



November 28, 2017

Docket Management Facility  
U.S. Department of Transportation  
1200 New Jersey Ave., SE  
West Building, Ground Floor  
Room W12-140  
Washington, DC 20590-0001

**Re: Docket No. FHWA-2015-0011, Environmental Impact and Related Procedures**

On behalf of the more than 7,500 members of the American Road & Transportation Builders Association (ARTBA), I respectfully offer comments on the Federal Highway Administration's (FHWA), Federal Transit Administration's (FTA) and Federal Railroad Administration's (FRA) supplemental notice of proposed rulemaking on Environmental Impact and Related Procedures.

ARTBA's membership includes private and public sector representatives that are involved in the planning, designing, construction and maintenance of the nation's roadways, waterways, bridges, ports, airports, rail and transit systems. Our industry generates more than \$380 billion annually in U.S. economic activity and sustains more than 3.3 million American jobs.

ARTBA members undertake a variety of activities that are subject to the transportation project environmental review and approval process in the normal course of their daily operations. ARTBA's public sector members adopt, approve, or fund transportation plans, programs, or projects. ARTBA's private sector members plan, design, construct and provide supplies for these federal-aid improvement projects.

The agencies' proposed rule would implement a number of changes to the project delivery process required by the bipartisan "Fixing America's Surface Transportation Act" (FAST Act) reauthorization law including exemptions from "Section 4(f)" historic preservation requirements for certain classes of post-1945 steel and concrete bridges and historic railroad and rail transit lines. The rulemaking also continues the FAST-Act's reforms to the categorical exclusion (CE) process and seeks input on how to define the scope of the CE for projects within an existing right-of-way.

Further, this rulemaking builds upon a 2015 rulemaking implementing changes to the environmental review and approval process required by the 2012 "Moving Ahead for Progress in the 21<sup>st</sup> Century" (MAP-21) reauthorization law. ARTBA submitted comments on those changes to this docket in January 2016. ARTBA is supportive of the agencies' continued efforts to implement all of the changes to the environmental review process contained in both the FAST-Act and MAP-21. They are the product of a bipartisan recognition that the current project delivery review and approval process takes too much time.

According to a report by the U.S. Government Accountability Office, as many as 200 major steps are involved in developing a transportation project from the identification of the project

need to the start of construction. According to the same report, it typically takes between nine and 19 years to plan, gain approval of, and construct a new major federally funded highway project. This process involves dozens of overlapping state and federal laws, including the National Environmental Policy Act (NEPA), state NEPA equivalents, wetland permits, endangered species implementation, clean air conformity, and more. These procedures often mask disparate agendas or, at a minimum, demonstrate an institutional lack of interagency coordination that results in unnecessary delays.

All of the revisions outlined in the proposed rule will have a positive impact on the project review and approval process. Specifically, reducing Section 4(f) requirements for common bridge types constructed after 1945 and historic railroad and rail transit lines will help to reduce unnecessary delay in bridge reconstruction and rehabilitation projects. Also, this approach recognizes while there will certainly be instances where active steps to preserve historical portions of the bridges will be necessary, the majority of bridge improvements in this class will not affect anything of historical significance.

Additionally, CE for projects within an existing right-of-way represents a common-sense approach to reducing delay in the review and approval process for transportation improvements. In the case of projects within an existing right-of-way, a CE designation is warranted because an environmental review has already been undertaken during the designation of the right-of-way. Additional review after a project is being designated for the area within the right-of-way is duplicative and offers no additional benefits in terms of environmental protection. Thus far, the CE has proven to be extremely effective in reducing delay. According to the Texas Department of Transportation, it has been used on more than 1,700 projects in the past year within that state alone<sup>1</sup>.

In terms of the scope of the CE, ARTBA believes it should be broadly construed. Section 1316 of MAP-21 specifically states the CE should apply to “any project within an existing operational right-of-way.” Thus, as long as a right-of-way was properly obtained, for any purpose, it should be eligible for the new CE. Existing rights of way have already gone through environmental review and there is no need to duplicate such efforts.

NEPA was never meant to be a statute enabling delay, but rather a vehicle to promote balance. These project delivery reforms will help to achieve this balance and ARTBA looks forward to additional discussions with FHWA, FTA and FRA on these important issues.

Sincerely,



T. Peter Ruane  
President & C.E.O

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<sup>1</sup> See comments of the Texas Department of Transportation to this docket.