



DEPARTMENT OF TRANSPORTATION

[4910-9X-P]

Office of the Secretary of Transportation

[Docket No. DOT-OST-2019-0118]

RIN 2105-ZA09

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Interim Policies on Page Limits for National Environmental Policy Act Documents and the Application of the One Federal Decision Process to DOT Projects

AGENCY: Office of the Secretary of Transportation (OST), U.S. Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This notice announces the availability of two U.S. Department of Transportation interim policies for public comment: (1) *Page Limits for National Environmental Policy Act Documents and Focused Analyses* and (2) *Application of the One Federal Decision Process to DOT Projects*. DOT anticipates that the *Page Limits* memorandum will improve the quality of environmental documentation while reducing the length of these documents. The *One Federal Decision* memorandum will provide direction on how and when to apply the One Federal Decision process to DOT projects.

DATES: Both of these memoranda are effective, as interim policies, on the date of publication of this notice. Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Late-filed comments will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Rhonda Solomon, Environmental Protection Specialist, U.S. Department of Transportation, Office of the Secretary, 1200 New

Jersey Avenue, SE, Washington, D.C. 20590, at (202) 366-5397 or e-mail
rhonda.solomon@dot.gov.

SUPPLEMENTARY INFORMATION: Electronic Access and Filing

Availability: The *Page Limits* interim policy is available for public review and comment at: <https://www.transportation.gov/transportation-policy/permittingcenter/interim-policy-page-limits-nepa-documents-and-focused>. The *One Federal Decision* interim policy is also available at: <https://www.transportation.gov/transportation-policy/permittingcenter/interim-policy-one-federal-decision-implementation>.

Comments should refer to the docket number above and be submitted by one of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the SUPPLEMENTARY INFORMATION section of this document. Note that all comments

received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477-78) or at <https://www.transportation.gov/privacy>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the dockets.

Page Limits for National Environmental Policy Act Documents and Focused Analyses

Consistent with the Council on Environmental Quality (CEQ) "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act" (NEPA), this interim policy provides that, to the extent practicable, DOT operating administrations (OAs) should limit the text of draft and final environmental impact statements (EISs) to 150 pages, unless they are of an unusual scope or complexity. The interim policy also recommends that environmental assessments not exceed 75 pages. The memorandum also discusses best practices to help comply with these page limits.

DOT finds it necessary to issue this interim policy because lengthy NEPA documents, containing extraneous detail and needless data, have resulted in increases in both time and cost to complete the environmental review process and has made it increasingly difficult for agency decisionmakers and the public to find the relevant information regarding proposed

actions. Setting appropriate page limits is recognized as a mechanism to reduce excessive paperwork and ensure that NEPA documentation is clear, concise, and focused.

In addition to reaffirming the requirements found in CEQ regulations, this memorandum is consistent with the Department's existing NEPA implementing procedures, DOT Order 5610.1C, "Procedures for Considering Environmental Impacts" (July 30, 1985). It also aligns with the goals stated in Executive Order (E.O.) 13807, *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*, 82 FR 40463 (Aug. 24, 2017), to achieve more efficient and effective Federal infrastructure decisions. The E.O. includes the goal of completing all Federal environmental reviews and authorization decisions for "major infrastructure projects" within 2 years.

Application of the One Federal Decision Process to DOT Projects

On August 15, 2017, the President signed E.O. 13807, *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*. This E.O. mandated Federal agencies to use a One Federal Decision (OFD) process for "major infrastructure projects" (MIPs). MIPs are defined by the E.O. as infrastructure projects that require multiple authorizations by Federal agencies, where the lead agency has determined that the projects will require an environmental impact statement (EIS), and the project sponsor has identified the reasonable availability of funds sufficient to complete the project. The E.O. directs Federal agencies that have MIPs to prepare a permitting timetable to be tracked through the Federal Permitting Dashboard at <https://www.permits.performance.gov/>, establish an elevation process when a milestone may be missed or extended through an accountability system, and prepare a single environmental document and record of decision (ROD). These projects should have one lead Federal

agency to navigate the project through the environmental review and authorization process. The E.O. establishes the goal of completing the environmental review process for MIPs in two years. In addition, all Federal authorization decisions should be completed within 90 days of the issuance of the ROD. Section 5(b)(iv)(C) also makes clear that the E.O. should be followed by State, tribal, or local agencies that are exercising an assignment or delegation of a Federal agency's NEPA responsibilities.

On April 9, 2018, several Departments and agencies involved in the development and approval of infrastructure projects, including DOT, executed a Memorandum of Understanding (MOU) to facilitate the implementation of the E.O. The MOU outlined the roles and responsibilities for the agencies. This included establishing a pre-scoping process, concurrence points where each agency would have to agree in writing to key decision points, an elevation process to address disputes and schedule changes, and limited exceptions for applying the OFD process.

In September 26, 2018, Office of Management and Budget (OMB) released Memorandum M-18-25, *Modernize Infrastructure Permitting Cross-Agency Priority Goal Performance Accountability System*. This memorandum outlined how agencies would be held accountable for the implementation of the OFD process to their projects.

The DOT interim policy on the *Application of the OFD Process to DOT Projects* provides DOT NEPA practitioners the processes and procedures to implement the E.O., the MOU, and the OMB accountability system guidance to DOT projects. It incorporates guidance issued by OMB and CEQ on the application of the E.O. to States participating in the NEPA Assignment Program authorized by 23 U.S.C. 327. See M-19-11, *Memorandum for the Secretary of Transportation: Guidance on the Applicability of E.O. 13807 to States*

with NEPA Assignment Authority under the Surface Transportation Project Delivery Program (Feb. 26, 2019), <https://www.whitehouse.gov/wp-content/uploads/2019/02/m-19-11.pdf>.

Issued in Washington, DC, on August 19, 2019.

Loren Smith,

Deputy Assistant Secretary for Transportation Policy.

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