

tions, and Executive Orders that are inconsistent with, duplicative of, or are structured so as to restrict their efficient implementation with other applicable requirements.

(c) Makes recommendations regarding those additional actions that could be taken to: (i) address the coordination and expediting of reviews of transportation infrastructure projects by simplifying and harmonizing applicable substantive and procedural requirements; and (ii) elevate and resolve controversies among Federal, State, tribal, and local agencies related to the review or impacts of transportation infrastructure projects in a timely manner.

(d) Provides any other recommendations that would, in the judgement of the Task Force, advance the policy set forth in section 1 of this order.

SEC. 5. *Preservation of Authority.* Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals.

SEC. 6. *Judicial Review.* This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

**§ 302. Policy standards for transportation**

(a) The Secretary of Transportation is governed by the transportation policy of sections 10101 and 13101 of this title in addition to other laws.

(b) This subtitle and chapters 221 and 315 of this title do not authorize, without appropriate action by Congress, the adoption, revision, or implementation of a transportation policy or investment standards or criteria.

(c) The Secretary shall consider the needs—

- (1) for effectiveness and safety in transportation systems; and
- (2) of national defense.

(d)(1) It is the policy of the United States to promote the construction and commercialization of high-speed ground transportation systems by—

- (A) conducting economic and technological research;
- (B) demonstrating advancements in high-speed ground transportation technologies;
- (C) establishing a comprehensive policy for the development of such systems and the effective integration of the various high-speed ground transportation technologies; and
- (D) minimizing the long-term risks of investors.

(2) It is the policy of the United States to establish in the shortest time practicable a United States designed and constructed magnetic levitation transportation technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States.

(e) **INTERMODAL TRANSPORTATION.**—It is the policy of the United States Government to encourage and promote development of a national intermodal transportation system in the United States to move people and goods in an energy-efficient manner, provide the foundation for improved productivity growth, strengthen the Nation's ability to compete in the global economy,

and obtain the optimum yield from the Nation's transportation resources.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 102-240, title I, §1036(a), title V, §5001, Dec. 18, 1991, 105 Stat. 1978, 2158; Pub. L. 103-272, §5(m)(6), July 5, 1994, 108 Stat. 1375; Pub. L. 104-88, title III, §308(a), Dec. 29, 1995, 109 Stat. 946.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
302(a) .....	49:1653(b)(1).	Oct. 15, 1966, Pub. L. 89-670, §4(b), 80 Stat. 933.
302(b) .....	49:1653(b)(2).	
302(c) .....	49:1653(b)(3).	

In subsection (a), the words “In carrying out his duties and responsibilities under this chapter” before “Secretary of Transportation” are omitted as surplus. The words “the transportation policy of sections 10101 and 10101a of this title in addition to other laws” are substituted for “all applicable statutes including the policy standards set forth in the Federal Aviation Act of 1958, as amended [49 U.S.C. 1301 et seq.]; the national transportation policy of the Interstate Commerce Act, as amended; title 23, relating to Federal-aid highways; and title 14, titles 52 and 53 of the Revised Statutes, the Act of April 25, 1940, as amended, and the Act of September 2, 1958, as amended, relating to the United States Coast Guard” because each of the omitted laws is now applicable to the Secretary of Transportation and the Department of Transportation as the result of the restatement of those laws, and the Secretary is therefore bound to follow those laws by their own terms.

In subsection (c), the words “In exercising the functions, powers, and duties conferred on and transferred to the Secretary by this chapter” before “Secretary” are omitted as surplus. The word “consider” is substituted for “give full consideration to” to eliminate surplus words. The words “for operational continuity of the functions transferred” after “the needs” are omitted as executed.

**Editorial Notes**

AMENDMENTS

1995—Subsec. (a). Pub. L. 104-88 substituted “13101” for “10101a”.

1994—Subsec. (b). Pub. L. 103-272 substituted “This subtitle and chapters 221 and 315 of this title” for “Subtitle I and chapter 31 of subtitle II of this title and the Department of Transportation Act (49 App. U.S.C. 1651 et seq.)”.

1991—Subsec. (d). Pub. L. 102-240, §1036(a), added subsec. (d).

Subsec. (e). Pub. L. 102-240, §5001, added subsec. (e).

1984—Subsec. (b). Pub. L. 98-216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 1036(a) of 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 Title 23, Highways.

**§ 303. Policy on lands, wildlife and waterfowl refuges, and historic sites**

(a) It is the policy of the United States Government 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.

(b) The Secretary of Transportation 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 lands crossed by transportation activities or facilities.

(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsections (d) and (h), the Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204<sup>1</sup> of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

(1) there is no prudent and feasible alternative to using that land; and

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

(d) 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 (c)(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 (c)(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 re-

quired under section 306108 of title 54, United States Code,<sup>2</sup> 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.

(e) SATISFACTION OF REQUIREMENTS FOR CERTAIN HISTORIC SITES.—

(1) IN GENERAL.—The Secretary shall—

(A) align, to the maximum extent practicable, the requirements of this section with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 306108 of title 54, including implementing regulations; and

(B) not later than 90 days after the date of enactment of this subsection, coordinate with the Secretary of the Interior and the Executive Director of the Advisory Council on Historic Preservation (referred to in this subsection as the “Council”) to establish procedures to satisfy the requirements described in subparagraph (A) (including regulations).

(2) AVOIDANCE ALTERNATIVE ANALYSIS.—

(A) IN GENERAL.—If, in an analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary determines that there is no feasible or prudent alternative to avoid use of a historic site, the Secretary may—

(i) include the determination of the Secretary in the analysis required under that Act;

(ii) provide a notice of the determination to—

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

<sup>2</sup> So in original. The words “, United States Code” probably should not appear.