

August 4, 2025

Ms. Rhonda Solomon
Interim Director, Infrastructure Permitting Improvement Center
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

**RE: Revision of National Environmental Policy Act Regulations (Docket No. FHWA-2025-0007);
Procedures for Considering Environmental Impacts (Docket No. DOT-OST-2025-0171-0001).**

Dear Interim Director Solomon:

On behalf of the American Road & Transportation Builders Association (ARTBA) and our more than 8,000 members in the transportation construction industry, we commend the U.S. Department of Transportation (DOT) and the Federal Highway Administration (FHWA) for their thoughtful leadership in improving the environmental review process under the National Environmental Policy Act (NEPA).

Lengthy reviews and litigation risks have long created challenges for transportation project sponsors, contributing to delays and added costs. ARTBA supports the agencies' efforts to make NEPA regulations more efficient and predictable, while maintaining environmental safeguards. The following recommendations offer additional opportunities to strengthen the review process and help deliver transportation improvements more effectively.

Background

ARTBA represents all components of the transportation construction industry, including contractors, materials suppliers, planning and design firms, public agencies, and equipment manufacturers. Collectively, our members build and maintain the nation's roads, bridges, airports, ports, transit systems, and other critical infrastructure.

NEPA, enacted in 1970¹, is a procedural statute intended to ensure federal agencies consider environmental impacts before making decisions. It does not mandate specific outcomes. Over time, NEPA has, in fact, evolved into a frequent source of delay and frustration for project sponsors. Lengthy reviews

¹ National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321–4370h (2018).

and litigation – or even their threat – now constitute risks that drive uncertainty and impede the timely delivery of critical infrastructure.

For transportation projects, NEPA reviews are typically conducted in partnership with state departments of transportation. The NEPA Assignment Program allows DOT to delegate these responsibilities to states for federally funded projects. Among the eight states currently participating, the program has shown that delegation can lower costs and shorten timelines. Although the current rulemaking does not address delegation, ARTBA encourages DOT and FHWA to identify future opportunities to expand this successful program.² ARTBA will also continue sharing success stories from existing NEPA delegation states, many of which involve state transportation agencies that are members of our association.

Recent federal actions within the executive branch and courts have further reinforced the need for focused reforms as a logical next step. In January, President Trump issued Executive Order 14154 rescinding CEQ’s regulatory authority under EO 11991 and returning NEPA implementation to individual federal agencies. DOT responded by updating its internal NEPA procedures³, and FHWA issued an interim final rule.⁴ In May, the Supreme Court’s unanimous decision in *Seven County Infrastructure Coalition v. Eagle County*⁵ reaffirmed NEPA’s procedural nature, holding that reviews must focus only on effects that are reasonably foreseeable and geographically proximate.

Together, these developments reflect a meaningful shift toward restoring balance and clarity in the NEPA process. With implementation now decentralized, it is especially important for DOT to promote federal interagency consistency to avoid confusion, inefficiencies, or duplicative requirements for project sponsors.

ARTBA supports FHWA’s efforts to align its regulations with recent legal and policy developments. We particularly appreciate improvements to tiering of reviews, project alternatives analysis, and the use of planning-level information. ARTBA also supports the agencies’ implementation of the page and time limits required by the Fiscal Responsibility Act⁶ and the Infrastructure Investment and Jobs Act⁷. These are practical reforms that can make environmental reviews more focused and predictable. The comments below offer additional recommendations to further strengthen the process.

² See, e.g., American Road & Transportation Builders Association, *Comments Supporting TxDOT NEPA Assignment Renewal (July 2025)*, available at <https://www.artba.org/wp-content/uploads/2025/07/ARTBA-TXDOT-NEPA-Comments-2025-FINAL.pdf>. See also *Moving America Forward: A Blueprint for Strategic Highway & Public Transit Investment at 12-13* (Amer. Road & Transp. Builders Ass’n May 2025), available at <https://www.artba.org/wp-content/uploads/2025/05/2026-Reauth-Recs-Final-5.7.pdf>.

³ U.S. Dep’t of Transp., DOT Order No. 5610.1D, *Procedures for Considering Environmental Impacts* (July 3, 2025), https://www.transportation.gov/sites/dot.gov/files/2025-07/DOT_Order_5610.1D_OST-P-250627-001_508_Compliant.pdf.

⁴ 23 CFR Part 771.

⁵ *Seven County Infrastructure Coalition v. Eagle County*, 602 U.S. ____ (2025).

⁶ Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, 137 Stat. 10 (2023).

⁷ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021).

ARTBA's Comments on the Reforms

I. The use of applicant-prepared documents can both enhance the quality of reviews and expedite the process.

ARTBA appreciates FHWA's continued commitment to improving NEPA efficiency, as reflected in the interim final rule. The rule's recognition of applicant-prepared documentation aligns with longstanding agency policy and current law. When project sponsors are willing and able to develop high-quality materials, this practice can reduce duplication, enhance collaboration, and help expedite the review process.

However, the use of applicant-prepared documentation should remain voluntary, not an assumed requirement. ARTBA members report that project sponsors often feel pressured to conduct extensive "pre-NEPA" work simply to help FHWA meet statutory deadlines. This dynamic risks shifting responsibility away from the lead federal agency and undermining the efficiency benefits such documentation is meant to provide. FHWA should consider establishing clear internal timelines for reviewing applicant-prepared materials and reaffirm that it remains fully accountable for managing and completing the NEPA process on schedule.

ARTBA also encourages FHWA to explore ways to better integrate state-level environmental documentation into federal reviews. Many state DOTs already conduct robust analyses to satisfy state requirements, some of which exceed NEPA's procedural standards. While these materials cannot substitute for a NEPA review under current law, clarifying how they may be incorporated could reduce redundancy and conserve resources.

These improvements would build on the interim rule's objectives and support timely, cost-effective project delivery without compromising environmental safeguards or public transparency.

II. FHWA should align its reevaluation timeline with DOT's five-year threshold.

DOT's revised NEPA Order⁸ establishes a five-year reevaluation period. This means that if no final environmental impact statement (EIS) or environmental assessment (EA) has been issued within five years of initiating review, the agency must prepare a written determination assessing whether a supplemental analysis is needed to reflect any significant changes in environmental conditions, project scope, or relevant law or policy.

By contrast, FHWA continues to apply a three-year reevaluation requirement. While this standard is long-standing, it is not statutory. Aligning with DOT's five-year timeline would promote consistency across agencies and help reduce unnecessary supplemental reviews in cases where project conditions remain largely unchanged.

⁸ *Supra* note 4.

III. Targeting NEPA reviews to higher impact projects can improve efficiency without sacrificing environmental protections.

The interim final rule includes welcome process improvements to FHWA’s use of categorical exclusions (CEs), such as codifying procedures for adopting new CEs and allowing reliance on those established by other agencies. These updates help streamline reviews for lower-impact projects and reflect a commitment to smarter resource allocation.

To advance this goal, ARTBA encourages continued evaluation of the existing list of CEs to identify additional low-impact transportation activities that could be appropriately excluded. Further clarity on what does or does not constitute a “major federal action” could also help ensure that NEPA is applied where it is most needed—on projects with meaningful environmental implications.

Focusing environmental reviews on projects with the greatest potential impacts helps conserve agency resources, reduce unnecessary delays, and accelerate delivery of everyday transportation improvements on which communities rely.

Conclusion

ARTBA appreciates and strongly supports DOT and FHWA’s ongoing efforts to improve the NEPA process. For too long, misuse of this procedural statute has resulted in delays and uncertainty for project sponsors and construction contractors alike. We are encouraged by the administration’s willingness to pursue further reforms and stand ready to assist in advancing those efforts.

For any questions, please contact Prianka Sharma at psharma@artba.org.

Sincerely,



Prianka Sharma
Vice President and Counsel for Regulatory Affairs