



## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 13

[Docket DOT-OST-2020-0229]

RIN 2105-AE97

### Procedures for Considering Environmental Impacts

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Department of Transportation (the Department) is withdrawing a notice of proposed rulemaking (NPRM) issued on November 23, 2020, that proposed to amend its National Environmental Policy Act (NEPA) implementing procedures.

**DATES:** As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the NPRM, “Procedures for Considering Environmental Impacts,” published on November 23, 2020 (85 FR 74640), is withdrawn.

**ADDRESSES:** U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, 202–366–9152.

*Electronic Access:* You can view and download related documents and public comments by going to the website <https://www.regulations.gov>. Enter the docket number DOT–DOT-OST-2020-0229 in the search field.

**FOR FURTHER INFORMATION CONTACT:** April Marchese, Director, Infrastructure Permitting Improvement Center, 202-366-4416, [april.marchese@dot.gov](mailto:april.marchese@dot.gov).

### SUPPLEMENTARY INFORMATION:

**Background:** NEPA establishes a national environmental policy of the Federal Government to use all practicable means and measures to foster and promote the general

welfare, create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. 42 U.S.C. 4331(a). Section 102(2) of NEPA establishes the procedural requirements to carry out the policy stated in section 101 of NEPA. It requires Federal agencies to consider the environmental effects of proposed actions in their decision-making and prepare detailed environmental statements on recommendations or reports and other major Federal actions significantly affecting the quality of the human environment. 42 U.S.C. 4332(2)(C).

On November 23, 2020, the Department issued an NPRM that proposed to amend its NEPA implementing procedures (85 FR 74640). Specifically, the Department proposed to revise its current procedures, DOT Order 5610.1C, “Procedures for Considering Environmental Impacts,” originally published in 1979, 44 FR 56420 (Oct. 1, 1979), and codify them in the Code of Federal Regulations. These revisions were never finalized due to a variety of factors. Therefore, the DOT Order 5610.1C is still in effect and will continue to be in effect until updates are made through a public review process. DOT received 49 comments in response to the proposed rule. Comments were submitted by ten State or local departments of transportation (State DOTs); two other State agencies, nine transportation interest groups (trade associations); and 24 private entities and citizens. DOT received one comment from a member of Congress. DOT received three other comment letters that were outside of the scope of the rulemaking. The comments received have been reviewed and will aid in any further revisions that are made to DOT Order 5610.1C to update and modernize DOT’s NEPA procedures.

On June 3, 2024, President Biden signed into law the Fiscal Responsibility Act of 2023 (FRA, Pub. L. 118-5). The FRA made revisions to the NEPA statute with the aim of

streamlining the environmental review process. In addition, there have been further refinements in agency best management practices in the environmental review and permitting process that should be incorporated into the DOT NEPA procedures prior to finalizing.

### **Reason for withdrawal**

Given the revisions to the NEPA statute and updates to best management practices across the Government for the environmental permitting and review process, DOT is withdrawing the proposed rule for DOT's NEPA implementing procedures. Any revisions that are made will be issued for notice and public comment prior to being finalized.

Issued in Washington, DC, under authority delegated in 49 CFR 1.25a(a)(2):

**Christopher Coes,**

*Assistant Secretary of Transportation Policy.*

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