

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 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective August 23, 1968, see section 37 of Pub. L. 90-495, set out as a note under section 502 of this title.

ACQUISITION OF DWELLINGS

Prohibition against the use of eminent domain to acquire any dwelling (including related buildings) under the terms of Pub. L. 89-285, see section 305 of Pub. L. 89-285, set out as a note under section 131 of this title.

TAKING OF PRIVATE PROPERTY WITHOUT JUST COMPENSATION

Prohibition against the taking of private property or the restriction of reasonable and existing use by such taking without just compensation under the terms of Pub. L. 89-285, see section 401 of Pub. L. 89-285, set out as a note under section 131 of this title.

§ 137. Fringe and corridor parking facilities

(a) The Secretary may approve as a project on a Federal-aid highway the acquisition of land adjacent to the right-of-way outside a central business district, as defined by the Secretary, and the construction of publicly owned parking facilities thereon or within such right-of-way, including the use of the air space above and below the established grade line of the highway pavement, to serve an urban area of fifty thousand population or more. Such parking facility shall be located and designed in conjunction with existing or planned public transportation facilities. In the event fees are charged for the use of any such facility, the rate thereof shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility).

(b) The Secretary shall not approve any project under this section until—

(1) he has determined that the State, or the political subdivision thereof, where such project is to be located, or any agency or instrumentality of such State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility;

(2) he has entered into an agreement governing the financing, maintenance, and operation of the parking facility with such State, political subdivision, agency, or instrumentality, including necessary requirements to insure that adequate public transportation services will be available to persons using such facility; and

(3) he has approved design standards for constructing such facility developed in cooperation with the State transportation department.

(c) The term “parking facilities” for purposes of this section shall include access roads, buildings, structures, equipment, improvements, and interests in lands.

(d) Nothing in this section, or in any rule or regulation issued under this section, or in any agreement required by this section, shall prohibit (1) any State, political subdivision, or

agency or instrumentality thereof, from contracting with any person to operate any parking facility constructed under this section, or (2) any such person from so operating such facility.

(e) The Secretary shall not approve any project under this section unless he determines that it is based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title.

(f)(1) The Secretary may approve for Federal financial assistance from funds apportioned under section 104(b)(1), projects for designating existing facilities, or for acquisition of rights of way or construction of new facilities, including the addition of electric vehicle charging stations or natural gas vehicle refueling stations, for use as preferential parking for carpools, provided that such facilities (A) are located outside of a central business district and within an interstate highway corridor, and (B) have as their primary purpose the reduction of vehicular traffic on the interstate highway.

(2) Nothing in this subsection, or in any rule or regulation issued under this subsection, or in any agreement required by this subsection, shall prohibit (A) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility designated or constructed under this subsection, or (B) any such person from so operating such facility. Any fees charged for the use of any such facility in connection with the purpose of this subsection shall not be in excess of the amount required for operation and maintenance, including compensation to any person for operating the facility.

(3) For the purposes of this subsection, the terms “facilities” and “parking facilities” are synonymous and shall have the same meaning given “parking facilities” in subsection (c) of this section.

(g) FUNDING.—The addition of electric vehicle charging stations or natural gas vehicle refueling stations to new or previously funded parking facilities shall be eligible for funding under this section.

(Added Pub. L. 89-574, §8(c)(1), Sept. 13, 1966, 80 Stat. 768; amended Pub. L. 91-605, title I, §134(a), Dec. 31, 1970, 84 Stat. 1733; Pub. L. 97-424, title I, §118, Jan. 6, 1983, 96 Stat. 2110; Pub. L. 105-178, title I, §§1103(l)(3)(B), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 126, 193; Pub. L. 109-59, title I, §1921, Aug. 10, 2005, 119 Stat. 1480; Pub. L. 112-141, div. A, title I, §1513(a), July 6, 2012, 126 Stat. 572.)

Editorial Notes

AMENDMENTS

2012—Subsec. (f)(1). Pub. L. 112-141, §1513(a)(1), substituted “104(b)(1)” for “104(b)(4)” and inserted “including the addition of electric vehicle charging stations or natural gas vehicle refueling stations,” after “new facilities.”

Subsec. (g). Pub. L. 112-141, §1513(a)(2), added subsec. (g).

2005—Subsec. (a). Pub. L. 109-59 substituted “on a Federal-aid highway” for “on the Federal-aid urban system”.

1998—Subsec. (b)(3). Pub. L. 105-178, §1212(a)(2)(A)(i), substituted “State transportation department” for “State highway department”.

Subsec. (f)(1). Pub. L. 105-178, §1103(j)(3)(B), substituted “section 104(b)(4)” for “section 104(b)(5)(B) of this title”.

1983—Subsec. (f). Pub. L. 97-424 added subsec. (f).

1970—Pub. L. 91-605 substituted “Fringe and corridor parking facilities” for “Limitation on authorization of appropriations for certain purposes” in section catchline.

Subsec. (a). Pub. L. 91-605 substituted provisions permitting the Secretary to approve construction of publicly owned parking facilities under the Federal-aid urban system for provisions limiting authorization of appropriations under section 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing these sections and provisions from being construed as authority for any appropriations not specifically authorized in these sections and provisions.

Subsec. (b). Pub. L. 91-605 substituted provisions preventing project approval by the Secretary unless the State or political subdivision thereof where the project is located can construct, maintain, and operate the facility, unless the Secretary has entered into an agreement with the State or political subdivision governing the financing, maintenance, and operation of the facility, and unless the Secretary has approved design standards for construction of the facility for provisions limiting authorization of appropriations under sections 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing appropriations to carry out these sections and provisions unless they are specific as to the amount authorized and as to the fiscal year.

Subsec. (c). Pub. L. 91-605 substituted provisions defining “parking facilities” for provisions limiting authorization of appropriations under sections 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing the highway trust fund from being a source of appropriation for these sections and provisions in an amount exceeding the tax imposed by section 4061(a)(2) of Title 26, if such tax was imposed at a rate of 1% plus additional amounts appropriated from the general fund to the highway trust fund for such purposes except that the total of all appropriations made from such fund to carry out these sections and provisions shall never exceed the total of all appropriations made to such fund based on the imposition of such tax plus additional amounts appropriated from the general fund to the highway trust fund for such purposes.

Subsecs. (d), (e). Pub. L. 91-605 added subsecs. (d) and (e).

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.

RELINQUISHMENT OF PARK-AND-RIDE LOT FACILITIES

Pub. L. 114-94, div. A, title I, §1423, Dec. 4, 2015, 129 Stat. 1425, provided that: “A State transportation agency may relinquish park-and-ride lot facilities or portions of park-and-ride lot facilities to a local government agency for highway purposes if authorized to do so under State law if the agreement providing for the relinquishment provides that—

“(1) rights-of-way on the Interstate System will remain available for future highway improvements; and

“(2) modifications to the facilities that could impair the highway or interfere with the free and safe flow of traffic are subject to the approval of the Secretary [of Transportation].”

JASON’S LAW

Pub. L. 112-141, div. A, title I, §1401, July 6, 2012, 126 Stat. 554, provided that:

“(a) IN GENERAL.—It is the sense of Congress that it is a national priority to address projects under this section for the shortage of long-term parking for commercial motor vehicles on the National Highway System to improve the safety of motorized and nonmotorized users and for commercial motor vehicle operators.

“(b) ELIGIBLE PROJECTS.—Eligible projects under this section are those that—

“(1) serve the National Highway System; and

“(2) may include the following:

“(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.

“(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

“(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

“(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

“(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

“(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

“(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

“(c) SURVEY AND COMPARATIVE ASSESSMENT.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], the Secretary [of Transportation], in consultation with relevant State motor carrier safety personnel, shall conduct a survey of each State—

“(A) to evaluate the capability of the State to provide adequate parking and rest facilities for commercial motor vehicles engaged in interstate transportation;

“(B) to assess the volume of commercial motor vehicle traffic in the State; and

“(C) to develop a system of metrics to measure the adequacy of commercial motor vehicle parking facilities in the State.

“(2) RESULTS.—The results of the survey under paragraph (1) shall be made available to the public on the website of the Department of Transportation.

“(3) PERIODIC UPDATES.—The Secretary shall periodically update the survey under this subsection.

“(d) ELECTRIC VEHICLE AND NATURAL GAS VEHICLE INFRASTRUCTURE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a State may establish electric vehicle charging stations or natural gas vehicle refueling stations for the use of battery-powered or natural gas-fueled trucks or other motor vehicles at any parking facility funded or authorized under this Act [see Tables for classification] or title 23, United States Code.

“(2) EXCEPTION.—Electric vehicle battery charging stations or natural gas vehicle refueling stations may not be established or supported under paragraph (1) if commercial establishments serving motor vehicle users are prohibited by section 111 of title 23, United States Code.

“(3) FUNDS.—Charging or refueling stations described in paragraph (1) shall be eligible for the same funds as are available for the parking facilities in which the stations are located.

“(e) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded through the authority provided under this section shall be treated as projects on a Federal-aid highway under chapter 1 of title 23, United States Code.”

TRUCK PARKING FACILITIES

Pub. L. 109-59, title I, §1305, Aug. 10, 2005, 119 Stat. 1214, which related to truck parking facilities, was re-

pealed by Pub. L. 112-141, div. A, title I, § 1519(b)(2), July 6, 2012, 126 Stat. 575.

§ 138. Preservation of parklands

(a) DECLARATION OF POLICY.—

(1) IN GENERAL.—It is the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

(2) COOPERATION AND CONSULTATION.—

(A) IN GENERAL.—The Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed.

(B) TIMELINE FOR APPROVALS.—

(i) IN GENERAL.—The Secretary shall—

(I) provide an evaluation under this section to the Secretaries described in subparagraph (A); and

(II) provide a period of 30 days for receipt of comments.

(ii) ASSUMED ACCEPTANCE.—If the Secretary does not receive comments by 15 days after the deadline under clause (i)(II), the Secretary shall assume a lack of objection and proceed with the action.

(C) EFFECT.—Nothing in subparagraph (B) affects—

(i) the requirements under—

(I) subsections (b) through (f); or

(II) the consultation process under section 306108 of title 54; or

(ii) programmatic section 4(f) evaluations, as described in regulations issued by the Secretary.

(3) REQUIREMENT.—After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project (other than any project for a Federal lands transportation facility) which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless—

(A) there is no feasible and prudent alternative to the use of the land; and

(B) the program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

(4) STUDIES.—In carrying out the national policy declared in this section the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, is authorized to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.

(b) DE MINIMIS IMPACTS.—

(1) REQUIREMENTS.—

(A) REQUIREMENTS FOR HISTORIC SITES.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (a)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (a)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, in accordance with the consultation process required under section 306108 of title 54, that—

(i) the transportation program or project will have no adverse effect on the historic site; or

(ii) there will be no historic properties affected by the transportation program or project;

(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.