

**PART 773—SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM**

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APPENDIX A TO PART 773—FHWA ENVIRONMENTAL RESPONSIBILITIES THAT MAY BE ASSIGNED UNDER SECTION 6005.

AUTHORITY: 23 U.S.C. 315 and 327; 49 CFR 1.48.

SOURCE: 72 FR 6470, Feb. 12, 2007, unless otherwise noted.

**§ 773.101 Purpose.**

The purpose of this part is to establish the requirements, as directed by 23 U.S.C. 327(b)(2), relating to the information which must be contained in an application by a State to participate in the program allowing the Secretary to assign, and a State Department of Transportation (State DOT) to assume, responsibilities for compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4347) and other Federal environmental laws pertaining to the review or approval of a highway project(s).

**§ 773.102 Applicability.**

This part applies to any State DOT eligible under the provisions of 23 U.S.C. 327 that submits an application for participation in the program.

**§ 773.103 Definitions.**

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. As used in this part:

*Classes of highway projects* means either a defined group of highway projects or all highway projects to which Federal environmental laws apply.

*Federal environmental law* means any Federal law or Executive Order (EO) under which the Secretary of the United States Department of Transportation has responsibilities for environ-

mental review, consultation, or other action with respect to the review or approval of highway projects. A list of the Federal environmental laws for which a State DOT may assume the responsibilities of the Secretary under this pilot program include, but are not limited to, the list of laws contained in Appendix A to this Part. But, under 23 U.S.C. 327(a)(2)(B), the Secretary's responsibility for conformity determinations required under section 176 of the Clean Air Act (42 U.S.C. 7506) and the responsibility imposed on the Secretary under 23 U.S.C. 134 and 135 are not included in the program. Also, Federal environmental law includes only laws that are inherently environmental and does not include responsibilities such as Interstate access approvals (23 U.S.C. 111).

*Highway project* means any undertaking to construct (including initial construction, reconstruction, replacement, rehabilitation, restoration, or other improvements) a highway, bridge, or tunnel, or any portion thereof, including environmental mitigation activities, which is eligible for assistance under title 23 of the United States Code. A highway project may include an undertaking that involves a series of contracts or phases, such as a corridor, and also may include anything that may be constructed in connection with a highway, bridge, or tunnel. However, the term highway project does not include any of the priority projects designated under Executive Order 13274; does not include any Federal Lands Highway project unless such project is to be designed and constructed by the State DOT; and does not include projects that are funded under chapter 53 of title 49, United States Code. Nothing in this part is intended to limit the consideration of any alternative in conducting an environmental analysis under any Federal environmental law, even if the particular alternative would provide for a project that is excluded under this section and may consider and include that alternative within the range of alternatives for a highway project.

*Program* means the "Surface Transportation Project Delivery Program" established under 23 U.S.C. 327, which allows up to five State DOTs to assume