



July 7, 2025

VIA ELECTRONIC SUBMISSION

Mr. Edward Ofori
Acting Division Administrator
Texas Division
U.S. Federal Highway Administration
300 East 8th Street, Room 826
Austin, TX 78701

RE: Renewal Package from the State of Texas to the Surface Transportation Project Delivery Program and Proposed Second Renewed Memorandum of Understanding (MOU) Assigning Environmental Responsibilities to the State (Docket No. FHWA-2019-0013)

Dear Mr. Ofori:

The American Road & Transportation Builders Association (ARTBA) respectfully offers the following comments regarding the Texas Department of Transportation's (TxDOT) request for renewal of its National Environmental Policy Act (NEPA) authority. ARTBA **strongly supports** the renewal and urges the Federal Highway Administration (FHWA) to finalize it without delay.

Background

ARTBA represents a broad membership across all sectors and sizes of the transportation construction industry, including contractors, planning and design firms, state and local transportation agencies, materials suppliers, and safety and equipment manufacturers. Our members plan, design, build, and maintain the nation's highways, bridges, rail systems, airports, and other critical transportation infrastructure.

Today, ARTBA writes specifically on behalf of its Texas-based member firms and agencies.¹ These entities are responsible for delivering and maintaining the infrastructure that supports the daily movement of goods and people throughout the state. Many of these projects undergo review at every stage of the NEPA process—a process that has historically resulted in delays and uncertainty.

Given this experience, ARTBA has long supported the delegation of federal environmental review responsibilities to states—a concept introduced through a five-state pilot in the “Safe,

¹ Besides numerous individual firms, ARTBA's membership includes TxDOT and the AGC of Texas, the state's leading organization for contractors.

Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users” (SAFETEA-LU)² and expanded nationwide in “Moving Ahead for Progress in the 21st Century” (MAP-21).³ More recently, the Infrastructure Investment and Jobs Act (IIJA)⁴ established a national goal of completing NEPA reviews within two years. Continued implementation and expansion of NEPA delegation authority is critical to achieving this objective. In that spirit, ARTBA offers the following comments on TxDOT’s proposal.

ARTBA’s Comments on the Proposed Renewal

I. NEPA assignment expedites review timelines.

ARTBA has consistently highlighted examples where state assumption of NEPA responsibilities has led to measurable improvements in review timelines.⁵ According to TxDOT’s most recent self-assessment, the median time to complete an environmental review was nearly 18 percent longer prior to the state’s NEPA assignment.⁶ FHWA’s approval of this renewal, along with proposed updates to the Memorandum of Understanding (MOU), reflects confidence in TxDOT’s ability to further streamline these processes.

Notably, the proposed renewal eliminates several administrative requirements—such as monthly reports, annual self-assessments, and certain performance metrics—that previously added procedural burdens. Additionally, TxDOT’s ability to use its internal documentation system as official notification to FHWA reduces duplicative reporting and supports more efficient project delivery.

II. States have the expertise and experience to make informed decisions.

The proposed MOU demonstrates FHWA’s trust in TxDOT’s ability to conduct federally delegated environmental reviews while safeguarding natural and cultural resources. The extension of the delegation period from five to ten years, along with the removal of FHWA as a required party to programmatic agreements, affirms this trust and grants TxDOT greater operational clarity.

States that have consistently met statutory and regulatory obligations should be empowered to act with autonomy. Reducing unnecessary federal re-approvals not only improves efficiency but also allows agencies like TxDOT to plan and execute infrastructure projects with greater certainty.

² Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. No. 109–59, 119 Stat. 1144 (2005).

³ Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. No. 112–141, 126 Stat. 405 (2012).

⁴ Infrastructure Investment and Jobs Act, Pub. L. No. 117–58, 135 Stat. 429 (2021).

⁵ Tex. Dep’t of Transp., *NEPA Assignment Program Self-Assessment Report: January 1, 2023 – December 31, 2023* (Jan. 31, 2025), <https://www.txdot.gov/content/dam/docs/division/env/nepa-agreement/january-2025-nepa-assignment-self-assessment.pdf>.

⁶ Tex. Dep’t of Transp., *NEPA Assignment Program Self-Assessment Report: January 1, 2023 – December 31, 2023* (Jan. 31, 2025), <https://www.txdot.gov/content/dam/docs/division/env/nepa-agreement/january-2025-nepa-assignment-self-assessment.pdf>.

Conclusion

ARTBA strongly supports the renewal of TxDOT's NEPA assignment authority and the proposed improvements to the MOU. These updates reflect an improved balance between meeting environmental review obligations and ensuring timely, cost-effective project delivery. We appreciate the opportunity to provide this input and encourage FHWA to promptly approve the renewal.

Moreover, we suggest that FHWA utilize Texas' experience with NEPA assignment—along with other such success stories—as the basis for encouraging additional states to follow suit.

ARTBA remains available to engage further on this or other matters affecting transportation project delivery. For additional information, please contact Prianka Sharma at psharma@artba.org.

Sincerely,

//s//

Prianka P. Sharma
Vice President and Counsel for Regulatory Affairs