

§ 771.107 Definitions.

The definitions contained in the CEQ regulation and in Titles 23 and 49 of the United States Code are applicable. In addition, the following definitions apply.

(a) Environmental studies. The investigations of potential environmental impacts to determine the environmental process to be followed and to assist in the preparation of the environmental document.

(b) Action. A highway or transit project proposed for FHWA or FTA funding. It also includes activities such as joint and multiple use permits, changes in access control, etc., which may or may not involve a commitment of Federal funds.

(c) Administration action. The approval by FHWA or FTA of the applicant's request for Federal funds for construction. It also includes approval of activities such as joint and multiple use permits, changes in access control, etc., which may or may not involve a commitment of Federal funds.

(d) Administration. FHWA or FTA, whichever is the designated lead agency for the proposed action.

(e) Section 4(f). Refers to 49 U.S.C. 303 and 23 U.S.C. 138.²

[52 FR 32660, Aug. 28, 1987, as amended at 70 FR 24469, May 9, 2005]

EFFECTIVE DATE NOTE: At 74 FR 12527, Mar. 24, 2009, § 771.107 was amended by revising paragraph (d) and adding paragraphs (f), (g), (h), and (i), effective Apr. 23, 2009. For the convenience of the user, the added and revised text is set forth as follows:

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(d) Administration. The FHWA or FTA, whichever is the designated Federal lead agency for the proposed action. A reference herein to the Administration means the

²Section 4(f), which protected certain public lands and all historic sites, technically was repealed in 1983 when it was codified, without substantive change, as 49 U.S.C. 303. This regulation continues to refer to section 4(f) because it would create needless confusion to do otherwise; the policies section 4(f) engendered are widely referred to as "section 4(f)" matters. A provision with the same meaning is found at 23 U.S.C. 138 and applies only to FHWA actions.

State when the State is functioning as the FHWA or FTA in carrying out responsibilities delegated or assigned to the State in accordance with 23 U.S.C. 325, 326, or 327, or other applicable law.

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(f) Applicant. Any State, local, or federally-recognized Indian tribal governmental unit that requests funding approval or other action by the Administration and that the Administration works with to conduct environmental studies and prepare environmental review documents. When another Federal agency, or the Administration itself, is implementing the action, then the lead agencies (as defined in this regulation) may assume the responsibilities of the applicant in this part. If there is no applicant, then the Federal lead agency will assume the responsibilities of the applicant in this part.

(g) Lead agencies. The Administration and any other agency designated to serve as a joint lead agency with the Administration under 23 U.S.C. 139(c)(3) or under the CEQ regulation.

(h) Participating agency. A Federal, State, local, or federally-recognized Indian tribal governmental unit that may have an interest in the proposed project and has accepted an invitation to be a participating agency, or, in the case of a Federal agency, has not declined the invitation in accordance with 23 U.S.C. 139(d)(3).

(i) Project sponsor. The Federal, State, local, or federally-recognized Indian tribal governmental unit, or other entity, including any private or public-private entity that seeks an Administration action.

§ 771.109 Applicability and responsibilities.

(a)(1) The provisions of this regulation and the CEQ regulation apply to actions where the Administration exercises sufficient control to condition the permit or project approval. Actions taken by the applicant which do not require Federal approvals, such as preparation of a regional transportation plan are not subject to this regulation.

(2) This regulation does not apply to, or alter approvals by the Administration made prior to the effective date of this regulation.

(3) Environmental documents accepted or prepared by the Administration after the effective date of this regulation shall be developed in accordance with this regulation.

(b) It shall be the responsibility of the applicant, in cooperation with the Administration to implement those