adjacent to, or are located within high-use Federal recreation sites or Federal economic generators, as identified by the Secretaries of the appropriate Federal land management agencies.

(Added Pub. L. 112-141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 489; amended Pub. L. 117-58, div. A, title I, §1113(b), Nov. 15, 2021, 135 Stat. 479.)

Editorial Notes

PRIOR PROVISIONS

A prior section 204, Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 907; Pub. L. 97-424, title I, §126(b), Jan. 6, 1983, 96 Stat. 2114; Pub. L. 100-17, title I, §133(b)(13), (14), Apr. 2, 1987, 101 Stat. 172; Pub. L. 102-240, title I, §§1030, 1032(b), title VI, §6004(c), Dec. 18, 1991, 105 Stat. 1970, 1974, 2169; Pub. L. 105-178, title I, §1115(d), (e)(4), title V, §5119(a), June 9, 1998, 112 Stat. 156, 158, 452; Pub. L. 109-59, title I, §1119(h)-(k), Aug. 10, 2005, 119 Stat. 1187-1189, related to Federal lands highways program, prior to repeal by Pub. L. 112-141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473.

AMENDMENTS

2021—Subsec. (a)(1)(A). Pub. L. 117-58, §1113(b)(1)(A), inserted “context-sensitive solutions,” after “restoration,” in introductory provisions.

Subsec. (a)(1)(A)(i). Pub. L. 117-58, §1113(b)(1)(B), inserted “, including interpretive panels in or adjacent to those areas” after “areas”.

Subsec. (a)(1)(A)(vi) to (ix). Pub. L. 117-58, §1113(b)(1)(C)-(E), added cls. (vi) to (viii) and redesignated former cl. (vi) as (ix).

Subsec. (a)(6). Pub. L. 117-58, §1113(b)(2), added par. (6).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117-58, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination

Dates of 2012 Amendment note under section 101 of this title.

§ 205. Forest development roads and trails

(a) Funds available for forest development roads and trails shall be used by the Secretary of Agriculture to pay for the costs of construction and maintenance thereof, including roads and trails on experimental and other areas under Forest Service administration. In connection therewith, the Secretary of Agriculture may enter into contracts with a State or civil subdivision thereof, and issue such regulations as he deems advisable.

(b) Cooperation of States, counties, or other local subdivisions may be accepted but shall not be required by the Secretary of Agriculture.

(c) Construction estimated to cost \$50,000 or more per mile or \$50,000 or more per project for projects with a length of less than one mile, exclusive of bridges and engineering, shall be advertised and let to contract. If such estimated cost is less than \$50,000 per mile or \$50,000 per project for projects with a length of less than one mile or if, after proper advertising, no acceptable bid is received or the bids are deemed excessive, the work may be done by the Secretary of Agriculture on his own account.

(d) Funds available for forest development roads and trails shall be available for adjacent vehicular parking areas, which may include electric vehicle charging stations or natural gas vehicle refueling stations, and for sanitary, water, and fire control facilities.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 907; Pub. L. 86-657, §8(c), July 14, 1960, 74 Stat. 524; Pub. L. 88-423, §4(d), Aug. 13, 1964, 78 Stat. 398; Pub. L. 90-495, §9, Aug. 23, 1968, 82 Stat. 820; Pub. L. 102-240, title I, §1032(c), Dec. 18, 1991, 105 Stat. 1975; Pub. L. 112-141, div. A, title I, §1513(c), July 6, 2012, 126 Stat. 572.)

Editorial Notes

AMENDMENTS

2012—Subsec. (d). Pub. L. 112-141 inserted “, which may include electric vehicle charging stations or natural gas vehicle refueling stations,” after “parking areas”.

1991—Subsec. (c). Pub. L. 102-240 substituted “\$50,000” for “\$15,000” wherever appearing.

1968—Subsec. (c). Pub. L. 90-495 increased from \$10,000 to \$15,000 the cost limitation on construction per mile, or per project for projects of less than a mile, which the Forest Service may construct on its own account and struck out provisions spelling out the functions which the Secretary of Agriculture is authorized to perform in carrying out such construction.

1964—Subsec. (a). Pub. L. 88-423 inserted “and other” after “experimental”.

1960—Subsec. (a). Pub. L. 86-657 substituted “may enter into contracts” for “may enter into construction contracts”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated