



December 15, 2020

Via email to www.regulations.gov

The Honorable Elaine L. Chao, Secretary
United States Department of Transportation
Washington, DC 20590

RE: Docket No. DOT-OST-2020-0229,
Procedures for Considering Environmental Impacts

Dear Secretary Chao:

The American Highway Users Alliance (the “Highway Users” or “we” or “our”) supports prompt adoption of the proposed rule in this docket. See Notice of Proposed Rulemaking (NPRM), 85 Federal Register 74640 et seq. (November 23, 2020).

The Highway Users is the united voice of the motoring public -- promoting safe, uncongested highways and enhanced mobility for people and business. The Highway Users, a 300-member coalition, includes companies, trade associations, safety advocacy groups, and motoring clubs. Our members represent or support millions of road users from the truck, bus, auto, RV, and motorcycling modes. Such users pay the bulk of the fees deposited into the Highway Trust Fund. Our membership also includes manufacturers who not only use the roads, but also manufacture vehicles and automotive equipment, fuel, asphalt, concrete, signage and other products that are essential to or improve the road user experience in terms of safety, efficiency, and other ways -- improving the economy and the quality of life.

An Update of the Department’s 1985 Order Would Provide Public Benefits

The proposed rule in this docket would modernize USDOT’s environmental review process by replacing a 1985 USDOT Order with a new USDOT rule that would be codified at 49 CFR 13.

This proposed modernization of USDOT’s environmental review process is fully warranted. Since 1985 Congress has passed and Presidents have signed into law a number of provisions to streamline the environmental review process for transportation projects, including provisions in SAFETEA-LU, MAP-21 and the FAST Act. USDOT has taken action since 1985 to improve the environmental review process but principally through changes to 23 CFR 771, concerning environmental review of highway, transit and rail projects. The department-wide Order has not been modernized.

So, the time is now for common sense updating of an old USDOT Order to serve the public interest.

Earlier this year you, Secretary Chao, stated that environmental impact statements for highways average seven (7) years to complete. Seven years is far too long for EIS review of a class of projects with characteristics and impacts that are extremely well understood and used directly or indirectly by nearly all Americans every day. Such delays add to the cost of such projects that are approved and go forward.

Moreover, a slow review process can result in meritorious projects being set aside by their proponents. A long process is not necessary to protect the public's interest in environmental review, but a long process thwarts the completion of beneficial transportation projects that would boost the economy, provide jobs, and improve safety and mobility for people and commerce.

America needs additional infrastructure investment and outdated review processes can delay the delivery of beneficial projects. A thorough but efficient and modern environmental review process, as proposed in this docket, can advance the public interest by "unlocking" needed investment in transportation infrastructure, both public and private.

Additionally, a responsible and thorough but prompt review process will allow Americans to have access to safer roads sooner. New or updated roadways will likely include the latest roadway safety features like modern guardrails, brighter and wider pavement markings and brighter signs. All of these roadway design improvements can help drive down the approximately 36,000 fatalities that occur on our roadways each year.

Further, when added capacity eases congestion, the freer flowing traffic can result in reduced emissions. Getting projects done faster will help reduce congested bottlenecks and reduce wasted fuel and time sitting in traffic.

So, there are important public benefits from a careful but efficient environmental review process and we close with some comments on the process itself.

NEPA is a procedural statute. It requires agencies to consider environmental impacts. Consistent with the procedural nature of NEPA, the proposed rule encourages public participation and enables thorough but prompt consideration of environmental issues.

But, the framework for consideration of the issues is also important. Consistent with long term policy trends reflected in provisions included in SAFETEA-LU, MAP-21 and the FAST Act, the proposed rule includes features to improve coordination of environmental review of transportation projects between agencies. The proposal also would establish a framework for prompt, concurrent review of projects that is nonetheless thorough and carefully considered.

Helpful Provisions in the Proposed Rule

Without describing them all, we note before closing some of the many provisions in the proposed rule that help promote a streamlined and efficient yet thorough environmental review process.

A principal one is the structuring of the review process as a single, consolidated review process for NEPA and other environmental laws. See, e.g., NPRM at 74644.

Presumptive time and page limits for the review process and for documents are another example. So, the review process is comprehensive as to environmental issues and coordinated among agencies but also on deadline. Exceptions for more time can be allowed -- but establishing a strong general practice of promptness is welcome. See, e.g., NPRM at 74658-59.

The proposed ability of a USDOT agency to utilize the categorical exclusions of another USDOT agency is another positive approach reflected in the proposed rule. See, e.g., NPRM at 74648.

As a final example of the proposed rule's provisions, it at least generally supports use in the environmental review process of information and analyses gathered in the planning process. The proposal supports the approach of not having to revisit or recreate in the NEPA process the substance of relevant planning process product(s). See, e.g., NPRM at 74646.

Conclusion

For the reasons set forth above and in the NPRM itself, the Highway Users supports prompt adoption of the proposed rule in this docket.

Sincerely,

Laura C. Perrotta

Laura C. Perrotta, CAE
President & CEO