

§ 331. Evaluation of projects within an operational right-of-way

(a) DEFINITIONS.—

(1) ELIGIBLE PROJECT OR ACTIVITY.—

(A) IN GENERAL.—In this section, the term “eligible project or activity” means a project or activity within an existing operational right-of-way (as defined in section 771.117(c)(22) of title 23, Code of Federal Regulations (or successor regulations))—

(i)(I) eligible for assistance under this title; or

(II) administered as if made available under this title;

(ii) that is—

(I) a preventive maintenance, preservation, or highway safety improvement project (as defined in section 148(a)); or

(II) a new turn lane that the State advises in writing to the Secretary would assist public safety; and

(iii) that—

(I) is classified as a categorical exclusion under section 771.117 of title 23, Code of Federal Regulations (or successor regulations); or

(II) if the project or activity does not receive assistance described in clause (i) would be considered a categorical exclusion if the project or activity received assistance described in clause (i).

(B) EXCLUSION.—The term “eligible project or activity” does not include a project to create a new travel lane.

(2) PRELIMINARY EVALUATION.—The term “preliminary evaluation”, with respect to an application described in subsection (b)(1), means an evaluation that is customary or practicable for the relevant agency to complete within a 45-day period for similar applications.

(3) RELEVANT AGENCY.—The term “relevant agency” means a Federal agency, other than the Federal Highway Administration, with responsibility for review of an application from a State for a permit, approval, or jurisdictional determination for an eligible project or activity.

(b) ACTION REQUIRED.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 45 days after the date of receipt of an application by a State for a permit, approval, or jurisdictional determination for an eligible project or activity, the head of the relevant agency shall—

(A) make at least a preliminary evaluation of the application; and

(B) notify the State of the results of the preliminary evaluation under subparagraph (A).

(2) EXTENSION.—The head of the relevant agency may extend the review period under paragraph (1) by not more than 30 days if the head of the relevant agency provides to the State written notice that includes an explanation of the need for the extension.

(3) FAILURE TO ACT.—If the head of the relevant agency fails to meet a deadline under

paragraph (1) or (2), as applicable, the head of the relevant agency shall—

(A) not later than 30 days after the date of the missed deadline, submit to the State, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes why the deadline was missed; and

(B) not later than 14 days after the date on which a report is submitted under subparagraph (A), make publicly available, including on the internet, a copy of that report.

(Added Pub. L. 117–58, div. A, title I, §11309(a), Nov. 15, 2021, 135 Stat. 535.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§ 332. Pollinator-friendly practices on roadsides and highway rights-of-way

(a) IN GENERAL.—The Secretary shall establish a program to provide grants to eligible entities to carry out activities to benefit pollinators on roadsides and highway rights-of-way, including the planting and seeding of native, locally-appropriate grasses and wildflowers, including milkweed.

(b) ELIGIBLE ENTITIES.—An entity eligible to receive a grant under this section is—

(1) a State department of transportation;

(2) an Indian tribe; or

(3) a Federal land management agency.

(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a pollinator-friendly practices plan described in subsection (d).

(d) POLLINATOR-FRIENDLY PRACTICES PLAN.—

(1) IN GENERAL.—An eligible entity shall include in the application under subsection (c) a plan that describes the pollinator-friendly practices that the eligible entity has implemented or plans to implement, including—

(A) practices relating to mowing strategies that promote early successional vegetation and limit disturbance during periods of high-use by target pollinator species on roadsides and highway rights-of-way, such as—

(i) reducing the mowing swath outside of the State-designated safety zone;

(ii) increasing the mowing height;

(iii) reducing the mowing frequency;

(iv) refraining from mowing monarch and other pollinator habitat during periods in which monarchs or other pollinators are present;

(v) use of a flushing bar and cutting at reduced speeds to reduce pollinator deaths due to mowing; or

(vi) reducing raking along roadsides and highway rights-of-way;

(B) implementation of an integrated vegetation management plan that includes ap-