



June 4, 2021

Docket Management Facility  
United States Department of Transportation  
1200 New Jersey Avenue SE  
West Building, Ground Floor  
Room W12-140  
Washington, DC 20590-0001

**RE: Docket No. DOT-OST-2021-0036; Notification of Regulatory Review**

The American Road & Transportation Builders Association (ARTBA) respectfully submits these comments in response to the Notification of Regulatory Review issued on May 5 by the U.S. Department of Transportation (U.S. DOT). The Department's stated purpose is to review existing regulations in the context of "urgent challenges facing the Nation, including the coronavirus disease 2019 (COVID-19) pandemic, economic recovery, racial justice and climate change."

Collaborating with the Transportation Construction Industry

ARTBA's public and private sector members plan, design, build and maintain the nation's transportation infrastructure system. Above all else, they seek to do so safely, efficiently and cost-effectively. In building federal-aid projects, U.S. DOT's regulatory structure shapes a great deal of their working environment. For this reason, our association frequently participates in the formal rulemaking process.

However, it is equally important that U.S. DOT and the transportation construction industry maintain an ongoing, meaningful dialogue about regulatory and policy issues. It is much more preferable for the Department to collaborate with ARTBA and our members during the formative stage of these policies, when we can provide insight on potential unintended consequences and suggest possible improvements. On the other hand, merely consulting with the industry in a pro forma manner, or largely "after the fact," risks adopting policies that can undermine the objectives of safety, efficiency and cost-effectiveness. Results can include costlier projects, constrained state transportation programs and fewer employment opportunities related to them.

Moreover, the transportation construction industry prides itself on innovation and problem-solving. At the same time, the new leadership of U.S. DOT has articulated a number of challenging policy goals. Our members have the unparalleled ability to help further those objectives, provided there is a true collaboration among the Department, state transportation agencies, and industry. Partnerships on the state level, involving those state agencies and ARTBA's chapter affiliates, provide a good model. We urge you to work collaboratively with ARTBA and other industry associations to the extent possible.

## Bipartisan Support for Project Streamlining

On a bipartisan basis, Congress has made significant progress in streamlining the permitting and approval process for transportation improvement projects. The past four federal surface transportation reauthorization laws have included provisions addressing unnecessary project delays. Examples include strengthening “lead agency” responsibilities for U.S. DOT, setting deadlines for permit decisions, capping the environmental review process at four years and delegating environmental reviews to the states. Each of these measures clearly shows Congress’ intent to reduce delay in the delivery of transportation projects without sacrificing regulatory safeguards. Therefore, it is critical that U.S. DOT’s regulatory regime not undermine these congressional priorities.

This legislative progress is laudable, but the issue remains challenging. According to the Council on Environmental Quality, it still takes an average of more than seven years for an environmental impact statement to be completed on a federal-aid highway project.<sup>1</sup> Any revised or new regulations in this area must be balanced against the delays they could cause in getting transportation improvements to the communities who need them most.

Additionally, project delays can increase their costs. According to a 2016 report by the Texas A&M Transportation Institute based on example projects, delays were estimated to cost \$87,000 per month for a small project (e.g., reconstruction of a rural road), \$420,000 per month for a medium-sized project (e.g., widening of a semi-rural highway) and \$1.3 million per month for a large project (e.g. reconstruction of a highway in a large metro area)<sup>2</sup>. Given the importance of maximizing economic benefits from these projects, U.S. DOT should seek to minimize these delays and their associated costs.

## Congestion Relief and Climate Change

Free-flowing traffic emits less than stop-and-go traffic. Emissions are greatest at lower speeds associated with clogged roadways.<sup>3</sup> Therefore, congestion relief is an effective means of facilitating greenhouse gas (GHG) reduction. Regulatory approaches to climate change should allow states to address emissions in a manner best suited to their specific needs and refrain from further complicating an already burdensome project review process. This can be best accomplished by ensuring GHG reduction strategies are mode neutral, allowing states and localities to adopt solutions appropriate for their particular circumstance.

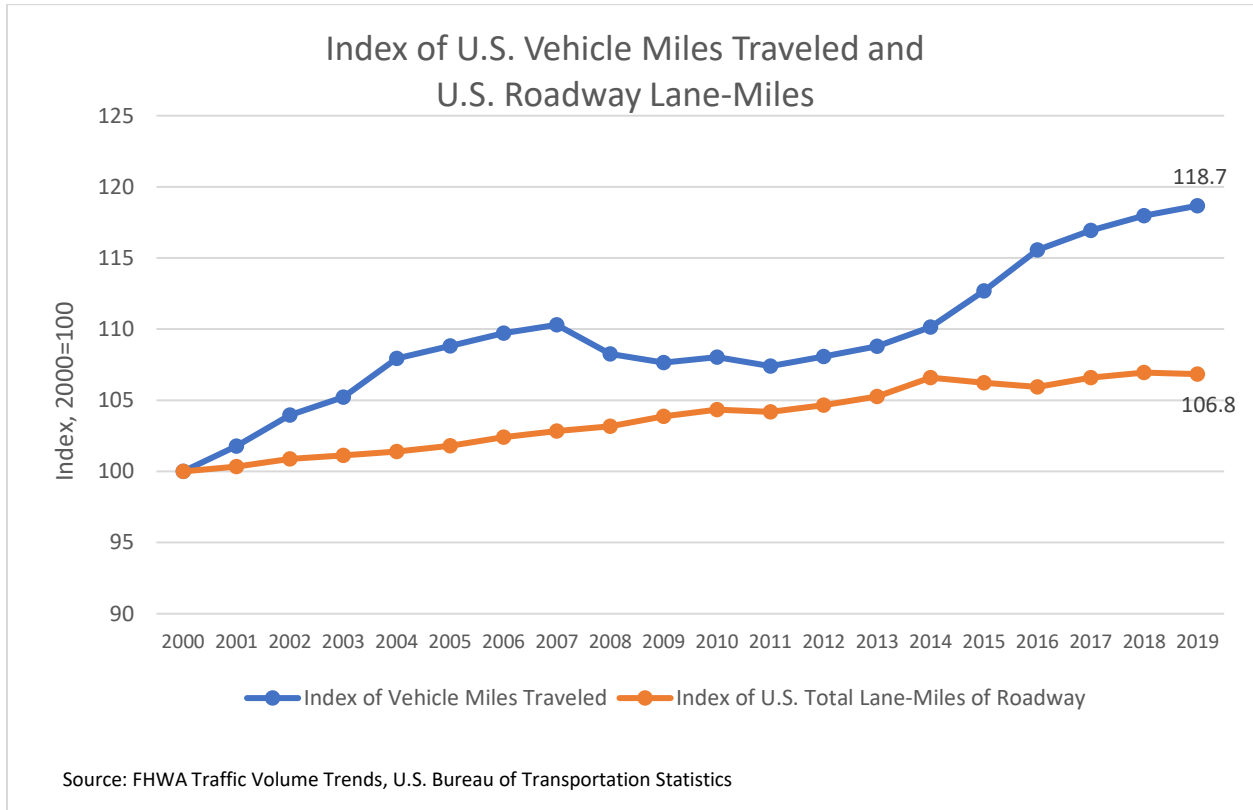
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<sup>1</sup> See [https://ceq.doe.gov/docs/nepa-practice/CEQ\\_EIS\\_Timeline\\_Report\\_2020-6-12.pdf](https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Timeline_Report_2020-6-12.pdf). Other modes have similarly lengthy review times, including more than five years for the Federal Transit Administration and over six years for the Federal Aviation Administration.

<sup>2</sup> “Assessing the Costs Attributed to Project Delay During Project Pre-Construction Stages,” Texas A&M Transportation Institute, March 2016, available at: <https://static.tti.tamu.edu/tti.tamu.edu/documents/0-6806-FY15-WR3.pdf>.

<sup>3</sup> “Traffic Congestion and Greenhouse Gasses,” Access Magazine, Available at: [https://www.accessmagazine.org/fall-2009/traffic-congestion-greenhouse-gases/#:~:text=If%20congestion%20reduces%20the%20average,scenario\)%2C%20CO2%20emissions%20increase.&text=If%20congestion%20mitigation%20raises%20average.make%20the%20roadway%20more%20dangerous.](https://www.accessmagazine.org/fall-2009/traffic-congestion-greenhouse-gases/#:~:text=If%20congestion%20reduces%20the%20average,scenario)%2C%20CO2%20emissions%20increase.&text=If%20congestion%20mitigation%20raises%20average.make%20the%20roadway%20more%20dangerous.) (Fall 2009).

As the graph below shows, the number of new lane miles being added to our nation's roadways is not keeping pace with the rise in vehicle miles traveled and related long-term economic growth. This is a formula for persistent and growing traffic congestion.



This helps illustrate why any comprehensive climate change strategy must allow for the consideration of additional roadway capacity where appropriate, as it can be a viable GHG reduction strategy in many areas.

### Conclusion

ARTBA hopes this regulatory review is an initial step in a meaningful collaboration to improve the nation's transportation infrastructure assets and maximize related economic benefits. We also urge U.S. DOT to prioritize the industry's core values of safety, efficiency and cost-effectiveness in developing regulations and policies that will shape this process. Thank you for considering these views.

Sincerely,

David Bauer  
President & CEO