

gram of projects that are carried out under this title or title 23.

(c) APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.—In considering the environmental impacts of a proposed multimodal project, a lead authority may apply categorical exclusions designated under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in implementing regulations or procedures of a cooperating authority for a proposed multimodal project, subject to the conditions that—

(1) the lead authority makes a determination, with the concurrence of the cooperating authority—

(A) on the applicability of a categorical exclusion to a proposed multimodal project; and

(B) that 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 this section;

(2) the lead authority follows the implementing regulations of the cooperating authority or procedures under that Act; and

(3) the lead authority determines that—

(A) the proposed multimodal project does not individually or cumulatively have a significant impact on the environment; and

(B) extraordinary circumstances do not exist that merit additional analysis and documentation in an environmental impact statement or environmental assessment required under that Act.

(d) COOPERATING AUTHORITY EXPERTISE.—A cooperating authority shall provide expertise to the lead authority on aspects of the multimodal project in which the cooperating authority has expertise.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 112-141, div. A, title I, §1314(a), July 6, 2012, 126 Stat. 547; Pub. L. 114-94, div. A, title I, §1310, Dec. 4, 2015, 129 Stat. 1397.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
304(a) .....	49:1653(g) (less 3d sentence).	Oct. 15, 1966, Pub. L. 89-670, §4(g), 80 Stat. 934.
304(b) .....	49:1653(g) (3d sentence).	

In subsection (a), the text of 49:1653(g) (last sentence) is omitted as executed.

In subsection (a)(4), the word “ensure” is substituted for “assure” as being more precise. The words “of the United States Government” are substituted for “Federal”, and the words “United States” are substituted for “national”, for clarity and consistency.

In subsection (b), the words “The Secretaries shall report on April 1 of each year” are substituted for “They shall, within one year after the effective date of the Act, and annually thereafter, report” to omit executed words and to specify the date of April 1 because the President prescribed April 1, 1967, as the effective date of the Department of Transportation Act (Pub. L. 89-670, 80 Stat. 931) by Executive Order No. 11340, March 30, 1967 (32 F.R. 5443). The word “consider” is substituted for “determine” for consistency.

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subssecs. (a)(2) and (c), 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

2015—Subsec. (a)(1). Pub. L. 114-94, §1310(1)(A), substituted “operating administration or secretarial office that has expertise but” for “operating authority that” and inserted “proposed multimodal” after “with respect to a”.

Subsec. (a)(2). Pub. L. 114-94, §1310(1)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The term ‘lead authority’ means a Department of Transportation operating administration or secretarial office that—

“(A) is the lead authority over a proposed multimodal project; and

“(B) has determined that the components of the project that fall under the modal expertise of the lead authority—

“(i) satisfy the conditions for a categorical exclusion under implementing regulations or procedures of the lead authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(ii) do not require the preparation of an environmental assessment or environmental impact statement under that Act.”

Subsec. (b). Pub. L. 114-94, §1310(2), inserted “or title 23” after “under this title”.

Subsec. (c). Pub. L. 114-94, §1310(3), added subsec. (c) and struck out former subsec. (c) which related to application of categorical exclusions for multimodal projects.

Subsec. (d). Pub. L. 114-94, §1310(3), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows:

“(1) IN GENERAL.—A cooperating authority shall provide modal expertise to the lead authority on such aspects of the multimodal project in which the cooperating authority has expertise.

“(2) USE OF CATEGORICAL EXCLUSION.—In a case described in paragraph (1), the 1 or more categorical exclusions of a cooperating authority may be applied by the lead authority once the cooperating authority reviews the project on behalf of the lead authority and determines the project satisfies the conditions for a categorical exclusion under the implementing regulations or procedures of the cooperating authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section.”

2012—Pub. L. 112-141 amended section generally. Prior to amendment, section related to joint activities with the Secretary of Housing and Urban Development.

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 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 Title 23, Highways.

§304a. Accelerated decisionmaking in environmental reviews

(a) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency 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 ad-

ditional agency response, the lead agency may write on errata sheets attached to the statement, instead of rewriting the draft statement, subject to the condition that the errata sheets—

- (1) cite the sources, authorities, and reasons that support the position of the agency; and
- (2) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(b) **SINGLE DOCUMENT.**—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

- (1) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or
- (2) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the impacts of the proposed action.

(c) **ADOPTION AND INCORPORATION BY REFERENCE OF DOCUMENTS.**—

(1) **AVOIDING DUPLICATION.**—To prevent duplication of analyses and support expeditious and efficient decisions, the operating administrations of the Department of Transportation shall use adoption and incorporation by reference in accordance with this subsection.

(2) **ADOPTION OF DOCUMENTS OF OTHER OPERATING ADMINISTRATIONS.**—An operating administration or a secretarial office within the Department of Transportation may adopt a draft environmental impact statement, an environmental assessment, or a final environmental impact statement of another operating administration for the use of the adopting operating administration when preparing an environmental assessment or final environmental impact statement for a project without recirculating the document for public review, if—

- (A) the adopting operating administration certifies that the proposed action is substantially the same as the project considered in the document to be adopted;
- (B) the other operating administration concurs with such decision; and
- (C) such actions are consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) **INCORPORATION BY REFERENCE.**—An operating administration or secretarial office within the Department of Transportation may incorporate by reference all or portions of a draft environmental impact statement, an environmental assessment, or a final environmental impact statement for the use of the adopting operating administration when preparing an environmental assessment or final environmental impact statement for a project if—

- (A) the incorporated material is cited in the environmental assessment or final environmental impact statement and the contents of the incorporated material are briefly described;
- (B) the incorporated material is reasonably available for inspection by potentially interested persons within the time allowed for review and comment; and

(C) the incorporated material does not include proprietary data that is not available for review and comment.

(Added Pub. L. 114-94, div. A, title I, §1311(a), Dec. 4, 2015, 129 Stat. 1398.)

#### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a) and (c)(2)(C), 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.

#### EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

### § 305. Transportation investment standards and criteria

(a) Subject to sections 301-304<sup>1</sup> of this title, the Secretary of Transportation shall develop standards and criteria to formulate and economically evaluate all proposals for investing amounts of the United States Government in transportation facilities and equipment. Based on experience, the Secretary shall revise the standards and criteria. When approved by Congress, the Secretary shall prescribe standards and criteria developed or revised under this subsection. This subsection does not apply to—

- (1) the acquisition of transportation facilities or equipment by a department, agency, or instrumentality of the Government to provide transportation for its use;
- (2) an inter-oceanic canal located outside the 48 contiguous States;
- (3) defense features included at the direction of the Department of Defense in designing and constructing civil air, sea, or land transportation;
- (4) foreign assistance programs;
- (5) water resources projects; or
- (6) grant-in-aid programs authorized by law.

(b) A department, agency, or instrumentality of the Government preparing a survey, plan, or report that includes a proposal about which the Secretary has prescribed standards and criteria under subsection (a) of this section shall—

- (1) prepare the survey, plan, or report under those standards and criteria and on the basis of information provided by the Secretary on the—
  - (A) projected growth of transportation needs and traffic in the affected area;
  - (B) the relative efficiency of various modes of transportation;
  - (C) the available transportation services in the area; and
  - (D) the general effect of the proposed investment on existing modes of transportation and on the regional and national economy;
- (2) coordinate the survey, plan, or report—
  - (A) with the Secretary and include the views and comments of the Secretary; and

<sup>1</sup> See References in Text note below.