

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 this title.

IMPLEMENTATION OF PROGRAMMATIC COMPLIANCE

Pub. L. 114-94, div. A, title I, § 1304(k), Dec. 4, 2015, 129 Stat. 1386, provided that:

“(1) **RULEMAKING.**—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall complete a rulemaking to implement the provisions of section 139(b)(3) of title 23, United States Code, as amended by this section.

“(2) **CONSULTATION.**—Before initiating the rulemaking under paragraph (1), the Secretary shall consult with relevant Federal agencies, relevant State resource agencies, State departments of transportation, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches.

“(3) **REQUIREMENTS.**—In carrying out this subsection, the Secretary shall ensure that the rulemaking meets the requirements of section 139(b)(3)(B) of title 23, United States Code, as amended by this section.

“(4) **COMMENT PERIOD.**—The Secretary shall—

“(A) allow not fewer than 60 days for public notice and comment on the proposed rule; and

“(B) address any comments received under this subsection.”

EXISTING ENVIRONMENTAL REVIEW PROCESS

Pub. L. 109-59, title VI, § 6002(b), Aug. 10, 2005, 119 Stat. 1865, provided that: “Nothing in this section [enacting this section and repealing provisions set out as a note under section 109 of this title] affects any existing State environmental review process, program, agreement, or funding arrangement approved by the Secretary [of Transportation] under section 1309 of the Transportation Equity Act for the 21st Century [Pub. L. 105-178] (112 Stat. 232; 23 U.S.C. 109 note) as such section was in effect on the day preceding the date of enactment of the SAFETEA-LU [Aug. 10, 2005].”

Executive Documents

MEMORANDA OF AGENCY AGREEMENTS FOR EARLY COORDINATION

Pub. L. 112-141, div. A, title I, § 1320, July 6, 2012, 126 Stat. 551, provided that:

“(a) **IN GENERAL.**—It is the sense of Congress that—

“(1) the Secretary [of Transportation] and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other and other agencies on environmental review and project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, head off potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

“(2) such cooperation should include the development of policies and the designation of staff that advise planning agencies or project sponsors of studies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

“(b) **TECHNICAL ASSISTANCE.**—If requested at any time by a State or local planning agency, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or local planning agency on accomplishing the early coordination activities described in subsection (d).

“(c) **MEMORANDUM OF AGENCY AGREEMENT.**—If requested at any time by a State or local planning agency, the lead agency, in consultation with other Federal

agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State, and local governments and other appropriate entities to accomplish the early coordination activities described in subsection (d).

“(d) **EARLY COORDINATION ACTIVITIES.**—Early coordination activities shall include, to the maximum extent practicable, the following:

“(1) Technical assistance on identifying potential impacts and mitigation issues in an integrated fashion.

“(2) The potential appropriateness of using planning products and decisions in later environmental reviews.

“(3) The identification and elimination from detailed study in the environmental review process of the issues that are not significant or that have been covered by prior environmental reviews.

“(4) The identification of other environmental review and consultation requirements so that the lead and cooperating agencies may prepare, as appropriate, other required analyses and studies concurrently with planning activities.

“(5) The identification by agencies with jurisdiction over any permits related to the project of any and all relevant information that will reasonably be required for the project.

“(6) The reduction of duplication between requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and State and local planning and environmental review requirements, unless the agencies are specifically barred from doing so by applicable law.

“(7) Timelines for the completion of agency actions during the planning and environmental review processes.

“(8) Other appropriate factors.”

DELEGATION OF A REPORTING AUTHORITY

Memorandum of President of the United States, Jan. 31, 2013, 78 F.R. 8351, provided:

Memorandum for the Secretary of Transportation

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authority conferred upon the President by section 1306 of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141, to make the specified reports to the Congress.

You are authorized and directed to notify the appropriate congressional committees and publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 140. Nondiscrimination

(a) Prior to approving any programs for projects as provided for in section 135, the Secretary shall require assurances from any State desiring to avail itself of the benefits of this chapter that employment in connection with proposed projects will be provided without regard to race, color, creed, national origin, or sex. The Secretary shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder. In approving programs for projects on any of the Federal-aid systems, the Secretary, if necessary to ensure equal employment opportunity, shall require certification by any State desiring to avail itself of the benefits of this chapter that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading

programs, registered with the Department of Labor or the appropriate State agency, if any, which provide equal opportunity for training and employment without regard to race, color, creed, national origin, or sex. In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program. The Secretary shall periodically obtain from the Secretary of Labor and the respective State transportation departments information which will enable the Secretary to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as the Secretary of Transportation shall deem necessary to carry out the equal employment opportunity program required hereunder.

(b) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer surface transportation and technology training, including skill improvement programs, and to develop and fund summer transportation institutes. From administrative funds made available under section 104(a), the Secretary shall deduct such sums as necessary, not to exceed \$10,000,000 per fiscal year, for the administration of this subsection. Such sums so deducted shall remain available until expended. The provisions of section 6101(b) to (d) of title 41 shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary. Notwithstanding any other provision of law, not to exceed ½ of 1 percent of funds apportioned to a State for the surface transportation block grant program under section 104(b) may be available to carry out this subsection upon request of the State transportation department to the Secretary.

(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. From administrative funds made available under section 104(a), the Secretary shall deduct such sums as necessary, not to exceed \$10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 6101(b) to (d) of title 41 shall not be applicable to contracts and agreements made under the authority herein granted

to the Secretary notwithstanding the provisions of section 3106 of title 41.

(d) INDIAN EMPLOYMENT.—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservation roads. States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations. The Secretary shall cooperate with Indian tribal governments and the States to implement this subsection.

(Added Pub. L. 90-495, §22(a), Aug. 23, 1968, 82 Stat. 826; amended Pub. L. 91-605, title I, §110, Dec. 31, 1970, 84 Stat. 1719; Pub. L. 93-87, title I, §120, Aug. 13, 1973, 87 Stat. 259; Pub. L. 94-280, title I, §126, May 5, 1976, 90 Stat. 440; Pub. L. 97-424, title I, §119, Jan. 6, 1983, 96 Stat. 2110; Pub. L. 100-17, title I, §122, Apr. 2, 1987, 101 Stat. 160; Pub. L. 102-240, title I, §1026, Dec. 18, 1991, 105 Stat. 1965; Pub. L. 102-388, title IV, §412, Oct. 6, 1992, 106 Stat. 1565; Pub. L. 105-178, title I, §§1208, 1212(a)(2)(A), June 9, 1998, 112 Stat. 186, 193; Pub. L. 109-59, title I, §1922, Aug. 10, 2005, 119 Stat. 1481; Pub. L. 111-350, §5(e)(1), Jan. 4, 2011, 124 Stat. 3847; Pub. L. 112-141, div. A, title I, §1109, July 6, 2012, 126 Stat. 444; Pub. L. 114-94, div. A, title I, §§1109(c)(5), 1446(d)(1), Dec. 4, 2015, 129 Stat. 1343, 1438; Pub. L. 117-58, div. A, title I, §11525(i), Nov. 15, 2021, 135 Stat. 607.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a). Pub. L. 117-58 substituted “Secretary, if necessary” for “Secretary if necessary” in third sentence.

2015—Subsec. (b). Pub. L. 114-94, §1446(d)(1), amended directory language of Pub. L. 112-141, §1109(a)(2). See 2012 Amendment note below.

Pub. L. 114-94, §1109(c)(5), substituted “surface transportation block grant program” for “surface transportation program”.

2012—Subsec. (b). Pub. L. 112-141, §1109(a)(1), substituted “From administrative funds made available under section 104(a),” for “Whenever apportionments are made under section 104(b)(3) of this title,”.

Pub. L. 112-141, §1109(a)(2), as amended by Pub. L. 114-94, §1446(d)(1), struck out “and the bridge program under section 144” after “section 104(b)”.

Subsec. (c). Pub. L. 112-141, §1109(b), substituted “From administrative funds made available under section 104(a),” for “Whenever apportionments are made under section 104(b)(3),”.

2011—Subsec. (b). Pub. L. 111-350, §5(e)(1)(A), substituted “section 6101(b) to (d) of title 41” for “section 3709 of the Revised Statutes, as amended (41 U.S.C. 5),”.

Subsec. (c). Pub. L. 111-350, §5(e)(1)(B), substituted “section 6101(b) to (d) of title 41” for “section 3709 of the Revised Statutes, as amended (41 U.S.C. 5),” and “section 3106 of title 41” for “section 302(e) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(e))”.

2005—Subsec. (a). Pub. L. 109-59, §1922(a), in first sentence, substituted “section 135” for “subsection (a) of section 105 of this title”, in second sentence, substituted “The Secretary” for “He”, in third sentence, substituted “if necessary to ensure” for “shall, where he considers it necessary to assure” and inserted “shall” before “require”, and, in last sentence, substituted “the Secretary to” for “him to” and “the Secretary of Transportation” for “he”.

Subsec. (b). Pub. L. 109-59, §1922(b), in first sentence, substituted “surface transportation” for “highway con-

struction” and, in second sentence, struck out “he may deem” before “necessary” and “not to exceed \$2,500,000 for the transition quarter ending September 30, 1976, and” before “not to exceed \$10,000,000”.

Subsec. (c). Pub. L. 109-59, § 1922(c), substituted “section 104(b)(3)” for “subsection 104(b)(3) of this title” and struck out “he may deem” before “necessary”.

Subsec. (d). Pub. L. 109-59, § 1922(d), struck out “AND CONTRACTING” after “EMPLOYMENT” in heading.

1998—Subsec. (a). Pub. L. 105-178, §§ 1208(a), 1212(a)(2)(A)(ii), inserted “In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program.” after third sentence and substituted “State transportation departments” for “State highway departments”.

Subsec. (b). Pub. L. 105-178, §§ 1208(b), 1212(a)(2)(A)(i), inserted “and technology” after “highway construction” and “”, and to develop and fund summer transportation institutes” after “skill improvement programs” and substituted “section 104(b)(3)” for “section 104(b)” and “State transportation department” for “State highway department”.

Subsec. (c). Pub. L. 105-178, § 1208(c), substituted “104(b)(3)” for “104(a)”.

1992—Subsec. (b). Pub. L. 102-388 substituted “½ of 1 percent” for “¼ of 1 percent” in last sentence.

1991—Subsec. (b). Pub. L. 102-240, § 1026(a), (b), inserted “Indian tribal government,” after “institution,” and inserted at end “Notwithstanding any other provision of law, not to exceed ¼ of 1 percent of funds apportioned to a State for the surface transportation program under section 104(b) and the bridge program under section 144 may be available to carry out this subsection upon request of the State highway department to the Secretary.”

Subsec. (c). Pub. L. 102-240, § 1026(b), inserted “Indian tribal government,” after “institution.”

Subsec. (d). Pub. L. 102-240, § 1026(c), inserted after first sentence “States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations.”

1987—Subsec. (d). Pub. L. 100-17 added subsec. (d).

1983—Pub. L. 97-424, § 119(c), substituted “Non-discrimination” for “Equal employment opportunity” in section catchline.

Subsec. (a). Pub. L. 97-424, § 119(a), substituted “, national origin, or sex” for “or national origin” after “color, creed”, in two places.

Subsec. (c). Pub. L. 97-424, § 119(b), added subsec. (c).

1976—Subsec. (b). Pub. L. 94-280 substituted second sentence “Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed \$2,500,000 for the transition quarter ending September 30, 1976, and not to exceed \$10,000,000 per fiscal year, for the administration of this subsection.” for “Whenever an apportionment is made under subsections 104(b)(1), (b)(2), (b)(3), (b)(5), and (b)(6) of this title of the sums authorized to be appropriated for expenditure upon the Federal-aid primary and secondary systems, and their extensions within urban areas, the Interstate System, and the Federal-aid urban system for the fiscal years 1972, 1973, 1974, 1975, and 1976, the Secretary shall deduct such sums as he may deem necessary not to exceed \$5,000,000 per fiscal year for the fiscal years 1972 and 1973, and \$10,000,000 per fiscal year for the fiscal years 1974, 1975 and 1976, for administering the provisions of this subsection to be financed from the appropriation for the Federal-aid systems.”

1973—Subsec. (b). Pub. L. 93-87 included apportionment of appropriated moneys for administration of sub-

sec. (b) provisions for fiscal years 1974, 1975, and 1976, and substituted provisions which made available for such administration \$5,000,000 per fiscal year for fiscal years 1972, and 1973, and \$10,000,000 per fiscal year for fiscal years 1974, 1975, and 1976, for prior provision making available \$5,000,000 per fiscal year for such administration.

1970—Pub. L. 91-605 designated existing provisions as subsec. (a) and added subsec. (b).

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

Except as otherwise provided, 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.

Pub. L. 114-94, div. A, title I, § 1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(1) is effective as of July 6, 2012, and as if included in Pub. L. 112-141 as enacted.

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 or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

EFFECTIVE DATE

Section effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

§ 141. Enforcement of requirements

(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title. Each State shall also certify that it is enforcing and complying with the provisions of section 127(d) of this title and section 31112 of title 49.

(b)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 7 percent of the amount which would otherwise be apportioned to such State under paragraphs (1) through (6) of section 104(b).