



August 4, 2025

The Honorable Marcus J. Molinaro  
Administrator, Federal Transit Administration  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590-0001

Drew Feeley  
Acting Administrator, Federal Railroad Administration  
1200 New Jersey Ave, SE  
Washington, DC 20590-0001

Gloria M. Shepherd  
Executive Director, Federal Highway Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590-0001

Subject: Docket Number FHWA-2025-0007

Dear Administrator Molinaro, Acting Administrator Feeley, and Director Shepherd,

The American Public Transportation Association (APTA) represents a \$79 billion industry that directly employs 430,000 people and supports millions of private-sector jobs. APTA appreciates the opportunity to identify existing regulations, guidance, obligations, and reporting requirements that may be updated, streamlined, revised, or repealed to better achieve regulatory objectives while minimizing burdens, consistent with applicable law. We are pleased to submit these comments in response to the Revision of National Environmental Policy Act Regulations Interim Final Rule (NEPA IFR), published in the Federal Register at 90 FR 29426 on July 3, 2025.

APTA applauds the NEPA IFR as demonstrating the Administration's commitment toward streamlining the delivery of transportation projects while adhering to the importance of environmental safeguards in project actions and decision making. We believe even further efficiencies can be achieved through regulatory reform.

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APTA presented several of the recommendations below in its May 5, 2025, letter to the Department of Transportation (DOT), which identified existing regulations, guidance, obligations, and reporting requirements that may be updated, streamlined, revised, or repealed to better achieve regulatory objectives while minimizing burdens. Additionally, APTA offers specific suggestions relating to NEPA Standard Operating Procedures later in the letter.

### **Reducing Documentation Required for Categorical Exclusions at 23 CFR 771**

We continue to advocate for DOT to eliminate the documentation requirements for Categorical Exclusions (CEs) provided the grantee retains its own files subject to DOT audit that accurately describe the applicable CE for the project at issue. This reform will ensure the efficient use of taxpayer dollars for projects that support and increase mobility with limited environmental effects.

At present, to confirm the eligibility of a project for a CE, an FTA Grantee must complete an extensive paperwork process. This process often requires preparation of an extensive “worksheet” package, consisting of completing a questionnaire and documenting exhibits of maps, samples, and studies. The worksheet and documentation must be completed even for replacement projects in kind within previously disturbed right of way. The worksheet packages must then be reviewed and approved by FTA legal staff and a Regional Administrator. This unduly burdensome process often takes three to six months. We continue to advocate for reforming how FTA documents CE determinations to avoid excessive administrative costs, and to reduce grantee project delivery schedules.

### **New CE to Leverage State/Local Environmental Process**

APTA recommends that FTA and FRA publish a new CE to cover projects that meet state/local environmental requirements that satisfy NEPA. In some cases, environmental reviews required under state and/or local law already satisfy NEPA, making the NEPA review redundant.

This approach would leverage existing state and local processes to transfer a time-consuming labor-intensive task from the federal government to the states, allowing projects to advance more quickly.

### **Intersection of NEPA and the National Historic Preservation Act for Transportation Projects**

On April 2, 2025, the Advisory Council on Historic Preservation (ACHP) issued a Notice of Approval on the “Program Comment on Certain Housing, Building, and Transportation Undertakings”, which provides Federal agencies with additional flexibilities for National Historic Preservation Act (NHPA) Section 106 review. APTA supports this flexibility and urges DOT and its modal agencies to adopt the use of the ACHP April 2 Program Comment.

APTA members experience lengthy project delays due to the requirement to complete the Section 106 consultation process (36 CFR 800), even for projects that have been routinely declared eligible for CEs. As mentioned above, FTA’s CEs apply to those actions that do not result in significant impacts, except in extraordinary conditions. For example, under NEPA, many bus shelter projects are exempt from review

as a CE if they are in an existing right-of-way. However, the NHPA Section 106 review process continues to apply and undermines the application of CEs by DOT and other environmental streamlining methods.

The Section 106 consultation process is comprehensive. It requires transit agencies to 1) hire specialists with Secretary of the Interior qualifications to perform the work; 2) involve consulting parties, including tribes, historic preservation interest groups, and the general public; 3) identify historic and potential archeological resources (that should be documented by those with an interest in preserving such resources); and 4) conduct the review in a step-wise process allowing for a minimum of three 30-day review periods. Any misstep during this process can also require the input of the ACHP, adding additional time to project delivery. As a result, project sponsors experience delays and increased costs, including loss of local match for projects—many of which are in public right-of-way or are buildings owned by the transit agency itself. The most frequent CE projects delayed during Section 106 include the simple installation of bus shelters and signs, and the general maintenance, safety upgrades, and rehabilitation of bus and rail stations. This continues to be a significant challenge for the transit industry.

The Section 4(f) regulations further exacerbate the delays associated with the Section 106 process as a duplicative regulation. APTA encourages DOT to remove the duplication of historic properties from the Section 4(f) regulations (23 CFR 774). Reform of Section 106 and Section 4(f) procedures and requirements will substantially reduce the planning and review times for new projects.

APTA applauds the recent decision by DOT to devolve programmatic review of Section 106 under NEPA to the state of Connecticut. We encourage FTA to allow for delegation of the Section 106 process to transit agencies with appropriately qualified staff to conduct the process on behalf of the FTA. This programmatic approach sets a positive precedent for project sponsors, with appropriately qualified staff, to manage both the Section 106 and Section 7 (Endangered Species Act) reviews on a nationwide basis.

### **Streamline FTA Real Property Acquisition at 49 U.S.C. § 5323(q)**

APTA continues to advocate for Congress to adopt a provision that expands transit agencies' authority to acquire land prior to completion of NEPA by amending 49 U.S.C. § 5323(q) to replace the term “right-of-way” with “real property interests”. Expanded flexibility for early real property acquisitions for public transportation projects is needed to reduce delays and associated costs of projects and to create certainty in property rights with a view toward future use.

Many public transit agencies face difficulties purchasing real property for operations and maintenance facilities because FTA policies restrict the purchase of real property where Federal funds will be, or are anticipated to be, used for the purchase or development of that property. In most cases, transit agencies cannot acquire such real property until NEPA processes are completed.

Under current FTA law, project sponsors that purchase real property outside of existing transit corridors cannot proceed until the NEPA process is completed (or until FTA has determined that the project is exempt as a CE or issued a FONSI or EIS/ROD). We are encouraged that the Senate Committee on

Appropriations addresses this issue in S. 2465, the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2026, which includes this provision.

This provision would bring FTA's authority into parity with the Federal Highway Administration's property acquisition authority. We urge the Administration to support this streamlining statutory change.

### **Consistency Across FTA Regions**

APTA continues to advocate for DOT to ensure that policies, guidance, procedures, and oversight activities issued or enforced by regional offices of the Department are executed in a consistent manner across all regions.

Operations are most efficient when there is clear communication and expectations. APTA members work diligently to deliver projects to better support their communities; however, our collective experience has shown that inconsistent enforcement of Federal rules leads to inefficiencies and unnecessary delays. Different regional interpretations can cause confusion for construction partners who work across multiple regions, administrative burdens for transit agencies, and increased costs.

For example, during the grant application process, APTA members have experienced delays with FTA regional offices having different standards of review—often requiring project sponsors to adjust wording, creating a back-and-forth process that spans several months, further delaying project approvals. While our members appreciate the technical assistance and resources available to ensure projects are successful, it is critical that timelines, such as requirements from One Federal Decision, as codified in statute, are enforced.

This commitment will allow for all parties to achieve our shared commitment to ensure timely and cost-effective project delivery to provide greater mobility opportunities for Americans.

### **Standard Operating Procedures Currently in Practice for Administration of NEPA**

We offer the following specific recommendations relating to Standard Operating Procedures (SOPs) currently in place for administering NEPA. In several instances, several SOP requirements appear to go beyond current regulations:

- SOP 19: Remove operating procedures requiring a Phase I Environmental Site Assessment (ESA) during NEPA on properties proposed for acquisition. These ESAs will be out of date by the time property acquisition begins and provide no more information than a high-level review of state, local, and federal databases for recognized environmental concerns. ESAs are already required as part of the acquisition process.
- SOP 21: Broadly define projects that have no potential to cause effects on historic properties to include those with no or minor ground disturbance, and/or projects with no historic resources within the APE. Provide FTA regional staff with more flexibility in conducting Section 106

consultations based on project context (e.g., no consultation required for ground disturbance within previously disturbed areas, modifications to modern buildings).

- SOP 21: Remove tribal consultation and public involvement component for Section 106 when the class of action is a CE since public involvement is not a requirement for CEs.
- SOP 22: In general, FTA should not be responsible for the project sponsor obtaining required permits, except in the case of very large and complex projects requiring a variety of water quality permits.
- SOP 22: Recognize that permitting of transit projects within floodplains should be managed by the Federal Emergency Management Agency or designated local responsible agency. There's no reason to duplicate process.
- SOP 23: This SOP needs to be updated to reflect the Supreme Court Seven County decision.

We note that Administrative Procedure Act lawsuits (and even the threat of such litigation) pose one of the most significant delays for projects. When planning for and financing complex public transportation projects, the uncertainty of litigation is a major obstacle. We are hopeful that these proposals, if adopted, will go a long way toward ensuring that routine matters do not become the subject of unnecessary litigation.

## **Conclusion**

APTA appreciates the opportunity to comment on this interim final rule and looks forward to collaborating with you on this important endeavor. If you have any questions regarding this request, please contact Art Guzzetti, Vice President Mobility Initiatives and Policy, at (202) 496-4814, or [aguzzetti@apta.com](mailto:aguzzetti@apta.com), or contact Taria Barron, General Counsel, at (202) 496-4808, or [tbarron@apta.com](mailto:tbarron@apta.com). Thank you for your consideration and we look forward to continuing to work with you to streamline regulations and improve transportation safety.

Sincerely,



Paul P. Skoutelas  
President and CEO