



April 13, 2022

Docket Management Facility  
U.S. Department of Transportation  
1200 New Jersey Ave. SE  
Washington, DC 20590

**Re: Docket No. FHWA-2022-0001, Proposed 2022 Renewal of Memorandum of Understanding (MOU) Assigning Certain Federal Environmental Responsibilities to the State of California, Including National Environmental Policy Act (NEPA) Authority for Certain Categorical Exclusions (CEs)**

Today I respectfully offer comments on the Federal Highway Administration's (FHWA) March 14 notice of the proposed 2022 renewal of the MOU assigning certain federal responsibilities to the State of California, including NEPA authority for certain CEs.

ARTBA members design and construct projects which undergo all levels of NEPA review, including CEs. Accordingly, we have consistently supported the concept of state delegation of federal environmental review responsibilities since it was first introduced as a five-state pilot program in the "Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users" (SAFTEA-LU). ARTBA reiterated this support when the pilot program was expanded to include all states in the "Moving Ahead for Progress in the 21<sup>st</sup> Century" (MAP-21) reauthorization law. Last year the historic Infrastructure Investment and Jobs Act (IIJA) set a bipartisan goal of completing the NEPA review process in two years. Continued use of the NEPA delegation program can be an important tool in meeting that goal.

ARTBA has supported the efforts of Ohio, Nebraska, Alaska, Utah, Texas, Florida and Arizona to participate in the FHWA's delegation program to assume responsibility for federal environmental review of transportation projects. ARTBA appreciates this opportunity to similarly offer our continued support for the California delegation program.

In the words of the California Department of Transportation (Caltrans), NEPA delegation "has resulted in documents being approved in less time; improved the efficiency in which Caltrans prepares, reviews, and approves environmental documents; improved the quality of documents; and provides for greater accountability through monitoring."<sup>1</sup>

NEPA delegation is currently yielding impressive results in California. An Oct. 30, 2015, fact sheet published by Caltrans demonstrates the following significant reductions in delay preparing environmental review documents:

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<sup>1</sup> Available at <https://dot.ca.gov/programs/environmental-analysis/nepa-assignment>.

- Draft environmental assessments (EA) have seen a median time savings of 10.7 months;
- Final EAs and Findings of No Significant Impact (FONSI) have seen a median time savings of 11.5 months;
- Draft environmental impact statements (EISs) have seen a median time savings of 22.9 months, and;
- Final EISs have seen a median time savings of 130.8 months—nearly 11 years!<sup>2</sup>

Additional benefits to other states include:

- The Texas Department of Transportation has reduced the amount of time for an EA by 30 percent, from 30 to 18 months.<sup>3</sup>
- The Ohio Department of Transportation has saved \$17 million in the first two years of the delegation program<sup>4</sup>.
- The Florida Department of Transportation has noted “the state will save \$22 million annually and approximately 25 percent of scheduled time during the project development and environmental phase.”<sup>5</sup>

Put succinctly, NEPA delegation works. As FHWA stated on Dec. 22, 2016, “The NEPA Assignment Program reduces duplication, saves time and resources, and avoids compromising our high standards for protecting the human and natural environment. Empowering states in this way saves time and money, making it good government AND good business.”<sup>6</sup>

NEPA was never meant to be a statute enabling delay, but rather a vehicle to promote balance. While the centerpiece of this balancing is the environmental impacts of a project, other factors must be considered as well, such as the economic, safety, and mobility needs of the affected area and how a transportation project or any identified alternative will address those needs.

Continuing to foster NEPA delegation in California will help NEPA to achieve this balance.

Sincerely,



David Bauer  
President & C.E.O

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<sup>2</sup> Available at [http://www.dot.ca.gov/hq/env/nepa/pdf/nepa\\_assignment\\_fact\\_sheet\\_q33\\_oct2015\\_rev.pdf](http://www.dot.ca.gov/hq/env/nepa/pdf/nepa_assignment_fact_sheet_q33_oct2015_rev.pdf).

<sup>3</sup> Available at *Transportation Point, The Resource for Transportation Professionals*, p. 3 (Summer 2018).

<sup>4</sup> *Id.*, p. 12.

<sup>5</sup> *Id.*, p. 6.

<sup>6</sup> Available at <https://www.transportation.gov/fastlane/fhwa%E2%80%99s-%E2%80%98every-day-counts%E2%80%99-initiative-empowering-states>.