

U.S.C. United States Code

G. Use and Organization of this Order

1. Use

This Order will be used in conjunction with NEPA, the CEQ regulations, and as a supplement to DOT Order 5610.1C, as amended, for consideration of environmental impacts of FMCSA actions. It will also be used, to the fullest extent possible, to conduct analyses and consultations required by environmental laws other than NEPA, statutes, Executive Orders, and regulations in conjunction with NEPA implementation to reduce redundancy, paperwork, time, and cost.

2. Organization

Chapter 2 of this FMCSA Order implementing NEPA procedures and policies for considering environmental impacts supplements specific paragraphs in DOT Order 5610.1C, as amended. It is important that persons using this Order refer to those sections of the DOT Order 5610.1C, as amended, cross-referenced in this FMCSA Order. Reference to the DOT Order will provide a wider perspective on the issues as well as provide details that may prove applicable to certain projects and actions. Additional chapters and/or changes providing guidance in meeting new or changed requirements will be added to this Order as necessary.

Chapter 2. FMCSA Responsible Parties, Duties, and Instructions for Implementing NEPA

[Supplementary Instructions to DOT Order 5610.1C, 9/18/79, as amended 7/13/82 and 7/30/85]

A. Responsible Parties for NEPA Implementation

This FMCSA Order assigns the following NEPA implementation responsibilities:

1. Administrator, Federal Motor Carrier Safety Administration

a. *Responsibilities.* Acts on matters relating to NEPA implementation and is responsible for providing NEPA capabilities (40 CFR 1507.2) as follows:

(1) Establishes and maintains the capability (personnel and other resources) to ensure adherence to the policies and procedures specified by this Order. This capability can be provided through contract support, matrix (other modal) support, and permanent staff, with sufficient staff to ensure:

(A) FMCSA cognizance of the analyses and decisions being made; and
(B) Familiarity with the requirements of NEPA and the provisions of this

Order by every person preparing, implementing, supervising, and managing projects involving NEPA analysis.

(2) Ensures environmental responsibility and awareness among personnel to most effectively implement the goals and policies of NEPA. All personnel who are engaged in any activity or combination of activities that significantly affect the quality of the human environment will be aware of their NEPA responsibility. Only through alertness, foresight, and notification through Project and Program managers to MC-P, and training and education will NEPA goals be realized.

b. *Environmental Analyses and Documentation.* Approves all environmental analyses and documentation for Administration-initiated actions, unless delegated to another FMCSA responsible official or another Federal agency. The Administrator may enter into contracts with a State or private entity to conduct initial environmental analyses and documentation, but the Administrator must review and approve all such environmental analyses and documentation and remains responsible for its scope and contents (see Section D.7. of Chapter 2). The Administrator delegates the following:

(1) With the exception of highly controversial EISs (as defined by Section 11.d of DOT Order 5610.1C), approval authority to Field Operations Service Center Administrators for FMCSA DEISs, FEISs, and SEISs for actions that originate within, and having effects confined to, their respective area;

(2) Authority for the appropriate FMCSA Administrator-level Program Office to approve highly controversial EISs (see Section D.6.b.(4) of Chapter 2); and

(3) For all other FEISs (non-controversial), only a notice of approval will be made to DOT (P-1) by the responsible Administrator-level Program Office via the Administrator.

c. *Decisions on How to Proceed with FMCSA Actions.* The Administrator, or the Administrator's designee, has authority to decide whether or, at a minimum, how to proceed with every action the FMCSA undertakes. Thus, the Administrator (unless his/her authority is delegated) is the decisionmaker and the responsible FMCSA official. (Authority to sign EISs as the responsible official will be governed by Section D.14.a. of Chapter 2). The Administrator makes the following delegations:

(1) The NEPA Liaison will act as the senior decisionmaker and senior environmental advisor for NEPA

compliance and NEPA implementation of all FMCSA actions. The Administrator also delegates the responsibility to the NEPA Liaison to ensure accountability for implementation of the policies set forth in this Order. For Headquarters-originated actions, the Administrator delegates the responsibility to the NEPA Liaison to determine whether to prepare an EA, EIS, a Finding of No Significant Impact (FONSI), or a decision withdrawing the proposal on the basis of its environmental impacts (40 CFR 1508.9) in consultation with the Office Director for the program sponsoring the action or the person with the delegated authority to issue the regulation.

(2) The Field or Division Administrators or their delegated Federal, State, or Division Program Managers, in consultation with their FEQAs (see also Section D.13. of Chapter 2), will hold authority to determine whether to prepare an EA, EIS, a Finding of No Significant Impact (FONSI), or a decision withdrawing the proposal on the basis of its environmental impacts (40 CFR 1508.9) for actions that originate within, and have effects confined to, their respective area. For Headquarters-originated actions, the NEPA Liaison makes this determination in consultation with the responsible FMCSA Program Manager.

2. NEPA Liaison—Associate Administrator for Policy and Program Delivery (MC-P)

a. Is the principal FMCSA environmental advisor and decisionmaker for the completion of the environmental analysis under NEPA, CEQ regulations, DOT and FMCSA Orders, and other environmental laws, statutes, and Executive Orders listed in Appendix 16. The Regulatory Development Division (MC-PRR), in the Office of Policy, Plans and Regulation is the Program Office that will assist the NEPA Liaison in carrying out these duties.

b. Is responsible for overseeing NEPA compliance and NEPA implementation of all FMCSA actions. The NEPA Liaison ensures accountability for implementation of the policies set forth in this Order and that all necessary NEPA analyses (CE, EA, and EIS) are completed before initiation of an FMCSA action.

c. Reviews all FMCSA proposed projects and advises the responsible FMCSA official (e.g., the FEQAs or Project Manager) on the appropriate level of environmental analysis and documentation needed for the proposal. For CEs, EAs and non-controversial EISs, the NEPA Liaison may direct the