



May 5, 2025

VIA ELECTRONIC SUBMISSION

Daniel Cohen, Assistant General Counsel for Regulation
US Department of Transportation
1200 New Jersey Ave SE
Washington, DC 20590

**RE: Ensuring Lawful Regulation; Reducing Regulation and Controlling Regulatory Costs
(Docket No. DOT-OST-2025-0026).**

Dear Mr. Cohen,

The American Road & Transportation Builders Association (ARTBA), representing over 8,000 members in the transportation construction industry, respectfully submits comments on the US Department of Transportation's request for information on lawful regulation and regulatory reform priorities.

ARTBA represents members of all sizes from every sector of the transportation construction industry, including construction contractors, materials suppliers, planning and design firms, state and local transportation agencies, and safety and equipment manufacturers. Our members are engaged in constructing and maintaining the nation's highways, bridges, and other critical infrastructure.

Federal regulations should support—not hinder—the transportation construction industry's mission to complete projects safely, efficiently, and cost-effectively. **With that in mind, we've included ARTBA's key priorities for regulatory reform in the attached document.** Additional comments and resources are also available via our website at artba.org.

ARTBA appreciates the chance to offer this input and encourages the agencies to give the enclosed recommendations thorough consideration. Our members are dedicated to moving people and goods safely and reliably. To do so, they need predictable, consistent, and reasonable regulations.

We remain available to collaborate on any of these matters. For additional details, please reach out to Rich Juliano at rjuliano@artba.org or Prianka Sharma at psharma@artba.org.

Sincerely,

/s/

Richard A. Juliano
General Counsel
American Road & Transportation Builders Association

/s/

Prianka P. Sharma
Vice President and Counsel for Regulatory Affairs
American Road & Transportation Builders Association

Enclosures (1)

Priority Policy Recommendations U.S. Department of Transportation May 2025

Executive Summary

As U.S. DOT stewards historic federal infrastructure investments, there is a critical need for targeted actions that accelerate project delivery, reduce regulatory delays, and support industry capacity. This document outlines actionable steps the agency can take to strengthen its role as an infrastructure development leader. Key recommendations include:

- **Implementing durable, streamlined environmental review** procedures under NEPA;
- **Institutionalizing successful emergency project delivery** practices;
- **Broadening the use of the One Federal Decision framework**; and
- **Balancing Buy America compliance with project feasibility**.

Together, these proposals will create a more predictable, collaborative, and results-driven project delivery environment that benefits users, taxpayers, and infrastructure builders.

Priority Issues Requiring Administrative Action from U.S. DOT

- **Make NEPA Work**—The current Council on Environmental Quality (CEQ) is working to push National Environmental Policy Act (NEPA) policymaking out of the White House and to key federal agencies like U.S. DOT, with the expectation of long-needed improvements. U.S. DOT can take this opportunity to:
 - Lead a dialogue with affected states and industry partners to standardize the contract negotiations for NEPA review assignment to interested states.
 - Adopt durable, statutorily grounded NEPA procedures that implement the Fiscal Responsibility Act of 2023's page and time limits, emphasize predictability, timely reviews, and appropriate limits on analysis.
 - Expand the use of categorical exclusions and clarify project eligibility streamline procedures to reduce unnecessary variation that creates hardship for applicants navigating multiple agency processes.
- **Institutionalize Emergency Response Successes**—While high-profile natural and man-made disasters disrupt transportation systems each year, the transportation construction industry consistently exceeds expectations in repairing, rebuilding, and reopening them. To capitalize on these experiences, the department should:

- Evaluate the key factors in the recent emergency successes achieved in Philadelphia (I-95), Los Angeles (I-10), southwest Florida (Sanibel) and elsewhere, including the speed at which Baltimore’s Key Bridge has been designed and construction initiated.
- Apply the findings of this review to initiate revisions for mainstreaming policies such as expedited approvals, enhanced partnering and more.

These lessons can and should be more than a guide for future disaster responses.

- **Seize the Potential of “One Federal Decision”**—Pursuant to President Trump’s Executive Order 13807 issued in August of 2017 and codified in 2021, federal policy created a framework to expedite the approval and review of major projects. Unfortunately, the utilization of this enhanced review procedure has been limited. Steps should be taken to further institutionalize and promote the use of this tool:
 - Eliminate barriers to One Federal Decision utilization. These expedited procedures should be expanded to include major projects requiring an environmental impact statement AND an environmental assessment.
 - Initiate a dialogue with project sponsors about other hurdles that can be removed to broaden the use of this valuable tool to deliver transportation improvements.

Appropriate use of One Federal Decision will facilitate better and faster project delivery.

- **Build Transportation Projects AND American Manufacturing Capacity** – Efforts to strengthen domestic manufacturing through Buy America need not disrupt transportation projects. The Federal Highway Administration (FHWA) should:
 - Finalize its planned collaboration with state DOTs to develop a nationwide catalog of Buy America-compliant products on which contractors can rely.
 - Work closely with states and industry to identify priority items for short-term, targeted waivers, such as generators and electronics, to mitigate the uncertainty resulting from the 2024 repeal of the manufactured product waiver.

These initiatives would help minimize cost increases and delays on projects triggered by products with limited or no availability in domestic form.

- **Deploy Cost Adjustments when Most Needed** – During unprecedented materials cost spikes and delays that endangered many projects and small businesses in 2021-22, FHWA would not use federal resources to participate in retroactive price adjustments. However, the Federal Transit Administration advised its recipients that such funding could be made available for their projects.
 - FHWA should make funding available to mitigate extreme or widespread cost or availability issues triggered by supply chain, market, or governmental policy factors.

Because contractors often “price” risks (such as unexpected materials cost spikes) into their bids, this policy would help alleviate uncertainty and keep project costs down.

- **Limit Use of PLAs to True Collaborations** – The Biden administration sought to require or encourage the use of project labor agreements (PLAs), without regard to the availability of union labor in a particular market, or how the PLA was formulated. The FHWA and FTA should:
 - Allow a PLA on a federal-aid project when the state or local transportation agency has meaningfully collaborated with leading industry groups and labor on its terms.

This policy will prevent misuse of PLAs and ensure a competitive procurement process.

- **End the New DBE Data Collection Burden** – Under Disadvantaged Business Enterprise (DBE) program rule changes enacted in May 2024, state DOTs are to require extensive demographic and financial information from all contractors and subcontractors bidding on a project, submitting them to a U.S. DOT data portal for analysis. Although the portal does not yet exist, some states have already imposed this mandate. One prime contractor on a \$1 million project had to submit 767 of these data points at bid time.
 - With the DBE program’s future being litigated, U.S. DOT should direct states to stop collecting this data from bidders until further notice.

Deferring this new bureaucratic requirement will keep administrative (and project) costs from increasing for all project partners.

- **Focus on Worker Safety** – The transportation construction industry has long prioritized worker safety, but recent federal policy has elevated the status of bicyclists and pedestrians as “vulnerable road users” in crafting roadway safety initiatives. To help ensure the safety of both workers and discretionary system users, FHWA should:
 - Require states to include industry voices in advisory groups that contribute to the development of state Highway Safety Plans.

Including industry perspectives in these dialogues will help facilitate policies that clearly prioritize worker safety.