are omitted as surplus. The word ''waive'' is substituted for ''grant releases from'' and ''and to convey, quitclaim, or release any right or interest reserved to the United States by'' to eliminate unnecessary words. The words ''a term of a gift of an interest in property under this subchapter'' are substituted for ''any of the terms, conditions, reservations, and restrictions contained in . . . any such instrument of disposal'' for clarity and consistency. In clause (1), the words ''transferred by such instrument'' are omitted as surplus. In clause (2), the text of 50 App.:1622c (last proviso) is omitted as executed. The words ''protect or'' are omitted as surplus.

In subsection (b), the words ''In making any disposition of surplus property under this subsection'' are omitted as surplus. The words ''Secretary of a military department'' are substituted for ''the Secretary of the Army, or the Secretary of the Navy'' for consistency with other titles of the United States Code and to eliminate unnecessary words. The words ''Secretary of the Army'' are substituted for ''Secretary of War'' in section 13(g)(3) of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) because of section 205(a) of the National Security Act of 1947 (ch. 343, 61 Stat. 501). The Secretary of the Air Force is included in ''Secretary of a military department'' because of section 207(a) and (f) of the National Security Act of 1947 (ch. 343, 61 Stat. 502, 503). The word ''waive'' is substituted for ''omit from the instrument of disposal'' to eliminate unnecessary words and for consistency in this subchapter. The words ''conditions, reservations, and restrictions'' are omitted as surplus.

Editorial Notes

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63 added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: ''Notwithstanding subsections (a) and (b), before the Secretary may waive any term imposed under this section that an interest in land be used for an aeronautical purpose, the Secretary must provide notice to the public not less than 30 days before waiving such term.''

2000—Subsec. (a)(1). Pub. L. 106–181, §135(d)(3), substituted ''conveyance'' for ''gift'' in introductory provisions and subpar. (B) and ''conveyed'' for ''given'' in subpar. (A).

Subsec. (c). Pub. L. 106–181, §125(d), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

CONSTRUCTION OF 2000 AMENDMENT

Nothing in amendment by section 125(d) of Pub. L. 106–181 to be construed to authorize Secretary of Transportation to issue waiver or make a modification referred to in such amendment, see section 125(e) of Pub. L. 106–181, set out as a note under section 47107 of this title.

SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING

§ 47171. Expedited, coordinated environmental review process

(a) AVIATION PROJECT REVIEW PROCESS.—The Secretary of Transportation shall implement an expedited and coordinated environmental review process for airport capacity enhancement projects, terminal development projects, general aviation airport construction or improvement projects, and aviation safety projects that—

(1) provides for streamlined coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) provides that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for such a project will be conducted concurrently, to the maximum extent practicable; and

(3) provides that any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal agency or airport sponsor for such a project will be completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (d) with respect to the project.

(b) AVIATION PROJECTS SUBJECT TO A STREAMLINED ENVIRONMENTAL REVIEW PROCESS.—

(1) IN GENERAL.—Any airport capacity enhancement project, terminal development project, or general aviation airport construction or improvement project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(2) PROJECT DESIGNATION CRITERIA.—

(A) IN GENERAL.—The Secretary may designate an aviation safety project for priority environmental review.

(B) REQUIREMENTS.—A designated project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(C) GUIDELINES.—

(i) IN GENERAL.—The Secretary shall establish guidelines for the designation of an aviation safety project or aviation security project for priority environmental review.

(ii) CONSIDERATION.—Guidelines established under clause (i) shall provide for consideration of—

(I) the importance or urgency of the project;

(II) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(III) the need for cooperation and concurrent reviews by other Federal or State agencies; and

(IV) the prospect for undue delay if the project is not designated for priority review.

(c) HIGH PRIORITY OF AND AGENCY PARTICIPATION IN COORDINATED REVIEWS.—

(1) HIGH PRIORITY FOR ENVIRONMENTAL REVIEWS.—Each Federal agency with jurisdiction over an environmental review, analysis, opinion, permit, license, or approval shall accord any such review, analysis, opinion, permit, license, or approval involving a project described or designated under subsection (b) the highest possible priority and conduct the re-

view, analysis, opinion, permit, license, or approval expeditiously.

(2) AGENCY PARTICIPATION.—Each Federal agency described in subsection (d) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to participate in the coordinated environmental review process under this section and to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in subsection (a) in a timely and environmentally responsible manner.

(d) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to a project described or designated under subsection (b), the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

(e) STATE AUTHORITY.—Under a coordinated review process being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the Governor of the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

(f) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (d) with respect to the project and, if applicable, the airport sponsor.

(g) USE OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAMS.—

(1) IN GENERAL.—The Secretary may utilize an interagency environmental impact statement team to expedite and coordinate the coordinated environmental review process for a project under this section. When utilizing an interagency environmental impact statement team, the Secretary shall invite Federal, State and Tribal agencies with jurisdiction by law, and may invite such agencies with special expertise, to participate on an interagency environmental impact statement team.

(2) RESPONSIBILITY OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAM.—Under a coordinated environmental review process being implemented under this section, the interagency environmental impact statement team shall assist the Federal Aviation Administration in the preparation of the environmental impact statement. To facilitate timely and efficient environmental review, the team shall agree on agency or Tribal points of contact, protocols for communication among agencies, and deadlines for necessary actions by each individual agency (including the review of environmental analyses, the conduct of required consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals). The members of the team may formalize their agreement in a written memorandum.

(h) LEAD AGENCY RESPONSIBILITY.—The Federal Aviation Administration shall be the lead agency for projects described in subsection (b)(1) and shall be responsible for defining the scope and content of the environmental impact statement, consistent with regulations issued by the Council on Environmental Quality. Any other Federal agency or State agency that is participating in a coordinated environmental review process under this section shall give substantial deference, to the extent consistent with applicable law and policy, to the aviation expertise of the Federal Aviation Administration.

(i) EFFECT OF FAILURE TO MEET DEADLINE.—

(1) NOTIFICATION OF CONGRESS AND CEQ.— If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (a)(3) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

(j) PURPOSE AND NEED.—

(1) IN GENERAL.—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

(2) DEADLINE.—The Secretary shall define the purpose and need of a project not later than 45 days after—

(A) the submission of the appropriately completed proposed purpose and need description of the airport sponsor; and

(B) any appropriately completed proposed revision to a development project that affects the purpose and need description previously prepared or accepted by the Federal Aviation Administration.

(3) ASSISTANCE.—The Secretary shall provide all airport sponsors with technical assistance in drafting purpose and need statements and necessary supporting documentation for projects involving Federal approvals from more than 1 Federal agency.

(k) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to a project described or designated under subsection (b). Any other Federal agency, or State agency that is participating in a coordinated review process under this section with respect to the project shall—

(1) consider only those alternatives to the project that the Secretary has determined are reasonable; and

(2) limit the comments of the agency to—

(A) subject matter areas within the special expertise of the agency; and

(B) changes necessary to ensure the agency is carrying out the obligations of that agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable law.

(*l*) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (j) and (k), the Secretary shall solicit and consider comments from interested persons and governmental entities in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 1503 of title 40, Code of Federal Regulations.

(m) COORDINATION AND SCHEDULE.—

(1) COORDINATION PLAN.—

(A) IN GENERAL.—Not later than 90 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the Secretary of Transportation shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project described or designated under subsection (b). The coordination plan may be incorporated into a memorandum of understanding.

(B) CLOUD-BASED, INTERACTIVE DIGITAL PLATFORMS.—The Secretary is encouraged to utilize cloud-based, interactive digital platforms to meet community engagement and agency coordination requirements under subparagraph (A).

(C) SCHEDULE.—

(i) IN GENERAL.—The Secretary shall establish as part of such coordination plan, after consultation with and the concurrence of each participating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for—

(I) interim milestones and deadlines for agency activities necessary to complete the environmental review; and

(II) completion of the environmental review process for the project.

(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule under clause (i), the Secretary shall consider factors such as—

(I) the responsibilities of participating agencies under applicable laws;

(II) resources available to the cooperating agencies;

(III) overall size and complexity of the project;

(IV) the overall time required by an agency to conduct an environmental review and make decisions under applicable Federal law relating to a project (including the issuance or denial of a permit or license) and the cost of the project; and

(V) the sensitivity of the natural and historic resources that could be affected by the project.

(iii) MAXIMUM PROJECT SCHEDULE.—To the maximum extent practicable and consistent with applicable Federal law, the Secretary shall develop, in concurrence with the project sponsor, a maximum schedule for the project described or designated under subsection (b) that is not more than 2 years for the completion of the environmental review process for such projects, as measured from, as applicable, the date of publication of a notice of intent to prepare an environmental impact statement to the record of decision.

(iv) DISPUTE RESOLUTION.—

(I) IN GENERAL.—Any issue or dispute that arises between the Secretary and participating agencies (or amongst participating agencies) during the environmental review process shall be addressed expeditiously to avoid delay.

(II) RESPONSIBILITIES.—The Secretary and participating agencies shall—

(aa) implement the requirements of this section consistent with any dispute resolution process established in an applicable law, regulation, or legally binding agreement to the maximum extent permitted by law; and

(bb) seek to resolve issues or disputes at the earliest possible time at the project level through agency employees who have day-to-day involvement in the project.

(III) SECRETARY RESPONSIBILITIES.—

(aa) IN GENERAL.—The Secretary shall make information available to each cooperating and participating agency and project sponsor as early as practicable in the environmental review regarding the environmental, historic, and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

(bb) SOURCES OF INFORMATION.—The information described in item (aa) may be based on existing data sources, including geographic information systems mapping.

(IV) COOPERATING AND PARTICIPATING AGENCY RESPONSIBILITIES.—Each cooperating and participating agency shall—

(aa) identify, as early as practicable, any issues of concern regarding any po-

tential environmental impacts of the project, including any issues that could substantially delay or prevent an agency from completing any environmental review or authorization required for the project; and

(bb) communicate any issues described in item (aa) to the project sponsor.

(V) ELEVATION FOR MISSED MILESTONE.—If a dispute between the Secretary and participating agencies (or amongst participating agencies) causes a milestone to be missed or extended, or the Secretary anticipates that a permitting timetable milestone will be missed or will need to be extended, the dispute shall be elevated to an official designated by the relevant agency for resolution. The elevation of a dispute shall take place as soon as practicable after the Secretary becomes aware of the dispute or potential missed milestone.

(VI) EXCEPTION.—Disputes that do not impact the ability of an agency to meet a milestone may be elevated as appropriate.

(VII) FURTHER EVALUATION.—If a resolution has not been reached at the end of the 30-day period after a relevant milestone date or extension date after a dispute has been elevated to the designated official, the relevant agencies shall elevate the dispute to senior agency leadership for resolution.

(D) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (C) shall be consistent with any other relevant time periods established under Federal law.

(E) MODIFICATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may lengthen or shorten a schedule established under subparagraph (C) for good cause. The Secretary may consider a decision by the project sponsor to change, modify, expand, or reduce the scope of a project as good cause for purposes of this clause.

(ii) LIMITATIONS.—

(I) LENGTHENED SCHEDULE.—The Secretary may lengthen a schedule under clause (i) for a cooperating Federal agency by not more than 1 year after the latest deadline established for the project described or designated under subsection (b) by the Secretary.

(II) SHORTENED SCHEDULE.—The Secretary may not shorten a schedule under clause (i) if doing so would impair the ability of a cooperating Federal agency to conduct necessary analyses or otherwise carry out relevant obligations of the Federal agency for the project.

(F) FAILURE TO MEET DEADLINE.—If a cooperating Federal agency fails to meet a deadline established under subparagraph (D)(ii)(I)—[1]

(i) the cooperating Federal agency shall, not later than 10 days after failing to meet the deadline, submit to the Secretary a report that describes the reasons why the deadline was not met; and

(ii) the Secretary shall—

(I) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a copy of the report under clause (i); and

(II) make the report under clause (i) publicly available on a website of the Department of Transportation.

(G) DISSEMINATION.—A copy of a schedule under subparagraph (C), and of any modifications to the schedule under subparagraph (E), shall be—

(i) provided to all participating agencies and to the State department of transportation of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

(ii) made available to the public.

(2) COMMENT DEADLINES.—The Secretary shall establish the following deadlines for comment during the environmental review process for a project:

(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such statement, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of not more than 45 days from availability of the materials on which comment is requested, unless—

(i) a different deadline is established by agreement of the Secretary, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project described or designated under subsection (b) (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and publish on a website of the Department of Transportation—

(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

[1] So in original. Probably should be ''subparagraph (E)(ii)(I)—''.

(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law, including a regulation.

(n) CONCURRENT REVIEWS AND SINGLE NEPA DOCUMENT.—

(1) CONCURRENT REVIEWS.—Each participating agency and cooperating agency under the expedited and coordinated environmental review process established under this section shall—

(A) carry out the obligations of such agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of such agency to conduct needed analysis or otherwise carry out such obligations; and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(2) SINGLE NEPA DOCUMENT.—

(A) IN GENERAL.—To the maximum extent practicable and consistent with Federal law, all Federal permits and reviews for a project shall rely on a single environmental document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under the leadership of the Secretary.

(B) USE OF DOCUMENT.—

(i) IN GENERAL.—To the maximum extent practicable, the Secretary shall develop an environmental document sufficient to satisfy the requirements for any Federal approval or other Federal action required for the project, including permits issued by other Federal agencies.

(ii) COOPERATION OF PARTICIPATING AGENCIES.—In carrying out this subparagraph, other participating agencies shall cooperate with the lead agency and provide timely information.

(C) TREATMENT AS PARTICIPATING AND COOPERATING AGENCIES.—A Federal agency required to make an approval or take an action for a project, as described in this paragraph, shall work with the Secretary to ensure that the agency making the approval or taking the action is treated as being both a participating and cooperating agency for the project.

(D) EXCEPTIONS.—The Secretary may waive the application of subparagraph (A) with respect to a project if—

(i) the project sponsor requests that agencies issue separate environmental documents;

(ii) the obligations of a cooperating agency or participating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have already been satisfied with respect to the project; or

(iii) the Secretary determines that reliance on a single environmental document (as described in subparagraph (A)) would not facilitate timely completion of the environmental review process for the project.

(3) PARTICIPATING AGENCY RESPONSIBILITIES.—An agency participating in the expedited and coordinated environmental review process under this section shall—

(A) provide comments, responses, studies, or methodologies on areas within the special expertise or jurisdiction of the agency; and

(B) use the process to address any environmental issues of concern to the agency.

(*o*) ENVIRONMENTAL IMPACT STATEMENT.—

(1) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project described or designated under subsection (b), if the Secretary modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the Secretary may write on errata sheets attached to the statement instead of rewriting the draft statement, subject to the condition that the errata sheets—

(A) cite the sources, authorities, and reasons that support the position of the agency; and

(B) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(2) SINGLE DOCUMENT.—To the maximum extent practicable, for a project subject to a coordinated review process under this section, the Secretary shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

(A) the final environmental impact statement or record of decision makes substantial changes to the project that are relevant to environmental or safety concerns; or

(B) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the environmental impacts of the proposed action.

(3) LENGTH OF ENVIRONMENTAL DOCUMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an environmental impact statement shall not exceed 150 pages, not including any citations or appendices.

(B) EXTRAORDINARY COMPLEXITY.—An environmental impact statement for a proposed agency action of extraordinary complexity shall not exceed 300 pages, not including any citations or appendices.

(p) INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW.—

(1) IN GENERAL.—Subject to paragraph (5) and to the maximum extent practicable and

appropriate, the following agencies may adopt or incorporate by reference, and use a planning product in proceedings relating to, any class of action in the environmental review process of a project described or designated under subsection (b):

(A) The lead agency for a project, with respect to an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) A cooperating agency with responsibility under Federal law with respect to the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if consistent with such Act.

(2) IDENTIFICATION.—If a lead or cooperating agency makes a determination to adopt or incorporate by reference and use a planning product under paragraph (1), such agency shall identify the agencies that participated in the development of the planning products.

(3) ADOPTION OR INCORPORATION BY REFERENCE OF PLANNING PRODUCTS.—Such agency may—

(A) adopt or incorporate by reference an entire planning product under paragraph (1); or

(B) select portions of a planning project under paragraph (1) for adoption or incorporation by reference.

(4) TIMING.—The adoption or incorporation by reference of a planning product under paragraph (1) may—

(A) be made at the time the lead and cooperating agencies decide the appropriate scope of environmental review for the project; or

(B) occur later in the environmental review process, as appropriate.

(5) CONDITIONS.—Such agency in the environmental review process may adopt or incorporate by reference a planning product under this section if such agency determines, with the concurrence of the lead agency, if appropriate, and, if the planning product is necessary for a cooperating agency to issue a permit, review, or approval for the project, with the concurrence of the cooperating agency, if appropriate, that the following conditions have been met:

(A) The planning product was developed through a planning process conducted pursuant to applicable Federal law.

(B) The planning product was developed in consultation with appropriate Federal and State resource agencies and Indian Tribes.

(C) The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects, including effects on the human and natural environment.

(D) The planning process included public notice that the planning products produced in the planning process may be adopted during any subsequent environmental review process in accordance with this section.

(E) During the environmental review process, the such agency has—

(i) made the planning documents available for public review and comment by members of the general public and Federal, State, local, and Tribal governments that may have an interest in the proposed project;

(ii) provided notice of the intention of the such agency to adopt or incorporate by reference the planning product; and

(iii) considered any resulting comments.

(F) There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product or portions thereof.

(G) The planning product has a rational basis and is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

(H) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

(I) The planning product is appropriate for adoption or incorporation by reference and use in the environmental review process for the project and is incorporated in accordance with, and is sufficient to meet the requirements of, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 1502.21 of title 40, Code of Federal Regulations.

(6) EFFECT OF ADOPTION OR INCORPORATION BY REFERENCE.—Any planning product or portions thereof adopted or incorporated by reference by such agency in accordance with this subsection may be—

(A) incorporated directly into an environmental review process document or other environmental document; and

(B) relied on and used by other Federal agencies in carrying out reviews of the project.

(q) REPORT ON NEPA DATA.—

(1) IN GENERAL.—The Secretary shall carry out a process to track, and annually submit to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report on projects described in subsection (b)(1) that contains the information described in paragraph (3).

(2) TIME TO COMPLETE.—For purposes of paragraph (3), the NEPA process—

(A) for an environmental impact statement—

(i) begins on the date on which a notice of intent is published in the Federal Register; and

(ii) ends on the date on which the Secretary issues a record of decision, including, if necessary, a revised record of decision; and

(B) for an environmental assessment—

(i) begins on the date on which the Secretary makes a determination to prepare an environmental assessment; and

(ii) ends on the date on which the Secretary issues a finding of no significant impact or determines that preparation of an environmental impact statement is necessary.

(3) INFORMATION DESCRIBED.—The information referred to in paragraph (1) is, with respect to the Federal Aviation Administration—

(A) the number of proposed actions for which a categorical exclusion was applied by the Secretary during the reporting period;

(B) the number of proposed actions for which a documented categorical exclusion was applied by the Secretary during the reporting period;

(C) the number of proposed actions pending on the date on which the report is submitted for which the issuance of a documented categorical exclusion by the Secretary is pending;

(D) the number of proposed actions for which an environmental assessment was issued by the Secretary during the reporting period;

(E) the length of time the Administration took to complete each environmental assessment described in subparagraph (D);

(F) the number of proposed actions pending on the date on which the report is submitted for which an environmental assessment is being drafted by the Secretary;

(G) the number of proposed actions for which a final environmental impact statement was completed by the Secretary during the reporting period;

(H) the length of time that the Secretary took to complete each environmental impact statement described in subparagraph (G);

(I) the number of proposed actions pending on the date on which the report is submitted for which an environmental impact statement is being drafted; and

(J) for the proposed actions reported under subparagraphs (F) and (I), the percentage of such proposed actions for which—

(i) project funding has been identified; and

(ii) all other Federal, State, and local activities that are required to allow the proposed action to proceed are completed.

(4) DEFINITIONS.—In this section:

(A) ENVIRONMENTAL ASSESSMENT.—The term ''environmental assessment'' has the meaning given such term in section 1508.1 of title 40, Code of Federal Regulations (or a successor regulation).

(B) ENVIRONMENTAL IMPACT STATEMENT.—The term ''environmental impact statement'' means a detailed statement required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(C) NEPA PROCESS.—The term ''NEPA process'' means the entirety of the development and documentation of the analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the assessment and analysis of any impacts, alternatives, and mitigation of a proposed action, and any interagency participation and public involvement required to be carried out before the Secretary undertakes a proposed action.

(D) PROPOSED ACTION.—The term ''proposed action'' means an action (within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) under this title that the Secretary proposes to carry out.

(E) REPORTING PERIOD.—The term ''reporting period'' means the fiscal year prior to the fiscal year in which a report is issued under subsection (a).

(Added Pub. L. 108–176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2534; amended Pub. L. 115–254, div. B, title I, §191(a), title V, §539(q), Oct. 5, 2018, 132 Stat. 3238, 3371; Pub. L. 118–63, title VII, §783, May 16, 2024, 138 Stat. 1302.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1), (b)(2)(C)(ii)(II), (k)(2)(B), (*l*), (n)(1)(A), (2)(A), (D)(ii), (*o*)(1), (p)(1), (5)(I), and (q)(4)(C), (D), 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.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §783(1)(A), struck out ''develop and'' after ''shall'' and substituted ''projects, terminal development projects, general aviation airport construction or improvement projects, and aviation safety projects'' for ''projects at congested airports, general aviation airport construction or improvement projects, aviation safety projects, and aviation security projects'' in introductory provisions.

Subsec. (a)(1). Pub. L. 118–63, §783(1)(B), substituted ''streamlined'' for ''better''.

Subsec. (b). Pub. L. 118–63, §783(2), added subsec. (b) and struck out former subsec. (b) which related to aviation projects subject to a streamlined environmental review process, including airport capacity enhancement projects at congested airports, general aviation airport construction or improvement projects, and aviation safety and aviation security projects.

Subsec. (c)(1). Pub. L. 118–63, §783(3), substituted ''a project described or designated under subsection (b)'' for ''an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3)''.

Subsec. (d). Pub. L. 118–63, §783(4), substituted ''a project described or designated under subsection (b)'' for ''each airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3)''.

Subsec. (h). Pub. L. 118–63, §783(5), substituted ''described in subsection (b)(1)'' for ''designated under subsection (b)(3) and airport capacity enhancement projects at congested airports''.

Subsec. (j). Pub. L. 118–63, §783(6), designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

Subsec. (k). Pub. L. 118–63, §783(7), substituted ''a project described or designated under subsection (b)'' for ''an airport capacity enhancement project at a congested airport or a project designated under subsection

(b)(3)''; inserted dash after ''project shall'' and par. (1) designation before ''consider''; substituted ''; and'' for period at end; and added par. (2).

Subsec. (*l*). Pub. L. 118–63, § 783(8), substituted ''and section 1503 of title 40, Code of Federal Regulations.'' for period at end.

Subsecs. (m) to (q). Pub. L. 118–63, § 783(9), added subsecs. (m) to (q) and struck out former subsec. (m). Prior to amendment, text of subsec. (m) read as follows: ''The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section.''

2018—Subsec. (a). Pub. L. 115–254, § 191(a)(1), inserted ''general aviation airport construction or improvement projects,'' after ''congested airports,'' in introductory provisions.

Subsec. (b)(2), (3). Pub. L. 115–254, § 191(a)(2), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (c)(1), (d), (h), (k). Pub. L. 115–254, § 191(a)(3)–(6), substituted ''subsection (b)(3)'' for ''subsection (b)(2)''.

Subsec. (*l*). Pub. L. 115–254, § 539(q), substituted ''4321'' for ''4371''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out an Effective Date of 2003 Amendment note under section 106 of this title.

CATEGORICAL EXCLUSIONS

Pub. L. 118–63, title VII, § 788, May 16, 2024, 138 Stat. 1314, provided that:

''(a) CATEGORICAL EXCLUSION FOR PROJECTS OF LIMITED FEDERAL ASSISTANCE.—An action by the Administrator [of the Federal Aviation Administration] to approve, permit, finance, or otherwise authorize any airport project that is undertaken by the sponsor, owner, or operator of a public-use airport shall be presumed to be covered by a categorical exclusion under FAA [Federal Aviation Administration] Order 1050.1F (or any successor document), if such project—

''(1) receives less than $6,000,000 (as adjusted annually by the Administrator to reflect any increases in the Consumer Price Index prepared by the Department of Labor) of Federal funds or funds from charges collected under section 40117 of title 49, United States Code; or

''(2) has a total estimated cost of not more than $35,000,000 (as adjusted annually by the Administrator to reflect any increases in the Consumer Price Index prepared by the Department of Labor) and Federal funds comprising less than 15 percent of the total estimated project cost.

''(b) CATEGORICAL EXCLUSION IN EMERGENCIES.—An action by the Administrator to approve, permit, finance, or otherwise authorize an airport project that is undertaken by the sponsor, owner, or operator of a public-use airport shall be presumed to be covered by a categorical exclusion under FAA Order 1050.1F (or any successor document), if such project is—

''(1) for the repair or reconstruction of any airport facility, runway, taxiway, or similar structure that is in operation or under construction when damaged by an emergency declared by the Governor of the State with concurrence of the Administrator or for a disaster or emergency declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

''(2) in the same location with the same capacity, dimensions, and design as the original airport facility, runway, taxiway, or similar structure as before the declaration described in this section; and

''(3) commenced within a 2-year period beginning on the date of a declaration described in this section.

''(c) EXTRAORDINARY CIRCUMSTANCES.—The presumption that an action is covered by a categorical exclusion under subsections (a) and (b) shall not apply if the Administrator determines that extraordinary circumstances exist with respect to such action.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to impact any aviation safety authority of the Administrator.

''(e) DEFINITIONS.—In this section:

''(1) CATEGORICAL EXCLUSION.—The term 'categorical exclusion' has the meaning given such term in section 1508.1(d) of title 40, Code of Federal Regulations.

''(2) PUBLIC-USE AIRPORT; SPONSOR.—The terms 'public-use airport' and 'sponsor' have the meanings given such terms in section 47102 of title 49, United States Code.''

UPDATING PRESUMED TO CONFORM LIMITS

Pub. L. 118–63, title VII, § 789, May 16, 2024, 138 Stat. 1315, provided that: ''Not later than 24 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall take such actions as are necessary to update the FAA's [Federal Aviation Administration's] list of actions that are presumed to conform to a State implementation plan pursuant to section 93.153(f) of title 40, Code of Federal Regulations, to include projects relating to the construction of aircraft hangars.''

FINDINGS

Pub. L. 108–176, title III, § 302, Dec. 12, 2003, 117 Stat. 2533, provided that: ''Congress finds that—

''(1) airports play a major role in interstate and foreign commerce;

''(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

''(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

''(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

''(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.''

LIMITATIONS

Pub. L. 108–176, title III, § 308, Dec. 12, 2003, 117 Stat. 2539, provided that: ''Nothing in this subtitle [subtitle A (§§ 301–309) of title III of Pub. L. 108–176, enacting this subchapter, amending sections 40104, 47106, and 47504 of this title, and enacting provisions set out as notes under this section], including any amendment made by this title [enacting this subchapter and amending sections 40104, 40128, 47106, 47503, and 47504 of this title], shall preempt or interfere with—

''(1) any practice of seeking public comment;

''(2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and

''(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 [4321] et seq.) and the regulations issued by the Council on Environmental Quality to carry out such Act.''

RELATIONSHIP TO OTHER REQUIREMENTS

Pub. L. 108–176, title III, § 309, Dec. 12, 2003, 117 Stat. 2540, provided that: ''The coordinated review process re-

quired under the amendments made by this subtitle [enacting this subchapter and amending sections 40104, 47106, and 47504 of this title] shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 [49 U.S.C. 301 note] (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews).''

§ 47172. Air traffic procedures for airport capacity enhancement projects at congested airports

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of an airport capacity enhancement project at a congested airport that involves the construction of new runways or the reconfiguration of existing runways during the environmental planning process for the project. If the Administrator determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, the Administrator may commit, at the request of the airport sponsor and in a manner consistent with applicable Federal law, to prescribing such procedures in any record of decision approving the project.

(b) MODIFICATION.—Notwithstanding any commitment by the Administrator under subsection (a), the Administrator may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

(Added Pub. L. 108–176, title III, § 304(a), Dec. 12, 2003, 117 Stat. 2537.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out an Effective Date of 2003 Amendment note under section 106 of this title.

§ 47173. Airport funding of FAA staff

(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants—

(1) to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project;

(2) to conduct special environmental studies related to an airport project funded with Federal funds;

(3) to conduct special studies or reviews to support approved noise compatibility measures described in part 150 of title 14, Code of Federal Regulations;

(4) to conduct special studies or reviews to support environmental mitigation in a record of decision or finding of no significant impact by the Federal Aviation Administration; and

(5) to facilitate the timely processing, review, and completion of environmental activities associated with new or amended flight procedures, including performance-based navigation procedures, such as required navigation performance procedures and area navigation procedures.

(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

(3) shall remain available until expended.

(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002 (excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862)) for the activities described in subsection (a).

(Added Pub. L. 108–176, title III, § 304(a), Dec. 12, 2003, 117 Stat. 2537; amended Pub. L. 112–95, title V, § 503, Feb. 14, 2012, 126 Stat. 103.)

Editorial Notes

REFERENCES IN TEXT

Section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002, referred to in subsec. (d), is section 337 of Pub. L. 107–87, Dec. 18, 2001, 115 Stat. 862, which is not classified to the Code.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–95 substituted ''services of consultants—'' for ''services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.'' and added pars. (1) to (5).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out an Effective Date of 2003 Amendment note under section 106 of this title.

§ 47174. Authorization of appropriations

In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502),