§ 5328. Project review

(a) Schedule.—

(1) Alternatives analysis.— The Secretary shall cooperate with an applicant undertaking an alternatives analysis required by subsections (d) and (e) of section 5309 in the alternatives analysis and in preparing a draft environmental impact statement and shall approve the draft for circulation not later than 45 days after the applicant submits the draft to the Secretary.

(2) Advancement to preliminary engineering stage.— After the draft is circulated and not later than 30 days after the applicant selects a locally preferred alternative, the Secretary shall allow the project to advance to the preliminary engineering stage if the Secretary finds the project meets the requirements of subsection (d) or (e) of section 5309.

(3) Record of decision.— The Secretary shall issue a record of decision and allow a project to advance to the final design stage not later than 120 days after the final environmental impact statement for the project is completed if the Secretary determines that the project meets the requirements of subsection (d) or (e) of section 5309.

(4) Funding agreements.— The Secretary shall enter into a full funding grant agreement or project construction grant agreement, as appropriate, between the Government and the project sponsor if the Secretary determines that the project meets the requirements of subsection (d) or (e) of section 5309.

(b) Allowed Delays.—

(1) Advancement of a project under the time requirements of subsection (a) of this section may be delayed only—

(A) for the time the applicant may request; or

(B) during the time the Secretary finds, after reasonable notice and an opportunity for comment, that the applicant, for reasons attributable only to the applicant, has not complied substantially with the provisions of this chapter applicable to the project.

(2) Not more than 10 days after imposing a delay under paragraph (1)(B) of this subsection, the Secretary shall give the applicant a written statement explaining the reasons for the delay and describing actions the applicant must take to end the delay.

(3) At least once every 6 months, the Secretary shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on each situation in which the Secretary has not met a time requirement of subsection (a) of this section or delayed a time requirement under paragraph (1)(B) of this subsection. The report shall explain the reasons for the delay and include a plan for achieving timely completion of the Secretary’s review.

(c) Program of Interrelated Projects.—

(1) In this subsection, a program of interrelated projects includes the following:

(A) the New Jersey Urban Core Project (as defined in title III of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2087)).

(B) the San Francisco Bay Area Rail Extension Program, consisting of at least an extension of the San Francisco Bay Area Rapid Transit District to the San Francisco International Airport (Phase 1a to Colma and Phase 1b to San Francisco Airport), the Santa Clara County Transit District Tasman Corridor Project, a program element designated by a change to the Metropolitan Transportation Commission Resolution No. 1876, and a program element financed completely with non-Government amounts, including the BART Warm Springs Extension, Dublin Extension, and West Pittsburg Extension.
(C) the Los Angeles Metro Rail Minimum Operable Segment-3 Program, consisting of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

(i) one line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations.

(ii) one line running west from the Wilshire/Western station to the Pico/San Vicente station, with one intermediate station.

(iii) the East Side Extension, consisting of an initial line of approximately 3 miles, with at least 2 stations, beginning at Union Station and running generally east.

(D) the Baltimore-Washington Transportation Improvement Program, consisting of 3 extensions of the Baltimore Light Rail to Hunt Valley, Penn Station, and Baltimore-Washington Airport, MARC extensions to Frederick and Waldorf, Maryland, and an extension of the Washington Subway system to Largo, Maryland.

(E) the Tri-County Metropolitan Transportation District of Oregon Light Rail Program, consisting of the locally preferred alternative for the Westside Light Rail Project, including system related costs, contained in the Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101–516, 104 Stat. 2155), and defined in House Report 101–584, the Hillsboro extension to the Westside Light Rail Project contained in that Act, and the locally preferred alternative for the South/North Corridor Project.

(F) the Queens Local/Express Connector Program, consisting of the locally preferred alternative for the connection of the 63d Street tunnel extension to the Queens Boulevard lines, the bell-mouth part of the connector that will allow for future access by commuter rail trains and other subway lines to the 63d Street tunnel extension, planning elements for connecting the upper and lower levels to commuter and subway lines in Long Island City, and planning elements for providing a connector for commuter rail transportation to the East side of Manhattan and subway lines to the proposed Second Avenue subway.

(G) the Dallas Area Rapid Transit Authority light rail elements of the New System Plan, consisting of the locally preferred alternative for the South Oak Cliff corridor, the South Oak Cliff corridor extension-Camp Wisdom, the West Oak Cliff corridor-Westmoreland, the North Central corridor-Park Lane, the North Central corridor-Richardson, Plano, and Garland extensions, the Pleasant Grove corridor-Buckner, and the Carrollton corridors-Farmers Branch and Las Colinas terminal.

(H) other programs designated by law or the Secretary.

(2) Consistent with the time requirements of subsection (a) of this section or as otherwise provided by law, the Secretary shall make at least one full financing grant agreement for each program described in paragraph (1) of this subsection. The agreement shall include commitments to advance each of the applicant’s program elements (in the program of interrelated projects) through the appropriate program review stages as provided in subsection (a) or as otherwise provided by law and to provide Government financing for each element. The agreement may be changed to include design and construction of a particular element.

(3) When reviewing a project in a program of interrelated projects, the Secretary shall consider the local financial commitment, transportation effectiveness, and other assessment factors of all program elements to the extent consideration expedites carrying out the project.

(4) Including a program element not financed by the Government in a program of interrelated projects does not impose Government requirements that otherwise would not apply to the element.
Historical and Revision Notes

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In subsection (a)(1), the words “the date on which” are omitted as surplus.

In subsection (a)(2), the words “the criteria set forth in” are omitted as surplus.

In subsection (a)(4), the words “negotiate and” are omitted as surplus. The words “under section 5309 of this title” are added for clarity.

In subsection (b)(1)(A), the words “solely at the applicant’s discretion” are omitted as surplus.

In subsection (c)(2), the words “if appropriate” are omitted as surplus.

References in Text


Amendments

2005—Subsec. (a)(1). Pub. L. 109–59, § 3027(1), inserted heading and substituted “The Secretary shall cooperate with an applicant undertaking an alternatives analysis required by subsections (d) and (e) of section 5309 in the alternatives analysis” for “When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant in alternatives analysis”.

Subsec. (a)(2). Pub. L. 109–59, § 3027(2), inserted heading and substituted “meets the requirements of subsection (d) or (e) of section 5309” for “is consistent with section 5309 (e)”.

Subsec. (a)(3). Pub. L. 109–59, § 3027(3), inserted heading, struck out “of construction” after “stage”, and inserted “if the Secretary determines that the project meets the requirements of subsection (d) or (e) of section 5309” before period at end.

Subsec. (a)(4). Pub. L. 109–59, § 3027(4), added par. (4) and struck out former par. (4) which read as follows: “The Secretary shall make a full funding grant agreement under section 5309 of this title for a project not later than 120 days after the project enters the final design stage of construction. The agreement shall provide for a United States Government share of the construction cost at least equal to the Government share estimated in the Secretary’s most recent report required under 5309(o)(1) or an update of the report unless the applicant requests otherwise.”


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Effective Date of 1998 Amendment