

## EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

**§ 167. National freight policy**

(a) **IN GENERAL.**—It is the policy of the United States to improve the condition and performance of the national freight network to ensure that the national freight network provides the foundation for the United States to compete in the global economy and achieve each goal described in subsection (b).

(b) **GOALS.**—The goals of the national freight policy are—

(1) to invest in infrastructure improvements and to implement operational improvements that—

(A) strengthen the contribution of the national freight network to the economic competitiveness of the United States;

(B) reduce congestion; and

(C) increase productivity, particularly for domestic industries and businesses that create high-value jobs;

(2) to improve the safety, security, and resilience of freight transportation;

(3) to improve the state of good repair of the national freight network;

(4) to use advanced technology to improve the safety and efficiency of the national freight network;

(5) to incorporate concepts of performance, innovation, competition, and accountability into the operation and maintenance of the national freight network; and<sup>1</sup>

(6) to improve the economic efficiency of the national freight network.<sup>1</sup>

(7) to reduce the environmental impacts of freight movement on the national freight network;<sup>1</sup>

(c) **ESTABLISHMENT OF A NATIONAL FREIGHT NETWORK.**—

(1) **IN GENERAL.**—The Secretary shall establish a national freight network in accordance with this section to assist States in strategically directing resources toward improved system performance for efficient movement of freight on highways, including national highway system, freight intermodal connectors and aerotropolis transportation systems.

(2) **NETWORK COMPONENTS.**—The national freight network shall consist of—

(A) the primary freight network, as designated by the Secretary under subsection (d) (referred to in this section as the “primary freight network”) as most critical to the movement of freight;

(B) the portions of the Interstate System not designated as part of the primary freight network; and

(C) critical rural freight corridors established under subsection (e).

(d) **DESIGNATION OF PRIMARY FREIGHT NETWORK.**—

(1) **INITIAL DESIGNATION OF PRIMARY FREIGHT NETWORK.**—

(A) **DESIGNATION.**—Not later than 1 year after the date of enactment of this section, the Secretary shall designate a primary freight network—

(i) based on an inventory of national freight volume conducted by the Administrator of the Federal Highway Administration, in consultation with stakeholders, including system users, transport providers, and States; and

(ii) that shall be comprised of not more than 27,000 centerline miles of existing roadways that are most critical to the movement of freight.

(B) **FACTORS FOR DESIGNATION.**—In designating the primary freight network, the Secretary shall consider—

(i) the origins and destinations of freight movement in the United States;

(ii) the total freight tonnage and value of freight moved by highways;

(iii) the percentage of annual average daily truck traffic in the annual average daily traffic on principal arterials;

(iv) the annual average daily truck traffic on principal arterials;

(v) land and maritime ports of entry;

(vi) access to energy exploration, development, installation, or production areas;

(vii) population centers; and

(viii) network connectivity.

(2) **ADDITIONAL MILES ON PRIMARY FREIGHT NETWORK.**—In addition to the miles initially designated under paragraph (1), the Secretary may increase the number of miles designated as part of the primary freight network by not more than 3,000 additional centerline miles of roadways (which may include existing or planned roads) critical to future efficient movement of goods on the primary freight network.

(3) **REDESIGNATION OF PRIMARY FREIGHT NETWORK.**—Effective beginning 10 years after the designation of the primary freight network and every 10 years thereafter, using the designation factors described in paragraph (1), the Secretary shall redesignate the primary freight network (including additional mileage described in paragraph (2)).

(e) **CRITICAL RURAL FREIGHT CORRIDORS.**—A State may designate a road within the borders of the State as a critical rural freight corridor if the road—

(1) is a rural principal arterial roadway and has a minimum of 25 percent of the annual average daily traffic of the road measured in passenger vehicle equivalent units from trucks (FHWA vehicle class 8 to 13);

(2) provides access to energy exploration, development, installation, or production areas;

(3) connects the primary freight network, a roadway described in paragraph (1) or (2), or Interstate System to facilities that handle more than—

(A) 50,000 20-foot equivalent units per year;

or

(B) 500,000 tons per year of bulk commodities.

(f) **NATIONAL FREIGHT STRATEGIC PLAN.**—

<sup>1</sup> So in original.

(1) INITIAL DEVELOPMENT OF NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 3 years after the date of enactment of this section, the Secretary shall, in consultation with State departments of transportation and other appropriate public and private transportation stakeholders, develop and post on the Department of Transportation public website a national freight strategic plan that shall include—

(A) an assessment of the condition and performance of the national freight network;

(B) an identification of highway bottlenecks on the national freight network that create significant freight congestion problems, based on a quantitative methodology developed by the Secretary, which shall, at a minimum, include—

(i) information from the Freight Analysis Network of the Federal Highway Administration; and

(ii) to the maximum extent practicable, an estimate of the cost of addressing each bottleneck and any operational improvements that could be implemented;

(C) forecasts of freight volumes for the 20-year period beginning in the year during which the plan is issued;

(D) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators for current and forecasted traffic and freight volumes, the identification of which shall be revised, as appropriate, in subsequent plans;

(E) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance (including opportunities for overcoming the barriers);

(F) an identification of routes providing access to energy exploration, development, installation, or production areas;

(G) best practices for improving the performance of the national freight network;

(H) best practices to mitigate the impacts of freight movement on communities;

(I) a process for addressing multistate projects and encouraging jurisdictions to collaborate; and

(J) strategies to improve freight intermodal connectivity.

(2) UPDATES TO NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 5 years after the date of completion of the first national freight strategic plan under paragraph (1), and every 5 years thereafter, the Secretary shall update and repost on the Department of Transportation public website a revised national freight strategic plan.

(g) FREIGHT TRANSPORTATION CONDITIONS AND PERFORMANCE REPORTS.—Not later than 2 years after the date of enactment of this section, and biennially thereafter, the Secretary shall prepare a report that contains a description of the conditions and performance of the national freight network in the United States.

(h) TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall—

(A) begin development of new tools and improvement of existing tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other transportation projects, including—

(i) methodologies for systematic analysis of benefits and costs;

(ii) tools for ensuring that the evaluation of freight-related and other transportation projects could consider safety, economic competitiveness, environmental sustainability, and system condition in the project selection process; and

(iii) other elements to assist in effective transportation planning;

(B) identify transportation-related model data elements to support a broad range of evaluation methods and techniques to assist in making transportation investment decisions; and

(C) at a minimum, in consultation with other relevant Federal agencies, consider any improvements to existing freight flow data collection efforts that could reduce identified freight data gaps and deficiencies and help improve forecasts of freight transportation demand.

(2) CONSULTATION.—The Secretary shall consult with Federal, State, and other stakeholders to develop, improve, and implement the tools and collect the data in paragraph (1).

(i) DEFINITION OF AEROTROPOLIS TRANSPORTATION SYSTEM.—In this section, the term “aerotropolis transportation system” means a planned and coordinated multimodal freight and passenger transportation network that, as determined by the Secretary, provides efficient, cost-effective, sustainable, and intermodal connectivity to a defined region of economic significance centered around a major airport.

(Added Pub. L. 112–141, div. A, title I, §1115(a), July 6, 2012, 126 Stat. 468.)

#### REFERENCES IN TEXT

The date of enactment of this section, referred to in subssecs. (d)(1)(A), (f)(1), (g), and (h)(1), is the date of enactment of Pub. L. 112–141, which was approved July 6, 2012.

#### EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

#### FREIGHT MOVEMENT PROJECTS, ADVISORY COMMITTEES, AND PLANS

Pub. L. 112–141, div. A, title I, §§1116–1118, July 6, 2012, 126 Stat. 472, 473, provided that:

“SEC. 1116. PRIORITIZATION OF PROJECTS TO IMPROVE FREIGHT MOVEMENT.

“(a) IN GENERAL.—Notwithstanding section 120 of title 23, United States Code, the Secretary may increase the Federal share payable for any project to 95 percent for projects on the Interstate System and 90 percent for any other project if the Secretary certifies that the project meets the requirements of this section.

“(b) INCREASED FUNDING.—To be eligible for the increased Federal funding share under this section, a project shall—

“(1) demonstrate the improvement made by the project to the efficient movement of freight, including making progress towards meeting performance targets for freight movement established under section 150(d) of title 23, United States Code; and

“(2) be identified in a State freight plan developed pursuant to section 1118.

“(c) ELIGIBLE PROJECTS.—Eligible projects to improve the movement of freight under this section may include, but are not limited to—

“(1) construction, reconstruction, rehabilitation, and operational improvements directly relating to improving freight movement;

“(2) intelligent transportation systems and other technology to improve the flow of freight;

“(3) efforts to reduce the environmental impacts of freight movement on the primary freight network;

“(4) railway-highway grade separation;

“(5) geometric improvements to interchanges and ramps. [sic]

“(6) truck-only lanes;

“(7) climbing and runaway truck lanes;

“(8) truck parking facilities eligible for funding under section 1401;

“(9) real-time traffic, truck parking, roadway condition, and multimodal transportation information systems;

“(10) improvements to freight intermodal connectors; and

“(11) improvements to truck bottlenecks.

“SEC. 1117. STATE FREIGHT ADVISORY COMMITTEES.

“(a) IN GENERAL.—The Secretary shall encourage each State to establish a freight advisory committee consisting of a representative cross-section of public and private sector freight stakeholders, including representatives of ports, shippers, carriers, freight-related associations, the freight industry workforce, the transportation department of the State, and local governments.

“(b) ROLE OF COMMITTEE.—A freight advisory committee of a State described in subsection (a) shall—

“(1) advise the State on freight-related priorities, issues, projects, and funding needs;

“(2) serve as a forum for discussion for State transportation decisions affecting freight mobility;

“(3) communicate and coordinate regional priorities with other organizations;

“(4) promote the sharing of information between the private and public sectors on freight issues; and

“(5) participate in the development of the freight plan of the State described in section 1118.

“SEC. 1118. STATE FREIGHT PLANS.

“(a) IN GENERAL.—The Secretary shall encourage each State to develop a freight plan that provides a comprehensive plan for the immediate and long-range planning activities and investments of the State with respect to freight.

“(b) PLAN CONTENTS.—A freight plan described in subsection (a) shall include, at a minimum—

“(1) an identification of significant freight system trends, needs, and issues with respect to the State;

“(2) a description of the freight policies, strategies, and performance measures that will guide the freight-related transportation investment decisions of the State;

“(3) a description of how the plan will improve the ability of the State to meet the national freight goals established under section 167 of title 23, United States Code;

“(4) evidence of consideration of innovative technologies and operational strategies, including intelligent transportation systems, that improve the safety and efficiency of freight movement;

“(5) in the case of routes on which travel by heavy vehicles (including mining, agricultural, energy

cargo or equipment, and timber vehicles) is projected to substantially deteriorate the condition of roadways, a description of improvements that may be required to reduce or impede the deterioration; and

“(6) an inventory of facilities with freight mobility issues, such as truck bottlenecks, within the State, and a description of the strategies the State is employing to address those freight mobility issues.

“(c) RELATIONSHIP TO LONG-RANGE PLAN.—A freight plan described in subsection (a) may be developed separate from or incorporated into the statewide strategic long-range transportation plan required by section 135 of title 23, United States Code.”

### § 168. Integration of planning and environmental review

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ENVIRONMENTAL REVIEW PROCESS.—The term “environmental review process” means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) PLANNING PRODUCT.—The term “planning product” means a detailed and timely decision, analysis, study, or other documented information that—

(A) is the result of an evaluation or decisionmaking process carried out during transportation planning, including a detailed corridor plan or a transportation plan developed under section 134 that fully analyzes impacts on mobility, adjacent communities, and the environment;

(B) is intended to be carried into the transportation project development process; and

(C) has been approved by the State, all local and tribal governments where the project is located, and by any relevant metropolitan planning organization.

(3) PROJECT.—The term “project” has the meaning given the term in section 139(a).

(4) PROJECT SPONSOR.—The term “project sponsor” has the meaning given the term in section 139(a).

(b) ADOPTION OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—

(1) IN GENERAL.—Subject to the conditions set forth in subsection (d), the Federal lead agency for a project may adopt and use a planning product in proceedings relating to any class of action in the environmental review process of the project.

(2) IDENTIFICATION.—When the Federal lead agency makes a determination to adopt and use a planning product, the Federal lead agency shall identify those agencies that participated in the development of the planning products.

(3) PARTIAL ADOPTION OF PLANNING PRODUCTS.—The Federal lead agency may adopt a planning product under paragraph (1) in its entirety or may select portions for adoption.

(4) TIMING.—A determination under paragraph (1) with respect to the adoption of a planning product may be made at the time the lead agencies decide the appropriate scope of environmental review for the project but may